

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0921.01 Thomas Morris

SENATE BILL 10-165

SENATE SPONSORSHIP

Hodge,

HOUSE SPONSORSHIP

Hullinghorst,

Senate Committees

Agriculture and Natural Resources

House Committees

A BILL FOR AN ACT

101 **CONCERNING IMPLEMENTATION OF THE INCORPORATION OF OIL AND**
102 **GAS WELLS INTO THE PRIOR APPROPRIATION SYSTEM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

House Bill 09-1303 imposed new requirements on oil and gas wells, including permitting by the state engineer and substitute water supply plans. **Section 1** of the bill specifies that, except for coal bed methane wells, no well permit is required if the nontributary ground water being removed will not be beneficially used or beneficially used only for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

uses allowed under the "Oil and Gas Conservation Act". **Sections 2 and 3** extend the well permitting and substitute water supply plan compliance deadlines for oil and gas wells, including coal bed methane wells, from March 31, 2010, to August 1, 2010.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** The introductory portion to 37-90-137 (7) and
3 37-90-137 (7) (a) and (7) (b), Colorado Revised Statutes, are amended to
4 read:

5 **37-90-137. Permits to construct wells outside designated**
6 **basins - fees - permit no groundwater right - evidence - time**
7 **limitation - well permits - rules - repeal.** (7) In the case of dewatering
8 of geologic formations by withdrawing nontributary ~~ground water~~
9 GROUNDWATER to facilitate or permit mining of minerals:

10 (a) EXCEPT FOR COAL BED METHANE WELLS, no well permit ~~shall~~
11 be IS required unless the nontributary ~~ground water~~ GROUNDWATER being
12 removed will be beneficially used. EXCEPT FOR COAL BED METHANE
13 WELLS, NO WELL PERMIT IS REQUIRED IF THE NONTRIBUTARY
14 GROUNDWATER BEING REMOVED WILL BE USED ONLY FOR USES ANCILLARY
15 TO OR DIRECTLY ASSOCIATED WITH THE MINING OF MINERALS, INCLUDING:
16 INJECTION INTO A PROPERLY PERMITTED DISPOSAL WELL; EVAPORATION
17 OR PERCOLATION IN A PROPERLY PERMITTED PIT; DISPOSAL AT A PROPERLY
18 PERMITTED COMMERCIAL FACILITY; ROADSPREADING OR REUSE FOR
19 ENHANCED RECOVERY, DRILLING, OR OTHER APPROVED USE IN
20 ACCORDANCE WITH THE "OIL AND GAS CONSERVATION ACT", ARTICLE 60
21 OF TITLE 34, C.R.S., AND THE RULES PROMULGATED UNDER THAT ACT;
22 DISCHARGE INTO STATE WATERS IN ACCORDANCE WITH THE "COLORADO
23 WATER QUALITY CONTROL ACT", ARTICLE 8 OF TITLE 25, C.R.S., AND THE

1 RULES PROMULGATED UNDER THAT ACT; EVAPORATION AT A PROPERLY
2 PERMITTED CENTRALIZED EXPLORATION AND PRODUCTION WASTE
3 MANAGEMENT FACILITY; OR PROVIDING AN ALTERNATIVE DOMESTIC
4 WATER SUPPLY TO SURFACE OWNERS WITHIN THE OIL AND GAS FIELD IN
5 ACCORDANCE WITH THE "OIL AND GAS CONSERVATION ACT" AND THE
6 RULES PROMULGATED UNDER THAT ACT; and

7 (b) In the issuance of any well permit pursuant to this subsection
8 (7), the provisions of subsection (4) of this section shall DOES not apply
9 The provisions of AND subsections (1), (2), and (3) of this section shall
10 apply; except that, in considering whether the permit shall issue, the
11 requirement that the state engineer find that there is unappropriated water
12 available for withdrawal and the six-hundred-foot spacing requirement in
13 subsection (2) of this section shall DO not apply. The state engineer shall
14 allow the rate of withdrawal stated by the applicant to be necessary to
15 dewater the mine; except that, if the state engineer finds that the proposed
16 dewatering will cause material injury to the vested water rights of others,
17 the applicant may propose, and the permit shall contain, terms and
18 conditions which THAT will prevent such injury. The reduction of
19 hydrostatic pressure level or water level alone does not constitute material
20 injury. THE ISSUANCE OF A PERMIT UNDER THIS SUBSECTION (7) DOES NOT
21 CONFER AN ADJUDICATED NONTRIBUTARY GROUNDWATER RIGHT.

22 **SECTION 2.** 37-90-138 (2), Colorado Revised Statutes, is
23 amended to read:

24 **37-90-138. Waste - violations - permits.** (2) If the state
25 engineer finds any well to have been drilled or maintained in a manner or
26 condition or to be withdrawing ground water contrary to ~~any of the~~
27 ~~provisions of~~ this article or the rules issued under this article, the state

1 engineer shall immediately notify the user in writing of ~~such~~ THE
2 violation and give the user ~~such~~ time as may reasonably be necessary, not
3 to exceed sixty days, to correct deficiencies. If the user fails or refuses to
4 correct the deficiencies within the allowed time, the state engineer is
5 authorized to enter upon the user's land and do whatever is necessary in
6 order that the user comply with this article or rules issued under this
7 article. Prior to ~~March 31~~ AUGUST 1, 2010, this subsection (2) ~~shall~~ DOES
8 not apply to oil and gas wells. FOR AN OIL AND GAS WELL IN EXISTENCE
9 ON THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS AMENDED, FOR
10 WHICH A WELL PERMIT IS REQUIRED BY THIS SECTION, A WELL PERMIT
11 APPLICATION SHALL BE SUBMITTED TO THE STATE ENGINEER ON OR
12 BEFORE APRIL 30, 2010. FOR AN OIL AND GAS WELL TO BE CONSTRUCTED
13 BETWEEN THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS AMENDED,
14 AND AUGUST 1, 2010, FOR WHICH A WELL PERMIT IS REQUIRED BY THIS
15 SECTION, A WELL PERMIT APPLICATION SHALL BE SUBMITTED TO THE
16 STATE ENGINEER ON OR BEFORE JUNE 15, 2010. ALL OIL AND GAS WELLS
17 TO BE CONSTRUCTED AFTER AUGUST 1, 2010, FOR WHICH A WELL PERMIT
18 IS REQUIRED BY THIS SECTION SHALL HAVE A WELL PERMIT PRIOR TO
19 PRODUCING GROUNDWATER.

20 **SECTION 3.** The introductory portion to 37-92-308 (11) (a) (I),
21 Colorado Revised Statutes, is amended to read:

22 **37-92-308. Substitute water supply plans - special procedures**
23 **for review - water adjudication cash fund - legislative declaration -**
24 **repeal.** (11) (a) (I) To provide sufficient time to integrate coal bed
25 methane wells into the water court adjudication process for augmentation
26 plans, during 2010, 2011, and 2012 the state engineer may approve
27 annual substitute water supply plans for such wells using the procedures

1 and standards set forth in this subsection (11). UNTIL JULY 31, 2010,
2 COAL BED METHANE WELLS MAY CONTINUE TO OPERATE WITHOUT A
3 SUBSTITUTE WATER SUPPLY PLAN IF THE OIL AND GAS OPERATOR SUBMITS
4 A REQUEST FOR APPROVAL OF A SUBSTITUTE WATER SUPPLY PLAN
5 PURSUANT TO THIS SUBSECTION (11) BY APRIL 30, 2010. Beginning
6 ~~March 31~~ AUGUST 1, 2010, and ending December 31, 2012, no coal bed
7 methane well that withdraws tributary ground water and impacts an
8 over-appropriated stream shall operate unless:

9 **SECTION 4. Applicability.** This act shall apply to conduct
10 occurring on or after the effective date of this act.

11 **SECTION 5. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.