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SENATE BILL 10-165

BY SENATOR(S) Hodge, Brophy, Harvey, Johnston, Kester, King K., Penry, Renfroe, Romer, Schultheis, Schwartz, Shaffer B., Tochtrop, Whitehead;
also REPRESENTATIVE(S) Hullinghorst, Fischer, Summers.

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

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

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

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

(a) EXCEPT FOR COAL BED METHANE WELLS, no well permit ~~shall be~~ IS required unless the nontributary ~~ground-water~~ GROUNDWATER being removed will be beneficially used. EXCEPT FOR COAL BED METHANE WELLS,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

NO WELL PERMIT IS REQUIRED IF THE NONTRIBUTARY GROUNDWATER BEING REMOVED TO FACILITATE OR PERMIT THE MINING OF MINERALS WILL BE USED ONLY BY OPERATORS WITHIN THE GEOLOGIC BASIN WHERE THE GROUNDWATER IS REMOVED TO FACILITATE OR PERMIT THE MINING OF MINERALS, INCLUDING: INJECTION INTO A PROPERLY PERMITTED DISPOSAL WELL; EVAPORATION OR PERCOLATION IN A PROPERLY PERMITTED PIT; DISPOSAL AT A PROPERLY PERMITTED COMMERCIAL FACILITY; ROADSPREADING OR REUSE FOR ENHANCED RECOVERY, DRILLING, WELL STIMULATION, WELL MAINTENANCE, PRESSURE CONTROL, PUMP OPERATIONS, DUST CONTROL ON-SITE OR OFF-SITE, PIPELINE AND EQUIPMENT TESTING, EQUIPMENT WASHING, OR FIRE SUPPRESSION; DISCHARGE INTO STATE WATERS IN ACCORDANCE WITH THE "COLORADO WATER QUALITY CONTROL ACT", ARTICLE 8 OF TITLE 25, C.R.S., AND THE RULES PROMULGATED UNDER THAT ACT; OR EVAPORATION AT A PROPERLY PERMITTED CENTRALIZED EXPLORATION AND PRODUCTION WASTE MANAGEMENT FACILITY; and

(b) In the issuance of any well permit pursuant to this subsection (7), ~~the provisions of subsection (4) of this section shall~~ DOES not apply ~~The provisions of~~ AND subsections (1), (2), and (3) of this section ~~shall~~ apply; except that, in considering whether the permit shall issue, the requirement that the state engineer find that there is unappropriated water available for withdrawal and the six-hundred-foot spacing requirement in subsection (2) of this section ~~shall~~ DO not apply. The state engineer shall allow the rate of withdrawal stated by the applicant to be necessary to dewater the mine; except that, if the state engineer finds that the proposed dewatering will cause material injury to the vested water rights of others, the applicant may propose, and the permit shall contain, terms and conditions ~~which~~ THAT will prevent such injury. The reduction of hydrostatic pressure level or water level alone does not constitute material injury. PERMITTING DETERMINATIONS PURSUANT TO THIS SUBSECTION (7) NEITHER CONFER A WATER RIGHT NOR PRECLUDE DETERMINATION OF A WATER RIGHT BY THE WATER COURT.

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

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

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

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

37-92-308. Substitute water supply plans - special procedures for review - water adjudication cash fund - legislative declaration - repeal. (11) (a) (I) To provide sufficient time to integrate coal bed methane wells into the water court adjudication process for augmentation plans, during 2010, 2011, and 2012 the state engineer may approve annual substitute water supply plans for such wells using the procedures and standards set forth in this subsection (11). UNTIL JULY 31, 2010, COAL BED METHANE WELLS MAY CONTINUE TO OPERATE WITHOUT A SUBSTITUTE WATER SUPPLY PLAN IF THE OIL AND GAS OPERATOR SUBMITS A REQUEST FOR APPROVAL OF A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO THIS SUBSECTION (11) BY APRIL 30, 2010. Beginning ~~March 31~~ AUGUST 1, 2010, and ending December 31, 2012, no coal bed methane well that withdraws tributary ground water and impacts an over-appropriated stream shall operate unless:

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

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

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO