

LLS NO. 14-0247 AMENDMENT # 1

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## INTERIM COMMITTEE AMENDMENT

Committee on Water Resources Review Committee.

BY SENATOR HODGE

LLS No. 14-0247 be amended as follows:

1 Amend LLS No. 14-0247, page 5, strike line 27 and substitute "(4) (c),  
2 (5) (c), (6), and (10) (d) as follows:".

3 Page 6, after line 25 insert:

4 "(6) The state engineer shall establish a substitute water supply  
5 plan notification list for each water division for the purposes of notifying  
6 interested parties pursuant to subparagraph (II) of paragraph (b) of  
7 subsection (3) of this section and subparagraph (II) of paragraph (a) of  
8 subsection (5) of this section. Beginning in July 2002, and in January of  
9 each year thereafter, in order to establish ~~such~~ THE notification list, the  
10 water clerks in each division shall include in the water court resume an  
11 invitation to be included on ~~such~~ THE notification list for the applicable  
12 water division. Persons on the substitute water supply plan notification  
13 list shall receive notice of all substitute water supply plans filed in that  
14 water division pursuant to subsections (3) and (5) of this section by ~~either~~  
15 ELECTRONIC MAIL OR, IF A PERSON HAS ELECTED, BY first-class mail. ~~or~~  
16 ~~if a person so requests, by electronic mail.~~ Persons may be required to  
17 pay a fee, not to exceed twelve dollars per year, to be placed on the  
18 notification list.

19 (10) (d) When the state engineer approves or denies a substitute  
20 water supply plan pursuant to this subsection (10), the state engineer  
21 shall serve a copy of the decision on all parties who have subscribed to  
22 the substitute water supply plan notification list for water division 1 and  
23 all parties to the water court case in which the plan for augmentation was  
24 decreed by ELECTRONIC MAIL OR, IF A PARTY HAS ELECTED, BY first-class  
25 mail. ~~or, if such parties have so elected, by electronic mail.~~ Neither the  
26 approval nor the denial by the state engineer ~~shall create~~ CREATES any  
27 presumptions, ~~shift~~ SHIFTS the burden of proof, or ~~serve~~ SERVES as a  
28 defense in any legal action involving the substitute water supply plan.  
29 Any appeal of a decision made by the state engineer concerning a  
30 substitute water supply plan approved or denied pursuant to this  
31 subsection (10) ~~shall~~ MUST be made within thirty-five days after the date  
32 of service of the decision. Any ~~such~~ appeal shall be filed under the same  
33 case number as the decreed plan for augmentation and ~~shall~~ MUST be  
34 heard under the retained jurisdiction of the water judge, using the  
35 procedures and standards set forth in sections 37-92-304 and 37-92-305,  
36 for determination of matters rereferred to the water judge by the referee.



1 The water judge shall hear and determine any ~~such~~ appeal on an  
2 expedited basis. The applicant for the substitute water supply plan shall  
3 not use the proposed substitute water supply in the decreed plan for  
4 augmentation until any appeal under this paragraph (d) is decided by the  
5 water court. Following the determination on appeal by the water court,  
6 the applicant's use of water under the substitute water supply plan shall  
7 be governed by ~~such~~ THE water court determination, unless the terms of  
8 the augmentation plan decree provide otherwise.

9 **SECTION 4.** In Colorado Revised Statutes, 37-92-309, **amend**  
10 (4) (a) as follows:

11 **37-92-309. Interruptible water supply agreements - special**  
12 **review procedures - rules - water adjudication cash fund - legislative**  
13 **declaration - definitions.** (4) (a) When the state engineer approves or  
14 denies an interruptible water supply agreement, the state engineer shall  
15 serve a copy of the decision upon all parties to the application by  
16 ELECTRONIC MAIL OR, IF A PARTY HAS ELECTED, BY first-class mail ~~or, if~~  
17 ~~such parties have so elected, by electronic mail.~~ Neither the approval nor  
18 the denial of the agreement by the state engineer ~~shall create~~ CREATES  
19 any presumptions, ~~shift~~ SHIFTS the burden of proof, or ~~serve~~ SERVES as  
20 a defense in any legal action that may be initiated concerning the  
21 interruptible water supply agreement. Any appeal of a decision made by  
22 the state engineer concerning the operation of an interruptible water  
23 supply agreement pursuant to this section ~~shall~~ MUST be expedited, ~~shall~~  
24 be limited to the issue of injury, and ~~shall be~~ made within thirty-five days  
25 after mailing of the decision to the water judge in the applicable water  
26 division. All parties to the appeal shall pay to the water clerk a fee to  
27 cover the direct costs associated with the expedited appeal. The water  
28 judge shall hear and determine ~~such~~ THE appeal using the procedures and  
29 standards set forth in sections 37-92-304 and 37-92-305 for  
30 determination of matters rereferred to the water judge by the referee;  
31 except that the water judge shall not deem any failure to appeal all or any  
32 part of the decision of the state engineer or failure to state any grounds  
33 for appeal to preclude any party from raising any claims of injury in a  
34 future proceeding before the water judge. The proponent of the  
35 interruptible water supply agreement ~~shall be~~ IS deemed to be the  
36 applicant for purposes of application of such procedures and standards.  
37 Moneys from ~~such~~ THE fee shall be transmitted to the state treasurer and  
38 deposited in the water adjudication cash fund, which fund is hereby  
39 created in the state treasury. The general assembly shall appropriate  
40 moneys in the fund for the judicial department's expedited adjudications  
41 pursuant to this section."