

**Water Resources Review Committee  
Senate Bill 14-115 Report to the Colorado Water Conservation  
Board**

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Meghan O'Connor, Research Analyst  
Clare Pramuk, Principal Fiscal Analyst  
Greg Sobetski, Economist

**Office of Legislative Legal Services**

Jennifer Berman, Staff Attorney  
Thomas Morris, Managing Senior Attorney

***September 2015***



**ELLEN S. ROBERTS**

**State Senator**

President Pro Tem

State Capitol

200 E. Colfax Avenue

Denver, Colorado 80203

Capitol: (303) 866-4884

ellen.roberts.senate@state.co.us



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September 30, 2015

Mr. James Eklund, Director  
Colorado Water Conservation Board  
Department of Natural Resources  
1313 Sherman Street  
Denver, Colorado 80203

Dear Director Eklund:

Senate Bill 14-115 charged the Water Resources Review Committee (committee) with holding at least one public hearing in each geographic region associated with a water basin during the 2015 interim to collect public feedback on the draft Colorado Water Plan. During the 2015 interim, the committee held nine meetings to collect feedback from the public on the second draft of the Colorado Water Plan in Alamosa, Aurora, Craig, Durango, Granby, Greeley, Montrose, Salida, and Walden. Senate Bill 14-115 also requires the committee to provide a summary of the public's feedback as well as its own feedback to the Colorado Water Conservation Board (CWCB) by November 1, 2015. On behalf of the members of the 2015 committee, I am pleased to submit to you and the CWCB the final report summarizing the committee's activities related to Colorado Water Plan.

This report supplements the preliminary report we submitted on September 17, 2015, which summarized the public comments received during our SB 14-115 outreach efforts and provided a committee recommendation on the Colorado Water Plan. Staff submitted the comment summary report to meet the CWCB's September 17, 2015, deadline for submitting public comments on the draft Colorado Water Plan. This final report summarizes the committee's interim activities and completes our 2015 compliance efforts under SB 14-115.

I also want to take this opportunity to highlight common themes the committee heard from members of the public at meetings held during the 2015 interim. The common themes are summarized in the following paragraphs.

- ***Need for specific action items.*** Chapter 9 of the second draft of the Colorado Water Plan identifies the mechanisms by which the state can help implement the basin implementation plans (BIPs) and address the critical water strategies discussed throughout the Colorado Water Plan. At each SB 14-115 hearing, the committee heard strong support for including more specifics in the plan that would explain how the state will help implement the BIPs, including how it will streamline the permitting process for water projects. The plan should clearly explain the role of the state in securing a stable water supply and identify the assistance that the basin roundtables can expect from the state as they seek to implement their BIPs.

- **Additional storage.** At each SB 14-115 hearing, the committee heard strong support for additional water storage, including both surface and underground storage. Additional storage will enable the state to capture its compact entitlement and use this water to close the future water supply gap. It will also help the state better withstand droughts and enable water banking and other water sharing measures. West Slope basins expressed strong support for capturing and storing any surplus water under the South Platte River compact to meet that basin's growing demand for water. Several witnesses from East Slope hearings also spoke in support of adding to the Colorado Water Plan a stretch goal for new water storage – similar to the stretch goal for water conservation – that identifies the amount of storage that must be constructed statewide by 2050 to close the water supply gap under various scenarios. The Colorado Water Plan should clearly state the benefits of storage and identify measures to mitigate any potential negative impacts of storage.
- **Funding for water storage and other infrastructure.** The Statewide Water Supply Initiative estimated that between \$17 billion and \$19 billion will be needed for municipal and industrial water infrastructure improvements by 2050. The committee heard frequent testimony about the need for additional state assistance for water projects. The Colorado Water Plan should include a more comprehensive discussion on funding for water storage and other infrastructure. This discussion should more clearly state how water supply projects will be funded and the state's role in providing funding for these projects. It should also address the importance of severance tax revenue for water projects and include a statement of opposition to transfers of severance tax revenue to the General Fund or for other programs not directly related to meeting Colorado's water supply needs. It should also identify the amount of severance tax moneys transferred by the General Assembly to the General Fund to address recent budget shortfalls and urge the General Assembly to replenish the CWCB Construction Fund for the loss of these moneys. The plan should also explore how moneys from the Great Outdoors Colorado Trust Fund could be used for water projects and whether the law should be amended to expand the eligible uses for these moneys to include a broader range of water projects.
- **Protections for exporting basins.** Transmountain diversions have enabled the state to address critical water needs in water short basins and to grow the economy, especially in the South Platte and Arkansas Basins. However, the committee heard frequent testimony from residents of exporting basins about the impact that such transfers have had on the environment, the local economy, and the exporting basin's ability to satisfy future water demands. Significant opposition was expressed to new transmountain diversions because of the potential impact on the exporting basins and the impact these diversions could have on the state's ability to satisfy the Colorado River Compact and avoid a compact call. However, the committee also heard support from residents of potential exporting basins for the Interbasin Compact Committee's conceptual framework for new transmountain diversions. Specifically, strong support was expressed for measures within the framework that: 1) seek to protect exporting basins from the impact of new transmountain diversions, such as an "insurance policy" to protect against involuntary curtailment for existing uses in the exporting basin; and 2) provide for some reasonable increment of future development for in-basin use in the Colorado River system.

- **Protection for agriculture.** Throughout the 2015 interim, the committee heard frequent testimony about the contribution of agriculture to the state's quality of life and the need to maintain a vibrant agricultural economy and protect agricultural water rights. The committee also heard about voluntary measures agricultural producers are taking to increase water use efficiency. These measures help increase agricultural productivity and benefit the environment. Support was also voiced for providing state funding to help offset the cost of irrigation efficiency improvements. The committee also heard testimony about the impact that certain agricultural water use efficiency measures may have on return flows that are important to downstream water users and the environment. The Colorado Water Plan should clearly discuss the benefits and potential limits of agricultural water use efficiency.
- **Water quality threats related to abandoned mines.** Concerns were raised about the threats to water quality posed by abandoned mines. The Colorado Water Plan should include a comprehensive discussion in the watershed protection section about abandoned mines in Colorado and the threat that they pose to the environment, public water supplies, and agricultural productivity. The plan should also address the need to conduct an inventory of abandoned mines that threaten water quality and identify criteria for prioritizing state, federal, and local efforts to mitigate this threat.
- **Public-private partnerships.** Public-private partnerships can accelerate the development of water projects by leveraging private sector resources and expertise. The Colorado Water Plan should include additional information about these partnerships and how they may help Colorado pay for water infrastructure projects. It should also identify potential problems with public-private partnerships – such as the lack of transparency, inadequate financial contributions by the participating private entities, and long-term control of public resources by private entities – and identify mechanisms for avoiding or mitigating such problems.
- **Water conservation and efficiency.** Water efficiency measures can reduce water demand and help avoid or delay the need for new water supplies. As it did during the 2014 interim, the committee heard strong support for increasing the conservation and efficiency of residential and commercial water use, and specific support for the Interbasin Compact Committee's stretch conservation goal to reduce Colorado's 2050 water demands by 400,000 acre-feet statewide. West Slope residents also expressed strong support for maximizing conservation and efficiency in East Slope communities prior to those communities seeking additional West Slope water supplies. Support was also voiced for providing state funding for municipal conservation system improvements, such as smart metering technology and more efficient customer billing and communication systems.

Thank you for your thoughtful consideration of this report.

Sincerely,



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Ellen Roberts, Chair  
Water Resources Review Committee



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## **Committee Charge Pursuant to Senate Bill 14-115**

***Governor's executive order concerning the Colorado Water Plan.*** In 2013, Governor Hickenlooper issued an executive order<sup>1</sup> directing the Colorado Water Conservation Board (CWCB) to commence work on the Colorado Water Plan. According to the executive order, the plan must promote a productive economy that supports vibrant and sustainable cities, viable and productive agriculture, and a robust skiing, recreation, and tourism industry. It must also incorporate an efficient and effective water infrastructure promoting smart land use and a strong environment that includes healthy watersheds, rivers and streams, and wildlife. The CWCB is instructed to complete the final plan by December 10, 2015.

***Senate Bill 14-115 legislative declaration.*** Senate Bill (SB) 14-115 declares that the primary purpose of a state water plan is to determine state policy regarding the optimal conservation and development of Colorado's water resources. The General Assembly is deemed to be primarily responsible for guiding the development of state water policy. It also declares that this law is necessary to protect the interests of the public in the state's water resources and that the General Assembly intends to engage the people of the state in a public dialogue regarding optimal state water policy. The law also affirms the legislature's delegation of policy-making authority to the CWCB and declares that the law seeks to promote the policies, processes, basin roundtable plans, and Interbasin Compact negotiations conducted pursuant to the "Colorado Water for the 21st Century Act"<sup>2</sup> and the Interbasin Compact Charter.

The Water Resources Review Committee (committee) was created to contribute to and monitor the conservation, use, development, and financing of Colorado's water resources for the general welfare of the state.<sup>3</sup> Pursuant to SB 14-115, the committee is also required to review statewide planning for water resources. SB 14-115 charged the committee with holding at least one public hearing in each geographic region associated with a basin roundtable during the 2015 interim to collect public feedback on the draft Colorado Water Plan. SB 14-115 also required the committee to provide a summary of the public's feedback as well as its own feedback to the CWCB by November 1, 2015. The committee may recommend the introduction of legislation based on the results of the review. A similar process, including hearings in each geographic region associated with a basin roundtable, occurred during the 2014 interim.

## **Overview 2015 of Committee Activities**

In addition to seven regular meetings, the committee held nine special meetings during the 2015 interim to collect feedback from the public on the second draft of the Colorado Water Plan in Alamosa, Aurora, Craig, Durango, Granby, Greeley, Montrose, Salida, and Walden. Approximately 230 people attended the nine SB 14-115 hearings during the 2015 interim. The

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<sup>1</sup> Executive Order D2013-005

<sup>2</sup> Article 75 of Title 37, C.R.S.

<sup>3</sup> Section 37-98-102, C.R.S.

committee also received public comments through letters, e-mails, and completed questionnaires. On September 17, 2015, the committee delivered a preliminary report to the CWCB that summarized the public feedback provided to the committee by September 15, 2015, and provided the committee's recommendation on the Colorado Water Plan.

## **Process for Obtaining Public Feedback**

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According to SB 14-115, the General Assembly intended to engage the people of the state in a public dialogue regarding optimum state water policy. Towards this end, the committee conducted a public outreach process that encouraged any interested person to provide testimony on state water policy at a public meeting or submit comments directly through the committee's website or by other means. Specifically, the chair of the committee drafted a letter to members of the General Assembly inviting them to attend the SB 14-115 hearings and notify their constituents about these hearings. The committee also worked with the Colorado Foundation for Water Education and the public education and public outreach coordinators for each basin roundtable to provide the public with notice of the committee hearings and identify alternative means of submitting feedback to the committee. Notice of the hearings was also provided to local media.

The public was able to provide feedback on the Colorado Water Plan by filling out a questionnaire on the committee's website or by sending an e-mail to the committee. Questionnaires were also distributed at each SB 14-115 hearing. This questionnaire offered interested persons the opportunity to provide information about themselves, including their name, their basin of residence and water constituent group, their experience with the roundtable process, and whether they wanted to be added to the committee's SB 14-115 interested persons e-mail list. It also offered an opportunity for respondents to provide comments on the plan and any other water issue of interest.

**Senate Bill 14-115 hearing format.** At each SB 14-115 hearing, the committee received a briefing from a CWCB member, CWCB staff, or Department of Natural Resources staff on the second draft of the Colorado Water Plan. Following the briefing, the chair of the local basin roundtable or his or her designee summarized the major provisions of the basin's basin implementation plan (BIP). At each meeting, the committee also received public testimony from any person who wanted to speak about the draft water plan or any other issue of concern. Members of the audience were encouraged to direct their comments toward Chapter 10 of the draft plan that describes the goals and critical actions needed to meet the plan's values. The audience was also encouraged to submit feedback on the full plan directly to CWCB by going to [coloradowaterplan.com](http://coloradowaterplan.com). Table 1 provides information about the SB 14-115 hearings during the 2015 interim, including the date and location of the hearings, estimated attendance, and the number of people who testified.

**Table 1  
Summary of SB 14-115 Hearings**

| <b>Basin</b> | <b>Location and Meeting Date</b> | <b>Estimated Attendance At Basin Hearing</b> | <b>Number of People Who Testified</b> |
|--------------|----------------------------------|--|---------------------------------------|
| Southwest    | Durango<br>July 20, 2015         | 35   | 11                                    |
| Gunnison     | Montrose<br>July 21, 2015        | 40   | 10                                    |
| Yampa-White  | Craig<br>July 22, 2015           | 30   | 5                                     |
| Rio Grande   | Alamosa<br>August 10, 2015       | 25   | 4                                     |
| Arkansas     | Salida<br>August 11, 2015        | 20   | 8                                     |
| Colorado     | Granby<br>August 12, 2015        | 20   | 7                                     |
| North Platte | Walden<br>September 14, 2015     | 5  | 2                                     |
| South Platte | Greeley<br>September 14, 2015    | 30   | 11                                    |
| Denver Metro | Denver<br>September 14, 2015     | 25   | 7                                     |
| <b>TOTAL</b> |                                  | <b>230<sup>4</sup></b>                       | <b>65</b>                             |

### **Public Feedback Provided to the Colorado Water Conservation Board**

The committee's deadline to submit feedback on the Colorado Water Plan was September 15, 2015. CWCB staff requested that the WRRC deliver its summary of the public's feedback prior to the board's September 17, 2015, deadline to submit public comments on the draft Colorado Water Plan. On September 17, the committee delivered a table to the CWCB Director that summarized public feedback and provided a committee recommendation on the Colorado Water Plan. This table is also included in Appendix A of this report, with a correction,<sup>5</sup> and is available on the committee's website: [www.colorado.gov/lcs/WRRC](http://www.colorado.gov/lcs/WRRC). Appendix A includes summaries of the comments provided by 65 individuals during public testimony, as well as summaries of e-mails and letters submitted to the committee. The audio recordings of

<sup>4</sup> Public testimony on the Colorado Water Plan was also accepted during regular committee meetings. Approximately 15 persons provided feedback on the plan during a regular meeting.

<sup>5</sup> At its September 15, 2015, meeting, the committee recommended adding additional information to the Colorado Water Plan about funding for water conservation system improvements to the chapter concerning alignment of state resources (currently Chapter 9 of the Second Draft). Staff failed to note in the feedback table (delivered to the CWCB on September 17) that the committee also requested that the additional information about funding available for water conservation system improvements be added to Section I of Chapter 10 of the Colorado Water Plan.

meetings are available on the General Assembly's website. To obtain the most accurate understanding of the public comments, interested persons are encouraged to listen to the audio recordings of the SB 14-115 hearings and review any written testimony that is included in the meeting summaries.

## **Legislative Recommendations Related to the Committee's Review of the Colorado Water Plan**

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Pursuant to SB 14-115, the committee may recommend the introduction of legislation based on the results of its review of the Colorado Water Plan. The committee heard testimony at several SB 14-115 hearings about the challenge of complying with the requirements for obtaining state and federal permits for water development projects. Chapter 9 of the second draft of the Colorado Water Plan describes the current permitting and licensing processes, the challenges that arise during the processes, and the reforms that could make the processes more efficient and effective for all parties involved. Chapter 10 concerning the critical action plan also identifies several measures to make the state permitting process more effective and efficient.

At its September 15, 2015, meeting, the committee requested a draft bill to transfer to the State Engineer the authority to review certain types of permit applications that are currently reviewed by other state agencies. Another bill was requested to expedite the state permitting process for water projects. While related, these bills *do not* implement a specific recommendation of the plan or address specific public feedback on the plan. These draft bills will be considered for final approval by the committee on October 29, 2015.

## **Next Steps in the SB 14-115 Process**

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Pursuant to SB14-115, the committee may repeat the review process for the Colorado Water Plan, including public meetings in each basin, whenever the CWCB submits a significant amendment to the plan. By November 1 of each year following the submission to the committee of a plan or plan amendment, any member of the General Assembly may request that the committee hold one or more hearings to review the plan or plan amendment. No later than November 1, 2017, and every five years thereafter, the committee is also required to prepare a list of specific topics that it deems necessary to be addressed in the plan. The CWCB must provide its recommendations, including suggestions for potential legislation, for the committee's consideration within eight months after receipt of the list of specific topics.