



# Colorado River District

Protecting Western Colorado Water Since 1937

MEMORANDUM  
OCTOBER 5, 2017

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**TO:** BOARD OF DIRECTORS  
**FROM:** CHRIS TREESE  
**SUBJECT:** STATE AFFAIRS

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*Board action: No specific action requested with this memo; however, as always, Board direction and priority-setting welcomed.*

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### **Colorado Elections:**

Although the general election is still more than 12 months away, the contestants are lining up. The following are some aspects of and candidates for the November 2018 ballot that you might want to be aware of.

### **Colorado General Assembly:**

- There are already 26 Senate hopefuls or expected-to-runs for the roughly 20 state senate seats up in 2018.
- All state house seats are up for election. To date, 10 primary contests appear likely in races for House seats; eight of them are among Democrat hopefuls.
- Four potential primaries are looming in Senate district races; all involve Democrats.
- In all, there are currently more than 100 legislative candidates with well over a year to go before the 2018 general election.

### **Specific races:**

#### Governor:

Declared -

George Brauchler, Lew Gaiter, Victor Mitchell, Doug Robinson, Greg Lopez, Steve Barlock, Walker Stapleton; Jared Polis, Mike Johnston, Noel Ginsburg, Cary Kennedy, Donna Lynn

Rumored -

~~Donna Lynn~~; Jack Graham, Cynthia Coffman, ~~Walker Stapleton~~, Tom Tancredo, Barry Farah

#### 3<sup>rd</sup> Congressional District

Declared -

Scott Tipton; Diane Mitsch-Bush, Chris Kennedy

Rumored -

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Bob Baer, ~~Chris Kennedy~~

2<sup>nd</sup> Congressional District

Declared –

Bob Comer; Joe Neguse, Mark Williams, Howard Dotson; Todd Mitchem, Kristopher Larsen

Rumored –

Brian DelGrosso, Gino Campana; Ken Tolz, Jake Williams, Shaun McGrath, Kristopher Larsen

**Colo 2018 legislation:**

Interim Committee:

The Water Resources Review Committee (“Interim Water Committee”) has been meeting roughly monthly all summer long. Yesterday the Committee reviewed draft legislation. The Committee will vote on each of these proposals at its final 2017 meeting on October 31. Interim Committee approval requires 2/3 vote of the 10 member committee. Committee bills under consideration are:

- Interconnected Treated Water. This is the “FLEX III” bill. It came from a request from Ft. Collins to allow greater flexibility in place of use for treated water if historical consumptive use (HCU) has already been quantified for the water right in question. Peter and I have been working with the sponsor and proponents to resolve largely technical concerns and to ensure it doesn’t adversely affect place-of-use limitation agreements (like the CRCA).
- Mitigation Use of Gravel Mining Replacement Water. This bill would allow “incidental” use of replacement water that has been approved pursuant to a plan for augmentation or substitute supply plan to offset evaporative losses from sand and gravel operations. Incidental uses would be limited to product processing and reclamation revegetation.
- Mussel-free Colorado Act. This bill would create an aquatic nuisance species stamp required for all motor boats and sail boats using Colorado’s lakes and reservoirs (in addition to existing registration fees). Stamps will cost \$25 for Colorado residents and \$50 for non-residents. The current draft does not require stamps for rafts, kayaks or other vessels not currently subject to registration.
- Use of Reuse Water. The Committee has several bills under consideration addressing allowable uses and agency oversight of reclaimed domestic wastewater water. Various versions of these bills would allow use of reclaimed water on food crops, industrial hemp, marijuana, and for toilet flushing.
- Colorado Water Quality Standards. This bill would restrict the Department of Health from setting water quality standards stricter than federal standards without an additional finding that the tougher standard would not harm existing water rights.
- Addressing High Groundwater Levels in Lower So Platte. The Committee is (again) considering two bills intended to address high groundwater levels in the South Platte basin near the CO-NE state line. Importantly both bills specifically limit applicability to a single water district in Water Division 1 (So Platte). Accordingly, there is no impact or implication for the River District or western Colorado.

Interim Committee legislative proposals not approved by the committee or withdrawn prior to Committee vote can still be – and often is – introduced as a non-interim committee bill

Other anticipated legislation:

Northern's mitigation bill.

The Northern District has been working hard this summer to develop consensus legislation allowing Northern to fulfill and implement its fish and wildlife mitigation plan for its NISP project. This bill is the 2018 proposal replacing the failed SB 17-282. Peter and I have been working closely with Northern, its legal counsel, its lobbyist, and large working group to address River District and others concerns that persist from SB17-282. I hope to report significant progress at the October meeting.

Sea plane landings.

The Colorado Association of Seaplanes is planning on returning to the legislature in 2018 to request that CPW be directed to create a pilot program allowing sea plane landings on at least two lakes or reservoirs where recreation is controlled by CPW. This would be a do-over of SB17-235. Although not a bill under consideration by the Interim Water Committee, proponents testified before the Committee yesterday. The Association's attorney cited a letter in which he threatened "more aggressive legal action" if satisfactory legislation is not passed. (This did not appear to be a well-received lobbying tactic.)

Compact Water Shepherding.

There may be legislation amending the definition of beneficial use to include "compact security." This would allow the state engineer to shepherd water (including consumptive use savings) dedicated to compact compliance at least to the state line on the subject river. Legislation would include conditions defining the "duty of water" for compact security. These conditions would presumably include direction to the water court for quantification and limitations on when such rights can be considered beneficial use. Additionally there will likely be limitations on who can legally own compact security rights, possibly limited to the CWCB only.

If legislation is not introduced in 2018, work on draft legislation will occur during the year.

Severance tax exempt from TABOR.

Representative Rankin (R-Carbondale) is considering legislation designating severance tax revenues as Enterprise funds under TABOR. This may require a constitutional amendment and therefore must be a legislatively referred measure requiring 2/3 approval of both houses and voter approval at the next general election.

TABOR revisions.

Representative Thurlow (R-Grand Junction) is again evaluating legislative "tweaks" to TABOR implementation. If he repeats HB17-1187, his proposal would change the benchmark for allowable annual increases in public budgets from the Denver-Boulder CPI to a five-year running average of statewide personal income.

Gallagher Amendment revision.

Representative Thurlow is also evaluating a referred measure asking voters to amend the Gallagher Amendment that would freeze the residential assessment ratio at a fixed percentage. Recall that

the existing constitutional provision fixes the non-residential assessment percentage at 29%. The residential ratio is recalculated every two years after statewide reassessments to maintain a 55/45 ratio in assessments between residential and non-residential properties.

#### Transportation Funding Initiatives.

We could have at least two competing initiatives concerning transportation funding on the November 2018 ballot. One will be an as yet undetermined percentage increase in the state sales tax, the revenues from which would be dedicated to transportation infrastructure. The Denver Metro Chamber of Commerce will be the principal sponsor. In stark contrast, “Fix the Damn Roads” by the Independence Institute would declare that the state already has enough money to fix and build new lanes/roads, directing the General Assembly to reallocate General Fund resources to transportation.

#### Water Funding.

Discussions continue regarding alternative dedicated funding sources for water projects and programs. As we’ve discussed, these range from Senator Coram’s pennies per utility bill fee to a dedicated increase in the state sales tax. Any mechanism triggering a TABOR vote appears more likely for the 2020 ballot at this time.