



MEMORANDUM
JULY 5, 2018

TO: BOARD OF DIRECTORS

FROM: CHRIS TREESE
ZANE KESSLER

SUBJECT: COLORADO LEGISLATIVE UPDATE & OUTLOOK

ACTION: *No specific action requested with this memo; however, as always, Board direction, input, and priority-setting welcomed. Staff will request direction on specific issues as time allows.*

STRATEGIC INITIATIVE(S):

- 1. A, B, C** *Outreach and Advocacy*
- 6. B, D, E** *Agricultural Water Use*
- 7. C, D** *Water Needs/Project Development*
- 9. A** *Water Efficiency and Conservation*
- 10. B** *Water Quality*
- 12. A** *Financial Stability*

Post Mortem on 2018 Regular Session:

At the outset, we would again like to thank Directors for your commitment and dedication to bi-weekly meetings during the legislative session. Your positions, priorities and guidance were truly invaluable to Zane and me during the session.

The Colorado General Assembly introduced 721 bills, the most in 14 years. Both houses took their work right up to the constitutionally-mandated adjournment of midnight May 9.

The River District followed 27 individual pieces of water and water-related legislation. As always, we think our best work is done before legislation is introduced to shape it prior to introduction or advocate for deferring introduction altogether. A spreadsheet of introduced bills we followed is attached with final disposition noted for each.

While the 2019 session will not be characterized by its water legislation, we were able to advance and protect several important public water policies. Budget issues, especially those funding water projects and programs, present a perennial challenge. Staff continues to address this with both a short and long term strategy.

After numerous and lengthy meetings during the summer of 2017, we successfully shaped and protected the “savings clause” in Senate Bill 18-170. SB 170 allows the Northern District to meet its environmental mitigation obligations on its proposed NISP project without burdening or jeopardizing existing or future alternative mitigation mechanisms, including those currently utilized by the River District.

The legislature passed three bills and defeated one defining the legal use of reclaimed wastewater. Passed were bills allowing reclaimed water use for toilet flushing, irrigation of edible crops and hemp cultivation. The Senate Finance Committee killed a bill that would have allowed reclaimed water to be for marijuana cultivation. This bill got caught up in the politics of marijuana rather than any substantive policy concern over reclaimed water use. We were successful in amending each of these bills with a clarifying paragraph making clear that only water rights that can legally be reused may benefit from these bills. Expanded reuse should allow for more complete use of existing transmountain diverted water, as well as other legally reusable waters, taking some pressure of new or expanded transmountain proposals.

Governor Hickenlooper vetoed a record nine bills this session, including HB18-1181 that would have allowed non-Coloradans to vote in Colorado special district elections if they own taxable property in the district and allowing non-resident electors to serve on special district boards in a non-voting capacity. This bill applied to Title 32 special districts and therefore not the River District, but it would have affected special water, wastewater, and water and sanitation districts, as well as metro districts with water and wastewater missions.

Budget - Legislators received a pair of gifts with the March economic forecast. State economists projected a \$1.2 billion surplus for the then-current fiscal year (ending June 30). Roughly half of that money - \$495 million - was quickly earmarked for transportation funding, with the remainder going to K-12 education and other state programs.

In that same forecast, an additional \$1 billion was added to lawmakers’ plates to use as ingredients in the final \$29 billion FY ’19 budget, a 6-8% increase from previous projections and those used to bake the original budget bill. This “windfall” allowed legislators to allocate \$645 million to transportation in the next two years and address PERA pension reform with generous annual state contributions.

Of particular interest to the River District and our roundtables, increases in mining production in the state are expected to nearly double severance tax revenues next year, from about \$101 million this year to \$209 million next year. Funding for the Water Supply Reserve Fund (WSRF) in fiscal year 2017/2018 was complicated by issues with severance tax revenue reductions coupled with large refunds related to the Colorado Supreme Court’s BP decision. The WSRF received an initial installment of \$1,455,116 on July 1, 2017, but did not receive any other severance tax revenue for the remainder of the fiscal year. Since the CWCB had anticipated much lower severance tax revenues, the 2017 Projects Bill included a \$10,000,000 transfer from the loan program to the WSRF. These funds were disbursed following the regular schedule in the WSRF Criteria and Guidelines for the July and January installments, 40% and 30% respectively. Due to the significant

issues with severance tax revenues and refunds from January 2018 to present, the final 30%, or \$3,000,000, was not disbursed.

Subsequently, HB18-1338 passed; it was a give-and-take bill. It directed the \$1,455,116 originally received by the WSRF on July 1, 2017 to be refunded back to the severance tax operational fund to assist in meeting a critical shortfall of funding for Tier 1 severance tax programs. However, it also provided that General Fund monies backfill any loss to various “Tier II” programs due to the required transfers.

The WSRF also received some relief with passage of SB18-218, this annual bill authorizing expenditures from the CWCB’s Construction Fund included \$9M for activities related to Colorado’s Water Plan, among numerous other funding requests including a \$2,000,000 transfer from the loan program to the WSRF for fiscal year 2018/2019.

Interim Committees:

We will be following three interim legislative committees this year. Requests for draft bills will be earlier this year due to a new requirement for fiscal notes to be prepared on each as well as the November election. Requests for bill drafting must be made by August 10. By September 27 committees must act on proposed bills in order to be recommended to Legislative Council (a formality).

The Water Resources Review Committee

This 10-member “standing interim” committee is statutorily required to have at least four members residing west of the continental divide. This year Representatives Catlin (R-Montrose) and Roberts (D-Eagle) and Senators Coram (R-Montrose) and Donovan (D-Avon) are our representatives. Passage of legislation from this committee requires a super-majority vote of at least seven members. By a tradition of rotation, Ag Committee chair Representative Arndt (D-Fort Collins) will chair the interim this year.

We expect the committee will examine a broad array of issues, including many of the topics of failed legislation this year. TENORM disposal, deficit irrigation, and seaplane landings on state-controlled recreational lakes and reservoirs are all on the agenda. We have advocated for the committee to spend at least a half a day on Colorado River interstate matters.

Alternatives to the Gallagher Amendment Interim Committee

This six-member committee is charged simply with “studying alternatives to the Gallagher Amendment.” Representative Rankin (R-Glenwood) is the sole west slope member of the committee. The committee only has four meetings scheduled, including its only non-Denver meeting, in Glenwood on the second day of the Board meeting. We will be watching and working with Representative Rankin and this committee closely.

The “Gallagher Amendment” established in our state constitution that the statewide ratio between residential and non-residential assessed values be fixed at roughly 45:55. The non-residential assessment ratio is unvaried at 29% of market values; the residential assessment rate (RAR) floats to maintain the 45:55 ratio. When Gallagher passed in 1992 the RAR was 21%. The General

Assembly is charged with setting the RAR to maintain the 45:55 ratio. The RAR has declined over the years due to the faster increase in residential growth and market values. This year the RAR is 7.2%, set by passage of HB17-1349 last year. Projections are for decrease of 15% to 6.1% next year for the RAR. This would have an estimated 15-19% adverse impact on the River District's General Fund budget in 2020.

There were years in this decade when the RAR should have increased (slightly) but subsequent passage of TABOR prohibits the increase in tax rates, therefore the General Assembly simply made no adjustment. The legislative authority to set the RAR provides one potential avenue to addressing this looming impact to local governments. The committee will be examining both the impact and alternatives.

Wildfire Matters Review Committee

This is the fourth consecutive year for this interim committee. The Legislature this year extended its sunset by seven years to July 1, 2025 with passage of SB18-039. The committee has broad review authority, but is limited to recommending only five bills. Encouragingly, the committee continues to focus on forest and watershed health.

Elections:

Primaries -

Crowded fields, early primary calendar and the ability of Unaffiliateds to vote in either primary made for interesting primary elections. Below are just a few of the primary results of particular interest to the River District.

State:

In crowded Republican and Democrat primaries for Governor, Walker Stapleton and Jared Polis each won convincingly.

Representative Dan Thurlow (GJ) challenged Senator Ray Scott in last month's primary for the Republican nomination to the District 7 Senate seat. Senator Scott prevailed and should have no trouble winning reelection to a second (and last) term in Republican-heavy Mesa County.

Federal:

3rd Congressional District

Former state representative Diane MitschBush (Steamboat Springs) won in a three-way primary against Glenwood water attorney Karl Hanlon and former Eagle County Commissioner Arn Menconi. She will face Scott Tipton (R-Cortez) in November.

2nd Congressional District:

Joe Neguse, former Colorado Regent, won the Democrat primary nearly 2:1 over Mark Williams to replace Jared Polis in Congress. Neguse will face Republican Peter Yu in the November general election. Yu was unopposed for the GOP nomination. Libertarian Roger Barris and independent candidate Nick Thomas are also on the November ballot. Grand, Summit and the east half of Eagle Counties are in the 2nd CD.

November Elections -

For the first time in modern memory, Democrats have candidates for every state office. Control of the Senate – currently a Republican majority of one – hangs in the balance.

November Ballot Initiatives -

Five November ballot questions were referred by the General Assembly. Eighteen citizen initiatives have been approved for signature gathering. Legislative Council is analyzing nine citizen initiatives, providing some indication of the potential number of questions of the November ballot. Four questions are relevant to the River District.

Redistricting and Reapportionment

In the final days of the legislative session, the Legislature passed Senate Concurrent Resolution 18-004 and Senate Concurrent Resolution 18-005, which refer respective ballot questions on legislative and Congressional redistricting to the November ballot. Congressional redistricting will be Amendment Y and Legislative Redistricting will appear as Amendment Z. Colorado voters will decide whether to create a new, relatively non-partisan and citizen commission-based process for drawing political districts after each decennial census.

There were two competing citizen initiatives working on this subject. With the uniting of these two groups behind a single pair of initiatives, the Legislature was able to move the questions to the ballot with the required 2/3 vote from each house, thereby avoiding the expense of signature gathering. The recently united citizen coalition is now called Fair Maps Colorado.

Transportation Funding

Also on the November ballot will be at least one ballot initiative to force Colorado lawmakers to spend existing tax revenues on transportation instead of a new or increased tax. The annual amount would be that necessary to payoff \$3.5 billion in bonds authorized by the question. This is being proposed by Independence Institute. It would have significant and challenging implications for the annual state budget starting in 2019.

An alternative is being proposed by a coalition led by the Denver Metro Chamber of Commerce that would ask voters to approve a statewide sales tax increase and allow revenue bonding against the anticipated revenue. It was more recently approved for signature gathering.

Water Projects and Programs Funding

Longer term, a small group of water and civic leaders has formed to examine alternatives for funding the “gap” identified in Colorado’s Water Plan. If this group goes to the ballot seeking voter approval for a new tax or tax increase, it would not be until 2019. The group is targeting approximately \$100 million annually in new revenue dedicated to water projects and programs. Andy Mueller is a member of this group. There will not be a question on this year’s ballot related to water funding.

2019 Outlook:

The budget will continue to loom large in the political debate. Water projects, while projected to enjoy a welcome increase in severance tax revenues without offsetting pressure of rebates, will

continue to struggle to meet demands as any increase will be marginal and consistently uncertain. Other factors, noted above, such as transportation funding initiatives and K-U education will continue to compete for dollars available.

Russell George's position as the Colorado River basin director on the CWCB is up in 2019, as is Jay Gallagher's position representing the Yampa/White/Green basin. Russ has served three terms; Jay two. While there is no term limit to CWCB terms, Governor Hickenlooper generally limited appointments to two terms. These replacements, of course, will be made by the new Governor. I do not believe Russ is interested in another term regardless of the new Governor's appointment criteria. I do not know about Jay. The River District should be contemplating succession planning for both of these important positions.

Bill #	Position	Short Title	Sponsors	End of Session Status
HB18-1008	Support	Mussel-free Colorado Act	D. Esgar J. Arndt / K. Donovan Coram	Governor Signed
HB18-1053	Support	Reclaimed Water Use For Marijuana Cultivation	J. Arndt C. Hansen / K. Donovan	Senate Finance Pl'd
HB18-1069	Support	Reclaimed Water Use For Toilet Flushing	J. Arndt D. Thurlow / D. Coram	Governor Signed
HB18-1073	Amend	Water District Ability Contract Water Assets	M. Gray / B. Gardner	Governor Signed
HB18-1093	Support	Reclaimed Water Use For Edible Crops	J. Arndt / D. Coram	Became law w/o Governor's signing
HB18-1147	Monitor	Sunset Process Weather Modification	J. Ginal K. Ransom / D. Coram	Governor Signed
HB18-1151	Support in Concept	CWCB Approve Deficit Irrigation Pilot Projects	J. Arndt M. Catlin / L. Crowder	Senate State Affairs Pl'd
HB18-1199	Monitor	Aquifer Storage-and-recovery Plans	M. Catlin B. McLachlan / D. Coram	Governor Signed
HB18-1201	Support	Severance Tax Voter-approved Revenue Change	D. Thurlow / D. Coram	House Finance Pl'd
HB18-1215	Aggressively Monitor	Safe Disposal Naturally Occur Radioactive Material	J. Arndt / M. Jones	Senate State Affairs Pl'd
HB18-1301	Support water quality provision	Protect Water Quality Adverse Mining Impacts	D. Roberts B. McLachlan / S. Fenberg K. Donovan	Senate State Affairs Pl'd
HB18-1338	Support	Reduced Revenue Severance Tax Operational Fund Transfers	B. Rankin / K. Lambert	Governor Signed
SB18-019	Support	Expanded Duration For Colorado Water Resources And Power Development Authority Revolving Loans	K. Donovan D. Coram / C. Hansen J. Arndt	Governor Signed
SB18-038	Support	Reclaimed Water Use On Industrial Hemp	K. Donovan D. Coram / D. Esgar Y. Willett	Governor Signed
SB18-039	Support	Continue The Wildfire Matters Review Committee	M. Jones J. Cooke / D. Thurlow Exum	Governor Signed
SB18-041	Support	Authorize Water Use Incidental Sand And Gravel Mines	D. Coram R. Baumgardner / L. Saine J. Arndt	Governor Signed
SB18-134	Monitor	Public Utilities Commission Deregulate Nonprofit Water Utilities	J. Cooke / J. Arndt	Governor Signed
SB18-143	Monitor	Parks And Wildlife Measures To Increase Revenue	S. Fenberg D. Coram / J. Arndt J. Wilson	Governor Signed
SB18-167	Monitor	Enforce Requirements 811 Locate Underground Facilities	R. Scott K. Donovan / F. Winter Saine	Governor Signed
SB18-170	Support the "savings clause"	Reservoir Releases For Fish And Wildlife Mitigation	J. Sonnenberg / C. Hansen H. McKean	Governor Signed
SB18-176	Support	Board Meeting Dates Southwestern Water Conservation Dist.	D. Coram / B. McLachlan M. Catlin	Governor Signed
SB18-194	Recommended: Oppose	Contributions Colorado Natural Resources Foundation Fund	D. Coram / D. Roberts Y. Willett	Senate Finance Pl'd
SB18-205	Support	Industrial Hemp Designation Agricultural Product	V. Marble D. Coram / M. Catlin B. McLachlan	Governor Signed
SB18-218	Support	Colorado Water Conservation Board Construction Fund Project	D. Coram / J. Arndt	Governor Signed
SB18-275	Recommend: Monitor	Evaluate Prerequisites Seaplane Operation In Colorado	R. Scott N. Todd / L. Saine J. Melton	House Ag Pl'd
SJM18-001	Support	Memorialize Congress To Fund Wildfire Response	M. Jones R. Baumgardner / J. Singer D. Thurlow	Passed
SJR18-003	Support	Water Projects Eligibility Lists	R. Baumgardner / J. Arndt	Governor Signed