

THE HARMONY DITCH COMPANY

c/o John Monheiser
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Senate Committee on Agriculture and Natural Resources
c/o Senator Jim Isgar
200 E. Colfax
Denver, CO 80203

Re: House Bill 1174

Dear Chairman Isgar and Members of the Committee:

I am writing to you on behalf of The Harmony Ditch Company ("Harmony"). Harmony is a mutual ditch company and the shareholders of Harmony consist of family farming operations in the vicinity of Crook, Colorado. Harmony diverts water from the South Platte River near Crook, and diverts the water pursuant to a 252 cfs water right with a July 15, 1895 appropriation date. The water diverted pursuant to the Harmony Ditch water right is crucial to the farming operations for the shareholders of the Harmony Ditch.

We have reviewed the terms of House Bill 1174, and we urge you to vote against passage of House Bill 1174. The provisions of House Bill 1174 would allow owners of wells within the South Platte River Basin to not replace depletions to the South Platte River associated with pumping water wells prior to 1974. While the Harmony Ditch water right is a relatively senior water right, there are numerous times during the irrigation season when there is not enough water to fully satisfy the Harmony Ditch water right. If you review the records of the South Platte River Division Engineer, you will readily see that the Harmony Ditch is calling for additional water almost all summer. If the wells do not replace all of their out-of-priority depletions, the Harmony Ditch water right is deprived of water that the Harmony Ditch is entitled to receive under the Colorado Constitution.

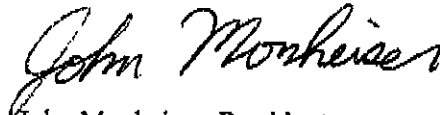
We have heard the claim that the amount of water that will not be replaced under House Bill 1174 is a "small amount." However, we also understand that no one, including the State Engineer, has actually completed an analysis of the actual quantities of water that will not be replaced. In any event, if the amount of water that is not replaced to the South Platte River is a "small amount," then why don't the supporters of House Bill 1174 provide the water to replace the depletions? The fact is no one knows the actual volumes of water that would be affected by House Bill 1174, and the effect of House Bill 1174 is to steal water from the Harmony Ditch water right and other senior water rights.

We have also heard the claim that the well owners did not know that they were taking water that belongs to senior water rights, and they should not now be obligated to replace the

depletions. The prior appropriation doctrine has been the law in Colorado since before 1876. For someone to claim that they should not need to replace the depletions that they are causing this year, and later years, is essentially a claim that they just cannot stop stealing water. For over fifty years, the wells have been stealing water that belongs to senior water rights, such as the farmers under the Harmony Ditch, and the State Engineer and Division Engineer took no action to protect senior water rights. No one has asked the well owners to make-up the water that was illegally taken from the senior water rights during the past fifty years, and it is astounding that the well owners are asking the legislature to allow them to keep stealing water that belongs to senior water rights. Enough is enough.

Harmony strongly requests that you not approve House Bill 1174. The time has come for well owners to finally stop taking water that does not belong to them. Please contact me if you have any comments or questions.

THE HARMONY DITCH COMPANY

A handwritten signature in cursive script that reads "John Monheiser".

John Monheiser, President