

House Bill 12-1278 House Sponsorship Representative Randy Fischer

Testimony by Charles W. Sylvester

February 20, 2012

Thank you for the opportunity to testify on House Bill 12-1278.

I strongly support the Fischer Bill...and thank Representative Fischer for bringing it to this committee.

Like Senator Greg Brophy, who so courageously sponsored SB 12-142...that was sadly defeated this past Thursday... Representative Fischer recognizes Colorado has an emergency situation... non-historic flooding along the South Platte River basin...that requires immediate action!

This bill wisely authorizes the state engineer to immediately address this man-made flooding in ways that will circumvent any further destruction of properties... from Henderson out past Sterling.

What this is all about is "Water Law versus Water Engineering."

Or more accurately, it should be described as: "Attorneys Water Movement Trumps Mother Nature."

Water Law was changed initially, to temporarily address a drought. As a part of this emergency undertaking, 8,400 wells were shut down, and 6,000 reopened under a new – albeit scientifically unattainable requirement of 100% augmentation plan.

One consequence of this re-design of water usage resulted in individuals in the lower areas of the South Platte River being the receivers of new waters, in abundance, and past its historically developed flow.

These new water receivers turned this into a water delivery demand. With this demand came attorneys, who assisted in depriving the upper end beneficial users in order to facilitate their clients, the lower end receivers, with water ample enough to sell back to the now deprived upper end users.

Realizing real harm from these actions, the upper end beneficial users tried for years to explain the absolute scientific need to correct the water situation by returning control of its movement back to engineers.

Many hydrological engineers saw other dangers emerging, and they too tried to warn officials. Their warnings went un-heeded, and the pleadings by beneficial users were met with lawsuits.

A combination of these man-made decisions has resulted in the non-historic surface water flooding we're experiencing today.

I cannot emphasize enough...how this destructive this man-made flooding is! It is destroying water treatment systems, productive farmland, pastures, homes (rural and urban), crops, livelihoods, dreams, and yes – even lives.

Additionally, I cannot stress enough...the fact that this flooding is an act of agency...not an act of God...and thereby should be accurately recognized as non-historic and avoidable.

Again, I reiterate. At the same time these events are taking place on the upper end of the Platte, lower end residents are not only getting enough water to irrigate their crops, they have a surplus that water cartels are now selling.

In order to help Governor Hickenlooper from being forced to deal with an unnecessary catastrophic event, in addition to Representative Fischer's worthy bill, I offer the following...and in this order:

1) Governor Hickenlooper immediately issue an Executive Order to open all wells - and at the historically workable augmentation rate of 5%. He should stay that order until all the affected properties are completely drained and stabilized with a scientifically determined rate of dry length.

2) Governor Hickenlooper launch a program that will immediately identify parties damaged by man-made flooding and get rolling on compensating them for their losses and reclamation of their property. Even though the 3.5 million fiscal notes on HB 12-1278 is a good start on a disaster fund, it won't even come close to compensating the harmed.

Therefore, it should be factored that in order to make up the compensable loss difference, those who deem themselves as "controlling State's water" should be identified and required to chip in on the disaster fund. Their only business should be to quiet lawsuits, compensate the damaged, and allow science to remedy water matters.

3) Governor Hickenlooper authorize State Water Engineer to work closely with a non-partisan group of no less than 6 hydrological engineers, to fully monitor well activity while folding this monitoring into a comprehensive study as defined within, but not exclusive to Representative Fischer's bill.

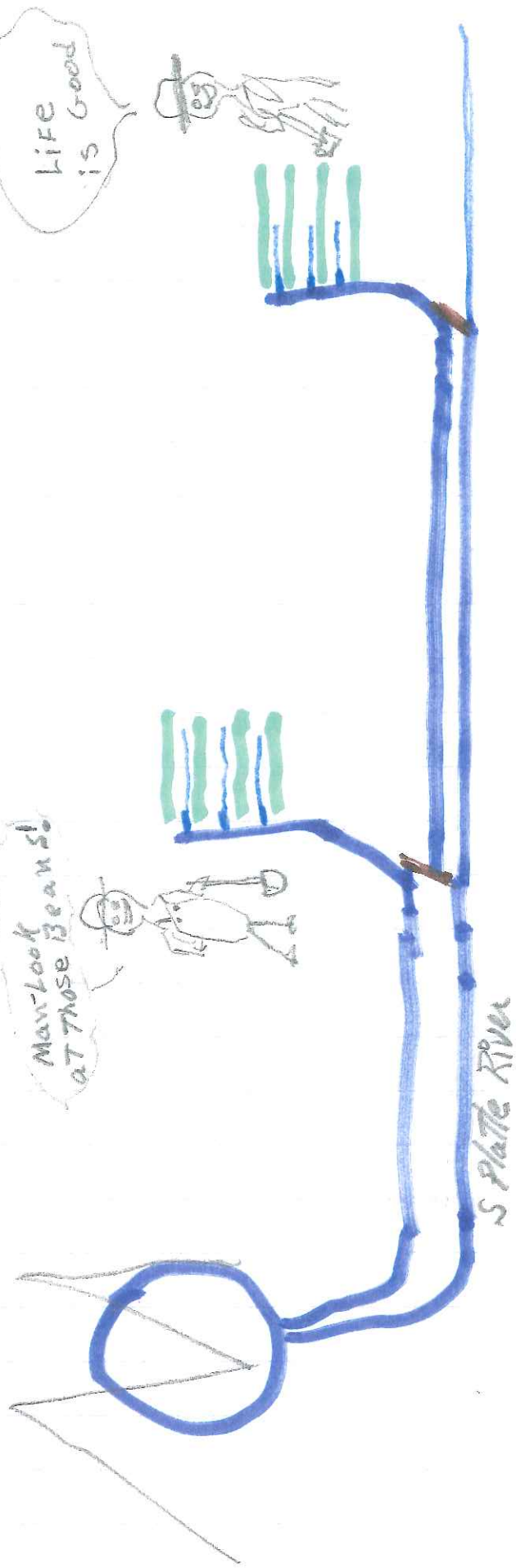
Please know that with the soon coming spring melt, this flooding has potential to eliminate hundreds of thousands of production acres, and destroy your neighbor's life. If this is your desire, then kill the bill.

But because I consider each of you... ladies and gentlemen of the committee... are compassionate good neighbors, I feel certain each of you will vote yay, and unanimously pass HB 12-1278.

Thank you.

Apr May June 1870 - 1930

Spring and Summer run off



Denver

Grealey

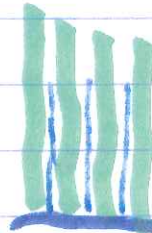
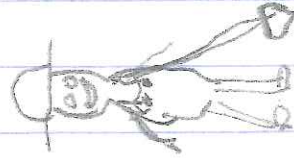
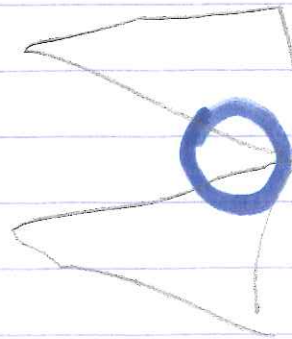
Sterling

July

Aug

Sept

Limited runoff months



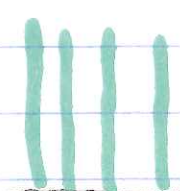
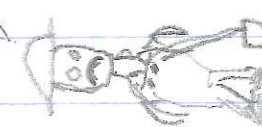
S Platte River

Denver

Greeley

1890 - 1930

where's my water?



STERLING

Question - what is your historic water right when there is no water in the river?