

**Glen Fritzler**

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**From:** Glen Fritzler <glen@fritzlermaze.com>  
**Sent:** Monday, March 02, 2015 10:12 AM  
**To:** Glen Fritzler  
**Subject:** FW: Testimony

Thank You Mr. Chairman and Representatives.

## Negligence

*Conduct that falls below the standards of behavior established by law for the protection of others against unreasonable risk of harm. A person has acted negligently if he or she has departed from the conduct expected of a reasonably prudent person acting under similar circumstances.*

*Knowing of a unsafe situation and doing nothing about it.*

If an unwanted intruders entered your home and you feel threatened, you would be able to shoot that the intruder dead without any legal consequences. However, if the unwanted intruders is groundwater entering someone's home threatening the occupants health, because of black mold or contaminated with sewage or threatening the integrity of the foundation, or devaluing the homes and farmland... How is this trip treated? This intruder is as unwelcome as any and in order to get rid of it, I, like many I've had to go to great lengths and incredible expenses to protecting my home and I am a criminal if I consider putting the water to any sort of beneficial use. Does this seem right to you?

We heard testimony last week that this bill doesn't follow the intentions of House Bill 1278. I totally disagree I believe this is exactly what 1278 meant for us to do. See handouts.

>

> You heard last week that dewatering is what many people are recommending which they claim suits 1278 much better. I personally did a word search and then verified it with Dr. Waskom, and nowhere in the 207 page full report does it even mention dewater or dewatering even once. See handout.

>

> You heard testimony that if we pump without full augmentation injury is certain. But as you saw last week on the video tape I played showing Jim Yohn on that interview on channel 4 he said and I quote 'do you allow them to pump and then a have the **POSSIBILITY** of injuring someone downstream or do you just pump and hope that nothing happens.' I am unaware of any study between 2012 and 2014 that could possibly validate that injury is certain. To me it's clear that Jim isn't sure how well pumping might affect the flow of the South Platte river. They (the objectors) aren't sure, you aren't sure and I'm not sure and that's why we need good data collected.

You heard testimony from Miss Perino. She said she's afraid to leave the house which makes it impossible for her to visit her grandchildren. She's totally out of money. She spent her life savings getting her groundwater problem fixed. You heard her express concerned about health issues i.e. black mold. She said she didn't have enough money to dry out her baseman properly the last time it's flooded. She talked about taking a mortgage out which she learned because of her groundwater problem she may not be eligible for.

You heard from Mr. Lorenz and his nephew Jay Holmes talk about their concerns of black mold and contaminated water from leach fields.

You heard Donna Brosemer, representing the city of Greeley's Water and Sewer Board, speak against the bill on grounds that it would provide only a temporary solution to a permanent problem. Brosemer called for a long-term solution and criticized the bill for the costs it would entail to implement an accompanying study and to continue pumping water that would inevitably accumulate again around Gilcrest. Most of this is very true. We need this bill in order to find the long-term solution that Donna seeks.

We have Freddie Hernandez's story. We have Glenn Durant's story. There are many people out there also that have stories just like this.

The \$250,000 price tag attached to this bill seems pretty manageable compared to the \$88,000 the Lorenz's put out or the life savings that Miss Perino spent and I could go on and on.

How would you vote if this was your house, your family being affected?

*Have a FARMtastic Day,*

*Glen Fritzler*

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In that context, our recommendations fall into four broad categories: 1. Mitigation of localized high water table conditions; 2. Increasing augmentation plan efficiency; 3. Implementation of basin-wide management; and 4. Recommendations for the State of Colorado, DWR, and CWCB. We recommend that any changes in groundwater management in Division 1 should occur through an inclusive and open process. Further explanation of the recommendations is found beginning on page 177 of the report.

## Recommendations

### 1. Mitigation of localized high water table conditions

- A. *The State Engineer or the Colorado Geological Survey should be delegated responsibility by the General Assembly to provide a consultation to the water court regarding new recharge structures before construction and recommend changes in design or operation when a recharge plan is deemed likely to cause or is causing harm.*
- B. *Two pilot projects should be authorized and funded by the General Assembly to allow the State Engineer to track and administer high groundwater zones for a specified period of time to lower the water table at Sterling and Gilcrest/LaSalle while testing alternative management approaches.*

### 2. Increasing augmentation plan efficiency

- A. *The State Engineer should be directed by the General Assembly to promulgate new rules for the S. Platte to:*

- 1) *Establish a framework for the voluntary movement of excess water supplies between augmentation plans, facilitated by the office of the Division Engineer, including a water bank or pool available for use by augmentation plan users.*
- 2) *Establish basin specific guidelines for the implementation of administrative curtailment orders pursuant to 37-92-502(2)(a), C.R.S. that reduce waste and facilitate efficient management and distribution of available water supplies to storage and recharge water rights in the time and place of their need, in accordance with priority and historic practice. The guidelines should:*
  - a. *Allow the Division Engineer to use the administrative call as a management tool to increase system efficiency, decrease waste and maximize diversions for beneficial use;*
  - b. *Provide for storing water out-of-priority at higher elevation, and managing deliveries to downstream reservoirs as necessary;*
  - c. *Minimize seniority, frequency and duration of administrative calls to the full extent consistent with the fulfillment of decreed water rights;*
  - d. *Make use of all available data regarding water supply, including ground water levels, to determine the necessary administrative call date for each reach or sub-reach of the river and the alluvial aquifer system.*

*3) Develop uniform and transparent reporting standards for augmentation plan accounting designed to integrate with basin data collection, modeling and management.*

*B. Funding should be authorized to provide the Division 1 Engineer with two additional FTEs and greater annual investment in technology upgrades. Additionally, Colorado DWR needs one additional FTE to focus on data and information services.*

### 3. Implementation of basin-wide management

- A. The General Assembly should authorize the establishment of a pilot basin-wide management entity with a defined sunset date.*
- B. The CWCB, CDA and DWR should work with USGS to implement the basin-wide groundwater monitoring network outlined in this report.*
- C. The State should cooperate with the S. Platte Basin Roundtable and water organizations in the basin to fund and conduct a helicopter electromagnetic and magnetic survey to produce detailed hydrogeological maps of the S. Platte alluvial aquifer.*
- D. The State should continue strong support for the development and implementation of the SPDSS and strive to improve accessibility, scope, and robust stakeholder processes.*
- E. The State should aggressively begin working with water users and other stakeholders in the S. Platte basin to develop multiple-benefit water storage options.*

### 4. Recommendations to the Colorado DWR and the CWCB for improved data collection, data management, and data access

*A number of specific recommendations for improving data capture, management, and display are offered to the State based upon our experience on the HB1278 study beginning on page 185 of the report.*

The recommendations offered in this report carry fiscal impacts that should be weighed in consideration of their implementation. However, the S. Platte basin faces significant water shortages that will potentially impact Colorado's economic, agricultural and environmental future. The planned conjunctive use of surface and groundwater has the potential to offer benefits in terms of economic, environmental, and social outcomes through increased drought protection, water use efficiency, and the control of shallow groundwater levels and consequent soil salinity. Retrofitting conjunctive use into a prior appropriation system that favors surface water use is made difficult by the many layers of management and local interests that have evolved over time. It is important to acknowledge that most of our water management system is working well. The challenge lies in whether we can move to an even higher level of sustainable utilization. Well users must replace injurious out-of-priority depletions – that is not a matter of

## RECOMMENDATIONS

In addition to developing information on surface and groundwater use and water levels, HB1278 directed CWI to:

- Provide information to use as a base for implementation of measures to mitigate adverse impacts in areas experiencing high groundwater levels.
- Provide information to the General Assembly, CWCB, and the State Engineer to facilitate the long-term sustainable use of South Platte water supplies.
- Determine whether additional usage of the alluvial aquifer could be permitted in a manner consistent with protecting senior surface water rights.
- Determine whether, and to what extent, the use of water in the basin could be improved or maximized by affording the State Engineer additional authority to administer water rights while ensuring protection of senior surface water rights.

Our evaluation of the data leads us to the conclusion that current administration of groundwater in the basin works well for the majority of water users, and that senior surface water users are for the most part protected from injury due to well pumping by current administration. Groundwater users in Water District 2 and parts of District 1 have been adversely impacted by the shortage of affordable augmentation supplies to offset pumped depletions. Changes in water administration in the past decade have led to increasing groundwater levels that in some cases impact land and homes. Presently, high groundwater conditions impacting landowners appear to be localized and thus, local solutions are recommended. In the consideration of the recommendations offered herein, it should be acknowledged that senior water rights must be protected in any adjustments to the system and that wells cannot be relieved from the obligation to replace out-of-priority depletions that cause material injury to surface water rights. HB1278 asked whether management of the system could be improved while still respecting augmentation decrees and the work accomplished to bring wells into compliance. In that context, our recommendations fall into four broad categories: 1. Mitigation of localized high water table conditions, 2. Increasing augmentation plan efficiency, 3. Implementation of basin-wide management, and 4. Recommendations for the State of Colorado, DWR and CWCB. We recommend that any changes in groundwater management in Division 1 should occur through an inclusive and open process.

### **1. Mitigation of Localized High Water Table Conditions**

Several areas on the S. Platte mainstem, most notably Sterling and the Gilcrest/LaSalle regions, are experiencing high groundwater conditions that should be mitigated to prevent further damage to property and loss of water through non-beneficial consumptive use. HB1278 required that CWI provide information to use as a base for implementation of measures to mitigate adverse impacts in areas experiencing high groundwater levels. Our evaluation leads to the finding that

while high groundwater can be found throughout the basin, adverse impacts are localized at this time. The first category of recommendations proposes strategies to address these local issues in the short to mid-term.

#### Additional State Engineer Duties

**1A. The State Engineer or the Colorado Geological Survey should be delegated responsibility by the General Assembly to provide a consultation to the water court regarding new recharge structures before construction and recommend changes in design or operation when a recharge plan is deemed likely to cause or is causing harm.**

There are over 500 recharge projects now in place in the S. Platte basin. According to Division 1 staff, as many as 800 total recharge structures are planned in existing augmentation plans, so there are potentially many more facilities yet to be constructed. Future groundwater recharge projects should be designed, located, constructed, and managed so as to avoid creating groundwater mounds that cause harm to third parties. When the State Engineer and the water court currently evaluate a recharge project, they are primarily determining whether it will offset out-of-priority depletions, with no explicit responsibility to determine if recharge is at risk of causing property damage to others in the flow path of recharged groundwater.

Recharge structures should be only be located near urbanizing areas after an analysis of potential impact to down gradient properties. In some cases, more complete geotechnical analysis is warranted to identify aquitards, perched water tables, confining layers or clay lenses, and consideration of flow paths that may affect return time to the river. A spacing interval between recharge structures may need to be established to avoid cumulative impacts. The SEO should be authorized to work with local parties to establish remedies that allow augmentation plans to continue operating without causing impact from high groundwater levels.

#### Pilot Projects in Areas with High Groundwater Levels

**1B. Two pilot projects should be authorized and funded by the General Assembly to allow the State Engineer to track and administer high groundwater zones for a specified period of time to lower the water table at Sterling and Gilcrest/LaSalle while testing alternative management approaches.**

The Colorado DWR has instrumented the two areas in the S. Platte basin with known high groundwater levels (Sterling and Gilcrest/LaSalle). With two years of data collected (2012-2013) to characterize water level behavior, these areas are primed for implementing pilot tests to evaluate alternative strategies for groundwater management. Pilot approaches may include permitted pumping or decreased recharge as determined to be locally appropriate to test alternative management strategies. Groundwater levels and surface diversions in the pilot areas must be accurately monitored in real time to determine impacts from the pilot management approach, and a plan to augment any injurious depletions must be established. Calibrated numerical groundwater models should be developed and tested against analytical methods in the pilot project areas.

The SEO should be authorized to work with recharge site operators in pilot project areas with mounded groundwater to replace injurious groundwater depletions in ways that will achieve the goals of augmentation plans without further raising water levels. Additionally, a stakeholder group should be authorized to develop local input to the SEO for alternative management in the pilot project areas. The pilot projects should sunset after a three to five year period and an analysis of what was learned should be provided to the Legislature.

## **2. Improving Augmentation Plan Administration and Efficiency**

### South Platte Rulemaking

**2A. The State Engineer should be directed by the General Assembly to promulgate new rules for the S. Platte to:**

- 1) Establish a framework for the voluntary movement of excess water supplies between augmentation plans, facilitated by the office of the Division Engineer, including a water bank or pool available for use by augmentation plan users.**
- 2) Establish basin specific guidelines for the implementation of administrative curtailment orders pursuant to 37-92-502(2)(a), C.R.S. that reduce waste and facilitate efficient management and distribution of available water supplies to storage and recharge water rights in the time and place of their need, in accordance with priority and historic practice. The guidelines should:**
  - a. Allow the Division Engineer to use the administrative call as a management tool to increase system efficiency, decrease waste and maximize diversions for beneficial use;**
  - b. Provide for storing water out of priority at higher elevation, and managing deliveries to downstream reservoirs as necessary;**
  - c. Minimize seniority, frequency and duration of administrative calls to the full extent consistent with the fulfillment of decreed water rights;**
  - d. Make use of all available data regarding water supply, including ground water levels, to determine the necessary administrative call date for each reach or sub-reach of the river and the alluvial aquifer system.**
- 3) Develop uniform and transparent reporting standards for augmentation plan accounting designed to integrate with basin data collection, modeling and management.**

HB1278 required an evaluation of whether the use of water in the basin could be improved by affording the State Engineer additional authority to administer water rights. Developments in water court and administrative practice have diminished the Division Engineer's ability to play a management role in the distribution of water supplies. As we have already adjudicated most of the augmentation plans for high capacity irrigation wells likely to be developed within Water Districts 2, 1 and 64, the mass movement of irrigation wells into augmentation plans is widely considered to be nearly completed. The decrees are considered final and to the extent there is any room for adjustment in augmentation requirements, it has to do with the administrative call. Augmentation plans respond to the administrative call, and it is the one moving part that is not

**37-97-102.5. Exemptions.** (1) Communities receiving their water supply from free-flowing springs shall be exempt from this article.

(2) Raw water piped irrigation systems in communities that have separate raw water piped irrigation systems and domestic water systems shall be exempt from this article.

(3) Communities under sanction by the department of public health and environment for water quality standards shall be exempt from this article.

**Source:** L. 90: Entire article added, p. 1630, § 1, effective July 1. L. 94: (3) amended, p. 2805, § 576, effective July 1.

**Cross references:** For an additional exemption, see § 37-97-103 (6).

**37-97-103. Mandatory use of metered water delivery and billing systems.** (1) Every water service supplier providing water in this state shall provide a metered water delivery and billing service to its customers according to the following schedule:

(a) For any new construction serviced by such water service supplier, including but not limited to construction for residential, commercial, or industrial use, meters shall be installed at the time of such construction.

(b) For any existing construction with unmetered taps, meters shall be installed on fifty percent of such taps on or before January 1, 2000. For any taps remaining unmetered as of January 1, 2000, meters shall be installed on fifty percent of such taps on or before January 1, 2005, and on all remaining unmetered taps on or before January 1, 2009.

(2) Billing of such water services based on the metered service shall begin no later than ninety days from the date of the installation of the meter.

(3) Any increase in the rates charged for such water service attributed to such installation and billing service requirements shall be based upon the actual costs of such installation and billing service. Such increase may recover the total cost of providing such service to the customers of the water service provider.

(4) Nothing in this section shall preclude a water service supplier from providing such metered water delivery and billing service prior to the dates specified in subsections (1) and (2) of this section or from seeking a corresponding rate increase necessitated by the provision of such service prior to those dates.

(5) Within an industrial customer operation, multiple water uses shall not be considered separate service connections. Deliveries to any customer other than a detached single family residential customer who may be subject to this article may be metered by the use of a single meter for the entire customer or operation.

(6) A mobile home park, as defined in section 38-12-201.5 (3), C.R.S., which makes water service available to tenants but does not bill such tenants for water as a separate item is exempt from the provisions of this article.

**Source:** L. 90: Entire article added, p. 1630, § 1, effective July 1.

**Cross references:** For additional exemptions, see § 37-97-102.5.

## ARTICLE 98

### Water Resources Review Committee

37-98-101.	Legislative declaration.		bill limitation - deadlines
37-98-102.	Water resources review committee - creation.		for introduction - repeal.
37-98-103.	Annual recommendations -	37-98-104.	Repeal of article. (Repealed)

**37-98-101. Legislative declaration.** (1) The general assembly finds, determines, and declares that the purpose of this article is to provide an interim committee as a forum through which the general assembly shall review the administration and monitoring of Colorado's water resources. The general assembly recognizes its mandate to vigorously



protect and defend Colorado's finite supply of water. The general assembly further recognizes the need to ensure that water issues receive sufficient legislative scrutiny and public input:

- (a) To maximize the benefit derived from Colorado's surface water and groundwater resources;
- (b) To evaluate the present and future water needs of the state;
- (c) To ensure effective water rights administration;
- (d) To protect water quality and water quantity;
- (e) To ensure that Colorado's interstate water compact agreements are met and, in relation thereto, that Colorado's water resources are protected against unwarranted claims; and
- (f) To continue the studies of the special water committee pursuant to Senate Bill 96-074.

Source: L. 2001: Entire article added, p. 725, § 1, effective July 1.

**37-98-102. Water resources review committee - creation.** (1) (a) For the purposes of contributing to and monitoring the conservation, use, development, and financing of the water resources of Colorado for the general welfare of its inhabitants and to review and propose water resources legislation, there is hereby created the water resources review committee, referred to in this article as the committee. The committee shall meet at the call of the chair as often as six times during even-numbered years and eight times during odd-numbered years to review and to propose water resources legislation and matters relating thereto. No more than two of such meetings may occur during periods other than the interim period. In connection with such review, the committee may take up to two field trips per year in connection with its mandate and shall consult with experts in the field of water conservation, quality, use, finance, and development. The department of natural resources, the state engineer, and the attorney general, together with the members and staff of the Colorado water conservation board, the Colorado water resources and power development authority, the Colorado water quality control commission, the department of public health and environment, the department of agriculture, and the great outdoors Colorado program, shall cooperate with the committee and with any persons assisting the committee in pursuing its responsibilities pursuant to this section. Further, the committee may utilize the legislative council staff to assist its members in researching any matters.

(b) (Deleted by amendment, L. 2003, p. 718, § 2, effective March 20, 2003.)

(2) (a) The committee shall consist of ten members of the general assembly to be selected as follows:

(I) Five members of the committee shall be from the senate, three appointed by the president of the senate and two appointed by the minority party leader; and

(II) Five members of the committee shall be from the house of representatives, appointed by the speaker of the house of representatives after consultation with the minority leader of the house of representatives.

(b) At least four members of the committee shall either:

(I) Reside in that portion of the state that is west of the continental divide; or

(II) Represent a legislative district the majority of the population of which lies west of the continental divide.

(c) To the extent possible, the members shall be selected so as to achieve representation from each water division as defined in section 37-92-201.

(d) (I) Except as provided in subparagraph (II) of this paragraph (d), members' terms shall extend from January 1 of an odd-numbered year to December 31 of the following even-numbered year.

(II) The terms of the members appointed by the speaker of the house of representatives, the president of the senate, and the minority leader of the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker, the president, and the minority leader of the senate shall appoint or reappoint members in the same manner as provided in paragraph (a) of this

subsection (2). Thereafter, the terms of members appointed or reappointed by the speaker, the president, and the minority leader of the senate shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker, the president, and the minority leader of the senate shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(3) The president of the senate and the speaker of the house of representatives shall coordinate their appointments to the extent practicable.

(4) Members of the committee shall serve without compensation; except that each member shall receive the sums specified in section 2-2-307 (3) (a) and (3) (b), C.R.S., for attendance at meetings of the committee when the general assembly is in recess for more than three days or is not in session.

(5) During odd-numbered years, the president of the senate shall appoint the chair and the speaker of the house of representatives shall appoint the vice-chair, and during even-numbered years, the speaker of the house of representatives shall appoint the chair and the president of the senate shall appoint the vice-chair.

(6) (Deleted by amendment, L. 2002, p. 1099, § 1, effective June 3, 2002.)

**Source:** L. 2001: Entire article added, p. 726, § 1, effective July 1. L. 2002: (1), (2)(b), and (6) amended, p. 1099, § 1, effective June 3. L. 2003: (1) and (5) amended, p. 718, § 2, effective March 20. L. 2004: (2)(d) added, p. 162, § 1, effective March 17. L. 2007: (2)(d) amended, p. 190, § 28, effective March 22.

**37-98-103. Annual recommendations - bill limitation - deadlines for introduction - repeal.** (1) The committee may report no more than three bills or other measures to the legislative council created in section 2-3-301, C.R.S., unless a two-thirds majority of the members of the committee vote to report a greater number. No bill shall be reported to the legislative council unless a two-thirds majority of the appointed members of the committee vote to report such bill to the legislative council. Such greater number shall not exceed one bill or other measure per member. These bills shall be exempt from any applicable bill limit imposed on the individual committee members sponsoring such bills if the bills have been approved by the legislative council no later than October 15 in even-numbered years and November 15 in odd-numbered years.

(2) Repealed.

(3) (a) The committee shall, during the 2008 interim, study the feasibility of expanding the types of hydroelectricity that qualify as an eligible energy resource under section 40-2-124, C.R.S. The committee shall consider issues related to the appropriate definition of eligible hydroelectricity, including consideration of environmental impacts, and the extent to which inclusion of hydroelectricity as an eligible energy resource could displace other eligible energy resources and whether the inclusion of hydroelectricity as an eligible energy resource under section 40-2-124, C.R.S., violates the intent of amendment 37.

(b) This subsection (3) is repealed, effective July 1, 2009.

(4) (a) The committee shall, during the 2008 interim, study the issues raised by the reengrossed version of Senate Bill 08-119.

(b) This subsection (4) is repealed, effective July 1, 2009.

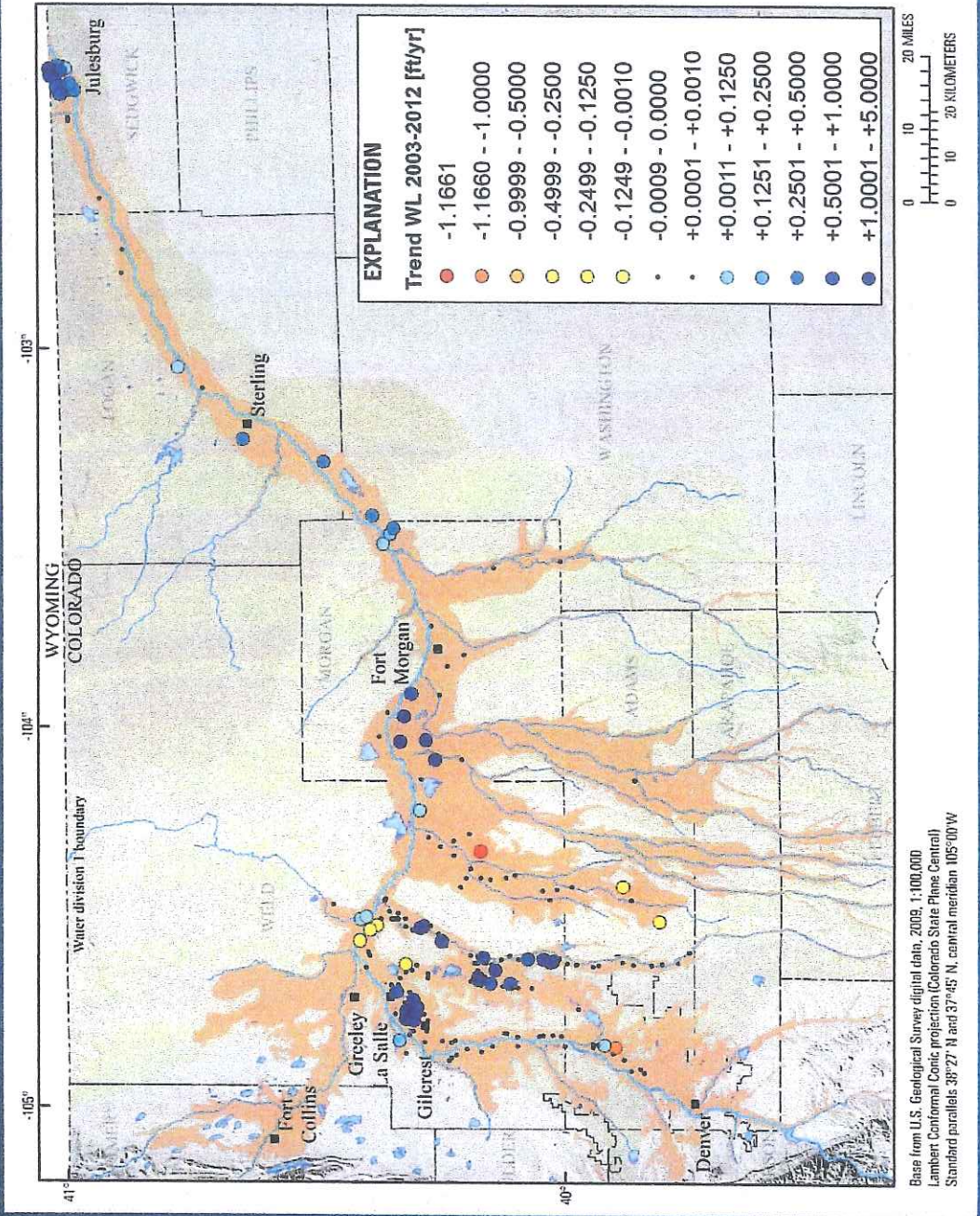
**Source:** L. 2001: Entire article added, p. 727, § 1, effective July 1. L. 2002: Entire section amended, p. 1100, § 2, effective June 3. L. 2003: (2) repealed, p. 718, § 1, effective March 20. L. 2008: (4) added, p. 1638, § 1, effective May 29; (3) added, p. 1038, § 1, effective August 5.

**Editor's note:** Section 2 of chapter 275, Session Laws of Colorado 2008, provides that the act enacting subsection (3) applies to acts occurring on or after August 5, 2008. The act was passed without a safety clause. For an explanation concerning the effective date, see page ix of this volume.

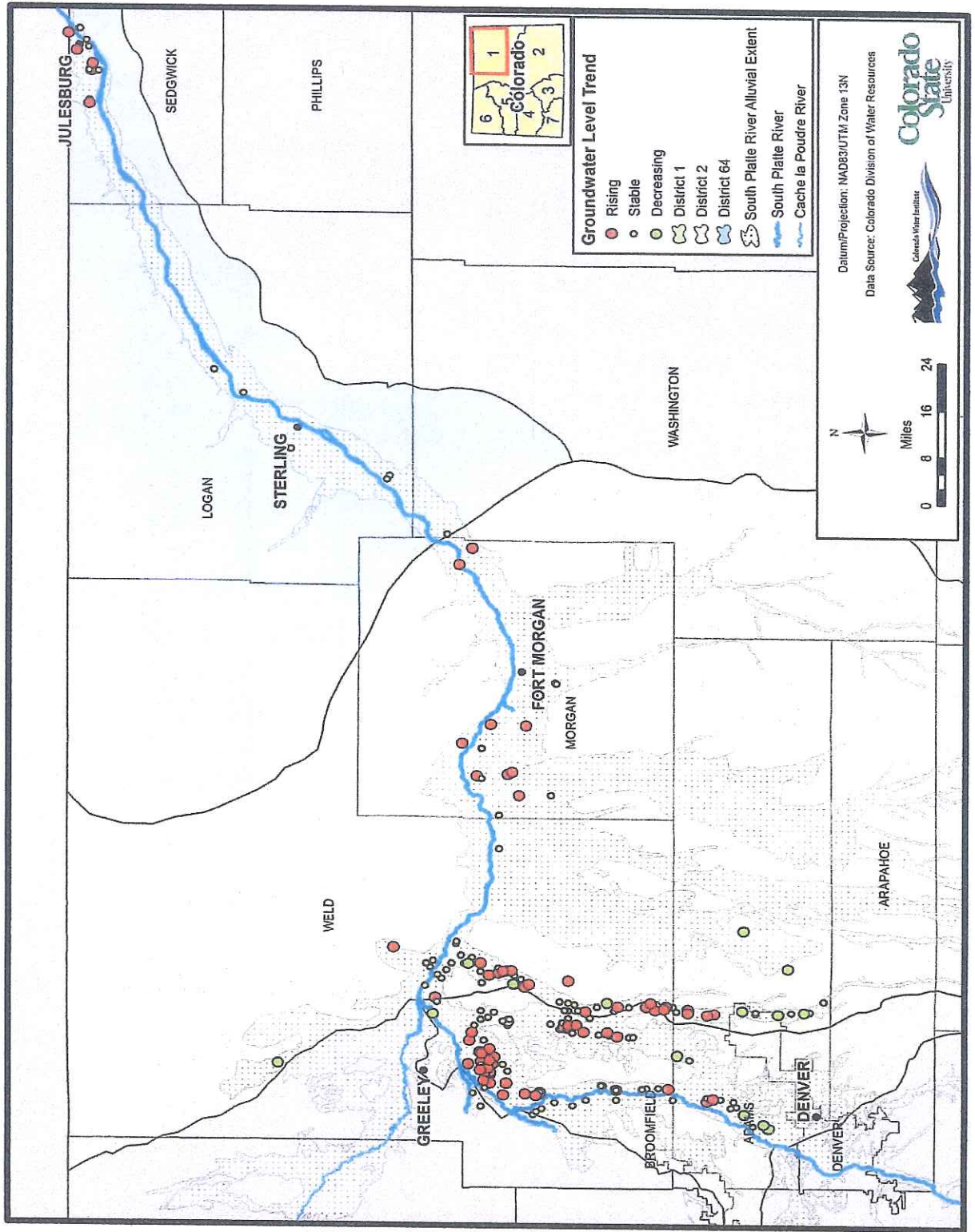
# Water Level Trends: 2003-2012

Rising water in most locations over last decade

Declining water isolated along Lost Creek and locations near Kersey



# Groundwater Depth Trends Over 2000-2012 for Observation Wells



## Glen Fritzler

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**From:** Victoria Wood <vlwood818@gmail.com>  
**Sent:** Tuesday, February 17, 2015 4:28 PM  
**To:** Glen Fritzler  
**Subject:** Re: Testimony for HB 15 - 1178 Wednesday Feb. 18

Glen,

As luck would have it, about an hour after talking with you today, I received a call from my CPA and need to meet with him tomorrow regarding my 2014 tax return.

If during House testimony tomorrow the opportunity arises, please feel free to share with the committee my experience regarding ground water.

- Home built in 2005, address 38254 WCR 43, Eaton, CO.
- Ground-water first occurred in basement May 2009.
- I requested and received approval for a non-standard well [dewatering] November 18, 2009. All ground water pumped to be discharged to the Owl Creek/Lone Tree Creek drainage without consumptive use or evaporative losses.
- Total cost for the well \$21,570.00.
- In 2014, we had to increase the size of the pump from 2hp [approximately 100-120 gpm] to 3hp [approximately 250-300 gpm] at an additional cost of \$7,233.00.

Approval of this well was given pursuant to CRS 37-90-137(2) for the construction of a dewatering well to withdraw ground water tributary to the South Platt River.

As we discussed on the phone, my wife and I are very fortunate in that we have been able to afford the high cost of protecting our home. But we believe this problem is not getting any better, and that if nothing is done, thousands of acres of good farm land will be ruined. Hundreds of lives will be adversely affected. Millions of dollars of damage and losses to real estate will occur.

Again, Glen, you have my contact information and anyone connected with your committee or any legislator wanting to have a site visit, are welcome. Sorry I was unable to make tomorrow's session.

Bill Wood  
970-397-5130

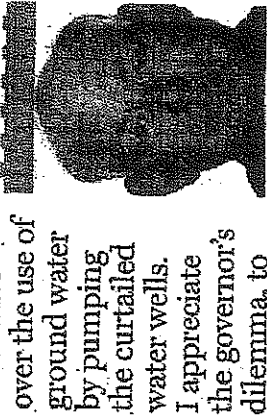
On Mon, Feb 16, 2015 at 5:03 PM, Glen Fritzler <[glen@fritzlermaze.com](mailto:glen@fritzlermaze.com)> wrote:

Testimony for HB 15 - 1178 is this Wednesday Feb. 18. Lori thinks it best to be at the capital sometime between 10am and 11am. This bill will be heard in the basement in room 112. Please plan on attending this very important hearing.

*Have a FARMtastic Day,*

# Changes complicating water issues

I've been watching with a great deal of interest the crisis over the current drought and the debate



**Paul Sater**  
GUEST COLUMNIST

over the use of ground water by pumping the curtailed water wells. I appreciate the governor's dilemma, to use the waters of the state for maximum beneficial use or to belie the evidence of this drought and give in to the demands of a few powerful irrigation districts and the handful of even wealthier cities that created this crisis.

This isn't the first time Weld County has faced this problem. In the Dirty '30s and again in the '50s there was no snowpack and no rain. The state answered the problem by promoting the construction of irrigation wells, thereby tapping in the only way possible the huge reservoir beneath us. Farmers responded at that

time by doing just what the state asked, drilling wells, paying for pipelines, bringing in electricity and building the necessary infrastructure to see northern Colorado through the drought years. The wisdom of the state's position is evident throughout northern Colorado. A stable agricultural base allowed businesses to prosper and the towns that serviced the farmers grew. The wells that made the growth possible are now curtailed or shut down completely; there is now no way to mitigate the drought that grips many of the farms. We have water in basements, flooded septic systems and damaging seepage but no relief for drought stricken crops. Why?

In the late '60s the Colorado Legislature was desperate to find a way to preserve both the integrity of surface rights and the use of the irrigation wells to ensure the survival of the farms during the drought years. The resulting bill was carried by a Colorado legislator, sadly it was ghost written by someone else. The law that

came about could have done as intended; it also had within it a seed, the potential for great mischief.

While Colorado water law was administered by the state engineer as called for in the state constitution the system worked, not without strife or complaint, but everyone benefited from the waters of the state as intended by the Colorado Constitution.

In 2002, the Colorado Water Court had to choose between following the law as the Legislature had intended or seize control of water administration unto itself.

Following the lead of a single Colorado Supreme Court justice, a self-anointed prophet with ties back to the bill's original actual author, the court chose activism over integrity and ignoring the state constitution the court took control of our water.

The seed sprouted and nurtured by this one jurist has borne only poisonous fruit. By writing new law and overwriting old law the water court

has created the mess we now find ourselves in: withering crops, abandoned fertile lands and control of our most precious resource in the hands of a cartel of lawyers paid by the richest cities and quasi-municipal districts.

Spouting quotes from this judge, the attorneys who have grown wealthy by his actions tell us Colorado water law is finally fair and right. A confused state legislature just goes along, with an army of vested interest lobbyists whispering in their collective ears; maybe we get the government we deserve. However, we don't deserve to thirst to death while sitting on top of the largest reserve of water in the state.

Gov. Hickenlooper is a smart and decent man; sadly he's also a politician, an oxymoron maybe. I don't envy the spot he's in. But the fact is the wells are off, the river is dry, the basements are wet and we are in trouble.

*Paul Sater is a Weld county native, lifelong farmer.*

Quote from Jim Yohn Summer of 2012 on News 4.

“Jim Yohn – Do you allow them to pump and then a have the **POSSIBILTY** of injuring someone downstream or do you just pump and hope that nothing happens.”

To me it's clear that Jim isn't even sure how well pumping might affect the flow of the South Platte River.

It's time we stop guessing and find out for sure.

## Glen Fritzier

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**Subject:** HB 15-1178

Dear House Ag Committee Members,

Damaging high groundwater is not THE problem. High groundwater is a symptom of THE problem. Much like a heart attack is not the problem, but a symptom of a medical problem like blocked arteries. Whereas a Dr. will treat the Heart Attack immediately, he must also address the blocked arteries in due time.

So if damaging high groundwater is a Symptom then what is the problem or what is causing the damaging high groundwater? My opinion follows.

Damaging high groundwater is caused because of the curtailment of pumping of irrigation wells. State Engineer Dick Wolfe has stated the same.

The curtailment of pumping of the irrigation wells is because augmentation requirements are too strict.

Augmentation requirements are too strict because of stipulated decrees and the Glover model used to predict how and when depletions hit the river did not consider deep percolation from rain fall and irrigation of both surface and groundwater. To get the correct answer from a model the inputs need to be complete and accurate.

Stipulated decrees were agreed upon because municipalities and other objectors with large bank accounts had us up against the ropes, we might lose pumping all together if we went to trial. Dr. Waskom stated in his report to the joint house and senate ag commit on Jan. 22, 2014 that most stipulate decrees are conservative.

All of this is a unintended consequence from the Empire lodge case were the State's Engineer was no longer allowed to approve Substitute Water Supply Plans.

I believe we need to look at this from two directions. One short term solution which could be HB15-1178, to address the damaging high groundwater (heart attack) immediately, this would help the town of Gilcrest and the rural area in and around the LaSalle/Gilcrest area. We also need to look at long term solutions that would prevent the high groundwater from coming back



and address the Curtailment of pumping of irrigation wells (Blocked Arteries). I believe the answer to the problem can be found while studying the answer to the Symptom. Allow the wells to pump the damaging high groundwater in this area and study the true effects of well pumping. We need to get past not being able to use this water for beneficial use. Requiring increased pumped water to be return to the South Platte during times when there is no call on the river is most likely sending that water directly to our friends in Nebraska. I'm pretty sure that they will put this water to beneficial use. Let's not forget the 69 water act requiring ALL water both surface and groundwater to be put to maximum beneficial use.

In a SPRT technical committee meeting on December 15<sup>th</sup> Joe Frank asked how we get more pumping quota to the well user in the LaSalle/Gilcrest area. My response would be first to praise Joe for trying to find a way to help Gilcrest, 2<sup>nd</sup> to suggest that through legislation we try and find a way of getting more pumping quota to this area. 1. is to forgive all past pumping depletions (I know Bob Sakata would agree) because there are NO cones of depression. Can't be with the record high groundwater this area is experiencing, and that we should study the cones of depression caused by pumping in order to accurately calculate how pumping depletions really work in the future. This would help immediately with lowering the damaging high groundwater in and around the Gilcrest area with minimal cost to taxpayers. 2. We could maybe change the augmentation requirement in this area to 50% instead of 100% this would double the pumping allowed in this area.

In summary, I strongly believe that the best solution is to allow for increased well pumping and allow it to be put to beneficial use. This would help Gilcrest, surrounding farms and country homes all dealing with real property damage. Spend money studying the true effects of well pumping, gathering much need information so that the real problem (Curtailment of pumping the wells) can be addressed.

Call for Action: Time is running out, something needs to be done. I believe that property owners have the right to protect their property from damaging record high groundwater. Property owners are being denied this right. It's clear to me that if Colorado law allows for someone's property to be damage, than there is something very unfair about that and something needs to be changed. I have no doubt that change is coming, please be a part of this necessary change sooner than later.

Thank you for your time,

Glen Fritzler

*Have a FARMtastic Day,*

*Glen Fritzler*

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