

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 19, 2008
Date

Committee on Local Government.

After consideration on the merits, the Committee recommends the following:

HB08-1141 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:

3 "SECTION 1. 29-20-103 (1), Colorado Revised Statutes, is
4 amended to read:

5 **29-20-103. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (1) "Development permit" means any preliminary or final
8 approval of an application for rezoning, planned unit development,
9 conditional or special use permit, subdivision, development or site plan,
10 or similar application for new construction; EXCEPT THAT, FOR PURPOSES
11 OF PART 3 OF THIS ARTICLE, "DEVELOPMENT PERMIT" IS LIMITED TO THE
12 INITIAL APPLICATION REGARDING A SPECIFIC PROJECT THAT INCLUDES NEW
13 WATER USE FOR MORE THAN FIFTY SINGLE-FAMILY EQUIVALENTS OR LESS
14 AS DETERMINED BY THE LOCAL GOVERNMENT.

15 **SECTION 2.** Article 20 of title 29, Colorado Revised Statutes, is
16 amended BY THE ADDITION OF A NEW PART to read:

17 PART 3

18 ADEQUATE WATER SUPPLY

1 **29-20-301. Legislative declaration.** THE GENERAL ASSEMBLY
2 FINDS AND DECLARES THAT AN ADEQUATE SUPPLY OF WATER TO SERVE
3 LAND DEVELOPMENT IS A MATTER OF STATEWIDE CONCERN AND
4 NECESSARY FOR THE PRESERVATION OF PUBLIC HEALTH, SAFETY, AND
5 WELFARE AND THE ENVIRONMENT OF COLORADO.

6 **29-20-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "ADEQUATE" MEANS A WATER SUPPLY THAT IS SUFFICIENT FOR
9 BUILD-OUT OF THE PROPOSED DEVELOPMENT IN TERMS OF QUALITY,
10 QUANTITY, AND DEPENDABILITY TO PROVIDE A SUPPLY OF WATER FOR THE
11 TYPE OF DEVELOPMENT PROPOSED, AND MAY INCLUDE REASONABLE
12 CONSERVATION MEASURES AND WATER DEMAND MANAGEMENT MEASURES
13 TO ACCOUNT FOR HYDROLOGIC VARIABILITY. NOTHING IN THIS PART 3
14 SHALL BE CONSTRUED TO REQUIRE THAT THE PROPOSED WATER SUPPLY BE
15 SECURED AND FINALIZED AND ITS RELATED INFRASTRUCTURE BE
16 CONSTRUCTED AT THE TIME OF THE APPLICATION.

17 (2) "WATER SUPPLY ENTITY" MEANS A MUNICIPALITY, COUNTY,
18 SPECIAL DISTRICT, WATER CONSERVANCY DISTRICT, WATER
19 CONSERVATION DISTRICT, WATER AUTHORITY, OR OTHER PUBLIC OR
20 PRIVATE WATER SUPPLY COMPANY THAT SUPPLIES, DISTRIBUTES, OR
21 OTHERWISE PROVIDES WATER AT RETAIL.

22 **29-20-303. Adequate water supply for development.** A LOCAL
23 GOVERNMENT SHALL NOT APPROVE AN APPLICATION FOR A DEVELOPMENT
24 PERMIT UNLESS IT DETERMINES, AFTER CONSIDERING THE APPLICATION
25 AND ALL OF THE INFORMATION PROVIDED, THAT THE APPLICANT HAS
26 SATISFACTORILY DEMONSTRATED THAT THE PROPOSED WATER SUPPLY IS
27 ADEQUATE.

28 **29-20-304. Water supply requirements.** (1) EXCEPT AS
29 SPECIFIED IN SUBSECTIONS (2), (3), AND (4) OF THIS SECTION, AN
30 APPLICANT FOR A DEVELOPMENT PERMIT SHALL SUBMIT ESTIMATED
31 WATER SUPPLY REQUIREMENTS FOR THE PROPOSED DEVELOPMENT IN A
32 REPORT PREPARED BY A REGISTERED PROFESSIONAL ENGINEER OR WATER
33 SUPPLY EXPERT ACCEPTABLE TO THE LOCAL GOVERNMENT. THE REPORT
34 SHALL IDENTIFY ALL WATER NEEDS FOR THE PROPOSED DEVELOPMENT
35 THROUGH BUILD-OUT CONDITIONS AND THE PROPOSED PHYSICAL SOURCES
36 OF WATER SUPPLY. THE REPORT MAY INCLUDE IMPLEMENTATION OF

1 REASONABLE CONSERVATION MEASURES AND DRY-YEAR WATER DEMAND
2 MANAGEMENT MEASURES.

3 (2) IF THE DEVELOPMENT IS TO BE SERVED BY A WATER SUPPLY
4 ENTITY, THE LOCAL GOVERNMENT MAY ALLOW THE APPLICANT TO SUBMIT,
5 IN LIEU OF THE REPORT REQUIRED BY SUBSECTION (1) OF THIS SECTION, A
6 LETTER PREPARED BY A REGISTERED PROFESSIONAL ENGINEER OR BY A
7 WATER SUPPLY EXPERT FROM THE WATER SUPPLY ENTITY STATING THE
8 WATER SUPPLY ENTITY'S COMMITMENT AND ABILITY TO PROVIDE AN
9 ADEQUATE WATER SUPPLY FOR THE PROPOSED DEVELOPMENT. AT A
10 MINIMUM, THE LETTER SHALL INCLUDE:

11 (a) A DESCRIPTION OF THE PHYSICAL SOURCE OF SUPPLY THAT WILL
12 BE USED TO SERVE THE PROPOSED DEVELOPMENT;

13 (b) THE ESTIMATED WATER SUPPLY REQUIREMENTS FOR THE
14 PROPOSED DEVELOPMENT, AS DETERMINED IN CONSULTATION WITH THE
15 APPLICANT;

16 (c) THE CURRENT WATER DEMAND ON THE WATER SUPPLY ENTITY,
17 INCLUDING COMMITMENTS FOR SERVICE NOT YET SUPPLIED;

18 (d) THE WATER CONSERVATION MEASURES THAT WILL BE
19 IMPLEMENTED WITH RESPECT TO THE PROPOSED DEVELOPMENT;

20 (e) THE WATER DEMAND MANAGEMENT MEASURES THAT WILL BE
21 IMPLEMENTED TO ADDRESS HYDROLOGIC VARIATIONS; AND

22 (f) SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THE
23 LOCAL GOVERNMENT.

24 (3) IN THE ALTERNATIVE, THE PERMITTING AUTHORITY MAY
25 DETERMINE THAT NO LETTER OR REPORT IDENTIFIED PURSUANT TO
26 SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL BE REQUIRED FROM THE
27 APPLICANT IF WATER FOR THE PROPOSED DEVELOPMENT IS TO BE
28 PROVIDED BY A WATER SUPPLY ENTITY THAT HAS A WATER SUPPLY PLAN
29 THAT:

30 (a) HAS BEEN REVIEWED, UPDATED, AND APPROVED WITHIN THE
31 PREVIOUS TEN YEARS BY THE GOVERNING BOARD OF THE WATER SUPPLY
32 ENTITY;

- 1 (b) HAS A MINIMUM TWENTY-YEAR PLANNING HORIZON;
- 2 (c) INCLUDES WATER CONSERVATION MEASURES THAT MEET THE
3 REQUIREMENTS OF SECTION 37-60-126 (4);
- 4 (d) INCLUDES WATER DEMAND MANAGEMENT MEASURES THAT
5 WILL BE IMPLEMENTED TO ADDRESS HYDROLOGIC VARIATIONS;
- 6 (e) INCLUDES A PLAN FOR DROUGHT AND OTHER WATER SUPPLY
7 EMERGENCIES;
- 8 (f) INCLUDES A GENERAL DESCRIPTION OF THE WATER SUPPLY
9 ENTITY'S CURRENT WATER OBLIGATIONS;
- 10 (g) WAS DEVELOPED THROUGH A PROCESS THAT INCLUDED AN
11 OPPORTUNITY FOR PUBLIC COMMENT; AND
- 12 (h) IS ON FILE WITH THE LOCAL GOVERNMENT OR PERMITTING
13 AUTHORITY.

14 (4) NOTHING IN THIS SECTION SHALL BE REQUIRED OF AN
15 APPLICANT THAT HAS PAID TO A WATER SUPPLY ENTITY A FEE OR CHARGE
16 AS DETERMINED BY THE LOCAL GOVERNMENT FOR THE PURPOSE OF
17 ACQUIRING WATER FOR OR EXPANDING OR CONSTRUCTING THE
18 INFRASTRUCTURE TO SERVE THE PROPOSED DEVELOPMENT.

19 **29-20-305. Determination of adequate water supply.** (1) THE
20 LOCAL GOVERNMENT'S DETERMINATION AS TO WHETHER AN APPLICANT
21 HAS A WATER SUPPLY THAT IS ADEQUATE TO MEET THE WATER SUPPLY
22 REQUIREMENTS OF A PROPOSED DEVELOPMENT SHALL BE BASED ON
23 CONSIDERATION OF THE FOLLOWING INFORMATION:

- 24 (a) THE DOCUMENTATION REQUIRED BY SECTION 29-20-304;
- 25 (b) IF REQUESTED BY THE LOCAL GOVERNMENT, A LETTER FROM
26 THE STATE ENGINEER COMMENTING ON THE DOCUMENTATION REQUIRED
27 PURSUANT TO SECTION 29-20-304;
- 28 (c) ANY OTHER INFORMATION DEEMED RELEVANT BY THE LOCAL
29 GOVERNMENT, IN ITS SOLE DISCRETION, TO DETERMINE WHETHER THE
30 WATER SUPPLY FOR THE PROPOSED DEVELOPMENT IS ADEQUATE,

1 INCLUDING, WITHOUT LIMITATION, ANY INFORMATION REQUIRED TO BE
2 SUBMITTED BY THE APPLICANT PURSUANT TO APPLICABLE LOCAL
3 GOVERNMENT LAND USE REGULATIONS OR STATE STATUTES.

4 **29-20-306. Liability.** NEITHER THIS PART 3 NOR ANY ACTIONS
5 TAKEN BY A LOCAL GOVERNMENT OR THE STATE ENGINEER'S OFFICE
6 PURSUANT TO THIS PART 3 SHALL GIVE RISE TO LIABILITY ON THE PART OF
7 THE LOCAL GOVERNMENT OR STATE ENGINEER'S OFFICE.

8 **SECTION 3. Applicability.** This act shall apply to applications
9 for development permits submitted on or after the effective date of this
10 act.

11 **SECTION 4. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety."

** ** ** ** **