

# An Act

HOUSE BILL 12-1022

BY REPRESENTATIVE(S) Sonnenberg, Baumgardner, Swerdfeger, Vigil, Wilson, Becker, Beezley, Brown, Conti, Coram, Fischer, Hamner, Holbert, Kerr J., Liston, Murray, Nikkel, Pace, Priola, Scott, Summers, Vaad; also SENATOR(S) Schwartz, Brophy, Giron, Hodge, Roberts, Guzman, King S.

CONCERNING THE AMOUNT OF WATER THAT PERMITTED MINING OPERATIONS THAT CONSTRUCT IMPERMEABLE AREAS THAT ELIMINATE PREEXISTING NATURAL EVAPOTRANSPIRATION ARE REQUIRED TO REPLACE.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 37-80-120, **add** (6) as follows:

**37-80-120. Upstream storage - substitute supply - historic natural depletion.** (6) IN DETERMINING THE QUANTITY OF WATER REQUIRED AS A SUBSTITUTE SUPPLY TO REPLACE STREAM DEPLETIONS IN CONNECTION WITH ANY MINING OPERATION AS DEFINED IN SECTION 34-32-103 (8), C.R.S., FOR WHICH A RECLAMATION PERMIT HAS BEEN OBTAINED AS SET FORTH IN SECTION 34-32-109, C.R.S., THERE IS NO REQUIREMENT TO REPLACE THE AMOUNT OF HISTORIC NATURAL DEPLETION

TO THE WATERS OF THE STATE, IF ANY, CAUSED BY THE PREEXISTING NATURAL VEGETATIVE COVER AND EVAPORATION ON THE SURFACE OF THE AREA THAT WILL BE, OR THAT HAS BEEN, ELIMINATED OR MADE IMPERMEABLE AS PART OF THE PERMITTED MINING OPERATION. THE APPLICANT BEARS THE BURDEN OF PROVING THE HISTORIC NATURAL DEPLETION.

**SECTION 2.** In Colorado Revised Statutes, 37-92-305, **add** (12) (c) as follows:

**37-92-305. Standards with respect to rulings of the referee and decisions of the water judge.** (12) (c) IN DETERMINING THE QUANTITY OF WATER REQUIRED IN AN AUGMENTATION PLAN TO REPLACE STREAM DEPLETIONS IN CONNECTION WITH ANY MINING OPERATION AS DEFINED IN SECTION 34-32-103 (8), C.R.S., FOR WHICH A RECLAMATION PERMIT HAS BEEN OBTAINED AS SET FORTH IN SECTION 34-32-109, C.R.S., THERE IS NO REQUIREMENT TO REPLACE THE AMOUNT OF HISTORIC NATURAL DEPLETION TO THE WATERS OF THE STATE, IF ANY, CAUSED BY THE PREEXISTING NATURAL VEGETATIVE COVER AND EVAPORATION ON THE SURFACE OF THE AREA THAT WILL BE, OR THAT HAS BEEN, ELIMINATED OR MADE IMPERMEABLE AS PART OF THE PERMITTED MINING OPERATION. THE APPLICANT BEARS THE BURDEN OF PROVING THE HISTORIC NATURAL DEPLETION.

**SECTION 3. Act subject to petition - effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to substitute supply plans

approved and augmentation plans decreed on or after the applicable effective date of this act.

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO