

**First Regular Session  
Sixty-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 01-0534.01 Thomas Morris

**HOUSE BILL 01-1077**

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**HOUSE SPONSORSHIP**

**Smith**

**SENATE SPONSORSHIP**

**(None)**

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**House Committees**

Agriculture, Livestock, & Natural Resources

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING A REQUIREMENT THAT APPLICANTS FOR WATER RIGHTS**  
102             **SERVE WRITTEN NOTICE ON THE OWNERS OF LAND DIRECTLY**  
103             **AFFECTED BY THE APPLICATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Makes legislative findings. Requires applicants for water rights to serve written notice on the owners of land directly affected by the application. Allows the applicant to rely on county real estate records when ascertaining the owners for purposes of such notice. Allows an owner who was not properly notified to file a statement of opposition at any time, notwithstanding the otherwise applicable time limits.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 hereby finds that some water courts in the state routinely notify affected  
4 surface landowners, while other water courts do not. It is the intent of the  
5 general assembly to ensure the consistent administration of water matters  
6 by water courts throughout the state of Colorado. Colorado's development  
7 of water law continually observes consistency and proper administration  
8 by the water courts as beneficial to the adjudication of water rights. The  
9 general assembly further finds, determines, and declares that through  
10 administrative consistency the sanctity of existing water rights may further  
11 be protected.

12           **SECTION 2.** 37-92-302 (2) (b), Colorado Revised Statutes, is  
13 amended to read:

14           **37-92-302. Applications for water rights or changes of such**  
15 **rights - plans for augmentation.** (2) (b) ~~In the case of applications for~~  
16 ~~determinations of rights to ground water from wells described in section~~  
17 ~~37-90-137(4);~~ The application shall be supplemented by evidence that the  
18 applicant has, within ten days after filing the application, given notice of  
19 the application by registered or certified mail, return receipt requested, to  
20 every record SURFACE owner of the ~~overlying~~ land IDENTIFIED IN THE  
21 LEGAL DESCRIPTION OF THE DIVERSION PROVIDED PURSUANT TO  
22 PARAGRAPH (a) OF THIS SUBSECTION (2) AND OF THE LAND UPON WHICH  
23 ANY NEW OR ALTERED DIVERSION, CONVEYANCE, OR DIVERSION  
24 STRUCTURE SUBJECT TO THE APPLICATION IS LOCATED and to every person  
25 who has a lien or mortgage on, or deed of trust to, ~~the overlying~~ SUCH land  
26 recorded in the county in which ~~the overlying~~ SUCH land is located. ~~and;~~

1 For purposes of ~~such notice~~, THIS PARAGRAPH (b):

2 (I) The term "person" shall have the same meaning as is set forth  
3 in section 37-90-137 (4) (b.5) (II);

4 (II) THE APPLICANT MAY RELY UPON THE REAL ESTATE RECORDS OF  
5 THE COUNTY OR COUNTIES IN WHICH THE LAND IS LOCATED;

6 (III) THE EVIDENTIARY REQUIREMENT IS SATISFIED BY SUBMISSION  
7 OF A COPY OF THE NOTICE PROVIDED TO EACH SUCH RECORD OWNER OR A  
8 COPY OF THE INSTRUMENT PROVING THE APPLICANT TO BE THE SOLE  
9 RECORD OWNER; AND

10 (IV) THE APPLICANT'S FAILURE TO PROVIDE THE REQUIRED NOTICE  
11 TO EACH SUCH RECORD OWNER SHALL NEITHER DEPRIVE THE WATER COURT  
12 OF JURISDICTION NOR CONSTITUTE A DENIAL OF DUE PROCESS, BUT EVERY  
13 RECORD OWNER WHO WAS NOT TIMELY PROVIDED WITH THE REQUIRED  
14 NOTICE AND WHO HAS NOT PREVIOUSLY FILED A STATEMENT OF OPPOSITION  
15 MAY, NOTWITHSTANDING PARAGRAPH (a) OF SUBSECTION (1) OF THIS  
16 SECTION, FILE A STATEMENT OF OPPOSITION TO THE APPLICATION AT ANY  
17 TIME PRIOR TO ENTRY OF THE FINAL DECREE, AND THE WATER JUDGE AND  
18 REFEREE SHALL CONSIDER ALL GROUNDS FOR OPPOSITION RAISED BY SUCH  
19 RECORD OWNER THAT ARE COGNIZABLE UNDER THIS TITLE, INCLUDING THE  
20 APPLICANT'S FAILURE TO PROVIDE THE REQUIRED NOTICE.

21 **SECTION 3. Effective date - applicability.** (1) This act shall  
22 take effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly that is  
24 allowed for submitting a referendum petition pursuant to article V, section  
25 1 (3) of the state constitution; except that, if a referendum petition is filed  
26 against this act or an item, section, or part of this act within such period,  
27 then the act, item, section, or part, if approved by the people, shall take

1 effect on the date of the official declaration of the vote thereon by  
2 proclamation of the governor.

3 (2) The provisions of this act shall apply to water right  
4 applications that are filed on or after the applicable effective date of this  
5 act.