

Colorado Legislative Council Staff Fiscal Note

NO FISCAL IMPACT

Drafting Number: LLS 10-0921	Date: February 16, 2010
Prime Sponsor(s): Sen. Hodge Rep. Hullinghorst	Bill Status: Senate Agriculture
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TITLE: CONCERNING IMPLEMENTATION OF THE INCORPORATION OF OIL AND GAS WELLS INTO THE PRIOR APPROPRIATION SYSTEM.

Summary of Legislation

Under current law, the removal of nontributary groundwater for mining operations only requires a permit if the water is used for a beneficial purpose. In *Vance v. Simpson*, the Colorado Supreme Court found that mining of coal bed methane (CBM) is considered a beneficial use of groundwater. As a result of this case and the passage of HB09-1303, the Division of Water Resources (DWR) in the Department of Natural Resources is required to permit water wells used in CBM production.

This bill addresses well permitting for the withdrawal of nontributary groundwater in non-CBM oil and gas operations. It stipulates that if the water is used in the course of oil and gas operations, no permit is required. Water used for beneficial purposes outside of oil and gas operations will still require a permit.

The bill extends the deadlines for well permits and substitute water supply plans from March 1, 2010, to August 1, 2010. The bill is effective upon the signature of the Governor, or upon becoming law without his signature.

Background

On April 20, 2009, the Colorado Supreme Court upheld a district court decision in the case of *Vance v. Simpson*, ruling that removing water from a groundwater formation as part of CBM production is a beneficial use of water. HB09-1303 was passed to address the new permitting authority required by the ruling. Although rule making for the new permitting was expected to be complete by December 2009, it will be done in March 2010. This bill allows more time for permit compliance upon final rule promulgation. There are approximately 4,600 active CBM wells in Colorado.

Assessment

This bill is assessed at no fiscal impact. The number of wells and the timing of application fee revenue remain the same as estimated in HB09-1303. However, the bill provides more time to approve the permits. State expenditures are also unchanged under SB10-165. The fiscal note for HB09-1303 indicated that the staffing level for permitting CBM wells will be addressed through the

budget process. It did not anticipate issuance of additional permits for other nontributary water wells used in mining operations. Since staffing levels were addressed through the budget process and were made in anticipation of this bill, no change in state expenditures is required.

Delaying the deadlines for CBM well permitting will spread out the number of augmentation plans heard by the water courts over more time. As was true with HB09-1303, workload for the Judicial Branch will depend on the geographic distribution of the wells and has not been estimated. For these reasons, state and local expenditures and revenue are not expected to change and this bill is assessed as having no fiscal impact.

Departments Contacted

Natural Resources

Judicial