

# QQ Meeting

**Thursday, March 3<sup>rd</sup>**  
**9:30 AM – 12:30 PM**



P.O. Box 2308 970-468-0295  
Silverthorne, CO 80498 970-468-1208 Fax  
qqwater@nwccog.org

Colorado Mountain College Vail Valley, Room 215  
150 Miller Ranch Road / Edwards, CO 81632

***In person meeting for those who are vaccinated and feeling healthy only.  
In-person attendees, please join us for lunch afterwards at a location TBD!***

**Or join via Zoom:**

<https://us02web.zoom.us/j/82807103231>

Meeting ID: 828 0710 3231

Call in option: 346 248 7799

## AGENDA

- 9:30 Welcome- QQ Chair Kathy Chandler-Henry
- 9:40 Grand County Drought Management Plan  
*Kayli Foulk, Grand County Water Quality Specialist*
- 10:20 NWCCOG Regional Water Quality Management Plan ("208 Plan") Update and Review  
of Draft Policies- *Torie & Ashley*
- 10:40 Water Quality Updates- *Ashley*
- 11:00 Legislative Updates and Member Positions- *Torie*
- 11:30 Member Updates (1 hour)

# NWCCG Regional Water Quality Management Plan ("208 Plan")

## Policies and Implementation Actions

*DRAFT for QQ Member Review, 3/03/2022*

### Short Background for QQ Review

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In 1972, the United States Congress enacted provided a national strategy for cleaning up the nation's waters: the Clean Water Act or "the Act." Section 208 of the Act provides for the creation of regional water quality management plans for coordinated regional approaches to water quality management. Hence, a regional water quality management plan is also referred to as a "208 Plan." The Northwest Colorado Council of Governments ("NWCCOG") 208 plan region consists of the area within Eagle, Grand, Jackson, Pitkin, and Summit Counties. NWCCOG is the designated regional water quality management agency responsible for water quality planning within this region.

The primary goal of the 208 plan is the protection and enhancement of the existing water quality and designated uses of waters in the region.

This section of the 208 Plan contains both policies and implementation strategies. These policies become regulatory requirements when local governments in the region include 208 Plan compliance in their municipal or county codes.

- **Policies** guide regional water quality planning, implementation of this 208 Plan, and overall water quality protection in the NWCCOG Region.
- **Implementation Strategies** are strategies to meet the policy objectives of the 208 Plan for maintaining and improving water quality in the region. Strategies will apply to local governments and those who discharge into waters in the NWCCOG region.

## Policies

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- **Water Quality Protection and Mitigation.** Land use and water development shall not significantly<sup>1</sup> degrade the health of the affected watershed(s) and no development should be approved unless impacts to the health of the affected watershed(s) are mitigated.
- **Transmountain Diversions.** No transmountain diversions of water from the region shall be conducted without approval from the impacted local governments, conservancy districts, and the Colorado River Conservation District.
- **Water Efficient Land Use and Development.** Land use and development shall be planned, designed, and conducted to further water conservation and efficiency.
- **Nonproliferation of Wastewater Treatment Facilities.** Prior to siting new facilities, existing wastewater treatment facilities should be expanded or consolidated instead of developing new facilities unless not legally or technically feasible.
- **Private Wastewater Operation Discouraged.** The ownership and management of wastewater treatment facilities by homeowner associations or private wastewater operators should not be allowed unless there is no other option.
- **Onsite Wastewater Treatment Systems (OWTS).** OWTS should not be allowed unless connecting to an existing wastewater treatment facility is not feasible.
- **Climate Change.** The assessment of impacts to water quality of land use and water development shall take into consideration climate change predictions.
- **Chemical Management.** The uses of pesticides, fertilizers, algaecides, and other hazardous substances; and road maintenance, including deicing and sanding, shall not degrade water quality or the health of the watershed.

## Implementation Strategies

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- **State and Federal Water Quality Protection.** During Water Quality Control Commission proceedings and federal rulemakings, NWCCOG and/or individual members will advocate for the protection of existing uses, water quality standards that are fully protective of existing water quality, antidegradation provisions that take into account impacts to the region associated with the operation of projects, and the designation of high-quality waters when relevant parameters for such designation are satisfied.
- **Instream and Environmental Flows.** NWCCOG and/or members will support efforts to preserve stream flows by requesting that the Colorado Water Conservation Board establish or increase instream flows in the region. Support local or regional efforts to use existing water rights

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<sup>1</sup> Significantly means “in a significant manner,” where significant means “of a level deserving to be considered, important, notable, and not trifling.”

for environmental flows through leasing or acquisition. Advocate for legislation that makes it less onerous to apply water to instream purposes.

- **Land Use Controls to Protect Water Quality.** Municipalities and counties will adopt, strengthen, and enforce land use regulations designed to address water quality impacts of land use and development, including adoption and implementation of the [NWCCOG Model Water Quality Protection Standards](#) and the [Water Savings Guidance and Model Standards for the Colorado Headwaters](#).
  - Adopt watershed protection regulations to protect the area located upstream of drinking water intake point(s) for municipal water supply pursuant to C.R.S. § 31-15-7070(1)(b), commonly referred to as watershed protection regulations.
  - Require compliance with this 208 Plan when issuing permits for water and/or land development projects.
  - Adopt provisions in land use codes that require climate change to be taken into consideration when assessing impacts of development.
- **Water Quality Protection Tools.** Protect streams, floodplains, wetlands, riparian areas, and shorelines through conservation easements, land exchanges, transfer of development rights, setbacks, or similar resource protection techniques.
- **1041 Regulations.** Adopt, strengthen, enforce, and protect statutory authority for the designation and regulation of areas and activities of state interest under “1041 regulations.” Ensure that such regulations apply to state projects and on federal lands.
- **Water Efficiency.** Require new development to emphasize the most efficient use of water, including recycling and reuse methods, landscaping requirements, water metering and budgeting, and other water conservation best practices. Incorporate recommendations from NWCCOG’s [Water Savings Resource Guide and Model Code Provisions for the Colorado Headwaters](#).
- **Monitoring, Assessment, and Planning.** Conduct and/or provide technical support for state, watershed, and local water quality monitoring, assessment, and planning efforts.
- **Federal Permitting.** NWCCOG will review and comment on proposed federal permits to ensure that water quality mitigation is required.
- **Voluntary Improvement Projects.** Support and facilitate voluntary water quality improvement and stream restoration projects within the NWCCOG Region. Efforts should focus on regional water quality priorities, as explained further in Volume 2 (Regional Water Quality Assessment Summary). Examples include projects to address nonpoint source pollutants from urban or urbanizing areas, acid rock drainage, hydrologic modifications from water projects, and roadways and impervious areas.
  - Chapter XXX in each of the watershed plans identifies watershed-specific projects that NWCCOG supports.

- **Stream Management Plans.** NWCCOG will provide technical assistance to municipalities and counties engaged in preparation and implementation of stream management plans that identify existing conditions and need for restoration of streams and watersheds.
- **Nonpoint Source Pollution.** Coordinate efforts to minimize nonpoint source pollution so that point source dischargers do not bear a disproportionate share of water quality protection costs. Encourage agricultural users to implement voluntary best management practices (BMPs) to minimize adverse impacts to water quality from these activities.
- **Onsite Wastewater Treatment Systems (OWTS).** Revise county OWTS regulations to protect water quality and consider requirements beyond those established in Regulation 43 (5 CCR 1002-43). Best practices include establishing minimum lot size for OWTS, limiting one OWTS per parcel, establishing certification requirements for OWTS installers and inspectors, and establishing OWTS inspection requirements upon pumping, transfer of title, or annually.
- **Hazardous Materials.** Encourage responsible management of hazardous household wastes (pharmaceuticals, oil, paint, acids, pesticides, etc.) through public education outreach and collection events or programs.

# QQ Legislative Update

Feb. 25, 2022



P.O. Box 2308  
Silverthorne, CO 80498

970-596-5039  
qqwater@nwccog.org

QQ continues to monitor legislation and provide recommended positions. This Legislative Update includes all relevant bills that have been introduced in the legislative session for discussion at the March 3<sup>rd</sup> QQ Meeting. There are no new bills included since the Feb. 9<sup>th</sup> summary.

QQ provides summaries of introduced legislation in this detailed form and in a tabular form for ease of tracking through the legislature. Positions are indicated as “recommended” until QQ meets to confirm positions. Recommendations are based on consistency with QQ policies, [available here](#).

All positions are by consensus, so if a QQ member raises issue with any recommended position, we can adjust to a neutral or monitor position until we work through the issue. Please reach out to Torie with questions or concerns.

The end of this memo describes potential future bills that may be introduced in this session. These do not include recommended positions, as QQ generally does not take positions until a bill is introduced.

## House Bills

**[HB22-1011](#). Wildfire Mitigation Incentives Grants.** *Reps. Cutter & Snyder; Sens. Story & Lee. From the Wildfire Matters Review Committee.*

- Establishes a wildfire mitigation incentives grant program for local government through the Colorado State Forest Service. Grants would match locally-raised funds from a revenue source intended to be used for forest management or wildfire mitigation efforts at the local level.
- **Rationale for QQ Support:** This grant program provides funding to protect water quality by mitigating wildfires, in line with QQ policies.
- **QQ Position: Support.**

**[HB22-1012](#). Wildfire Mitigation and Recovery Grants.** *Reps. Valdez & Cutter; Sens. Ginal & Lee. From the Wildfire Matters Review Committee.*

- Creates a wildfire mitigation and recovery grant program through the Colorado State Forest Service to provide grants to help “counties with forested areas” prevent and recover from wildfire incidents by removing deadwood and other potential wildfire fuel and debris resulting from a wildfire incident. The grant can also fund reforestation efforts.
  - The grant requires evidence that such efforts are undertaken in a manner that reduces the amount of carbon emitted from such actions.
- **Rationale for QQ Support:** This grant program provides funding to protect water quality by mitigating wildfires, in line with QQ policies.
- **QQ Position: Support.**

**[HB22-1092](#). Loans from Irrigation Districts to Landowners.** *Reps. Soper & Roberts; Sens. Bridges & Coram.*

- Allows irrigation districts to borrow money and issue loans to landowners for private water delivery system improvements and other projects that improve water conservation or drainage systems. Loans are repaid by the landowners to the district via the typical property assessment process.
- Orchard Mesa Irrigation District is the project proponent. We understand the bill is needed because entities like the CWCB do not currently make loans to large groups of private landowners.
- **QQ Position: Monitor.**

**[HB22-1151](#). Turf Replacement Program.** *Reps. Catlin & Roberts; Sens. Bridges & Simpson.*

- Directs CWCB to develop a voluntary turf replacement program that supports existing or new locally-run turf replacement programs that provide cash payments for turf replacement. The CWCB program would match payments from either existing or new programs 50/50. If a local government is not operating a program, a third-party contractor may also administer a local turf replacement program (e.g., nonprofit or HOA).
- **Rationale for QQ Position:** This bill encourages local jurisdictions to establish or expand programs that reduce the use of nonessential turf in favor of water-wise landscaping, in line with QQ policies.
- **QQ Position: Support.**

## Senate Bills

**[SB22-028](#). Groundwater Compact Compliance Fund.** *Sens. Simpson & Sonnenberg; Reps. Roberts & Catlin. From the Water Resources Review Committee.*

- Creates a groundwater compact compliance and sustainability fund to help finance groundwater use reduction efforts in the Rio Grande and the Republican river basins.
- **QQ Position: Monitor.**

**[SB22-029](#). Prohibiting Investment Water Speculation in Mutual Ditch Co.** *Sens. Donovan & Coram; Rep. McCormick. From the Water Resources Review Committee.*

- Prohibits a purchaser of agricultural water rights that are represented by shares in a mutual ditch company from engaging in investment water speculation. Authorizes the State Engineer to investigate complaints of investment water speculation.
  - “Investment Water Speculation” is defined as the purchase of agricultural water rights that are represented by shares in a mutual ditch company in the state with the intent, at the time of purchase, to profit from an increase in the water's value in a subsequent transaction or by receiving payment from another person for nonuse of all or a portion of the water subject to the water right.
- This bill based one of the recommendations identified in the [2021 report](#) from a workgroup convened to “explore ways to strengthen current water anti-speculation law,” as directed by the legislature in SB20-048. See Concept J at p. 50.

- **Rationale for QQ Position:** While there are some significant impacts associated with investment water speculation, such as driving up the cost for water, large scale dry-up of irrigated lands, and possible issues of over-appropriation and compact compliance, there is also considerable concern amongst many about private property and transactional issues. It's anticipated that this bill will change significantly, if not completely, before moving forward. Thus, while proponents and critics work through changes QQ proposes continued monitoring.
- **QQ Position: Neutral/Monitor.**

**SB22-030. Water Resources Review Committee to Include Agriculture.** *Sens. Donovan & Sonnenberg; Reps. McLachlan & Catlin. From the Water Resources Review Committee.*

- The bill expands the scope of the water resources review committee to include agriculture issues.
- **QQ Position: Monitor.**

**SJR22-002. Water Projects Eligibility Lists.** *Sen. Donovan; Rep. McCormick.*

- Annual list of projects eligible for the water project revolving fund administered by the Colorado Water Resources and Power Development Authority.
- **QQ Position: Monitor.**

**SB22-063. Property Ownership Fairness Act.** *Sen. Liston; Rep. Pico.*

- Requires governmental entities to provide just compensation to property owners whose real private property decreases in fair market value due to the enactment of new land use laws except those related to public health and safety like natural hazard limitations.<sup>1</sup> Governmental entities would also be prohibited from limiting the number of land use applications accepted or building permits issued for residential development.
- **Rationale for QQ Position:** This bill would disrupt local and state ability to regulate for environmental protection, contrary to QQ policies to strengthen such regulatory tools.
- **QQ Position: Oppose.**

**SB22-114. Fire Suppression Ponds Water Rights.** *Sens. Hisey & Story; Reps. Catlin & Roberts.*

- Establishes a process for designating ponds that are critical for fire suppression in rural areas of the state lacking firefighting resources and/or infrastructure but does not establish such ponds and associated water as a water right. Any pond designated for fire suppression must exist prior to January 1, 1975. To designate a pond for fire suppression, the county first conducts a needs assessment, then files an application to the State Engineer, in consultation with the fire protection district.
- The State Engineer would be limited in taking action to drain or backfill an existing pond used for fire suppression.
- **QQ Position: Monitor.**

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<sup>1</sup> Laws include statute, resolution, ordinance, code, rule, regulation, plan, policy, procedure, standard, or law that regulates the use or division of property, except those related to public health and safety (e.g., fire codes, hazardous waste).



**SB22-126. Prioritize Water Storage Projects in South Platte Basin.** *Sens. Donovan & Sonnenberg; Rep. Holtorf.*

- Currently, CWCB Construction Fund finances water projects that “will increase the beneficial consumptive use of Colorado’s undeveloped compact-entitled waters.” This bill initially directed CWCB to prioritize projects that increase or improve water storage in the South Platte River Basin. **This bill was amended in Senate Ag** to eliminate language “prioritizing” the South Platte Basin. Instead, the bill states the construction fund should be used for projects that will increase beneficial of Colorado’s waters “including the South Platte River.” Unfortunately, the bill title still refers to prioritizing the South Platte and cannot be changed.
  - The pre-amended version from Senate Ag Committee is available [here](#).
- **Rationale for QQ position:** While QQ has long supported South Platte storage concepts that reduce reliance on TMDs, prioritizing CWCB construction fund spending on South Platte storage puts other priorities and other river basins lower in priority for funding, which could result in reduced water quality and quantity protections and resiliency to uncertain water future with climate change in the QQ region, contrary to QQ policies. Even with amendments, because the bill title still references prioritizing the South Platte, concerns are not fully addressed.
- **QQ Position: Oppose.**

## Potential Bills (Not Introduced)

### Authorizing CWCB to Designate Recreational Stream Reaches as Beneficial Use.

**Progress to Date:** *Project proponents (American Whitewater, Western Resource Advocates, Conservation Colorado) have shared a draft with Water Congress and held a stakeholder meeting on Monday, Feb. 7<sup>th</sup>. The bill is expected to be introduced as a late bill at the end of February at the earliest.*

This bill would authorize the CWCB to designate 400-yard river segments as “Recreational In-Channel Values Reaches” or RIVRs through an administrative process, if requested by a local or tribal government. The bill would not authorize a decreed water right for a RIVR. Designating RIVRs as a beneficial use would allow for purchase, donation, grant, bequest, lease, or loan of water for such purposes. Criteria for establishing a RIVR are currently in development through discussions with stakeholders.

**An Alternative to RICDs:** The aim of the bill is to recognize recreation as a beneficial use, even in instances where there is no construction of a “recreational in-channel diversion” or RICD. RICDs are a water right that may be decreed in water court for local governments only. Because they require some construction in a stream channel, they don’t reflect all types of recreational use of rivers and streams (e.g., wading, fishing, boating). Also, in the past, construction of water features has conflicted with environmental functions of streams in some instances.

**QQ Early Perspective:** We initially find that this bill concept provides additional tools to protect and enhance recreational and environmental flows, in line with QQ policies. **At our QQ meeting, we would like to discuss whether members support this concept since the bill will not be introduced before our meeting.** We will send out the latest draft bill before the QQ meeting, as a new draft is expected over the weekend.

# SUMMARY OF BILLS OF INTEREST FOR 2022

(Note: All positions are recommended until the next QQ meeting, Thurs. March 3<sup>rd</sup>)  
 Fri., Feb. 25, 2022

Bill No.	Bill Description	Sponsors	Status	Notes	Recommended Position
<b>House Bills</b>					
<a href="#"><u>HB22-1011</u></a>	<b>Wildfire Mitigation Incentives for Local Governments</b>	Reps. Cutter & Snyder; Sens. Story & Lee	House Appropriations	<i>Wildfire Matters Review Com'te</i>	Support
<a href="#"><u>HB22-1012</u></a>	<b>Wildfire Mitigation and Recovery</b>	Reps. Valdez & Cutter; Sens. Ginal & Lee	House Appropriations	<i>Wildfire Matters Review Com'te</i>	Support
<a href="#"><u>HB22-1092</u></a>	<b>Loans from Irrigation Districts to Landowners</b>	Reps. Soper & Roberts; Sens. Bridges & Coram	House Second Reading		Monitor
<a href="#"><u>HB22-1151</u></a>	<b>Turf Replacement Program</b>	Reps. Catlin & Roberts; Sens. Bridges & Simpson	House Ag Mon. Feb. 28, 1:30 PM		Support
<b>Senate Bills</b>					
<a href="#"><u>SB22-028</u></a>	<b>Groundwater Compact Compliance Fund</b>	Sens. Simpson & Sonnenberg; Reps. Roberts & Catlin	Passed Senate; House Ag	<i>Water Resources Review Com'te</i>	Monitor
<a href="#"><u>SB22-029</u></a>	<b>Prohibiting Investment Water Speculation in Mutual Ditch Co.</b>	Sens. Donovan & Coram; Rep. McCormick	Senate Ag	<i>Water Resources Review Com'te</i>	Neutral/ Monitor

Bill No.	Bill Description	Sponsors	Status	Notes	Recommended Position
<a href="#"><u>SB22-030</u></a>	<b>Expand Water Resources Review Committee to Include Agriculture</b>	Sens. Donovan & Sonnenberg; Reps. McLachlan & Catlin	Passed Senate; House Ag	<i>Water Resources Review Com'te</i>	Monitor
<a href="#"><u>SB22-063</u></a>	<b>Property Ownership Fairness Act</b>	Sen. Liston; Rep. Pico	Senate State Affairs Mar. 1 (cont'd from Feb. 8)		Oppose
<a href="#"><u>SB22-114</u></a>	<b>Fire Suppression Ponds Water Rights</b>	Sens. Hisey & Story; Reps. Catlin & Roberts	Senate Ag Mar. 3		Monitor
<a href="#"><u>SB22-126</u></a>	<b>Prioritize Water Storage Projects in South Platte Basin</b>	Sens. Donovan & Sonnenberg; Rep. Holtorf	Senate Second Reading	<i>Amended in Senate Ag 2/24, more neutral language but bill title still problematic</i>	Oppose
<a href="#"><u>SJR22-002</u></a>	<b>Water Projects Eligibility Lists</b>	Sen. Donovan; Rep. McCormick	Passed Senate; House Second Reading	<i>Annual Resolution</i>	Monitor