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Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

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LLS NO. 22-0535.01 Richard Sweetman x4333

SENATE BILL

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BILL TOPIC: "Fire Suppression Ponds Water Rights"
DEADLINES: Finalize by: JAN 26, 2022 File by: JAN 28, 2022

A BILL FOR AN ACT

101 CONCERNING FIRE SUPPRESSION PONDS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill makes legislative findings and declarations. **Section 2** allows a board of county commissioners (board) to apply to the state engineer for the designation of a pond as a fire suppression pond. The director of the division of fire prevention and control (director) in the department of public safety is required to promulgate rules to establish criteria for boards, in consultation with fire protection districts, to use to identify and evaluate potential fire suppression ponds. For each pond that is identified and under consideration as a potential fire suppression pond,

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

a board must provide notice of such fact to the state engineer and to interested parties included in the substitute water supply plan notification list established for the water division in which the pond is located.

Section 2 also prohibits the state engineer from draining any pond:

- While the pond is under consideration for designation as a fire suppression pond;
- If the state engineer has designated the pond as a fire suppression pond; or
- On and after the effective date of the bill, and until the date upon which the director promulgates rules, with exceptions.

Section 2 also states that a fire suppression pond and the water associated with it:

- Are not considered a water right;
- Do not have a priority for the purpose of determining water rights; and
- May not be adjudicated as a water right.

Section 3 requires the state engineer to review applications received from boards and, at the state engineer's discretion, designate ponds as fire suppression ponds. An application is presumed to be approved if the state engineer does not respond to the application within 63 days after the application is received by the state engineer. The state engineer may not designate any pond as a fire suppression pond unless the pond existed as of January 1, 1975.

Section 3 also allows the state engineer to impose reasonable requirements on a board as a condition of designating a pond as a fire suppression pond and requires a board and a fire protection district to inspect a fire suppression pond at least annually.

The designation of a pond as a fire suppression pond expires 20 years after the date of the designation. _____ Before the expiration, the board and the fire protection district must perform a needs assessment of the pond. If the needs assessment demonstrates that the pond is in compliance with criteria established in the director's rules, the board and fire protection district shall notify the state engineer of such fact, and the state engineer shall redesignate the pond as a fire suppression pond. If the needs assessment demonstrates that the pond is not in compliance with the criteria, the board and fire protection district may either:

- Notify the state engineer that the designation of the pond as a fire suppression pond should be rescinded or allowed to expire; or
- Provide to the state engineer a plan and a timeline for bringing the pond back into compliance with such criteria.

Section 4 states that the designation of fire suppression ponds by the state engineer does not cause material injury to vested water rights.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Colorado is facing a wildfire crisis;

5 (b) In 2020, Colorado experienced three of the largest wildfires
6 in its history, and in 2021, the Marshall fire broke yet another record,
7 becoming the most destructive fire in Colorado history by burning more
8 than one thousand homes worth five hundred million dollars in total;

9 (c) These four recent and catastrophic wildfires burned more than
10 six hundred thousand acres, causing significant devastation and property
11 loss;

12 (d) The Colorado state forest service and the front range
13 watershed wildfire protection working group have found that
14 high-severity fires can significantly impact water quality and watershed
15 conditions;

16 (e) Recent fires have tended to be much larger and more severe
17 than those in the past, and as such, have severely damaged soils and
18 watersheds, leading to heavy erosion and sediment damage in streams;
19 and

20 (f) Functional watersheds are vital for water quality and healthy
21 ecosystems, and to protect water resources from post-fire flood damage.

22 (2) The general assembly also finds that:

23 (a) More resources are needed for wildfire mitigation to reduce
24 fire risk and to keep fires from becoming large and catastrophic;

25 (b) Although Colorado is committed to taking meaningful action
26 to mitigate wildfires, several remote areas in the state lack sufficient
27 resources to suppress fires without external support;

1 (c) In emergency situations, rapid action is vital and any delay
2 increases the risk of a fire becoming catastrophic;

3 (d) In the past, the general assembly has recognized the need to
4 use any and all available water resources in a fire event, and current law
5 grants the right for emergency use of wells and other water resources;

6 (e) It is a shared principle throughout the state that using water
7 resources to preserve life and property in emergencies is a priority over
8 consideration of water rights;

9 (f) When water is not available in close proximity, firefighters
10 may also rely on nearby ponds to fill fire trucks and suppress fires as
11 quickly as possible;

12 (g) Existing ponds in Colorado have proven to be critical fire
13 suppression resources, particularly in remote areas that are not equipped
14 with other fire suppression resources such as fire hydrants;

15 (h) Due to loss of water from evaporation, the state engineer is
16 identifying and ordering the drainage of ponds that do not have storage
17 rights associated with them;

18 (i) Some ponds that are subject to drainage may be critical
19 firefighting resources for remote, high-risk areas of Colorado, and if such
20 ponds are drained, firefighters could be left ill-equipped to respond to and
21 suppress fires.

22 (j) A process is necessary to preserve ponds that are deemed
23 critical for firefighting purposes; and

24 (k) Preserving fire suppression ponds will help:

25 (I) Ensure resources are available to help keep communities safe
26 in the event of structure fires, grassland fires, and other fire emergencies;
27 and

28 (II) Keep fires from becoming large and thereby protect lives,

1 homes, critical watersheds, water supply assets, infrastructure, and key
2 ecological and wildlife resources.

3 (3) Therefore, the general assembly declares that it is in the public
4 interest to create a process to identify, designate, and preserve critical fire
5 suppression ponds.

6 **SECTION 2.** In Colorado Revised Statutes, **add** 37-82-107 as
7 follows:

8 **37-82-107. Fire suppression ponds - legislative declaration -**
9 **needs assessment - notice of consideration required - restriction on**
10 **draining of ponds - rules - no water right created - repeal.** (1) THE
11 GENERAL ASSEMBLY HEREBY DECLARES THAT FIRE SUPPRESSION PONDS
12 ARE ESSENTIAL FOR THE PROTECTION OF PUBLIC SAFETY AND WELFARE,
13 PROPERTY, AND THE ENVIRONMENT.

14 (2) A BOARD OF COUNTY COMMISSIONERS, IN CONSULTATION WITH
15 ITS FIRE PROTECTION DISTRICT, MAY APPLY TO THE STATE ENGINEER
16 PURSUANT TO SECTION 37-80-124 FOR THE DESIGNATION OF A POND
17 WITHIN THE BORDERS OF THE COUNTY AS A FIRE SUPPRESSION POND.

18 (3) (a) BEFORE APPLYING FOR THE DESIGNATION OF A POND AS A
19 FIRE SUPPRESSION POND, A BOARD OF COUNTY COMMISSIONERS, IN
20 CONSULTATION WITH ITS FIRE PROTECTION DISTRICT, SHALL:

21 (I) IDENTIFY PONDS IN LOCATIONS WHERE THE OUTBREAK OF A
22 FIRE COULD RESULT IN A MAJOR WILDFIRE DISASTER; AND

23 (II) PERFORM A NEEDS ASSESSMENT OF EACH SUCH POND, WHICH
24 NEEDS ASSESSMENT SHALL BE COMPLETED WITHIN ONE YEAR AFTER THE
25 BOARD PROVIDES THE NOTICE DESCRIBED IN SUBSECTION (4) OF THIS
26 SECTION.

27 (b) IN PERFORMING A NEEDS ASSESSMENT PURSUANT TO
28 SUBSECTION (3)(a)(II) OF THIS SECTION, A BOARD OF COUNTY

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1 COMMISSIONERS, IN CONSULTATION WITH ITS FIRE PROTECTION DISTRICT,

2 SHALL:

3 (I) IDENTIFY THE REFILL MECHANISM OF THE POND, WHETHER BY:

4 (A) GROUNDWATER;

5 (B) DIVERSION ON THE STREAM CHANNEL;

6 (C) DIVERSION OFF THE STREAM CHANNEL; OR

7 (D) WELL; AND

8 (II) APPLY THE CRITERIA ESTABLISHED PURSUANT TO RULES

9 PROMULGATED BY THE DIRECTOR OF THE DIVISION OF FIRE PREVENTION

10 AND CONTROL PURSUANT TO SUBSECTION (9) OF THIS SECTION.

11 (4) (a) FOR EACH POND THAT IS IDENTIFIED AND UNDER

12 CONSIDERATION AS A POTENTIAL FIRE SUPPRESSION POND PURSUANT TO

13 SUBSECTION (3) OF THIS SECTION, A BOARD OF COUNTY COMMISSIONERS

14 SHALL PROVIDE NOTICE OF SUCH FACT TO:

15 (I) THE STATE ENGINEER; AND

16 (II) INTERESTED PARTIES INCLUDED IN THE SUBSTITUTE WATER

17 SUPPLY PLAN NOTIFICATION LIST ESTABLISHED PURSUANT TO SECTION

18 37-92-308 (6) FOR THE WATER DIVISION IN WHICH THE POND IS LOCATED.

19 (b) THE NOTICE DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION

20 MUST INDICATE:

21 (I) THE TIMELINE OF THE NEEDS ASSESSMENT ASSOCIATED WITH

22 THE POND PURSUANT TO SUBSECTION (3) OF THIS SECTION;

23 (II) THE LOCATION OF THE POND;

24 (III) THE APPROXIMATE SURFACE AREA OF THE POND; AND

25 (IV) THE WATER REFILL MECHANISM OF THE POND, WHETHER BY:

26 (A) GROUNDWATER;

27 (B) DIVERSION ON THE STREAM CHANNEL;

28 (C) DIVERSION OFF THE STREAM CHANNEL; OR

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1 (D) WELL.

2 (5) DURING THE THIRTY-FIVE DAYS FOLLOWING THE ISSUANCE OF

3 THE NOTICE DESCRIBED IN SUBSECTION (4) OF THIS SECTION, INTERESTED

4 PERSONS MAY SUBMIT COMMENTS TO THE BOARD OF COUNTY

5 COMMISSIONERS AND THE STATE ENGINEER CONCERNING THE POTENTIAL

6 DESIGNATION OF THE POND AS A FIRE SUPPRESSION POND PURSUANT TO

7 SECTION 37-80-124.

8 (6) IF A POND IS LOCATED IN WHOLE OR IN PART UPON PRIVATE

9 PROPERTY, A BOARD OF COUNTY COMMISSIONERS SHALL ACQUIRE THE

10 VOLUNTARY WRITTEN APPROVAL OF EACH OWNER OF PRIVATE PROPERTY

11 THAT ABUTS THE POND BEFORE THE BOARD APPLIES TO THE STATE

12 ENGINEER FOR THE DESIGNATION OF THE POND AS A FIRE SUPPRESSION

13 POND.

14 (7) IF A BOARD OF COUNTY COMMISSIONERS NOTIFIES THE STATE

15 ENGINEER PURSUANT TO SUBSECTION (4) OF THIS SECTION THAT A POND IS

16 UNDER CONSIDERATION AS A FIRE SUPPRESSION POND, THE BOARD SHALL

17 NOTIFY THE STATE ENGINEER PROMPTLY IF AND WHEN THE POND IS NO

18 LONGER UNDER SUCH CONSIDERATION.

19 (8) NOTWITHSTANDING ANY PROVISION OF LAW TO THE

20 CONTRARY, EXCEPT AS MAY BE REQUIRED TO ADDRESS DAM SAFETY

21 CONCERNS, THE STATE ENGINEER SHALL NOT ORDER ANY POND TO BE

22 DRAINED OR BACKFILLED OR PROCEED WITH ANY EXISTING ORDER TO

23 DRAIN OR BACKFILL A POND:

24 (a) IF THE STATE ENGINEER HAS RECEIVED NOTICE PURSUANT TO

25 SUBSECTION (4) OF THIS SECTION THAT THE POND IS UNDER

26 CONSIDERATION BY A BOARD OF COUNTY COMMISSIONERS FOR

27 DESIGNATION AS A FIRE SUPPRESSION POND, DURING THE PENDENCY OF

28 THAT CONSIDERATION;

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1 (b) IF THE STATE ENGINEER HAS DESIGNATED THE POND AS A FIRE
2 SUPPRESSION POND PURSUANT TO SECTION 37-80-124; OR

3 (c) (I) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, AND
4 UNTIL THE DATE UPON WHICH THE DIRECTOR OF THE DIVISION OF FIRE
5 PREVENTION AND CONTROL PROMULGATES RULES PURSUANT TO
6 SUBSECTION (9) OF THIS SECTION; EXCEPT THAT, DURING SUCH TIME, THE
7 STATE ENGINEER MAY ENFORCE AN ORDER TO DRAIN A POND, WHICH
8 ORDER EXISTS ON THE EFFECTIVE DATE OF THIS SECTION, IF THE STATE
9 ENGINEER FIRST PROVIDES NOTICE OF THE ORDER TO THE BOARD OF
10 COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE POND IS LOCATED
11 AND ALLOWS THE BOARD FOURTEEN DAYS TO RESPOND.

12 (II) THIS SUBSECTION (8)(c) IS REPEALED, EFFECTIVE JULY 1, 2023.

13 (9) (a) ON OR BEFORE MAY 1, 2023, THE DIRECTOR OF THE
14 DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF
15 PUBLIC SAFETY, PURSUANT TO THE DIRECTOR'S AUTHORITY UNDER
16 SECTION 24-33.5-1203.5, SHALL PROMULGATE RULES ESTABLISHING
17 CRITERIA FOR BOARDS OF COUNTY COMMISSIONERS, IN CONSULTATION
18 WITH FIRE PROTECTION DISTRICTS, TO USE TO IDENTIFY AND EVALUATE
19 POTENTIAL FIRE SUPPRESSION PONDS, AS DESCRIBED IN SUBSECTION (3) OF
20 THIS SECTION. THE CRITERIA MUST INCLUDE CONSIDERATION OF:

21 (I) WHETHER THE POND IS READILY ACCESSIBLE BY A FIRE
22 DISTRICT, FIRE DEPARTMENT, OR OTHER LOCAL FIREFIGHTING ENTITY;

23 (II) WHETHER THE POND IS LOCATED IN THE WILDLAND-URBAN
24 INTERFACE OR ANOTHER LOCATION THAT FACES AN ELEVATED THREAT OF
25 FIRE RISK;

26 (III) WHETHER THE POND IS LOCATED IN AN AREA WITHOUT
27 TIMELY OR ADEQUATE ACCESS TO FIRE HYDRANTS OR OTHER WATER
28 SUPPLIES, AND WHERE THE POND PROVIDES A NEEDED SUPPLY;

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1 (IV) THE APPROXIMATE SURFACE AREA OF THE POND;

2 (V) THE MAXIMUM SURFACE AREA OF THE POND, IN ORDER TO
3 LIMIT IMPACTS TO STREAMFLOW THAT MAY RESULT FROM DEPLETIONS
4 FROM THE POND;

5 _____
6 (VI) WHETHER THE POND IS INCLUDED IN AN EXISTING PLAN FOR
7 AUGMENTATION, AS DEFINED IN SECTION 37-92-103 (9);

8 (VII) WHETHER THE POND IS LOCATED IN A DESIGNATED
9 GROUNDWATER BASIN, AS DESCRIBED IN SECTION 37-92-602 (1); AND

10 (VIII) WHETHER THE POND IS LOCATED IN AN AREA WHERE THE
11 LACK OF AVAILABILITY OF AUGMENTATION WATER OR THE EXCESSIVE
12 COST OF AUGMENTATION WATER PRESENTS A SIGNIFICANT BARRIER TO THE
13 ESTABLISHMENT OF A DECREED PLAN FOR AUGMENTATION, AS DEFINED IN
14 SECTION 37-92-103 (9), BY A LOCAL GOVERNMENT.

15 (b) BEFORE PROMULGATING THE RULES DESCRIBED IN SUBSECTION
16 (9)(a) OF THIS SECTION, THE DIRECTOR OF THE DIVISION OF FIRE
17 PREVENTION AND CONTROL SHALL SOLICIT AND CONSIDER INPUT FROM:

- 18 (I) THE STATE ENGINEER;
- 19 (II) LOCAL GOVERNMENTS, INCLUDING COUNTIES;
- 20 (III) WATER PROVIDERS; AND
- 21 (IV) FIRE PROTECTION DISTRICTS AND OTHER FIREFIGHTING
22 ENTITIES.

23 (10) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
24 CONTRARY, A FIRE SUPPRESSION POND AND THE WATER ASSOCIATED WITH
25 IT:

- 26 (a) ARE NOT CONSIDERED A WATER RIGHT, AS DEFINED IN SECTION
27 37-92-103 (12);
- 28 (b) DO NOT HAVE A PRIORITY, AS DEFINED IN SECTION 37-92-103

1 (10); AND
2 (c) MAY NOT BE ADJUDICATED PURSUANT TO SECTION 37-92-302.
3 **SECTION 3.** In Colorado Revised Statutes, **add** 37-80-124 as

4 follows:

5 **37-80-124. State engineer - designation of fire suppression**
6 **ponds - conditional requirements - inspections - expiration of**
7 **designation - database.** (1) FOR THE PURPOSES OF SECTION 37-82-107,
8 THE STATE ENGINEER SHALL:

9 (a) REVIEW APPLICATIONS RECEIVED FROM BOARDS OF COUNTY
10 COMMISSIONERS CONCERNING THE DESIGNATION OF PONDS AS FIRE
11 SUPPRESSION PONDS; AND

12 (b) AT THE STATE ENGINEER'S DISCRETION, DESIGNATE PONDS AS
13 FIRE SUPPRESSION PONDS.

14 (2) IN CONSIDERING WHETHER TO DESIGNATE A POND AS A FIRE
15 SUPPRESSION POND, THE STATE ENGINEER SHALL CONSIDER WHETHER THE
16 POND SATISFIES THE CRITERIA ESTABLISHED BY RULES PROMULGATED BY
17 THE DIVISION OF FIRE PREVENTION AND CONTROL PURSUANT TO SECTION
18 37-82-107 (9).

19 (3) THE STATE ENGINEER MAY ESTABLISH A STANDARD WRITTEN
20 OR ELECTRONIC FORM FOR BOARDS OF COUNTY COMMISSIONERS TO USE TO
21 APPLY FOR THE DESIGNATION OF A POND AS A FIRE SUPPRESSION POND.

22 (4) IF A BOARD OF COUNTY COMMISSIONERS SUBMITS TO THE
23 STATE ENGINEER AN APPLICATION FOR THE DESIGNATION OF A POND AS A
24 FIRE SUPPRESSION POND PURSUANT TO SECTION 37-82-107, THE
25 APPLICATION IS PRESUMED TO BE APPROVED IF THE STATE ENGINEER DOES
26 NOT RESPOND TO THE APPLICATION WITHIN SIXTY-THREE DAYS AFTER THE
27 APPLICATION IS RECEIVED BY THE STATE ENGINEER.

28 (5) AS A CONDITION OF DESIGNATING A POND AS A FIRE

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1 SUPPRESSION POND PURSUANT TO THIS SECTION, THE STATE ENGINEER
2 MAY IMPOSE REASONABLE REQUIREMENTS ON A BOARD OF COUNTY
3 COMMISSIONERS, INCLUDING REQUIREMENTS FOR MEASURING AND
4 RECORDING DEVICES.

5 (6) IF THE STATE ENGINEER DESIGNATES A POND AS A FIRE
6 SUPPRESSION POND PURSUANT TO THIS SECTION, THE BOARD OF COUNTY
7 COMMISSIONERS OF THE COUNTY IN WHICH THE POND IS LOCATED AND THE
8 FIRE PROTECTION DISTRICT SHALL INSPECT THE POND AT LEAST ANNUALLY
9 TO ENSURE THAT:

- 10 (a) THE POND IS PROPERLY MAINTAINED;
- 11 (b) ANY FIREFIGHTING INFRASTRUCTURE ASSOCIATED WITH THE
12 POND IS FUNCTIONAL; AND

13 _____
14 (c) THE APPROXIMATE SURFACE AREA OF THE POND HAS NOT
15 CHANGED.

16 (7) IF THE STATE ENGINEER DENIES AN APPLICATION FOR THE
17 DESIGNATION OF A POND AS A FIRE SUPPRESSION POND, THE STATE
18 ENGINEER SHALL PROVIDE THE APPLICANT BOARD OF COUNTY
19 COMMISSIONER THE REASONS FOR THE STATE ENGINEER'S DENIAL AND AN
20 OPPORTUNITY TO DISCUSS THE DENIAL WITH THE STATE ENGINEER.

21 (8)(a) THE DESIGNATION OF A POND AS A FIRE SUPPRESSION POND
22 PURSUANT TO THIS SECTION EXPIRES TWENTY YEARS AFTER THE DATE OF
23 THE DESIGNATION.

24 (b) _____ BEFORE THE EXPIRATION OF THE DESIGNATION OF A
25 POND AS A FIRE SUPPRESSION POND, THE BOARD OF COUNTY
26 COMMISSIONERS OF THE COUNTY IN WHICH THE POND IS LOCATED AND THE
27 FIRE PROTECTION DISTRICT SHALL PERFORM A NEEDS ASSESSMENT OF THE
28 POND, AS DESCRIBED IN SECTION 37-82-107 (3).

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1 (c) IF THE NEEDS ASSESSMENT DESCRIBED IN SUBSECTION (8)(b) OF
2 THIS SECTION INDICATES THAT THE POND CONTINUES TO SATISFY THE
3 CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO SECTION
4 37-82-107 (9), THE BOARD AND THE FIRE PROTECTION DISTRICT SHALL
5 NOTIFY THE STATE ENGINEER OF SUCH FACT, AND THE STATE ENGINEER
6 SHALL REDESIGNATE THE POND AS A FIRE SUPPRESSION POND.

7 (d) IF THE NEEDS ASSESSMENT DESCRIBED IN SUBSECTION (8)(b)
8 OF THIS SECTION INDICATES THAT THE POND NO LONGER SATISFIES THE
9 CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO SECTION
10 37-82-107 (9), THE BOARD AND THE FIRE PROTECTION DISTRICT SHALL
11 EITHER:

12 (I) NOTIFY THE STATE ENGINEER THAT THE DESIGNATION OF THE
13 POND AS A FIRE SUPPRESSION POND SHOULD BE RESCINDED OR ALLOWED
14 TO EXPIRE; OR

15 (II) PROVIDE TO THE STATE ENGINEER A PLAN AND TIMELINE FOR
16 BRINGING THE POND BACK INTO COMPLIANCE WITH THE CRITERIA.

17 (9) THE STATE ENGINEER SHALL ESTABLISH A DISCRETE DATABASE
18 FOR THE ADMINISTRATION OF PONDS THAT ARE DESIGNATED AS FIRE
19 SUPPRESSION PONDS PURSUANT TO THIS SECTION.

20 (10) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
21 CONTRARY, THE STATE ENGINEER SHALL NOT DESIGNATE ANY POND AS A
22 FIRE SUPPRESSION POND UNLESS THE POND EXISTED AS OF JANUARY 1,
23 1975.

24 **SECTION 4.** In Colorado Revised Statutes, 37-92-602, **amend**
25 (8)(a), (8)(b) introductory portion, and (8)(c)(I); and **add** (8)(b)(III) as
26 follows:

27 **37-92-602. Exemptions - presumptions - legislative declaration**
28 **- definitions.** (8) (a) The general assembly hereby declares that storm

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1 water detention and infiltration facilities, ~~and~~ post-wildland fire facilities,
2 AND FIRE SUPPRESSION PONDS are essential for the protection of public
3 safety and welfare, property, and the environment.

4 (b) ~~For the purposes of~~ AS USED IN this subsection (8):

5 (III) "FIRE SUPPRESSION POND" MEANS A POND THAT HAS BEEN:

6 (A) IDENTIFIED AS A POTENTIAL FIRE SUPPRESSION POND BY A
7 BOARD OF COUNTY COMMISSIONERS IN CONSULTATION WITH A FIRE
8 PROTECTION DISTRICT PURSUANT TO SECTION 37-82-107; AND

9 (B) DESIGNATED AS A FIRE SUPPRESSION POND BY THE STATE
10 ENGINEER PURSUANT TO SECTION 37-80-124.

11 (c) (I) Storm water detention and infiltration facilities in existence
12 on August 5, 2015, that are operated in compliance with ~~paragraphs (b)~~
13 ~~and (c) of this subsection (8) and~~ SUBSECTIONS (8)(b) AND (8)(e) OF THIS
14 SECTION; post-wildland fire facilities that are operated in compliance with
15 ~~paragraphs (b) and (c) of this subsection (8)~~ SUBSECTIONS (8)(b) AND
16 (8)(e) OF THIS SECTION; AND THE DESIGNATION OF PONDS AS FIRE
17 SUPPRESSION PONDS BY THE STATE ENGINEER PURSUANT TO SECTION
18 37-80-124 do not cause material injury to vested water rights.

19 **SECTION 5. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2022 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.