

**Federal, State and Intergovernmental Relations (FSIR)
Meeting
March 8, 2019
1:30 PM ♦ Mount Elbert**

**Council Member Charlie Richardson, Chair
Council Member Marsha Berzins, Vice Chair
Council Member Crystal Murillo, Member**

Serve as leaders and partner with other governments and jurisdictions

- | | | | |
|----|---|------------|--------|
| 1. | Approval of January 24, 2019 Minutes | Richardson | |
| 2. | Consent Items (none) | | |
| 3. | Aurora Water State & Federal Legislative Update | Kitzmann | 10 min |
| 4. | Oil & Gas Application Process Revisions | Johnston | 20 min |
| 5. | State Legislative Session Bill Review | LaCrue | 20 min |
| 6. | Miscellaneous Matters for Consideration | | |
| 7. | Set/Confirm Next Meeting | Richardson | |

Next meeting – March 22, 2019

Federal, State and Intergovernmental Relations (FSIR) Meeting

February 22, 2019

Members Present: Council Member Charlie Richardson, Chair; Council Member Marsha Berzins, Vice-Chair; Council Member Crystal Murillo, Member (via phone)

Others Present: Rachel Allen, Kerstin Claspell, Michael Crews, Abby Fitch, Malcolm Hankins, Matthew LaCrue, Chief Nicholas Metz, Debora O'Connor, Nancy Rodgers, Kim Skaggs, Amy Stephens, Roberto Venegas, Sandra Youngman

1. **APPROVAL OF MINUTES FROM FEBRUARY 8, 2019 MEETING:** Minutes from February 8, 2019 were approved as written.
-

2. NEIGHBORHOOD SERVICES LEGISLATION REQUEST:

Policy Request: Neighborhood Services would like to expand the protections provided to Code Enforcement Officers within state statute.

Discussion: The committee expressed support of the department's policy request.

3. STATE LEGISLATIVE SESSION BILL REVIEW:

- **Senate Bill 19-103: Legalizing Minor Businesses** Concerning prohibiting municipalities from requiring a license or permit for a business operated by a minor.

Discussion: The city is actively opposing the legislation, due to encroachment of the city's home rule authority. A. Stephens noted the bill is making its way through the legislative process.

- **House Bill 19-1076: Clean Indoor Air Act Add E-cigarettes Remove Exceptions** Concerning updates to the "Colorado Clean Indoor Air Act", and, in connection therewith, removing certain exceptions and adding provisions relevant to the use of electronic smoking devices.

Discussion: Per A. Stephens, this bill has been amended to get support, such as consideration of Hookah issues. M. LaCrue explained that a deal has been reached. CM Berzins noted that she has heard from owners of hookah establishments in Aurora that they are nervous that they will go out of business due to the bill. CM Richardson stated that he would like to have local control on this issue.

- **House Bill 19-1086: Plumbing Inspections Ensure Compliance** Concerning plumbing inspections to be performed only by state-licensed plumbers.

Discussion: Per A. Stephens, the bill has been amended to garner support from CML and local

governments.

- **House Bill 19-1101: Prohibit Discrimination Labor Union Participation** Concerning the prohibition of discrimination against employees based on Labor Union participation.

Discussion: Per CM Richardson the bill was defeated, he asked M. LaCrue to confirm this.

- **House Bill 19-1119: Peace Officer Internal Investigation Open Records** Concerning an internal investigation file of a peace officer for in-uniform or on-duty conduct that involves a member of the public subject to an open records request.

Discussion: Per N. Rodgers, this bill has been significantly amended to address local government concerns. State-wide, the Colorado Association of Chiefs of Police (CACP) and the Sheriff's Association are now neutral. CML is now neutral and moving toward support with the amendments. APD is neutral following the lead of CACP. N. Rogers further clarified that this bill is not for all internal affairs records, but instead focused specifically on a summary for on-duty, in-uniform citizen-facing incidents that occur after the effective date of this order – and where discipline was imposed.

M. LaCrue explained that the bill amendments came Tuesday or Wednesday of this week which prompted the immediate position change of CACP and the Sheriff's Association.

- **House Bill 19-1177: Extreme Risk Protection Orders** Concerning creation of an extreme-risk protection order.

Discussion: N. Rogers provide the committee with a brief overview of the bill. N. Rogers noted that there are concerns related to who can make a petition to the court under the current version of the bill.

N. Rogers and Chief Metz noted that the bill will be a helpful tool especially with suicides. N. Rogers further explained that currently, when a suicidal person gets put on a mental hold or gets arrested, his or her firearms are confiscated. The challenge is that when they are released, they lawfully can get the firearms back. This bill would help with these situations. In addition, it would help when family members say they're very concerned about a family member who has a lot of weapons available to them. Right now, there is no mechanism in place for confiscating those weapons unless the person of concern commits a crime.

CM Berzins voiced concerns about the possibilities of people abusing the system, such as an ex-spouse or someone with whom one has had a fight. Chief Metz responded that there are unfortunately many ways systems can be abused, but this comes down to public safety and ensuring that we do everything possible to prevent someone from hurting themselves or someone else. Chief Metz further stated that the Colorado Association of Chiefs of Police (CACP) and the state Sheriff's Association both support this bill. CM Berzins suggested bringing this before Council at a Study Session.

Position: To be determined by Council during the February 25th Study Session.

- **Senate Bill 19-085: Equal Pay for Equal Work Act**: Concerning creating an act to implement measures to prevent pay disparities.

Discussion: M. LaCrue recapped that the bill would protect a company when it pays an employee more than his/her peer based on seniority, merit, and/or earning by quality or quantity of production. He further explained that employers must post jobs for all employees to see, as employees have the right to know that a job is open. CML's current position is to oppose the bill unless amended but they will not fight it. Likely this will sail through, and CML will focus more on other labor-related bills in the pipeline.

- **Senate Bill 19-012: Use of Electronic Devices while Driving** Concerning prohibiting the use of hand-held electronic devices while driving a motor vehicle.

Discussion: A. Stephens said that the bill is making its way through the legislative process and CML supports it. Per M. Crews, Aurora Water and their contract lobbyist Colorado Advocates are working with the bill sponsor on an amendment to the bill that would create an exemption for 2-way radio communication for staff of a public utility.

- **Senate Bill 19-032: Hazardous Materials Transportation Routing** Concerning transportation of hazmat materials through Colorado.

Discussion: Per CM Richardson the bill passed the Senate third reading of bill with a 35-0 vote.

4. STATE LEGISLATIVE PROPOSED LEGISLATION:

- **Regulation of E-Scooters**: Per M. LaCrue, noted that Denton's and city staff have reviewed a draft of the proposed bill. The bill is in response to the City of Denver's decision to move scooters from sidewalks to roadways. The bill has yet to be introduced and staff will review the introduced bill and provide FSIR with a recommendation.

5. GENERAL DISCUSSION:

CM Richardson stated that the city will follow legislative position from CML. Per R. Venegas, there are several bills yet to be introduced related to affordable housing, local rent stabilization, local government minimum wage, family medical leave, oil and gas, and paid family medical leave.

Per M. LaCrue, the proposed affordable housing bill is expected to be introduced soon. Regarding rent stabilization, CML is looking at language to enact ordinances and give local control on property and residential housing for rent control.

Local Control of Oil and Gas: M. LaCrue stated that the bill will be sponsored by Speaker Becker and Representative Garnett and is expected to be introduced the first week of March.

The bill will have four components, and CML will focus on local control issues that relate to the Colorado Oil & Gas Conservation Commission and forced pooling. CML will rely on Aurora's feedback on the draft of the bill. Per C. Richardson, we will share the draft with the city's Oil and Gas Commission.

M. LaCrue asked if Aurora has any mineral estate properties and whether it got royalties from them. R. Venegas will follow up with M. LaCrue.

WOTUS (Waters of the United States): Per C. Crews, in 2015, the state joined a lawsuit against the federal government regarding the Waters of the United States. Colorado Attorney General Phil Weiser would now like to remove the state from the lawsuit but stay as a party to the injunction. Aurora Water is proposing to provide the AG's office with comments from the city's perspective as to why the state should stay a party to the lawsuit. The Colorado Water Congress will also be sending comments to the AG's office, in addition to asking for clarification of the AG's position on the lawsuit and injunction. Aurora Water will be sharing their proposed comments to the AG's office for the committee's approval. Per Committee Chair Richardson the committee will defer to Aurora Water for the submittal of comments to the AG's office.

Aurora Day at the Capitol: Per M. LaCrue, March 20th has been scheduled by the Aurora legislative delegation as Aurora Day at the Capitol. Senators Todd and Fields are organizing the event and it is expected that there will be a talk hosted by the delegation and a lunch.

House Bill 19-1157: Modify Specific Ownership Tax Rates: Concerning the modification of a specific ownership tax rates, and, in connection therewith, requiring additional specific ownership tax revenue generated by the rate modifications to be credited to the highway user's tax fund and allocated to the state highway fund, counties, and municipalities in accordance with an existing statutory formula.

Discussion: K. Claspell explained that this is a fee and would fall under Tabor rules. This bill increases specific ownership tax rates for vehicles 10+ years old. Vehicles currently this age would be taxed at current lower tax rate; vehicles 9 or less years old will be taxed at higher rate once they age into the 10+ age group.

Additional revenue would gradually increase for the state and city. Based on recent estimates from the state, Aurora would collect about \$495,000 in year 1, \$990,000 in year 2, and \$1.5 million in year 3.

Per Rachel Allen, this likely won't have traction, and there are legal implications:

- This proposal does not comply with what is in the Colorado Constitution. Specifically, the funding formula laid out under Article 10, Section 6 under the 'revenue' provision.
- Funds that Aurora is currently receiving are general fund, non-restricted funds. What the legislature will do is earmark the new funds only for transportation, thus more restrictions.

6. **MISCELLANEOUS MATTERS FOR CONSIDERATION** – None.

7. CONFIRM NEXT MEETING

March 8, 2019 at 1:30pm in Mt. Elbert.

Approved:

CM Charlie Richardson
Committee Chair

Date



Federal, State and Intergovernmental Relations Agenda Item Commentary

Item Title: Aurora Water State & Federal Legislative Update
Item Initiator: Michael Crews, Intergovernmental Relations Coordinator
Staff Source: Kathy Kitzmann, Aurora Water Water Resources Principal
Deputy City Manager Signature:
Outside Speaker:
Council Goal: 2.1: Work with appointed and elected representatives to ensure Aurora's interests--2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interest

ACTION(S) PROPOSED: *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

HISTORY: *(Dates reviewed by City Council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Aurora Water will provide the committee with an update on water-related issues being considered by the General Assembly. The department will also provide the committee with a federal update related to the CORE Act.

ITEM SUMMARY: *(Brief description of item, discussion, key points, recommendations, etc.)*

The department will provide the committee with an update on the Colorado Outdoor Recreation and Economy (CORE) Act which was introduced in Congress by Senator Bennet and Representative Neguse. The department is proposing an oppose position on the legislation due to the impact the legislation will have on the Camp Hale National Historic Landscape as the department has significant water rights and land rights in the area. The department has opposed previous versions of legislation that would have impacted the Camp Hale area. The department is working on a boundary adjustment map and will be working with Forest Service on potential amendment language to the Act. The department is the process of finalizing a memo to the committee detailing their proposed position on the CORE Act.

QUESTIONS FOR COMMITTEE:

Does the committee approve of the department's oppose position of the CORE Act?

EXHIBITS ATTACHED:

Aurora Water Legislation spreadsheet 02-28-19.pdf

MEMORANDUM



City of Aurora

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To: Federal, State & Intergovernmental Relations Committee

Through: Nancy Freed, Deputy City Manager
Marshall P. Brown, Director, Aurora Water *MPB*
Alex Davis, Water Resources Manager *AD*
Gerry Knapp, Regional River Basin Program Manager

From: Kathy Kitzmann, Senior Water Resources Engineer

Date: July 29, 2015

Subject: Congressional Request for Forest Service Assistance with Potential Wilderness Adjustment

The Eagle River Memorandum of Understanding (ERMOU) partner staff (Aurora Water, Colorado Springs Utilities, Vail Consortium, and Climax), believe an adjustment to the existing Holy Cross Wilderness boundary is necessary and would allow better alternatives to be constructed for the development of east slope and west slope water supplies under the ERMOU. Discussions with wilderness proponents, legislative staff, and Forest Service have occurred over the last several years. The next step to adjusting the Holy Cross Wilderness boundary is to have a congressional member request Forest Service assistance in developing the new boundary concept. Aurora Water would like to send a letter request to Aurora's federal delegation. The letter would ask that Representative Coffman and/or Senators Bennet and Gardner contact the Forest Service to make the formal request necessary for Forest Service assistance in redrawing the potential boundary. ERMOU partners have shown interest in sending a joint letter to also include their delegation members, Representatives Tipton, Lamborn, and Polis.

Should the request be successful, and Forest Service assists in drafting a new boundary, the adjustment has the potential to be added to the existing Polis Wilderness bill (H.R. 2554: Continental Divide Wilderness and Recreation Act) or be a standalone bill and allow the wilderness discussions to continue. Without a boundary delineated with Forest Service assistance, the Wilderness discussions are at a standstill and the Wilderness bill(s) may move forward without the needed adjustment for ERMOU projects.

Background

The Homestake Project water collection system is located in the upper Eagle River Basin, upstream of the Town of Red Cliff, Colorado. The project is jointly operated by the cities of Aurora and Colorado Springs. Each City is entitled to one-half of the yield of the project. Development of the Homestake Project was designed to be completed in several phases. Homestake Phase I was completed in 1968 and includes the 43,000 acre foot Homestake Reservoir located on Homestake Creek. The current average yield of diversions from the surrounding watershed is about 30,000 acre-feet per year. Phase II includes a large portion of the facilities and water rights associated with the Homestake Project that are undeveloped at this time.

Several alternatives are being evaluated to develop portions of the Homestake Project's remaining conditional water rights. Homestake Phase II included an expansion that would have located diversion facilities within the Holy Cross Wilderness. This proposal would have been developed pursuant to a provision in the congressional authorization for the Holy Cross Wilderness (PL 95-560) which states: *"Nothing in this Act shall be construed to expand, abate, impair, impede or interfere with the construction, maintenance or repair of said project, nor the operation thereof, or any exchange or modification of the same"*. In response to Eagle County's subsequent denial of a 1041 permit for Phase II and local concerns related to the development of the proposed diversion facilities within the Wilderness, the Homestake Partners entered into the 1997 ERMOU with other water providers in the Eagle River watershed. The ERMOU provides for the joint development of water supplies outside of the Wilderness boundary in the amounts of 10,000 acre-feet for Aurora, 10,000 acre-feet for Colorado Springs, 10,000 acre-feet for west slope entities, and 3,000 acre-feet of storage for Climax.

The ERMOU parties have been analyzing alternatives that would provide the target yields, minimize regional environmental concerns, and have reasonable costs to construct and operate. The original Homestake Phase II would have been a gravity system to Homestake Reservoir storage. The ERMOU projects will be located outside of the Wilderness, and will require forebays and pump stations to move the water back to the higher elevations. Locating a new reservoir along Homestake Creek is very likely to be included in any preferred alternative for the full development of the ERMOU water. Preliminary drawings and limited geological investigations have been done showing favorable conditions, although additional geological data is needed to fully design any alternatives. Constructing a new reservoir along Homestake Creek will inundate the existing Homestake Road requiring relocation. Homestake Road and Homestake Creek are currently part of a "cherry stem" with Wilderness on the west side and Roadless on the east side. The east side is very steep in nature. Repealing the Wilderness boundary on the west side of the creek would make relocating Homestake Road feasible as well as facilitate a larger reservoir that could reduce energy costs and possibly reduce storage needs in other ERMOU project locations.

Please see attached map with several dam and reservoir alternatives outlined, "Blodgett Reservoir" on the north end and three alternative "Whitney Reservoir" locations. The map shows a repeal of approximately 528 acres. In wilderness stakeholder discussions, the concept of a small repeal for supporting a gain in wilderness acres has a chance of moving forward that is worth pursuing. ERMOU partner staff have determined that support of the No Name area and support of a truncated Homestake thumb area would be not interfere with ERMOU projects and may provide watershed protection benefits. For the concept to be supported by wilderness proponents and the full Colorado delegation, it is likely that Aurora will be asked to support the Polis Wilderness bill or something similar. Aurora staff recommends opposing any wilderness bill in the area without inclusion of the proposed adjustment, as it is unlikely to have support for two wilderness bills addressing the same area.

Questions

1. Does the FSIR approve of a letter request being sent to the Aurora delegation (or full ERMOU party delegation pending ERMOU partner approvals) to ask their aid in requesting the Forest Service to provide assistance in drafting a potential new Holy Cross Wilderness Boundary?
2. Does FSIR approve of opposing the Polis Wilderness bill and any similar bills without inclusion of a Holy Cross Wilderness boundary adjustment that benefits ERMOU project development?

cc: Roberto Venegas, Assistant City Manager
Joe Stibrich, Water Resources Management Advisor

Attachments

DRAFT

Approx. Location of
30,000 AF Blodgett Reservoir

Approx. Location of
17,300 AF Whitney Creek Reservoir

Approx. Location of
5,000 AF Whitney Creek Reservoir

Approx. Location of
8,800 AF Whitney Creek Reservoir

Homestake
Wilderness Area








No Name
Wilderness Area

WURTZ DITCH

200' Setback

400' Setback

Map Legend

-  Holy Cross Wilderness Areas
-  Proposed Holy Cross Wilderness Repeal to Elevation 9,400 feet
Measured Area of Repeal = 528 acres
-  Hidden Gems Proposed Wilderness Areas
-  Proposed Homestake Boundary Adjustment to Elevation 9,400 feet (west end)
Measured Area = 2,386 acres
-  Proposed No Name Boundary Adjustment
200' Setback from Wurtz Ditch
Measured Area = 3,993 acres
400' Setback from Wurtz Ditch
Measured Area = 3,767 acres
-  Proposed Contiguous Wilderness Area between Homestake and No Name
Measured Area = 20 acres
-  Wurtz ditch Lines



Proposed Wilderness Boundary Adjustments
Blodgett Reservoir, Whitney Creek Reservoir & Wurtz Ditch
Pitkin and Eagle Counties, Colorado



Date: 03/15/2012
Map By: M.P.
File Name: BlodgettRes.map



MEMORANDUM



City of Aurora

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To: Federal, State and Intergovernmental Relations

Through: Marshall P. Brown, General Manager, Aurora Water
Alex Davis, Deputy Director of Water Resources

From: Kathy Kitzmann, Water Resources Principal

Date: March 8, 2019

Subject: Aurora Water – Federal Legislation CORE Act

Senator Bennet and Representative Neguse introduced identical versions of the Colorado Outdoor Recreation and Economy Act (S.241/H.R.823 CORE Act) on January 28, 2019. The CORE Act combines several previous Wilderness and lands bills including the Continental Divide Wilderness, Camp Hale National Historic Landscape, San Juan Mountain Wilderness, Thompson Divide land management, and Curecanti National Recreation Area proposals.

The Camp Hale National Historic Landscape and portions of the Continental Divide Wilderness proposals are within Eagle County where Aurora and its partners have significant water and land rights. To protect and support Aurora's ability to develop its future water supply, FSIR approved of opposing the predecessor H.R.2554 Continental Divide Wilderness and Recreation Act and any similar bills without inclusion of a Holy Cross Wilderness boundary adjustment that would benefit Eagle River Memorandum of Understanding (ERMOU) project development. Attached is the 2015 staff memo to FSIR that contains additional background on the proposed Wilderness and Wilderness boundary adjustment concept. Aurora Staff continue to work with the Forest Service, ERMOU partners, and Wilderness proponents on the Wilderness boundary adjustment. The Wilderness proponents remain open to the idea of a boundary adjustment to the CORE Act, or similar bill, and to have legislation that can be supported by all. The next steps are to develop new maps and refine the boundaries with Forest Service staff and develop legislative language with Forest Service staff. The Wilderness boundary adjustment is still viable and the subject has renewed momentum with introduction of the CORE Act.

After 2015, Senator Bennet proposed the Camp Hale National Historic Landscape in addition to the Wilderness proposals. The Camp Hale National Historic Landscape (Historic Landscape) would be the first such federal designation of its kind and it is unknown how the United States Forest Service would manage for such a designation. The Homestake Partners have water rights, land rights, and wetland mitigation agreements within the proposed Historic Landscape boundary. Senator Bennet did add protective water rights language to the Historic Landscape proposal. However, the proposal appears to place historic preservation and recreational opportunities above other uses in the valley and creates uncertainty with another federal layer in an extensive list for the Camp Hale area. One stated purpose of the Camp Hale National Historic Landscape is "to conserve, protect, restore, and enhance for the benefit and enjoyment of present and future generations the scenic, watershed, and ecological resources of the Historic Landscape." Water supply development in a manner that meets the goals and objectives of the ERMOU could be interpreted as being counter to the Historic Landscape purposes.

In addition to the federal proposals, there are multiple local planning efforts addressing many of the same proposed Wilderness and Historic Landscape goals including the National Forest Foundation Camp Hale Eagle River Collaborative Restoration Project, Forest Service Camp Hale Restoration & Enhancement Project Environmental Impact Statement; and Eagle River Community Water Plan. These local planning processes are being inclusive of future water supply development and may get restricted by any new federal land management designations. Aurora staff participate in the various federal, state, and local planning processes to maintain a pathway for water rights development and work toward having all these processes be complimentary to one another with respect to water supply development. To maintain and support the ability for Aurora to develop its future water supplies in Eagle County, staff recommend a position of oppose for the CORE Act unless amended with a Holy Cross Wilderness boundary adjustment that benefits ERMOU project development.

Question:

Does FSIR approve of opposing the CORE Act and any similar bills without inclusion of a Holy Cross Wilderness boundary adjustment that benefits ERMOU project development?

MEMORANDUM



City of Aurora

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To: Federal, State and Intergovernmental Relations

Through: Marshall P. Brown, General Manager, Aurora Water
Alex Davis, Deputy Director of Water Resources

From: Kathy Kitzmann, Water Resources Principal

Date: March 8, 2019

Subject: Aurora Water - State Legislation Update

During the first half of the 2019 state legislative session, Aurora Water did not identify any bills to “Actively Oppose” nor “Actively Support”. There are two bills recommended for “oppose if asked” with all other bills reviewed at “support if asked” or “monitor”. There are two recently introduced bills still under review.

New Bills under Department Review

SB19-181 Protect Public Welfare Oil and Gas Operations: This bill enhances local governments’ ability to regulate surface impacts of oil and gas development and will involve several City departments. This legislation would benefit the City’s ability to reinforce, establish, or require setbacks from Water Department infrastructure and facilities. **Aurora Water’s recommendation on a position is pending departmental review.**

HB19-1218 Loaned Water for Instream Flows to Improve Environment: Under current law, the Colorado Water Conservation Board (CWCB) may use loaned water rights to preserve stream reaches that have CWCB instream flow rights. This bill would expand the numbers of years a loan may be exercised from current 3-years out of 10 to 5-years out of 10; would add the ability to accept loaned water to improve (not just preserve) stream reaches pursuant to an existing ISF; and would add ability to accept loaned water in reaches without an existing ISF. The legislation would create inconsistencies with other loaned water statutes staying at 3-years out of 10; and expansion to loaned water use in reaches without an ISF is a concern. However, loaned water can assist in maintaining healthy ecosystems that have direct and indirect benefits. There are both pros and cons to this bill. **Aurora Water’s recommendation on a position is pending departmental review.**

Aurora Water Opposed Bills Update

SB 19-012 Use of Mobile Electronic Devices While Driving: This bill establishes penalties for using electronic devices while driving. This legislation would create an unlawful work practice for Aurora Water employees that utilize two-way radios where hands free is not an option. Aurora Water is currently working to amend the legislation with an exemption for public utility employees during their course of work.

- Scheduled March 8th in Senate Appropriations

HB19-096 Colorado Right to Rest: This bill established rights for homeless people to take shelter and rest in public spaces. The bill did not exempt utility facilities nor utility infrastructure, such as water supply pump stations or stormwater systems.

- Postponed indefinitely

Aurora Water Supported Bills Update

SB19-016 Severance Tax Operational Fund Distribution Methodology

- House Finance refer unamended to Appropriations

SB19-019 County Fireworks Restriction July 4th

- House Third Reading Passed – No Amendments

SB19-020 Wildland Fire Airspace Patrol System

- Senate State, Veterans, & Military Affairs referred unamended to Appropriations

SB19-082 Repeal Board of Health Authority over Colorado Department of Public Health

- Sent to Governor

SJM19-001 Memorial for Arkansas Valley Conduit

- Signed by Senate President and House Speaker

HB19-1005 Water Projects Eligibility Lists

- Governor signed

HB19-1006 Wildfire Mitigation Wildland-Urban Interface Areas

- Scheduled for March 11th in House Rural Affairs & Agriculture

HB19-1015 Re-Creation of the Colorado Water Institute

- Governor signed

HB19-1026 Parks and Wildlife Violations of Law

- Scheduled for March 8th in House Appropriations

HB19-1047 Metropolitan District Fire Protection Sales Tax

- Senate Third Reading passed – no amendments

HB19-1050 Encourage Use of Xeriscape

- Sent to Governor

HB19-1068 Repeal CDPHE Preparation Operation Planning

- Scheduled on March 7th for Senate Health & Human Services

HB19-1071 Colorado Department of Public Health and Environment Water Quality

- Sent to Governor

HB19-1078 Landowner Consent Listing National Register

- Scheduled March 12th in Senate Local Government

HB19-1200 Reclaimed Domestic Wastewater Point of Compliance

- House Rural Affairs & Natural Resources referred amended to Whole House

Aurora Water Monitored Bills Update

SB19-037 Wildfire Mitigation

- Postponed Indefinitely

SB19-040 Establish Colorado Fire Commission

- Senate Agriculture & Natural Resources referred amended to Appropriations

SB19-047 Remove Unauthorized Persons from Vacant Land

- Postponed Indefinitely

SB19-062 Limit Agency Rule-Making Authority to Amend Rules

- Postponed Indefinitely

SB19-070 Department of Natural Resources Language Update

- Sent to Governor

SB19-096 Climate Change Data

- Introduced and assigned to Senate Transportation & Energy

SJM19-002 Corps of Engineers to Dredge Lower Arkansas River

- Signed by Senate President and House Speaker

HB 19-1029 Republican River Water Conservation District

- Scheduled for April 30th House Floor Work

HB19-1082 Water Rights Easements

- House Considered Senate Amendments – Result was to Concur - Repass

HB19-1087 Local Public Meeting Notices Posted on Website

- Scheduled March 13th in House Transportation & Local Government

HB19-1091 Conservation Easement Transparency

- Postponed Indefinitely

HB19-1108 Nonresident Electors and Special Districts

- Scheduled for March 6th in Senate State, Veterans, & Military Affairs

HB19-1113 Protect Water Quality Adverse Mining Impacts

- Scheduled March 7th in Senate Agriculture & Natural Resources

HB19-1204 Prohibit Camping Environmentally Sensitive Areas

- Postponed Indefinitely

HB19-1213 Urban Drainage Flood Control District Director Compensation

- Scheduled March 14th for House Energy & Environment



Federal, State and Intergovernmental Relations Agenda Item Commentary

Item Title: Oil & Gas Application Process Revisions
Item Initiator: Michael Crews, Intergovernmental Relations Coordinator
Staff Source: Michael Crews, Intergovernmental Relations Coordinator
Deputy City Manager Signature:
Outside Speaker: Council Member Nicole Johnston
Council Goal: 2.1: Work with appointed and elected representatives to ensure Aurora's interests--2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interest

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*
Ordinance brought forth by Council Member Johnston.

QUESTIONS FOR Committee

EXHIBITS ATTACHED:

cmckenney2-28.pdf

ORDINANCE NO. ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ENACTING A MORATORIUM ON THE ACCEPTANCE OR APPROVAL OF OIL AND GAS PERMIT APPLICATIONS FOR THE PERMITTING, CONSTRUCTION, EXPANSION AND LOCATION OF WELLS, ACCESSORY EQUIPMENT, OR STRUCTURES WITHIN THE CITY

WHEREAS, the City permits well sites and oil and gas facilities (collectively "Oil and Gas Facilities") under its Building and Zoning code in order to facilitate development and mitigate potential land use conflicts between oil and gas development and existing and planned land uses (Aurora Municipal Code, Ch. 146-1207(A)); and

WHEREAS, the City last updated its rules for Oil and Gas Facilities contained in Aurora Municipal Code, Ch. 146-1207 in 2014; and

WHEREAS, since 2014, the nature of operations occurring at, or affecting, Oil and Gas Facilities such as the availability of pipelines, drilling of multiple wells per pad, use of centralized gathering facilities, tankless operations, and others, have changed significantly; and

WHEREAS, methods and technologies to reduce impacts to public health and the environment associated with Oil and Gas Facilities have improved and expanded significantly since 2014; and

WHEREAS, as a result of the November 2018 statewide general election, the political make-up of the general assembly, as well as the executive branch, has altered and it is anticipated that legislative changes affecting oil and gas regulations at the state level, as well as the authority to regulate on the local level, will be forthcoming in the 2019 legislative session; and

WHEREAS, City Council has requested that Staff and Outside Counsel update the City Building and Zoning in order to implement anticipated broader local authorities related to oil and gas development and to better reflect modern oil and gas operational characteristics and best management practices to mitigate potential impacts to public health and the environment; and

WHEREAS, local governments are granted broad authority to plan for and regulate the use of land within their respective jurisdictions (see, C.R.S. § 29-20-102(a); *City of Fort Collins v. Colo. Oil and Gas Ass'n*, 369 P.3d 586 (Colo. 2016)); and

WHEREAS, the City Council finds it necessary to establish a moratorium of temporary and reasonable duration on acceptance or approval of oil and gas permit applications within the City, in order to implement anticipated broader local authorities related to oil and gas development and to better reflect modern oil and gas operational characteristics and best management practices to mitigate potential impacts to public health and the environment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. There shall be a moratorium upon the acceptance and approval of oil and gas permit applications for the permitting, construction, expansion and location of wells, accessory equipment, or structures within the City with the exception of those wells being permitted pursuant to an operating agreement. The purpose of this moratorium is to provide time for the City to update its oil and gas ordinance in light of anticipated broader local authorities related to oil and gas development and in order to ensure the ordinance reflects modern oil and gas operational characteristics and best management practices.

Section 2. Definitions. The following definitions shall be utilized in the application of this Ordinance:

(1) "Oil and Gas Facility" means equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, gathering, treatment, or processing of oil or natural gas.

(2) "Well Site" mean surface area of a proposed or existing well or wells and its pumping systems.

Section 4. The moratorium shall be for a period of six months from the effective date of this ordinance.

Section 3. All ordinances or parts of ordinances of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 4. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ, AND ORDERED PUBLISHED this ____ of _____,
2019.

PASSED AND ORDERED PUBLISHED this ____ of _____ 2019.

BOB LEGARE, Mayor

ATTEST:

STEPHEN J. RUGER, City Clerk

APPROVED AS TO FORM:

CHRISTINE MCKENNEY,
Interim Client Manager



Federal, State and Intergovernmental Relations Agenda Item Commentary

Item Title: State Legislative Session Bill Review
Item Initiator: Michael Crews, Intergovernmental Relations Coordinator
Staff Source: Michael Crews, Intergovernmental Relations Coordinator
Deputy City Manager Signature:
Outside Speaker: Matt La Crue, Dentons
Council Goal: 2.1: Work with appointed and elected representatives to ensure Aurora's interests--2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interest

ACTION(S) PROPOSED: *(Check all appropriate actions)*

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

HISTORY: *(Dates reviewed by City Council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Dentons has served as the city's state lobbyist since January of 2017. They regularly provided updates to the FSIR committee, including reviewing state legislative activity and recommending positions as appropriate.

ITEM SUMMARY; *(Brief description of item, discussion, key points, recommendations, etc.)*

City staff is requesting an active oppose positions from FSIR for the following bills: HB19-1191: Allow Farm Stands on Any Size Principal Use Site (Oppose)

QUESTIONS FOR COMMITTEE:

EXHIBITS ATTACHED:

HB 1191.pdf

MEMORANDUM

TO: FSIR
FROM: MICHAEL CREWS, INTERGOVERNMENTAL RELATIONS
COORDINATOR
SUBJECT: STATE LEGISLATION UPDATE
DATE: 3/1/2019

Staff Active Oppose Recommended

Farm Stands: HB19-1191 Allow Farm Stands on Any Size Principal Use Site would allow a farm stand to be operated on a principal use site of any sized land area regardless of whether the site has been zoned by a local government for agricultural operations. The bill permits a farm stand of any land size located anywhere within the state to undertake agricultural operations on its principal use site regardless of whether the land area on which the farm stand is located has been zoned to conduct agricultural operations. The bill permits a local government to enact an ordinance, resolution, or other form of law within the particular jurisdiction to facilitate the operation of the bill by the local government, but in no way shall any such local law limit or restrict the bill.

The bill poses several potential issues for the city. The primary concern is that the bill would preempt the city's home rule authority related to zoning. Other concerns are related to the general nature of the bill; lack of restrictions on size, duration, architectural standards and setbacks of the farm stand.

The City Attorney's Office is recommending a actively oppose position. CML is also opposed to the bill. The bill scheduled to be heard in the House Rural Affairs & Agriculture Committee on March 4th.

FSIR Active Support Update

Nicotine Taxation: HB19-1033 Local Governments May Regulate Nicotine Products would enable local governments to impose an additional sales tax on nicotine products. Under the current statute in order to participate in the revenue share back provided by the state sales tax on nicotine products local governments are prohibited from enacting their own sales tax on such products. This bill would allow local governments to continue to receive state revenue share back and levy an additional sales tax on nicotine products. The bill would allow the city to collect sales tax twice on the sale of nicotine products.

The bill passed Senate Third Reading on February 25th.

Electrical Inspections: HB19-1035 Remove Fee Cap Electrical Inspection Local Government Higher Education would enable local governments to charge more than 15% over what the state charges to perform an electrical inspection. Under the current statute, local governments are prohibited from charging more than 15% of what the state charges to perform an electrical

inspection. The bill would allow the city to set and charge a higher fee for electrical inspections performed by the building department.

The bill is scheduled to be heard by the the Senate Local Government Committee on March 5th.

FSIR Active Oppose Update

Legalizing Minors' Businesses: SB19-103 Legalizing Minors' Businesses would prohibit a municipality from requiring a license or permit for a business that is operated on an occasional basis (not in operation for more than 84 days in a calendar year) by a minor and is located a sufficient distance from a commercial entity as determined by the municipality to prevent the minor's business from becoming a direct economic competitor of the commercial entity.

The primary concern is that the bill would preempt the city's home rule authority. Under the city's current requirements a minor's lemonade stand would not be considered to meet the definition of engaged in business and would not need a license. Additionally, the bill allows for an unlicensed business operation for up to 84 days per year anywhere in the city as long as the owner is identified as a minor. The bill should include additional language or a revenue limitation to ensure that the intent is followed.

The bill has been introduced in the House and assigned to the House Business Affairs & Labor Committee.

Plumbing Inspections: HB19-1086 Plumbing Inspections Ensure Compliance would require plumbing inspections to be performed only by state-licensed plumbers. Under current law, only plumbing inspectors employed by qualified state institutions of higher education are required to have the same qualifications as state plumbing inspectors. The bill would expand that requirement to plumbing inspectors employed by a municipality.

The bill would have a significant negative impact on plumbing inspections carried out by the city. Currently, the city has 3 licensed plumbers on staff and 18 plumbers that are ICC certified.

The bill was pulled from the House Business Affairs & Labor Committee and laid over to allow stakeholders time to identify a compromise.

Clean Indoor Air Act: HB19-1076 Clean Indoor Air Act Add E-cigarettes Remove Exceptions would be an update to the Colorado Clean Indoor Air Act. The update would include the following: Eliminating the existing exceptions for certain places of business in which smoking may be permitted, such as airport smoking concessions, businesses with 3 or fewer employees, designated smoking rooms in hotels, and designated smoking areas in assisted living facilities; and Adding a definition of "electronic smoking device" (ESD) to include e-cigarettes and similar devices within the scope of the act.

The bill passed the House Health & Insurance Committee with amendments on February 27th.

FSIR Monitor Update

Mobile Devices: SB19-012 Use of Electronic Devices while Driving would establish penalties for individuals using electronic devices while operating a motor vehicle.

The committee's monitor position is due to concerns raised by Aurora Water regarding the impact the bill will have on two-way radio usage. Aurora Water's lobbyist Colorado Advocates is working with Sen. Court on an amendment to the bill.

Plastic Straws: HB19-1143 Distribute Plastic Straws Only Upon Request would prohibit a restaurant, food vendor, or other food service establishment from providing a single-use plastic beverage straw to a customer unless the customer requests a straw.

The bill was postponed indefinitely by the House Energy & Environment Committee on February 25th.

Equal Pay for Equal Work Act: SB19-085 concerns the creation of the "Equal Pay for Equal Work Act in order to implement measures to prevent pay disparities.

The bill was referred to the Senate Appropriations Committee after passing the Senate Judiciary Committee on January 20th.

Improper Guilty Pleas: SB19-030 Remediating Improper Guilty Pleas would address that in some instances when criminal defendants entered a guilty plea in connection to a deferred judgment they were not advised that there may be additional penalties that attach to the plea even if the plea is later withdrawn and the case is dismissed. These defendants did not knowingly, intelligently, and voluntarily enter the plea of guilty as required by law. The bill authorizes these persons to petition the court for an order vacating the guilty plea. The bill will have an impact on municipal courts in that it will add requirements currently not supported by Supreme Court case law. The language of the proposed bill is broad and unclear.

The bill has been referred to the Senate Appropriations Committee.

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0853.01 Bob Lackner x4350

HOUSE BILL 19-1191

HOUSE SPONSORSHIP

Arndt,

SENATE SPONSORSHIP

(None),

House Committees
Rural Affairs & Agriculture

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF A FARM STAND TO BE OPERATED ON A**
102 **PRINCIPAL USE SITE OF ANY SIZED LAND AREA REGARDLESS OF**
103 **WHETHER THE SITE HAS BEEN ZONED BY A LOCAL GOVERNMENT**
104 **FOR AGRICULTURAL OPERATIONS.**

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>.)

The bill defines "farm stand" to mean a temporary or permanent structure used for the sale and display of agricultural products resulting from agricultural operations that are conducted on the principal use site

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

1 COLORADO-PRODUCED AGRICULTURAL PRODUCTS;

2 (d) FARM STANDS ALLOW FARMERS AND OTHER AGRICULTURAL
3 PRODUCERS TO SELL FRESH AGRICULTURAL PRODUCE AND OTHER
4 AGRICULTURAL GOODS GROWN ON THE PRINCIPAL USE SITE ON WHICH THE
5 FARM STAND IS LOCATED AS WELL AS OTHER FOOD PRODUCTS MADE WITH
6 INGREDIENTS PRODUCED ON OR NEAR THE PRINCIPAL USE SITE; AND

7 (e) IN MANY JURISDICTIONS ACROSS THE STATE, A FARM STAND IS
8 NOT PERMITTED TO OPERATE IF LOCATED ON A PRINCIPAL USE SITE THAT
9 IS SMALLER THAN A CERTAIN ACREAGE SIZE. THESE RESTRICTIONS
10 OPERATE IN THIS MANNER BECAUSE, IN MANY JURISDICTIONS ACROSS THE
11 STATE, A PRINCIPAL USE SITE CANNOT BE CLASSIFIED AS A FARM THAT IS
12 ABLE TO CONDUCT AGRICULTURAL OPERATIONS UNLESS THE SITE EXCEEDS
13 A CERTAIN MINIMUM ACREAGE REQUIREMENT.

14 (2) BY ENACTING THIS ARTICLE 30 THE GENERAL ASSEMBLY
15 INTENDS TO PROVIDE A UNIFORM AND CONSISTENT PERMISSION ACROSS
16 THE STATE FOR FARM STANDS TO UNDERTAKE AGRICULTURAL OPERATIONS
17 ON PRINCIPAL USE SITES THAT ARE SMALLER THAN A CERTAIN ACREAGE
18 SIZE. SUCH UNIFORMITY IN THE LAW PREVENTS INCONSISTENT
19 APPLICATION OF THE LAW, DEPENDING UPON THE POLITICAL SUBDIVISION
20 IN WHICH A FARM STAND MAY BE OPERATED, AND ASSISTS WITH THE
21 STATE'S EFFORTS TO SUPPORT TO THE GREATEST EXTENT POSSIBLE THE
22 MARKETING OF AGRICULTURAL GOODS PRODUCED OR GROWN IN
23 COLORADO AND THE PROMOTION OF A WIDE VARIETY OF
24 COLORADO-PRODUCED AGRICULTURAL PRODUCTS. TOWARD THIS END,
25 THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE MATTERS
26 ADDRESSED IN THIS ARTICLE 30 ARE MATTERS OF STATEWIDE CONCERN.

27 **29-30-102. Definitions.** AS USED IN THIS ARTICLE 30, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

2 (1) "AGRICULTURAL OPERATIONS" MEANS ANY OPERATION
3 OCCURRING ON A PRINCIPAL USE SITE THAT IS DIRECTLY RELATED TO THE
4 PRODUCTION OF CROPS, ANIMALS, OR FOWL, INCLUDING THE PRODUCTION
5 OF FRUITS AND VEGETABLES OF ALL KINDS; MEAT, DAIRY, AND POULTRY
6 PRODUCTS; NUTS, NURSERY, AND FLORAL PRODUCTS; AND THE
7 PRODUCTION AND HARVEST OF PRODUCTS FROM SILVICULTURAL AND
8 APICULTURAL ACTIVITY.

9 (2) "FARM STAND" MEANS A TEMPORARY OR PERMANENT
10 STRUCTURE USED FOR THE SALE AND DISPLAY OF AGRICULTURAL
11 PRODUCTS RESULTING FROM AGRICULTURAL OPERATIONS THAT ARE
12 CONDUCTED ON THE PRINCIPAL USE SITE ON WHICH THE FARM STAND IS
13 LOCATED.

14 (3) "LOCAL GOVERNMENT" MEANS A MUNICIPALITY, COUNTY,
15 HOME RULE COUNTY, OR CITY AND COUNTY.

16 (4) "PRINCIPAL USE" MEANS THE PRIMARY PURPOSE FOR WHICH A
17 STRUCTURE OR LOT IS DESIGNED, ARRANGED, OR INTENDED.

18 (5) "PRINCIPAL USE SITE" MEANS THE PARCEL OF REAL PROPERTY
19 ON WHICH A BUSINESS UNDERTAKES ITS PRINCIPAL USE OF THE PROPERTY.

20 **29-30-103. Farm stands.** NOTWITHSTANDING ANY OTHER
21 PROVISION OF LAW, A FARM STAND OF ANY LAND SIZE LOCATED
22 ANYWHERE WITHIN THE STATE MAY UNDERTAKE AGRICULTURAL
23 OPERATIONS ON ITS PRINCIPAL USE SITE REGARDLESS OF WHETHER THE
24 LAND AREA ON WHICH THE FARM STAND IS LOCATED HAS BEEN ZONED TO
25 CONDUCT AGRICULTURAL OPERATIONS. THE RETAIL SALE OF GOODS TO
26 THE PUBLIC BY A FARM STAND MUST INCLUDE GOODS OR OTHER
27 AGRICULTURAL PRODUCT THAT ARE GROWN OR PRODUCED ON THE

1 PRINCIPAL USE SITE ON WHICH THE FARM STAND IS LOCATED. A LOCAL
2 GOVERNMENT MAY ENACT AN ORDINANCE, RESOLUTION, OR OTHER FORM
3 OF LAW WITHIN THE PARTICULAR JURISDICTION TO FACILITATE THE
4 OPERATION OF THIS ARTICLE 30 BY THE LOCAL GOVERNMENT BUT IN NO
5 WAY SHALL ANY SUCH LOCAL LAW LIMIT OR RESTRICT THIS SECTION.

6 **SECTION 2. Effective date.** This act takes effect July 1, 2019.

7 **SECTION 3. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.