



## HB 1041 Regulations and Water

### OVERVIEW

HB (House Bill) 1041 was enacted in 1974. *Its purposes are to:*

- Describe activities which may be of state interest, including development of water projects.
- Encourage counties to regulate development activities with state guidance.
- Counties **can** establish HB1041 regulations for designated activities within their boundaries. Many counties in Colorado have HB1041 regulations. i.e. Chaffee, Huerfano, Eagle, Pueblo
- HB1041 regulations are tailored by the county to their own situation and goals and establish specific criteria to be met by developers.
- Entities wishing to develop apply for a permit from the county before proceeding.
- Permit application requires disclosure of development's effects on the county.
- County may approve or deny a permit based on criteria in county's 1041 regulations.

Counties have used HB1041 powers to:

- Require mitigation of effects of development activities.
  - Deny certain activities if criteria are not met.
- Aspects of these powers have been upheld in Colorado Courts.

### HB1041 AND WATER PROJECTS

- HB1041 specifically allows regulation of water projects, including effects of water projects not addressed through the water court process.
- HB1041 regulations may not completely prohibit water projects.
- Previously decreed water rights are not exempt from regulation, as long as regulations do not undermine these water rights.
- HB1041 regulations relating to water may be very detailed (Pueblo and Huerfano Counties-about 30 pages) or relatively simple (Otero County-10 pages).
- HB1041 regulations require developer of a water project to apply for a permit from the county.
- The permit application can be extensive and may require detailed information about:
  - *The project itself:* location and size of diversion structures, reservoirs, wells pipelines, amounts of water diverted or pumped, as well as schedules of development and operation, etc.
  - *The effects of the project on:* air and water quality, groundwater recharge, floodplains, wetlands, riparian areas, terrestrial and aquatic ecosystems, threatened or endangered plants and animals, noise levels, soil and geologic conditions, dry-up of agricultural lands, invasion of noxious weeds, loss of habitat, and existing land uses and services.
- Applicants generally will be required to mitigate impacts caused by the project, or may decide not to proceed with the project.
- **Use of HB1041 regulations give Counties greater authority in developing mitigation measures for water projects that are consistent with the local goals in the County Master Plan.**