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Authorizing the State Engineer to Prevent Impediments to Stream Flow in the Administration and Enforcement of Water Law

Colorado General Assembly

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Recommended Citation

Colorado General Assembly, "Authorizing the State Engineer to Prevent Impediments to Stream Flow in the Administration and Enforcement of Water Law" (1971). *Session Laws 1951-2000*. 5413.
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CHAPTER 376

WATER RIGHTS AND IRRIGATION

WATER RIGHT DETERMINATION
AND ADMINISTRATION

Senate Bill No. 186. By Senators Anderson, Chance, Parker, and Wunsch; also Representatives McCormick, Baer, Bishop, and Quinlan.

A N A C T

AUTHORIZING THE STATE ENGINEER TO PREVENT IMPEDIMENTS TO STREAM FLOW IN THE ADMINISTRATION AND ENFORCEMENT OF WATER LAW.

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

Section 1. 148-21-35, Colorado Revised Statutes 1963 (1969 Supp.), is amended BY THE ADDITION OF A NEW SUBSECTION to read:

148-21-35. Orders as to waste, diversions, distribution of water. (7) The state engineer, division engineer, and their duly authorized assistants have the power and duty to issue orders so that the streams of the state may be kept clear of unnecessary dams or other obstructions which may restrict or impede the flow of water to the water users of the state.

Section 2. 148-21-36 (1), Colorado Revised Statutes 1963 (1969 Supp.), is amended to read:

148-21-36. Enforcement — injunction. (1) (a) In the event an order of a division engineer or the state engineer issued pursuant to section 148-21-35 is not complied with, the state engineer and the particular division engineer in the name of the people of the state of Colorado, through the attorney general, shall apply to the water judge of the particular division for an injunction enjoining the person or persons to whom such order was directed from continuing to violate same. The term "injunction" shall include mandatory relief.

(b) IN SUCH PROCEEDING, IF THE COURT UPHOLDS THE ORDER OF THE STATE ENGINEER, THE PERSON AGAINST WHOM SUCH ORDER WAS ISSUED SHALL PAY THE COSTS OF THE PROCEEDING, INCLUDING THE ALLOWANCE OF A REASONABLE ATTORNEY FEE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

Approved: May 6, 1971