

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue, Denver, Colorado 80203</p>	<div data-bbox="938 254 1341 510" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>FILED IN THE SUPREME COURT</p> <div style="border: 1px solid black; padding: 2px; display: inline-block;"> <p>MAY 30 2006</p> </div> <p>OF THE STATE OF COLORADO SUSAN J. FESTAG, CLERK</p> </div> <p style="text-align: center; font-weight: bold;">▲ COURT USE ONLY ▲</p>
<p>ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2005) Appeal from the Ballot Title Setting Board</p> <p>Petitioners: KENNETH A. WONSTOLEN, HOWARD STANLEY DEMPSEY, JR., CHRISTOPHER P. ELLIOTT, and STUART A. SANDERSON, Objectors, v. Respondents: JOHN GORMAN and JACK REAL, Proponents, and Title Board: WILLIAM A. HOBBS, DANIEL DOMINICO, and SHARON EUBANKS</p>	<p>Case No.</p> <p style="font-size: 2em; font-weight: bold; margin-left: 100px;">06SA1670</p>
<p><u>Attorneys for Petitioners:</u> Sean R. Gallagher, #16863 Jacqueline S. Cooper, #35066 Hogan & Hartson LLP 1200 17th Street, Suite 1500 Denver, Colorado 80202 Phone No.: 303/899-7300; Fax No.: 303/899-7333 E-mail: srgallagher@hhlaw.com Attorneys for Kenneth A. Wonstolen</p> <p>Scott E. Gessler, # 28944 Hackstaff Gessler LLC 1601 Blake Street, Suite 310 Denver, Colorado 80202 Phone No.: 303/534-4317; Fax No.: 303/534-4309 E-mail: sgessler@hackstaffgessler.com Attorneys for Howard Stanley Dempsey, Jr. and Christopher P. Elliott</p> <p>Edward T. Ramey, #6748 Isaacson Rosenbaum P.C. 633 17th Street, Suite 2200 Denver, Colorado 80202 Phone No.: 303/256-3978; Fax No.: 303/292-3152 E-mail: eramey@ir-law.com Attorneys for Stuart A. Sanderson</p>	<p style="text-align: center;">PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2005-2006 #125 ("DAMAGES FOR MINERAL EXTRACTION")</p>

Kenneth A. Wonstolen, Howard Stanley Dempsey, Jr., Christopher P. Elliott, and Stuart A. Sanderson ("Petitioners"), being registered electors of the State of Colorado, through their undersigned counsel, respectfully petition this Court pursuant to § 1-40-107(2), C.R.S. (2005), to review the actions of the Ballot Title Setting Board with respect to the setting of the title, ballot title, and submission clause for proposed Initiative 2005-2006 #125 ("Damages for Mineral Extraction").

I. Actions of the Ballot Title Setting Board

The Title Board conducted its initial public meeting and set titles for proposed Initiative for 2005-2006 #125 on May 17, 2006. Each of the Petitioners filed a Motion for Rehearing pursuant to § 1-40-107(1), C.R.S. (2005), on May 24, 2006. The Motions for Rehearing were heard at the next meeting of the Title Board on May 25, 2006. At the rehearing, the Board granted in part and denied in part Petitioners' Motions. Petitioners hereby jointly seek review of the final action of the Title Board with regard to proposed Initiative for 2005-2006 #125 pursuant to § 1-40-107(2), C.R.S. (2005).

II. Issues Presented

1. Is the initiative so vague and ambiguous that its intent and effect cannot reasonably be ascertained by the Title Board so as to enable the Board to set

a title that correctly and fairly expresses the true meaning and intent of the initiative and sufficiently informs the voters of the consequences of a yes or no vote?

2. Is the title unfair and misleading in that it fails to inform the voters of the measure's intent by failing to sufficiently inform them of the meaning of such terms as "mineral extractor," "damages," "development," "pursuit," "extraction," or "mineral" and that it is unclear whether the proposal would make procedural and substantive changes to existing Colorado law?

3. Does the title contain an impermissible catch phrase by use of the term "fair value?"

III. Supporting Documentation

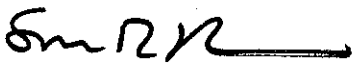
As required by § 1-40-107(2), C.R.S. (2005), a certified copy of the Petition, with the titles and submission clause of the proposed constitutional amendment, together with a certified copy of the Motions for Rehearing and the rulings thereon, are submitted herewith.

IV. Relief Requested

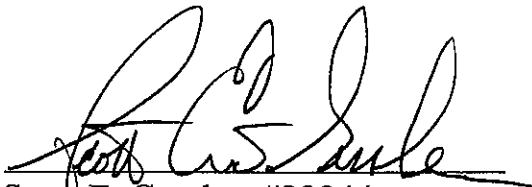
Petitioners respectfully request this Court to reverse the actions of the Title Board with directions to decline to set a title and to return the proposed Initiative to the proponents.

Respectfully submitted this 30th day of May, 2006.

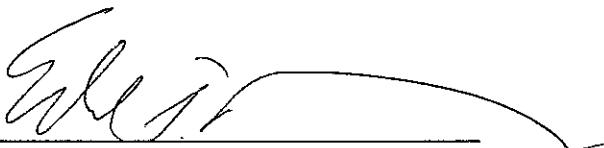
HOGAN & HARTSON LLP

By: 
Sean R. Gallagher, #16863

HACKSTAFF GESSLER LLC

By: 
Scott E. Gessler, #28944

ISAACSON ROSENBAUM P.C.

By: 
Edward T. Ramey, #6748

ATTORNEYS FOR PETITIONERS

Addresses of Petitioners:

Kenneth A. Wonstolen
601 West 11th Avenue, #1109
Denver, CO 80204

Howard Stanley Dempsey, Jr.
3110 Alkire Street
Golden, CO 80401

Christopher P. Elliott
6560 East Berry Avenue
Greenwood Village, CO 80111

Stuart A. Sanderson
9234 Ptarmigan Trail
Lone Tree, CO 80214


CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May, 2006, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2005-2006 #125 ("DAMAGES FOR MINERAL EXTRACTION")** was placed in the United States mail, postage prepaid, to the following:

John Gorman
Post Office Box 3361
Glenwood Springs, CO 81602

Jack Real
55 Hideaway Lane
Glenwood Springs, CO 81601

Maurice G. Knaizer, Esq.
Deputy Attorney General
Colorado Department of Law
1525 Sherman Street, 5th Floor
Denver, CO 80203



Jayne M. Wills



STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **GINETTE DENNIS**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the text, motions for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2005-2006 #125"...

[A large, diagonal scribble or signature line is present here, likely representing the Great Seal of the State of Colorado mentioned in the text below.]

.....IN TESTIMONY WHEREOF I have unto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this 26th day of May, 2006.

GINETTE DENNIS

SECRETARY OF STATE

STATE OF COLORADO
Department of State
1700 Broadway
Suite 270
Denver, CO 80290



Ginette Dennis
Secretary of State

J. Wayne Munster
Acting Director, Elections Division

May 23, 2006

NOTICE OF REHEARING MEETING

You are hereby notified that the Secretary of State,
Attorney General, and the Director of the Office of Legislative

Legal Services will meet to consider all
Motions for Rehearing filed by the deadline of

Wednesday, May 24, 2006 at 5:00 p.m.

Meeting will take place on

Thursday, May 25, 2006 at 9:00 a.m.

Secretary of State's Blue Spruce Conference Room

1700 Broadway, Suite 270

Denver, Colorado

You are invited to attend.

GINETTE DENNIS
Secretary of State

AUDIO BROADCASTS NOW AVAILABLE. PLEASE VISIT WWW.SOS.STATE.CO.US AND CLICK ON THE "INFORMATION CENTER".

RECEIVED

MAY 24 2006

ELECTIONS / LICENSING
SECRETARY OF STATE

Colorado Land Owners For Fairness

May 23, 2006

John Gorman
Colorado Land Owners for Fairness
P.O. Box 3361
Glenwood Springs, Colorado 81602

Donald Kaufman
926 Bennett Avenue
Glenwood Springs, Colorado 81601

Ginette Davis
Secretary of State
1700 Broadway, Suite 270
Denver, Colorado 90290

Dear Madam Secretary,

RE: Request for rehearing of title.

We (John Gorman, a proponent and Donald Kaufman, a registered elector) request a rehearing by the Title Board for consideration of the title for ballot Issue #125.

"A MINERAL EXTRACTOR SHALL PAY THE FAIR VALUE OF DAMAGES BROUGHT ABOUT IN THE DEVELOPMENT, PURSUIT, OR EXTRACTION OF A MINERAL, INCLUDING OIL AND GAS."

Thank You,

John Gorman

Donald Kaufman

RECEIVED

MAY 24 2006

BALLOT TITLE BOARD
STATE OF COLORADO

ELECTIONS / LICENSING
SECRETARY OF STATE

2:26pm

MOTION FOR REHEARING

IN RE PROPOSED INITIATIVE 2005-2006 #125

L. Roger Hutson and Ken Wonstolen ("Petitioners"), who are registered electors of the State of Colorado, through their undersigned counsel, respectfully submit this Motion for Rehearing, pursuant to C.R.S. § 1-40-107(1). Petitioners move for a rehearing of the title, ballot title, and summary for regarding Proposed Initiative 2005-2006 #125, which were set by the Title Board ("Board") on May 17, 2006, and state as follows:

1. The initiative is so vague and ambiguous that the Board cannot ascertain its intent. Therefore, the title does not sufficiently inform the voters of the effect of a yes or no vote. *See* C.R.S. § 1-40-106.

2. The title fails to inform voters of the measure's intent because the title does not sufficiently inform voters of the meaning of "mineral extractor," "damages," "development," "pursuit," "extraction" or "mineral." *Cf. In re Proposed Initiatives 2001-2002 # 221 and # 22*, 44 P.3d 213, 220-21 (Colo. 2002). Moreover, the title does not state that the proposal would make procedural and substantive changes to existing Colorado law.

3. The title contains an impermissible catch phrase by use of the term "fair value." *See In re Title, Ballot, and Submission Clause, and Summary for 1999-2000 #256*, 12 P.3d 246 (Colo. 2000).

Respectfully submitted this 24th day of May, 2006.

HOGAN & HARTSON LLP



Sean R. Gallagher, #16863
Jacqueline S. Cooper, #35066
1200 Seventeenth St., Suite 1500
Denver, Colorado 80202
Telephone: 303-899-7300
Facsimile: 303-899-7333

ATTORNEYS FOR PETITIONERS

Petitioners' Addresses:

L. Roger Hutson
5320 S. Geneva St.
Englewood, CO 80111

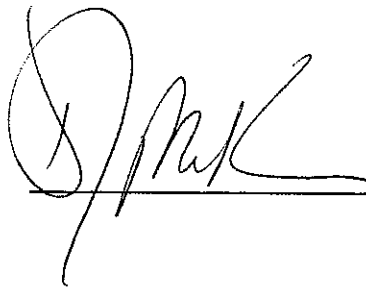
Kenneth A. Wonstolen
601 West 11th Ave. #1109
Denver, CO 80204

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May, 2006, a true and correct copy of the foregoing Motion For Rehearing was placed in the United States mail, postage prepaid, to the following:

John Gorman
P.O. Box 3361
Glenwood Springs, Colorado 81602

Jack Real
55 Hideaway Lane
Glenwood Springs, Colorado 81601



RECEIVED

MAY 24 2006

ELECTIONS / LICENSING
SECRETARY OF STATE

3:15 PM



BALLOT TITLE BOARD

MOTION FOR REHEARING

IN RE PROPOSED INITIATIVE 2005-2006 #125 ("DAMAGES FOR MINERAL
EXTRACTION")

Stuart A. Sanderson and James T. Cooper ("Petitioners"), being registered electors of the State of Colorado, through their undersigned counsel, respectfully submit the following Motion for Rehearing, pursuant to C.R.S. §1-40-107(1), concerning the actions of the Title Board at the hearing on May 17, 2006 regarding Proposed Initiative 2005-2006 #125 ("Damages for Mineral Extraction"). Petitioners submit that the title does not fairly express the true meaning and intent of the initiative in the following respects:

1. The title is misleading in that it does not clearly disclose what the effect of a "yes" or "no" vote will be notwithstanding its repetition of the language contained in the text of the measure. Aisenberg v. Campbell, 987 P.2d 249, 259-60 (Colo. 1999).
2. The title is misleading in that it does not clearly reflect the specific inclusion of oil and gas as specified in the text of the measure.
3. The title incorporates an improper catch phrase by use of the term "fair value."

Respectfully submitted this 24th day of May, 2006.

ISAACSON ROSENBAUM P.C.

By: 

Edward T. Ramey, #6748
633 17th Street, Suite 2200
Denver, Colorado 80202
Telephone: (303) 292-5656
Facsimile: (303) 292-3152

ATTORNEYS FOR PETITIONERS

Petitioners' Addresses:

Stuart A. Sanderson
9234 Ptarmigan Trail
Lone Tree, CO 80214

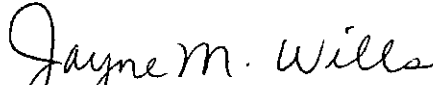
James T. Cooper
305 Grand Street
Paonia, CO 81428

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May, 2006, a true and correct copy of the foregoing **MOTION FOR REHEARING** was placed in the United States mail, postage prepaid, to the following:

John Gorman
Post Office Box 3361
Glenwood Springs, CO 81602

Jack Real
55 Hideaway Lane
Glenwood Springs, CO 81601



Jayne M. Wills

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MAY 24 2006

14:05 P.M.

COLORADO TITLE SETTING BOARD

ELECTIONS/LICENSING
SECRETARY OF STATE

In re Title and Ballot Title and Submission Clause for Initiative 2005-2006 #125

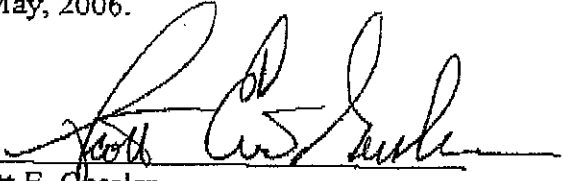
MOTION FOR REHEARING

On behalf of Howard Stanley Dempsey, Jr. a registered elector of the State of Colorado, the undersigned hereby moves for a rehearing of the title, ballot title, and submission clause for Initiative 2005-2006 #125, set by the title Board on May 17, 2006, and states as follows:

1. The Petitioner claims that the Title Board is without jurisdiction to set a title because it cannot ascertain the true intent and meaning of the initiative, and therefore it cannot set a title that correctly and fairly expresses the true intent and meaning of the initiative. Merely repeating the language of the initiative does not ensure that voters will be appraised of the true intent and meaning of the initiative.

2. The title and submission clause contain an impermissible catch phrase in the use of the term "fair value."

Respectfully submitted this 24th day of May, 2006.

By: 
Scott E. Gessler
Reg. No. 28944
Hackstaff Gessler LLC
1601 Blake St.
Suite 310
Denver, Colorado 80202
(303) 534-4317
(303) 534-4309 (fax)
sgessler@hackstaffgessler.com

Attorney for Howard Stanley Dempsey, Jr.

Address of Petitioner:
3110 Alkire St.
Golden, Colorado 80401

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of May, 2006, a true and correct copy of the foregoing **MOTION FOR REHEARING** was placed in the United States mail, postage prepaid, to the following:

John Gorman
Colorado Land Owners for Fairness
P.O. Box 3361
Glenwood Springs, Colorado 81602

John Real
55 Hideaway Lane
Glenwood Springs, Colorado 81601

RECEIVED

MAY 03 2006

HAVA Division
Secretary of State

ch
7:31 am
gun

FINAL LANGUAGE OF PROPOSAL

Be it Enacted by the People of the State of Colorado:

Article XVIII of the constitution of the State of Colorado is amended BY THE
ADDITION OF A NEW SETION to read:

Section 13. Paying Fair Value. A MINERAL EXTRACTOR SHALL PAY THE FAIR VALUE
OF DAMAGES BROUGHT ABOUT IN THE DEVELOPMENT, PURSUIT, OR EXTRACTION OF A
MINERAL, INCLUDING OIL AND GAS.

John Gorman
Colorado Land Owners for Fairness
P.O. Box 3361
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970-945-6000
john@john-gorman.com

John Real
55 Hideaway Lane
Glenwood Springs, CO 81601
970-947-9194

Ballot Title Setting Board

Proposed Initiative 2005-2006 #125¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution requiring a mineral extractor to pay the fair value of damages brought about in the development, pursuit, or extraction of a mineral, including oil and gas.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution requiring a mineral extractor to pay the fair value of damages brought about in the development, pursuit, or extraction of a mineral, including oil and gas?

Hearing May 17, 2006:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 8:20 p.m.

Hearing May 25, 2006:

Motions for Rehearing granted in part to the extent Board amended titles; denied in all other respects.

Hearing adjourned 10:22 a.m.

¹ Unofficially captioned "Damages for Mineral Extraction" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.