

SUPREME COURT, STATE OF COLORADO
2 EAST 14TH. AVENUE
DENVER, COLORADO 80203

ORIGINAL PROCEEDING PURSUANT TO §1-40-107(2),
1 C.R.S. (2001)
Appeal from the Ballot Title Board

FILED IN THE
SUPREME COURT

JUL 09 2007

OF THE STATE OF COLORADO
SUSAN J. FESTAG, CLERK

IN THE MATTER OF THE TITLE, BALLOT TITLE AND
SUBMISSION CLAUSE, AND SUMMARY FOR THE
PROPOSED INITIATIVE 2007 -2008 #17 (NEW STATE
DEPARTMENT AND ELECTED BOARD FOR
ENVIRONMENTAL CONSERVATION).

Petitioners: DOUGLAS KEMPER AND STUART A.
ANDERSON, REGISTERED ELECTORS OF THE STATE OF COLORADO

and

Title Board: WILLIAM A. HOBBS, DANIEL CARTIN, AND
DANIEL DOMENICO

and

Respondents: RICHARD G. HAMILTON AND PHIL DOE,
PROponents

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Case Number: 07SA201

OPENING BRIEF OF RESPONDENTS

Phil Doe and Richard G. Hamilton ("Respondents") are sponsors of the proposed Initiative # 17, "New State Department and Elected Board for Environmental Conservation", filed in compliance with provisions of, and with regard to, Section 1 of Article V of the Colorado Constitution. (Initiative 2007-2008 #17, "New State Department and Elected Board for Environmental Conservation", with a cover declaration by the initiative sponsors, is attached hereto as APPENDIX A.).

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions. The "review and comment" MEMORANDUM, detailing the queries from the directors of the Colorado Legislative Council and the Office of Legislative Legal Services, dated March 22, 2007, and specifically incorporating the RESPONSE BY THE INITIATIVE SPONSORS, Phil Doe and Richard G. Hamilton, has been stipulated by the sponsors to be the statement of sponsor's "constitutional intent" for the proposed 2007-2008 # 17 Initiative. (The Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" March 22, 2007 MEMORANDUM, incorporating the RESPONSE BY THE INITIATIVE SPONSORS, Phil Doe and Richard G. Hamilton, is attached hereto as APPENDIX B)

I. ACTION OF THE BALLOT TITLE BOARD

The Initiative Title Setting Review Board (the "Board") conducted a public meeting pursuant to C.R.S. § 1-40-106 (1) on June 6, 2007, at which time the Board designated and fixed a title, ballot title and submission clause for Initiative 2007-2008 # 17.

Petitioners, Douglas Kemper and Stuart Sanderson, filed a MOTION FOR REHEARING IN RE: TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE SET FOR INITIATIVE 2007-08 # 17 before the Initiative Title Setting Review Board (Petitioner's MOTION FOR REHEARING

IN RE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE SET FOR INITIATIVE 2007-08 # 17 is attached hereto as Appendix C.).

"Respondents" prepared, and submitted, RESPONSE TO MOTION TO REHEAR THE TITLE SET BY THE TITLE SETTING BOARD FOR THE INITIATIVE TO ADD ARTICLE XXX - ESTABLISHMENT OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION. (Respondent's RESPONSE TO MOTION TO REHEAR THE TITLE SET BY THE TITLE SETTING BOARD FOR THE INITIATIVE TO ADD ARTICLE XXX - ESTABLISHMENT OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION is attached hereto as Appendix D).

The MOTION FOR REHEARING before the initiative Title Setting Review Board (pursuant to C.R.S. § 1-40-107(1) was heard by the Board on June 20, 2007. At the rehearing, the Board denied the Petitioner's MOTION FOR REHEARING objections, and sustained the fixed title, ballot title and submission clause for Initiative 2007-2008 # 17 set June 6, 2007 (SUMMARY OF BOARD ACTION - Initiative Title Setting Review Board, Wednesday, June 20,2007 is attached hereto as Appendix E.).

The title set by the Initiative Title Setting Review Board is as follows:

Ballot Title Setting Board
Proposed Initiative 2007-2008 #17

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

"An amendment to the Colorado constitution concerning the creation of a new department of environmental conservation, and, in connection therewith, establishing an elected board of commissioners to supervise the department; specifying the department's duties and powers and declaring that conflict between economic interest and conservation stewardship responsibilities shall be resolved in favor of public ownerships and public values; transferring certain existing governmental programs and entities to the department, including the great outdoors Colorado program; transferring to the board of commissioners the authority to appoint

members of certain boards and commissions relating to those programs and entities; vesting procedural management responsibility for the department in an executive director, subject to supervision by the board of commissioners; identifying revenue sources for the department; and exempting the department from the fiscal limits contained in section 20 of article X of the Colorado constitution. "

II. CONCERNS WITHIN ISSUES PRESENTED - PROPOSED INITIATIVE SINGLE SUBJECT REQUIREMENT

The Colorado Constitution, at Article V, Section 1 (5.5), and the Colorado Revised Statutes § 1-40-106.5 require that an initiated measure, submitted by initiative sponsors to the citizens of the State of Colorado for the voters consideration as legislators, be presented to the Colorado electorate by a measure with a title to the initiative and a ballot title and submission clause: "that expresses the subject of the bill in the title to make ... the public aware of the contents of the proposed legislation" - see Legislative Research Memorandum No. 2, December 1971 - Bills to Contain Single Subject. Also, within *Catron v. Co. Commissioners*, 18 Colo. 553, at 558, 33 P. 513, at 514 (1893) this Court stated, with regard to the concept of clarity and the responsibility of single-subject captioning of legislated measures for consideration, "... the generality of a title is oftener to be commended than criticized, the constitution being sufficiently complied with so long as the matters contained within a bill are directly germane to the subject expressed in the title."

The Colorado Constitution, at Article V, Section 1 (5.5), and the Colorado Revised Statutes § 1-40-106.5 (2005), require that an initiated measure, submitted by initiative sponsors to the citizens of the State of Colorado for the voter's consideration, be presented to the Colorado electorate by a question presenting the proposed initiative that sets forth the measure as a "single subject." In *No. 06SA20, June 12, 2006, In the Matter of the Title and Ballot Title and Submission Clause for 2005-2006*

#55: *Gonzales-Estay v. Lamm*, the Court reviewed the "Single Subject Case Law" as follows:

"An extension of the single subject/clear title limitation applicable to bills, *In re Proposed Initiative for "Public Rights in Waters II"*, 898 P.2d 1076, 1078 (Colo. 1995), Colorado's Constitution prohibits voter initiatives from containing multiple subjects.¹ Colo. Const. art. V, § 1(5.5); see also § 1-40-106.5, C.R.S. (2005) . This single subject requirement:

"prohibits a single legislative act from addressing "disconnected and incongruous measures" that have no "necessary or proper connection." This limitation serves to ensure that each legislative proposal depends upon its own merits for passage and protects against fraud and surprise occasioned by the inadvertent passage of a surreptitious provision "coiled up in the folds" of a complex bill."

§ 1-40-107(2), C.R.S. (2005).

"An initiative violates the single subject requirement when it (1) relates to more than one subject and (2) has at least two distinct and separate purposes that are not dependent upon or connected with each other. See *In re "Public Rights in Waters II"*, 898 P.2d at 1078-79; see also *In re Proposed Initiative on Petition Procedures*, 900 P.2d 104, 109 (Colo. 1995)."

**III. THE SINGLE SUBJECT OF PROPOSED INITIATIVE # 17
2007-2008 - ESTABLISHMENT OF THE COLORADO
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

(1.) Within The MEMORANDUM (dated March 22, 2007), required by Section 1-40-105 (1), Colorado Revised Statutes, that the directors of the Colorado Legislative Council and the Office of Legislative Legal Services

"review and comment" on initiative petitions, the MEMORANDUM from the directors of the Colorado Legislative Council and the Office of Legislative Legal Services was modified by the addition to, and the incorporation into, the March 22, 2007 MEMORANDUM the RESPONSE (to the queries by the directors of the Colorado Legislative Council and the Office of Legislative Legal Services) BY THE INITIATIVE SPONSORS, Phil Doe and Richard G. Hamilton.

The combined MEMORANDUM and RESPONSE BY THE INITIATIVE SPONSORS, reviewed and commented upon by representatives of the directors of the Colorado Legislative Council and the Office of Legislative Legal Services, has been designated and stipulated by the initiative sponsors to be the statement of sponsor's "constitutional intent" for the proposed 2007-2008 # 17 Initiative. (The Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" MEMORANDUM, incorporating the RESPONSE BY THE INITIATIVE SPONSORS, Phil Doe and Richard G. Hamilton is attached hereto as APPENDIX B).

Portions of the RESPONSE BY THE INITIATIVE SPONSORS (note that UPPER CASE LETTERING HAS BEEN ADDED BY THE SPONSORS, and lower case lettering is from the original legislative staff Section 1-40-105 (1) "review and comment" memorandum) are restated here to reproduce the record of proceedings at the "review and comment" March 22, 2007 public hearing:

"N. B. RESPONSES FROM THE INITIATIVE SPONSORS TO THE REVIEW AND COMMENTS AND QUESTIONS OFFERED BY LEGISLATIVE COUNCIL AND BY LEGISLATIVE LEGAL SERVICES SHALL BE PRESENTED DIRECTLY FOLLOWING, OR AS SUBSTITUTE LANGUAGE, TO THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES MEMORANDUM OF MARCH 22, 2007.

"THE RESPONSE OF THE SPONSORS PROVIDED HERE TO THE TO LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES MEMORANDUM QUESTIONS OF MARCH 22, 2007 SHALL BE CONSIDERED AS THE CONSTITUTIONAL INTENT OF THE SPONSORS.

"Purpose s

"THE PURPOSE of the proposed amendment appearS to be to amend the state constitution by the addition of a new article to create a STATE CONSERVATION department CHARGED WITH DESIGNATED TRUST RESPONSIBILITIES, ADMINISTERED BY AN elected board of commissioners, WHOSE SPECIFIED PRIORITIES INCLUDE STATE GOVERNMENTAL PROGRAMS FOCUSED ON environmental PROTECTION AND conservation, WHOSE RESPONSIBILITIES INCLUDE THE RECOGNITION OF THE STEWARDSHIP OF PUBLIC RESOURCES BY SPECIFYING the powers and duties of the board AND, IN CONNECTION THEREWITH;

"BY SPECIFYING transferS OF particularly identified agencies, divisions, offices, programs, boards, commissions, and authorities to the new department;

"BY PROVIDING FOR the election and vacancy procedures, term limits, and compensation for the ELECTED board;

"BY DESIGNATING THE ELECTED BOARD OF THE DEPARTMENT AS the appointing authority for, and the supervisory authority OVER the executive director of the department;

"BY SPECIFYING a commencement date for OPERATIONS OF the department;

"BY SPECIFYING THE department's TRUST AND STEWARDSHIP responsibilities regarding a variety of public conservation resources INITIATIVES

regarding wildlife, WATER, PERMITTING OF NATURAL RESOURCE DEVELOPMENT ACTIONS ON FEDERALLY AND STATE MANAGED LANDS, parks, and outdoor recreation;

"BY DESIGNATING THE ELECTED BOARD OF COMMISSIONERS OF THE DEPARTMENT AS BEING RESPONSIBLE FOR THE APPOINTMENT OF members, officers, and program staff of a variety of boards, commissions, and programs THAT HAVE PUBLIC STEWARDSHIP RESPONSIBILITIES;

"BY RECOGNIZING THAT matters of state interest and activities of state concern AS INCORPORATED IN COLORADO STATUTE ARE AMONG THE STEWARDSHIP AND PROGRAM RESPONSIBILITIES OF THE DEPARTMENT;

"BY AUTHORIZING the department to generate revenues to pay for its expenses;

"BY STIPULATING THAT THE DEPARTMENT MAY utilize the COLORADO general fund TO FUND OPERATIONS, and to exempt the department from the fiscal limits contained in Article X, section 20 of the state constitution;

"BY STIPULATING THAT OPERATIONS OF THE Great Outdoors Colorado Program BE INTEGRATED into the NEWLY CREATED department;

"and

"BY SPECIFYING THAT PROVISIONS OF THE amendment ARE self-enacting and self-executing."

The "statement of constitutional intent" by the sponsors that the proposed initiated measure has, for its single purpose, the establishment of a state department environmental conservation with delineated operational and policy guidelines and determinations, is evident from the record of

proceedings at the March 22, 2007 Section 1-40-105 (1), Colorado Revised Statutes, public hearing at which the directors of the Colorado Legislative Council and the Office of Legislative Legal Services chaired the "review and comment" on the proposed initiative for the establishment of the Colorado Department of Environmental Conservation.

(2.) The Initiative Title Setting Review Board (the "Board") conducted a public meeting pursuant to C.R.S. § 1-40-106 (1) on June 6, 2007, at which time the Board designated and fixed a title, ballot title and submission clause for Initiative 2007-2008 # 17.

Petitioners, Douglas Kemper and Stuart Sanderson, filed a MOTION FOR REHEARING IN RE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE SET FOR INITIATIVE 2007-08 # 17 before the Board.

Respondents prepared, and submitted, a RESPONSE TO MOTION TO REHEAR THE TITLE SET BY THE TITLE SETTING BOARD FOR THE INITIATIVE TO ADD ARTICLE XXX - ESTABLISHMENT OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION. (The respondents a RESPONSE TO MOTION TO REHEAR THE TITLE SET BY THE TITLE SETTING BOARD FOR THE INITIATIVE TO ADD ARTICLE XXX - ESTABLISHMENT OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION was "hand delivered" at the Board re-hearing June 20, 2007 to the attorneys for the petitioners, to members of the Initiative Title Setting Review Board, and to the public (a statement of "Certification of Delivery" is included within APPENDIX D - RESPONSE TO MOTION TO REHEAR THE TITLE SET BY THE TITLE SETTING BOARD FOR THE INITIATIVE TO ADD ARTICLE XXX - ESTABLISHMENT OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION.).

The petitioner's MOTION TO REHEAR to rehear the title set June 6, 2007 by the Board with regard to initiative # 17 2007 - 2008 cited three (3) issues of error by the Initiative Title Setting Review Board in setting the

title for the initiative that included the contentions that the title contains more than a single subject:

- "1.) TABOR - Article X, Section 20 of the Colorado Constitution.
- "2.) Section 7 of the measure doesn't protect "private property rights".
- "3.) Measure makes substantive changes in law."

The respondent's RESPONSE to the issues presented within the MOTION TO REHEAR are presented here as prepared for the record of the June 20, 2006 "rehearing" proceedings:

"TABOR: The initiated measure does not change TABOR - Article X, section 20 - of the Colorado Constitution. The measure does propose that no manner of fiscal management contained within TABOR is to constrain the new Department of Environmental Conservation (D.E.C.) in funding or operation. The reason for the TABOR section in the initiative - as was stated at the Title Board June 6th. - is that the proposed D.E.C. is to be an agency where departmental funding is largely dependent upon revenues from "discretionary", non-steady, sole sources. Departmental funding will not be derived, in whole, from the Colorado General Fund, or from "secure" finance program areas, or directly from ad valorem taxing authorities. The funding of the department is more "ad hoc" than say the Department of Revenue where economic conditions and "steady-stream" revenues can be predicted. The measure also states that the Legislature may fund activities of the Department of Environmental Conservation. The petitioners for the MOTION TO REHEAR assert that TABOR is being modified. TABOR is not being modified. The inclusion of the TABOR section in the initiative has to do with departmental funding, the potentials of wide cash-funded vacillations in revenues disrupting stability in the proposed department's funding, and does not effect substantive changes in TABOR.

"The initiated measure's Section 7 "stewardship" provisions, and the initiative's Section 2 provisions, those constitutional provisions relating to "prior constitutional provisions - if conflict shall arise", are included in the measure to detail, and define, the stewardship responsibilities of the Department (not now in statute), as well as to attempt to protect the new ARTICLE XXX by stating that, if adopted, ARTICLE XXX shall have been adopted by the public in a public vote to be an new constitutional article ratifying the public's intent - see Colorado Constitution Article 5, Section 1 - the people's right to legislate.

"The contention by the petitioners to Rehear that suggests that the measure is an attempt, in a surreptitious manner, to install a public trust doctrine into the Colorado Constitution, is in direct conflict with testimony provided at the Title Hearing, June 6th., where testimony specifically stated that there was, in no manner, any attempt to promote a public trust doctrine. The badinage and persiflage espoused by the petitioners of the MOTION TO REHEAR that the sponsors have an public trust "agenda" is a specious contention meant to smear and mischaracterize the motivations of the sponsors. The petitioner's for the MOTION TO REHEAR contention is without merit. The sponsors of the initiative definitely and succinctly stated that there has been no attempt in the ARTICLE XXX proposal to install a public trust doctrine.

"The reason that Section 7 (*ed. note: Section within Initiative # 17*) was proposed in its present form is demonstrated by the following: The recent Colorado Court of Appeals case - (see *Board of County Commissioners of Gunnison County v. BDS and the Colorado Oil and Gas Conservation Commission (COGCC) - Court of Appeals No.: 04CA1679, Gunnison County District Court No. 03CV76*)

December 16, 2006, wherein the Court of Appeals decided (and, thereafter, the Colorado Supreme Court Petition for Writ of Certiorari was DENIED. EN BANC - June 10, 2007) that counties can review and permit "matters of state interest" and "activities of state concerns" on environmental grounds on federally-managed lands (thereby upholding Gunnison County's "1041" regulations as being exigent - see state authority acknowledged in the U. S. Supreme Court decision, *CALIFORNIA COASTAL COMM'N v. GRANITE ROCK CO.*, 480 U.S. 572 (1987), March 24, 1987, 107 S. Ct. 1419 (1987), Steve Aquafresca, a former Colorado legislator and now Mesa County commissioner - upon being informed that counties have authority to promulgate hearings and issue environmental compliance permits on resource developments on federally-managed lands, stated: "Now we are going to have to go through numerous court decisions to see what those county powers and environmental authorities are" (see "Locals get a say in drilling issues" - Grand Junction Sentinel, June 12, 2007). That contention - that court cases are to determine environmental compliance areas of authority that counties retain - is precisely the reason that Section 7 was included, in detail, in the ARTICLE XXX initiative. The sponsor's of the initiative propose the public to legislate authorities to protect and steward their natural resources, and are loath to permit courts to determine, piecemeal, public resource conservation policy generated as judicial dicta. "The ARTICLE XXX initiative is an effort to stipulate, via publicly approved and enacted language, what protections are to be included within state and local environmental stewardship regulations as those stewardship stipulations direct a new state department to ensure and enable conservation protection guarantees. The initiative proposal for the establishment of ARTICLE XXX is an effort to present to the public

a well-enunciated series of environmental protection proposals so that the public might be able to see a clear and extensive "check-list" of stewardship protections proposals presented for their consideration and for their vote. Section 7 forwards to the public, in a forthright manner, proposed authorities that stipulate comprehensive responsibilities for a new state department to protect the public's interests in public resources as those responsibilities would be constitutionally mandated in Colorado law.

"In the section of the MOTION FOR REHEARING, captioned "The Initiative Modifies the Method of Appointing Certain Governmental Officers", the response is "obviously". If an initiative for constitutional modification did not modify certain governmental authorities - then why present it? The rehearing proponents are not supposing the measure was introduced in order to establish a new department - they are intent upon presupposing that the measure seeks to reform current governance. The sponsor's intent - (see the CRS 1-40 "Advise and Comment Hearing") - is that the mandates and the enabling language of the proposed new ARTICLE XXX department should specify the department's duties and powers insofar as stewardship of the public's natural resource are concerned. The measure has not been introduced to destroy or impede the authority of the governor, nor to constrain the legislature from an ability to act in any specific manner. These questions are rightly within the province of the public's right to legislate, and to vote to confirm, via an initiated measure.

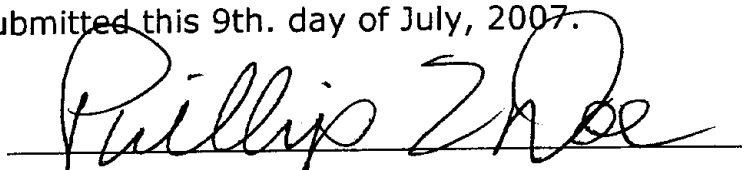
"The title set and the summary clause designated for the Proposed Initiative 2007 - 2008 # 17 by the Title Setting Board fairly and clearly sets forth a ballot initiative title and summary clause: "that expresses the subject of the bill in the title to make ... the public

aware of the contents of the proposed legislation" - see Legislative Research Memorandum No. 2, December 1971 - Bills to Contain Single Subject. And, "... the generality of a title is oftener to be commended than criticized, the constitution being sufficiently complied with so long as the matters contained within a bill are directly germane to the subject expressed in the title." (see *Catron v. Co. Commissioners*, 18 Colo. 553, at 558, 33 P. 513, at 514 (1893).

IV. REQUEST THE DETERMINATIONS OF THE INITIATIVE TITLE SETTING REVIEW BOARD IN SETTING THE TITLE, BALLOT TITLE AND SUBMISSION CLAUSE OF PROPOSED INITIATIVE 2007-2008 - # 17 BE AFFIRMED

Respondents respectfully request that this Court find that the Title Review Board did correctly assessed the Proposed Initiative 2007-2008 # 17 with respect to the measure's single subject, and that the Board did have the jurisdiction to set the title, ballot tile and submission clause, and that title set does reflect the true meaning and intent of the Proposed Initiative 2007-2008 # 17.

Respectfully submitted this 9th. day of July, 2007.



Phil Doe, Pro Se, concurring

BY: 

Richard G. Hamilton, Pro Se
531 Front Street
P. O. Box 156
Fairplay, Colorado 80440-0156

CERTIFICATE OF MAILING

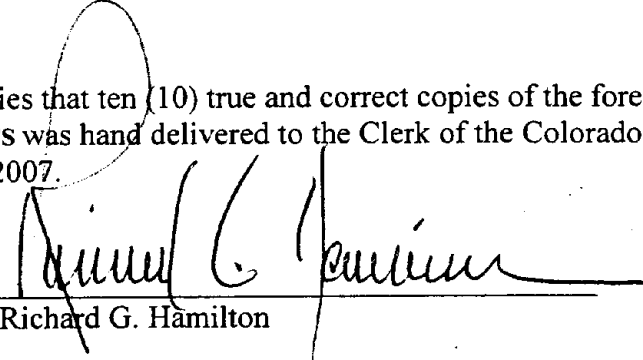
The undersigned hereby certifies that a true and correct copy of the foregoing **OPENING BRIEF OF THE RESPONDENTS** was served via U. S. mail on this 9th. day of July, 2007, as follows:

BURNS, FIGA, & WILL, P. C.
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and

The undersigned hereby certifies that ten (10) true and correct copies of the foregoing **OPENING BRIEF OF THE RESPONDENTS** was hand delivered to the Clerk of the Colorado Supreme Court this 9th. day of July, 2007.


Richard G. Hamilton

APPENDIX A

PROPOSAL FOR FORMATION OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION

NEED:

- Colorado utilizes various state departments, and their associated divisions, for the analysis of activities that cause impacts to the public's resources.
- No single state department or agency has legislated authority to comprehensively investigate the potentials of development impacts to the public's resources or manage the public's resources for stewardship values.
- Hearings and permits regarding matters of state interest and activities of state concern are discretionary in Colorado in that counties may, or may not, require local resource development impact permits - impact reviews by Colorado counties are not required / are optional to each county.
- No state department or agency has a mandated statutory requirement to assist any Colorado county in the development of local impact analysis guidelines or permitting procedures.
- Resource development activities, of potential consequence to the public's waters, to public lands and to the public's wildlife resources, on federally managed lands in Colorado, are not included in resource development permitting processes.

BACKGROUND:

- The Colorado constitution recognizes that the waters within the state are the property of the public, subject to use.
- Federal judicial decisions have ratified that state sovereignty can require resource development activities on federally managed lands within Colorado to be subject to state environmental permitting procedures.

SOLUTION:

- Establish a single, comprehensive, state government department to protect the public's interests and values in public resources, and to protect public resource conservation values associated with resource development activities on state and federally managed lands as those matters and activities might impact public resource stewardship.

Ballot Title Setting Board
Proposed Initiative 2007-2008 #17

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

An amendment to the Colorado constitution concerning the creation of a new department of environmental conservation, and, in connection therewith, establishing an elected board of commissioners to supervise the department; specifying the department's duties and powers and declaring that conflict between economic interest and conservation stewardship responsibilities shall be resolved in favor of public ownerships and public values; transferring certain existing governmental programs and entities to the department, including the great outdoors Colorado program; transferring to the board of commissioners the authority to appoint members of certain boards and commissions relating to those programs and entities; vesting procedural management responsibility for the department in an executive director, subject to supervision by the board of commissioners; identifying revenue sources for the department; and exempting the department from the fiscal limits contained in section 20 of article X of the Colorado constitution.

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 concerning the creation of a new department of environmental conservation, and, in connection therewith, establishing an elected board of commissioners to supervise the department; specifying the department's duties and powers and declaring that conflict between economic interest and conservation stewardship responsibilities shall be resolved in favor of public ownerships and public values; transferring certain existing governmental programs and entities to the department, including the great outdoors Colorado program; transferring to the board of commissioners the authority to appoint members of certain boards and commissions relating to those programs and entities; vesting procedural management responsibility for the department in an executive director, subject to supervision by the board of commissioners; identifying revenue sources for the department; and exempting the department from the fiscal limits contained in section 20 of article X of the Colorado constitution?

Hearing June 6, 2007:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 10:32 a.m.

Re-Hearing June 20, 2007:

Motion for Rehearing denied.

Hearing adjourned 2:59 p.m.

¹ Unofficially captioned "New State Department and Elected Board for Public Resource Conservation" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Be it Enacted by the People of the State of Colorado: The constitution of the state of Colorado is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE XXX
Environmental Conservation**

Section 1. Colorado department of environmental conservation created. THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION IS CREATED BY THE PEOPLE OF THE STATE OF COLORADO TO ENSURE PUBLIC RESOURCE CONSERVATION STEWARDSHIP, AND IN CONNECTION THEREWITH, THE OPERATION AND MANAGEMENT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE COMPLIANT WITH PROVISIONS CONTAINED WITHIN THIS ARTICLE XXX AND WITH STATUTORY PROVISIONS FOR LEGISLATIVE DIRECTION FOR A DEPARTMENT CONTAINED WITHIN ARTICLE 7 OF TITLE 2, COLORADO REVISED STATUTES, OR ANY ANALOGOUS SUCCESSOR STATUTE.

Section 2. Supervision and management of public lands, resources, waters, and wildlife by elected commissioners - responsibilities, conflicts with other provisions. THE SUPERVISION, MANAGEMENT, AND POLICY DETERMINATIONS REGARDING THE PUBLIC'S RESOURCES AND PUBLIC RESOURCE CONSERVATION STEWARDSHIP PROGRAMS WITHIN THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE THE RESPONSIBILITY OF THE ELECTED BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION. SECTION 1 OF ARTICLE V OF THE COLORADO CONSTITUTION SHALL BE THE AUTHORITY USED BY THE PUBLIC IN THE FORMATION OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION. SHOULD CONFLICT WITH OTHER COLORADO CONSTITUTIONAL PROVISIONS ARISE HEREAFTER, PROVISIONS WITHIN ARTICLE XXX SHALL BE HELD DOMINANT OVER OTHER, PREVIOUS CONSTITUTIONAL PROVISIONS.

Section 3. Colorado department of environmental conservation is created. Boards, divisions, programs and commissions transferred. (1) THE FOLLOWING DEPARTMENTAL DIVISIONS, AND STATE OF COLORADO BOARDS, COMMISSIONS AND PROGRAMS, AND THE ADMINISTRATION THERETO, ARE TRANSFERRED FROM VARIOUS COLORADO GOVERNMENTAL ENTITIES TO THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AND TO THE MANAGEMENT AND PROGRAM SUPERVISION OF THE ELECTED COMMISSIONERS FOR THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION;

- (a) COLORADO NATURAL AREAS PROGRAM;
- (b) COLORADO WATER CONSERVATION BOARD;
- (c) COLORADO DIVISION OF FORESTRY;
- (d) COLORADO DIVISION OF STATE PARKS;
- (e) COLORADO WATER QUALITY CONTROL DIVISION;
- (f) COLORADO DIVISION OF WILDLIFE;
- (g) COLORADO LAND USE COMMISSION;
- (h) COLORADO CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD;
- (i) STATE BOARD OF LAND COMMISSIONERS;
- (j) GREAT OUTDOORS COLORADO PROGRAM;
- (k) AND, AS MAY BE DETERMINED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, ANY OTHER COLORADO STATE AGENCY, DIVISION, PROGRAM, OFFICE OR BOARD OF COLORADO STATE GOVERNMENT, THAT EITHER

NOW EXISTS, OR SHALL BE CREATED, AS A MANDATED PROGRAM OR AS A STATE-RECOGNIZED, NEWLY-CREATED GOVERNMENTAL ACTIVITY, AUTHORITY, OR PROGRAM THAT HAS BEEN EMPOWERED BY THE COLORADO CONSTITUTION, OR BY COLORADO STATE STATUTE, OR WILL BE EMPOWERED IN THE FUTURE, TO ACT IN, OR HAVE, STEWARDSHIP AND TRUST CAPACITIES FOR THE PUBLIC'S INTERESTS IN STATE OR IN OTHERWISE STATE OR FEDERALLY MANAGED PUBLIC LANDS, PUBLIC RESOURCES, WATERS AND WILDLIFE, SHALL BE TRANSFERRED TO THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

(2) THE FOLLOWING COLORADO BOARDS, COMMISSIONS AND COUNCILS, PROVIDING GUIDANCE, POLICY GUIDELINE TO PROGRAM ADMINISTRATION, AND POLICY DIRECTION, INCLUDING OPERATIONS, TO VARIOUS STATE OF COLORADO GOVERNMENT DEPARTMENTS, DIVISIONS, AND PROGRAMS ARE TRANSFERRED FROM THE OFFICE OF THE GOVERNOR OF COLORADO TO THE MANAGEMENT AND SUPERVISION OF THE ELECTED COMMISSIONERS FOR THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION;

- (a) STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND;
- (b) HAZARDOUS WASTE COMMISSION;
- (c) STATE BOARD OF LAND COMMISSIONERS;
- (d) COLORADO LAND USE COMMISSION;
- (e) COLORADO NATURAL AREAS COUNCIL;
- (f) COLORADO BOARD OF PARKS AND OUTDOOR RECREATION;
- (g) POLLUTION PREVENTION ADVISORY BOARD;
- (h) COLORADO WATER CONSERVATION BOARD;
- (i) COLORADO WATER QUALITY CONTROL COMMISSION;
- (j) WILDLANDS AND URBAN INTERFACE WILDLIFE WORKING GROUP;
- (k) COLORADO WILDLIFE COMMISSION;
- (l) COLORADO JOINT REVIEW PROCESS;
- (m) AND, AS MAY BE DETERMINED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, ANY OTHER COLORADO STATE AGENCY, DIVISION, PROGRAM, OFFICE OR BOARD OF COLORADO STATE GOVERNMENT, THAT EITHER NOW EXISTS, OR SHALL BE CREATED, AS A MANDATED PROGRAM OR AS A STATE-RECOGNIZED, NEWLY-CREATED GOVERNMENTAL ACTIVITY, AUTHORITY, OR PROGRAM THAT HAS BEEN EMPOWERED BY THE COLORADO CONSTITUTION, OR BY COLORADO STATE STATUTE, OR WILL BE EMPOWERED IN THE FUTURE, TO ACT IN, OR HAVE, STEWARDSHIP AND TRUST CAPACITIES FOR THE PUBLIC'S INTERESTS IN STATE OR IN OTHERWISE STATE OR FEDERALLY MANAGED PUBLIC LANDS, PUBLIC RESOURCES, WATERS AND WILDLIFE, SHALL BE TRANSFERRED TO THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

Section 4. Election of the board of commissioners of the Colorado department of environmental conservation - members from congressional districts. Compensation.

(1) THE INDIVIDUAL MEMBERS OF THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE ELECTED AT REGULAR STATEWIDE BIENNIAL GENERAL ELECTIONS, WITH COMMISSION MEMBERS ELECTED FROM ELIGIBLE CANDIDATES WHO RESIDE WITHIN ONE OF THE SEVERAL COLORADO CONGRESSIONAL DISTRICTS. THE BOARD OF COMMISSIONER MEMBER SHALL BE ELECTED BY A MAJORITY VOTE OF THOSE VOTING FOR THAT OFFICE IN A STATEWIDE GENERAL ELECTION. BOARD OF COMMISSION MEMBERS ELECTED FROM ODD-NUMBERED COLORADO CONGRESSIONAL

DISTRICTS SHALL SERVE UNTIL THE LAST DAY OF DECEMBER, 2012 ON THE COMMISSION FOR THE INITIAL TERM OF OFFICE. BOARD OF COMMISSION MEMBERS FROM EVEN-NUMBERED COLORADO CONGRESSIONAL DISTRICTS SHALL SERVE UNTIL LAST DAY OF DECEMBER, 2014 ON THE COMMISSION FOR THEIR INITIAL TERM OF OFFICE. NEWLY ELECTED COMMISSIONERS SHALL BE SWORN TO OFFICE ON JANUARY 1 FOLLOWING MEMBER OFFICE ELECTIONS. ALL MEMBER TERMS OF OFFICE SHALL BE FOUR-YEAR TERMS OF OFFICE FOR ALL SUBSEQUENT COMMISSION TERMS.

(a) A REGISTERED VOTER, RESIDING WITHIN ONE OF THE CONGRESSIONAL DISTRICTS WITHIN COLORADO, SHALL BECOME ELIGIBLE TO BECOME A CANDIDATE FOR ELECTION TO THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION BY SUBMITTING TO THE COLORADO SECRETARY OF STATE ONE HUNDRED FIFTY (150) DAYS PRIOR TO AN ELECTION PETITIONS WITH THE NAMES AND ADDRESSES AFFIXED OF TWO HUNDRED (200) REGISTERED VOTERS FROM THE CONGRESSIONAL DISTRICT TO BE REPRESENTED. AFTER CERTIFICATION BY THE COLORADO SECRETARY OF STATE OF THE NAMES AND ADDRESSES PRESENTED ON THE NOMINATING PETITION TO BE ACCOMPLISHED WITHIN THIRTY (30) DAY AFTER SUBMISSION OF PETITIONS, THE SECRETARY OF STATE SHALL CERTIFY THE NAME OF THE CANDIDATE TO THE BALLOT FOR ELECTION TO THE COMMISSION BOARD.

(b) COMMISSIONERS SERVING ON THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL RESIDE WITHIN THE CONGRESSIONAL DISTRICT THEY ARE TO REPRESENT.

(2) A STATEWIDE SPECIAL ELECTION, TO BE HELD IN NOVEMBER 2009 AT THE DATE RESERVED FOR STATEWIDE ELECTIONS CONCERNING FISCAL MATTERS , SHALL BE CONDUCTED FOR THE ELECTION OF INITIAL MEMBERS TO THE BOARD OF COMMISSIONERS TO THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

(3) VACANCY ELECTIONS, AS REQUIRED, SHALL BE HELD AT THE NEXT BIENNIAL GENERAL ELECTION AND SHALL BE FOR THE REMAINING PERIOD OF THAT OFFICE TERM. VACANCY ON THE COMMISSION BOARD, UNTIL THAT POSITION CAN BE FILLED AT A REGULAR ELECTION, SHALL BE APPOINTED BY A MAJORITY VOTE OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL.

(4) MEMBERS OF THE BOARD OF COMMISSIONERS FOR THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE ELECTED TO NO MORE THAN TWO TERMS OF OFFICE, TERMS OF OFFICE BEING COMPLIANT WITH SECTION 11 OF ARTICLE XVIII OF THE CONSTITUTION.

(5) COMPENSATION FOR ELECTED MEMBERS OF THE GOVERNING BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE COMMENSURATE WITH COMPENSATION PAID TO EXECUTIVE DIRECTORS OF STATE OF COLORADO GOVERNMENTAL DEPARTMENTS.

Section 5. Appointment of the executive director of the Colorado department of environmental conservation. PROCEDURAL MANAGEMENT RESPONSIBILITIES FOR THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL RESIDE WITHIN THE OFFICE OF THE EXECUTIVE DIRECTOR OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

(a) THE EXECUTIVE DIRECTOR OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL SERVE AT THE PLEASURE OF THE ELECTED BOARD OF COMMISSIONERS OF THE DEPARTMENT.

- (b) MATTERS OF ORGANIZATION, OPERATION, AND MANAGEMENT OF THE DEPARTMENT OF DEPARTMENTAL PROGRAMS AND THEIR OPERATIONS, SHALL BE UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION. POLICY DETERMINATIONS REGARDING MATTERS OF ORGANIZATION AND OPERATION OF DEPARTMENTAL PROGRAMS SHALL BE EFFECTIVE UPON AN AFFIRMATIVE AFFIRMATION OF A MAJORITY OF THE COMMISSION MEMBERS.

Section 6. Colorado governmental departmental reorganization in effect. THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL COMMENCE DEPARTMENTAL OPERATIONS JANUARY 1, 2010.

Section 7. Trust responsibilities of the Colorado department of environmental conservation. (1) THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION IS CREATED BY THE PEOPLE OF THE STATE OF COLORADO TO ENSURE PUBLIC RESOURCE CONSERVATION STEWARDSHIP, AND IN CONNECTION THEREWITH, THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AND THE ELECTED MEMBERS OF THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SHALL HAVE, AS PRIORITY, THE RESPONSIBILITIES TO STEWARD AND PROTECT THE PUBLIC OWNERSHIP AND PUBLIC CONSERVATION VALUES IN LANDS, WATERS, PUBLIC RESOURCES, AND WILDLIFE. CONFLICT BETWEEN ECONOMIC INTEREST AND CONSERVATION STEWARDSHIP RESPONSIBILITIES TO, AND FOR, THE PUBLIC'S RESOURCES AND RESOURCE CONSERVATION VALUES SHALL BE RESOLVED IN FAVOR OF PUBLIC OWNERSHIPS AND PUBLIC VALUES.

- (a) RESPONSIBILITIES OF THE BOARD OF COMMISSIONERS OF COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AND OF THE DEPARTMENT, SHALL INCLUDE: POLICY DETERMINATIONS, SUPERVISION, OPERATIONS OF PROGRAMS AND ACTIVITIES, MANAGEMENT, AND STEWARDSHIP OF PUBLIC RESOURCES INCLUDING MANAGEMENT AND POLICY DETERMINATIONS REGARDING PARKS, MONUMENTS, GOVERNMENT MANAGED LANDS, NATURAL HERITAGE AREAS, POLICY REVIEW AND EVALUATION AND OVERSIGHT OF PERMITTING REGARDING MATTERS OF STATE INTEREST AND ACTIVITIES OF STATE CONCERN INCLUDING THOSE MATTERS AND CONCERNS THAT PERTAIN TO RESOURCE DEVELOPMENT AND ENVIRONMENTAL PERMITTING OF DEVELOPMENT ACTIVITIES ON FEDERALLY MANAGED PUBLIC LANDS, AND OF SHORE LANDS; PROTECTION OF ARCHEOLOGICAL RESOURCES; MANAGEMENT AND RESTORATION OF FOREST HEALTH OF STATE FORESTS; WATER CONSERVATION AND THE PROTECTION AND PRESERVATION OF PUBLIC VALUES IN WATER; MANAGEMENT OF CORRECTION EFFORTS TO REDRESS UNRESOLVED HARMFUL IMPACTS TO THE PUBLIC'S RESOURCES; PROTECTION, CONSERVATION, AND RESTORATION OF WILDLIFE RESOURCES, WILDLIFE HABITAT, AND RESPONSIBILITY FOR PREDATOR MANAGEMENT; MANAGEMENT OF WILDLIFE RESOURCES WITHIN ANY WILDLAND AND URBAN LANDS INTERFACE; PROTECTION STRATEGIES FOR MIGRATORY BIRDS; PROTECTION OF STATE AND FEDERALLY DESIGNATED THREATENED AND ENDANGERED SPECIES OF PLANTS AND ANIMALS; PRESERVATION AND PROTECTION OF FISHERIES HABITAT RESOURCES; FISH RESTORATION PROGRAMS, FISH HEALTH, AND AQUATIC RESOURCE STEWARDSHIP PROGRAMS; REGULATION OF AND

LICENSING OF TRANSPORTATION OF FISH, GAME, AND EXOTIC ANIMALS INTO AND WITHIN COLORADO; WATERSHED REVIEW, EVALUATION AND DESIGNATION; FLOODPLAIN REVIEW, EVALUATION, AND DESIGNATION; IMPLEMENTATION AND COORDINATION OF STATE TRAILS SYSTEMS, TRAILS DEVELOPMENT, AND MANAGEMENT OF PUBLIC FUNDS ESTABLISHED FOR THOSE PURPOSES; RURAL ENVIRONMENTAL CONSERVATION PROGRAMS; FOSTERING OF PARTNERSHIPS FOR WILDLIFE ENHANCEMENT; PRESERVATION OF FENS AND WETLANDS INCLUDING THOSE THAT FUNCTION AS POLLUTANT TRAPS, ASSIST IN FLOOD CONTROL, AND HELP CONTROL RUNOFF; PROMOTION OF WETLAND CONSERVATION AND RESERVE PROGRAMS; AND REGULATION OF HUNTING, OFF-ROAD VEHICLES, AND BOATING.

(i) PERMITTING PROGRAM ELEMENTS FOR MATTERS OF STATE INTEREST AND ACTIVITIES OF STATE CONCERN REGARDING RESOURCE DEVELOPMENT ON FEDERALLY MANAGED PUBLIC LANDS WITHIN COLORADO SHALL BE RETAINED, AS AUTHORIZED, BY COLORADO STATE AND ELIGIBLE LOCAL GOVERNMENT ENVIRONMENTAL PERMITTING AUTHORITIES.

(ii) CRITERIA FOR THE ADMINISTRATION OF MATTERS OF STATE INTEREST AND ACTIVITIES OF STATE CONCERN SHALL BE COMPLIANT WITH ARTICLE 65 AND ARTICLE 65.1 OF TITLE 24 OF THE COLORADO REVISED STATUTES, OR ANY ANALOGOUS SUCCESSOR STATUTES.

(b) ANY CITIZEN OF THE STATE OF COLORADO SHALL HAVE STANDING TO PETITION THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO REQUEST THE DEPARTMENT, OR THE COMMISSION, EVALUATE, ANALYZE, AND DESIGNATED ADDITIONAL CONSERVATION STEWARDSHIP MATTERS, WITH ANY ADDITIONAL STEWARDSHIP MATTER BEING ADDED TO DEPARTMENTAL PRIORITY UPON APPROVAL OF THE COMMISSION BOARD.

(2) THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION IS CREATED BY THE PEOPLE OF THE STATE OF COLORADO TO ENSURE PUBLIC RESOURCE CONSERVATION STEWARDSHIP, AND IN CONNECTION THEREWITH, THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL:

- (a) SHALL SIT, AND ACT, AS THE COLORADO STATE BOARD OF PARKS AND OUTDOOR RECREATION.
- (b) SHALL SIT, AND ACT, AS THE COLORADO LAND USE COMMISSION.
- (c) SHALL SIT, AND ACT, AS THE COLORADO WILDLIFE COMMISSION.
- (d) SHALL BE RESPONSIBLE FOR THE APPOINTMENT OF MEMBERS OR OFFICERS OR PROGRAM STAFF TO THE FOLLOWING BOARDS, COMMISSIONS, COUNCILS, GROUPS AND PROGRAMS, OR TO SUCCESSOR BOARDS, COMMISSIONS, COUNCILS, GROUPS OR PROGRAMS;
 - (i) STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND;
 - (ii) HAZARDOUS WASTE COMMISSION;
 - (iii) STATE OF COLORADO BOARD OF LAND COMMISSIONERS;
 - (iv) COLORADO LAND USE COMMISSION;
 - (v) COLORADO NATURAL AREAS COUNCIL;
 - (vi) POLLUTION PREVENTION ADVISORY BOARD;
 - (vii) STATE OF COLORADO EMERGENCY PLANNING AND COMMUNITY RIGHT-TO KNOW COUNCIL;

- (VIII) COLORADO WATER CONSERVATION BOARD;
- (IX) COLORADO WATER QUALITY CONTROL COMMISSION;
- (X) WILDLANDS AND URBAN INTERFACE WILDLIFE WORKING GROUP;
- (XI) AND, AS MAY BE DETERMINED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, ANY OTHER COLORADO STATE AGENCY, DIVISION, PROGRAM, OFFICE OR BOARD OF COLORADO STATE GOVERNMENT, THAT EITHER NOW EXISTS, OR SHALL BE CREATED, AS A MANDATED PROGRAM OR AS A STATE-RECOGNIZED, NEWLY-CREATED GOVERNMENTAL ACTIVITY, AUTHORITY, OR PROGRAM THAT HAS BEEN EMPOWERED BY THE COLORADO CONSTITUTION, OR BY COLORADO STATE STATUTE, OR WILL BE EMPOWERED IN THE FUTURE, TO ACT IN, OR HAVE, STEWARDSHIP AND TRUST CAPACITIES FOR THE PUBLIC'S INTERESTS IN STATE OR IN OTHERWISE STATE OR FEDERALLY MANAGED PUBLIC LANDS, PUBLIC RESOURCES, WATERS AND WILDLIFE, SHALL BE TRANSFERRED TO THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION.
- (XII) APPOINTMENT TO ANY BOARD, COMMISSION, COUNCIL OR ADVISORY GROUP OF A MEMBER OR OFFICER BY THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL NOT BE SUBJECT TO ANY MANNER OF LEGISLATIVE CONFIRMATION.

(3) THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION IS CREATED BY THE PEOPLE OF THE STATE OF COLORADO TO ENSURE PUBLIC RESOURCE CONSERVATION STEWARDSHIP, AND IN CONNECTION THEREWITH;

- (a) THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION MAY CONVENE, EITHER UPON THE INITIATIVE OF ANY DEPARTMENTAL DIVISION THEREOF, OR BY THE BOARD SITTING AS THE COLORADO LAND USE COMMISSION, AS AUTHORIZED IN ARTICLE 65 OF TITLE 24 OF THE COLORADO REVISED STATUTES, OR ANY ANALOGOUS SUCCESSOR STATUTE, EITHER INDEPENDENTLY OR UPON PETITION FROM A MEMBER OF THE PUBLIC, TO REVIEW, CONSIDER, AND HAVE THE AUTHORITY TO ISSUE COMPLIANCE PERMIT DIRECTIVES, AS AUTHORIZED WITHIN THE COLORADO LAND USE ACT, ARTICLE 65 AND ARTICLE 65.1 OF TITLE 24 OF THE COLORADO REVISED STATUTES, OR ANY ANALOGOUS SUCCESSOR STATUTE, THAT HAS AS PURPOSE THE DESIGNATING OF MATTERS OF STATE INTEREST AND ACTIVITIES OF STATE CONCERN THAT COULD INITIATE STATE GOVERNMENTAL, MULTI-AGENCY REVIEW AND PERMITTING UNDER AUTHORITY OF THE COLORADO JOINT REVIEW PROCESS OF ANY ACTIVITY THAT COULD IMPACT PUBLIC RESOURCE CONSERVATION STEWARDSHIP, OR THE PUBLIC'S OWNERSHIP OR PUBLIC VALUES IN PUBLIC NATURAL RESOURCES.
- (b) THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION MAY INITIATE IDENTIFICATION, REQUIRE DESIGNATION, AND MAY REQUIRE PROMULGATION AND ADOPTION OF GUIDELINES FOR PERMITTING OF ACTIVITIES REGARDING MATTERS OF STATE INTEREST AND ACTIVITIES OF STATE CONCERN WITHIN COLORADO. THE BOARD OF COMMISSIONERS OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL AUTHORIZE THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO REVIEW AND COMMENT ON LOCAL GOVERNMENT ARTICLE 65.1

OF TITLE 24 COLORADO REVISED STATUTES, OR ANY ANALOGOUS SUCCESSOR STATUTE, AUTHORITIES, AND MAY AUTHORIZE THE DEPARTMENT TO REQUIRE AN ELIGIBLE LOCAL GOVERNMENT, AS IDENTIFIED WITHIN ARTICLE 65.1 OF TITLE 24 COLORADO REVISED STATUTES, OR ANY ANALOGOUS SUCCESSOR STATUTE, TO ADOPT STATE-APPROVED DEPARTMENT OF ENVIRONMENTAL CONSERVATION GUIDELINES FOR REGULATION OF MATTERS OF STATE INTEREST AND ACTIVITIES OF STATE CONCERN.

Section 8. Licenses, fees, and revenues necessary for the operation and management of the Colorado department of environmental conservation.

(1) FEES, REVENUES, PAYMENTS, AND ALL MONIES GENERATED WITHIN AND UNDER THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION AS LICENSES, OR AS PENALTIES, OR AS ASSESSMENTS, OR AS INTERGOVERNMENTAL TRANSFERS FROM ANY SOURCES, OR FROM GRANTS OR FROM REVENUES OF ANY MANNER, SHALL BE USED BY THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR DEPARTMENT PROGRAMS AND OPERATIONS OF THE DEPARTMENT.

(2) FUNDS FOR THE OPERATION OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION MAY BE DERIVED FROM THE COLORADO GENERAL FUND.

(a) DEVELOPMENT OF AN ANNUAL OPERATING BUDGET FOR THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE GENERATED WITHIN THE DEPARTMENTAL BUDGET SETTING PROCESS ESTABLISHED TO GENERATE THE ANNUAL OPERATING BUDGETS FOR STATE OF COLORADO DEPARTMENTS.

(b) THE ANNUAL BUDGET FOR THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE ADOPTED BY THE COLORADO GENERAL ASSEMBLY AS PART OF THE BUDGET ENACTING PROCESS ESTABLISHED FOR THE ENACTING OF BUDGETS FOR COLORADO STATE GOVERNMENT DEPARTMENTS.

(3) NO MANNER OF FISCAL REGULATION CONTAINED WITHIN SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION, EXCEPT THAT OF THE ABILITY OF THE PUBLIC TO INITIATE FUNDING FOR DEPARTMENTAL PROGRAMS AND FOR PROJECTS USING GUIDELINES AND PROCEDURES ENABLED WITHIN SECTION 1 OF ARTICLE V OF THE COLORADO CONSTITUTION, SHALL APPLY TO THE OPERATION, FUNDING, RESERVES OR EXPENDITURES OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

Section 9. Debt for public purpose. DEBT PROVISIONS FOR PUBLIC RESOURCES CONSERVATION PURPOSES AND EFFORTS REGARDING THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL BE GOVERNED BY ARTICLE XI AND ARTICLE XXVII OF THE COLORADO CONSTITUTION.

Section 10. State board of the great outdoors Colorado trust fund. ARTICLE XXVII OF THE COLORADO CONSTITUTION – GREAT OUTDOORS COLORADO PROGRAM – IS INTEGRATED INTO THE COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR PURPOSES OF PROGRAM MANAGEMENT, PROGRAM OPERATION AND PROGRAM ADMINISTRATION. PROVISIONS OF SECTION 2, 3, 4, AND 5 OF ARTICLE XXVII RELATING TO THE ESTABLISHMENT AND OPERATION OF THE GREAT OUTDOORS COLORADO TRUST FUND SHALL NOT BE OTHERWISE IMPRESSED BY PROVISIONS OF ARTICLE XXX.

Section 11. Provisions within article XXX are self-enacting and self-executing. PROVISIONS OF THIS ARTICLE ARE SELF-ENACTING AND SELF-EXECUTING.

APPENDIX B