SUPREME COURT OF COLORADO 2 East 14th Avenue Denver, CO 80203	DATE FILED: February 23, 2016 6:07 PM
Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board _____ In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2015-2016 #40 ("Right of Local Community Self-Government") Petitioners: TRACEE BENTLEY AND STAN DEMPSEY v. Respondents: JEFFERY DEAN RUYBAL AND MERRILY D. MAZZA and Title Board: SUZANNE STAIERT; SHARON EUBANK; AND FREDERICK R. YARGER	▲COURT USE ONLY▲
Attorneys for Petitioner: Richard C. Kaufman, No. 8343 Matthew K. Tieslau, No. 47483 RYLEY CARLOCK & APPLEWHITE 1700 Lincoln Street, Suite 3500 Denver, Colorado 80203API Telephone: (303) 863-7500 Facsimile: (303) 595-3159	Case Number: 16SA11
PETITIONERS' ANSWER BRIEF	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A. R. 32, including all formatting requirements set forth in these rules.

Specifically, the undersigned certifies that:
The brief complies with C.A.R. 28(g):
□ It contains _____ words.
X It does not exceed 30 pages.

The brief complies with C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b):

□ For the party raising the issue:
It contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record (R.__P.__), not to an entire document, where the issues was raised and ruled on.

X For the party responding to the issue:
It contains under a separate heading, a statement of whether each party agrees with the opponent's statements concerning the standard of review and preservation for appeal, and if not, why not.

X I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

___*s/Matthew K. Tieslau*_____

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Petitioners, Tracee Bentley and Stan Dempsey, respectfully submit this Answer Brief in support of their challenge to the title, ballot title, and submission clause as set by the Title board for Initiative 2015-2016 #40 (hereinafter "Initiative").

I. SUMMARY OF THE ARGUMENT

The Opening Brief of the Proponents fails to demonstrate that proposed Initiative contains a single subject, or that the title as set is full, fair, and accurate such that it does not violate the clear title requirement. Proponents argue that all of the Initiative's provisions are directly connected and related to the purpose of the Initiative so as to meet the single subject requirement. However, this argument fails as Petitioners have demonstrated that there are multiple, unrelated subjects, coiled within the Initiative including: (1) the expressed subject of a right to local government; (2) a subject creating a new hierarchy of constitutional rights for businesses; and (3) a subject reworking preemption and nullification doctrines.

Proponents additionally argue that the Initiative does not violate the clear title requirement stating that the title will not mislead voters. This argument also fails as Petitioners have demonstrated that the title as set by the Title Board is too vague and lacks definitions or descriptions of complex provisions that will leave voters uniformed as to what passage of the Initiative would fully entail. As such the Title Board erred in setting a title that impermissibly contains multiple subjects and is misleading and confusing to voters.

Petitioners' Answer Brief will address points of contention arising from the Opening Briefs. Arguments from Petitioners' Opening Brief not addressed herein are not conceded; instead, Petitioners elect not to restate those legal arguments in the interest of this Court's time, but specifically incorporates them by reference.

II ARGUMENT

A. Initiative #40 Impermissibly Contains Multiple Subjects

1. Standard of Review and Preservation of Issue

Petitioners disagree with Proponents assertion that the standard of review is "*not* de novo" with regard to this Courts review of *statutes* governing the Title Boards authority to act as stated in Proponents' Opening Brief. *See* Proponents' Opening Brief ("Props.' Br.") 9, 26. A de novo standard will govern to the extent this Court may engage in interpretation of the statutes governing the Title Board's authority to act. *See Hayes v. Ottke,* 293 P.3d 273, 280 (Colo. 2006). Petitioners additionally disagree with the Proponents assertion that a succinct standard of review as required by the Certificate of Compliance was not present in Petitioners' Opening Brief. The Colorado Appellate Rules require a statement of the applicable standard of review placed before the discussion of each issue. C.A.R. 28(a)(7). There is no separate requirement for a statement of the applicable standard of review at the beginning of opening briefs. *See id.* Such statements of

the applicable standards of review are present in Petitioners Opening Brief before each issue. Petitioners' Opening Brief ("Pets.' Br.") 6, 13.

Finally, Petitioners disagree with Proponents assertion that *stare decisis* applies to the instant case. This Court has previously held that unpublished opinions will have no precedential value, and that any registered elector has a right to challenge each and every ballot initiative, regardless of whether the initiative contains identical or near identical language to a previous initiative. *In re Title and Ballot Title and Submission Clause for 2005-2006 #55,* 138 P.3d 273, 276 (Colo. 2006)[1]

Otherwise, Petitioners agree with Proponents statements concerning the standard of review in this matter in regards to the Title Board's findings. In addition, Petitioners incorporate by reference the Standard of Review and Preservation of Issue sections of their Opening Briefs. *See* Pets.' Br. 6, 13.

2. The Multiple Subjects of the Initiative do not Qualify as Implementing Provisions

Proponents argue that the multiple subjects contained within the Initiative are actually just implementation and enforcement provisions that are directly tied to the initiatives central focus, and are not separate subjects. However, Proponents incorrectly interpret this Court's previous decisions regarding what constitutes implementation and enforcement provisions.

[1] This argument is discussed in more detail in the body of the Argument section of this Answer Brief, but is noted here as Proponents included the argument in their initial statement of the standard of review. *See* Props.' Br., 12. However, the *stare decisis* argument is raised repeatedly throughout Proponents' Opening Brief, and is more appropriately dealt with as a legal argument outside the standard of review. *See* Props.' Br., 12. 17, 18, 22, 23, 29.

Proponents rely on, for example, *In the Matter of the Title, Ballot Title, and Submission Clause for 2013-2014 #89,* 328 P.3d 172 (Colo. 2014) to support their contention that the provisions regarding (1) the ability of local governments to legislate to change rights, powers, privileges, immunities or duties of corporations and businesses, and (2) the new preemption and nullifications regimes for local laws are both related to the central purpose of the Initiative; the right to local self-government. *See* Props.' Br., 16, 18. However, *In re #89* does not support these conclusions.

In *In re #89* this Court dealt with a challenge to initiative 2013-2014 #89 which established a public right, vested in the people of Colorado, to the public ownership and conservation of Colorado's environment. *In re #89,* 328 P.3d at 177. It is true that this Court noted that later provisions of the initiative in *In re #89* were present to "provide the mechanism for carrying out the objective of subsection (1)," which created the public right to environment. *Id.* However, while the initiative in *In re #89* had a similar structure to the present Initiative, there are two key distinctions that change the analysis.

First, while the second and third provisions in initiative 2013-2014 #89 directed state and local governments to conserve Colorado's environment, and conferred in local government the power to enact laws, in no way did those provisions establish a separate ability for local governments to also legislate to

eliminate competition rights, powers, privileges, immunities, or duties of corporations and other business entities. *See* Final 2013-2014 #89, attached as Exhibit A.[2] Instead, initiative 2013-2014 #89 stopped at allowing local governments that ability to enact local laws related to the central subject, protecting the environment. *Id.* There is no mention in the Title for initiative 2013-2014 #89 of the ability to eliminate or categorize business' rights separately. *See id.* Petitioners have already noted that if the Initiative in the instant case simply stopped at allowing local governments the ability to make laws for self-governance, the Initiative would be operating appropriately within the single subject requirement. *See* Pets.' Br., 9 ("Next, the Initiative furthers this same subject by creating a power in both people and governments of the state 'to enact laws that protect health, safety, and welfare.'"). It is when the Initiative continues on to also allow local governments an additional, unrelated power to eliminate rights of corporations and businesses that Proponents violate the single subject requirement.

This Court even noted in *In re #89* that the danger "that voters may be surprised by effects that are hidden in the body of an initiative that is misleading or overly complex" was absent from the title. *In re #89,* 328 P.3d at 178. However, the same analysis does not hold true in the instant case when there is an additional

[2] The Title for Initiative 2013-2014 #89 is also publicly available on the Colorado Secretary of State's website at: http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/2013-2014index.html

provision that surreptitiously allows local governments to also "superimpos[e] onto existing constitutional and statutory provisions the duty to resolve every conflict between" businesses' and corporations' rights, powers, privileges, and immunities in favor of local government. *See In re Title, Ballot Title, and Submission Clause for 2007-2008, #17,* 172 P.3d 871, 876 (Colo. 2007). No voters will be adequately apprised of this second subject allowing local governments to rework businesses' constitutional rights by a stated title of "Right of Local Community Self-Government."

Second, initiative #89 2013-2014 only dealt with preemption as it related to state laws or regulations. Ex. A, p.1 ("If any local law or regulation enacted or adopted pursuant to this article conflicts with a *state law or regulation* enacted or adopted pursuant to this article. . .")(emphasis added). In no place did the title for initiative 2013-2014 #89 mention nullification, international law, or federal law. This Initiative goes well beyond what import of initiative 2013-2014 #89, which only dealt with the relationship of local and state laws establishing environmental protections. Instead, the instant Initiative attempts to rework international, federal, and state preemption and nullification regimes. *See* Pets.' Br. Ex. A, p.1. This is not related to the stated subject of self-government, is instead a separate subject, and as such, Proponents incorrectly rely on *In re #89.*

Proponents make a similar error in relying on *In re Title, Ballot Title, Submission Clause for 2011-2012 #3.,* 274 P.3d 562 (Colo. 2012). Initiative 2011-2012 #3 dealt with the adoption of a public trust doctrine regarding water of streams in Colorado. *See* Final 2011-2012 #3, attached as Exhibit B.[3] In initiative 2011-2012 #3, each individual provision is specifically tied to water rights through a public trust doctrine and has a purpose related to protecting the public's interest in the water of natural streams. *Id; In re 2011-2012 #3,* 274 P.3d at 567. Proponents are correct in stating that this Court found in *In re 2011-2012 #3* that subsections are necessarily and properly connected when "they describe[d] the proposed doctrine's legal relationship to existing contract, property, and appropriative rights." Props.' Br., 19 (citing *In re 2011-2012 #3,* 274 P.3d at 567). However, Proponents incorrectly apply this holding to the instant case without examination or application of the specific context of water rights.

For example, water rights in Colorado are part of a complex adjudicatory and constitutional system that centers around the "Colorado doctrine" of optimum use and priority administration. *See generally, Empire Lodge Homeowners' Ass'n v. Moyer,* 39 P.3d 1139 (Colo. 2001). As such, it is logical that initiative 2011-2012 #3 would necessarily revolve around "rules and terms of contracts or property law," "usufruct property rights," and "procedures for enacting and

[3] The Title for Initiative 2011-2012 #3 is also publicly available on the Colorado Secretary of State's website at: http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/2011-2012index.html

enforcing the new public trust regime," and that such provisions would necessarily be related to the central subject of the public's rights in waters of natural streams. *In re 2011-2012 #3,* 274 P.3d at 567.

However, in the instant case, the right to self-government has no clear legal regime that implicates the ability to redefine corporations' and businesses' basic rights in Colorado. Simply put, there is no logical connection between a right to self-government, and the ability to "establish, define, alter, or eliminate competing rights, powers, privileges, immunities, or duties of corporations and other business entities." Pets.' Br. Ex. A, p.1. Furthermore, the portion of provision two of the Initiative that redefines corporations' and businesses' rights is hidden behind the initial language that grants local governments the right to enact local laws protecting health safety and welfare. *Id.* Thus Proponents have hidden a "surreptitious provision coiled up in the folds of a complex initiative." *In re #17,* 172 P.3d at 876. Such a disconnect between the stated subject of an initiative and the actual text hidden within the second half of a provision was not discussed and was not present in *In re 2011-2012 #3,* and as such Proponents' analysis does not hold water.

3. This Court's Decision on Initiative 2013-2013 #75 is not Controlling in this Case

Proponents assert throughout their Opening Brief that this Court should defer to its affirmation in case 14SA100 that dealt with initiative 2013-2014 #75, an

initiative similar to the Initiative in the instant case. Props.' Br, 12, 17, 18, 22, 23, 29. Proponents further assert that this Court should uphold its prior decision on a nearly identical measure as *stare decisis* in the instant case. *Id.,* at 12. In making these assertions, Proponents rely on *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #25,* 974 P.2d 458 (Colo. 1999), *In re Title, Ballot Title and Submission Clause for Proposed Initiative 2001-02 #43,* 46 P.3d 438 (Colo. 2002), and *In the Matter of Title, Ballot Title, and Submission Clause for 2013-2014 #75,* 14SA100 (Colo. 2014).

Proponents reliance on *In re 1999-2000 #25* and *In re 2001-02 #43* is misplaced in that these cases dealt with initiatives in which this Court had issued prior opinions. 974 P.2d at 465-66; 46 P.3d 443-44. In the instant case, this Court has not issued an opinion with regards to the exact issues at hand, but instead only affirmed the Title Board's ruling in *In re 2013-2014 #75,* and did not publish an opinion in the same. *See* 14SA100. This Court has held that when an opinion is not selected for publication, it "has no value as precedent." *In re 2005-2006 #55,* 138 P.3d 273, 276. In *In re 2005-2006 #55,* this Court also noted that "[a]ny registered elector who filed a motion for rehearing and is not satisfied with the Board's ruling may file an appeal with the Colorado Supreme Court," and that the "statute [granting the right to appeal] does not provide an exception for proposed ballot initiatives containing *identical or nearly identical language." Id.* (emphasis

added). As such, it is proper to refrain from applying claim preclusion or law of the case principles when previous initiatives were disposed of only in summary affirmations. *Id.*

Furthermore, Petitioners were not a party to and did not participate in *In re 2013-2014 #75*.Thus the extent that prior participation would bind any party to a result is not applicable in the instant case. As such, Proponents are in error to the extent that they rely on similarities between objections raised in *2013-2014 #75* and the instant case. Props.' Br. 29. In any event, Petitioners here raise distinct arguments that, while similar, are not identical to those raised in *2013-2014 #75.*

For these reasons this Court should refrain from applying any *stare decisis*, claim preclusion, or law of the case principles raised in Proponents' Opening Brief. Furthermore, consistent with the reasoning presented in Petitioners' Opening Brief and this Answer Brief, the action of the Title Board should be reversed with directions to strike the title and return the Initiative to the Proponents.

B. Initiative #40 Violates the Single Subject Requirement for a Clear Title

1. Standard of Review and Preservation of Issue

Petitioners' adopt the same arguments raised in part II(A)(1) of this Answer Brief, and otherwise, Petitioners agree with Proponents statements concerning the standard of review in this matter in regards to the Title Board's findings. In

addition, Petitioners incorporate by reference the Standard of Review and Preservation of Issue sections of their Opening Briefs. *See* Pets.' Br. 6, 13.

2. Proponents' Reliance on the Title Board's Understanding of the Initiative is Misplaced.

Proponents' assert that because the Title Board felt it could comprehend the Initiative, unlike in *In re 1999-2000 #25,* that there is no vagueness or issue with the title, ballot title, and submission clause as approved by the Title Board. However, simply because the Title Board feels that it can comprehend a single subject and set a clear title does not necessitate that the title as set by the Title Board was actually clear and not misleading. Otherwise, any challenge to an approval by the Title Board would automatically be without merit.

Furthermore, Petitioners' are not asserting that the Title Board felt it did not understand the title, but rather that the title as set by the Title Board does not enable voters "whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal." *In re Title, Ballot Title, Submission Clause for 2009–2010 #45.,* 234 P.3d 642, 648 (Colo. 2010)(quoting *In re Title, Ballot Title, and Submission Clause for 2009-2010, #24,* 218 P.3d 350, 356 (Colo. 2009)). For this reason Proponents; reliance on *In re 1999-2000 #25* is misplaced.

3. Proponents' Assertion that any Interpretation of the Initiative's Terms Must Await Future Construction is in Error.

Proponents' repeatedly rely on the argument that this Court "may not interpret the meaning of an initiative or speculate as to its future application if adopted." *In re Title, Ballot Title, Submission Clause, and Summary Adopted April 6, 1994, by Title Board Pertaining to a Proposed Initiative on Water Rights,* 877 P.2d 321, 327 (Colo. 1994); see Props.' Br., 29-32. Petitioners' do not disagree that this Court should not "interpret the legal scope" of an initiative's provisions, nor engage in "judicial construction" at this stage of the Initiative's review. *In re #24,* 218 P.3d at 355; *In re Water Rights,* 877 P.2d at 327. However, this Court should still engage in "some limited legal analysis of the initiative's text" as is necessary, "as an initiative might present more than one subject only under certain readings." *In re #24,* 218 P.3d at 355.

Proponents' jump back and forth between attempting to define terms themselves[4] and protesting any interpretation of the Initiative's terms.[5]

While Petitioners' do not ask this Court to create definitions for the many undefined terms found within the Initiative, they do ask this Court to find that "[f]or purposes of a voter determining whether to vote 'yes' or 'no,' the effect of

[4] Proponents' suggest definitions for several terms throughout their Opening Brief: "Prohibition is the noun derived from the verb 'prohibit.' Props.' Br., 30; "'Other means' is a common term that allows flexibility." Props.' Br., 30; "the near-synonym 'nullification' next to 'preemption.'" Props.' Br., 24.

[5] "Any needed definition of terms must await future construction." Props.' Br., 30-31.

the initiative" is not the same and is not clear in the title set by the Title Board. *In re No. 45,* 234 P.3d at 648.

As such, Petitioners' reassert their argument contained within their Opening Brief that the plethora of undefined terms, the provisions limiting businesses' rights and reorganizing the hierarchy of laws within the state and federal government, and the preemption and nullification provisions are so amorphous and vague that they cannot possibly be represented clearly in accurately in the Title. No judicial interpretation of these terms or provisions is needed to determine that an average voter would be misled as to the actual effect a yes or no vote for the Initiative. Therefore, the Court should reverse the action of the Title Board and remand this matter with instructions.

IV. CONCLUSION

WHEREFORE, for the reasons set forth above, the Petitioners respectfully requests that the Court find that the Initiative does not contain a single subject and remand this matter to the Title Board with direction to return the Initiative to Proponents. In the alternative, Petitioners request that the Court remand the matter to the Title Board with instructions to amend the title consistent with the concerns set forth above.

Respectfully submitted this 23rd day of February, 2016.

RYLEY CARLOCK & APPLEWHITE

By: *s/Matthew K. Tieslau*
Matthew K. Tieslau
Richard C. Kaufman

Attorneys for Petitioners
Tracee Bentley and Stan Dempsey

CERTIFICATE OF SERVICE

I certify that on this 23rd day of February, 2016, a true and correct copy of the foregoing **PETITIONERS' OPENING BRIEF** was filed and served thru ICCES addressed to the following:

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s/Ann I. Palius

EXHIBIT A

2013-2014 #89 - FINAL

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

SECTION 1. In the constitution of the state of Colorado, amend article II to add the following:

Section 32. Environmental Rights (1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT COLORADO'S ENVIRONMENT IS THE COMMON PROPERTY OF ALL COLORADANS; CONSERVATION OF COLORADO'S ENVIRONMENT, INCLUDING ITS CLEAN AIR, PURE WATER, AND NATURAL AND SCENIC VALUES IS FUNDAMENTAL; AND COLORADO'S ENVIRONMENT SHOULD BE PROTECTED AND PRESERVED FOR ALL COLORADANS, INCLUDING GENERATIONS YET TO COME.

(2) THE PEOPLE OF THE STATE OF COLORADO, INCLUDING FUTURE GENERATIONS, HAVE A RIGHT TO COLORADO'S ENVIRONMENT, INCLUDING ITS CLEAN AIR, PURE WATER, AND NATURAL AND SCENIC VALUES. AS TRUSTEES OF THIS RESOURCE, THE STATE AND LOCAL GOVERNMENTS SHALL CONSERVE COLORADO'S ENVIRONMENT, INCLUDING ITS CLEAN AIR, PURE WATER, AND NATURAL AND SCENIC VALUES FOR THE BENEFIT OF ALL THE PEOPLE. THIS SECTION APPLIES TO THE STATE OF COLORADO AND TO EVERY COLORADO CITY, TOWN, COUNTY, AND CITY AND COUNTY, NOTWITHSTANDING ANY PROVISION OF ARTICLE XX, OR SECTION 16 OF ARTICLE XIV, OF THE COLORADO CONSTITUTION.

(3) ALL PROVISIONS OF THIS SECTION OF ARTICLE II OF THE COLORADO CONSTITUTION ARE SELF-EXECUTING AND SEVERABLE. TO FACILITATE THE CONSERVATION OF COLORADO'S ENVIRONMENT, LOCAL GOVERNMENTS HAVE THE POWER TO ENACT LAWS, REGULATIONS, ORDINANCES, AND CHARTER PROVISIONS THAT ARE MORE RESTRICTIVE AND PROTECTIVE OF THE ENVIRONMENT THAN LAWS OR REGULATIONS ENACTED OR ADOPTED BY THE STATE GOVERNMENT. IF ANY LOCAL LAW OR REGULATION ENACTED OR ADOPTED PURSUANT TO THIS ARTICLE CONFLICTS WITH A STATE LAW OR REGULATION, THE MORE RESTRICTIVE AND PROTECTIVE LAW OR REGULATION GOVERNS.

EXHIBIT B

RECEIVED

NOV 22 2011

ELECTIONS
SECRETARY OF STATE

Proposed Initiative Measure 2011-2012 #3

Final

4:15 pm

INITIATIVE TO ADOPT THE COLORADO PUBLIC TRUST DOCTRINE

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

Section 5 of article XVI of the constitution of the state of Colorado is amended to read:

Section 5. Water of streams public property - public trust doctrine. (1) The water of every natural stream, not heretofore appropriated, within the state of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided.

(2) THIS COLORADO PUBLIC TRUST DOCTRINE IS HEREBY ADOPTED, AND IMPLEMENTED, BY THE PEOPLE OF THE STATE OF COLORADO TO PROTECT THE PUBLIC'S INTERESTS IN THE WATER OF NATURAL STREAMS AND TO INSTRUCT THE STATE OF COLORADO TO DEFEND THE PUBLIC'S WATER OWNERSHIP RIGHTS OF USE AND PUBLIC ENJOYMENT.

(3) THIS COLORADO PUBLIC TRUST DOCTRINE PROVIDES THAT THE PUBLIC'S ESTATE IN WATER IN COLORADO HAS A LEGAL AUTHORITY SUPERIOR TO RULES AND TERMS OF CONTRACTS OR PROPERTY LAW.

(4) THE PUBLIC CONFERS THE RIGHT TO THE USE OF ITS WATER, AND THE DIVERSION OF THE WATER UNDER SECTION 6 OF THIS ARTICLE, TO AN APPROPRIATOR FOR A BENEFICIAL USE AS A GRANT FROM THE PEOPLE OF THE STATE OF COLORADO TO THE APPROPRIATOR FOR THE COMMON GOOD.

(a) THE USE OF THE PUBLIC'S WATER BY THE MANNER OF APPROPRIATION, AS GRANTED IN THIS ARTICLE, IS A USUFRUCT PROPERTY RIGHT ASSOCIATED WITH THE USE OF WATER. USUFRUCT RIGHTS FOR THE USE OF WATER SURVIVE UNDER THE LEGAL CONDITION THAT THE APPROPRIATOR IS AWARE THAT A USUFRUCT RIGHT IS SERVIENT TO THE PUBLIC'S DOMINANT WATER ESTATE AND IS SUBJECT TO TERMS AND CONDITIONS OF THIS COLORADO PUBLIC TRUST DOCTRINE.

(b) USUFRUCT WATER RIGHTS SHALL NOT CONFER OWNERSHIP TO WATER OTHER THAN USUFRUCT RIGHTS TO THE APPROPRIATOR.

(c) USUFRUCT WATER RIGHTS, CONFERRED BY THE PUBLIC TO AN APPROPRIATOR FOR USE, MAY BE MANAGED BY THE STATE GOVERNMENT, ACTING AS A STEWARD OF THE PUBLIC'S WATER, SO AS TO PROTECT THE NATURAL ENVIRONMENT AND TO PROTECT THE PUBLIC'S ENJOYMENT AND USE OF WATER.

(d) A USUFRUCT WATER USER IS IMPRESSED UNDER THE CONDITION THAT NO USE OF WATER HAS DOMINANCE OR PRIORITY OVER NATURAL STREAMS OR PUBLIC HEALTH OR WELL-BEING.

(e) WATER RIGHTS, HELD BY THE STATE OF COLORADO FOR GOVERNMENT OPERATIONS, SHALL BE HELD IN TRUST FOR THE PUBLIC BY THE STATE OF COLORADO WITH THE STATE ACTING AS THE STEWARD OF THE PUBLIC'S WATER ESTATE. WATER RIGHTS HELD BY THE STATE OF COLORADO SHALL NOT BE TRANSFERRED BY THE STATE OF COLORADO FROM THE PUBLIC ESTATE TO PROPRIETARY INTEREST.