

**Amendment \_\_**  
**Use of Colorado Water Streams**

1     **Ballot Title:** Shall there be an amendment to the Colorado constitution concerning the  
2     public's rights in the water of natural streams, and, in connection therewith, making  
3     public ownership of such water legally superior to water rights, contracts, and property  
4     law; granting unrestricted public access along and use of natural streams and their  
5     stream banks up to the naturally wetted high water mark; prohibiting the state from  
6     transferring its water rights; allowing the state government to manage others. water  
7     rights, while requiring state government to act as steward of and to protect, enforce, and  
8     implement public ownership of water; and allowing any Colorado citizen to sue to  
9     enforce the amendment?

10    **Text of Measure:**

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

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

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

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

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

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

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

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

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

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

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

21 (5) ACCESS BY THE PUBLIC ALONG, AND ON, THE WETTED NATURAL PERIMETER OF A  
22 STREAM BANK OF A WATER COURSE OF ANY NATURAL STREAM IN COLORADO IS A RIGHT  
23 OF THE PUBLIC TO THE USE OF ITS OWN WATER IN CONCERT WITH THE COLORADO PUBLIC  
24 TRUST DOCTRINE.

25 (a) THE RIGHT OF THE PUBLIC TO THE USE OF THE WATER IN A NATURAL STREAM AND TO  
26 THE LANDS OF THE BANKS OF THE STREAMS WITHIN COLORADO SHALL EXTEND TO THE  
27 NATURALLY WETTED HIGH WATER MARK OF THE STREAM AND IS IMPRESSED WITH  
28 NAVIGATION SERVITUDE FOR COMMERCE AND PUBLIC USE AS RECOGNIZED IN THE  
29 COLORADO PUBLIC TRUST DOCTRINE.

30 (b) THE WATER OF A NATURAL STREAM AND ITS STREAMBED, AND THE NATURALLY  
31 WETTED LANDS OF THE SHORES OF THE STREAM, SHALL NOT BE SUBJECT TO THE LAW OF  
32 TRESPASS AS THE WATER OF NATURAL STREAMS AND THE BANKS OF THEIR STREAM  
33 COURSES ARE PUBLIC HIGHWAYS FOR COMMERCE AND PUBLIC USE.

34 (c) PUBLIC USE OF WATER, RECOGNIZED AS A RIGHT IN THE COLORADO PUBLIC TRUST  
35 DOCTRINE, SHALL NOT BE CONTROLLED IN LAW AS A USUFRUCT BUT SHALL BE A RIGHT  
36 OF THE PUBLIC TO PROTECT AND ENJOY ITS OWN WATER.

1 (6) ENFORCEMENT AND IMPLEMENTATION OF SUBSECTIONS (2) TO (7) OF THIS SECTION  
2 OF THE COLORADO PUBLIC TRUST DOCTRINE TO PROTECT THE PUBLIC'S RIGHTS AND  
3 INTERESTS IN WATER ARE MANDATED TO THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL  
4 BRANCHES OF COLORADO STATE GOVERNMENT TO ACT AS STEWARDS TO PROTECT THE  
5 PUBLIC'S INTERESTS IN ITS WATER ESTATE. ANY CITIZEN OF THE STATE OF COLORADO  
6 SHALL HAVE STANDING IN JUDICIAL ACTIONS SEEKING TO COMPEL THE STATE OF  
7 COLORADO TO ENFORCE THE PROVISIONS OF THIS SECTION.

8 (7) SUBSECTIONS (2) TO (7) OF THIS SECTION ARE SELF-ENACTING AND SELF-EXECUTING,  
9 BUT LAWS MAY BE ENACTED SUPPLEMENTARY TO AND IN PURSUANCE OF, BUT NOT  
10 CONTRARY TO, THE PROVISIONS THEREOF.