

## **ARTICLE XVI, Section 9 - THE STATE'S DUTIES UNDER THE PUBLIC TRUST DOCTRINE TO SECURE THE RIGHTS OF THE PEOPLE TO PROTECT NATURAL RESOURCES**

The people of Colorado have an inalienable right to clean air, clean water (including ground and surface water), and the preservation of the environment and natural resources on which we all depend and which provide for the health, safety, and happiness of all natural persons, including future generations ("Public Trust Resources"). Public Trust Resources are the common property of all the people, including generations yet to come. As trustee of these resources, the state shall conserve and maintain them for the benefit of all the people.

The state government and its agents, as trustees, shall be obligated to protect these Public Trust Resources against substantial impairment, including pollution from external sources. In satisfying the state's trust responsibilities, the precautionary principle must always be applied; if an action or policy has a suspected risk of substantially impairing Public Trust Resources, in the absence of scientific consensus that the action or policy is harmful, the burden of proof that it is not harmful falls on those proposing to take the action. The state shall have the obligation to seek natural resource damages from those entities that cause substantial impairment of Public Trust Resources, and use such funds to remediate the harm.

Any Colorado citizen, as a beneficiary of these Public Trust Resources, may petition a court of competent jurisdiction to defend and preserve such resources against substantial impairment, and to ensure that the state is meeting its obligations to prudently manage such resources as a trustee. Remedies may be granted in both law and equity. Citizens shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees, should a court find that the state has not fulfilled its duties as trustee.

The fiduciary duty of the state as trustee shall require it to use the best science available in any process or proceeding in which Public Trust Resources may be affected. Any person, corporation, or other entity found to be manipulating data, reports or scientific information in an attempt to utilize Public Trust Resources for private profit shall be referred for prosecution for any criminal offenses that may apply in addition to any other penalties the state may impose, including loss of charter to operate in the state.

This Title shall be self-enacting and self-executing, and shall apply to any and all public actions or commercial dealing that would violate it, regardless of the date of any applicable local, state, or federal permits.

Laws may be enacted to enhance, but cannot be contrary to the provisions of this Title.

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