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2 **PROPOSAL FOR FORMATION OF THE COLORADO**
3 **DEPARTMENT OF ENVIRONMENTAL CONSERVATION**
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5 NEED:

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- 7 ● Colorado utilizes various state departments, and their associated divisions,
8 for the analysis of activities that cause impacts to the public's resources.
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 - 10 ● No single state department or agency has legislated authority to
11 comprehensively investigate the potentials of development impacts to the
12 public's resources.
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 - 14 ● Hearings and permits regarding matters of state interest and activities of
15 state concern are discretionary in Colorado in that counties may, or may
16 not, require local resource development impact permits - impact reviews
17 by Colorado counties are not required / are optional to each county.
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 - 19 ● No state department or agency has a mandated statutory requirement to
20 assist any Colorado county in the development of local impact analysis
21 guidelines or permitting procedures.
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 - 23 ● Resource development activities, of potential consequence to the public's
24 waters, to public lands and to the public's wildlife resources, on federally
25 managed lands in Colorado, are not included in resource development
26 permitting processes.
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28 BACKGROUND:

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

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- 39 ● Establish a single, comprehensive, state government department to protect
40 the public's interests and values in public resources, and to protect public
41 resource conservation values associated with resource development
42 activities on state and federally-managed lands as those matters and
43 activities might impact public resource stewardship.
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COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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BE IT ENACTED by the people of the State of Colorado at the
2008 general election that the Constitution of the State of
Colorado be amended to include a **NEW** article:

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ARTICLE XXVIII ENVIRONMENTAL CONSERVATION

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**ARTICLE XXVIII, Section 1 COLORADO DEPARTMENT OF
ENVIRONMENTAL CONSERVATION CREATED.**

**ARTICLE XXVIII, Section 2 SUPERVISION AND MANAGEMENT OF
PUBLIC LANDS, PUBLIC RESOURCES, WATERS AND WILDLIFE –
DEFINITION OF RESPONSIBILITIES, CONFLICTS WITH OTHER
PROVISIONS.**

**ARTICLE XXVIII, Section 3 COLORADO DEPARTMENT OF
ENVIRONMENTAL CONSERVATION CREATED; AND AGENCIES,
BOARDS, PROGRAMS AND COMMISSIONS TRANSFERRED.**

**ARTICLE XXVIII, Section 4 ELECTION OF THE BOARD OF
COMMISSIONERS OF THE COLORADO DEPARTMENT OF
ENVIRONMENTAL CONSERVATION – MEMBERS FROM
CONGRESSIONAL DISTRICTS. COMPENSATION.**

**ARTICLE XXVIII, Section 5 APPOINTMENT OF THE EXECUTIVE
DIRECTOR OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL
CONSERVATION.**

**ARTICLE XXVIII, Section 6 COLORADO GOVERNMENTAL
DEPARTMENT REORGANIZATION IN EFFECT.**

**ARTICLE XXVIII, Section 7 TRUST RESPONSIBILITES OF THE
COLORADO DEPARTMENT OF ENVIRONMENTAL CONSERVATION.**

ARTICLE XXVIII, Section 8 LICENSES, FEES, FISCAL AUTHORITY.

ARTICLE XXVIII, Section 9 DEBT FOR PUBLIC PURPOSE.

**ARTICLE XXVIII, Section 10 STATE BOARD OF THE GREAT
OUTDOORS COLORAD TRUST FUND.**

**ARTICLE XXVIII, Section 11 PROVISIONS OF THIS ARTICLE SELF-
ENACTING AND SELF-EXECUTING.**

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2 **ARTICLE XXVIII ENVIRONMENTAL CONSERVATION**

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4 **ARTICLE XXVIII, Section 1 COLORADO DEPARTMENT OF**
5 **ENVIRONMENTAL CONSERVATION CREATED.**

6 (1) The Colorado Department of Environmental Conservation is created by the
7 people of the State of Colorado. The operation and management of the Department of
8 Environmental Conservation shall be compliant with provisions contained within this
9 ARTICLE XXVIII, and with statutory provisions for legislative direction of the
10 Department contained within Article 7, Title 2 – Legislative Oversight of Principal
11 Departments, or its successors – in force, and effective, insofar as legislative oversight
12 and review is needed.

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14 **ARTICLE XXVIII, Section 2 SUPERVISION AND MANAGEMENT OF**
15 **PUBLIC LANDS, PUBLIC RESOURCES, WATERS AND WILDLIFE –**
16 **DEFINITION OF RESPONSIBILITIES, CONFLICTS WITH OTHER**
17 **PROVISIONS.**

18 (1) The supervision and management and policy determinations regarding the public's
19 resources and public resource conservation stewardship programs within the Colorado
20 Department of Environmental Conservation shall be the responsibility of the elected
21 Board of Commissioners of the Colorado Department of Environmental Conservation.
22 Article V, section 1 Colorado constitutional authorities shall be the authorities used by
23 the public in the formation of the Colorado Department of Environmental Conservation.
24 Should conflict with other Colorado constitutional provisions arise, provisions within
25 Article XXVIII shall supercede other, previous provisions.

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27 **ARTICLE XXVIII, Section 3 COLORADO DEPARTMENT OF**
28 **ENVIRONMENTAL CONSERVATION IS CREATED; AND AGENCIES,**
29 **BOARDS, PROGRAMS AND COMMISSIONS TRANSFERRED.**

30 (1) The following agencies, and their successors and assigns, departmental divisions,
31 and State of Colorado offices and programs, and the administration thereto, are
32 transferred from various Colorado governmental entities to the Colorado Department of
33 Environmental Conservation, and to the management and program supervision of the
34 elected Commissioners for the Colorado Department of Environmental Conservation:

- 35 (a) Colorado Natural Areas Program.
36 (b) Colorado Water Conservation Board.
37 (c) Colorado State Division of Forestry.
38 (d) Colorado Division of State Parks.
39 (e) Colorado Water Quality Control Division.
40 (f) Colorado Wildlife Division.
41 (g) Colorado Captive Wildlife and Alternative Livestock Board.
42 (h) Colorado Mined Land Reclamation Division
43 (i) AND, as may be determined by the Executive Committee of the
44 Legislative Council, any other agency, division, program, office or board
45 of Colorado state government, that either now exists, or shall be created,
46 as a mandated program or as a state-recognized, newly-created

1 governmental activity, that has been empowered by the Colorado
2 constitution or by Colorado state statute, or will be empowered in the
3 future, to act in, or as, stewardship and trust capacities for the public's
4 interests in state or in otherwise state or federally-managed public lands,
5 public resources, waters and wildlife.

6 (2) The following Colorado boards and commissions and state sponsored authorities,
7 providing citizen guidance and policy guideline administration and policy direction,
8 including operations, to the various State of Colorado government agencies, departments,
9 divisions, offices and programs are transferred from the discretion of the Office of the
10 Governor of Colorado and from the Colorado General Assembly to the management and
11 supervision of the elected Commissioners for the Colorado Department of Environmental
12 Conservation:

- 13 (a) Great Outdoors Colorado Trust Fund Board.
- 14 (b) Hazardous Waste Commission.
- 15 (c) State Board of Land Commissioners.
- 16 (d) Colorado Land Use Commission.
- 17 (e) Mined Land Reclamation Board.
- 18 (f) Colorado Natural Areas Council.
- 19 (g) Colorado Board of Parks and Outdoor Recreation.
- 20 (h) Pollution Prevention Advisory Board.
- 21 (i) Colorado Environmental Control Commission.
- 22 (j) Colorado Water Conservation Board.
- 23 (k) Colorado Water Quality Control Commission.
- 24 (l) Colorado Water Resources and Power Development Authority.
- 25 (m) Wildlife and Urban Interface Working Group.
- 26 (n) Colorado Wildlife Commission.
- 27 (o) AND, as may be determined by the Executive Committee of the
28 Legislative Council, any other agency, division, program, office or board
29 of the Colorado State government that exists now, or shall be created,
30 either as a mandated program or as a state-recognized, newly-created
31 governmental activity that has been empowered by the Colorado
32 constitution or by Colorado state statutes, or will be empowered in the
33 future, to act in, or as, stewardship or trust capacities for the public's
34 interests in state or in otherwise state or federally-managed public lands,
35 public resources, water and wildlife.

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37 **ARTICLE XXVIII, Section 4 ELECTION OF THE BOARD OF**
38 **COMMISSIONERS OF THE COLORADO DEPARTMENT OF**
39 **ENVIRONMENTAL CONSERVATION – MEMBERS FROM**
40 **CONGRESSIONAL DISTRICTS. COMPENSATION.**

41 (1) The individual members of the Board of Commissioners, the management entity
42 of the Colorado Department of Environmental Conservation, shall be elected at regular
43 statewide biennial general elections, with such Commission members elected from
44 candidates who reside within one of the several Congressional districts, with said
45 member elected by a majority of all Colorado electors voting in a statewide election.
46 Commission members elected from odd-numbered Congressional districts shall serve
47 until January, 2013 on the Commission for the initial term of office, and members of

1 even-numbered Congressional districts shall serve until December, 2015 years on the
2 Commission for the initial term of office, with all members serving four year terms of
3 office for all succeeding Commission terms.

4 (a) A registered voter from one of the Congressional districts within Colorado
5 shall become eligible to become a candidate for election to the Board of Commissioners
6 of the Colorado Department of Environmental Conservation by submitting to the
7 Colorado Secretary of State one hundred twenty (120) days prior to an election petitions
8 with the names and addresses affixed of two hundred (200) registered voters from the
9 Congressional district to be represented. After certification by the Colorado Secretary of
10 State of the names on nomination petitions, the Secretary of State shall place the name of
11 the candidate on the ballot for election to the Commission Board.

12 (2) A statewide election in November 2009 shall be held for the election of initial
13 member terms to the Board of Commissioners to the Colorado Department of
14 Environmental Conservation.

15 (3) Vacancy elections, as required, shall be at the next biennial general election and
16 shall be for the remaining period of that office term. Vacancy on the Commission Board,
17 until that position can be filled by a regular election, shall be appointed by a majority
18 vote of the Executive Committee of the Legislative Counsel.

19 (4) Members of the Board of Commissioners for the Colorado Department of
20 Environmental Conservation shall be elected for no more than two terms of office.

21 (5) Compensation for elected members of the governing Board of Commissioners of
22 the Colorado Department of Environmental Conservation shall be commensurate with
23 compensation paid to other executive directors of other State of Colorado governmental
24 departments.

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26 **ARTICLE XXVIII, Section 5 APPOINTMENT OF THE EXECUTIVE**
27 **DIRECTOR OF THE COLORADO DEPARTMENT OF ENVIRONMENTAL**
28 **CONSERVATION.**

29 (1) Procedural management responsibilities for the Colorado Department of
30 Environmental Conservation shall reside within the Office of the Executive Director of
31 the Colorado Department of Environmental Conservation, with said Executive Director
32 serving at the pleasure of, and after appointment by, the majority of the elected Board of
33 Commissioners of the Department.

34 (a) Matters of organization, operation (s) and management of the Department,
35 and of Departmental programs and their operations, shall be within the supervision of the
36 Executive Director of the Colorado Department of Environmental Conservation, with
37 affirmative consultation of a majority of the Commission members voting at an open,
38 public, and noticed meeting.

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40 **ARTICLE XXVIII, Section 6 COLORADO GOVERNMENTAL**
41 **DEPARTMENT REORGANIZATION IN EFFECT.**

42 (1) The Colorado Department of Environmental Conservation shall commence
43 departmental operations January 1, 2010.

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45 **ARTICLE XXVIII, Section 7 TRUST RESPONSIBILITES OF THE**
46 **COLORADO DEPARTMENT OF PUBLIC RESOURCE CONSERVATION.**

1 (1) The Colorado Department of Environmental Conservation, established to ensure
2 public resource conservation stewardship, acting under authority of its elected Board of
3 Commissioners, shall have as priority the responsibility to steward and protect the public
4 ownership and the public's conservation values in the lands, waters, public resources, and
5 wildlife of the people of Colorado. Conflict (s) between economic interest (s), and
6 stewardship of the public's resource conservation values, shall be resolved in favor of
7 public ownerships and public values.

8 (a) Stewardship responsibilities of the Colorado Department of
9 Environmental Conservation shall include policy determinations,
10 supervision, and management of the public's resources including, but not
11 limited to, management and policy determinations regarding parks,
12 monuments, state managed lands, natural heritage areas, policy review and
13 evaluation and resource development environmental permitting of
14 resource development activities on federally managed public lands, and of
15 shore lands; protection of archeological resources; management and
16 restoration of forest health for Colorado's state forests; water conservation
17 and the protection and preservation of public values in water; correction of
18 unresolved past harmful impacts to the public's resources; protection and
19 conservation and restoration of wildlife resources and wildlife habitat;
20 protection and management of wildlife resources within any wildlands and
21 urban lands interface; protection strategies for migratory birds; protection
22 of state and federally designated threatened and endangered specie of
23 plants and animals; preservation and protection of fisheries habitat
24 resources; fish restoration programs and fish health and management
25 programs; regulation of and licensing of transportation of fish and game
26 and exotic animals into and within Colorado; watershed review and
27 evaluation, and floodplain review and evaluation and designation;
28 implementation and coordination of state trails systems, and trails
29 development, and management of public funds established for those
30 purposes; rural environmental conservation programs; mined land
31 reclamation; fostering of partnerships for wildlife enhancement;
32 preservation of wetlands and promotion of wetland conservation and
33 reserve programs; and promulgation of hunting safety programs, off-road
34 vehicle usage regulations and licensing, and boating safety programs.

35 (I) Permitting requirements for resource development
36 activities on federally managed public lands within Colorado shall be
37 retained by Colorado state and eligible local government environmental
38 permitting authorities.

39 (2) The Board of Commissioners of the Colorado Department of Environmental
40 Conservation shall sit and act as the State of Colorado Wildlife Commission.

41 (3) The Board of Commissioners of the Colorado Department of Environmental
42 Conservation shall sit and act as the Colorado State Board of Parks and Outdoor
43 Recreation.

44 (4) The Board of Commissioners of the Colorado Department of Environmental
45 Conservation shall be responsible for the appointment of the various members or officers

1 and program staff to the following boards, commissions, authorities and programs, or
2 their successor boards, commissions, authorities or programs:

- 3 (a) Great Outdoors Colorado Trust Fund Board.
- 4 (b) Hazardous Waste Commission.
- 5 (c) State of Colorado Board of Land Commissioners.
- 6 (d) Colorado Land Use Commission.
- 7 (e) Mine Land Reclamation Board
- 8 (f) Colorado Natural Areas Council
- 9 (g) Pollution Prevention Advisory Board
- 10 (h) State of Colorado Emergency Planning and Community Right-to Know
11 Council.
- 12 (i) State of Colorado Environmental Control Commission.
- 13 (k) Colorado Water Conservation Board.
- 14 (l) Colorado Water Quality Control Commission.
- 15 (m) Colorado Water Resources and Power Development Authority.
- 16 (n) Wildland / Urban Interface Working Group.
- 17 (o) AND, as may be determined by the Executive Committee of Legislative
18 Council, any other agency, division, program, office or board of the
19 Colorado State government either as a mandated program or as a state
20 recognized enterprise that has been empowered by the Colorado
21 Constitution or by Colorado State statutes, or will be empowered in the
22 future, to act in, or as, stewardship and trust capacities for the public's
23 interests in State or otherwise public lands, public resources, water and
24 wildlife.

25 (5) Appointment to any board or commission or program or authority of member (s)
26 or officer (s) by the Board of Commissioners of the Colorado Department of
27 Environmental Conservation shall not be subject to any manner of legislative
28 confirmation.

29 (6) The Board of Commissioners of the Colorado Department of Environmental
30 Conservation may convene, either upon the initiative of any division thereof, or by action
31 of the Board, either independently or upon petition from a member of the public, to
32 review, consider, and have the authority to issue compliance permit directives contained
33 within the Colorado Land Use Act, C.R.S. 24-65.1-101 et. seq., or any successor
34 provision, that has as purpose the determining of matters of state interest and activities of
35 state concern that would initiate and activate governmental, multi-agency review and
36 permitting of any action that could impact public resource conservation, or the public's
37 ownership (s) or the public's values in public natural resources.

38 (7) The Board of Commissioners of the Colorado Department of Environmental
39 Conservation may initiate identification, require designation, and monitor promulgation
40 guidelines for permitting of activities that affect matters of state interest and activities of
41 state concern within Colorado. The Board of Commissioners of the Colorado Department
42 of Environmental Conservation may initiate review, and may comment, on local
43 government Colorado Land Use Act, C.R.S. 24-65.1-101 et. seq , authorities, and shall
44 have authority to require eligible local government (s) to designate, and to adopt state-
45 approved guidelines, mandating issuance of permits for matters of state interest and
46 activities of state concern, by eligible local government jurisdictions.

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2 **ARTICLE XXVIII, Section 8 LICENSES, FEES, FISCAL AUTHORITY.**

3 (1) Fees and revenues and payments and all monies generated within and under the
4 Colorado Department of Environmental Conservation as licenses, or as penalties, or as
5 assessments, or as intergovernmental transfers from any sources, or from grants or from
6 revenues of any manner, shall be used by the Colorado Department of Environmental
7 Conservation in Department programs and for operations of the Department.

8 (2) Funds for the operation of the Colorado Department of Environmental
9 Conservation may be derived from the Colorado General Fund.

10 (a) Development of an annual operating budget for the Colorado Department
11 of Environmental Conservation shall be evolved through the same budget setting
12 procedural process that the annual operating budgets for other state departments undergo.

13 (3) No manner of any fiscal regulation contained within Article X, section 20 of the
14 Colorado constitution, except that of the ability of the public to initiate funding for
15 Departmental programs and projects using guidelines and procedures enabled within
16 Article V, section 1 of the Colorado Constitution, shall apply to the operation or funding
17 of the Colorado Department of Environmental Conservation.
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19 **ARTICLE XXVIII, Section 9 DEBT FOR PUBLIC PURPOSE.**

20 (1) Debt provisions for public resources conservation purposes as operations of the
21 Colorado Department of Environmental Conservation shall be governed by Article XI
22 and Article XXVII of the Colorado Constitution.
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24 **ARTICLE XXVIII, Section 10 STATE BOARD OF THE GREAT**
25 **OUTDOORS COLORADO TRUST FUND.**

26 (1) Article XXVII of the Colorado Constitution – Great Outdoors Colorado Program
27 – is integrated into the Colorado Department of Environmental Conservation.
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29 **ARTICLE XXVIII, Section 11 PROVISIONS OF THIS ARTICLE SELF-**
30 **ENACTING AND SELF-EXECUTING.**

31 (1) Provisions of this Article XXVIII are self-enacting and self-executing.
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36
37 Richard G. Hamilton
38 531 Front Street
39 P. O. Box 156
40 Fairplay, Colorado 80440-0156
41 719.836.4619 / 719.836.1799 fax
42 rghamilton@cointernet.net
43
44
45
46

Phil Doe
7140 S. Depew Street
Littleton, Colorado
303-973-7774
ptdoe@comcast.net

1 this _____ day of March, 2007
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this _____ day of March, 2007