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2 **PROPOSAL FOR FORMATION OF THE COLORADO**
3 **DEPARTMENT OF PUBLIC RESOURCE 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 authority to comprehensively
11 investigate the potentials of impacts to the public's resources.
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 - 13 ● Hearings and permits for matters of state interest and activities of state
14 concern are extemporized in Colorado in that counties may, or may not,
15 require local impact permits for resource development - impact reviews
16 by Colorado counties are not required / are discretionary to each
17 individual county.
18
 - 19 ● No state department or agency has a mandated statutory requirement to
20 assist a 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 and to public lands and to the public's wildlife resources, on
25 federally-managed lands in Colorado are not included in resource
26 development 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 constitutionally established
34 state sovereignty can require that resource development activities on
35 federally-managed lands within Colorado are subject to state permitting
36 procedures.
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38 SOLUTION:

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

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**ARTICLE XXVIII, Section 1 COLORADO DEPARTMENT OF PUBLIC
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 PUBLIC
RESOURCE CONSERVATION – C.R.S. 24-1-128 – CREATED; AND
AGENCIES, BOARDS, PROGRAMS AND COMMISSIONS TRANSFERRED.**

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

**ARTICLE XXVIII, Section 5 APPOINTMENT OF THE EXECUTIVE
DIRECTOR OF THE COLORADO DEPARTMENT OF PUBLIC
CONSERVATION – QUALIFICATIONS, PROFESSIONAL EXPERIENCE.**

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

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

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

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

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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 public
19 resources and public resource conservation stewardship programs within the Colorado
20 Department of Public Resource Conservation shall be the responsibility of the elected
21 Board of Commissioners of the Colorado Department of Public Resource Conservation.
22 Article V, section 1 Colorado constitutional authorities shall be the legislative authorities
23 used by the public for the formation of the Colorado Department of Public Resource
24 Conservation. Should conflict with other Colorado constitutional provisions arise,
25 provisions within Article XXVIII shall supercede other, previous provisions.

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27 **ARTICLE XXVIII, Section 3 COLORADO DEPARTMENT OF PUBLIC**
28 **RESOURCE CONSERVATION – C.R.S. 24-1-128 – IS CREATED; AND**
29 **AGENCIES, 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 the various Colorado governmental departments to the Colorado
33 Department of Public Resource Conservation, and to the management and program
34 supervision of the elected Commissioners for the Colorado Department of Public
35 Resource Conservation:

- 36 (a) Colorado Natural Areas Program.
37 (b) Colorado Water Conservation Board.
38 (c) Colorado State Division of Forestry.
39 (d) Colorado Division of State Parks.
40 (e) Colorado State Land Board Division..
41 (f) Colorado Water Quality Control Division.
42 (g) Colorado Wildlife Division.
43 (h) Colorado Alternative Livestock Regulatory Program.
44 (i) Colorado Watershed Monitoring and Assessment Program.
45 (j) Colorado Aquaculture Management Program.
46 (k) Colorado Mined Land Reclamation Division

1 (l) AND, as may be determined by the Executive Committee of Legislative
2 Council, any other agency, division, program, office or board of Colorado
3 State government, that either now exists, or shall be created, as a
4 mandated program or as a state-recognized, newly-created governmental
5 activity, that has been empowered by the Colorado Constitution or by
6 Colorado State statute, or will be so empowered in the future, to act in, or
7 as, stewardship and trust capacities for the public's interests in State or
8 otherwise public lands, public resources, waters and wildlife.

9 (2) The following Colorado Boards and Commissions providing citizen guidance and
10 policy guideline administration and policy direction to the various State of Colorado
11 government agencies, departments, divisions, offices and programs are transferred from
12 the discretion of the Office of the Governor of Colorado to the management and
13 supervision of the elected Commissioners for the Colorado Department of Public
14 Resource Conservation:

- 15 (a) Arkansas River Compact Administration.
- 16 (b) Colorado River Advisory Council.
- 17 (c) Great Outdoors Colorado Trust Fund Board.
- 18 (d) Hazardous Waste Commission.
- 19 (e) State Board of Land Commissioners.
- 20 (f) Colorado Land Use Commission.
- 21 (g) Mined Land Reclamation Board.
- 22 (h) Colorado Natural Areas Council.
- 23 (i) Colorado Board of Parks and Outdoor Recreation.
- 24 (j) Pollution Prevention Advisory Board.
- 25 (k) Colorado Environmental Control Commission.
- 26 (l) Urban Drainage and Flood Control Districts Board of Directors.
- 27 (m) Colorado Water Conservation Board.
- 28 (n) Colorado Water Quality Control Commission.
- 29 (o) Colorado Water Resources and Power Development Authority.
- 30 (p) Wildlife and Urban Interface Working Group.
- 31 (q) Colorado Wildlife Commission.
- 32 (r) AND, as may be determined by the Executive Committee of Legislative

33 Council, any other agency, division, program, office or board of the
34 Colorado State government that exists now, or shall be created, either as a
35 mandated program or as a state-recognized, newly-created governmental
36 activity that has been empowered by the Colorado Constitution or by
37 Colorado state statutes, or will be so empowered in the future, to act in, or
38 as, stewardship or trust capacities for the public's interests in State or
39 otherwise public lands, public resources, water and wildlife.

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41 **ARTICLE XXVIII, Section 4 ELECTION OF THE BOARD OF**
42 **COMMISSIONERS OF THE COLORADO DEPARTMENT OF PUBLIC**
43 **RESOURCE CONSERVATION – MEMBERS FROM CONGRESSIONAL**
44 **DISTRICTS. COMPENSATION.**

45 (1) The members of the Board of Commissioners, the management authority of the
46 Colorado Department of Public Resource Conservation, shall be elected at the regular
47 statewide biennial general elections, with such Commission members elected from

1 candidates who reside within one of the several Congressional districts, with said
2 member elected by a majority of all Colorado electors voting in that election, for a
3 member office at a statewide general election. Commission members elected from odd-
4 numbered Congressional districts shall serve until January, 2013 on the Commission for
5 the initial term of office, and members of even-numbered Congressional districts shall
6 serve until December, 2015 years on the Commission for the initial term of office, with
7 all members serving four year terms of office for all succeeding Commission terms.

8 (a) Compensation for elected members of the governing Board of
9 Commissioners of the Colorado Department of Public Resource Conservation shall be
10 commensurate with compensation paid to other executive directors of other State of
11 Colorado governmental departments.

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 Public
14 Resource 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 Public
20 Resource Conservation shall be elected for no more than two terms of office.

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22 **ARTICLE XXVIII, Section 5 APPOINTMENT OF THE EXECUTIVE**
23 **DIRECTOR OF THE COLORADO DEPARTMENT OF PUBLIC**
24 **CONSERVATION – QUALIFICATIONS, PROFESSIONAL EXPERIENCE.**

25 (1) The procedural management responsibilities for the Colorado Department of
26 Public Resource Conservation shall reside within the Office of the Executive Director of
27 the Colorado Department of Public Resource Conservation, with said Executive Director
28 serving at the pleasure of, and after appointment by, the majority of the elected Board of
29 Commissioners of the Department.

30 (a) The Executive Director of the Colorado Department of Public Resource
31 Conservation shall be a qualified natural resources scientist.

32 (b) Policy matters of organization, operation (s) and management of the
33 Department, and of Departmental programs and their operations, shall be within the
34 supervision of the Executive Director of the Colorado Department of Public Resource
35 Conservation, with affirmative consultation of a majority of the Commission members
36 voting at an open, public, and noticed meeting.

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

40 (1) The Colorado Department of Public Resource Conservation shall commence
41 Departmental operations January 1, 2010.

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

45 (1) The Colorado Department of Public Resource Conservation, established to ensure
46 public resource conservation stewardship, acting under authority of its elected Board of
47 Commissioners, shall have as priority the responsibility to steward and protect the public

1 ownership and public trust values of the lands, waters, public resources, and wildlife of
2 the people of Colorado. Conflict (s) between economic interest (s), and stewardship of
3 public resource conservation values, shall be resolved in favor of public ownerships and
4 public trust values.

5 (a) Stewardship and trust responsibilities of the Colorado Department of
6 Public Resource Conservation shall include, but not be limited to, policy
7 determinations, supervision, and management of Colorado's public
8 resources including, but not limited to, parks, monuments, public lands
9 and shore lands; protection of archeological resources; management and
10 restoration of forest health for Colorado's state forests; water conservation
11 and the protection and preservation of public values in water; correction of
12 unresolved harmful impacts to public resources; protection of fur-bearing
13 animals; protection and conservation and restoration of wildlife resources
14 and wildlife habitat; protection and management of wildlife resources
15 within any wildlands and urban lands interface; protection of migratory
16 birds; protection of state and federal threatened and endangered specie of
17 plants and animals; preservation and protection of fisheries habitat
18 resources; fish restoration programs and fish health and management
19 programs; regulation of and licensing of transportation of fish and game
20 and exotic animals into and within Colorado; watershed protection and
21 floodplain protection; implementation and management of state trails
22 systems, and trails development, and management of public funds
23 established for those purposes; rural environmental conservation
24 programs; mined land reclamation; regulation of small hydroelectric
25 facilities and management of impoundments and impediments on rivers to
26 the high water mark; fostering of partnerships for wildlife enhancement;
27 preservation of wetlands; promotion of wetland conservation and reserve
28 programs; and promulgation of hunting safety programs, off-road vehicle
29 usage regulations and licensing, and boating safety programs.

30 (2) The Board of Commissioners of the Colorado Department of Public Resource
31 Conservation shall sit and act as the State of Colorado Wildlife Commission.

32 (3) The Board of Commissioners of the Colorado Department of Public Resource
33 Conservation shall sit and act as the Colorado State Board of Parks and Outdoor
34 Recreation.

35 (4) The Board of Commissioners of the Colorado Department of Public Resource
36 Conservation shall be responsible for the appointment of the various members or officers
37 and program staff to the following boards, commissions, and programs, or their successor
38 boards, commissions, or programs:

- 39 (a) Arkansas River Compact Administration.
- 40 (b) Colorado River Advisory Council.
- 41 (c) Great Outdoors Colorado Trust Fund Board.
- 42 (d) Hazardous Waste Commission.
- 43 (e) State of Colorado Board of Land Commissioners.
- 44 (f) Colorado Land Use Commission.
- 45 (g) Mine Land Reclamation Board
- 46 (h) Colorado Natural Areas Council

- 1 (j) Pollution Prevention Advisory Board
2 (j) State of Colorado Emergency Planning and Community Right-to Know
3 Council.
4 (k) State of Colorado Environmental Control Commission.
5 (l) Urban Drainage and Flood Control Districts Board of Directors.
6 (m) Colorado Water Conservation Board.
7 (n) Colorado Water Quality Control Commission.
8 (o) Colorado Water Resources and Power Development Authority.
9 (p) Wildland / Urban Interface Working Group.
10 (q) AND, as may be determined by the Executive Committee of Legislative
11 Council, any other agency, division, program, office or board of the
12 Colorado State government either as a mandated program or as a state
13 recognized enterprise that has been empowered by the Colorado
14 Constitution or by Colorado State statutes, or will be so empowered in the
15 future, to act in, or as, stewardship and trust capacities for the public's
16 interests in State or otherwise public lands, public resources, water and
17 wildlife.
- 18 (5) Appointment to any board or commission or program of member(s) or officer(s)
19 by the Board of Commissioners of the Colorado Department of Public Resource
20 Conservation shall not be subject to any manner of legislative confirmation.
- 21 (6) The Board of Commissioners of the Colorado Department of Public Resource
22 Conservation may convene, either upon the initiative of any division thereof, or by action
23 of the Board, either independently or upon petition from a member of the public, to
24 review, consider, and have the authority to issue compliance permit directives contained
25 within the Colorado Land Use Act, C.R.S. 24-65.1-101 et. seq., or any successor
26 provision, that has as purpose the determining of matters of state interest and activities of
27 state concern that will initiate and activate governmental, multi-agency review and
28 permitting of any action that could impact public resource conservation, or the public
29 ownership(s) or the public's values in public natural resources.
- 30 (7) The Board of Commissioners of the Colorado Department of Public Resource
31 Conservation may initiate identification, require designation, and monitor promulgation
32 guidelines for permitting of activities that affect matters of state interest and activities of
33 state concern within Colorado. The Board of Commissioners of the Colorado Department
34 of Public Resource Conservation may initiate review, and comment, on local government
35 Colorado Land Use Act, C.R.S. 24-65.1-101 et. seq , authorities, and shall have authority
36 to require local government (s) to designate, and to adopt state-approved guidelines,
37 mandating issuance of permits for matters of state interest and activities of state concern
38 by local government jurisdictions.

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

- 41 (1) Fees and revenues and payments and all monies generated within and under the
42 Colorado Department of Public Resource Conservation as licenses, or as penalties, or as
43 assessments, or as intergovernmental transfers from any sources, or from grants or from
44 revenues of any manner, shall be used by the Colorado Department of Public Resource
45 Conservation in Department programs and for operations of the Department.

1 (2) Funds for the operation of the Colorado Department of Public Resource
2 Conservation may be derived from the Colorado General Fund.

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

10 (1) Debt provisions for public resources conservation purposes as operations of the
11 Colorado Department of Public Resource Conservation shall be governed by Article XI
12 and Article XXVII of the Colorado Constitution.
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14 **ARTICLE XXVIII, Section 10 STATE BOARD OF THE GREAT
15 OUTDOORS COLORADO TRUST FUND.**

16 (1) Article XXVII of the Colorado Constitution – Great Outdoors Colorado Program
17 – is incorporated into the Colorado Department of Public Resource Conservation.
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19 **ARTICLE XXVIII, Section 11 PROVISIONS OF THIS ARTICLE SELF-
20 ENACTING AND SELF-EXECUTING.**

21 (1) Provisions of this Article XXVIII are self-enacting and self-executing.
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37 this _____ day of March, 2007
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_____ day of March, 2007