Received 12/22/11 2:00 P.M.

S.WARD

2011-2012 #45

ORIGINAL SUBMISSION

Amendment to ARTICLE XVI, Section 6, Colorado Constitution:

Section 6 of article XVI of the constitution of the state of Colorado is amended to read:

Section 6: Diverting water – limitations. (1) The right to divert ANY waters WITHIN THE STATE OF COLORADO to beneficial uses shall never be denied, BUT MAY BE LIMITED, OR CURTAILED, SO AS TO PROTECT NATURAL ELEMENTS OF THE PUBLIC'S DOMINANT WATER ESTATE BY HOLDING UNLAWFUL ANY USUFRUCT USE OF WATER CAUSING IRREPARABLE HARM TO THE PUBLIC'S ESTATE.

(2) Priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters ~~of any natural stream~~ are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes

(3) THE USE OF WATER IS A USUFRUCT PROPERTY RIGHT, GRANTED BY THE PUBLIC TO WATER USERS, THAT SHALL REQUIRE THE WATER USE APPROPRIATOR TO RETURN WATER UNIMPAIRED TO THE PUBLIC, AFTER USE, SO AS TO PROTECT THE NATURAL ENVIRONMENT AND THE PUBLIC'S USE AND ENJOYMENT OF WATERS.

(4) THE COLORADO DOCTRINE OF APPROPRIATION HEREUNDER RECOGNIZES THAT THE PUBLIC CONFERS THE PRIVILEGE, BY GRANT, FOR THE USE OF ITS WATER, AND THE DIVERSION OF THE SAME, TO ANY APPROPRIATOR FOR THE COMMON GOOD.

(5) ENFORCEMENT AND IMPLEMENTATION OF THIS SECTION THAT CONFERS, BY GRANT, THE USE OF THE PUBLIC'S WATER TO USERS AND THAT STIPULATES

THAT USES OF WATER SHALL BE PROTECTIVE OF THE PUBLIC'S RIGHTS AND INTERESTS, ARE MANDATED TO THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF COLORADO STATE GOVERNMENT TO ACT, AS STEWARDS, TO PROTECT THE PUBLIC'S INTERESTS IN ITS WATER ESTATE.

(6) ANY CITIZEN OF THE STATE OF COLORADO SHALL HAVE STANDING IN JUDICIAL ACTIONS SEEKING TO COMPEL THE STATE OF COLORADO TO ENFORCE THE PROVISIONS OF THIS SECTION.

(7) PROVISIONS OF THIS SECTION ARE SELF-ENACTING AND SELF-EXECUTING, BUT LAWS MAY BE ENACTED, SUPPLEMENTARY TO AND IN PURSUANCE OF, BUT NOT CONTRARY TO, PROVISIONS HERETO.

Submitted this 17th. day of November 2011

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