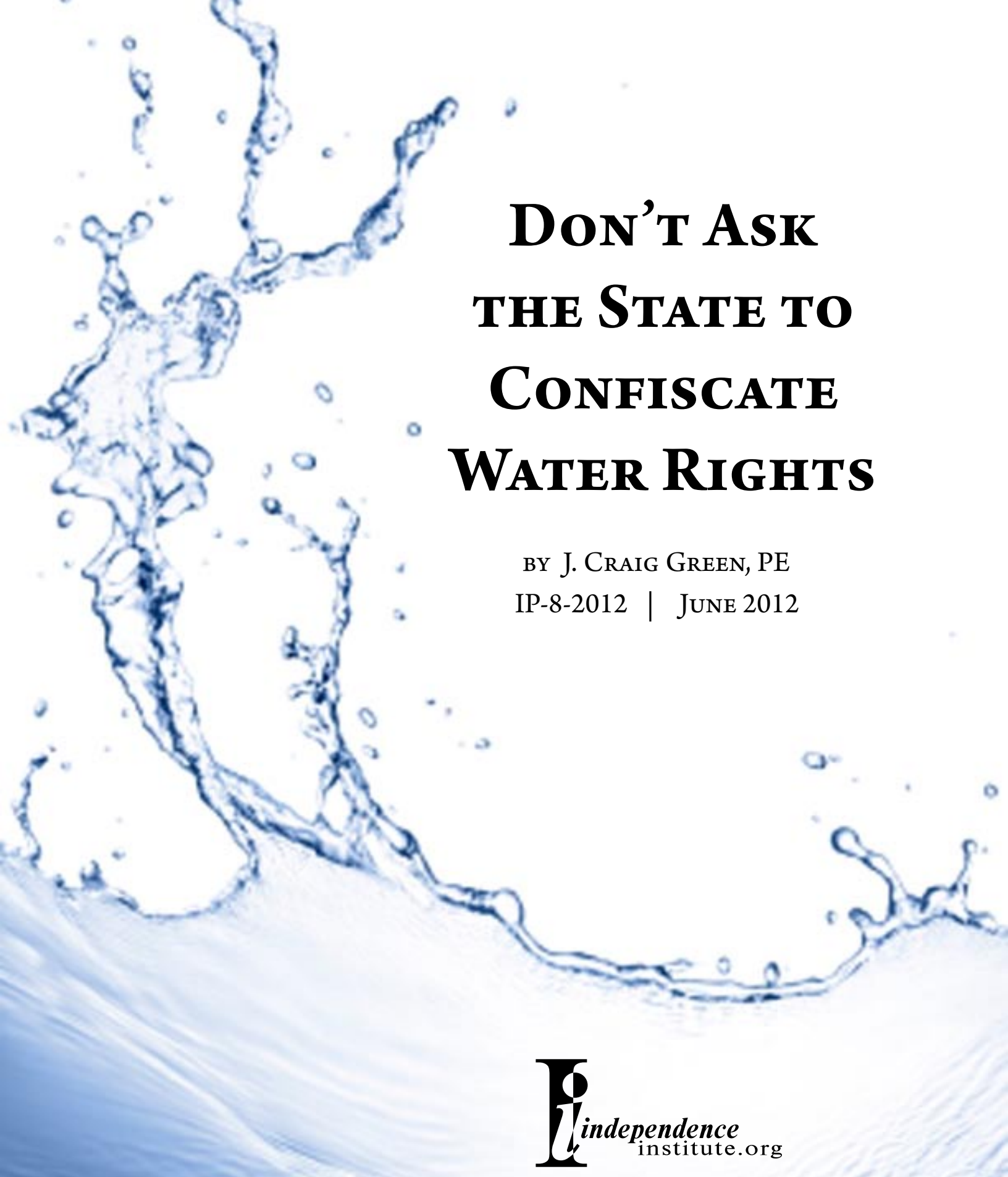

Don't Ask the State to Confiscate Water Rights

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IP-8-2012 | June 2012

independence institute.org

Don't Ask the State to Confiscate Water Rights

In next November's election, voters may be asked to destroy Colorado's 160-year-old system of water rights. A pair of ballot proposals, for which signatures are currently being collected, would essentially confiscate the water rights of cities, water districts, farmers, and ranchers by making them subordinate to the whims of any Colorado citizen who complains to a court about their legal status.

The Colorado Constitution has always recognized water as a public resource, but has also made it subject to claims for private uses. Under the Constitution, water rights can be claimed for beneficial purposes such as irrigation, domestic and city uses, among many others. Farmers and breweries can own water rights, as can cities.

However, the authors of this year's proposed ballot initiatives #3 and #45 want to eliminate Colorado's constitutional language which recognizes long-established private and public claims to water, including those established long before Colorado became a state. This radical proposed change to the Colorado Constitution not only would destroy the security and reliability of water rights owned by farmers and ranchers, but also those of cities and other governments.

This poorly-conceived proposed takeover of Colorado water rights would be the most extreme confiscation of property in the State's history. The constitutional amendments, if adopted, would reverse Colorado's long-standing recognition of senior water rights, including those claimed ("appropriated") before statehood.

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According to the Colorado Constitution, water not previously appropriated can be claimed for private use. Private water right claims were established by hard work, risk and investment for more than two decades prior to Colorado's statehood in 1876. Water rights established by this process, once ratified by a court, are considered to be property rights. This process of claiming water for private use (including public entities) is called "prior appropriation." It means water rights are ranked by the date on which they were first established, with the oldest rights having priority in times of shortage. The Colorado Constitution's longstanding recognition of water rights established before statehood to be grandfathered would suddenly be reversed if these dangerous proposals are implemented.

Most water uses return less water to the stream than they divert. This practice is lawful, as long as a water user with junior rights does not deprive a senior user of water to which he has a legal right. However, the proposed ballot initiatives would require that every water user return the same quantity of water that he diverts, without loss. This would be impossible for any user, such as a farmer, who consumes some of the water. After all, the purpose of most water rights is to consume a portion of the water diverted (for example, water evaporated or removed in harvested crops). These ballot proposals would destroy a major portion of Colorado's economy, which depends on security in water rights ownership (both private and public) under current law.

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The two initiatives would explicitly destroy property and contract rights in water. They would impose the so-called "Public Trust Doctrine," which according to the proposals themselves, makes government control of all water in Colorado "Superior to Rules and Terms of Contracts of Property Law." This would be a complete reversal for water rights established under Colorado's water rights system since 1852, long before the Civil War.

These anti-human proposals would devastate existing irrigation, municipal, industrial and other water uses, subjecting them to any whim by which someone might complain about water use. Almost all current users would fail the proposed new rule that water rights must return all the water they take to the streams from which they divert. They would be vulnerable to lawsuits from those who oppose human use of natural resources, without any clear limitations or objective criteria. The result would be the largest confiscation of private property in the State's history, including property owned by public entities. None of the victims of this confiscation would receive any compensation. Constitutional changes should not be taken lightly, because they are difficult, often impossible, to repeal once mistakes are made.

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To convey the terrible importance of these proposals, I will discuss the origins and history of Colorado Water Law below, about which I have been writing for more than three decades. The actual language of the existing Constitution and the proposed language that would extensively and fundamentally modify it both can be found in the Appendix.

Origins of Colorado Water Law

Water in Colorado is a complex subject, from its history of drought cycles and common law to a detailed, complex legal system evolved over the last 160 years. Because of the semi-arid nature of Colorado's climate, pioneers had to allocate water shortages, first by conflict, then by common law, before Colorado became a state. By the time the State was formed and its Constitution was adopted in 1876, it had to recognize existing property rights and customs previously developed by farmers, miners and other water users, some of whom had been using water since 1852. It also made provisions for new claims on scarce water resources, shown by the following excerpt:

> *The water of every natural stream, not heretofore appropriated, within the state of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided... The right to divert the unappropriated waters of any natural stream to beneficial uses shall never be denied...*

From its inception, Colorado water law developed a healthy respect for private property rights - protecting prior water uses established by the difficult, pioneering work of those who came before. Upon statehood, Colorado courts first recognized private claims to water uses that existed at the time based on the "first in time, first in right" custom now called the "appropriation doctrine." This recognition was later solidified by a long history of decrees in State district courts and water courts to clarify specific details for each claim, as well as many lawsuits establishing legal precedents in the unique and complex fields of water law and engineering.

Today, even conservation interests like Trout Unlimited, Ducks Unlimited and the Colorado Division of Wildlife own and enjoy the benefits of private water rights protected by this system of water law. The current legal status and reliability of ALL these water rights would be destroyed by proposed ballot initiatives #3 and #45.

Although the "public" owns post-statehood, unclaimed water resources according to the Constitution (but NOT pre-state or claimed rights), private property rights continue to be recognized, defended, bought and sold in active water markets all over the state. Farmers, ranchers, cities, water districts, conservation districts and other water users, *including the State of Colorado itself*, all benefit from the ownership of property rights in the use of water, as do their customers and other beneficiaries. Today, even conservation interests like Trout Unlimited, Ducks Unlimited and the Colorado Division of Wildlife own and enjoy the benefits of private water rights protected by this system of water law. The current legal status and reliability of ALL these water rights would be destroyed by proposed ballot initiatives #3 and #45.

Water Law Basics

Colorado water law is largely based on private property rights in water use, even when such

rights are owned by public entities like cities and water districts. Water courts have dealt with the competition for scarce water resources by protecting these rights. Anyone can buy or create a water right by paying the market price for an existing right or making a claim for a new one, within long-established legal guidelines. As real property rights, water rights can be condemned for public use, but this is not often done, since public entities must pay fair prices in competitive markets.

Water rights can be valuable commodities, in some cases more valuable than the land on which they are used. Much of this value comes from the ability to freely transfer water rights from one location or type of use to others, so long as other water rights are not injured. This "non-injury" principle is fundamental to Colorado water law, but injury only applies to impacts to other bona fide water right owners.

People who don't own water rights lack the legal standing in court to control water use by those who do, except for damages suffered from a ditch or pipeline break, for example. The public ownership of water is guaranteed by the Constitution, but this right is nebulous and diffuse. The right to private appropriation for the use of water resources is also guaranteed by the Constitution, but accrues specifically to people who have undertaken the difficult and expensive work necessary to put water to beneficial use. This requires a serious investment of time and money, unlike attacks on property rights by those who refuse to pay for their economic choices.

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Private ownership and market allocation are among the strengths of Colorado's water law. Nowhere is this more evident than in the poorly-conceived and deceptive "public trust doctrine," which promotes new public policies to the detriment of existing, long-established property rights.

Public Trust Doctrine

In recent years, the public trust doctrine has been used successfully in California, for example, to reverse the primacy of private property rights in land and water use. This sort of action has been attempted in the Colorado General Assembly several times, but so far the damage done to Colorado water rights has been minimal. In 2003, following the 2002 drought, many bills dealing with water were introduced in the legislature, some of which proposed county tariffs, others promoting government subsidies for water development, and still others including new restrictions on water transfers. These attempts mostly failed to "socialize" private property rights, which is now the explicit goal of the proposed constitutional changes in initiatives #3 and #45.

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Many people in Colorado, perhaps seduced by the ever-nebulous term "public," seem to think they have a right to ignore 160 years of sweat and tears by hard-working pioneers and their successors to promote confiscating property without compensation. Fortunately, so far Colorado water law has withstood the most egregious applications of Karl Marx's deadly dictum, "From each according to his ability, to each according to his needs." However, growing trends against private property rights are troubling among those who understand the economic and other benefits of private ownership and those whose long-held rights may be at risk.

During times of shortage, Colorado water law lets senior water rights take water before juniors, within limits on waste and expanded use developed to protect those juniors. In the last few decades, water law has evolved to allow instream flow water rights and other non-traditional water uses in response to changing demands.

Colorado remains the only pure appropriation state in the U.S.—a testament to the hard work of pioneers who developed and used valuable property rights in water before the Colorado Constitution, as well as those who came later. Such claims have been frequently upheld by the Colorado Supreme Court. This long-standing exercise in private property rights

development and protection is the cornerstone of a beneficial market-based system of natural resource allocation.

All Colorado water rights have limits, such as flow rates, volumes and specific types of use. In court cases involving changes of water rights, a historical use standard is imposed to prevent injury to other water users.

This market-based tradition should not be sacrificed on the altar of a nebulous "public trust doctrine" to subsidize latecomers who won't pay for their economic choices.

Colorado water law today represents a most elegant example of private property creation and protection because of the steadfast efforts of those who would not concede their "selfish" private interests to those who would take (steal) their property without compensation. Unlike some western states, the State of Colorado maintains a healthy respect for the pioneer spirit and hard work of people who came before. This market-based tradition should not be sacrificed on the altar of a nebulous "public trust doctrine" to subsidize latecomers who won't pay for their economic choices.

> *While the prior appropriation doctrine and western water development has been lampooned and lambasted, no one has made a serious proposal for substitution of a water law system that would better serve the needs of humans and the environment with equal or greater security, reliability, and flexibility – these being the hallmarks of an effective resource allocation system." - Colorado Supreme Court Justice Gregory L. Hobbs, Jr.*

Historical Use

Conflicting claims for water have frequently been resolved by the courts, establishing rules that later applied to other water users. One such rule, developed through long experience with water conflicts, is the application of historical use limits in change cases.

As long as the decree defining the limits of a water right is not violated, historical use is not usually considered to be an issue. However, a "non-injury" principle developed from disputes to protect water users from changes in the use patterns of other water rights. If someone wants to change a water right from one type of use or location to another, a return to the court is required. Other water users often appear in court to express their objections, claiming the change would reduce the water available to their water rights. As a pattern of actual use developed under existing water decrees, downstream water users became dependent on the historical operation of water rights upstream, including both diversions and return flows. An increase in diversion or reduction in return flows may cause injury to downstream water users.

The law evolved to protect junior rights in change cases as they came to rely on the historical use of senior rights, reducing decreed amounts. For example, if a water right requesting a change was decreed for 5 cubic feet per second (cfs) but its historical use was only 3 cfs, then a condition of the change might be that only 3 cfs can be used at the new location, with the other 2 cfs abandoned to the stream.

"Use it or Lose it"

Early Colorado water rights were established with maximum flow rates for the beneficial uses claimed, but flow rates in decrees were not guarantees that those amounts would be physically and legally available at all times. Although senior rights can cause junior rights to be curtailed to satisfy senior demands, they cannot create more streamflow than nature provides (without expensive and difficult trans-basin diversions), nor can they divert their maximum decreed amount when actual need is less. The concept of preventing waste in water use was established by case law from past conflicts.

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"Use it or lose it" comes from the simple idea of taking what you need, but no more. Unlike fixed property rights such as those in land and minerals, water not taken from a flowing stream is almost immediately available for use by others. Storage rights (reservoirs) evolved to address this problem within the existing legal system, but such rights are limited to the size

of a reservoir and actual demands on its use.

Instream Flows

In 1973, the Colorado Water Conservation Board (CWCB) was authorized to claim new instream flow water rights to protect the environment "to a reasonable degree." Water claims by the CWCB have been adjudicated since then as the only kind of water right in Colorado that does not have to be diverted to be considered a beneficial use. Thousands of water rights have been appropriated or acquired by the CWCB, covering thousands of miles of Colorado streams.

The existing system based on protecting private property rights is better able to deal with the diversity and complexity of competing water right demands than making new instream flows suddenly senior to all others.

Even without instream flow rights, Colorado cities and water districts have actually increased flow in many stream segments by transferring upstream irrigation rights to downstream municipal use. This increase occurs because upstream irrigation diversions are put back into the stream, increasing streamflow until the City takes the water out downstream. Although new water rights reduce streamflows when in priority, they can only divert water when there are no demands ("calls") from senior rights, usually during high streamflows. The existing system based on protecting private property rights is better able to deal with the diversity and complexity of competing water right demands than making new instream flows suddenly senior to all others. This kind of disruption is proposed by initiatives #3 and #45, though not admitted.

New Water Users

The growth of cities in the last few decades has resulted in an increased conversion of water rights from irrigation to municipal use. This conversion has been done mostly through the water court system, respecting the rights of other water users by purchasing water rights on the open market and applying standards of historical use as limits to future use.

Because private property rights are currently protected under Colorado water law, some criticize the laws as needing fundamental change. They consider their desires to be in the "public interest" as more important than the selfish interests of water users like farmers, miners, breweries and cities. I include cities because they develop and buy water rights, just like farmers and industries, to meet their water needs. To meet these needs and to plan for droughts, senior priorities of the rights transferred must be maintained. Without this important aspect of current water law, chaos would ensue as thousands of competing demands for water would no longer have a legal framework within which to allocate water rationally and predictably. Water supply planning would become impossible under proposed initiatives #3 and #45.

Water use can be changed in a variety of ways within the present system based on non-injury to other water rights, but many latecomers to the Colorado water scene don't want to pay the price to achieve their goals. Rather than buy senior rights and donate them to the Colorado Water Conservation Board for streamflow preservation, these latecomers would rather have their special interests subsidized by new laws that would ignore 160 years of labor, dedication and risk by Colorado water users. This proposal would be a huge mistake for Colorado in general, and for existing water users (including cities) in particular.

Water use can be changed in a variety of ways within the present system based on non-injury to other water rights, but many latecomers to the Colorado water scene don't want to pay the price to achieve their goals.

It's easy to recommend spending someone else's money to solve a problem; that's why government solutions are so popular. By cloaking self interests in the ever-nebulous term "public interest," advocates for overhauling Colorado's water law place themselves on a higher plane than those who came before, like a cult that worships fish above people. Adequate means exist in today's Colorado water law to protect and enhance streamflows, but making such changes should require dedicating resources to the acquisition of water rights, instead of forcing others to pay for their selfish choices at little or no cost.

Critics who oppose the current system had better be careful what they wish for—they just might

get it. The same laws they now oppose would protect their instream flows or other water rights against attack from others. Once changed in water court from other uses to instream flow protection, historical use of senior rights can be adjudicated so as to not require future diversion, which would accomplish streamflow protection advocates' goals. If they succeed in eliminating the "use it or lose it" principle or obtain special privileges for their desired new water uses, they would likely be hoisted on their own petard when thirsty cities experience another drought. Water users with widely different, even contradictory, goals have accepted the current system because they know people with whom they disagree have to play by the same rules. The proposed ballot initiatives would turn this current benefit upside down, destroying a rational and beneficial allocation system based on the long-tested "first in time, first in right" principle.

Conclusions

The history of Colorado water law has been long, confusing and difficult, but more than any other state, Colorado has retained an emphasis on protecting the rights of those who came before. As other Western states routinely sacrifice private water rights to the "public interest," Colorado remains one of the last and best examples of protecting those rights. Colorado residents should be reluctant to support claims to "protect Colorado's rivers" if it requires senior water rights to be suddenly made junior to new claims.

Replacing 160 years of hard work and legal precedent, encouraged by the private ownership of water rights, with a nebulous and spurious claim by the seductive "public trust doctrine" would be a tragedy of unprecedented proportions.

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Perhaps the greatest danger of ballot initiatives #3 and #45 is their deceptive language, which exploits the poor knowledge of the general public concerning Colorado's water rights system. By repeatedly using the word "public" as a deceptive mantra for their true, but unclear intention - forceful confiscation - these proposals represent the very worst public policy proposals seen during my long career as a Professional Engineer. Colorado voters would be wise to refuse signing petitions for these dangerous and destructive proposals.

The appendix attached to this paper contains the exact language by which the Colorado Constitution would be modified if these proposals are on the ballot and approved by voters next November. The fact that proposed initiative #3 adds 600 words to an existing section of the Constitution with only 45 now should tell you something.

INDEPENDENCE INSTITUTE is a non-profit, non-partisan Colorado think tank. It is governed by a statewide board of trustees and holds a 501(c)(3) tax exemption from the IRS. Its public policy research focuses on economic growth, education reform, local government effectiveness, and constitutional rights.

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ADDITIONAL RESOURCES can be found at: http://www.i2i.org/.

APPENDIX

LANGUAGE OF PROPOSED CONSTITUTIONAL AMENDMENTS

NOTE: Existing language in Section 5 below is shown in upper and lower case text, including strikeouts. PROPOSED AMENDMENTS SHOWN IN ALL CAPS.

Proposed Initiative 2011-2012 #3
...amending Section 5 of article XVI of the Colorado Constitution:

Section 5. Water of Streams Public Property - PUBLIC TRUST DOCTRINE

(1) The water of every natural stream, not heretofore appropriated, within the state of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided.

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

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

(4) (A) THE PUBLIC CONFERS THE RIGHT TO THE USE OF ITS WATER, AND THE DIVERSION OF THE WATER UNDER SECTION 6 OF THIS ARTICLE, TO AN APPROPRIATOR FOR THE COMMON GOOD.

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

(C) USUFRUCT WATER RIGHTS SHALL NOT CONFER OWNERSHIP TO WATER OTHER THAN USUFRUCT RIGHTS TO THE APPROPRIATOR.

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

(E) A USUFRUCT WATER USE IS IMPRESSED UNDER THE CONDITION THAT NO USE OF WATER HAS DOMINANCE OR PRIORITY OVER NATURAL STREAM OR PUBLIC HEALTH WELL-BEING.

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

(5) (A) ACCESS BY THE PUBLIC ALONG, AND ON, THE WETTED NATURAL PERMIMETER OF A STREAM BANK OF A WATER COURSE OF ANY NATURAL STREAM IN COLORADO IS A RIGHT OF THE PUBLIC TO USE OF ITS OWN WATER WITH PROVISIONS OF THIS PUBLIC TRUST DOCTRINE.

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

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

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

(6) ENFORCEMENT AND IMPLEMENTATION OF PROVISIONS CONTAINED WITHIN THIS COLORADO PUBLIC TRUST DOCTRINE TO PROTECT THE PUBLIC'S RIGHTS AND INTERESTS IN WATER IS 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. ANY CITIZEN OF THE STATE OF COLORADO SHALL HAVE STANDING IN JUDICIAL ACTIONS SEEKING TO ENFORCE THE PROVISIONS OF THIS SECTION.

(7) PROVISIONS OF THIS SECTION ARE SELF-ENACTING AND SELF-EXECUTING.

NOTE: Existing language in Section 6 below is shown in upper and lower case text, including strikeouts. PROPOSED AMENDMENTS SHOWN IN ALL CAPS.

Proposed Initiative 2011-2012 #45
...amending Section 6 of article XVI of the Colorado Constitution:

Section 6. Diverting Unappropriated Water - Priority Preferred Uses LIMITATIONS

(1) The right to divert ~~the unappropriated~~ ANY waters ~~of any natural stream~~ 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 be given 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 APROPRIATOR TO RETURN WATER UNIMPAIRED TO THE PUBLIC, AFTER USE, SO AS TO PROTECT THE NATURAL ENVIRONMENT AND THE PUBLIC'S USE AND ENJOYMENT OF THE WATERS.

(4) THE COLORADO DOCTRINE OF PRIOR APPROPRIATION HEREUNDER RECOGNIZES THAT THE PUBLC 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) 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, PROVITIONS HEREUNTO.