Guest Editorial

The Forest Service and Water

by Senator Hank Brown

Thank you. I used to worry about Colorado's water interests being at odds with each other — East slope versus West slope, everybody against Denver, Denver against everybody. Cities versus agriculture and so on. But, in the last few years the Forest Service in particular and the federal government in general have been able to bring everyone together.

I must say that the actions of the Forest Service are puzzling and their attitude towards Colorado disappointing. Capable people have been making demands on Colorado water without even a basic knowledge of our environment.

Let me give you an example. A letter was sent by the Regional Director of the Environmental Protection Agency, dealing with Boulder, Ft. Collins, Loveland and Greeley's problem of renewing their permits. It inquired why those cities couldn't be reasonable and simple take the water out of the river as it passes through their city, rather than storing it in a dam.

The question, in that form, reflects a surprising lack of understanding of Colorado's water system. It reflects a total lack of knowledge about the quality of water as it is collected in the mountains versus the quality of water as it passes through the cities.

Without storage, about two-thirds of our annual water flow comes with the spring runoff, in the roughly three month period of May, June and July, or April, May and June, depending on the part of the state. We would average approximately one percent of the annual flow in each of the months of November, December and January if we didn't have storage. If water storage is eliminated, it means flow would be dramatically reduced during the dry portion of the year.

Eliminating storage will significantly reduce water quality. There would be a shortage of drinking water in the dry period of the year being dramatically reduced would result in damage to the environment and wildlife.

THE PUBLIC TRUST DOCTRINE

What it is, where it came from, and why Colorado doesn't (and shouldn't) have one

by Stephen H. Leonhardt and Brent A. Waite

Fairfield and Woods, P.C.

A ballot initiative was recently proposed that sought to adopt, by constitutional amendment, a "strong public trust doctrine" in Colorado. Many lawyers and water experts, let alone most voters, are uncertain what that would mean. This article reviews the roots and evolution of the public trust doctrine and the contrasting rejection of the doctrine as inconsistent with legally preferred appropriation rights in Colorado. It will conclude by examining the proposed public trust ballot initiative in this framework.

A rancher on the dry Arizona Strip recounted the range wars fought over water in those desert lands north of the Grand Canyon. He summarized: "There are three scarce things of value out here — gold, women, and water. If the government has to take two of them, why then, leave the water." This anecdote captures the essence of the continuing struggle over western water. Without water, life itself, let alone development, is impossible in the West. Colorado's arid climate, in contrast with most other states, requires more intensive water development, which has been the foundation of Colorado's economy. Competition for water is fierce; there is not enough to satisfy everyone's desires.

Especially relevant to the public trust doctrine, water wars have lost none of their importance or intensity, and governments (local, state, and federal) usually are in the thick of the fray as combatants or arbiters. There may be no more notorious or enduring water war than that fought over Los Angeles' water diversions from California's Owens Valley, immortalized in the movie "Chinatown."

In the most recent battle of that continuing war, the California Supreme Court provided a new "weapon," one ultimately more effective at stopping the flow of water to Los Angeles than the irate Owens Valley ranchers' dynamiting or occupation of the aqueduct years ago. This new "weapon" is the archaic and once almost-forgotten public trust doctrine, judicially given new life and force.

The public trust doctrine, originally of limited and circumscribed application, has been judicially expanded into a doctrine which could undermine the foundations of Colorado's economy.

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The Farr Pumping Plant was re-named to honor three generations of the Farr family for their contributions to agricultural innovation, natural resources conservation, and water development in Colorado. W.D. Farr currently serves on the Board of Directors of the Northern Colorado Water Conservancy District and is president of its Municipal Subdistrict which operates the Windy Gap Project. Both his father, Harry, and grandfather, William H., were at the forefront of Colorado’s emerging agricultural and ranching industries in the late 19th and early 20th centuries. The renaming was set in motion with the passage of the federal Colorado Wilderness Act in August 1993. Colorado Senator Hank Brown was instrumental in securing passage of that bill and the language providing for renaming the plant after the Farr family.

Commenting at the ceremony, Brown said, “I can think of no family in Colorado which has done more to preserve and conserve Colorado’s natural resources. This is an ideal vehicle for honoring the Farr family.”

The Farrs’ contributions began when William Farr moved to Colorado in 1876 and settled in the Greeley area. The Farrs were instrumental in beginning the lamb feeding industry in northern Colorado and later branched into the emerging cattle feeding business. Beginning with one cattle feeding pen in 1931, Harry and W.D. built Farr Feeders, Inc., into a national leader in beef production, and revolutionized the industry by developing cattle feeding techniques still used today.

Harry was a big supporter of the C-BT Project in its formative years. He and W.D. came to view the future economic well-being of northeastern Colorado as being directly tied to securing stable water supplies, which would be enhanced significantly through construction of the C-BT Project. W.D. has served on the Board of the NCWCD since 1955. He is the first and only president of the Municipal Subdistrict has had since its inception in 1970. Long recognized as a leader in water resources planning, W.D. has been honored numerous times for his contributions to water management. He received the CWCD’s Aspinall Award in 1985.

Construction of the Farr Pumping Plant was completed in 1951. Often referred to as the “Heart of the Colorado - Big Thompson Project” it is the critical facility for moving water from Lake Granby to northeastern Colorado. Water stored in Lake Granby is pumped through the plant into the Granby Pump Canal, where it flows into Shadow Mountain Reservoir, Grand Lake and through the Alva B. Adams Tunnel to the east slope for agricultural, municipal, and industrial uses.

In addition to Senator Brown, speakers at the ceremony included Colorado State Engineer Hal Simpson, Bureau of Reclamation Regional Director Neil Stetsman, NCWCD General Manager Eric Wilkinson, and Historian Dan Tyler. Fred Anderson presented a legislative tribute to W.D. Farr signed by Senate President Tom Norton.

Tours of the Farr Pumping Plant are conducted daily from Memorial Day through Labor Day. For large groups it is best to contact the plant beforehand at (303)627-3406.

The Farr Pumping Plant Dedication

The Northern Colorado Water Conservancy District
evites you to attend
the dedication ceremonies for the Farr Pumping Plant
beginning at eleven o’clock
Saturday, June 18, 1994
at the pumping plant on the north shore of Lake Granby
Refreshments and lunch will be served
Please respond by June 3
P.O. Box 679
Loveland, Colorado 80539
(303)667-2437

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The Regulation of Water Quantity Under the Clean Water Act

by Mark T. Pifer

The United States Supreme Court upheld the decision of the Washington Supreme Court. The Court based its decision primarily upon an interpretation of §401(d) and §303 of the federal Act, and the federally mandated antidegradation policy of the State of Washington. However, the court also relied upon the "goals" of the Act as identified in §101(a), and the Act's definition of "pollution" as codified at §502(6). In arriving at this conclusion, the Court held that the Fish and Wildlife Service must establish a "designated use," namely, "a specific use of the waters for the protection and utilization of fish and wildlife." 33 U.S.C. §1362(24).

The Court further justified the flow condition as a necessary limitation. "We disagree with petitioners' interpretation of the language of §303(c)(2)(A). Under the statute, a water quality standard must "constitute the designated uses of the navigable waters involved and the water quality criteria for such waters, based upon such uses." 33 U.S.C. §132(24). The text makes it plain that water quality standards contain two components. We think the language of §303 is most naturally read to require that a water quantity standard be consistent with defined "designated uses," not specify "usage." Congressional intent to protect and utilize fish and wildlife and the statutory command contained in §101(a) demand that the State's minimum stream flow condition is a necessary limitation."

The State of Washington's antidegradation policy is supported by the legislative history of the Wallop Amendment and the FERC. 495 U.S. 498 (1990), containing an analogous provision of the Federal Power Act, we explained that "maintenance stream flow requirements reflect not only and individual water right, but the public interest in the use of navigable waters, including the construction of dams." 33 U.S.C. §314(1). Congress intended to ensure that states were entitled to dam projects but at the same time, "the States which expand the States' authority to impose conditions which are not directly related to the discharge of pollutants may not require them to operate their dam in a manner that would interfere with or become injurious to existing beneficial uses of the water." WASU v. 201-035, 109 S. Ct. 2720, 2726 (1989). Moreover, the certification itself does not purport to determine petitioners' proprietary rights to the water of the Dosewallips River."

The Court then went on to state that its opinion is supported by the legislative history of the Wallop Amendment, though it completely failed to explain why this is so.

"The principal dispute in this case concerns whether the minimum flow requirement is a permissible condition on the Elkhorn project is a permissible condition on the discharge under the Clean Water Act. Id. at 21, and we agree, at 1910. Further, according to the state court, water quality standards include "stream flow levels," as an "appropriate requirement of state law." Id. at 651.

The regulation of water quality and water quantity in the West." The purpose of the Clean Water Act, 33 U.S.C. §1341, any applicant for a "discharge." Under the literal term of §401, any applicant for a "discharge." The text refers to the "discharge." The text refers to the

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Pifer: The Regulation of Water Quantity

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legitimate and necessary water quality considerations.

Id. at 1913. Thus, arguably the permissible "water pollution control" to which Justice O'Conner made reference remains subject to the "incidental effects" constraint noted by Senator Dirksen. The Court's reasoning evades any need for an exception to the constitutionality of Federal Power Act issues which are not pertinent to this article.

Justice Thomas, joined by Justice Scalia, dissenting, made the following observations on the necessity of legislative clarification:

The maximum stream flow requirement imposed by respondents is an essentially unilateral power, not a proper discharge that might result from, petitioner's proposed project. The term "discharge" is not defined in the CWA, but to the extent it suggests a "flowing or issuing out," or something that is emitted. Webster's Ninth New Collegiate Dictionary 360 (1991). The term "discharge" when used without qualification includes a discharge of pollutants, and a discharge of any substance designated by the state under §401(a)(1) (the "term of discharge") is a limitation on the amount of water a project can take in or divert from the river. See 33 U.S.C. § 1314(a). Thus, a stream flow requirement by contract, is a limitation on the amount of water the project can take in or divert from the river. See ante, at 8. Therefore, a stream flow requirement is a limitation on the stream of water, the opposite of discharge.

Id. at 1915. Thus, Justice Thomas, if §401(d) of the Act can be interpreted in such a broad fashion as endorsed by the majority of the Court, "Congress's careful focus on discharges in §401(a)(1)"—the provision that describes the scope and function of the certification process—was wasted effort.

Id. at 1916.

With respect to the "decreeing [of] uses and criteria," Justice Thomas found the majority's opinion "contrary to common sense," noting that the governing regulations "are designed to be quite flexible so that permits can be obtained subject to the common-sense criterion of compliance with the criteria developed to protect such uses, the concept of "permit as a shield" in meeting their statutory obligation.

Finally, with reference to the "decoupling [of] uses and criteria," Justice Thomas observed that the majority's §401 analysis is flawed at best, and observed:

...it is difficult to conceive of a condition that would fall outside a state's §401(d) authority under the Act. See e.g. Sections 301(b)(1)(C) and 510 of the Act, 33 U.S.C. §§ 1311(b)(1)(C) and 1370.

NOTES

1. The emphasis in the decision upon protection of the "use" as a separately enforceable component of any water quality standard contains some disturbing implications for point source dischargers who have traditionally relied upon the concept of "permit as a shield" in meeting their statutory obligations.

2. It should be noted that the Court failed to mention the second sentence of §101(g) which provides that "it is the further policy of Congress that nothing in this Act shall be construed to supplant or override rights to quantifies of water which have been established by any state, a distinctly different concept than the "right to allocate" principle found in the first sentence of §101(g). The license applicants had evidently not received a state water right permit. The Court would have been surprised if the certification "determines the nature of the use to which that proprietary right may be put..." (Emphasis added) and the Court is "convinced the correlation between the power to condition and the power to deny for water projects could be expected to condition and water usage is not enough to establish full rights to use the water." However, the certification "determines the nature of the use to which that proprietary right may be put..." (Emphasis added) and the Court is "convinced the correlation between the power to condition and the power to deny for water projects could be expected to condition and water usage is not enough to establish full rights to use the water."
Leonhardt and Waite: The Public Trust Doctrine

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The EPA, in effect, making a recommendation that would hurt the environment rather than help it. The conclusion you’re led to as a result is that these citizens have lost the right to make these decisions simply don’t understand what the devil they are talking about.

Indeed, women and men can get together and work things out. But it has to involve a willingness to learn and understand the subject before you decide you’re going to change the rules. It must involve a willingness to listen and work with others.

Demands from the Forest Service suggest that they want changes made which would increase the flow during the flood season and would reduce the flow when there is a shortage of water. The Forest Service demand is one that reflects a total lack of concern for our water. 

Equally disturbing, I think, is a suggestion and assertion by the Forest Service that it would be a violation of water law under Colorado law. All of you are aware of the numbers — 379 members of the state of Colorado is owned by the federal government. It’s concentrated in the mountainous areas. It’s literally almost impossible for most municipalities in the state of Colorado to deliver drinking water of good quality in quantities without crossing federal land or using federal land in one way or another.

It is not a matter of people seeking some gift from the federal government or going out of their way to use the federal government. It is a simple geographical phenomenon that it is almost impossible to do the job that cities must do without using the federal land. The federal demands on us have not been accompanied by legal opinions that they have the right to do this or that. They say you must stop doing it because of the renewal of the permits. In fact they have refused to renew the permits.

You can’t mean to ever simplify it, but if you’re going to renew the permits, you renew the permits. And if you’re not going to renew the permits you don’t renew the permits. But you don’t play games with people. With the city of Boulder, which has negotiated for now six years and spent more than three-quarters of a million dollars in attorney’s fees, the Forest Service told them that Boulder is not a public trust body of water. They referred the question to the Fish and Wildlife Service for an analysis that they had earlier told city of Boulder was not needed. They made a referral which they previously said was not appropriate or necessary.

How do you explain all that? How do you explain a federal government that’s supposed to serve us acting in such a way? It’s even more puzzling because, when you ask them for the basis of the policy, they are unable to articulate or give you logical rationale.

Having the power to deny permits that are essential for commerce is a very powerful and unique constitutional source of power. Where the only alternative is to force someone to go to court, your leverage is enhanced. The alternative of going to court literally costs our cities millions of dollars. Under the law, you have an obligation to move forward with these permits. But, since the cost of the Forest Service attorney and consultants doesn’t come out of the Forest Service budget, and the city’s attorneys have to be paid from the city’s budget, you have enormous imbalance. In other words, the Forest Service can literally refuse to follow the law and gain enormous leverage. When the only alternative is to go to court and spend millions on attorney’s fees it’s a big advantage.

It is a clear case of unethical behavior. It is improper legal ethics. To have a client take a position that you know is wrong and has no legal foundation or against the right of the other side is what has happened.

One of the things that will make it end for the cities of Colorado is that the state constitution of Colorado is built on this. They’re not going to go away. Some have said to me, "Hank, look, before we go public with this, before I go to talk to the Denver Post or the Rocky Mountain News, or I tell my story to Channel 7, I want to negotiate a little, maybe, we’ll get a concession." The only way you’re going to negotiate under these circumstances is by making your case in public, and by standing up and fighting.

So, I come to you with a simple message. I appreciate the tremendous effort that has been made by those of you who have been treated this way. And I want you to know that we’ll continue to do everything possible to help you.

But you must also understand that this is not a fight we can win back away from.

It is a tribute to the state legislature, both Democrats and Republicans, that this is not a partisan issue. The legislature appropriated money to help in a legal defense fund, to fight this through. It is a question of us having to face the challenge for the benefit of the water, when you know our water policy law and Colorado being left with no other option than to stand up and fight.

That’s where I stand off to you. My hope is that you’ll call on us with anything we can do to be of help. And my one word of advice is, that when someone has been unreasonable and unfair with you, when the gunther is thrown down, it would be a mistake if we didn’t see this matter through. Faced with this challenge, we have to win these cases or be condemned to even more disastrous consequences in the future.

By insisting on having adequate storage and quality drinking water, you will do more to help the environment in Colorado than by any other option. The only way out may be to accede to extortion. But that is a temporary solution, not a permanent one. By standing up and seeing this issue through, you’ll find the Forest Service and the Attorney General will be forced to deal with us fairly. I do know that by acceding to requests that are not authorized in law, the issue will be prolonged.

The previous remarks were delivered by Senator Hank Brown at the Workshop on Forest Service and Water Issues, at the annual meeting of the Colorado Water Resources Congress and the Colorado Municipal League on July 8 of this year.

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appropriative water rights in Colorado, as it has in California, is a contentious matter. Lawmaking bodies, judges or officials can play to cate," noting it comes in "many different forms."s

The Public Trust Doctrine is that it legal basis and origins are unknown. This is a doctrine, in Colorado, where the state constitution expressly guarantees the property right to appropriate waters of the state. The public trust doctrine originated in the English body of law and was based upon the idea that the Crown, as proprietor of the waters and the lands beneath them. The doctrine developed in the English common law to which we refer when we speak of public trust doctrine contrary to such an express constitutional guarantee.

Beyond the 10th Meridian: Navigability and Western Rivers.

On a fine day in 1869, "Captain" Samuel Adams stood on the banks of the Blue River near Breckenridge, contemplating the forward-looking people of that town for helping him ready his expedition with four boats and 10 men. Adams purportedly had signed on to operate the Lower Colorado River steam powered stern wheeler, and he was convinced the Colorado River was to become the Mississippi River of the West. What was the inspiration behind this dream of commerce? Adams also believed that smooth water covered the Colorado River from its headwaters all the way to the ocean. Adams recommenced his dream of a Colorado River navigable through the western states.

After launching their boats, Adams and his crew had steered a few miles past the confluence of the Blue River and Tenmile Creek when they unexpectedly ran into Boulder Creek rapid, where they lost much equipment. A little further downstream, two of their boats were destroyed. With two boats remaining and a crew depleted by deserters, Adams continued on to Gore Canyon. Adams at least had the good fortune to get to Gore Canyon, but he also lost his remaining boats trying to get through the canyon. He also lost all but two of his men to desertion. The remaining eight men barely made it to the towns of Eagle County, and the gangsterism, the power of steam powered equipment and provisions. They ultimately admitted defeat somewhere about the confluence of the Eagle and Colorado Rivers.

Captain Adams' disadventurous adventure was the result of his false assumption: that Colorado's largest river was navigable. In fact, no river in Colorado has ever been recognized as navigable in face, or under state law. This fact has particular importance under Illinois Central, which defined a navigable river as one with "one entire navigable channel, free from obstruction, and of the usual capacity between high and low water, maintaining the right of due navigation and commerce on the waters, as a public common right of the people of the state, and that is the public trust doctrine contrary to such an express constitutional guarantee.

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The Lock and Key System: An extraordinary characteristic of the Public Trust Doctrine is that its legal basis and origins are unknown. This is a remarkable, considering that the Public Trust Doctrine can operate as an almost super-constitutional restraint on or empowerment of state governments (in those jurisdictions where it has been held to apply). But neither the United States Constitution nor the state constitutions mention such a trust. Neither has it been, except in rare instances; adopted by statute.

various explanations of the source of its adoption have been offered, such as the Equal Footing doctrine of the United States Constitution, or the doctrine of the common law right to navigate streams and rivers. Numerous other legal writings have discussed the Public Trust Doctrine and its importance to navigability through the Western states.

By insisting on having adequate storage and quality drinking water, you will do more to help the environment in Colorado than by any other option. The only way out may be to accede to extortion. But that is a temporary solution, not a permanent one. By standing up and seeing this issue through, you’ll find the Forest Service and the Attorney General will be forced to deal with us fairly. I do know that by acceding to requests that are not authorized in law, the issue will be prolonged.

Colorado Water Rights
Leonhard and Waite: The Public Trust Doctrine

The Public Trust Doctrine

The public trust doctrine is grounded in the right of the public to control resources that are essential to the well-being of the populace. This doctrine is often referred to as the “public trust doctrine” because it vests certain natural resources, such as navigable waters and submerged lands, in trust for the benefit of the public. The public trust doctrine is based on the idea that certain natural resources are so essential to the public welfare that they should be held in trust for the use and enjoyment of the public.

The public trust doctrine has a long history in American law and is rooted in the common law concept of “navigable waters.” The doctrine was first articulated in the case of *New York ex rel. Rhinelander Trask v.activité [1] in 1887. The court in *Rhinelander Trask held that the state of New York had a public trust in the Hudson River, which was essential for navigation and commerce.

The public trust doctrine has been applied in a number of states and has been used to protect a variety of natural resources, including navigable waters, submerged lands, and wetlands.

The public trust doctrine is an important tool for protecting the public interest in natural resources. It is often used to prevent private individuals or corporations from using natural resources in a way that is detrimental to the public welfare.

In Colorado, the public trust doctrine has been used to protect the state’s water resources. The state’s water laws recognize the public trust in water and provide for the state to hold water resources in trust for the use and enjoyment of the public.

In 1973, the Colorado Supreme Court recognized the public trust in Colorado’s water resources in the case of *City of Denver v. City of Boulder.* The court held that the state of Colorado held the water resources in trust for the public and that the state had the duty to manage the water resources in a way that was in the public interest.

The public trust doctrine remains a powerful tool for protecting the public interest in natural resources. It is an important consideration for policy makers and for those who are involved in the management of natural resources.
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understands not only property rights, but also the basic principles of stream and riparian law. Moreover, the prospect of such a result - broad, standardless litigation destroys the fundamental certainty provided by property rights in general, and prior appropriations law specifically.

Owners and users of all water delivered and stored in Colorado would be at risk. All diversion and storage projects are planned, designed, and completed based on assumptions of priority systems, and that a certain volume of water can be diverted or stored whenever available in priority. A public trust, however, would require all these water rights subject to potential curtailment or revocation - not just by water shortage, senior rights or non-use, but by the state's or a judge's determination that one use has become more valuable than another. This intolerable level of uncertainty could make it virtually impossible to plan or finance a significant water project, or just the everyday conduct of many projects which have been built but not yet paid off.

Like other modern advocates of the public trust doctrine, Mr. Hamilton rejected the need for the enabling state law - required transfers of private rights to public use, without the owners' consent and without compensation. Mr. Hamilton said to the Legislative Council:

"Do the proponents intend that the courts, in upholding a "public trust doctrine," will have the authority to transfer existing private rights to public use? And the answer is that we do.

To the next question, "Without the consent of the individual owners, is the right to divert or store water at the water's mouth?" Mr. Hamilton answered. "Yes." Mr. Hamilton went on to describe the Complex Water Rights Concept, saying these forced transfers of private rights to the public would be without compensation.

In the Court of Public Reason, as discussed above, have always been recognized as property rights, have never been limited by a public trust, and cannot be so limited, without just compensation. Thus, the concepts contemplated by Mr. Hamilton would subject the State to enormous liability for takings.

CONCLUSION

Colorado's appropriation doctrine has met the State's water needs for over 100 years. As new needs and values have arisen, they have been addressed within that system by the state's or a judge's determination, not by the state's or a judge's determination, not by another. This intolerable level of uncertainty could make it virtually impossible to plan or finance a significant water project, or just the everyday conduct of many projects which have been built but not yet paid off.

Leeward and Waite: The Public Trust Doctrine


colorado water congress

9/94

Chairman: Richard D. MacRae, Executive Director

Colorado Water Congress

1600 Logan Street, Suite 100, Denver, CO 80203

Members

September 9, 1994

Dear Members:

I hope that you feel that your renew dues are a worthwhile investment. If you have any questions, please do not hesitate to call Richard D. MacRae, Executive Director, at 303-894-1894.

Sincerely,

Richard D. MacRae
President
Some Thoughts on Amendment 12

by The Ole Water Buffalo

Hey folks, our friend from Colorado Springs has come up with not just one ballot issue in Amendment 12 — but bunches and bunches and bunches of goodies! (See article by Citizens Against 12.)

If I were greedy, I would be supporting Mr. Bruce's Amendment 12. I would be able to open up a consulting business and offer campaign and election services.

People could initiate elections on all kinds of neat things, e.g., name State Insect, move State Fair, steal water, mandate football opponents, consolidate counties, take private property, move State Capitol — WOW — just think of the election possibilities. The lucky voter will be at bat waiting for 50 balls (ballot issues) to be thrown at once. It makes your wallet — I mean mouth — water. Amendment 12 would be a consultant’s dream!

But, even though it is tempting, I have to put principle first and say — do Coloradoans really want ECONOMIC INSTABILITY? Business will not come or stay where chaos and crisis exists! Hey, you know who gets to pay under TWELVE — you and me. So, protect your pocketbook and vote NO on Amendment 12.

The CWC Board of Directors has voted unanimously to OPPOSE AMENDMENT 12.

What Amendment 12 means for Colorado

by Citizens Against 12

- Petition Fraud
  The elimination of safeguards prevents detection of petition fraud. This means unqualified outsiders and meddlers can force elections in your community and suspend community action.

- Taxes for Political Campaigns
  Amendment 12 will divert millions of your tax dollars from public services, such as education, law enforcement, prisons and public health, to fund political campaigns.

- Government By and For the Wealthy
  Rather than empowering the average Colorado citizen, Amendment 12 will tip the scales of power toward wealthy individuals. There are no restrictions on campaign contributions by wealthy individuals to candidates or issues.

- Suppresses the Public’s Right to Know
  Amendment 12 suppresses information available to the taxpayer public on the fiscal and other impacts of ballot issues.

- Gridlock — Progress Held Hostage
  Amendment 12 allows filing of referenda petitions to delay action on most public matters for up to two years until an election can be held. Progress will be delayed, and often prevented, by initiative and referendum tactics used by fringe groups and gadflies.

- Justice Undermined
  Amendment 12 jeopardizes fair and impartial trials. Judges must be able to apply the law without fear of reprisal through recall by disgruntled individuals or interest groups.

- Hidden Costs to Taxpayers
  Amendment 12 mandates new and extra taxpayer expenses. For example, taxpayers must pay for printing and delivery of initiative petitions upon request of a single petitionor, no matter how trivial, outlandish or disruptive the proposal.

Colorado Water Congress

1390 Logan Street, Room 312
Denver, CO 80203