

# STATE OF COLORADO

## Colorado Water Conservation Board

### Department of Natural Resources

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### RESOLUTION OPPOSING INITIATIVES 3 AND 45

**WHEREAS**, water frequently does not naturally exist where and when it is needed in sufficient quantities to sustain human settlement and enterprise in Colorado; and

John W. Hickenlooper  
Governor

Mike King  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

**WHEREAS**, as a scarce natural resource, water in Colorado requires a system of allocation and enforcement to meet the needs of Colorado's citizens and the natural environment; and

**WHEREAS**, Colorado's Constitution ratified the prior appropriation doctrine by stating: "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 . . ."; and

**WHEREAS**, the prior appropriation doctrine was confirmed by the Colorado Supreme Court in *Coffin v. Left Hand Ditch Co.*, 6 Colo. 443 (1882) and evolved to meet the public's needs through 150 years of court opinions and legislation; and

**WHEREAS**, Colorado's prior appropriation system has proven itself both successful and flexible in addressing the public's changing demands, beneficial uses, and values regarding Colorado water resources (for example, instream flow and recreational in-channel diversion water rights); and

**WHEREAS**, the Colorado Water Conservation Board was established in 1937 as a citizen board that now represents each major river basin in the state charged with the mission of conserving, developing, protecting and managing Colorado's water for present and future generations; and

**WHEREAS**, the Colorado Water Conservation Board supports Colorado's system of prior appropriation as a fair and orderly system for allocating Colorado's scarce water resources; and

**WHEREAS**, the Colorado Instream Flow and Natural Lake Level Program, established in 1973, is the oldest and most robust instream flow program in the nation, preserving the natural environment on over 9,000 miles of stream and over 475 lakes for present and future generations; and

**WHEREAS**, in addition to the Instream Flow Program, the Colorado Water Conservation Board administers and supports water-related programs that uphold public values including recreation, watershed health, reducing the impacts of flood and drought, protection of Colorado's water

entitlements, and working in a broad-based public process to meet the state's consumptive and nonconsumptive needs for water; and

**WHEREAS**, the Colorado Water Conservation Board, through the Interbasin Compact Committee and the nine basin roundtables, supports a statewide stakeholder process that actively engages citizens in public participation, education, and outreach to determine municipal, industrial, agricultural, environmental, and recreational water needs, along with projects and methods to meet those needs.

**WHEREAS**, two individuals drafted state constitutional initiatives rejecting Colorado's historical reliance on the prior appropriation doctrine for water allocation and replacing it with an undefined foundation of the public trust doctrine; and

**WHEREAS**, the adoption of either of these initiatives would result in takings of private and public water rights established under the prior appropriation doctrine that Coloradans rely on for beneficial uses for health and human safety as well as economic benefit; and

**WHEREAS**, the adoption of either of these initiatives would result in dramatic reallocation of public and private, human and financial resources from constructive development and allocation of Colorado's water resources to Colorado's courts and legal system.

**NOW THEREFORE BE IT RESOLVED** that the Colorado Water Conservation Board opposes both Initiative 3 and Initiative 45 as unwise, unnecessary, and disruptive to the fair and responsible allocation and stewardship of Colorado's scarce water resources.

**BE IT FURTHER RESOLVED** that the Colorado Water Conservation Board authorizes its Director to disseminate and make publicly available this resolution.

#### **CERTIFICATE**

I certify that the foregoing is a true and correct copy of a resolution adopted unanimously by the members of the Colorado Water Conservation Board in regular session assembled at Glenwood Springs, Colorado on this 16<sup>th</sup> day of May, 2012, at which a quorum was present.

  
John McClow, Chair