PROPOSED STREAM ACCESS LEGISLATION

Preamble

WHEREAS Colorado's rivers and streams are a defining feature of the state's heritage, culture, and natural landscape, supporting agriculture, recreation, wildlife, and communities across every part of the State; and

WHEREAS public access to waterways for recreational purposes is essential to the physical and spiritual health and well-being of the people of Colorado, and

WHEREAS the Colorado Constitution provides that "[t]he 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 …"; and

WHEREAS outdoor recreation contributes over $62 billion annually to Colorado's economy, with river-based recreation—including fishing, rafting, kayaking, and tubing—accounting for more than $18 billion in consumer spending and supporting tens of thousands of jobs in rural and urban communities alike; and

WHEREAS river access is essential for sustaining small businesses such as outfitters, guides, kayak shops, and gear manufacturers, as well as for strengthening the tourism economy in mountain towns and on the plains; and

WHEREAS Colorado is one of the only Western states that fails to protect the public's right to access rivers and streams for recreational use, leading to persistent legal uncertainty and conflict; and

WHEREAS this legal uncertainty discourages investment, limits economic growth, and creates unnecessary disputes between landowners, recreationists, and state agencies; and

WHEREAS clarifying and modernizing Colorado's stream access laws would reduce litigation risk for landowners, provide certainty for recreationists, and align Colorado with neighboring states that have successfully balanced private property rights with public access; and

WHEREAS access to rivers and streams is a matter of fairness and equity, ensuring that all Coloradans—regardless of income, background, or geography—can enjoy the health, wellness, and cultural benefits of outdoor recreation; and

WHEREAS outdoor recreation on Colorado's rivers strengthens communities by improving public health, expanding educational opportunities, and connecting future generations to the outdoors; and

WHEREAS the Colorado Supreme Court's rulings, including its decisions in State v. Hill and People v. Emmert, have left unresolved the scope of the public's rights to float, wade, or fish on Colorado waterways, underscoring the need for legislative clarity; and

WHEREAS, clarifying stream access promotes safety, reduces trespass conflicts, and allows state agencies and local governments to better manage rivers for conservation, recreation, and economic vitality; and

WHEREAS, ensuring responsible stream access protects Colorado's reputation as a leader in

outdoor recreation, safeguards the outdoor industry that is a cornerstone of the state's economy, and upholds Colorado's tradition of connecting people to land and water.

NOW THEREFORE, the State of Colorado hereby adopts the Colorado Stream Access Act, which provides as follows:

The Colorado Stream Access Act

1. All natural waterways in the State of Colorado that are susceptible to recreational use are hereby declared to be available to the public for recreational access. Recreational access explicitly includes access to rivers and streams to float and fish, including the right to drop anchor or wade below the ordinary high watermark.
2. To the extent that the bed of a river or stream that is susceptible to recreational use is privately owned, title to the bed is held subject to a public easement for public recreational uses as guaranteed by the Colorado Constitution, Article XVI, § 5 and this Act.
3. The public shall also enjoy the right to portage around obstacles as necessary to exercise reasonable recreational use of the waterway, and to scout from the banks of a waterway but only in so far as necessary to ensure safe passage through potentially dangerous sections of a waterway. For purposes of this legislation, waterways do not include irrigation ditches and canals, or other irrigation structures.
4. Public recreational rights on Colorado's waterways extend to the ordinary highwater mark.
5. The legislation does not guarantee a right to access a waterway through private property; all access to public waterways must be secured through official public access points or through permission from the landowner.
6. Members of the public are required to respect private property and private rights when using Colorado's waterways for recreational purposes. They are liable in trespass for any use of private land above the ordinary high watermark, except as provided under section 1 of this statute.
7. Members of the public who use Colorado's waterways for recreational purposes are required to respect the right of private property owners to peaceful co-existence with recreational users. Moreover, recreational users who engage in unduly loud, obnoxious, or disruptive behavior when recreating on Colorado's waterways, may be liable to the adjacent landowner or prosecuted by the State for creating a nuisance.
8. This legislation does not prohibit the Department of Natural Resources, local governments, or tribes from exercising their previously established right to temporarily close access or regulate the use of segments of recreational waterways as necessary to protect public safety, cultural resources, or environmental values.
9. Landowners may not create an undue safety hazard through the obstruction of recreational use on Colorado waterways, which includes the placement of barbed wire or other hazards that prohibit safe passage along the waterway.
10. The public's right to use Colorado's waterways for recreational purposes exists independent of any permission or authority granted by a landowner. Accordingly, a landowner adjacent to

a recreational waterway owes no duty of care to keep the premises safe for entry or use by others, nor is the landowner responsible for injuries sustained during lawful recreational use; *provided however*, that a landowner who places an obstruction in a waterway or who engages in willful or malicious misconduct that might reasonably be expected to cause harm to a member of the public lawfully exercising their recreational rights, and that does in fact harm a member of the public engaged in lawful recreational use of a waterway, shall be liable for such injuries.

11. Any person who claims to have been denied the right to access a Colorado waterway as provided for under this law or has been threatened or harassed when seeking to exercise their rights suffers an injury to the rights guaranteed by this law and therefore has a cause of action to challenge that denial in the appropriate State district court.
12. Nothing in this legislation affects the right to appropriate water for beneficial purposes as provided under the Colorado Constitution, Article XVI, §§ 5 and 6.