

COLORADO TITLE SETTING BOARD

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Suzanne Taheri and Steve Ward, Objectors

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**MOTION FOR REHEARING ON INITIATIVE 2023-2024 #270**

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Suzanne Taheri and Steven Ward, registered electors of the State of Colorado, object to the Title Board’s finding that Initiative 2023-2024 # 270 (“Initiative #270”) constitutes a single subject, and submit this Motion for Rehearing.

On April 18, 2024, the Title Board set the following ballot title and submission clause for Initiative #270:

“A change to the Colorado Revised Statutes concerning holding any oil and gas operator, owner, or producer strictly liable for any damages including personal injury, property damage, or environmental harm that result from oil and gas operations without regard to fault.”

As demonstrated below, Initiative #270 violates the Colorado Constitution and conflicts with established legal precedent related to single subject and clear title. The Board lacks jurisdiction to set title as the measure contains multiple subjects. Objectors additionally assert the title is not clear and is misleading because it omits important features of Initiative #270.

**A. The Initiative Impermissibly Contains Separate and Distinct Subject in Violation of the Single Subject Requirement.**

Initiative #270 provides the following definition in proposed section 34-60-114.1(3)(e): ““Strict liability” means liability without regard to fault, negligence, or intent.”

The Title Board recently determined that the similar proposed initiative 2023-2024 #289, which would impose strict liability for certain damages and establish a definition of “strict liability,” did not constitute a single subject. The decision to set title for this Initiative #270 is blatantly inconsistent with the Board’s decision regarding proposed initiative 2023-2024 #289. The dictionary definition of “strict liability” is “liability imposed without regard to fault.”<sup>1</sup> Initiative #270 expands upon this commonly use of the term to add that it is also without regard to negligence or intent.

Initiative #270 would make “any operator, owner, or producer strictly liable for any damages, including personal injury, property damage, and environmental harm, resulting from oil and gas operations.” Given the proposed definition in Initiative #270, this liability applies regardless of negligence or intent, which must be intended to have some effect beyond the

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<sup>1</sup> *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/strict%20liability>. Accessed 23 Apr. 2024.

common, dictionary-defined use of “strict liability.” For example, it may be read to supersede other claims involving negligence or intent, such as an intentional tort or criminal act.

This decision should be consistent with the Board’s single-subject decision regarding proposed initiative 2023-2024 #289. Therefore, redefining the term “strict liability” constitutes a second subject. The Title Board should deny setting of a title for the Initiative on the grounds that the Initiative does not contain a single subject.<sup>2</sup>

**B. The Title Set is Unclear and Misleading.**

The title set by the Board is unclear and misleading because it omits important features of Initiative #270. The title fails to inform voters that the definition of strict liability includes liability regardless of negligence and intent. The title should also inform voters that it imposes strict liability regardless of the exercise of reasonable care or adherence to industry best practices.

Accordingly, the Objectors respectfully request that this Motion for Rehearing be granted and a rehearing set pursuant to C.R.S. § 1-40-107(1), because Initiative #270 contains multiple subjects and the Title Board lacks jurisdiction to set a title.

Respectfully submitted this 23<sup>rd</sup> day of April, 2024.

/s/ Suzanne Taheri

West Group  
*Attorney for Objectors*

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<sup>2</sup> Colo. Const. Art. V, § 1(5.5) (“[n]o measure shall be proposed by petition containing more than one subject . . . .”); § 1-40-106.5, C.R.S.; and *Fine v. Ward (In re Titles, Ballot Titles, & Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, & #128)*, 2022 CO 37, ¶8 (“When a proposed initiative comprises multiple subjects, the Board lacks jurisdiction to set its title.”).