

SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, Colorado 80203	DATE FILED May 8, 2026 3:49 PM
Original Proceeding Pursuant to Colo. Rev. Stat. §1-40-107(2) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025- 2026 #311 Petitioners: LYNN GRANGER AND CARLY WEST v. Respondents: SIDRA AGHABABIAN AND JESSICA ARHONTOULIS and Title Board: THERESA CONLEY; KURT MORRISON; and CHRISTY CHASE	▲ COURT USE ONLY ▲
<i>Attorneys for Respondents</i> Martha M. Tierney, No. 27521 Tierney Lawrence Stiles LLC 225 E.16 th Ave, Suite 350 Denver, CO 80203 Phone: (303) 356-4870 E-mail: mtierney@tls.legal	Case No.: 2026SA154
<p style="text-align: center;">OPENING BRIEF OF RESPONDENTS SIDRA AGHABABIAN AND JESSICA ARHONTOULIS IN SUPPORT OF PROPOSED INITIATIVE 2025-2026 #311</p>	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules.

Specifically, the undersigned certifies that:

The brief complies with the applicable word limits set forth in C.A.R. 28(g) because it contains 3,145 words.

The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A), because it contains under a separate heading before the discussion of the issue, as applicable, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

By: /s/ Martha M. Tierney

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Respondents Sidra Aghababian and Jessica Arhontoulis, designated representatives of the proponents of Proposed Initiative 2025-2026 #310 (the “Proposed Initiative”), through undersigned counsel, respectfully submit their Opening Brief as follows:

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

The issues presented for review appear to be the following:

Whether the Title Board lacked jurisdiction to set a title for Initiative #311 because the measure impermissibly contains multiple subjects that are not necessarily or properly connected.

Whether the Title Board lacked jurisdiction to set a title for Initiative #311 because the measure is so vague, confusing, and unclear as to its enforcement mechanisms that it cannot be understood.

Whether the Title Board erred by adopting a title for Initiative #311 that misleads voters and fails to accurately describe the measure.

See Petition, pp.4-5.

STATEMENT OF THE CASE AND FACTS

Respondents Sidra Aghababian and Jessica Arhontoulis are the designated representatives of the proponents of the Proposed Initiative (“Proponents”).

Proponents submitted their Proposed Initiative to the Title Board for the setting of

a title and submission clause pursuant to § 1-40-106, C.R.S., on April 2, 2026. *See Record*, p. 12.

The Title Board held a hearing on April 15, 2026, where it determined that the Proposed Initiative contained a single subject pursuant to Colo. Const. art. V, §1(5.5) and § 1-40-106.5, C.R.S., and set a title. *Record*, p. 10. Petitioners Lynn Granger and Carly West filed a Motion for Rehearing contending that the Proposed Initiative contains multiple subjects in violation of the single-subject requirement, and that the title as set by the Title Board was misleading. *Record*, pp. 2-9. The Title Board held a rehearing on April 23, 2026, and denied the Motion for Rehearing in its entirety. *Record*, p. 11. The title set by the Title Board is as follows:

Shall there be a change to the Colorado Revised Statutes holding oil and gas operators and waste injectors jointly and severally liable for damage to underground drinking water sources caused by the generation or injection of exploration and production waste, and, in connection therewith, holding operators and waste injectors liable for all costs to restore the drinking water source and for economic, environmental, or health-related harm caused by the damage?

Record, p.11. Petitioners timely filed a Petition for Review of the actions of the Title Board with this Court.

SUMMARY OF THE ARGUMENT

The Title Board properly exercised its broad discretion in setting title on the Proposed Initiative. The Proposed Initiative contains a single subject: “holding oil and gas operators and waste injectors jointly and severally liable for damage to underground drinking water sources caused by the generation or injection of exploration and production waste.”

Petitioner raises two single subject objections: first, that the Proposed Initiative imposes joint and several liability for all costs associated with remediation of the underground source of drinking water to restore it to its pre-damage condition. This argument fails because concerns about the effects that Initiative #311 could have on other laws are not appropriate for review at this stage. Second, Petitioners argue that the measure violates the single subject requirement because it provides for damages for conduct that has transpired (backward-looking) and it requires restoration of the drinking water source (forward-looking). This argument fails because all of the Proposed Initiative’s provisions necessarily and properly relate to imposing joint and several liability on oil and gas operators liable for damages they cause to underground drinking water sources.

Next Petitioners claim that the Title Board lacked jurisdiction to set a title because the measure is vague, confusing, and unclear. The Petitioners do not cite any authority that supports this jurisdiction argument, and Proponents are not aware of any. The Title Board properly found that the Proposed Initiative contains a single subject and that it had jurisdiction to set a title.

Petitioners' clear title objections also lack merit. Petitioners object to the title because it does not alert voters to its prospective application, it omits including the words "pre-damage condition" when describing how operators and waste injectors are liable for all costs to restore the drinking water source, it does not include the word "responsible" when referring to which operators and waste injectors are liable, it uses the phrase "jointly and severally liable," and it includes the phrase "in connection therewith." These concerns do not override the discretion of the Title Board to draft a brief title that captures the major features of the measure.

The Title Board is only obligated to fairly summarize the central points of a proposed measure and need not refer to every nuance and feature of the proposed measure. While a title must be fair, clear, accurate and complete, it is not required to set out every detail of an initiative.

Accordingly, there is no basis to set aside the Title, and the decision of the Title Board should be affirmed.

ARGUMENT

I. **The Initiative Complies with the Single Subject Requirement.**

A. **Standard of Review and Preservation.**

Article V, section 1(5.5) of the Colorado Constitution, and section 1-40-106.5(1)(a), C.R.S. state that a proposed initiative must be limited to “a single subject which shall be clearly expressed in its title.” “A proposed initiative violates this rule if its text relates to more than one subject, and has at least two distinct and separate purposes not dependent upon or connected with each other.” *In re Title, Ballot Title, & Submission Clause for 2011-2012 #3*, 2012 CO 25, ¶ 9. When reviewing a challenge to the Title Board’s decision, this Court “employ[s] all legitimate presumptions in favor of the propriety of the Title Board’s action.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #89*, 2014 CO 66, ¶ 8. The Court will “only overturn the Title Board’s finding that an initiative contains a single subject in a clear case.” *Id.*

The Court does “not address the merits of the proposed initiative” or “suggest how it might be applied if enacted.” *In re Title, Ballot Title, & Submission Clause for 2019-2020 #3*, 2019 CO 57, ¶ 8. Nor can the Court “determine the

initiative’s efficacy, construction, or future application, as these are matters properly considered if and after the voters approve the initiative.” *In re Title, Ballot Title, & Submission Clause for 2015-2016 #63*, 2016 CO 34, ¶ 7. Instead, the Court “must examine the initiative’s wording to determine whether it comports with the constitutional single-subject requirement.” *In re 2019-2020 #3*, 2019 CO 57, ¶ 8. To satisfy the single-subject requirement, the “subject matter of an initiative must be necessarily and properly connected rather than disconnected or incongruous.” *In re Title, Ballot Title, & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8. “Implementing provisions that are directly tied to the initiative's central focus are not separate subjects”. *In re 2015-2016 # 63*, 2016 CO 34, ¶ 10.

“[T]he single subject requirement should be construed liberally to avoid unduly restricting the initiative process.” *In re Title, Ballot Title, & Submission Clause for 2007-2008 # 61*, 184 P.3d 747, 750 (Colo. 2008).

Proponents do not contest the Petitioner’s preservation of the arguments enumerated above, though they defer to the Petitioner to specify the precise location(s) in the record where each issue he wishes to address here was raised and addressed before the Title Board.

B. Initiative #311 Has a Single Subject.

Petitioners assert that Initiative #311 violates the single subject requirement but they do not articulate a reason why in their Petition. *Petition*, p. 4. In their Motion for Rehearing before the Title Board, Petitioners first argued that the Proposed Initiative violates the single subject requirement because it imposes joint and several liability for all costs associated with “remediation of the underground source of drinking water to restore it to its pre-damage condition.” *Record*, p. 3. Second, Petitioners argued that the measure violates the single subject requirement because it “improperly combines two aspects with different temporal elements: (1) providing for damages for conduct that has transpired (backward-looking) and (2) requiring restoration (forward-looking).” *Record*, p. 3. These arguments lack merit and this Court should reject them.

The single subject of the measure, as crafted by the Title Board in the title, is “holding oil and gas operators and waste injectors jointly and severally liable for damage to underground drinking water sources caused by the generation or injection of exploration and production waste.” *Record*, p. 11. Petitioners’ contention is that the Proposed Initiative changes current law with regard to groundwater remediation, and that this change is coiled up in the folds of the measure. *Record*, p. 3. But this change is not surreptitious, nor will it surprise

voters. Instead, the Proposed Initiative clearly states that oil and gas operators will be held jointly and severally liable for “[r]emediation of the underground source of drinking water to restore it to its pre-damage condition.” *Record*, p. 13, ¶ 4(a).

The Title Board also included language in the title to alert voters that the measure “hold[s] operators and waste injectors liable for all costs to restore the drinking water source[.]” *Record*, p. 11.

Petitioners’ argument appears to be concern about the effects of the Proposed Initiative on existing law. However, “the effects this measure could have on Colorado law if adopted by voters are irrelevant to [the Court’s] review of whether the proposed initiative and its Titles contain a single subject.” *In re Title, Ballot Title & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶ 17(internal citations omitted).

Similarly, Petitioners’ complaint that combining liability for conduct that has occurred with an obligation to remediate the damage is not a single subject violation. The Proposed Initiative has a narrow focus and is not an omnibus measure seeking to attract support from various factions which may have different or even conflicting interests. *Record*, p. 3, citing *In re Proposed Initiative “Public Rights in Waters II”*, 898 P.2d 1076, 1079 (Colo. 1995). All of the Proposed Initiative’s provisions necessarily and properly relate to imposing joint and several

liability on oil and gas operators liable for damages they cause to underground drinking water sources. *See In re 2013-2014 #90*, 2014 CO 63, ¶ 11.

At its core, Petitioners' argument is that the Proposed Initiative is a poor policy choice. But that is not relevant to this Court's review. *See In re Title, Ballot Title & Submission Clause for 2007-2008 # 57*, 185 P.3d 142, 148 (Colo. 2008) (Court's role is not to determine the merits of a proposed initiative). The Proposed Initiative contains a single subject.

II. The Title Board Had Jurisdiction to Set a Title.

A. Standard of Review and Preservation.

The Title Board is vested with considerable discretion in setting the title, ballot title and submission clause, and summary. *In re Title, Ballot Title & Submission Clause, and Summary Pertaining to the Campaign and Political Finance Initiative, etc.*, 830 P.2d 954, 954 (Colo. 1992). The Court does "not address the merits of the proposed initiative" or "suggest how it might be applied if enacted." *In re Title, Ballot Title, & Submission Clause for 2019-2020 #3*, 2019 CO 57, ¶ 8. Nor can the Court "determine the initiative's efficacy, construction, or future application, as these are matters properly considered if and after the voters approve the initiative." *In re 2015-2016 #63*, 2016 CO 34, ¶ 7. Instead, the Court

“must examine the initiative’s wording to determine whether it comports with the constitutional single-subject requirement.” *In re 2019-2020 #3*, 2019 CO 57, ¶ 8.

Proponents do not contest the Petitioners’ preservation of the arguments enumerated above, though they defer to the Petitioners to specify the precise location(s) in the record where each issue they wish to address here was raised and addressed before the Title Board.

B. The Petitioners’ Jurisdiction Argument Is Improper.

Petitioners next assert that the Title Board lacks jurisdiction to set a title because the measure is “so vague, confusing, and unclear that it cannot be understood.” *Petition*, p. 4. In their Motion for Rehearing, Petitioners cited one case in support of this argument, but that case does not stand for the proposition that the Title Board lacks jurisdiction to set a title if the measure is vague, confusing, or unclear. *See In re Title, Ballot Title and Submission Clause for 2015-2016 #73*, 2016 CO 24 (Colo. 2016). Rather, the Petitioners cite to language in *In re 2015-2016 #73* that is describing the single subject and clear title requirements, and this Court, in that case, found that the initiative at issue did indeed have a single subject but lacked a clear title. *Id.* at ¶¶ 8, 16.

Generally, aside from procedural issues such as making substantial changes to initiative language without resubmitting the initiative for a new Review and

Comment hearing, *see* §1-40-105(2) C.R.S., *In re Proposed Initiated Constitutional Amendment Concerning Ltd. Gaming in the Town of Idaho Springs*, 830 P.2d 963, 964 (Colo. 1992), or failing to have both designated representatives present at a Review and Comment meeting or Title Board hearing, *see* §1-40-105(1.5), §1-40-106(4)(a), C.R.S., the only substantive reason the Title Board lacks jurisdiction to set a title is when the measure violates the single subject requirement. *See In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-2002 # 43*, 46 P.3d 438, 449 (Colo. 2002) (affirming Title Board’s determination that it lacked jurisdiction to set title because the proposed initiative contained more than one subject).

To the extent that Petitioners assert that this argument is really about a single subject violation or a misleading title, for all the reasons set forth above in Section I, and below in Section III, those arguments fail. The Title Board had jurisdiction to set the title for the Proposed Initiative.

III. The Title Set by the Title Board Is Not Misleading.

A. Standard of review and preservation.

“The Title Board’s duty in setting a title is to summarize the central features of a proposed initiative.” *In re 2013-2014 #90*, 2014 CO 63, ¶ 24. The Title Board is “afforded discretion in resolving interrelated problems of length, complexity,

and clarity in designating a title and ballot title and submission clause.” *In re 2015-2016 #73*, 2016 CO 24, ¶ 23. The Title Board is required to summarize the central features of a proposed initiative fairly, but it "need not explain the meaning or potential effects of the proposed initiative on the current statutory scheme." *Id.* Nor must a title recite every detail of the proposed measure. *In re Title, Ballot Title, & Submission Clause for 2001-2002 #21 & #22*, 44 P.3d 213, 222 (Colo. 2002). The Court will reverse the title set by the Board “only if a title is insufficient, unfair, or misleading.” *Id.* ¶ 8. The Court does not “consider whether the Title Board set the best possible title.” *In re 2019-2020 #3*, 2019 CO 107, ¶ 17.

Respondents agree that Petitioners preserved their challenge to the title set by the Board.

B. The Title Properly Informs Voters of the Key Features of the Proposed Initiative.

Petitioners do not specify in their *Petition* how the title is flawed, but in their *Motion for Rehearing, Record*, pp. 3-4, Petitioners argued that the title is flawed for a laundry list of reasons, none of which render the title “insufficient, unfair, or misleading.” *In re Title, Ballot Title and Submission Clause for 2015-2016 #156*, 2016 CO 56, ¶ 8. The Title Board considered Petitioners’ concerns about the title but rejected the request to make changes to the title on these grounds. *Record*, p. 11.

First, laws are presumed to have a prospective effect unless a contrary intent is expressed in the language. *See Riley v. People*, 828 P.2d 254, 257 (Colo. 1992). The Title Board considered Petitioners' argument to amend the title to clarify that the measure only applies to current and future generation or injection of exploration and production waste and determined that it was not necessary to make any changes to the title. *Record*, p. 8. Titles are intended to be a "relatively brief and plain statement by the Board setting forth the central features of the initiative for the voters," rather than "an item-by-item paraphrase of the proposed constitutional amendment or statutory provision." *In re Title, Ballot Title and Submission Clause for 1997-1998 # 62*, 961 P.2d 1077, 1083 (Colo. 1998).

Second, the Title Board determined that it did not need to include in the title the detail that operators and waste injectors are liable for all costs to restore the drinking water source to its pre-damage condition. The Title Board opted to use "all costs to restore the drinking water source" as plain language to describe the measure in a way that most voters will understand.

Third, the Title Board rejected Petitioners' argument to add language to the title about the "responsible" operators and waste injectors, and instead determined that the title was sufficiently clear on this point.

Fourth, the Title Board determined that most voters will be familiar with the phrase “jointly and severally liable” and there was not a succinct way to describe those terms in plain language. The Title Board further reasoned that voters would have the Blue Book to assist them in understanding the full scope of the Proposed Initiative, and that using these words in the title would lead to better voter understanding and give voters useful information to determine whether to vote yes or no on the measure.

Fifth, the Title Board disagreed with Petitioners that the title as written suggests that oil and gas operators are jointly and severally liable in all circumstances. The title clearly states in the trailing clause in what instances joint and several liability applies. “A perfect title is not necessary, but the Title Board must, in the process of setting a title, consider the public confusion that might be caused by misleading titles, avoid titles for which the general understanding of the effect of a 'yes/for' or 'no/against' vote will be unclear, and correctly and fairly express the true intent and meaning of the initiative in the title. *In re 2015-2016 #156*, 2016 CO 56, ¶ 10 (internal citations omitted).

The Title Board exercised its discretion to craft a title that seeks to avoid “public confusion,” is “brief” and “unambiguously states the principle of the provision sought to be added, amended, or repealed.” §1-40-106(3)(b), C.R.S.

“While titles must be fair, clear, accurate and complete, the Title Board is not required to set out every detail of an initiative.” *In re Title, Ballot Title, & Submission Clause for 2007-2008 #62*, 184 P.3d 52, 60 (Colo. 2008). This Court should defer to the Title Board’s discretion. *In re Title, Ballot Title, & Submission Clause for 1999-2000 #256*, 12 P.3d 246, 255 (Colo. 2000) (“In reviewing the actions of the Board, we grant great deference to the board’s broad discretion in the exercise of its drafting authority.”)

CONCLUSION

The Proponents respectfully request the Court to uphold the actions of the Title Board regarding Proposed Initiative 2025-2026 #311.

Respectfully submitted this 8th day of May, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPENING BRIEF OF RESPONDENTS SIDRA AGHABABIAN AND JESSICA ARHONTOULIS IN SUPPORT OF PROPOSED INITIATIVE 2025-2026 #311** was electronically served via e-mail or via the Colorado Courts E-Filing System on the 8th day of May, 2026 to the following:

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