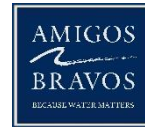




Southwest Native Cultures



Common Ground Risina



A New Mexico Green Amendment: Key Talking Points Making Environmental Rights Enforceable and Meaningful

Industrial externalities, damaging development, and misplaced government decision-making have allowed the inalienable rights of New Mexico residents to clean air, plentiful and pure water, a stable climate, and healthy environments to be violated. Despite state environmental laws, regulations and agencies, New Mexico water, air, soils, landscapes, and special natural spaces have been allowed to degrade in ways that are harming every aspect of people’s lives. An effective Constitutional amendment could help change that.

A Green Amendment would constitutionally mandate that New Mexico government officials protect the environmental rights of all residents, including present and future generations. The self-executing amendment will allow legal redress when this right is violated by government action or inaction.

Establishing an enforceable environmental right will drive better government decision-making at all levels of government and will prevent situations or conditions in which land becomes too contaminated, water becomes too polluted, and air too dirty to support healthy lives, including a healthy economy.

In order to obtain this highest level of protection in New Mexico, a proposed amendment must pass by majority vote through both houses of the New Mexico Legislature after which the people of New Mexico will be given the opportunity to vote on whether or not their *right to pure water, clean air and a healthy environment* will be protected by the state constitution.

The New Mexico Green Amendment will amend Article II of the Constitution to recognize the environmental rights of the people of New Mexico by protecting the **“right to a clean and healthy environment, including pure water, clean air, healthy**

Proposed New Mexico Green Amendment Language:

SECTION 1. It is proposed to amend Article 2 of the constitution of New Mexico by adding a new section to read:

- A. The people of the state, including future generations, have the right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.
- B. The state, including each branch, agency, and political subdivision, shall serve as trustee of the natural resources of the state, among them its waters, air, flora, fauna, climate and public lands. The state shall conserve, protect, and maintain these resources for the benefit of all the people, including generations yet to come.
- C. The rights stated in this section are inherent, inalienable, and indefeasible and are among those rights reserved to all the people and are on par with other protected inalienable rights. The provisions of this section are self-executing.

SECTION 2. It is proposed to amend Article 20 of the constitution of New Mexico by repealing Section 21.

ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment” for both present and future generations.

A NM Green Amendment will:

- ✓ ... Place the rights to clean water and air, a stable climate and healthy environments legally on par with the rights to bear arms, to free elections, to free speech, freedom of religion and the rights of victims of serious crimes to be treated with respect, fairness and dignity;
- ✓ ... Ensure that every government official in the state will work to advance environmental protection at every level of the decisionmaking process, rather than waiting until the end of the process when the focus is necessarily on permitting rather than prevention. All government action, including the passage of laws, regulations, policies and programs is done in service to advancing the state constitution – government officials cannot change or violate the constitution, they must honor and implement it.
- ✓ ... Ensure government decisions and action prioritize environmental protection and pollution prevention as compared to prioritizing pollution permitting and management;
- ✓ ... Fill the gaps in environmental laws and provide a legal basis for securing water, air and environmental protection even in those situations where there is no state law or regulation to provide protection;
- ✓ ... Strengthen environmental justice by ensuring all communities – regardless of race, ethnicity or income – have the same rights to clean water and air and healthy environments and the duty of all government officials to protect all communities equitably;
- ✓ ... Protect the cultural values of indigenous communities to a healthy environment, protect sacred lands from environmental desecration, and honor traditional cultural connection to healthy natural resources;
- ✓ ... Ensure consideration of cumulative impacts as part of decisionmaking so the additive impact of new pollution/degradation is considered;
- ✓ ... Empower communities to address unconstitutional infringement on environmental rights such as clean water and air, by providing constitutional grounding for their advocacy and access to the courts for redress;
- ✓ ... Strengthen the healthy economic growth that avoids the costs of environmental harm including illness, cleanup costs, flooding, drought & declining property values by ensuring government laws, regulations, decisions, permits and actions avoid environmental degradation rather than responding to it after-the-fact;
- ✓ ... Ensure Article XX Section 21 cannot be used to infringe on these environmental rights. Currently Art XX, Section 21 recognizes that “protection of the state’s beautiful and healthful environment is ... of fundamental importance to the public interest, health, safety and the general welfare.” However, it does not provide self-executing, constitutional Bill of Rights protection of the environment for all people. Instead, it recognizes the duty of legislators to legislate, and protects government action even when it devastatingly degrades our water, air, climate and environment. The repeal also recognizes that the existing Section 21 language has not fulfilled the intended goal of environmental protection and so is better replaced with the clear, concise, compelling and enforceable language of the new proposed Article II Section 25.¹

More info & Resources at: www.NMGreenAmendment.org

¹ *Article XX, § 21, Pollution Control reads: The protection of the state’s beautiful and healthful environment is hereby declared to be of fundamental importance to the public interest, health, safety and the general welfare. The legislature shall provide for control of pollution and control of despoilment of the air, water and other natural resources of this state, consistent with the use and development of these resources for the maximum benefit of the people.*