

# Big Oil's plot to conquer Colorado

*Ryan Cooper   The Week*

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Below the headline races on the Colorado ballot this year lurks an unassuming yet spectacularly dangerous initiative to amend the state constitution. Called [Amendment 74](#), it would badly undermine democracy in the Centennial State — handing over a great deal of its sovereign power to oil and gas companies.

Here's how it would work.

Let's start with the goofy political theory behind this thing. It's a classic piece of self-contradictory libertarian dogma called "[regulatory takings](#)." The idea is that whenever the state alters regulations in a way that infringes on profits, property owners deserve compensation based on how the market value changes.

Thus the language of the Colorado initiative would add a phrase to the state constitution dealing with eminent domain, saying that private property shall not be "[reduced in fair market value by government law or regulation](#)" without compensation.

This is a moral argument that property owners — specifically oil and gas companies, who drafted the amendment and are paying for a big agitprop

campaign on its behalf — have a right to the current market value of whatever they happen to own. To many Americans, that no doubt sounds pretty fair — indeed, the Colorado constitution already stipulates that the state must pay "just compensation" whenever it takes someone's property outright.

But it's profoundly disingenuous.

At the level of political theory, [the problem](#) is that property value is underpinned at all points by the state. Through its property law, corporate law, securities law, administrative apparatus, legal system, and monopoly on violence, the state *creates* property rights and allows such a thing as "fair market value" to exist in the first place. Libertarians like to pretend ownership is a relationship between people and *objects*, but it is really a relationship between people and *other people*. "Owning" something gives you a legal right to run to the state and claim the use of their power to enforce your dominion over something.

Therefore, owners do not have a pre-political right to compensation anytime their property rights are changed by the state. They have it only insofar as the polity *decides it is deserved* in such cases. To see such an idea in practice, you only have to look at the existing Colorado constitution, which *already* contains eminent domain protections. These stipulate compensation for times when people's property is "taken or damaged" by the state — for example, seizing someone's farm to build an airport, in which case paying compensation is perfectly reasonable.

But in addition to being philosophical garbage, the Big Oil amendment's language about "fair market value" makes it quite pernicious. The property rights in question are mostly extractive fossil fuel rights (as noted,

homeowners, farmers, and the like are already fine), which are valuable almost entirely because companies do not have to pay for the enormous damage that digging up that oil and gas, selling it, and burning it causes to the rest of the United States and the world.

In other words, the "fair market value" of oil and gas drilling rights is not just the inherent product of state institutions from the very start. It's also the result of a *gigantic* implicit subsidy — one which analysts suggest could amount to perhaps [\\$230 per ton of carbon dioxide emitted](#). But if the amendment passes, the state government would be forced to compensate for any regulation that would reduce the profitability of fossil fuel extraction. And given how profitable oil companies are, any meaningful regulation might be completely out of reach.

Effectively, this would harness the state on behalf of oil companies by making it extremely difficult for the government to exert its power on anyone's behalf but theirs. Thomas Hobbes thought such absolutist property rights ideology "[tendeth to the dissolution of a commonwealth](#)." And it would do so at a moment in which rolling back greenhouse gas emissions as fast as possible is [the most important priority](#) in the world.

So if you live in Colorado, don't be fooled by the propaganda Big Oil and its media sycophants are shoveling out. The property of individuals is already well-protected by the state constitution. The oil and gas industry just wants to seize Colorado's state power for itself.