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Amendment 83 is not really about whether hunting should continue in Colorado. Hunting is legal and firmly protected under state law. In fact, Title 33 states, “The state shall utilize hunting, trapping, and fishing as the primary methods of effecting necessary wildlife harvests.” C.R.S. § 33-1-101 (2026).

What Amendment 83 would do is create an undefined constitutional right to hunt and fish by “traditional methods.” In other words, the amendment freezes progress in time by protecting “traditional methods” of hunting and opens up the possibility of legal challenges to reverse proscribed hunting methods, such as bear baiting or the use of steel-jawed leghold traps, under the premise that these were long-practiced activities before voters outlawed their use.

As a constitutional law scholar, I find Amendment 83 an unsuitable use of a state constitutional amendment. Constitutions establish government structures and protect enduring principles, not enshrine a highly ideological wildlife-management philosophy.

Ordinarily, law reforms are passed as legislation through the normal legislative process. Laws can be amended, and that’s why legislative service is an ongoing project in the American experience. Conversely, a constitutional amendment is meant to be enduring and not subject to regular amendment. Courts can strike down a regular law if it conflicts with the Constitution, however they cannot strike down part of the Constitution itself. Repealing a constitutional amendment requires a vote of the people and a supermajority of voters.

Given all this, constitutional amendments tend to lock in only the most generally accepted principles, such as due process, free speech, and structural rules of government. What a constitution should not do is wade into policy matters that are subject to regular regulatory and legislative action. Wildlife management is built around limits on hunting, such as season lengths, bag limits, and restrictions on using dogs to hunt deer or elk. Imposing or easing those limits is the job of governments and the people. Indeed, a defining feature of responsible wildlife management is the capacity to refine and revise the rules based on an ongoing understanding of wildlife populations, environmental conditions, and the innovations in technology that allow for more efficient taking of wildlife.

But even if we wanted to have our constitution address questions of hunting, surely we would not support a constitutional provision that equates those practices that have

“traditionally” been permitted with the scope of practices that must always and forever be allowed in this state. American history is full of wildlife practices that once seemed traditional and even sensible but later proved disastrous. In the nineteenth century, bison were slaughtered on an almost unimaginable scale; predators were systematically eradicated, and countless species were treated as essentially inexhaustible, with some, like the passenger pigeon, driven to complete extinction. Locking in as constitutionally untouchable all “traditional methods” of hunting is nonsensical and contrary to the clear lessons of state and federal history.

Amendment 83 has noticeably vague language. Even as a law professor, I cannot make sense of what this amendment would prohibit and allow. The amendment would enshrine a right to use “traditional methods.” But what does this mean? Traditional as of 2026? Or traditional as of 1876 (when Colorado became a state)? Is a practice traditional if many hunters do it? Similarly, Amendment 83 allows hunting practices to be limited when there are “sound scientific reasons.” What level of scientific certainty is required?

My primary concern with Amendment 83, however, is that it is inconsistent with democratic values and the long tradition in Colorado of evolving norms of wildlife protection. Historically, Colorado has acted to prohibit some of the more ghastly and unsportsmanlike forms of hunting. For example:

- In 1992, Colorado voters prohibited hunting black bears with bait or dogs and prohibited spring bear hunting; and
- In 1996, Colorado voters prohibited leghold traps, body-gripping traps, poisons, and snares, subject to specified exceptions.

Coloradans have repeatedly reconsidered which methods of killing wildlife they are prepared to tolerate. Amendment 83 would lock in present thinking of a minority of Coloradans and prevent evolution. The goal of Amendment 83, according to proponents of the measure, is to cut off future public debate and lawmaking around wildlife protection.

Consider the range of initiatives that could no longer come up for a vote:

- Banning inhumane capture methods, canned hunts, or baiting practices
- Restricting or prohibiting commercial fur trapping
- Enacting new protections for bears, bobcats, and mountain lions

- Banning trophy hunting of specific species based on public values rather than population data alone
- Passing future ballot initiatives—like the 1996 trapping measure—that reflect the public’s growing commitment to coexistence with wildlife

When Colorado achieved statehood in 1876, its “traditional” legal system prevented women from voting, permitted racial discrimination, and accepted child labor. The drafters of Amendment 83 have deliberately avoided defining traditional. Why would they not want clarity on a key term in their constitutional provision?

A Constitution should leave room for learning and progress and not simply assume that what was traditional will always be what is best for wildlife management. Enshrining traditional hunting practices into the Colorado Constitution is a deeply controversial idea that will undermine the ongoing work of the Colorado Wildlife Commission, state lawmakers and the governor, and voters when it comes to ongoing debates related to wildlife policy.

Respectfully submitted,

A handwritten signature in blue ink that reads "Justin Marceau". The signature is fluid and cursive, with the first name "Justin" and last name "Marceau" clearly distinguishable.

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