

AGENDA  
LARIMER COUNTY PLANNING COMMISSION  
Wednesday, May 16, 2018/6:30 P.M./Commissioners' Hearing Room

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. PUBLIC COMMENT ON THE COUNTY LAND USE CODE
- D. PUBLIC COMMENT REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA
- E. APPROVAL OF THE MINUTES FOR THE APRIL 18, 2018 MEETING
- F. AMENDMENTS TO AGENDA
- G. ITEM:
  - 1. THORNTON WATER PROJECT 1041, FILE #18-ZONE2305

**Staff Contact:** Rob Helmick

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H. REPORT FROM STAFF

I. ADJOURN

NEXT MEETINGS: Wednesday, June 13, 2018: BCC/Planning Commission worksession  
Wednesday, June 20, 2018: Planning Commission hearing





1. TITLE: Thornton Water Project

REQUEST: 1041 Permit, Larimer County Land Use Code Section 14.4.J, approval for 26 miles of 48 inch water line, pumping facility, one million gallon above ground water tank and other appurtenant facilities.

LOCATION: From north of Fort Collins west of Hwy 1 and Douglas Road east to the Weld County line then south to the south county line at Johnstown.

APPLICANT: City of Thornton  
12450 Washington St.  
Thornton CO 80241

PROPERTY OWNER: Numerous - over 2400 notices sent, includes properties in municipalities.

STAFF CONTACTS: Robert Helmick, AICP, Planning  
Lea Schneider, Health Department  
Mark Peterson, County Engineer & Clint Jones, Engineering Department

FILE #: 18-ZONE2305

NOTICE GIVEN: Newspaper Publication  
First Class Mailing to surrounding property owners within 500 feet

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SITE DATA:

Parcel Number(s) numerous

Total Development Area: New water line easement and construction along approximately 26 miles in the County in new easements of 50 feet, and/or in existing ROW.

Existing Land Uses: Developed single family residential, agriculture,

Proposed Land Use: 48 inch waterline, pump station, 1 MG tank and appurtenant facilities

Existing Zoning: Various

Adjacent Zoning: Various

Adjacent Land Uses: Residential, agricultural

Services:

Access: County Roads 54, 56 & Larimer County Road 1/Weld County Road 13

Water: N/A

Sewer: N/A

Fire Protection: several

No. Trips Generated by Use: construction activity

## PROJECT DESCRIPTION/BACKGROUND:

The City of Thornton proposes to obtain a 1041 permit for the construction of a 48” water line, a 40 million gallon per day pumping facility, one million gallon above ground water tank and other appurtenant facilities.

The Larimer County Land Use Code Section 14 describes the designated activities specifically:

14.4.J.Siting and development of new or extended domestic water or sewer transmission lines which are contained within new permanent easements greater than 30 feet or within new permanent easements greater than 20 feet that are adjacent to existing easements. Domestic water transmission lines include those used to transport both raw and treated water. This designation shall not include the maintenance, repair, adjustment or removal of an existing pipeline or the relocation, replacement or enlargement of an existing pipeline within the same easement or right-of-way, provided no additional permanent property acquisitions are required. The designation shall also not include the addition, replacement, expansion or maintenance of appurtenant facilities on existing pipelines.

These facilities will be located either in new easements (50 foot permanent + 40 foot Temporary) acquired by the City of Thornton or in existing County Road ROW. The length of the pipeline in the unincorporated county is 26 miles. The waterline is also located in the town limits of Timanth, Windsor and Johnstown. Due to the proposed alignment of the pipeline along the county line, at WCR 13 some of the pipeline will be located in Weld County. The City of Thornton is pursuing concurrently seeking approval from Weld County.

The City of Thornton proposes this pipeline to move their water, the rights to which they acquired in the late 1980’s and subsequently received Court approval to utilize these rights for municipal use. City of Thornton and the County staff have maintained communication on their plans for this water as they began some initial planning. Preliminary discussions about alignments and corridors began as early as 2014 with more discussions in 2015 and ultimately culminating in a pre-application conference for a 1041 application in May of 2016. Public outreach through a series of mailings and open houses started in late 2016 and continued on through 2017. The application was originally submitted in late 2017 and was originally scheduled for hearing with the Larimer County Planning Commission in March and April of 2018. However, the hearings were postponed to allow additional information requested by the County to be developed and submitted by Thornton. That additional information specifically related to the proposed alignment in Douglas Road.

At the time of the pre application conference and during the initial development of alternatives the location of public facilities such as this were not contemplated to be located within a County Right of Way (ROW). After some of the early public meetings where there was significant concern about proposed alignments through subdivisions, the staff met with the City of Thornton and their consultants and encouraged them to review multiple alternatives in the western most area of the proposed corridor (the Douglas Road Corridor). At that time the staff also indicated that alignment in the existing ROW would be considered. In the case of Douglas Road there are sections which are designated on the Transportation Master Plan for future improvement. However, no plans for improvements to this section of road are contemplated in the near term, if those plans change the City would need to coordinate their work in the ROW with Larimer County

In the “Douglas Road Corridor” (CR17-Tunberry) the original alignment identified ¼ mile which was subsequently reduced to a 500 foot wide corridor. This created a significant concern for many property owners in the area. Specifically, that their homes, improvements and/or landscaping was or could be at risk with the final easements and construction. The current proposal as described in the supplemental application materials delineates clearly that along this Corridor the pipeline is proposed to be placed and will fit within the existing ROW.

For the balance of the segments of the proposal the alignment is still 500 feet to ¼ mile in width. The intent is to allow for easement negotiation which would avoid property conflict and not require revisiting the application. There may be locations which will require or necessitate the use of roadway ROW. It should also be noted that the City is processing an application with Weld County for when the pipeline would be located on the east side of the County line.

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#### REVIEW CRITERIA:

1041 permit application may be approved only when the applicant has satisfactorily demonstrated that the proposal, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in Section 14 of the Larimer County Land Use Code. If the proposal does not comply with all the applicable criteria, the permit shall be denied, unless the County Commissioners determine that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria.

If the County Commissioners determine at the public hearing that sufficient information has not been provided to allow it to determine if the applicable criteria have been met, the board may continue the hearing until the specified additional information has been received. The Commissioners shall adopt a written decision on the 1041 permit application within 90 days after the completion of the permit hearing. The 1041 permit will be in the form of a Findings and Resolution signed by the Board of County Commissioners. The effective date shall be the date on which the findings and resolution is signed.

#### **REVIEW CRITERIA FOR APPROVAL OF ALL 1041 PERMITS**

**1. The proposal is consistent with the master plan and applicable intergovernmental agreements affecting land use and development.**

The analysis conducted by the City of Thornton regarding the alternative analysis and the preferred pipeline alignment and support facilities and appurtenances address the principles in the Master Plan with respect to both the natural and man made environment.

The route is within the Growth Management Areas (GMA) of Fort Collins and Windsor, as adopted by Larimer County and neither of those jurisdictions have identified a GMA issue nor have Timanth or Johnstown, who do not have GMA’s with Larimer County.

The Master Plan contains a specific principle which speaks to future transfers of water out of the County. This was adopted in part in response to the City of Thornton’s actions. Their transfers were essentially complete by the time this policy was adopted.

**2. The applicant has presented reasonable siting and design alternatives or explained why no reasonable alternatives are available.**

The City of Thornton in their application materials has discussed their broad analysis of alternatives to transfer the water to the City. That was then refined based on conversations with all of the affected jurisdictions to three generalized corridors all which commenced at Water Supply and Storage Reservoir #4 (WSS#4) thence east to the Weld Larimer county

line thence south following alignments proceeding south to the City. They defined three distinct corridors to review. The applicant examined those three alternatives from which the selected alternative was chosen.

After the initial public outreach and consultation with the County they also conducted a more focused alternative analysis along the western reach of the project for Water supply and Storage reservoir #4 and Turnberry Road (CR11). This analysis examined three separate alignments proceeding from WSS #4 east to Turnberry Road there were multiple of links evaluated along a north, central and southern routes. The north routes were north of or through the northern part of Eagle Lakes and connect to CR 56. The central routes go east from WWS#4 through Eagle Lake and cross Highway 1 at Evans Road and proceed east along that alignment both on and off road ways. The southern routes all follow Douglas Road either within or adjacent to the ROW all the way east to Turnberry Road. The analysis examined environmental factors, proximity to residences and other factors including cost. The City of Thornton's analysis presents a clear choice and the decision process for that choice.

**3. The proposal conforms with adopted county standards, review criteria and mitigation requirements concerning environmental impacts, including but not limited to those contained in Section 8 of this Code.**

8.2. Wetland Areas:

The City of Thornton proposes to bore under all designated wetland areas. Wetland areas are affected by the proposal are non-jurisdictional. A Nationwide Permit from the Army Corps of Engineers may be required for the City to confirm that no jurisdictional wetland areas are affected by construction.

8.3. Hazard Areas:

There are hazard areas, flood plain on the Poudre and Big Thompson Rivers and Boxelder Creek identified along the preferred route. The City of Thornton proposes to bore under these river corridors to avoid any issues.

8.4. Wildlife:

The City of Thornton's environmental analysis for the preferred route identifies that there were possible conflicts with wildlife both listed and other species of concern. Mitigation for this includes avoidance, seasonal limitations or prohibitions on activities. No other significant wildlife issues have been identified along the preferred route. This may in part result in construction scheduling to avoid issues with nesting birds and other seasonal conflicts.

8.8. Irrigation Facilities:

There are multiple irrigation ditches which will need to be bored or cut with this proposal. The applicants will be required to cooperate and mitigate any issues with the respective ditch company. If agreements or licenses are required the City of Thornton must obtain them.

8.11. Air Quality Standards:

Given the potential disturbed area of this request an Air Quality permit will be necessary which permitting will require compliance with the standards.

8.12. Water Quality Management Standards:

The applicant will need to obtain a storm water quality permit for the construction impacts.

- 4. The proposal will not have a significant adverse affect on or will adequately mitigate significant adverse affects on the land on which the proposal is situated and on lands adjacent to the proposal.**

The proposal is located in a significantly developed area. While there are some impacts to vegetation in the project area, those impacts will be mitigated through the use of Best Management practices (BMP) and do not constitute a significant impact on land affected or adjacent to the pipeline. Issues with groundwater and drainage in the area of any bore or cut must be mitigated.

- 5. The proposal will not adversely affect any sites and structures listed on the State or National Registers of Historic Places.**

The environmental analysis includes a review of all known and designated historic structures or places within the proposed alignments. There are not historic structures known to exist along or in the alignment of this pipeline that would be negatively affected by the construction of these facilities.

- 6. The proposal will not negatively impact public health and safety.**

There is no identified public health or safety risks associated with this project.

- 7. The proposal will not be subject to significant risk from natural hazards including floods, wildfire or geologic hazards.**

The preferred alignment has mitigated any risks principally by avoidance, or there are no risk factors associated with the preferred alignment.

- 8. Adequate public facilities and services are available for the proposal or will be provided by the applicant, and the proposal will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.**

If there are adequate operational parameters and conditions to address access to properties during construction there will not be significant adverse impact.

- 9. The applicant will mitigate any construction impacts to county roads, bridges and related facilities. Construction access will be re-graded and re-vegetated to minimize environmental impacts.**

The Engineering Department has suggested a list of conditions to address impacts and their mitigation for County roads and facilities. All additional construction impacts will be mitigated and revegetated.

- 10. The benefits of the proposed development outweigh the losses of any natural resources or reduction of productivity of agricultural lands as a result of the proposed development.**

No evidence has been presented which would suggest that the pipeline and it construction will cause a reduction in the productivity of agricultural lands.

No adverse impacts to any natural resources have been identified in the analysis of this project.

- 11. The proposal demonstrates a reasonable balance between the costs to the applicant to mitigate significant adverse affects and the benefits achieved by such mitigation.**

In the evaluation prepared by the applicant it is clear that the selected alternative has the fewest costs and least impact to the surrounding owners of the alternatives evaluated.

**12. The recommendations of staff and referral agencies have been addressed to the satisfaction of the county commissioners.**

The agency referral comments received do not indicate any conflict or issue with the proposal. They all point to the need for permits, permissions and coordination.

There has been substantial public comment. Copies of the written correspondence and e-mails have been provided in your packet. The vast majority of the comments received have addressed the impacts in and around the Douglas Road corridor. There have been less than a dozen comments from landowners in municipalities or in other locations along the route/alignment proposed by the City of Thornton. Most of those other comments have come from land owners located at pinch points where development comes close to the road on both side of the road. In those cases the owners are requesting the pipe be located within the ROW.

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**OTHER MAJOR CONCERNS AND ISSUES:**

The magnitude and history of this project has generated a significant amount of public comment. In the Douglas Road corridor it has pitted neighborhoods and neighbors against each other and the project on general principle. The project will create disruptions we believe that the applicant and our team have proposed reasonable conditions which respond to operational issues to insure that the impacts are minimized to the extent possible. Construction whether through a subdivision or in a roadway will create issues regarding disruption, values and timing.

The 1 million gallon water tank is proposed to be located west of WCR 13 between CR 56 and CR 58. The site is located in an area of currently undeveloped 35 acre tracts. These parcels are the highest ground in the areas. The team believes that the tank although proposed for above ground siting can be located here to avoid visual conflicts with properties to the east and to the north and south. Berming or an excavated site oriented to the western side of the hill would avoid visual impacts to the existing horizon and can be compatible with the area.

There has been some concern raised about the representations in the application that the pump station is not part of the application. From the staff's perspective it is a part of the application from the standpoint of its location and intensity of use. A Site Plan Review application will address the details of site development and specific location within the defined envelop. The application supplemental materials clearly note a 3 acre area in the south east portion of the site within a larger 20+ acre parcel. The application materials also identify the number and size of pumps and the intent to utilize a redundant electrical power source. The plans also include a back-up diesel generator. The Site Plan Review will address the specifics of the site development, and existing County ordinances and regulations will govern the use of the facility. The City of Thornton has committed to construct a pump house facility structure that is consistent with the character of structures in the neighborhood.

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**SUMMARY & CONCLUSIONS:**

The staff evaluation has been focused on the specific proposal and the alignment alternatives prepared by the applicant. There has been substantial comment about other points of diversion and whether the pipe is appropriate at all. The analysis has been of the application submitted and we cannot speculate on issues, such as diversion locations, which are clearly not a part of the review.

The applicant has presented a thorough analysis of the proposal and the proposed alignment/corridor. Our evaluation concludes that they have avoided environmental issues and committed to minimizing the disruption(s) caused by an operation of this extent.

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DEVELOPMENT SERVICES TEAM FINDINGS:

The Team finds that the Thornton Water Project proposal is:

- Consistent with the Master Plan in insuring the provision of adequate public facilities and insuring public safety.
- Causes no significant impacts to the natural or man made environment.
- Is a reasonable alternative selected from several examined.
- Identifies the needed permits and permissions and commits to obtain those.
- The proposal demonstrates a reasonable balance between the costs to the applicant to mitigate significant adverse effects and the benefits achieved by such mitigation

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DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends that the Larimer County Planning Commission recommend to the Board of County Commissioners Approval of the Thornton Water Project File # 18-ZONE2305 subject to the following conditions:

1. The activity authorized by this permit shall be consistent with the approved plan and with the information contained in the Thornton Water Project File # 18-ZONE2305, except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Thornton Water Project File # 18-ZONE2305.
2. The approval of this pipeline designates a corridor along the alignment and deviations to accommodate field issues will not affect the approval. Significant alterations to the route shall be evaluated by the county prior to commencing activity, and may be subject to further review.
3. The pipeline alignment shown in the 1041 application is considered conceptual in nature and demonstrates that the proposed line can be located within the existing Douglas Road right-of-way west of County Road 11. Thornton shall prepare final design plans and specifications for review and approval by the Larimer County Engineering Department. Should it be discovered that the final design, in the County Engineer's opinion, deviates significantly from the conceptual alignment to change the nature or impacts of the pipeline within the permit limits, the County reserves the right to require that the design and alignment be modified to address infrastructure and property impacts as deemed necessary by the County Engineering Department.
4. Thornton shall stabilize and asphalt patch all pavement areas disturbed or damaged during pipeline installation in accordance with the Larimer County Urban Area Street Standards for work areas within the Growth Management Area (GMA) or Larimer County Rural Area Road Standards for work areas outside the GMA as directed by the County. Additionally, a geotechnical subsurface investigation shall be submitted to Larimer County during the design process to determine required trench backfill and compaction specifications, subgrade mitigation, and pavement design for areas disturbed by the pipeline installation.

5. Due to the large extent of pavement removal required for the proposed pipeline, Thornton shall be responsible for a leveling course and a 2-inch thick asphalt overlay extending to the full limits (width) of the existing pavement along the length of the CR 54 (Douglas Road) pipeline route. This condition is in addition to the pavement patching requirements outlined in the preceding engineering condition above.
6. Thornton shall be responsible for arranging for and paying all costs of utility relocations and irrigation company requirements necessary to accommodate the water pipeline in the road right-of-way.
7. Thornton shall be responsible for all costs associated with the replacement of existing storm drainage infrastructure, culverts, roadway signage, pavement striping/symbols, landscaping and property fencing necessary to accommodate the water pipeline in the road right-of-way.
8. Thornton shall obtain and conduct construction activities in compliance with all required county, state, and federal permits (including but not limited to: right-of-way construction permit, Stormwater permit, floodplain permit, groundwater discharge permit, etc.).
9. Thornton will maintain access to all properties at all times except for infrequent, temporary closures for maximum periods of up to 4 hours. Property access closures will only be allowed with 48 hours advance notice to all affected property owners.
10. Prior to commencing construction, Thornton shall submit a plan to the County Engineering Department for review and approval establishing construction requirements to provide safe and acceptable access for emergency responders, mail and package delivery, garbage pickup, and school bus stops for the duration of the project.
11. Thornton shall reimburse Larimer County for costs associated with County-provided construction observation/inspection staff and/or independent, supplemental geotechnical or materials testing deemed appropriate by the County Engineer for purposes of quality assurance/control.
12. Thornton shall construct the pipeline in phases, subject to phasing plans to be approved by Larimer County. It is anticipated that work will only be allowed sequentially within one-mile segments for the alignment west of County Road 11. Maximum open trench lengths will be defined in consultation with Thornton and are subject to approval by Larimer County.
13. Thornton shall provide to Larimer County a pre-project video capturing existing conditions of the proposed water line installation corridor in and near the existing road right-of-way.
14. Thornton shall establish and maintain a website with daily updates on the project describing the status of the project and the traffic impacts for that day, and the upcoming week.
15. Thornton shall provide a public information person with a phone number and email address that the public can contact to ask questions, express concerns or for project updates.
16. Acceptable work days and hours for the project are subject to approval by the County Engineering Department.



17. At any locations where Thornton locates the pipeline outside of the existing County road right-of-way, it shall do so in a manner to either: a) be located outside of the ultimate right-of-way width corresponding to the functional classification of the roadway or b) obtain and convey to Larimer County a road right-of-way easement for any additional pipeline easement widths falling within the ultimate roadway right-of-way.
18. Thornton shall develop and provide Larimer County with accurate as-built horizontal and vertical survey data (state plane coordinates and elevations in NAVD 88) and GIS shapefiles describing the location of the pipeline and all appurtenant structures.
19. If a relocation of the Thornton pipeline should in the future be desirable to accommodate some other or enlarged use of the County road right-of-way by any party or entity other than the County, and provided that Thornton agrees to such relocation, then all expenses of such relocation shall be paid for entirely by the party or entity desiring such relocation; provided, however, that if the relocation is to be made at the request of the County to accommodate changes in or improvements of public roadways or associated infrastructure, and not for purposes of accommodating any third party, then Thornton shall provide for pipeline relocations on a reasonable schedule established by the County Engineering Department.
20. Materials test reports, as per Larimer County standards, must be submitted to and approved by Larimer County for work within the county road right-of-way.
21. Offsite easements will be required for work areas outside of the county road right-of-way and shall be recorded and submitted to Larimer County prior to the issuance of a right-of-way permit.
22. Thornton shall develop a comprehensive document describing best management practices (BMPs) to be employed for utility planning and construction that potentially affects developed, rural, wetland and riparian land areas or may involve stream crossings. Such documentation shall include but not be limited to preconstruction and construction BMPs relating to surface water, erosion and sediment control and prevention; groundwater considerations and protection; topsoil conservation and restoration and vegetation/revegetation considerations. The document shall also cover post-construction BMPs and monitoring requirements relating to these same topics.
23. Thornton acknowledges that Larimer County's Transportation Master Plan identifies certain roadway improvements along a portion of the proposed pipeline alignment west of County Road 11. At the time of this 1041 application review, Larimer County has not determined if roadway improvements will be implemented along Douglas Road within the next five years. If the County proceeds with roadway improvements along Douglas Road, Thornton shall coordinate construction contracting and administration with Larimer County as directed by the County Engineer, and said coordination shall not unreasonably delay the start date for the Thornton pipeline construction.
24. All construction activities shall only occur upon approval of the required permit, including Site Plan Review, building permits, development construction permits and access permits.
25. The pump station shall be designed to be consistent with the character of the neighborhood.

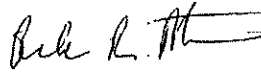
26. The water tank shall be located to the western slope of the hill on which it is proposed to be located and shall be design to avoid any sky lighting and minimize visual impacts to adjoining properties.
27. The City shall obtain all required and necessary crossing permit, licenses and permissions for all ditch, roadway and other infrastructure crossings prior to commencing any construction.
28. In the event, at the time of final design and easement acquisition the City determines to locate the pipeline within county ROW outside of the Douglas Road corridor they shall be held to the conditions as noted in these recommendations.
29. All construction activities shall be coordinated with and respect all seasonal avoidance requirements established by the CDPW and USFWS.

# REFERRAL COMMENTS

## MEMORANDUM

TO: Rob Helmick, Senior Planner

FROM: Mark Peterson, County Engineer



DATE: May 3, 2018

RE: Engineering Conditions for Proposed Thornton Pipeline 1041 Application

The Larimer County Engineering Department recommends the following conditions of approval for the Thornton Pipeline 1041 application submitted by the City of Thornton.

1. The pipeline alignment shown in the 1041 application is considered conceptual in nature and demonstrates that the proposed line can be located within the existing Douglas Road right-of-way west of County Road 11. Thornton shall prepare final design plans and specifications for review and approval by the Larimer County Engineering Department. Should it be discovered that the final design, in the County Engineer's opinion, deviates significantly from the conceptual alignment to change the nature or impacts of the pipeline within the permit limits, the County reserves the right to require that the design and alignment be modified to address infrastructure and property impacts as deemed necessary by the County Engineering Department.
2. Thornton shall stabilize and asphalt patch all pavement areas disturbed or damaged during pipeline installation in accordance with the Larimer County Urban Area Street Standards for work areas within the Growth Management Area (GMA) or Larimer County Rural Area Road Standards for work areas outside the GMA as directed by the County. Additionally, a geotechnical subsurface investigation shall be submitted to Larimer County during the design process to determine required trench backfill and compaction specifications, subgrade mitigation, and pavement design for areas disturbed by the pipeline installation.
3. Due to the large extent of pavement removal required for the proposed pipeline, Thornton shall be responsible for a leveling course and a 2-inch thick asphalt overlay extending to the full limits (width) of the existing pavement along the length of the CR 54 (Douglas





Road) pipeline route. This condition is in addition to the pavement patching requirements outlined in the preceding engineering condition above.

4. Thornton shall be responsible for arranging for and paying all costs of utility relocations and irrigation company requirements necessary to accommodate the water pipeline in the road right-of-way.
5. Thornton shall be responsible for all costs associated with the replacement of existing storm drainage infrastructure, culverts, roadway signage, pavement striping/symbols, landscaping and property fencing necessary to accommodate the water pipeline in the road right-of-way.
6. Thornton shall obtain and conduct construction activities in compliance with all required county, state, and federal permits (including but not limited to: right-of-way construction permit, stormwater permit, floodplain permit, groundwater discharge permit, etc.).
7. Thornton will maintain access to all properties at all times except for infrequent, temporary closures for maximum periods of up to 4 hours. Property access closures will only be allowed with 48 hours advance notice to all affected property owners.
8. Prior to commencing construction, Thornton shall submit a plan to the County Engineering Department for review and approval establishing construction requirements to provide safe and acceptable access for emergency responders, mail and package delivery, garbage pickup, and school bus stops for the duration of the project.
9. Thornton shall reimburse Larimer County for costs associated with County-provided construction observation/inspection staff and/or independent, supplemental geotechnical or materials testing deemed appropriate by the County Engineer for purposes of quality assurance/control.
10. Thornton shall construct the pipeline in phases, subject to phasing plans to be approved by Larimer County. It is anticipated that work will only be allowed sequentially within one-mile segments for the alignment west of County Road 11. Maximum open trench lengths will be defined in consultation with Thornton and are subject to approval by Larimer County.
11. Thornton shall provide to Larimer County a pre-project video capturing existing conditions of the proposed water line installation corridor in and near the existing road right-of-way.
12. Thornton shall establish and maintain a website with daily updates on the project describing the status of the project and the traffic impacts for that day, and the upcoming week.
13. Thornton shall provide a public information person with a phone number and email address that the public can contact to ask questions, express concerns or for project updates.



14. Acceptable work days and hours for the project are subject to approval by the County Engineering Department.
15. At any locations where Thornton locates the pipeline outside of the existing County road right-of-way, it shall do so in a manner to either: a) be located outside of the ultimate right-of-way width corresponding to the functional classification of the roadway or b) obtain and convey to Larimer County a road right-of-way easement for any additional pipeline easement widths falling within the ultimate roadway right-of-way.
16. Thornton shall develop and provide Larimer County with accurate as-built horizontal and vertical survey data (state plane coordinates and elevations in NAVD 88) and GIS shapefiles describing the location of the pipeline and all appurtenant structures.
17. If a relocation of the Thornton pipeline should in the future be desirable to accommodate some other or enlarged use of the County road right-of-way by any party or entity other than the County, and provided that Thornton agrees to such relocation, then all expenses of such relocation shall be paid for entirely by the party or entity desiring such relocation; provided, however, that if the relocation is to be made at the request of the County to accommodate changes in or improvements of public roadways or associated infrastructure, and not for purposes of accommodating any third party, then Thornton shall provide for pipeline relocations on a reasonable schedule established by the County Engineering Department.
18. Materials test reports, as per Larimer County standards, must be submitted to and approved by Larimer County for work within the county road right-of-way.
19. Offsite easements will be required for work areas outside of the county road right-of-way and shall be recorded and submitted to Larimer County prior to the issuance of a right-of-way permit.
20. Thornton shall develop a comprehensive document describing best management practices (BMPs) to be employed for utility planning and construction that potentially affects developed, rural, wetland and riparian land areas or may involve stream crossings. Such documentation shall include but not be limited to preconstruction and construction BMPs relating to surface water, erosion and sediment control and prevention; groundwater considerations and protection; topsoil conservation and restoration and vegetation/revegetation considerations. The document shall also cover post-construction BMPs and monitoring requirements relating to these same topics.
21. Thornton acknowledges that Larimer County's Transportation Master Plan identifies certain roadway improvements along a portion of the proposed pipeline alignment west of County Road 11. At the time of this 1041 application review, Larimer County has not determined if roadway improvements will be implemented along Douglas Road within the next five years. If the County proceeds with roadway improvements along Douglas Road, Thornton shall coordinate construction contracting and administration with Larimer

May 3, 2018

Engineering Conditions for Proposed Thornton Pipeline 1041 Application

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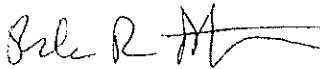


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County as directed by the County Engineer, and said coordination shall not unreasonably delay the start date for the Thornton pipeline construction.

## MEMORANDUM

TO: Rob Helmick, Senior Planner

FROM: Mark Peterson, County Engineer 

DATE: March 14, 2018

RE: Proposed Thornton Water Project 1041 Draft Supplemental Information Completeness Review

Thornton submitted two copies of draft information for completeness review on Friday March 9<sup>th</sup>. We have had a chance to look the documents over for basic content/completeness and have the following comments.

The CAD files provided on flash drive were not complete and only provided utility information covering the reach west of SH 1. No annotations/labeling was provided on the line types and it doesn't appear to be a complete set of the data when compared to the hardcopy plots. There were also no data or layers describing the proposed pipeline alignment. Please submit all relevant layer data.

Please provide a legend for the line types that do not have labels on the S1 drawing sheets. This may include features such as fencing.

There should be the ability to examine the proposed water line alignment in relation to the existing utilities – none of the provided drawings show both the field data and the proposed pipeline alignment. Identified utility conflicts may warrant further discussion.

The drawings showing "Work Limits and Revised TWP Corridor" have been identified to extend to the limits of the existing right-of-way along the entire length of the corridor. These limits are being shown irrespective of whether there are any potential conflicts with fences, trees,







landscaping and the like. Work limits and the TWP Corridor for permitting purposes are potentially two different aspects of the project. Lacking any differentiation, I believe that most people reviewing this information will assume that the planned work limits will come to the edge of the existing right-of-way (shaded area) along the entire corridor. This seems like it will lead to potentially needless concern for adjacent property owners if there is no true need to use these areas based on where the pipeline is being located. Ideally, the (estimated) work limits should be identified on a more linear basis (not jumping out wherever minor additional segments of right-of-way have been dedicated) and be shown a few feet inside the right-of-way line. The triangular area near CR 13 on the north side is another example of where the work limits and TWP corridor are needlessly following the right-of-way line into a very irregular area. Showing this area also contradicts the statement that all work is confined within a corridor that never exceeds 100 ft centered about the existing roadway and therefore no mitigation is required.

There should be some statement to the effect that any features (fences, landscaping, etc.) located within the existing right-of-way that might be impacted will be identified prior to disturbance and a plan to mitigate these impacts (replace fence, avoid or replace landscaping, trees, etc.) will be developed.

The pavement restoration plan needs to identify that Thornton will overlay the entire roadway from existing edge of asphalt to edge of asphalt along the entire length of the project. As noted in the letter from Terry Gilbert dated January 26, 2018, "a final pavement surface with extensive patching will not be considered equivalent to pre-project conditions."



**COMMUNITY DEVELOPMENT DEPARTMENT**

**PLANNING SERVICES**

200 West Oak Street, Suite 3100

Post Office Box 1190

Fort Collins, CO 80522-1190

Phone (970) 498-7683

<http://www.larimer.org/planning>

04/13/2018

LARIMER COUNTY-ROAD & BRIDGE  
JUSTIN HERSH

Enclosed is an application that has been re-submitted to Planning Services for review. Please review and comment as applicable. Please send your comments to the applicant and planner listed below:

**Proposal:** Thornton Water Project 1041

**File Number:** 18-ZONE2305

**Parcel Number(s):**

**Location:** A pipeline route commencing at Water Storage and Supply reservoir # 4 proceeding east along the Douglas Road alignment to CR 9 north to CR 56 East to the Larimer County Line thence south along the County line to the Weld County line at Johnstown.

**Request:** To locate and construct a raw water pipeline and appurtenant facilities including pump stations and storage tanks. The pipeline commences north of Fort Collins at WS&S reservoir #4 following along the alignment of Douglas Road to CR 9/Turnberry Rd. thence north to CR 56 thence east to the County line to a water tank thence south along the county line to the Weld County through Timnath, Windsor and Johnstown.

**Comments Due By:** May 1, 2018

**Owner(s):**

**Applicant:**

City of Thornton Water Project  
Mark Koleber  
12450 Washington St  
Thornton, CO 80241  
[info@ThorntonWaterProject.com](mailto:info@ThorntonWaterProject.com)

*ROAD & BRIDGE HAS NO  
SPECIFIC COMMENT OR  
CONCERN.  
[Signature] 4/16/2018*

**Planner Assigned:**

Rob Helmick  
Senior Planner  
970-498-7682  
[rhelmick@larimer.org](mailto:rhelmick@larimer.org)

**Additional Information:**

To view additional information/documents, please visit the Community Development Online Portal at [www.larimer.org/onlineportal](http://www.larimer.org/onlineportal) and search for the application under the Land Use/Zoning Apps tab by using the Plan Number 18-ZONE2305.



## DEPARTMENT OF HEALTH AND ENVIRONMENT

1525 Blue Spruce Drive  
Fort Collins, Colorado 80524-2004  
General Health (970) 498-6700  
Environmental Health (970) 498-6775  
Fax (970) 498-6772

To: Rob Helmick  
Larimer County Planning Department

From: Lea Schneider *LS*

Date: January 25, 2018

Subject: Thornton Water Project 1041; 18-ZONE2305

The city of Thornton, Colorado, is requesting a 1041 permit from Larimer County for the Thornton Water Project (TWP). The TWP is a water delivery system that will convey domestic water from the Water Supply and Storage Company (WSSC) Reservoir No. 4 from Larimer County to Thornton. The 1041 permit application requests approval of the project corridor to construct, operate and maintain the TWP. The TWP will consist of 26 miles of buried 48-inch domestic water transmission pipeline and associated appurtenances in unincorporated Larimer County. Per the project description the appurtenances include an approximate 1 million gallon above ground storage tank, various pipeline structures and valve vaults, and a 40-million gallon per day source pump station. It is understood that the source pump station will be reviewed separately by means of a Site Plan process. I have reviewed the information provided and have the following comments related to public health.

**Fugitive Dust During Construction.** Colorado air quality laws contain requirements for controlling fugitive dust emissions during construction and operation activities. The steps necessary to comply with those laws depend on the amount of land disturbed, duration of the disturbance, and emission sources. Construction projects, such as the TWP, which are greater or equal to 25 contiguous acres and/or 6 months in duration require the submission of an Air Pollutant Emission Notice (APEN) and may require an air permit. In some cases an air permit may not be required due to estimated air emissions below reporting thresholds.

The project description indicated that Thornton or the TWP contractors will develop a fugitive dust control plan and submit it with an APEN to CDPHE's Air Pollution Control Division (APCD) prior to construction activities. Please be sure to include other applicable sources of emissions such as specific pieces of equipment for operations such as welding, material crushing, aerosolized materials and gasoline generators, used during construction on the APEN application as they may require separate permits. For information on APENs,

construction air permits, and the associated checklists and applications, please visit the APCD's website:

<https://www.colorado.gov/pacific/cdphe/APENforms>

Methods of mitigation listed in the project description included: limiting speed limits for construction vehicle traffic; utilizing dust control barriers like gravel at staging site access/entry points; watering the disturbed areas, dirt access roads, and stockpiles. Post construction dust mitigation shall be controlled by proper revegetation and restored construction grades of disturbed areas and road restoration in the Larimer County right of way. Regardless of the size or duration of development, all land disturbance must be conducted so that nuisance conditions are not created. Please be advised, if off-site dust emissions do create a nuisance, Larimer County Department of Environmental Health will respond to complaints as a contractor of the APCD.

Information regarding the backup diesel generator proposed as a power supply for the source water pump station was not provided at this time, as a Site Plan process will be required at a later date. Please note, in preparation for the Site Plan, if the second independent power source is not approved for installation by Poudre Valley Rural Electrical Association (PVREA), and the backup diesel generator must be installed, this may require a separate permit. Depending on the manufacturer's rating on horsepower, annual hours of operation, etc, the backup generator may not be required to obtain an air permit, but the TWP is still required to submit an APEN to APCD for review to determine if the generator is exempt.

**Stormwater Management.** State regulations also address water quality issues. Potential impacts to the quality of surrounding water sources within the TWP corridor could result from the construction phase by means of stormwater runoff and the release of sediment and other contaminants associated with construction equipment and fueling operations. Colorado's water quality regulations specify that construction activities are required to obtain coverage under a state level stormwater management permit if they disturb more than one acre of land. The permits are administered by the CDPHE's Water Quality Control Division. The permits require holders to control or eliminate the sources of pollutants in stormwater through the implementation of a Stormwater Management Plan (SWMP) developed as part of the application process. The plan must include Best Management Practices (BMPs) that include treatment of stormwater discharges along with pollution source reductions.

The project description indicated that Thornton or the TWP contractors will obtain a Stormwater discharges associated with construction activities permit (COR030000). As required to apply for the permit, a SWMP will also be developed to protect the quality of stormwater runoff during construction. Please be advised, at least ten days prior to the commencement of construction activities, the original completed application must be submitted, which includes the signed certification that the

SWMP is complete. For assistance with construction stormwater permits, please contact Kendra Kelly of the CDPHE Water Quality Control Division at (303)692-3387. Permit applications and guidance documents are also available on the Water Quality Control Division's website at:  
<https://www.colorado.gov/pacific/cdphe/wq-construction-general-permits>

The project description indicates that groundwater may be encountered near surface water sources. In these cases, dewatering activities may be necessary. The applicant indicates that the CDPHE Construction dewatering (COG070000) permit will also be obtained prior to construction.

**Reclamation.** In projects such as this one, a key to limiting the impacts of dust and sediment is to practice concurrent reclamation as construction proceeds so that only minimal areas are left disturbed. TWP intends to use this method and revegetate using a selection of weed-free seed mixes of drought-tolerant native grasses, as well as replace mature vegetation per property owner's reasonable request. Fast-growing seed will assist in controlling erosion from wind and rain/irrigation water, and minimize invasive weeds. In areas where the pipeline corridor may be within cultivated farm fields, it is recommended to consult with the property owners for determining the best revegetation practices in those areas.

**Noise.** Several residential properties stand to be impacted over the years required for the TWP construction. Larimer County adopted a noise ordinance specifically to protect residences from noise as an environmental pollution which represents a threat to the serenity and quality of life in Larimer County. Excess noise often has an adverse physiological and psychological effect on human beings. The Larimer County Noise Ordinance specifies noise level parameters for day and night, as well as prohibits the creation of a "noise disturbance" with no specified time of day. The ordinance defines a "noise disturbance" as noise of such a volume, frequency and/or intensity that it unreasonably interferes with the enjoyment of life, quiet, comfort or outdoor recreation of an individual of ordinary sensitivity and habits. The ordinance is available on our website:  
<http://legacy.larimer.org/policies/noise.htm>

The project description indicates that the TWP will comply with the Larimer County Noise Ordinance with most construction activities conducted within the day time hours of 7:00 am to 7:00 pm. Day time construction noises shall remain below 80dB(A). The project description also states that construction activities that need to be conducted throughout night time hours of 7:00 pm and 7:00 am, will receive approval by Larimer County and shall be in compliance with this ordinance with noise levels below 75 dB(A).

Although the project proposes to be within compliance of the construction noise standards in the ordinance, it is our experience that construction projects that occur near residences are an intrusion that need to be managed. Larimer County

asks Thornton and TWP contractors to take reasonable steps to lower or mitigate noise levels in these instances as well as reduce vibrations from equipment used in the night time hours such as generators, pumps, hydrostatic pressure testing equipment, etc. The only noise mitigation proposed in the project description was the use of standard maintenance procedures and use of appropriate mufflers. We ask Thornton and the TWP contractors to also utilize other noise mitigation as feasible, such as white noise backup beepers on all construction equipment/vehicles, new/quiet generators/pumps, sound deadening enclosures for generators/pumps, and use of vibration absorbing platforms or other material to dampen vibrations from equipment set up on the ground.

Based on our experience with noise at construction operations, the close proximity of the operation to residences will be a challenge. We have found that noise levels below those specified in the ordinance can still be bothersome to neighbors. When noise complaints occur they are very difficult to resolve. In these situations it is important for the general contractor to be vigilant about noise, and be willing to work to minimize levels wherever feasible. A process that our Department found helpful for various operations, was setting up a website where neighbors can access contact information for filing concerns via email or phone when high noise levels are experienced, as well as provide feedback from TWP and the contractors. When noise issues occurred due to an equipment problem or other issue, this process allowed for quicker feedback for fixing or adjusting the situation. The contractor could then make appropriate adjustments to the machinery, berms, or other mitigation controls to lower the noise levels. Given the importance of reducing noise at this site I believe a similar process would be an advantage for the TWP. It was noted in the project description that a website [[www.ThorntonWaterProject.com](http://www.ThorntonWaterProject.com)] was created in 2016. Once contracts are established, the contact information for the general contractor on-site should be included to this website, as well as areas for formal comments (rather than the current contact option on the website). Be advised, if noise complaints are received by the health department, the operator may be required to hire a sound consultant to test and assist in mitigation to remedy the complaints.

In preparation for the Site Plan for the source water pump station, the projection description indicates that an acoustical engineer will be contracted to evaluate noise and develop a formal mitigation plan for the construction of the building. Possible mitigation controls were listed for the building, as well as the emergency generator enclosure (if second, independent power is not provided by PVREA). Please ensure the noise evaluation includes predicted noise levels at the residential property lines surrounding the source water pump station. If unmitigated predicted levels are used, it will be important to also provide the mitigated predicted levels to verify that the mitigation proposed will meet the residential noise level parameters of 50 dB(A) day and 55 dB(A) evening. Please include the noise evaluation in the Site Plan application.

**Water and Sewer.** It has been acknowledged that the completed TWP will not require a manned facility, therefore potable water supply and wastewater disposal will not be required at any of the supporting appurtenances.

**Sanitation.** It was acknowledged that portable restroom facilities will be provided along the pipeline corridor and the staging sites for the employees. Portable chemical toilets shall be provided within sight of active construction areas and within easy access of employees so as not to discourage use and opting for easier outdoor alternatives. Please ensure frequent pumping of portable toilets to prevent overflows and odors on the job site and neighbors.

Dumpsters will also be provided along the TWP construction corridor and the staging sites. It is recommended that dumpsters (or heavy duty trash cans) be located near the portable toilets so employees do not throw trash in the portable toilet vaults or on the ground. Dumpsters (and trash cans) shall be provided with lids to prevent trash from blowing out of the container and into the surrounding environment. The project description indicates that dumpsters will be emptied 1-2 weeks. Please ensure the frequency is adequate to prevent overflow and odors.

#### **Other Considerations During Construction.**

As noted in the aerial map of oil and gas wells there are several wells along the TWP corridor in Larimer County and Weld County. These include active and abandoned wells and possible shallow flowlines. The depth and status of the flowlines is not known. The applicant indicated that subsurface utility engineering will be completed to determine the location of all utilities.

Areas where the pipeline may be installed within easements of private residential properties have the potential to impact public utilities, private wells (very low) and septic systems. Please ensure a thorough investigation prior to excavation activities on residential properties. It was noted in the project description that residents would be notified for planned, short-term domestic water service disruptions. If not already in place, we would also recommend an emergency plan be developed for accidental utility disruptions for residents that exceed several hours making it difficult to endure normal activities at home due to loss of utilities for heat, cooking, showering, drinking water, etc. This could involve temporary utility replacements (generators, water tanks, etc) or temporary housing/accommodations.

Potential wildlife that may be encountered during construction may include prairie dogs, rabbits, skunks, raccoons, and rattle snakes to name a few. Appropriate precautions should be taken to protect construction workers from exposure to carriers of disease, including insects like fleas and flies associated with the wildlife. Workers should also be alert for irregular behaving mammals like skunks, raccoons, bats, cats and dogs, which are carriers of rabies. If workers are bitten and the animal is not captured and tested for the rabies virus, the

worker may be required to receive the appropriate post-exposure treatment. Please contact Jessica Royer with the health department at 970.498.6771 for additional information on standard operating procedures for potential exposures.

cc: Mark Koleber via email: [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)





Rob Helmick <helmicrp@co.larimer.co.us>

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**TWP**

1 message

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**shawn hoff** <shawne@frii.com>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>

Thu, Jan 25, 2018 at 7:57 AM

Dear Mr. Helmick;

I reside at 6405 County Road 1 (parcel no. 8612000012) and I receive my irrigation water from the Fisher Lateral which is largest irrigation lateral on the Lake Canal system. All of my neighbors from Harmony Road to Larimer County Road 32E also receive their irrigation water from this lateral. Reviewing the TWP 1041 it appears the 48-inch pipeline will cross the lateral twice. Please add the Fisher Lateral to the list of irrigation canals that will require a crossing agreement.

Thank you for your time.

Shawn Hoff  
6405 CRD 1  
Windsor, CO 80550



Rob Helmick <helmicrp@co.larimer.co.us>

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**18-ZONE2305**

1 message

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**Sandi Friedrichsen** <sfriedrichsen@wsfr.us>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>

Wed, Jan 24, 2018 at 3:11 PM

I don't have any comments on this plan other than advising the fire district of any street closures due to this project in our district.

Sandra Friedrichsen

Fire Marshal

Windsor Severance Fire Rescue

100 7th Street - Windsor, CO 80550

Main - (970) 686-2626

Email – firemarshal@wsfr.us

www.wsfr.us



TO: Rob Helmick, Senior Planner, Larimer County Community Development Division

FROM: Carie Dann, Deputy Fire Marshal, Loveland Fire and Rescue, phone 970.962.2518,  
email [Carie.Dann@LFRA.org](mailto:Carie.Dann@LFRA.org)

RE: Thompson Water Project 1041 (18-ZONE2305)

CC: Mark Koleber, City of Thornton Water Project, Thornton, Colo.

DATE: February 9, 2018

*These Conditions of Approval pertain to a review of a proposed pipeline construction project from Water Storage and Supply Reservoir #4 north of Fort Collins, proceeding through Larimer County to the east and south, to the Weld County line in Johnstown, Colo. The request is to locate and construct this raw water pipeline and additional facilities including pump stations and storage tanks in order to convey water to meet service needs for residents of Thornton, Colo. The pipeline will pass through unincorporated Larimer County, Windsor, Timnath and Johnstown in Larimer County. It is located partially in the Loveland Fire Rescue Authority jurisdiction.*

***Loveland Fire Rescue Authority will enforce the 2012 International Fire Code and its accompanying local ordinances. All fire department comments contained in this document and any future reviews, shall remain active until acknowledged by the applicant and resolved with LFRA.***

CONDITIONS OF APPROVAL

1. The applicant will obtain the necessary access permits for any necessary temporary and permanent access locations. Approved roadway access to existing hydrants and existing structures shall be maintained in order for emergency responders to protect lives and property; this includes both public and private roadways. Any closures affecting access to hydrants and structures shall be reported at least 24 hours in advance to the Loveland Emergency Telecommunications Center, at (970) 667-2151.



February 8, 2018

Rob Helmick  
Senior Planner  
Larimer County Community Development Division  
P.O. Box 1190  
Fort Collins, Colorado 80522-1190

**Re: Thornton Water Project 1041**

Dear Rob,

Thank you for forwarding this proposal for a review of the Thornton Water Project 1041. The Town acknowledges that Larimer County and the Town of Timnath do not have an IGA, but are working diligently toward that end. In the meantime, we appreciate this opportunity to make comments relative to this proposal.

The Town has the following comments to this subdivision:

1. The Town's preference would be to have the pipeline located within the ROW that occur within the Town's GMA whenever feasible.

With those comments in mind, the Town would like the opportunity to be updated on this application throughout the process.

Sincerely,

Kevin Koelbel, BSP, APA  
Town Planner

CC:  
Matt Blakely, Community Development Director  
April Getchius, Town Manager  
Don Taranto, Public Works Director  
Steve Humann, Town Engineer



January 25, 2018

Mr. Rob Helmick, Senior Planner  
Larimer County Planning Department  
PO Box 1190  
Fort Collins, Colorado 80522

Subject: Thornton Water Project (TWP) 1041 Plan No. 18-ZONE2305

Dear Mr. Helmick,

The Town of Windsor has no comment on this application. The Town and City of Thornton have executed an intergovernmental agreement regarding this water transmission pipeline. The Town expects to continue coordination with the City as the installation of the pipeline progresses through the Town's Growth Management Area and corporate limits.

Thank you for the opportunity to review this application. Please feel free to contact me with any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Scott Ballstadt".

Scott Ballstadt, AICP  
Director of Planning

cc: Mark Koleber, City of Thornton Water Project

---

301 Walnut Street  
Windsor, CO 80550

Office: 970-674-2400  
Fax: 970-674-2456

[www.windsorgov.com](http://www.windsorgov.com)



102 Remington Street  
Fort Collins, CO 80524

Phone: 970-221-6570  
Fax: 970-221-6635  
Internet: [www.poudre-fire.org](http://www.poudre-fire.org)

**TO:** Rob Helmick, Senior Planner, [rhelmick@larimer.org](mailto:rhelmick@larimer.org), 970-498-7682

**FROM:** Andrew Rosen, Fire Protection Technician, [arosen@poudre-fire.org](mailto:arosen@poudre-fire.org) 970.416.2599

**PROJECT:** To locate and construct a raw water pipeline and appurtenant facilities including pump stations and storage tanks.

**LARIMER COUNTY CASE NUMBER:** 18-ZONE 2305

**LOCATION:** A pipeline route commencing at Water Storage and Supply reservoir number 4 proceeding east along the Douglas Road alignment to CR9 north to CR56 East to the Larimer County Line thence south along the County line to the Weld County line at Johnstown.

**COMMENTS DUE:** January 29, 2018

**OWNERS:** City of Thornton

**CC:** Mark Koleber, 12450 Washington Street, Thornton, CO 80241

**PFA OVERALL PROJECT COMMENTS:**

Fire department comments shall remain active until acknowledged and resolved by the applicant. Poudre Fire Authority (PFA) has adopted the 2015 International Fire Code. Please feel free to contact me with any questions.

>PFA is requesting a copy of the Emergency Operations Plan for the project as soon as it becomes available.

>This is a complex and evolving project which we expect will be developed in phases. PFA will require involvement in all the pre-phase and other relevant meetings.

>PFA will expect regular updates on full or partial lane closures for all roads impacted.

> In areas away from the County roads or other hard surfaces, a Helicopter landing zone may need to be considered.

>PFA understands that the number and specific location of the staging areas is yet to be determined and there may be other properties used as staging areas. PFA requires that this information be provided as soon as it is known and at the meetings before each phase is started.



102 Remington Street  
Fort Collins, CO 80524

Phone: 970-221-6570  
Fax: 970-221-6635  
Internet: [www.poudre-fire.org](http://www.poudre-fire.org)

- >Wayfinding and addressing at every portion of the project, including all trenching and boring activities will be extremely important to ensure prompt access to a medical, fire or other emergency response.
- >Code compliant access to all parts of the pipeline install activities should be clearly identified in the initial Emergency Operational Plan provided to PFA and presented at each phase meeting.
- >Any fueling or fuel storage operations shall be carried out in compliance of Section 57 of the 2015 International Fire Code.
- >All of the Staging Areas will be required to comply with all applicable requirements listed below for the permanent facilities.
- >A member of the PFA Technical Rescue group may wish to contact the Project Team so we request the relevant contact information be provided.

**THE FOLLOWING COMMENTS APPLY TO THE SOURCE WATER PUMP STATION AND ANY OTHER PERMANENT STRUCTURES:**

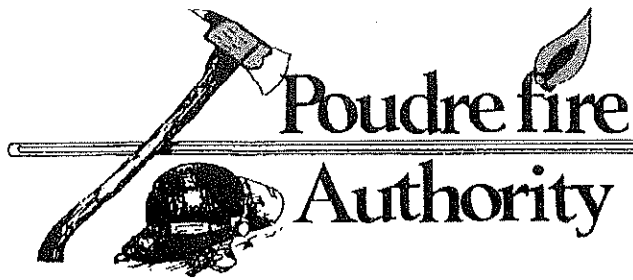
**FIRE ACCESS**

Emergency access is required to within 150ft of all portions of each and every building or facility as the project develops. At the permanent source water pump station and all other permanent facilities, any required Fire Lanes should be designated on the Site Plan as Emergency Access Easements and recorded on a separate Legal Document.

**FIRE LANE SPECIFICATIONS**

A fire lane plan shall be submitted for approval prior to installation. In addition to the design criteria already contained in relevant standards and policies, any new fire lane must meet the following general requirements:

- > *Shall be designated on the plat or by separate document as an Emergency Access Easement.*
- > *Maintain the required 20 foot minimum unobstructed width & 14 foot minimum overhead clearance.*
- > *Be designed as a flat, all-weather driving surface capable of supporting 40 tons.*
- > *Dead-end roads shall not exceed 660' in length without providing for a second point of access.*
- > *Dead-end fire access roads in excess of 150 feet in length shall be provided with an approved area for*



102 Remington Street  
Fort Collins, CO 80524

Phone: 970-221-6570  
Fax: 970-221-6635  
Internet: [www.poudre-fire.org](http://www.poudre-fire.org)

turning around fire apparatus.

> The required turning radii of a fire apparatus access road shall be a minimum of 25 feet inside and 50 feet outside. Turning radii shall be detailed on submitted plans.

> Be visible by red curb and/or signage, and maintained unobstructed at all times. Sign locations or red curbing should be labeled and detailed on final plans. Refer to LUCASS detail #1418 & #1419 for sign type, placement, and spacing. Appropriate directional arrows required on all signs.

> Additional access requirements exist for buildings greater than 30' in height. Refer to Appendix D of the 2015 IFC or contact PFA for details

#### **HYDRANT**

A Hydrant is required no more than 300ft from each Facility or building along an approved access route. Code Language follows:

> IFC 507.5 and PFA Policy: Hydrants to provide 1,500 gpm at 20 psi residual pressure, spaced not further than 300 feet to the building, on 600-foot centers thereafter.

#### **AUTOMATIC FIRE SPRINKLER**

Any building greater than 5000sq.ft. requires an approved Automatic Fire Sprinkler system or Fire Containment. Please contact Assistant Fire Marshal, Joe Jaramillo with any fire sprinkler related questions at 970-416-2868.

#### **SECURITY GATES**

It is stated in the provided project document that there will be security fences installed around the permanent facilities. Security gates with approved Knox Key switches will be required where appropriate to allow Emergency Access. Code language to follow:

> IFC 503.6: The installation of security gates across a fire apparatus access road shall be approved by the fire chief. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times.

> IFC D103.5: Gates securing fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width for vehicle access shall be 20 feet.
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for





102 Remington Street  
Fort Collins, CO 80524

Phone: 970-221-6570  
Fax: 970-221-6635  
Internet: [www.poudre-fire.org](http://www.poudre-fire.org)

*emergency access. Emergency opening devices shall be approved by the fire code official. Gates must have a Knox Gate Key Switch that fits the Knox Key system for Poudre Fire Authority.*

*6. Gate design and locking device specifications shall be submitted for approval by the fire code official prior to installation.*

*7. Electric gate operators, where provided, shall be listed in accordance with UL 325 and have a means of emergency, manual operation during power loss.*

*8. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200.*

#### **PREMISE IDENTIFICATION: ADDRESS POSTING & WAYFINDING**

All buildings in each Facility need to be clearly addressed to aid in wayfinding and to ensure prompt Emergency response. This addressing plan should be submitted for PFA approval. Code language follows:

*IFC 505.1: New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible, visible from the street or road fronting the property, and posted with a minimum of six-inch numerals on a contrasting background. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.*



Rob Helmick <helmicrp@co.larimer.co.us>

## Thornton Pipeline

3 messages

**Sheri Langenberger** <SLangenberger@fcgov.com>

Mon, Jan 29, 2018 at 4:26 PM

To: Rob Helmick <rhelmick@larimer.org>

Cc: Cameron Gloss <cgloss@fcgov.com>, Ryan Mounce <RMounce@fcgov.com>

Rob

Received and reviewed the referral for the Thornton Water Project 1041 and wanted to provide some comments.

Comments from City of Fort Collins Engineering.

If the line is proposed north of Douglas Road the City will not be involved.

If the line is located on the south side of Douglas Road and/or within City Growth Management Area (GMA) and/ or within City limits the following will apply:

- Excavation permits from the City for any work in City ROW or Easements will need to be obtained. Permits and permit information can be found here: <https://www.fcgov.com/engineering/inspection.php>
- Any lines running within ROW shall either run parallel to the road alignment or shall cross perpendicularly. No diagonal crossings.
- All lines shall have at least 3' of cover from top of pipe to top of asphalt.
- All patching within City ROW shall meet City standards and criteria. See chapter 25 of Larimer County Urban Area Street Standards for additional information on these requirements.

Thanks for the opportunity to provide some comments. Please let me know if there are any questions.

Thanks

Sheri

Sheri Langenberger

Development Review Manager - Engineering

City of Fort Collins

(970) 221-6573

**Rob Helmick** <helmicrp@co.larimer.co.us>

Mon, Jan 29, 2018 at 4:28 PM

To: Clinton Jones <cdjones@larimer.org>, Mark Koleber <Mark.Koleber@cityofthornton.net>, John Himyak

<John.Himyak@cityofthornton.net>

[Quoted text hidden]

--  
Robert Helmick, AICP  
Larimer County Community Development Division

**THORNTON WATER PROJECT 1041**

**34**

Development Planning  
PO Box 1190  
Fort Collins CO 80524  
rhelmick@larimer.org  
970-498-7682

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**John Himyak** <John.Himyak@cityofthornton.net>  
To: Rob Helmick <helmicrp@co.larimer.co.us>

Mon, Jan 29, 2018 at 5:00 PM

Thanks Rob

**From:** Rob Helmick [mailto:helmicrp@co.larimer.co.us]  
**Sent:** Monday, January 29, 2018 4:28 PM  
**To:** Clinton Jones <cdjones@larimer.org>; Mark Koleber <Mark.Koleber@cityofthornton.net>; John Himyak <John.Himyak@cityofthornton.net>  
**Subject:** Fwd: Thornton Pipeline

----- Forwarded message -----

**From:** **Sheri Langenberger** <SLangenberger@fcgov.com>  
**Date:** Mon, Jan 29, 2018 at 4:26 PM  
**Subject:** Thornton Pipeline  
**To:** Rob Helmick <rhelmick@larimer.org>  
**Cc:** Cameron Gloss <cgloss@fcgov.com>, Ryan Mounce <RMounce@fcgov.com>

Rob

Received and reviewed the referral for the Thornton Water Project 1041 and wanted to provide some comments.

Comments from City of Fort Collins Engineering.

If the line is proposed north of Douglas Road the City will not be involved.

If the line is located on the south side of Douglas Road and/or within City Growth Management Area (GMA) and/ or within City limits the following will apply:

- Excavation permits from the City for any work in City ROW or Easements will need to be obtained. Permits and permit information can be found here: <https://www.fcgov.com/engineering/inspection.php> [fcgov.com]
- Any lines running within ROW shall either run parallel to the road alignment or shall cross perpendicularly. No diagonal crossings.
- All lines shall have at least 3' of cover from top of pipe to top of asphalt.
- All patching within City ROW shall meet City standards and criteria. See chapter 25 of Larimer County Urban Area Street Standards for additional information on these requirements.

Thanks for the opportunity to provide some comments. Please let me know if there are any questions.

Thanks

Sheri

Sheri Langenberger

Development Review Manager - Engineering

City of Fort Collins

(970) 221-6573

--

Robert Helmick, AICP  
Larimer County Community Development Division

Development Planning  
PO Box 1190  
Fort Collins CO 80524  
rhelmick@larimer.org  
970-498-7682



102 Remington Street  
Fort Collins, CO 80524

Phone: 970-221-6570  
Fax: 970-221-6635  
Internet: [www.poudre-fire.org](http://www.poudre-fire.org)

**TO:** Rob Helmick, Senior Planner, [rhelmick@larimer.org](mailto:rhelmick@larimer.org), 970-498-7682

**FROM:** Andrew Rosen, Fire Protection Technician, [arosen@poudre-fire.org](mailto:arosen@poudre-fire.org) 970.416.2599

**PROJECT:** Thornton Water Project 1041

**LARIMER COUNTY CASE NUMBER:** 18-ZONE2305

**LOCATION:** A pipeline route commencing at Water Storage and Supply Reservoir #4 proceeding east along the Douglas Road alignment to CR( north to CR56 East to the Larimer County Line thence south along the County line to the Weld County line at Johnstown

**DESCRIPTION:** To locate and construct a raw water pipeline and appurtenant facilities including pump stations and storage tanks. The pipeline commences north of Fort Collins at WS&S reservoir #4 following along the alignment of Douglas Rd to County Road 9/Turnberry Road. Thence north to CR56 thence east to the County Line to a water tank thence south along the County Line to the Weld County through Timnath, Windsor and Johnstown.

**COMMENT DATE:** 4-25-2018

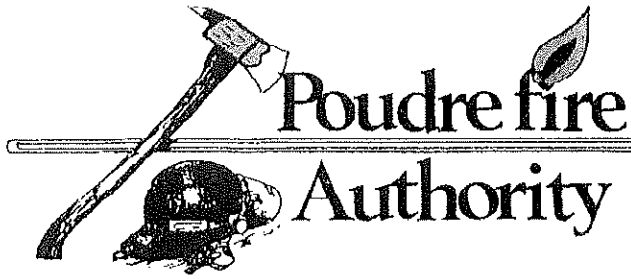
**OWNERS:** City of Thornton Water Project, Mark Koleber, 12450 Washington St, Thornton, CO, 80241.  
[info@ThorntonWaterProject.com](mailto:info@ThorntonWaterProject.com)

#### **PFA COMMENTS**

>PFA is planning to adopt the 2018 International Fire code in January of 2019. PFA comments shall remain active until acknowledged and resolved by the applicant. Please feel free to contact me with questions.

>It is understood from the provided documents that Thornton will provide a Site Plan Review for the Source Water Pump Station. PFA will have comments at that time regarding hydrant placement, fire access, addressing/wayfinding and gate access.

>All of PFA's comments for the previous review dated 1-29-2018 are still current and a copy is attached.



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Internet: [www.poudre-fire.org](http://www.poudre-fire.org)

**TO:** Rob Helmick, Senior Planner, [rhelmick@larimer.org](mailto:rhelmick@larimer.org), 970-498-7682

**FROM:** Andrew Rosen, Fire Protection Technician, [arosen@poudre-fire.org](mailto:arosen@poudre-fire.org) 970.416.2599

**PROJECT:** To locate and construct a raw water pipeline and appurtenant facilities including pump stations and storage tanks.

**LARIMER COUNTY CASE NUMBER:** 18-ZONE 2305

**LOCATION:** A pipeline route commencing at Water Storage and Supply reservoir number 4 proceeding east along the Douglas Road alignment to CR9 north to CR56 East to the Larimer County Line thence south along the County line to the Weld County line at Johnstown.

**COMMENTS DUE:** January 29, 2018

**OWNERS:** City of Thornton

**CC:** Mark Koleber, 12450 Washington Street, Thornton, CO 80241

**PFA OVERALL PROJECT COMMENTS:**

Fire department comments shall remain active until acknowledged and resolved by the applicant. Poudre Fire Authority (PFA) has adopted the 2015 International Fire Code. Please feel free to contact me with any questions.

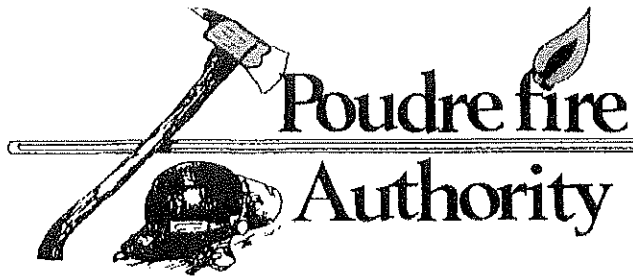
>PFA is requesting a copy of the Emergency Operations Plan for the project as soon as it becomes available.

>This is a complex and evolving project which we expect will be developed in phases. PFA will require involvement in all the pre-phase and other relevant meetings.

>PFA will expect regular updates on full or partial lane closures for all roads impacted.

> In areas away from the County roads or other hard surfaces, a Helicopter landing zone may need to be considered.

>PFA understands that the number and specific location of the staging areas is yet to be determined and there may be other properties used as staging areas. PFA requires that this information be provided as soon as it is known and at the meetings before each phase is started.



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- >Wayfinding and addressing at every portion of the project, including all trenching and boring activities will be extremely important to ensure prompt access to a medical, fire or other emergency response.
- >Code compliant access to all parts of the pipeline install activities should be clearly identified in the initial Emergency Operational Plan provided to PFA and presented at each phase meeting.
- >Any fueling or fuel storage operations shall be carried out in compliance of Section 57 of the 2015 International Fire Code.
- >All of the Staging Areas will be required to comply with all applicable requirements listed below for the permanent facilities.
- >A member of the PFA Technical Rescue group may wish to contact the Project Team so we request the relevant contact information be provided.

**THE FOLLOWING COMMENTS APPLY TO THE SOURCE WATER PUMP STATION AND ANY OTHER PERMANENT STRUCTURES:**

**FIRE ACCESS**

Emergency access is required to within 150ft of all portions of each and every building or facility as the project develops. At the permanent source water pump station and all other permanent facilities, any required Fire Lanes should be designated on the Site Plan as Emergency Access Easements and recorded on a separate Legal Document.

**FIRE LANE SPECIFICATIONS**

A fire lane plan shall be submitted for approval prior to installation. In addition to the design criteria already contained in relevant standards and policies, any new fire lane must meet the following general requirements:

- > *Shall be designated on the plat or by separate document as an Emergency Access Easement.*
- > *Maintain the required 20 foot minimum unobstructed width & 14 foot minimum overhead clearance.*
- > *Be designed as a flat, all-weather driving surface capable of supporting 40 tons.*
- > *Dead-end roads shall not exceed 660' in length without providing for a second point of access.*
- > *Dead-end fire access roads in excess of 150 feet in length shall be provided with an approved area for*



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turning around fire apparatus.

> The required turning radii of a fire apparatus access road shall be a minimum of 25 feet inside and 50 feet outside. Turning radii shall be detailed on submitted plans.

> Be visible by red curb and/or signage, and maintained unobstructed at all times. Sign locations or red curbing should be labeled and detailed on final plans. Refer to LUCASS detail #1418 & #1419 for sign type, placement, and spacing. Appropriate directional arrows required on all signs.

> Additional access requirements exist for buildings greater than 30' in height. Refer to Appendix D of the 2015 IFC or contact PFA for details

#### **HYDRANT**

A Hydrant is required no more than 300ft from each Facility or building along an approved access route. Code Language follows:

> IFC 507.5 and PFA Policy: Hydrants to provide 1,500 gpm at 20 psi residual pressure, spaced not further than 300 feet to the building, on 600-foot centers thereafter.

#### **AUTOMATIC FIRE SPRINKLER**

Any building greater than 5000sq.ft. requires an approved Automatic Fire Sprinkler system or Fire Containment. Please contact Assistant Fire Marshal, Joe Jaramillo with any fire sprinkler related questions at 970-416-2868.

#### **SECURITY GATES**

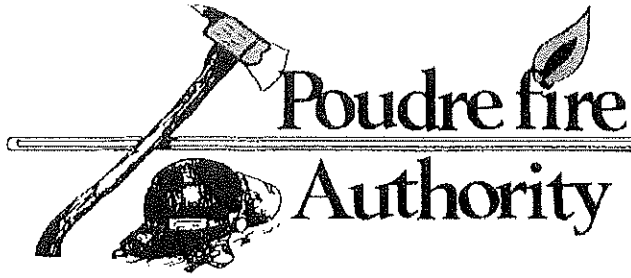
It is stated in the provided project document that there will be security fences installed around the permanent facilities. Security gates with approved Knox Key switches will be required where appropriate to allow Emergency Access. Code language to follow:

> IFC 503.6: The installation of security gates across a fire apparatus access road shall be approved by the fire chief. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times.

> IFC D103.5: Gates securing fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width for vehicle access shall be 20 feet.
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for





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*emergency access. Emergency opening devices shall be approved by the fire code official. Gates must have a Knox Gate Key Switch that fits the Knox Key system for Poudre Fire Authority.*

*6. Gate design and locking device specifications shall be submitted for approval by the fire code official prior to installation.*

*7. Electric gate operators, where provided, shall be listed in accordance with UL 325 and have a means of emergency, manual operation during power loss.*

*8. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200.*

#### **PREMISE IDENTIFICATION: ADDRESS POSTING & WAYFINDING**

All buildings in each Facility need to be clearly addressed to aid in wayfinding and to ensure prompt Emergency response. This addressing plan should be submitted for PFA approval. Code language follows:

*IFC 505.1: New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible, visible from the street or road fronting the property, and posted with a minimum of six-inch numerals on a contrasting background. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.*

PROJECT MEMO

TO: Rob Helmick, Senior Planner and Mark Koleber, City of Thornton Water Project, Applicant

FROM: Stan V. Griep, Commercial Plans Examiner/Codes Consultant *Stan*

DATE: January 16, 2018

RE: **Thornton Water Project 1041** {18-ZONE2305}

This memo is to make note of preliminary concerns or requirements associated with the above named project at time of 1041 Project Submittals Review only. No direct response is required at this time, unless specifically required in the individual items below. {*The 2015 International Codes are adopted and enforced by Larimer County.*}

1. A Building Permit is required for the proposed project. All plans for structures on the sites will be required to be wet stamped by Colorado Registered Engineers (Structural, Mechanical, Plumbing and Electrical) **and** a Colorado Licensed Architect. {*Pump Station - Tank*}
2. A Building Permit is required for all construction site office or materials modular structures or trailers as well (if any). Such submittals for the required building permit plans review shall be accompanied by wet stamped Engineered set-up and anchorage plans.
3. Please see the attachment, "Commercial Plan Submittal Information Required", for a listing of plans that are required at time of actual submittal for Building Permit.
4. This is only a "surface" review of this project. Further in-depth plan review is required before issuance of a building permit.

If you have any questions please feel free to contact me by reply email or by phone at (970) 498-7714. (M-T-W)





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**File 18-ZONE2305**

1 message

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**Amber Kauffman** <akauffman@ltwd.org>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>  
Cc: "info@thorntonwaterproject.com" <info@thorntonwaterproject.com>

Fri, Jan 26, 2018 at 3:03 PM

Mr. Helmick,

Little Thompson Water District has facilities along the proposed Thornton Water Project corridor that will likely be in conflict. We encourage the city of Thornton staff to reach out to the District to ensure crossings are safe, appropriate, and meet District standards.

Thank you for the opportunity to review the 1041 application.

Sincerely,

Amber Kauffman

*Amber Kauffman, P.E., District Engineer**Little Thompson Water District*

835 E. State Highway 56, Berthoud, CO 80513

PH: 970-532-2096 | FX: 970-532-3734

akauffman@ltwd.org | www.ltwd.org

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Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Kaneb/Magellan Pipeline Company, L.P.**

1 message

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**Keirse, Craig** <Craig.Keirse@magellanlp.com>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>  
Cc: "Swallow, Tom" <Tom.Swallow@magellanlp.com>

Thu, Jan 25, 2018 at 12:22 PM

Mr. Helmick,

My name is Craig Keirse and I work in the Real Estate department for Magellan Pipeline Company, L.P.

I received an email from a Magellan field rep. stating that he had received a package from his former employer, Kaneb, and inside was a binder titled "Thornton Water Project 1041".

I am reaching out to you in hopes to notify Larimer County that Magellan acquired that asset from Kaneb and to have Larimer County update its information from Kaneb Pipeline/Wyco Pipeline to Magellan Pipeline Company, L.P.

The correct information is:

Magellan Pipeline Company, L.P.

Craig Keirse

One Williams Center, OTC-8

Tulsa, OK 71472

Also, we believe this there may be a crossing involved with this project.

Please, feel free to contact me with any questions.

Thank you,

**Craig Keirse**

**Real Estate Representative**

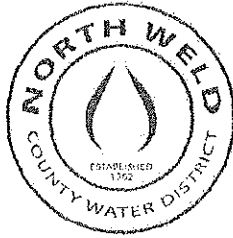
**Magellan Midstream Partners, L.P.**

**One Williams Center, OTC-8**

**Tulsa, OK 74172**

**(O)918.574.7986 (C)918.606.6890**

**THORNTON WATER PROJECT 1041****44**



## NORTH WELD COUNTY WATER DISTRICT

32825 CR 39 • LUCERNE, CO 80646

P.O. BOX 56 • BUS: 970-356-3020 • FAX: 970-395-0997

[WWW.NWCWD.ORG](http://WWW.NWCWD.ORG) • EMAIL: [WATER@NWCWD.ORG](mailto:WATER@NWCWD.ORG)

City of Thornton Water Project

January 29, 2018

Mark Koleber

12450 Washington Street

Thornton, CO 80241

[info@ThorntonWaterProject.com](mailto:info@ThorntonWaterProject.com)

Larimer County Planning Department

Rob Helmick

Senior Planner

970-498-7682

[rhelmick@larimer.org](mailto:rhelmick@larimer.org)

### **Re: Thornton Water Project 1041 – File 18-ZONE2305**

Dear Sirs:

North Weld County Water District (NWCWD) serves the towns of Pierce, Ault, Eaton, Nunn, Severance, Lucerne, Gill, Galetton, and the northern areas of Windsor and Greeley as shown in Figure A. NWCWD also encompasses some areas of eastern Fort Collins.

The proposed Thornton Water Project (TWP) pipeline will pass through NWCWD's service area, and it is anticipated that several crossings on NWCWD's existing water pipelines will be necessary. At these proposed crossings, NWCWD requires that the following procedures be followed as the TWP moves forward toward final design and through construction.

### **1. APPROVAL PROCEDURES**

Please note the Crossing Approval issued by NWCWD only applies to NWCWD's waterlines. The Contractor/Owner is responsible for identifying and obtaining any/all permits and/or approvals required from any public agency or private property owner. Submit each crossing for approval a minimum of two weeks prior to construction.



## NORTH WELD COUNTY WATER DISTRICT

32825 CR 39 • LUCERNE, CO 80646

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[WWW.NWCWD.ORG](http://WWW.NWCWD.ORG) • EMAIL: [WATER@NWCWD.ORG](mailto:WATER@NWCWD.ORG)

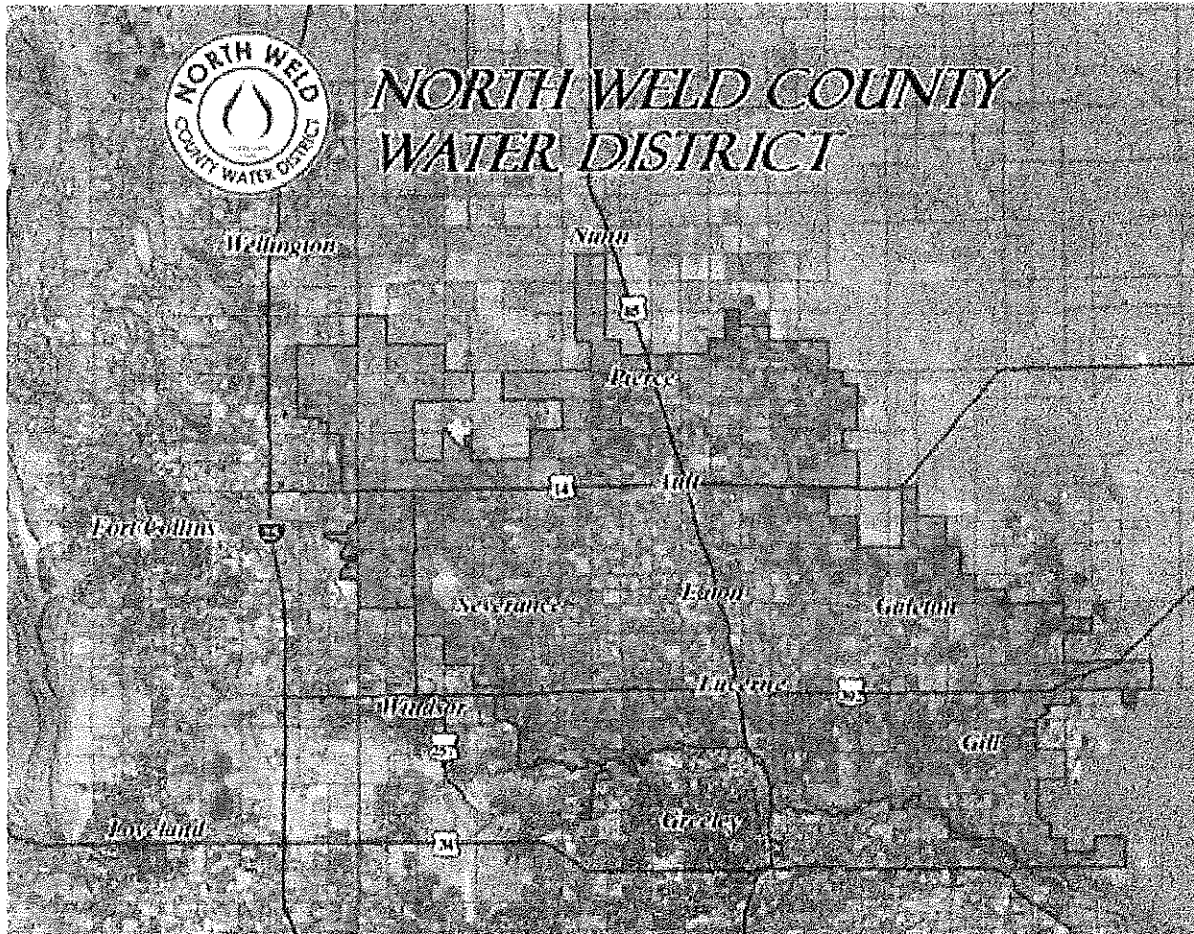


Figure A - NWCWD Service Area

## 2. POTHOLING OF EXISTING NWCWD PIPELINES

When the proposed project identifies that a NWCWD pipeline is within the project area, the potable- and non-potable waterline and associated service lines must be potholed to determine their exact locations and depths. It is the responsibility of the Contractor/Owner to obtain the appropriate approvals for performing the potholing of these waterlines.

A Location Map showing where the Contractor/Owner will be crossing or encroaching upon the NWCWD waterlines must be submitted a minimum of two weeks prior to any potholing activity.

When in public right-of-way (R/W), the appropriate permit must be obtained from the agency with jurisdiction for the R/W. When on private property within a NWCWD Easement area, the approval or right-of-entry must be obtained from the property owner.



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NWCWD will issue an "OK to Pothole" notification to the Contractor/Owner. NWCWD does not issue pothole permits, private property approvals, nor rights-of entry to private property. A NWCWD inspector must be on-site during potholing activities in accordance with Paragraph 5.B.

### 3. CROSSING APPLICATION

- A. Obtain a Crossing Application from NWCWD by requesting via e-mail from [water@nwcwd.org](mailto:water@nwcwd.org).
- B. Complete all pertinent information.
- C. Plan and Profile Drawing(s) - REQUIRED
  1. After potholing has been completed, the associated Plan and Profile Drawing(s) shall be updated, if necessary, and shall be provided as an attachment to the Crossing Application. Refer to the Minimal Design Standards below. The Plan & Profile Drawing(s) shall:
    - a. Show location information and placement of facility being installed, incorporating location and depth of pipelines identified by potholing.
    - b. Show how the proposed facility will be installed, e.g., bore, trench, other.
    - c. Show the type, size, etc. of the proposed facilities being installed, including crossing tape, marker posts, etc.
    - d. Show all NWCWD water and non-potable waterlines and service pipelines. If located in a NWCWD easement, the easement width shall also be shown on the Plan and Profile Drawing(s).
    - e. The actual proposed distance of clearance, both vertical and horizontal, from the proposed facility to the existing waterline.

### 4. SUBMIT COMPLETED CROSSING APPLICATION

- A. Submit to NWCWD a minimum of two weeks prior to proposed construction date.
- B. Attach Plan and Profile Drawing(s) with all information required.
- C. Review by NWCWD
  1. NWCWD will complete the review of the Crossing Application. This process requires confirmation of easement width, approval of proposed clearance, and installation. Additional information and/or drawing revisions will be requested if necessary.
- D. Crossing Approval Issued
  1. When all information is received and the Crossing Application with Plan and Profile Drawing(s) has been approved, NWCWD will issue:



## NORTH WELD COUNTY WATER DISTRICT

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[WWW.NWCWD.ORG](http://WWW.NWCWD.ORG) • EMAIL: [WATER@NWCWD.ORG](mailto:WATER@NWCWD.ORG)

- a. Original/Signed Crossing Application;
  - b. Provide any Approval Conditions that apply; and
  - c. Stamp, Sign, and Date the approved Plan and Profile Drawing(s).
- E. The original copy of the Approval and the Plan and Profile Drawing(s) shall be on-site during construction with a copy available for NWCWD's Inspector.
- F. The Contractor/Owner is responsible for identifying and obtaining any/all permits and/or approvals required from any public agency or private property owner.
- G. Inspection Notice - Contractor/Owner shall arrange for a NWCWD inspector prior to any construction activities, including potholing, regardless whether the waterline is in an easement or R/W.

### 5. MINIMUM STANDARDS FOR UTILITY ENCROACHMENTS OR CROSSINGS

The following requirements are standard and pertain to every proposed utility that intends to cross or encroach/parallel NWCWD's existing potable or non-potable waterlines and associated service lines. These minimum standards were developed to meet the Colorado Department of Public Health & Environment's Design Criteria for Potable Water Systems. These are considered minimum standards that may be changed upon plan review due to field conditions, soil conditions, service line connections, maintenance/repair of pipelines, and adjacent manholes or vaults. Installation plans must be submitted to NWCWD for review and approval a minimum of two weeks prior to the beginning of construction.

- A. Minimum Requirements - The exact clearance distance, i.e., not the minimum required clearance, shall be shown on the profile:
1. Parallel Installation (Encroachment)
    - a. Parallel installations shall maintain a minimum of 5-feet clear horizontal separation in a public R/W for dry utilities. All oil or natural gas pipelines shall maintain a minimum of 10-feet clear horizontal separation.
    - b. Parallel installations will not be allowed in exclusive waterline easements.
  2. Perpendicular Installation (Crossing)
    - a. For trenchless (bored) crossings, there shall be a minimum of 2-feet clear separation above or a minimum of 3-feet clear separation below existing waterlines or services. When reaming, the Contractor must allow for the outside diameter of the reamer plus the applicable 2- or 3-foot clearance distance, as applicable.
    - b. For open-cut crossings, there shall be a minimum of 18-inches of clear separation above or 3-feet clear separation below existing waterlines or





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services.

- c. All crossings shall be contained in an encasement pipe that may be:
    - i. Ductile Iron - Special Thickness Class 51;
    - ii. Steel – Minimum wall thickness of ¼-inch (Schedule 40);
    - iii. HDPE (DR11);
    - iv. PVC (Schedule 80);
  - d. Any variation from above encasement pipe materials must be reviewed and approved by NWCWD prior to installation.
  - e. The encasement pipe shall span a minimum of 10-feet on both sides and be centered on the existing waterline.
  - f. Any crossing that spans an exclusive waterline easement shall span the entire easement with the encasement pipe.
  - g. All crossings shall be at a 90-degree angle to the waterline.
- B. A NWCWD representative shall be present to verify all potholing, encroachments, and/or crossings. To schedule this service, call (970) 356-3020 a minimum of 48 hours prior to commencing work on site.

Please let me know if you have any questions regarding these requirements.

Sincerely,

NORTH WELD COUNTY WATER DISTRICT

ERIC RECKENTINE  
District Manager  
[ericr@nwcwd.org](mailto:ericr@nwcwd.org)



Rob Helmick <helmicrp@co.larimer.co.us>

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## comments

1 message

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**Justin Green** <justin@lakecanal.com>

Mon, Jan 29, 2018 at 6:53 AM

To: info@thorntonwaterproject.com, rhelmick@larimer.org

Mark and Rob,

Thank you for the binder of information for the TWP. When the project gets closer, we will have to have discussions with the Board to get crossing agreements in place before any work is done at the intersection of TWP and Lake Canal.

Thanks,

Justin Green

Superintendent

970-420-7503

relationship between the magnitude and frequency of rainfall events. Requirements for construction of stormwater facilities will be those that provide a cost-effective level of service based on up-to-date scientific data on flood frequencies.

**ER-16** Larimer County will explore options to protect and provide adequate water resources for present and future uses in the County, in partnership with other affected interests.

**ER-16-s1** Larimer County will not support future transfers of existing water resources out of the County without consideration of the impacts on present and future land uses including agriculture.

**ER-16-s2** Water conservation will be an important component of the strategy to maintain adequate water resources.

#### **NOISE, GLARE AND ODORS**

**ER-17** Larimer County shall develop noise and glare performance standards and enforce State odor condition standards to protect the health, safety and welfare of County residents.

**ER-17-s1** Noise standards from the County Noise Ordinance shall be used in the development review process to ensure that new development does not create unacceptable noise conditions beyond its property boundaries. The Land Use Code shall reference maximum permissible noise levels consistent with the existing County Noise Ordinance. If the County has reason to believe that a proposed use may cause noise which would be objectionable or otherwise cause a nuisance, a noise mitigation plan may be required as part of a development application.

**ER-17-s2** Performance standards for glare shall be addressed in the development review process to limit off-site impacts associated with glare and light level distur-

bance. The Land Use Code shall specifically address outdoor lighting standards and provide a review process for outdoor lighting activities and uses such as lighted playing fields and outdoor arenas.

**ER-17-s3** State standards for odor conditions shall be referenced to limit odors permissible beyond the property boundaries of the use, process or activity that causes odors. Residential and business uses, schools and churches shall be protected from odor conditions of new development. Certain agricultural operations are exempt from these standards. If the County has reason to believe that a proposed use may cause odors which would be objectionable or otherwise cause a nuisance, an odor mitigation plan may be required as part of a development application.

#### **SPECIAL PLACES**

**ER-18** The development review process shall assist in the protection of the special places of Larimer County.

**ER-18-s1** Sites and structures listed on State and National Registers of Historic Places and in the Larimer County Parks Comprehensive Master Plan shall be included on the environmental checklist at the initial stages of a development project. Other landmarks of local interest shall also be included on the checklist. The development review process shall consider options for preserving and protecting these features and sites.

**ER-18-s2** Preservation of unique or distinctive natural features shall be considered in the design of the development. As with other resources, open space areas shall be used to protect and preserve the special places of the County.

**ER-18-s3** Ridge lines shall be protected from development using a variety of tools

# PUBLIC COMMENTS

Dear Larimer County Commissioners  
I am very disappointed by the way you  
have treated residents of Douglas Road Area.  
You work for Larimer County not Thornton!

I think you should demand that  
Thornton take the water from the Poudre  
where it meets the South Platte - keep the  
Poudre River wild + scenic

Sincerely,  
Barbara Turnbull  
(ms) Barbara Turnbull

Note received in Treasurer's office as  
an attachment to property tax payment.  
Copy received by BCC 2-5-18



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Douglas Road Work

1 message

**Karleene Schindler** <karleenes@me.com>  
 To: douglasroad@larimer.org  
 Cc: Karleene Unger <karleenes@me.com>

Tue, Feb 6, 2018 at 4:19 PM

Hello, I attended the Jan 25th meeting for Douglas Road and have some feedback on the presentation information.

Re: Wider Shoulder - excellent! This is really needed as the shoulder in several places is very narrow and dangerous with bikes.

Re: Middle Lane - I would propose an alternative plan. There are several roads in Fort Collins with a middle lane such as is being proposed. I have found that the middle lane encourages drivers to use it as an acceleration lane and as a passing lane. I feel this is more dangerous than what we currently have. What I have found on Douglas Road is that the people turning left into driveways and on roads do so relatively fast and do not cause traffic to back up. What I have seen backing up the road are people who pull over to get their mail - they are still in the roadway since the shoulder is pretty skinny - and people who slow down to turn right. Those are the two times that I see the road being backed up, not from left turns.

Instead of having a middle lane, I would propose right turn lanes at each road and a wider shoulder. One person in the meeting mentioned with the middle lane added it would encourage more truck traffic on Douglas Road, wider shoulders and right turn lanes will not encourage the truck traffic. Terry Lake Road / SH1 has one lane in each direction and wide shoulders, wide enough that residents are able to pull off the roadway onto the shoulder and get their mail. I think we can agree that Douglas Road is not going to have the amount of traffic that SH1 has or will have in the future as they are a main throughfare for Wellington residents and ANB staff. SH1 has wide enough shoulders for residents to pull off for mail safely and for vehicles turning sharply right into steep driveways - so they are going pretty slow - and they do not interrupt traffic. I would encourage you to look at SH1 as an alternative to the middle lane thought.

Re: Intersection of SH1 and Douglas Road. I understand this is a stand alone project, here is my input.

- There is a serious accident at this intersection monthly, sometimes more often, and someone is going to be killed here soon. Accidents are measurable, the number of near accidents at this intersection has not been measured. I don't think the project managers understand how dangerous this intersection has become. You have so many vehicles flying South down SH1 and you have everyone who is trying to turn left or go across SH1. The posted speed for SH1 is 45 - I can tell you if I go 45 I have had people pull around me across the double yellow line and go around me like I was standing still. I would easily bet people are going 60-70 at times coming south in the morning on SH1. Traffic trying to enter that intersection with cross traffic going that fast is set up for disaster. The site lines coming from Douglas Road make it so that you have to partially pull out into the intersection in order to see the traffic. It's actually a wonder that there aren't more accidents. With the number of houses being built in Wellington and north Fort Collins, we cannot wait 2 more years before this intersection is fixed.
- Traffic going south have a right turn lane onto Douglas Road, traffic going north do not. When I slow down to turn onto Douglas many times the traffic behind me merge into the left turn lane to pass me, then merge back into the through lane. This is dangerous if someone is coming south and thinks the car is turning left when they are just unwilling to wait for me to turn right. We need a right turn lane coming north there.
- Putting a traffic light at this intersection will not slow the southbound traffic down, unless there is a sensor further up the road that tells the light to turn red if they record someone exceeding the speed limit.
- A traffic circle would slow everyone down and be less expensive to put in and maintain.

Thank you

Karleene Unger  
 1202 Bateleur Lane  
 karleenes@mac.com  
 970-218-9656





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Douglas Road**

1 message

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**Christopher Reid** <cjreid7@gmail.com>  
To: rhelmick@larimer.org

Wed, Feb 7, 2018 at 9:06 AM

Dear Mr. Helmick,

The latest list of requirements sent to Thornton was very detailed and I wish to thank you for circulating us all. (I assume you wrote it).

Just a couple of things you could have added:

During our community meeting with Thornton in the Azlan Center they showed photographs of typical (and very attractive) pump houses. None of what they showed is anything like a two storey 10,000 sq ft. plant and none of them showed external plant. In fact they were more similar to Elco's plant on Turnberry. They alluded to the fact that the plant house would be a "barn like" structure and fit appropriately into the area.

I hope you will hold them to that.

As Thornton have now purchased the property known locally as the "Tree Farm" perhaps you could also find out what they intend to do with the rest of the property after they have built their 2 acre fenced and illuminated plant house.

Speaking of floodlighting (security lighting), I don't think Larimer has the same rules as Fort Collins on *dark sky* lighting. Perhaps you could also be aware of that as it will ultimately interfere with a lot of people.

Thank you for all you are doing.

Chris Reid (3740 Braidwood Drive)





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Comments on County Rd. 54 Improvements

1 message

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**Jim Welch** <jameswelch1009@gmail.com>  
To: douglasroad@larimer.org  
Cc: Kathryn <kathrynhiggins425@gmail.com>

Sat, Feb 10, 2018 at 10:03 AM

To the County:

We live on West Douglas road and are would like to input on the improvements scheduled for 2020.

I understand the need for widening and improving the road. My biggest concern is to minimize the amount of truck traffic particularly tractor trailers and larger commercial trucks so it is not used as a bypass from 1-25 or 287 and places in between. I would support roundabouts, as opposed to traffic lights, as a means of discouraging truck traffic.

My second concern is to keep speeds down on both east and west douglas road. These are residential/rural areas with lots of people living along the road. There is no reason not to have the 35 miles per hour limit through the whole corridor as it is in West Douglas. The middle turn lane shouldnt serve as an excuse to up the speeds in our neighborhoods.

I appreciate your attention to our concerns.

Sincerely,

Jim Welch  
Kathryn Higgins  
817 W. Douglas Rd  
Fort Collins, CO 80524

"What a beauty to find an eagle in the sky,  
a fox on the land and a fast horse"  
Mongolian Saying.  
970-217-4424.



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Round About

1 message

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K.A. Wagner <kaswagner@me.com>  
To: douglasroad@larimer.org

Sun, Feb 11, 2018 at 1:05 PM

Considering the substantial opposition of affected property owners, Larimer County should abandon the hastily conceived plan to widen/upgrade Douglas Road, if/when the Thornton Pipeline begins construction.

Imagine the years of delays when residents refuse to be bought out by Thornton—which will resort to pursuing eminent domain in the courts. Remember the Greeley Pipeline? With years of delays, Douglas Road improvements will drop to the bottom of the list. Might as well invest in Owl Canyon now ( where improvements have been under consideration for years.)

Since you are the Public Works Director, I'm confident that public safety is a top priority for your department. If that is true, I encourage you to put the Douglas Rd. "improvement" money into the construction of a round-about at Hwy. 1 and Douglas Rd.

As you well known a round-about will:  
Improve public safety;  
reduce the number and seriousness of accidents (no running a red light;)  
improve air quality for area residents;  
reduce traffic noise at the intersection;  
allow for a seamless flow of traffic (no waiting for the signal to change;)  
and be less costly for the county to maintain long term.

Mark Peterson told me recently that a round-about is not out of consideration—I hope that's true. Having driven through the Douglas Rd./Hwy. 1 intersection for 30+ years, I'm confident that a round-about is a much better use of limited Public Works money than unnecessarily widening Douglas Rd.

Thanks for your consideration.

Karen Wagner



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

**RE: Take your water downstream**

1 message

Mark Koleber &lt;info@thorntonwaterproject.com&gt;

Fri, Feb 9, 2018 at 4:04 PM

To: warrenlemerich@gmail.com

Cc: rhelmick@larimer.org

Having trouble viewing this email? [Click here](#)

Mr. Lemerich,

Thank you for contacting us regarding the Thornton Water Project. We will add your comments to our records, and provide them to Larimer County, as well.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** R Warren Lemerich [mailto:warrenlemerich@gmail.com]**Sent:** Friday, February 09, 2018 2:17 PM**To:** Thornton Water Project <info@thorntonwaterproject.com>**Subject:** Take your water downstream

Mark,

We do not want your pipeline down Douglas nor do we want you to take from north Poudre. Please do the RIGHT thing by taking your water from south of Fort Collins. Please don't allow this to get legal.

Respectfully,

RW Lemerich

If you no longer wish to receive our emails, click the link below:  
[Unsubscribe](#)

**THORNTON WATER PROJECT 1041****59**

2/12/2018

co.larimer.co.us Mail - RE: Take your water downstream

Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

Dear Mr. Helmick,

21 Jan 2018

This letter is concerning the Thornton Water Project (TWP) 1041.

I am an eighty year old veteran and I say that with great pride. I served over twenty years, respect the Constitution, which gives me the right to petition for a redress of grievances and the right of free speech.

I do not think that County Road 54 (Douglas Road) is in dire need of improvement. I am firmly against the proposed waterline to be installed down Douglas Road. I doubt that anyone who is signing off on this project lives on Douglas Road. I feel if the individuals who do live just north and south of Douglas Road could vote on this issue, there would be at least 95% who would vote NO.

It is time to compromise and leave the water in the river until it crosses I-25. I feel there are underlying reasons for the destruction of Douglas Road that will create untold hardships and stress for the people who live out here and which would last for at least two years under construction. I also believe that there will be elections coming up in 2018. It would behoove all representatives in office now or who choose to run for office, to take another look or two about starting this controversial, cumbersome project without the peoples consent.

I find it ironic that the Coloradoan Newspaper has just published an article on its front page that indicated there is a plan to build a hotel on Lincoln Avenue on the banks of the Poudre River. If water continues to be diverted out of the Poudre River, there will be little, to no, river to build a new hotel on now, or in the future.

Thank you.



Lucille D. Laugesen  
3615 Terry Point Dr.  
Fort Collins, Co. 80524.

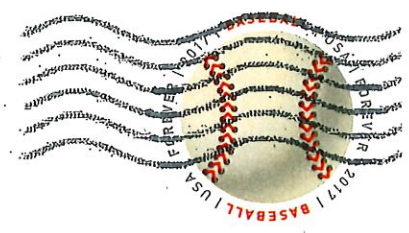
These croons aren't satisfied with only stealing land that's been in Adams County families for over 50 years... now they want to steal the Poudre River from Ft. Collins!

Man these guys are brazen... and selfish, and greedy and exploitive, and users of outdated and outlawed eminent domain procedures.

In our case, they took "control" of N. Washington St. and then used it as a device to force connecting properties to be annexed to Thornton. I wonder if that is their plan for Douglas Road too?

DENVER CO 812

31 JAN 2008 PM 7 1



Planning Commissioner  
Mina Cox  
200 W. Oak Street  
Fort Collins, CO  
80521



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Copy of letter sent to the Planning Commissioners

1 message

JDP &lt;jerroldpault@gmail.com&gt;

Tue, May 1, 2018 at 9:05 AM

To: helmicrp@co.larimer.co.us

Planning Commissioners,

I am the President of the **Cobb Lake Preservation and Recreation Association (CLPRA)** and represent 107 members in our organization. We are against the construction of this pipeline. The current application has no more specifics than the one submitted last winter. The City of Thornton plan to construct a 70 mile long 48" diameter pipeline to take water out of the Poudre River north of Fort Collins and route this pipeline north of Fort Collins along Douglas Road and CR 56 along the northern boundary of The Hill. Plans show a 1/4 mile wide construction right of way for this project along CR 56, with no specifications where the pipeline will go or other construction logistics. This lack of information is unprecedented and would virtually allow the City of Thornton to do whatever they want within this right of way! Our lake access, boat ramp and Osprey Nesting Site could all be impacted, not to mention a season of major construction, road closures, dust and weeds. A large water pump station and a large water storage tank are also indicated to be installed, which would be become a permeant addition to our northern views.

Other environmental factors should to be considered as well that do not directly affect our organization, but do impact the quality of life we enjoy in the Fort Collins area. Allowing the natural cyclic flow of water (literally billions of gallons) through the Poudre River water basin is critical to the health of the river and resultant habitat. Thornton purchased Northern Colorado water rights back in the 1980's and dried up many area farms to get it. While we cannot do anything about that now, we can stop this pipeline project. The only reason the city of Thornton wants this pipeline is to save \$\$\$ money and they are willing to permanently and negatively impact our environment to do so. There studies show taking the water out of the river north of us would save them the expense of building a water filtration plant, which would be required if they took out the water downstream.

Jerry Pault

jerroldpault@gmail.com  
970/371-1051



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Thornton pipeline

1 message

**Matthew Lafferty** <laffermn@co.larimer.co.us>  
To: "Helmick, Rob" <rhelmick@larimer.org>

Mon, Apr 30, 2018 at 8:20 AM

FYI

----- Forwarded message -----

From: **Larimer.org** <noreply@larimer.org>  
Date: Sat, Apr 28, 2018 at 5:47 PM  
Subject: Thornton pipeline  
To: pcboard@larimer.org

**A message has been submitted to pcboard@larimer.org from Larimer.org:**

DON'T DO IT...We here on the Poudre River don't want to see our river destroyed as it is the life blood of our community.

### Contact Details

**Name:** Leonard jaffee

**Email:** rev.dr.boots@gmail.com

**Phone:** 9704951335

The email was submitted on **Saturday, April 28, 2018 - 5:47pm**, logged in as: **Anonymous**

--



**Matthew Lafferty, AICP**  
Principal Planner

Community Development Department  
Advanced Planning  
200 W Oak Street, Suite 3100  
Fort Collins, Co 80521  
W: 970.498.7721  
mlafferty@larimer.org | www.larimer.org



3630 Woodridge Road  
Fort Collins CO 80524  
February 5, 2018

Mr. Todd Blumstrom,  
Larimer County Public Works Director  
Mr. Mark Peterson,  
Larimer County Engineer  
200 West Oak Street  
P. O. Box 1190  
Fort Collins CO 80522-1190

Re: January 25, 2018  
County Road 54 Presentation

Gentlemen:

My wife, Patricia, and I reside in the property at the southwest corner of the intersection of State Highway 1 and County Road 54 (Douglas Road). We are directly impacted by the proposal for the installation of a signal light at the intersection and the proposal for improvement of Douglas Road.

*The Signal Light.*

The signal light is a cooperative venture of CDOT, the City of Fort Collins, and Larimer County. No design or design criteria were provided at the public meeting. The County advised design would likely take place in 2019 and installation in 2020; although the County is requesting its partners in the project to move this forward one year.

The need for the signal was not discussed in any detail. Our personal observation is that accidents have dramatically reduced since turn lanes were installed in both Douglas Road and Highway 1, together with a right turn lane in southbound Highway 1. While we had 5 vehicles in our backyard since 1996, our fence has been impacted by only one accident—and that was on the Highway 1 side when an eastbound driver on Douglas Road blew the stop sign.

The through lanes on northbound Highway 1 and both east and westbound Douglas Road are also the right turn lanes. With these improvements in place both of us drove to and from downtown most every day, usually using the Douglas Road/Highway 1 intersection. We encountered no safety issues or unreasonable delays when making the right turn from Douglas Road to southbound Highway 1 or the left turn from Highway 1 to westbound Douglas Road.

The information presented did not separate between through traffic on these two roads and the disbursement of traffic from one roadway onto the other. No details were provided on the problems which would necessitate a signal light, nor was any information provided as to whether

the existing ROW of either or both roads would need to be expanded to accommodate right turn lanes in all directions.

Our existing, permitted fence along both roads sits inches inside of the ROW. The existing ROW provides approximately 8 feet of borrow ditch on Douglas Road and 12 or more on Highway 1. Mature blue spruce within our property provide light, sound, and exhaust protection supplementing the fencing.

When we installed the fence, in negotiation with Larimer County, we provided approximately 3 additional feet of sight line from eastbound Douglas Road onto southbound Highway 1 by pulling portions of the fence further into our property from the ROW along Highway 1. This has made right turns from the eastbound through lane on Douglas Road more efficient.

Any widening of the existing Douglas Road ROW to the south will take some of our property and improvements and increase light pollution from the signal as well as sound pollution from the road.

On the state of the record, the need for a signal light is not evident.

#### *Improvement to Douglas Road.*

No matter how the County's presentation seeks to spin the story, we would not be facing the proposed widening of Douglas Road were it not for the involvement of the Thornton 1041 application.

The existing Douglas Road ROW from Shields Street (CR 17) and Highway 1 varies from 60 feet to as much as 120 feet in a very limited area. The great majority of the ROW is 60 feet. The Douglas Road ROW was expanded by 10 feet on the north side of the road from La Mesa Drive east to Highway 1 when left turn lanes were installed in all directions at the intersection and a southbound right turn lane was installed in Highway 1.

Even though this is not our immediate issue, the Douglas Road ROW for all but a few hundred feet from Highway 1 east to Turnberry is 60 feet. The lot of each of these neighbors must be independently evaluated to compensate for the probable condemnation if the ROW is expanded to 84 feet.

The County's engineering department stated that the existing surface of Douglas Road from CR 17 to Highway 1 rated a 65 on a scale of 100 in the Pavement Condition Index (PCI). A rating of 52 was stated for Douglas Road from Highway 1 to Turnberry. The County will require Thornton to return any impacted portions of Douglas Road to this existing condition, i.e., drainage, base, and surface. On its face, this means considerable patching and no one is better off than today. There was some comment that the full width of the impacted road would have to be reconstructed. Obviously, Thornton would not reconstruct Douglas Road to its present depreciated condition. After Thornton contributes a negotiated sum, County taxpayers will pay to construct a new road not reflective of the depreciated condition. County taxpayers will also pay for the proposed enhancements and the acquisition of additional ROW required by the County and not by Thornton. In the absence of major safety issues, we, as County taxpayers, object to the project.

We have never heard any complaints from the subdivision residents along Douglas Road (or from individual lot owners whose driveways directly access Douglas Road) that they are unable to get onto or off Douglas Road without fear for their safety or substantial inconvenience in waiting for traffic to clear. There simply is no demand for a center turn lane from CR 17 to Turnberry or for additional right turn lanes to service private access points. The only advantages to installing a center turn lane and/or right turn lanes will be to encourage traffic on Douglas Road to exceed the posted 35 mph speed limit, or, even worse, to make travel easier for heavy trucks.

One resident stated that it would be great to have a decent bike lane along Douglas Road. We don't argue with that need; however, both eastbound and westbound bike lanes can easily be established within the existing ROW. Simply install a 4-foot rather than 8-foot lane in each direction and improve the grading of existing borrow ditches.

Drainage issues were not discussed. We have no knowledge of drainage issues on Douglas Road. That said, we suggest that judicious regrading of borrow ditches can alleviate any problems. Additionally, a better culvert system, especially at the entrances of Woodridge Road and Terry Ridge Road onto Douglas Road will keep road drainage within the borrow ditch.

#### *Conclusion.*

Gentlemen, we have come full circle. There is no evident demand by those most immediately affected for either the signal light or the proposed improvements to Douglas Road. The traffic information received thus far is inadequate and incomplete. No objective standards have been presented for evaluation of what facts we do have against those standards. There has been no opportunity for open debate.

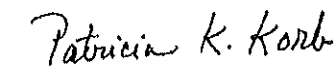
If it were not for Thornton abandoning a much simpler, more direct, and potentially less expensive route roughly following LCR 56 and refusing to evaluate and cost out the alternate of leaving much of the water in the Poudre River, Larimer County would not be raising the ire of our neighborhoods. Keep in mind that Thornton initially approached residents affected by the more northerly route *before* telling the Douglas Road residents the alternate was even on the table.

More subtly, we are all aware that improving Douglas Road will increase traffic on Shields from Douglas Road to U. S. Highway 287. Is the County willing to commit that it will not simply extend Douglas Road to Highway 287 and/or work with the City of Fort Collins to construct an I-25 interchange which turns Douglas Road into the feared and problematic "Fort Collins Truck Bypass" so futilely sought by both Larimer County the City of Fort Collins?

Sincerely,



Mark L. Korb



Patricia K. Korb

cc: Stop Thornton's Pipe Dream  
nopipedream.com

**Hugh and Lillys Price**  
3523 Terry Point Drive  
Fort Collins, CO 80524

April 25, 2018

Larimer County Board of County Commissioners / and Larimer County Planning Commission  
200 W. Oak Street  
Fort Collins, CO 80522

**SUBJECT: Comments and concerns about the Thornton Water Pipeline Project**

Dear Commissioners:

We have been residents of Larimer County for 26 years, and during the last 12 we have lived in the Terry Point neighborhood. We are both supporters of the NoPipeDream.com group and we are confident that you will receive many comments addressing this very elegant solution to the problem of providing Thornton residents access to their water and while minimizing the impact on Larimer County's residents and improving the health of the Cache la Poudre River.

However, since the issue at hand is the plan presented in the current Thornton Water Pipeline (TWP) 1041 Permit Application and the subsequent two addenda which were added In April, 2018, and we would like to request that the Larimer County Planning Commission and/or the Board of County Commissioners request further evaluation of possible TWP routing alternatives

In studying the maps provided by Thornton we were reminded of an old saying heard many times during our careers. (Engineering/Education and Science/Government). We were constantly admonished to follow the "KISS Principle" especially in project work. This acronym refers to "Keep-It-Simple-Stupid" (one of the more benign versions). This was a useful discipline in that you were forced to evaluate additions to a project on the basis of the impact of increased complexity on safety, operability, and cost.

Application of this to the proposed routing of the TWP under Douglas Road from just south of WSSC Resv #4 east to the point where it turns north for a mile before continuing east toward the long north south stretch leading south to Thornton, would raise the issue of: "Is this really the safest and most economical route for the TWP?" [please see: TWP 1041 Vol 2 Appendix A – South 1 Alternative - Fig. 5.1.12.2-10]

We have looked at the Alternative Corridors Analysis Section (Vol 2 - TWP 1041 Permit Application.) and we wonder if the question of Alternatives South 1 vs North 3 was properly evaluated. If the TWP water source was moved north to WSSC Resv.#3, then a shorter and more direct path to the east would result. This alternative, which follows County Road #56 would have the added benefit of less elevation change and seems worth re-evaluating [please see: TWP 1041 Vol 2 Appendix A - North 3 Alternative - Fig. 5.1.12.2-6]

The early analysis from the initial Application was made without any detailed knowledge of the underground obstacles impacting the Douglas Road route. Larimer County delayed this Permit process and forced the TWP Team to belatedly undertake the survey and marking work required to more fully understand their chosen route. Sadly, there is no evidence that this additional engineering work included any effort to determine whether this new information would have changed their route preference. It seemed primarily to be directed at reinforcing their selection of the Douglas Road corridor.

It is very clear that early on the TWP Project Team was focusing on routes well north of Douglas Road. [please note: the locations of the western sections of Alternates A thru D shown in Fig 3-2] The only HOA's they reached out to for comments were all close to these routes. Thornton was then told by Larimer County staff that they should prepare a proposal to use the Douglas Road Corridor for this portion of the TWP Project. Hearing this from the people who were going to be evaluating and processing the 1041 Permit had a very understandable effect on the route selection process.

We believe that it would be appropriate to request Thornton and their consultants to revisit this northern alternative before subjecting the citizens of Larimer County to the impacts of this highly disruptive project on a significant length of this major road.

Douglas Road was a very lightly used road when we moved to Terry Point in 2006. The rapid growth of Wellington has had a major impact on Douglas Road's traffic volume. It is now a challenge to get in-or-out of Swan Lane (the only means of access to the Terry Point neighborhood) during rush hour. The 4,000 vehicles per day measured by the Larimer County Engineering Department are not evenly distributed. Also there are very few alternative routes for our Wellington neighbors during the TWP construction period. This will generate more traffic issues for Fort Collins, which has plenty of them already.

We also wonder about the need for monitoring the condition of this buried pipeline during its useful life. Inspection access to the TWP will be much more difficult if it is under Douglas Road. Was this a consideration during the route selection process?

The TWP Project Team will take exception to having to revisit this, but we believe that the impacts on Larimer County need to be reconsidered. Larimer County will be dealing with this pipeline for decades. We would like to take the time to get it in the best possible location.

Thornton was foresighted enough to buy these water rights, and that is a "done deal." If they had also purchased pipeline right-of-ways connecting the farmland which they bought with the open land east of I-25, then they wouldn't now be looking for a path to use to get their water out of Larimer County. (It makes us wonder whether they bought these water rights in hopes of trading them, and not to use. This is a possible explanation for why they are now having to find a way out of a developed area, which has sprouted lots of houses over the last 30 years.)

But returning to the 1041 Permit Application: It seems to us that since the citizens of Larimer County are going to have to deal with the effects of having this 48 Inch diameter pipeline installed, we hope that our Planning Commission and Board of County Commissioners will consider the above questions regarding this project. We suggest some further evaluation by Thornton. This should not take long since they now have far more information on the South 1 Alternative route than they had when drafting the initial application.

We thank you for reading and considering our comments and concerns.

Sincerely yours,

Hugh and Lillys Price  
[submitted via e-mail]



**Rob Helmick** <helmicrp@co.larimer.co.us>

## Thornton water project 1041

2 messages

**Leslie & Bill Adams** <countysidestorage@yahoo.com>

Fri, Apr 27, 2018 at 2:52 PM

To: "rhelmick@larimer.org" <rhelmick@larimer.org>

To: Larimer County Planning Dept.  
Attn: Rob Helmick  
Re: Thornton water project pipe placement

Dear Mr. Helmick:

After our phone conversation on April 24th, you advised that I e-mail to you my concerns about the proposed Thornton Water Project (TWP) as its location could significantly impact my property.

My west side property line is on the Weld /Larimer County division (Rd. 13) My property lies to the east and is in Weld County. Directly west of my property line is Larimer County and encompasses a large parcel of undeveloped land.

I do not want a 48" water line to go through my property, especially when there is an open and vacant land area directly across my property line in Larimer County.

I all ready have gas line easements and power line easements in that same area. I vehemently oppose any more intrusions.

I would greatly appreciate your consideration not to run a Thornton pipeline through my property, when a more feasible and less impacting alternative is readily available. Please e-mail me back that you have received my e-mail and contact information.

Sincerely,  
Leslie Pickering-Adams  
303-378-0041

**Rob Helmick** <helmicrp@co.larimer.co.us>

Fri, Apr 27, 2018 at 3:00 PM

To: Leslie & Bill Adams <countysidestorage@yahoo.com>

e-mail received and printed and in file.

[Quoted text hidden]

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**Robert Helmick**  
Senior Planner

Community Development Department  
200 West Oak Street, Suite 3100  
PO Box 1190  
Fort Collins, CO 80521  
970-498-7682  
rhelmick@larimer.org  
<https://www.larimer.org/planning>





Rob Helmick <helmicrp@co.larimer.co.us>

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## RE: Proposed pipeline

2 messages

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Holly Wright <holly@wrightlife.com>

Wed, Apr 18, 2018 at 4:52 PM

To: douglasroad@larimer.org

Dear Larimer County Commissioners,

Please do not approve the permit submitted by the City of Thornton to widen Douglas Road, allow Thornton to run their pipeline down Douglas Road and encourage more traffic, noise and pollution down a road that already has a lot of traffic amongst rural neighborhoods. The ROW will impinge on berms and natural area, negatively effect property values, and add pollution and noise to a busy roadway. This is an inappropriate place to run the pipeline and will have a very negative effect on the neighborhoods and residences adjacent to Douglas Road.

Thank you for your consideration,

Holly Wright and John Stevens  
3665 Harbor Way

---

Todd Blomstrom <blomstta@co.larimer.co.us>

Wed, Apr 18, 2018 at 6:03 PM

To: Rob Helmick <helmicrp@co.larimer.co.us>

For the record.

[Quoted text hidden]



Rob Helmick <helmicrp@co.larimer.co.us>

**Fwd: Let the Poudre flow through Fort Collins**

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Sun, Apr 22, 2018 at 1:52 PM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Rob -- Please include this message in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Timpson, William** <William.Timpson@colostate.edu>

Date: Sun, Apr 22, 2018 at 1:17 PM

Subject: Let the Poudre flow through Fort Collins

To: "bocc@larimer.org" <bocc@larimer.org>

Commissioners,

I am asking you the Larimer County Commissioners to keep the Thornton water in the Poudre through Fort Collins. This simple outcome would not only help to preserve and protect the Cache la Poudre, it will also protect citizens and neighborhoods in Larimer County from a massive underground pipeline project.

Bill

William M. Timpson, Ph.D.

Professor, School of Education 105E

Fulbright Scholar/Specialist: Sustainable Peace and Reconciliation Studies

Colorado State University

Fort Collins, CO 80523 USA

William.Timpson@colostate.edu

970-491-7630





Rob Helmick <helmicrp@co.larimer.co.us>

**Fwd: Thornton Pipeline**

1 message

**Linda Hoffmann** <hoffmalc@co.larimer.co.us> Sun, Apr 22, 2018 at 12:27 PM  
To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>  
Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Rob -- Please included this message in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Ann Fairchild** <ann@fairchild.ws>  
Date: Sun, Apr 22, 2018 at 9:36 AM  
Subject: Thornton Pipeline  
To: bocc@larimer.org

Dear Commissioners,

Thornton purchase of water rights in a distant location is not our problem. Fort Collins and Larimer county do not need to bend over to help them get their water. Take pride in our community and say NO. They can find another route/solution north or south of our populated areas. Let's stop creating distress and wasting time and energy and take care of our own local pressing issues, put this proposal to an end and ask them to move on.

Respectfully,

Ann Fairchild  
3425 Terryridge Rd  
Fort Collins, CO 80524



Rob Helmick <helmicrp@co.larimer.co.us>

---

## Douglas Road

1 message

Christopher Reid <cjreid7@gmail.com>

Sun, Apr 22, 2018 at 8:30 AM

To: rhelmick@larimer.org

Cc: Scarlet Sparkuhl <scarletgemmina@yahoo.com>, Jason Roudebush <jason.roudebush@gmail.com>, R Warren Lemerich <warrenlemerich@gmail.com>

Dear Mr. Helmick,

I note from the map attached to your "public hearing notice" of 19th April that Thornton are still indicating a 500 ft. corridor along Douglas Road.

While I appreciate that this may be an old map I feel this should be corrected as soon as possible for two reasons:

1 Thornton could well refer to this map at a later date as acknowledgement of the status quo.

2 I believe Thornton have made no indication of where they intend to deposit the thousands of sq. ft. of dirt that will be excavated and presumably partially back fill after pipe installation. With a 500 ft. corridor this leaves them with way too many options.

From a logistics point of view that fill might be deposited within the area they have purchased for their pumping station adjacent to Starlight Drive. I believe these neighbors are unaware of this possibility.

You will understand that locally there is nil trust between Thornton and these neighborhoods and we look to you to protect our interests.

I appreciate that you are busy and no reply is necessary.

Chris Reid - 3740 Braidwood Drive



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Thornton Pipeline Project

2 messages

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Mon, Apr 9, 2018 at 11:09 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>, "Lafferty, Matthew" <laffermn@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Charmaine Stavedahl** <stavedahlc@gmail.com>

Date: Sun, Apr 8, 2018 at 10:49 AM

Subject: Thornton Pipeline Project

To: Bocc@larimer.org

Cc: cityleaders@fcgov.com, wtroxell@fcgov.com

My name is Charmaine Stavedahl and I live at 3607 Woodridge Road in Terry Shores, Ft. Collins. I live within a thousand feet of Douglas Road, the road that Thornton has decided, out of 10 possible routes, is the best route for their 48 in. 70 mile pipeline to bring water they own to their city. This has been planned, apparently, behind closed doors for 2-3 years with Larimer County and NISP, who also wants to run a 72 in. pipeline along Douglas Road. Current ROW is 120 ft. Thornton has said they can fit the pipeline within ROW or under the road. Given all the lines for utilities, water, internet etc. already in the ROW, and the required distance needed between them and a pipeline, I find this plan hard to believe. Instead, Thornton will have to acquire (despite the claim that they will not need to take anyone's land, they already have contacted a farmer wanting 1-3 acres of his land on W. Douglas to build their pump station, threatening him with Eminent Domain if he refuses) property all along Douglas Road through Eminent Domain, taking trees, fencing, landscaping, and structures in the process.

This proposed route runs through wetlands, with nesting Bald Eagles. It has the highest population density of all the routes. There are 7 neighborhoods just on West Douglas affected, and more on East Douglas, the majority of them with only 1 access point in and out of their neighborhoods.

The Land Use Code states that residents should be protected by their government, specifically the County Commissioners. As a resident and voter, I do not feel this has been the case in the Thornton pipeline project.

An alternative is to let the water run through the Poudre River and take it out at a point of diversion in Windsor, and build a pipeline from there to take the water to Thornton. This ensures a healthy river, not a low flowing one, that everyone can enjoy. This is critical to Ft. Collins' planned water park, scheduled to open in 2019. Thornton says the quality of the water is too compromised if taken out east of Fort Collins, rather than their point of diversion in the west. We still have not seen data to back up that assertion.

We have a massive destructive project being forced on residents along the proposed corridor, a project that will destroy wetlands, construct a pump house(es) with diesel powered generators, wire fencing, intrusive lighting, noise and pollution near a quiet dead end dirt road. A project with no definite ending point on Thornton's timeline, a project who's main argument for it's existence is better quality of water taken out above Ft. Collins, with no hard data to support that that anyone's yet seen.

I ask you to say No to Thornton's 1041 and pipeline proposal and Yes to using the natural pipeline of the Poudre River and having Thornton take the water out of the river in Windsor or elsewhere. Thornton has several points of

**THORNTON WATER PROJECT 1041**

**75**


4/9/2018

co.larimer.co.us Mail - Fwd: Thornton Pipeline Project

diversion.

Thornton has legal rights to their water, but they are not owed the quality or a designated route to get the water to them from Larimer County or the City of Ft. Collins.

Respectfully,  
Charmaine Stavedahl

 Virus-free. [www.avast.com](http://www.avast.com)

**Matthew Lafferty** <laffermn@co.larimer.co.us>  
To: "Helmick, Rob" <rhelmick@larimer.org>

Mon, Apr 9, 2018 at 12:40 PM

FYI

Matt

[Quoted text hidden]

--



**Matthew Lafferty, AICP**  
Principal Planner

Community Development Department  
Advanced Planning  
200 W Oak Street, Suite 3100  
Fort Collins, Co 80521  
W: 970.498.7721  
mlafferty@larimer.org | [www.larimer.org](http://www.larimer.org)



Rob Helmick <helmicrp@co.larimer.co.us>

**Fwd: NO to NISP**

1 message

**Linda Hoffmann** <hoffmalc@co.larimer.co.us> Thu, Mar 29, 2018 at 7:26 PM  
To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>  
Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is added to the public record as appropriate.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Gina Offermann** <goffermann@comcast.net>  
Date: Thu, Mar 29, 2018 at 1:43 PM  
Subject: NO to NISP  
To: bocc@larimer.org

Dear Commissioners,

I am against the Northern Integrated Supply Project. Please step up and represent the citizens of Larimer County and it's natural resources.

Thank you for your time,  
Gina Offermann

Sent from my iPad

**Rob Helmick** <helmicrp@co.larimer.co.us>

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## The Widening of Douglas Road

2 messages

**Planet Samson** <bikewoodstock@gmail.com>

Sun, Apr 8, 2018 at 2:03 PM

To: douglasroad@larimer.org

To Whom It May Concern,

Hello, I am writing to you to share my opinion about the widening of Douglas Road to 84"

Widening allows for additional future pipelines and invites MORE truck traffic.  
Yes, the City of Thornton bought the water, but they did not buy the quality of the water,  
or a designated route to get it to them.

The Poudre river needs to continue to be preserved and enjoyed by all.  
Now, and for future generations to come.

Thank you for your time and consideration.

Respectfully,  
Planet Glassberg

604 Sycamore  
Fort Collins 80521

970-221-1135

---

**Todd Blomstrom** <blomstta@co.larimer.co.us>

Mon, Apr 9, 2018 at 7:36 AM

To: Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

See below

[Quoted text hidden]

--

**Todd Blomstrom**

Director | Community Planning and Infrastructure  
Larimer County | 200 W Oak St | Fort Collins, CO | 80522  
W: (970) 498-5741 | tblomstrom@larimer.org



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Thornton Water Project**

1 message

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**Patrick McGuigan** <mcguigan62@yahoo.com>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>

Mon, Feb 5, 2018 at 2:26 PM

Hello Rob,

I am writing to express my strong support for the Douglas Road route as the best alternative for moving water from Water Supply and Storage reservoirs located in the area to the north of Douglas Road. As a long time resident of this area, I believe the interests of the great majority of residents living in close proximity to Douglas Road are best served by utilizing the public right of way beneath and immediately adjacent to this road to construct the pipeline. I am aware that final consideration of the Thornton 1041 application will include impact evaluations based upon the viability of constructing the pipeline such that private property easements will be minimal if needed at all. Thus far, all alternative routes discussed appear to be more have far more negatives than positives as compared to the currently proposed Douglas Road option, so I am hopeful these efforts will result in the feasibility of a construction plan which will yield minimal or even zero long term negative impact to all residents who live on Douglas Road itself.

Most notably, it is my belief the Poudre River option which would entail Thornton removing its water in the Windsor area would have the most potentially negative impact of any of the options being discussed and/or lobbied for. I am extremely concerned about the removal of any major portion of the current water storage in our immediate area. It is clear to me the Poudre River option would most likely result in the drying up of Reservoirs 3 and 4, possibly Terry Lake, and some of the other small beautiful reservoirs in the area. These are all very popular and well used recreational areas. Those of us who live in the area highly value and appreciate the blending of the natural wildlife habitats they support with the development which has taken place around these lakes over the past 30 years. Losing these lakes would be devastating to me and my family along with hundreds of other homeowners in the immediate area. Given our home is located on the Eastern side of Reservoir 4, drainage and /or elimination of that body of water would destroy what we have come to enjoy since moving here in 1996, so I do have a real dog in this fight.

Thanks for your attention in reading my concerns and for allowing me to voice my opinion.

Patrick G. McGuigan  
4547 Eagle Lake South  
Ft Collins, Co 80524



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Please stand up and speak out to protect the Poudre River

1 message

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>

Sun, Feb 4, 2018 at 3:40 PM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>, Terry Gilbert <gilbertt@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Rob -- Please add this message to the public record for the appropriate application(s).



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Barb Maynard** <barbarajmaynard@gmail.com>

Date: Sun, Feb 4, 2018 at 3:17 PM

Subject: Please stand up and speak out to protect the Poudre River

To: cityleaders@fcgov.com

Cc: bocc@larimer.org

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

Standing back and letting these projects move forward is unacceptable. I need you to bring together stakeholders and find a path forward that does not continue to drain the river or increase the amount of water drained out of the river through Fort Collins. Currently, 65% of the river is drained out by the time the river reaches downtown Fort Collins. These proposed projects will make that problem even worse, especially the Northern Integrated Supply Project.

Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
Barb Maynard  
barbarajmaynard@gmail.com

80521



January 28, 2018

RECEIVED

JAN 31 2018

Steve Johnson  
Larimer County Commissioner  
200 W. Oak, Suite 2200  
Fort Collins, Co 80521

COPY RECEIVED  
BY ALL COMMISSIONERS

COMMISSIONER'S OFFICE

Re: Thornton Water Project

Dear Mr. Johnson:

We are asking you to reject Thornton's 1041 application to run a pipeline down Douglas Road with a pump house in the vicinity of Douglas Road and Starlite. The residents of North Larimer County do not owe Thornton the right to tear up Douglas Road or take residents' property including fences, trees and yards with the proposed easement. The health of the Poudre River is at stake and with climate change and all the new housing being built, we all, including the City of Fort Collins and agriculture, need the Poudre River to be healthy and Thornton pumping millions of gallons of water from it will impact us all. There is no reason for Thornton to take water out of the river at the proposed point when it can be taken further South at the takeout point near Windsor. It is not our problem it will be more expensive for Thornton to do so. This area is a natural habitat for many species of birds. I fear this will disrupt their nesting habits and ruin this area where we all enjoy living. We all have worked hard to be able to buy in an area where we want to live. We did not buy a house out here to watch the main road be torn up, a pipeline installed and the ensuing continuous monitoring/repairing for said pipeline and pump house.

Another huge concern is the proposed pipeline being built beside or under Douglas Road. Heavy truck traffic has exploded in the last few months and as you know, there is and will be more and more traffic in the future with growth. "Federal guidelines for pipelines specifically advise against placing pipelines along roads, advising municipalities to select a site with the least "percent of route not along major corridors." The concern is vibrations from road traffic that may cause the sealant on pipes to crack and allow pipes to leak, causing possible liability to area homes and property owners." (Quoted from another source). We who live along Starlite frequently experience cracks in our homes due to the shale in this area. We are all very concerned the vibration from the pump house and pumped water will further cause the ground to shift and cause more damage to our foundations. This is a serious concern.

The proposed Thornton Water Project will diminish the value of our property all along the proposed corridor including the area surrounding the pump house. We have all worked hard to live here and you know there are a large number of older residents who have lived in their homes for years. What a shame after all their years of hard work and loving where they live to be faced with construction noise, vibrations, pollution and losing part of their property. Please do the right thing and deny Thornton's 1041 Proposal. The Poudre River needs your "NO" vote as well as the residents of Larimer County.

Respectfully,

Garth & Jean Korfanta  
5004 Patricia Drive  
Fort Collins 80524

*Garth Korfanta*  
*Jean Korfanta*

January 28, 2018

Rob Helmick  
Larimer County Planning Department  
200 West Oak Street  
Third Floor  
Fort Collins, Co 80521

Re: Thornton Water Project

Dear Mr. Helmick:

This letter is in opposition to Thornton's 1041 application to run a pipeline down Douglas Road with a pump house in the vicinity of Douglas Road and Starlite. The residents of North Larimer County do not owe Thornton the right to tear up Douglas Road or take residents' property including fences, trees and yards with the proposed easement. The health of the Poudre River is at stake and with climate change and all the new housing being built, we all, including the City of Fort Collins and agriculture, need the Poudre River to be healthy and Thornton pumping millions of gallons of water from it will impact us all. There is no reason for Thornton to take water out of the river at the proposed point when it can be taken further South at the takeout point near Windsor. It is not our problem it will be more expensive for Thornton to do so. This area is a natural habitat for many species of birds. I fear this will disrupt their nesting habits and ruin this area where we all enjoy living. We all have worked hard to be able to buy in an area where we want to live. We did not buy a house out here to watch the main road be torn up, a pipeline installed and the ensuing continuous monitoring/repairing for said pipeline and pump house.

Another huge concern is the proposed pipeline being built beside or under Douglas Road. Heavy truck traffic has exploded in the last few months and as you know, there is and will be more and more traffic in the future with growth. "Federal guidelines for pipelines specifically advise against placing pipelines along roads, advising municipalities to select a site with the least "percent of route not along major corridors." The concern is vibrations from road traffic that may cause the sealant on pipes to crack and allow pipes to leak, causing possible liability to area homes and property owners." (Quoted from another source). We who live along Starlite frequently experience cracks in our homes due to the shale in this area. We are all very concerned the vibration from the pump house and pumped water will further cause the ground to shift and cause more damage to our foundations. This is a serious concern.

The proposed Thornton Water Project will diminish the value of our property all along the proposed corridor including the area surrounding the pump house. We have all worked hard to live here and you know there are a large number of older residents who have lived in their homes for years. What a shame after all their years of hard work and loving where they live to be faced with construction noise, vibrations, pollution and losing part of their property. Please be a voice for the residents of Douglas Road and North Larimer County.

Respectfully,

Gärth & Jean Korfanta  
5004 Patricia Drive  
Fort Collins 80524

*Garth Korfanta*  
*Jean Korfanta*

To: Larimer County Board of County Commissioners  
Cc: Rob Helmick, Senior Planner, Larimer County

From: Save The Poudre

Re: Larimer County must use a 1041 permit process to evaluate and regulate the proposed Northern Integrated Supply Project because state precedent demands it and Larimer County's IGA process is "unconstitutionally vague."

March 29, 2018

Dear Commissioners and Mr. Helmick:

On behalf of Save the Poudre, I am writing to object to Larimer County's use of an Intergovernmental Agreement ("IGA") process to evaluate the Northern Integrated Supply Project ("NISP") instead of the required 1041 process. The reasons for this objection are outlined below.

According to the State of Colorado website, an IGA "is made between two or more governments in cooperation to solve problems of mutual concern."<sup>1</sup> Typically, governments use IGAs for cooperative planning, development review, resource sharing, joint planning commissions, building inspection services, and more.<sup>2</sup>

The purpose of NISP is to provide domestic water to communities in the Front Range. The vast majority of the water will be used in areas outside of Larimer County, including Dacono, Eaton, Erie, Evans, Firestone, Fort Lupton, Fort Morgan, Frederick, Lafayette, Severance, Windsor, Morgan County, Weld County, and the Left Hand Water District—all of which are outside of Larimer County.<sup>3</sup> Larimer County itself is not a participant in NISP.<sup>4</sup> Nor is Larimer County in the business of providing domestic water to residents of the county. As such, the provision of water to communities outside of Larimer County is not a matter of mutual concern with the NISP developer, Northern Colorado Water Conservancy District and Larimer County. Further, Larimer County has no significant partnership role in the planning, development, or financing of NISP. As such, it is completely inappropriate for Larimer County to use the IGA process for evaluating the NISP proposal. Instead, Larimer County must use a 1041 process in the Larimer County Code, as it has for other water pipelines serving communities outside of Larimer County. Larimer County's use of two different legal processes to evaluate

<sup>1</sup> <https://www.colorado.gov/pacific/dola/intergovernmental-agreements-igas>

<sup>2</sup> Id.

<sup>3</sup> NISP Fact Sheet, p. 2, attached hereto.

<sup>4</sup> Id.

similar water projects that predominately serve communities outside of Larimer County is arbitrary and capricious.

Also, the Larimer County Code's IGA provisions fail to provide objective criteria upon which to evaluate an IGA and therefore convey unfettered discretion to the Commissioners. As such, the IGA provisions in the Code are unconstitutionally vague, violate due process, and should not be relied upon to evaluate the NISP project.

More specifically, the Larimer County Code directs that water supply and pipeline projects are "matters of state interest" that should be evaluated under the Code's 1041 provisions.<sup>5</sup> The 1041 provisions require submission of an application, provide for public review and comment on the application, and require a quasi-judicial determination on the application by the County.<sup>6</sup> The 1041 regulation also mandate criteria upon which a water project should be evaluated.<sup>7</sup>

In contrast, the IGA provisions fail to require an application process, fail to ensure full public participation, and fail to contain objective criteria for judging a project. More specifically, no permit application is required for a project proceeding under an IGA.<sup>8</sup> The project proponent may avoid the 1041 process simply by making a "request" to the County.<sup>9</sup> The Code gives the County unfettered discretion in approving this "request" and contains no criteria for approval of the request.<sup>10</sup> In addition, the IGA Code provisions allow the project proponent to convert its IGA application to a 1041 application -- and back again -- willy nilly, without any objective criteria for evaluating which process is the most appropriate.<sup>11</sup> The decision of which process to use lies solely in the hands of the project proponent and Larimer County without identifying any objective criteria for the decision and can be converted at any time. Most importantly, the IGA process exempts the project proponent from strict compliance with the 1041 criteria and instead only requires the applicant to meet the "purpose and intent" of section 14, a term that is left undefined by the Code.<sup>12</sup> These vague IGA provisions give Larimer County unfettered discretion in both approving an IGA (versus a 1041 permit application) and in applying the 1041 criteria to an IGA project. Worse yet, although the IGA provisions contain a public hearing requirement, the thumb has already been placed on the scale in favor of approving the IGA because "the provisions of [the IGA] have been determined to be acceptable to the applicant and the county" before hearing any evidence in the public hearing.<sup>13</sup> These provisions would force the citizens of Larimer County to guess which process would be employed, and how the 1041 criteria would be applied. The

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<sup>5</sup> Larimer County Code Section 14.4 (J) and (K).

<sup>6</sup> Larimer County Code Sections 14.9.

<sup>7</sup> Larimer County Code Section 14.10.

<sup>8</sup> Larimer County Code Section 14.8 (A).

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Larimer County Code Section 14.8 (B).

<sup>12</sup> Larimer County Code Section 14.8(A)(2).

<sup>13</sup> Larimer County Code Section 14.8(A)(3).

IGA provisions fail to provide fair warning of when a 1041 application is required versus an IGA and what criteria would apply. These provisions make a mockery of the public hearing process and the County's duty to evaluate matters of state interest in an independent quasi-judicial manner.

Further, in the last two years, the Northern Integrated Supply Project proposal has changed dramatically to include a massive new pipeline across northern Larimer County (currently proposed on Douglas Road) in addition to multiple dams and pump stations as well as the Glade Reservoir. Northern Water calls this pipeline the "refined conveyance"<sup>14</sup>, and as such the massive new pipeline adds to the necessity that NISP must be regulated by Larimer County using the 1041 process.

In addition, in 2009, Larimer County adopted 1041 powers in response to the "Greeley Pipeline" and the extreme controversy it generated.<sup>15</sup> Further, in 2012, Larimer County proposed expanding the 1041 powers specifically to address NISP.<sup>16</sup> Using 1041 powers to regulate water projects – dams, reservoirs, pipelines – is a common and accepted practice in the state of Colorado with many legal precedents, including but not limited to:

- The Boulder County Commissioners rejected an IGA process<sup>17</sup> for the proposed Gross Dam expansion ("Moffat Collection System Project"), and are expecting Denver Water to apply for a 1041 permit for the project.<sup>18</sup>
- Grand County used a 1041 permit process to regulate the "Windy Gap Firing Project".<sup>19</sup>
- Eagle County used a 1041 permit process to regulate the "Homestake II" diversion project.<sup>20</sup>
- Pueblo County used a 1041 permit process to regulate the "Southern Delivery Supply Project".<sup>21</sup>
- Larimer County is using a 1041 permit process for the "Thornton Pipeline" which proposes to put a pipeline down Douglas Road, in the exact same place as NISP.

In summary, the IGA provisions in the Larimer County Code are unconstitutionally vague, lack objective criteria for evaluating an IGA, confer unfettered discretion on the Commissioners, and otherwise violate notions of due process. The vagueness doctrine is

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<sup>14</sup>

<http://www.northernwater.org/docs/NISP/MapsDocuments/NISP%20Overview%202016.pdf>

<sup>15</sup> <https://www.coloradoan.com/story/news/local/2014/10/10/battle-greeley-water-pipeline-heads-court/17056247/>

<sup>16</sup> [http://www.reporterherald.com/ci\\_20260976/larimer-county-may-adopt-1041-powers](http://www.reporterherald.com/ci_20260976/larimer-county-may-adopt-1041-powers)

<sup>17</sup> <http://c1n.tv/boulderchannel1/boulder-county-commissioners-reject-agreement-with-denver-water-board-on-the-proposed-gross-reservoir-expansion/>

<sup>18</sup> <https://www.bouldercounty.org/property-and-land/land-use/planning/denver-water-gross-reservoir/>

<sup>19</sup> <https://co.grand.co.us/DocumentCenter/View/1369>

<sup>20</sup> <http://www.coloradoriparian.org/water-projects-and-colorados-1041-regulations/>

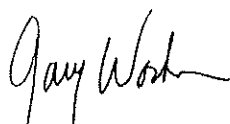
<sup>21</sup> <http://www.coloradoriparian.org/water-projects-and-colorados-1041-regulations/>

rooted in due process and prohibits laws that are in terms so vague that persons of common intelligence must necessarily guess as to their meaning and differ as to their application.<sup>22</sup> In this case, Larimer County's IGA regulations are vague and violated due process and the Colorado Constitution. As such, Larimer County must require the NISP proposal to be evaluated under the County's 1041 regulations rather than the unconstitutionally vague IGA provisions.<sup>23</sup> If the Commissioners were to approve an IGA for the NISP proposal, it would be vulnerable to challenge because the IGA regulations are facially unconstitutional, as well as unconstitutional as applied to NISP. Further yet, there is considerable legal precedent in the state of Colorado that 1041 permits are the appropriate legal permitting process for projects exactly like NISP.

Larimer County must require the Northern Colorado Water Conservancy District to submit a 1041 application for its NISP proposal. Please respond to this letter in writing and state under which process the NISP proposal will proceed.

Save The Poudre requests that we be placed on the County's public notice email list for all permit applications, MOUs, IGA's, hearings, or other information related to the NISP proposal. Please send all such notifications to Gary Wockner at [gary.wockner@savethepoudre.org](mailto:gary.wockner@savethepoudre.org).

Sincerely,



--

Gary Wockner, PhD, Director  
Save The Poudre: Poudre Waterkeeper  
PO Box 20, Fort Collins, CO 80522  
970-218-8310

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<sup>22</sup> *Watso v. Colo. Dep't of Soc. Servs.*, 841 P.2d 299, 309 (Colo. 1992).

<sup>23</sup> *Beaver Meadows v. Board of County Commissioners, Larimer County*, 709 P.2d 928, 938 (Larimer County's land use decision reversed because its Code had "insufficient standards and safeguards to ensure that county action...will be rational and consistent and that judicial review of that action will be available and effective" citing *Cottrell v. City & County of Denver*, 636 P.2d 703, 709 (Colo. 1981).





PUBLIC OPEN HOUSE – January 25, 2018

**COMMENT CARD**

Feb 22-2018

Thank you for your attendance today! We would like to hear your thoughts and input.

Dear Mark/Todd, Rob,

Nice format for the meeting. It was well organized. Good job monitoring, Todd. Good audience participation, too.

I hope that all of you got the message loud and clear - (no pipelines) OK truck route on Douglas Rd! If you widen it, we'll have an unofficial truck route. You tell us you can't stop the trucks from using a road. Why, 8ft. bicycle lanes? Making room for

Thornton and Northern pipelines!! Also, more room for a truck route!

A little triangle Δ - City wants trucks out, County wants road paved/widened - Thornton wants a Pipeline!

Do you have specific questions about which project staff should contact you?

Yes

Name: Dr. Yvonne M. Wittreich

Will you do the right thing and save the Poudre and Douglas Rd? Address: 1001 E. Douglas Rd

Phone and/or Email: 970-690-4775 FC, Colo. 80524

Comment sheets can be dropped off at the open house, or mailed to Attn: Mark Peterson, Larimer County Engineering Department, P.O. Box 1190, Fort Collins, CO 80522-1190.

Comments can also be emailed to douglasroad@larimer.org.

Copy to: Linda Hoffman THORNTON WATER PROJECT 1041 Thank you!



Mr. Todd Blomstrom  
Larimer County Public Works Director  
Mr. Mark Peterson  
Larimer County Engineer  
200 West Oak Street  
P.O. Box 1190  
Ft. Collins CO 80522-1190  
Re: Douglas road improvements, Thornton's pipeline

3607 Woodridge Road  
Ft. Collins, CO 80524  
March 17, 2018

Gentlemen:

I believe collusion and a conflict of interest may be at play in this situation. It seems likely to me that the city of Thornton's pipeline project has influenced Larimer County officials to select Douglas Road as their first choice for a pipeline in a non transparent and underhanded way. I find it appalling that the county seems to be putting the interests of Thornton ahead of the welfare of it's own voting residents. I say that for the following reasons:

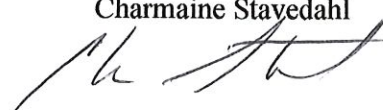
1. Lew Gaiter made the comment September 28, 2017 at Dazbog Coffee house Community Meeting that Douglas Road was not scheduled for improvements for 10 years out.
2. Now Douglas Road has suddenly moved to the top of the priority list for "improvements" involving widening to 3 lanes, and adding a turn lane and bike lanes. Currently the Pavement Condition Index is rated 65 on a scale of 100. We would not be looking at widening Douglas road if it weren't for the pipeline and Thornton's 1041 application.
3. In conversation with an engineer involved in utilities repairs last fall on Douglas road and Eagle Lake entrance he said, consistent with Lew Gaiter's statement, that road improvements hadn't been planned to take place for 10 years until the pipeline was slated by Thornton for location along Douglas road.
4. Rob Helmick, senior planner for Larimer County in the Coloradoan, Oct. 19, 2015 said "The county would likely want the pipeline located where its construction would not overly impact the existing road and traffic flow." Clearly, the county is not following this. Why not? CR 56 would be a better route than CR 54/Douglas. Thornton owns 5 properties on CR 56.
  - A. Placing the pipeline along Douglas road is clearly inconsistent with that statement.
  - B. The construction of the pipeline requires a large pump station(s) with fencing, lights, and a generator running 24/7. It requires checking and maintenance vehicles. It involves multiple entities with different goals which extends the construction process and increases the time involved. It invades our neighborhood with pipeline supplies, large heavy equipment, welding equipment, high noise levels, pollution from these machines along with dust and dirt constantly being removed from the trench.

I would like to receive from you the dates of the draft of the Transportation Master Plan. Also the date of adoption and time frame when Douglas road jumped up the list. I am sure either of you could supply this. My email address is [stavedahlc@gmail.com](mailto:stavedahlc@gmail.com)

I am told that, just last March 1, at a Community meeting in Wellington, Tom Donnelly said, "we are always looking for ways to get money to put in the county for roads."

Larimer county is creating enormous ill will among your affected county voters.

Sincerely,  
Charmaine Stavedahl







Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**TWP**

3 messages

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**shawn hoff** <shawne@frii.com>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>

Thu, Jan 25, 2018 at 7:57 AM

Dear Mr. Helmick;

I reside at 6405 County Road 1 (parcel no. 8612000012) and I receive my irrigation water from the Fisher Lateral which is largest irrigation lateral on the Lake Canal system. All of my neighbors from Harmony Road to Larimer County Road 32E also receive their irrigation water from this lateral. Reviewing the TWP 1041 it appears the 48-inch pipeline will cross the lateral twice. Please add the Fisher Lateral to the list of irrigation canals that will require a crossing agreement.

Thank you for your time.

Shawn Hoff  
6405 CRD 1  
Windsor, CO 80550

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**shawn hoff** <shawne@frii.com>  
To: rhelmick@larimer.org  
Cc: Sandy Helzer <sandy.helzer@gmail.com>, carole sondrup <scooter-pookie@hotmail.com>, mgeorge@centurylink.net

Thu, Jan 25, 2018 at 12:54 PM

Dear Mr. Helmick;

I reside at 6405 County Road 1 (parcel no. 8612000012). I have met with my neighbors that are contiguous to my property, Larimer County parcel nos.; Helzer 8612406002 and George 8612105002, Weld County parcel Sondrup 080707000042. If the 48-inch pipeline is to be built following the County Line Corridor we are unanimously in favor of the pipeline being installed in the existing county road easement.

As a point of reference the four parcels listed represent 0.75 miles of the County Line Corridor.

Thank you for your time.

Shawn Hoff  
6405 CRD 1  
Windsor, CO 80550

January 28, 2018

RECEIVED

JAN 31 2018

COMMISSIONER'S OFFICE

COPY RECEIVED  
BY ALL COMMISSIONERS

Lew Gaiter, III, Chairman  
Larimer County Commissioner  
200 W. Oak, Suite 2200  
Fort Collins, Co 80521

Re: Thornton Water Project

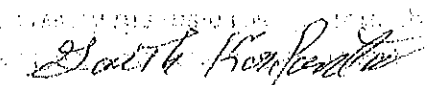
Dear Mr. Gaiter:

We are asking you to reject Thornton's 1041 application to run a pipeline down Douglas Road with a pump house in the vicinity of Douglas Road and Starlite. The residents of North Larimer County do not owe Thornton the right to tear up Douglas Road or take residents' property including fences, trees and yards with the proposed easement. The health of the Poudre River is at stake and with climate change and all the new housing being built, we all, including the City of Fort Collins and agriculture, need the Poudre River to be healthy and Thornton pumping millions of gallons of water from it will impact us all. There is no reason for Thornton to take water out of the river at the proposed point when it can be taken further South at the takeout point near Windsor. It is not our problem it will be more expensive for Thornton to do so. This area is a natural habitat for many species of birds. I fear this will disrupt their nesting habits and ruin this area where we all enjoy living. We all have worked hard to be able to buy in an area where we want to live. We did not buy a house out here to watch the main road be torn up, a pipeline installed and the ensuing continuous monitoring/repairing for said pipeline and pump house.

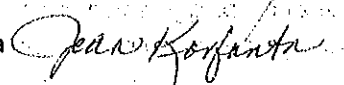
Another huge concern is the proposed pipeline being built beside or under Douglas Road. Heavy truck traffic has exploded in the last few months and as you know, there is and will be more and more traffic in the future with growth. "Federal guidelines for pipelines specifically advise against placing pipelines along roads, advising municipalities to select a site with the least "percent of route not along major corridors." The concern is vibrations from road traffic that may cause the sealant on pipes to crack and allow pipes to leak, causing possible liability to area homes and property owners." (Quoted from another source). We who live along Starlite frequently experience cracks in our homes due to the shale in this area. We are all very concerned the vibration from the pump house and pumped water will further cause the ground to shift and cause more damage to our foundations. This is a serious concern.

The proposed Thornton Water Project will diminish the value of our property all along the proposed corridor including the area surrounding the pump house. We have all worked hard to live here and you know there are a large number of older residents who have lived in their homes for years. What a shame after all their years of hard work and loving where they live to be faced with construction noise, vibrations, pollution and losing part of their property. Please do the right thing and deny Thornton's 1041 Proposal. The Poudre River needs your "NO" vote as well as the residents of Larimer County.

Respectfully,



Garth & Jean Korfanta  
5004 Patricia Drive  
Fort Collins 80524





Rob Helmick <helmicrp@co.larimer.co.us>

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## Proposed Improvements to Douglas Road

1 message

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Jo downey <bobjodowney@gmail.com>

Wed, Jan 31, 2018 at 4:03 PM

To: douglasroad@larimer.org

We strongly support all of the proposed improvements to Douglas Road including the much needed traffic signal at Douglas and Highway 1, the bike lanes and the turning lane. It would be interesting to have a "traffic count" of the bicyclists...The bicycle traffic continues to increase and it is a principal training route due to the varying grades and intersecting roads/streets

If only partial funding can be obtained, the priority order should be Traffic Signal, then bike lanes and then turning lanes  
Thank you. Bob and Jo Downey 4352 Eagle Lake South



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Thornton 1041 Application**

1 message

Larry Stroud <larsvicski@gmail.com>  
To: Rob Helmick <rhelmick@larimer.org>

Tue, Feb 6, 2018 at 1:44 PM

Dear Mr. Helmick,

Thank you for the opportunity to weigh in on the proposed Thornton Pipe line project. As new residents of Eagle Lake Subdivision, my wife and I have discussed and evaluated the possible impacts of the various routes studied by Thornton prior to their 1041 Application. We have concluded that while none of the 10 alternate route options would have a devastating effect on our individual property values or enjoyment, it seems the most logical and common sense for the county is South Route #2 (Douglas Road Right of Way) which is the route selected by Thornton in their application. We support South Route #2 **with conditions** discussed below.

**Rationale:**

1) Selecting a public right of way for a water pipeline route is good planning and stewardship. There is no need to go through private property and disrupt individual families. The right of way exists for the purpose of transportation including the underground transportation of utilities including water, sewer, gas, electric and cable. While road construction or utility

**THORNTON WATER PROJECT 1041****92**

replacement or repairs are never met with enthusiasm, they are necessary, appropriate and expected. That's the current reality of living in within a growth management area or any urban area. The use of public right of way is common sense.

2) Independent of a pipeline route, we understand that the Douglas Road right of way will be upgraded at some point in the future to upgrade and widen the pavement, provide a safe bike and pedestrian lanes and a signal at Hwy 1. This would be welcome because we currently walk and bike on Douglas Road and don't feel particularly safe doing so. Upgrades are welcome. If the pipeline work could be done at the same time as the right of way improvements, this would be very beneficial and in our view, should be a written requirement of the Route #2 approval process.

3) Further, we understand that there would likely a cost sharing possibility between Thornton and Larimer County which would be beneficial to the county and the taxpayers. Again, this idea constitutes good planning and stewardship and should be wrapped in to the route approval process.

4) South Route #2 seems to have the least impact on individual properties and property values as long as the infrastructure and improvements made by Thornton are compatible with the neighborhood including architectural design, landscaping, noise and traffic mitigation. While this may not be within the purview of the 1041 Application process, it is a vital component of any final development approvals and should be

acknowledged or tied in to the route approval process if possible. This is very important in our view.

5) From a parochial point of view but nonetheless valid and transparent point of view, any route other than South Route #2 would have a negative effect on property values for any homes fronting on Reservoir #3 and #4 because we're told that Thornton would likely reduce the water levels significantly and possibly even dry them up. This could affect property values by as much as 20%, maybe more. While this would have no impact on our values, many of our neighbors would suffer as a result of any route other than South Route #2.

## Conditions:

- 1) To the extent possible, tangibly require Thornton to time the pipeline to the Larimer County's Douglas Road improvements schedule and obtain a cost sharing commitment as a condition for the 1041 Application.
- 2) To the extent possible, tangibly condition the approval of Route #2 with the provision that noise, landscaping, architecture and traffic mitigation would undergo the same levels scrutiny and approval that any other industrial use would be required to meet in this location.

## Summary:

The approval of South Route #2 is the most logical, common sense and cost-effective route of all of the routes

studied. It has the least impact on private properties and property rights and it utilizes public right of ways for the use of which they are intended. We feel strongly that there should be development and cost-sharing conditions in place as part of the approval process.

Thank you for the opportunity to voice an opinion and for listening.

Sincerely,

Larry and Vicki Stroud



Rob Helmick <helmicrp@co.larimer.co.us>

## Do not expand Douglas Road!

3 messages

Alan Emory <snowdrift0@gmail.com>

Mon, Feb 19, 2018 at 2:57 PM

To: douglasroad@larimer.org, bocc@larimer.org, cityleaders@fcgov.com

It's a shame that Larimer County is even considering stealing private property away from citizens in an effort to get Thornton to pay for your Douglas Road expansion, all under the guise of "it needs to be done anyways". Shame on you all.

The main use on Douglas is commuter traffic from Wellington or east Douglas to west Fort Collins, mostly to Poudre High School. Once Turnberry is expanded as planned, and a new high school is built in Wellington as Poudre School District plans by 2020, Douglas will not be under such demand.

Why would you even think about stealing your citizen's properties?

It would also be a shame to see the City of Thornton siphon water off the Poudre River before it enters Fort Collins, and destroy all it gives to the City of Fort Collins.

It's time to be proactive, pro Poudre and pro social responsibility. Rather than constructing a damaging and disruptive pipeline, Thornton could leave the water in the Poudre until it reaches a takeout point near Windsor. The increased water flows would be significantly beneficial to the currently ailing health of the Poudre as it runs through Fort Collins, as well as to wetlands, environmental and recreational resources and the communities and businesses that depend on them.

It's never too late to do the right thing

Regards.

Alan Emory  
A Concerned Citizen, voter, and tax payer

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Tue, Feb 20, 2018 at 10:40 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

[Quoted text hidden]

Gerry Horak <ghorak@fcgov.com>

Wed, Feb 21, 2018 at 9:57 AM

To: Alan Emory <snowdrift0@gmail.com>, "douglasroad@larimer.org" <douglasroad@larimer.org>, "bocc@larimer.org" <bocc@larimer.org>, City Leaders <CityLeaders@fcgov.com>

**THORNTON WATER PROJECT 1041**

**96**



Alan

Thanks for your email, perspectives and recommendations. I agree it is never too late to do the right thing. The challenge is to get Thornton to agree and determine who pays.

Gerry

**Gerry Horak**  
Mayor Pro Tem  
Councilmember  
District 6  
ghorak@fcgov.com  
**217-2993**  
123 North Mack Street  
Fort Collins, CO 80521

*With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can't guarantee that any email to or from Council will remain private under CORA.*

**From:** Alan Emory <snowdrift0@gmail.com>  
**Sent:** Monday, February 19, 2018 2:57:59 PM  
**To:** douglasroad@larimer.org; boccc@larimer.org; City Leaders  
**Subject:** Do not expand Douglas Road!

[Quoted text hidden]

Alan

Thanks for your email, perspectives and recommendations. I agree it is never too late to do the right thing. The challenge is to get Thornton to agree and determine who pays.

Gerry

**Gerry Horak**  
Mayor Pro Tem  
Councilmember  
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**Subject:** Do not expand Douglas Road!

[Quoted text hidden]



Rob Helmick <helmicrp@co.larimer.co.us>

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## Just say NO....

1 message

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**Charles Minks** <blueskydude@centurylink.net>  
To: douglasroad@larimer.org

Tue, Feb 20, 2018 at 3:48 PM

Larimer County Commissioners,

The future plans for widening Douglas road will further damage and divide the local feel of this community. The constant flow of traffic has already made it dangerous to walk or bike most days. Widening the road will further encourage more traffic which we do not want and can be avoided with good decision making on your part.

Please respect our quality of life as though you would like it to be if you and your family lived here.

As far as the Thornton pipeline proposal, Send them back to the beginning of their project and figure a way to run the pipe through another route.

Just say NO...

Chuck Minks,

408 E. Douglas rd.

C



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Do not expand Douglas Road!

2 messages

**Alan Emory** <snowdrift0@gmail.com>

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It's never too late to do the right thing

Regards.

Alan Emory  
A Concerned Citizen, voter, and tax payer

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>

Tue, Feb 20, 2018 at 10:40 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

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**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

[Quoted text hidden]

February 27, 2018

Sean M. Dougherty, Planning Commissioner

200 W. Oak Street

Fort Collins, CO 80521

Mr. Dougherty,

I am grateful to know you are responding to reports with regard to the Poudre River/Thornton Pipeline situation. I believe it is very important. After all, the Poudre River is a very important natural resource in northern Colorado. Its water supports humans in the form of drinking water, agricultural water, a water supply for some of the local breweries, and recreational use (the new whitewater rafting facilities are just an example). The Poudre River also supports wildlife and their habitat. This is all in danger of being reduced or negated altogether by the Thornton water plan.

My interest in this situation is both large scale and then it is also personal.

You see, our family had/has a 15 acre agriculturally zoned property in unincorporated Adams County, just to the north of Thornton's City limits. When my Father died, without a will, we were forced to deal with the consequences. At the time of our Dad's death, we had no idea what those consequences would be, but we were soon to find out.

I am telling you this because I believe our own family's situation is but a microcosm of what Thornton has planned in its large-scale "mission" for the Colorado landscape, including its plans for the piping of water from the Poudre River to facilitate the delivery of its "purchased" water 70 miles to the south. I will be telling this story in the form of our family's testimony:

couple of years for construction of that bridge. Technically, I believe that Lennar Homes is operating without adequate emergency access, which the City of Thornton could be held responsible for. There is more funny business than just our property at stake here. We do not intend to be cheated out of our legacy and out of over \$2+ million, and pretend that nothing happened and it is all OK. It is not OK and there were legal irregularities by the City of Thornton that have not been named – at this point, before discovery, that we know we will easily find that gives even more credence to our claim of fraud with regard to this property.

As to the idea, that I am merely a sentimental person who cannot get over her father's death...it is true that I miss him, but I also miss the property that was once filled with prairie dogs, rabbits, coyotes, birds, on and on, and which was to have been passed onto the heirs. I have an intimate view and understanding of the property because I have been involved with it for over 50 years and know what has been going on, politically, for much of that time as well as environmentally. I do not intend to forsake this beautiful piece of property and see it destroyed to make room for more commercial junk along this stretch of Washington Street. Thornton has enough derelict sites that need to be addressed before taking an environmentally –sensitive site like 14031 N. Washington Street and turning it into another giant parking lot with box-like buildings. We are prepared to see this court case through and it will show that Thornton has been and is still intimately involved with this particular case in an adverse way.

It is not the Kalavity family's responsibility to accommodate unscrupulous land developers which seems to be one of the main reasons that this particular form of probate/real estate fraud and abuse is prevalent.

Sincerely,



Karen Kalavity

This is the testimony that I had presented to the Thornton City Council on October 24<sup>th</sup>, 2017, as they were planning to vote for annexation of the 14031 N. Washington Street property which had once belonged to our family, and now is in litigation. This is also the testimony that I have presented to my Adams County Commissioners: Eva Henry, Steve O'Doriso, Charles (Chaz) Tedesco, Erik Hansen, and Mary Hodge. They have all been silent on the matter. But by filing the Formal Legal Complaint, my sister and I have at least put the construction of the church and any disruption of the property on hold.

I am writing to you, so that you might note how these scenarios are similar. Our property had been in Thornton's crosshairs for several years before my Dad died. The city of Thornton used our Father, Jerry Kalavity's death, as the opportunity to annex the property, and take it over for their commercial uses and Master Plan "vision". I see the same strategy being used in Ft. Collins. Thornton is asking for a strange and circuitous route to pipe its "purchased" water. Instead of leaving the water in the Poudre for miles and then extracting it at the south end of the route, it is choosing to take water out at the north end and pipe it though miles and miles of Douglas Road, etc. Thornton claims this will be cheaper for them. Even if it were cheaper for Thornton, that does not give them the right to do things this way. But my argument is that the only reason this circuitous route may be cheaper for Thornton is because they plan to cheat all the property owners along the way. When Thornton tells us all that it will cost around \$400 million for this piping route, I am convinced that if Thornton were to pay all the affected property owners correctly, then it would actually be closer to a \$1 billion. After all, our Dad's property was really worth \$1.9 to \$2.3 million at the time of his death, while all the appraisers and market analysis "experts" brought the total value of the property to be at \$600,000 to \$675,000. I have the supporting documents showing that CBRE appraised it at \$600,000, while ReMax and Coldwell Banker appraised it at \$675,000. I also have the document from Westerra Appraisal which shows its true value on or around the time of my Dad's death (April 26<sup>th</sup>, 2014:the legal time frame) to be between \$1.9 and \$2.3 million dollars.

I also want to add that besides the financial fraud that was committed against our family, the site that had once been home to over a hundred prairie dogs, assorted rabbits, squirrels, birds, coyotes, and a pair of nesting golden eagles has been poisoned so as to destroy many of these native animals. It is truly heartbreaking and sickening to see. Thornton seems to be in awe of man-made junky structures as their highest and best use of our majestic landscapes. Just because Thornton has decided to make low-class, out-of-control growth at any expense their main goal in life does not mean that it is everybody's responsibility to follow suit.

Also, water and land use law, in itself, deserves more than Thornton presenting its own version of what it sees as environmentally responsible. There are numerous professionals in Ft. Collins, including professors of natural resources and water engineering who can tell you that Thornton's plan only makes sense for Thornton, but does not make sense for anyone else, including Ft. Collins, its inhabitants or its wildlife.

I would ask that you to consider how the Thornton Water Plan will affect Ft. Collins.

**The Thornton Water Plan has the potential to affect these transitional and tangential issues:**

**Watershed Depletion:** When water is taken out for agricultural irrigation, as is the historical case with the water Thornton has “purchased”, much of that water still remains in the area as overflow and comes back to the original watershed. Once water is piped, that is no longer the case. Douglas County, which has depleted its own underground water supply, has now built a water plant that recycles and re-uses its own water rather than taking it from other sources. Thornton would be wise to set up something like this instead of its proposed “water plan”.

**Taking of Water:** This has become a major issue in many municipalities. I personally receive regular email alerts about the company Nestle, which bottles Arrowhead water. Nestle has been stealing water from the California forests for years to get its cheap drinking water. Along with climate change in general, is it any wonder we saw so many wildfires in California last year?

**Piping Resources or “Easements” Through People’s Private Property:** The uproar over the Dakota Pipeline showcases the anger and resentment that people (rightly) have about the route by which “purchased” resources are brought from and to the sources they are supposed to serve. This is a very controversial issue which involves private property rights, eminent domain and environmental disruption.

**Probate Fraud and Abuse:** Probate Fraud and abuse not only deals with estates of deceased people, it also deals with estates of living people whose interests are in dispute. This means that dead people who left no will find their estates in probate court, but also, older people, very young people or people deemed “mentally” or “physically” “unfit” will also see their estates wind up in probate court. This is especially true if these people’s estates are worth a few hundred thousand or several million dollars. These estates are commonly made up of houses or real estate assets. Transactions and alternative ownership on these assets is changing the real estate “landscape” to a great extent. Whereas property used to be passed on from generation to the next generation, as in Europe, real estate in the U.S. is being usurped by other entities, making such firms as REMAX wealthy and powerful while leaving everyday people at risk of having their land “stolen” for inappropriate and often environmentally-damaging uses.

*I would be very eager to answer any questions... or refer you to others who have been affected by these particular issues with regard to probate fraud and abuse or the taking of water.*

Thank You,



Karen Kalavity

3731 W. 91<sup>st</sup> Place

Westminster, CO 80031

[Integradesign1@yahoo.com](mailto:Integradesign1@yahoo.com)



February 19, 2018

Sent via U. S. Mail and Email

Larimer County Commissioners  
Lew Gaiter III  
Steve Johnson  
Tom Donnelly  
200 West Oak, Suite 2200  
Fort Collins, CO 80521

Mr. Rob Helmick  
Larimer County Planning  
200 West Oak  
Fort Collins, CO 80521

Mr. Mark Koleber  
City of Thornton  
12450 Washing Street  
Thornton, CO 80241-2405

Weld County Commissioners  
Mike Freeman  
Julie Cozad,  
Barbara Kirkmeyer  
Sean Conway  
Steve Moreno  
1150 O Street  
P.O. Box 758  
Greeley, CO 80631

Re: City of Thornton 1041 Permit Application and the Thornton Water Project

Dear Commissioners, Mr. Helmick and Mr. Koleber:

We are writing in regards to the City of Thornton's 1041 Permit Application currently making its way through the Larimer County process. As residents located along Larimer County Road 1 and Weld County Road 13, we would like to express our desire to have the Thornton Water Project pipeline placed in the middle of the current road right-of-way. We understand that the Town of Timnath has agreed to allow the alignment of the pipeline within the portion of the road located in Timnath immediately north or adjacent to our properties.

The current maps supplied to us from Western States Land Services, Inc. show that the proposed pipeline on LCR 1/WCR 13 south of Harmony Road is aligned within the road right-of-way until Larimer County Road 32 where it crosses into private land in Weld County. The maps indicate a placement on the

Sondrup parcel in Weld County, then again into the road right-of-way until it crosses into the Hoff parcel in Larimer County. The pipeline continues in Larimer County part way through the George parcel until it crosses over to the Weld County property of Westwind Farm, LLC. This route causes concern for us as property owners in that the proposed route cuts through irrigation ditches that are needed to service our crops and would impact our property values.

We would ask that Larimer and Weld Counties require the Thornton Water Project pipeline to remain in the middle of the County Line Road right-of-way from Harmony until Larimer County Road 32/Weld County road 68 ½.

We also note that Larimer County is now asking for additional information/materials from the City of Thornton regarding Field Survey Information, Pipe Alignment, Anticipated Construction Schedule, Pavement Restoration Plan and Utility Coordination. Larimer County requested this information in its January 26, 2018 letter for the 2.6 mile segment along County Road 54. We would request the same type of information for the portion of Larimer County Road 1/Weld County Road 13 that impacts our properties. It is our hope that the City of Thornton will be consistent in its application to Larimer County to include the additional information/materials for all properties along the TWP route.

Thank you for your consideration.

Sincerely,

/s/ See attached signature pages

David and Stephanie Hill, Larimer County Parcel No. 8601000008

Ron and Carole Sondrup, Weld County Parcel No. 080707000042

Jim and Sandy Helzer, Larimer County Parcel Nos. 8612406001 and 8612406002

Shawn and Pam Hoff, Larimer County Parcel No. 861200001

Mark and Linda George, Larimer County Parcel Nos. 8613105002 and 8613105001

Sincerely,

*David B. Hill Stephanie L. Hill*

David and Stephanie Hill, Larimer County Parcel No. 8601000008  
4729 South Larimer County Road 1  
Fort Collins, CO 80525

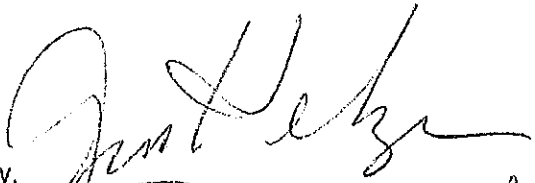
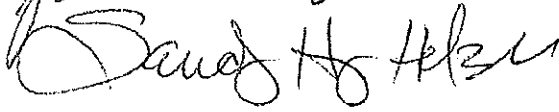
Sincerely,

Ron and Carole Sondrup, Weld County Parcel No. 080707000042  
34310 Weld County Road 13  
Windsor, CO 80550

*Ronald W Sondrup*  
*Carole A Sondrup*

---

Sincerely,

Jim and Sandy Helzer, Larimer County Parcel Nos. 8612406001 and 8612406002  
6301 South Larimer County Road 1  
Windsor, CO 80550

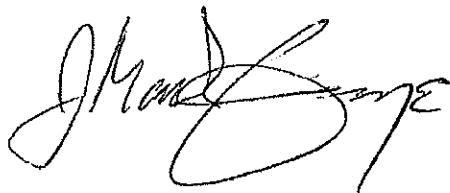
---

Sincerely,

*Shawn & Pam Hoff*

Shawn and Pam Hoff, Larimer County Parcel No. 8612000012  
6405 South Larimer County Road 1  
Windsor, CO 80550

Sincerely,

A handwritten signature in black ink, appearing to read "Mark George". The signature is fluid and cursive, with the first name "Mark" and last name "George" clearly distinguishable.

Mark and Linda George, Larimer County Parcel Nos. 8613105002 and 8613105001  
6801 South Larimer County Road 1  
Windsor, CO 80550

February 12, 2018

To: Robert "Terry" Gilbert  
Larimer County  
Community Development Division  
P.O. Box 1190  
Fort Collins, CO 80522-1190

RE: Thornton Water Project TWP 1041- Plan 18-Zone2305

As per our conversation on February 8, 2018, we are putting in writing our concerns with the proposed Thornton Water Project.

According to the public hearing notice dated January 16, 2018, the map on the back indicates that the one million gallon storage tank is proposed to be put on our property. Our property is located in TR 2, TR3, TR4, and TR 5, TRS in 1/2 of 13-8-68.

I contacted John Doty with Western States Land Services and he stated nothing has been decided for sure. He advised us to attend the Larimer County Planning Commission public hearing set for February 21, 2018 which has been cancelled.

We are not only talking a pipeline access but a storage tank holding one million gallons being placed on our property. Even though at this time the property is pastureland, the property has already been divided into four tracks of land of which we have two water taps that the City of Wellington is to provide to us. We have plans of homes being built on that land at a later time. This property has beautiful views.

The property would be totally ruined if this water tank is placed at this location. Who would want to build a home right below a one million gallon tank. There is also a waterline that already runs through the property further limiting a place to build.

There is plenty of other land that has the elevation that they need in Weld County that would be definitely a better choice. Mr. Doty told me that Weld County is an option.

Thank you for your time. We can be reached at 308-241-0705 or at 3435 Road 59 E Dix, NE. 69133

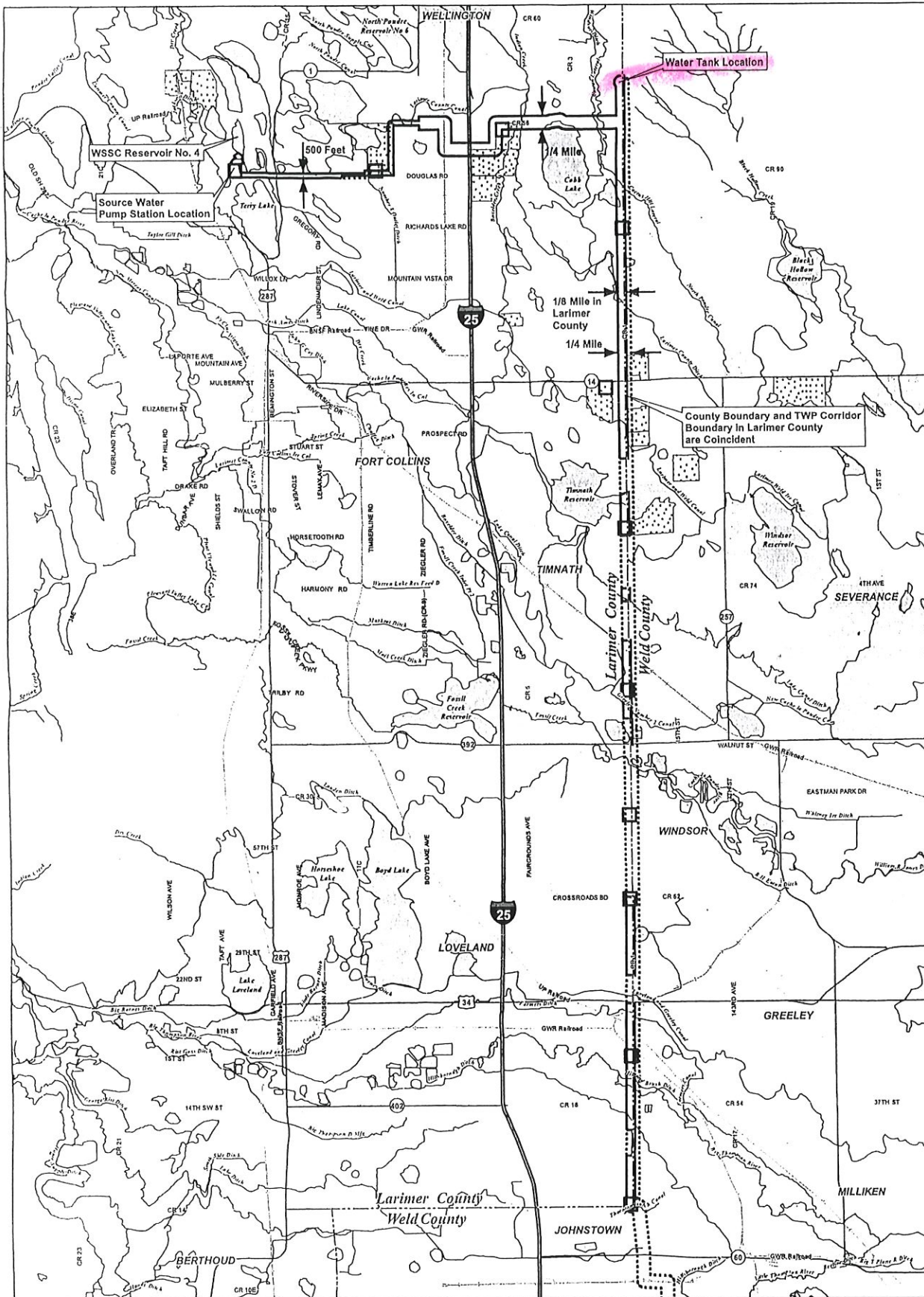


Jaclyn Miller, Partner  
V Bar S Company  
Dale Ver Straeten Family Trust  
Dale Ver Straeten Marital Trust  
Luetta Ver Straeten

Cc: John Doty, Western States Land Services, Inc.  
Cc: Mark Koleber, Thornton Water Project Director



# Thornton Water Project



Water Tank Location

WSSC Reservoir No. 4

Source Water Pump Station Location

County Boundary and TWP Corridor Boundary in Larimer County are Coincident



CITY OF THORNTON  
COLORADO

12450 WASHINGTON ST  
THORNTON, CO 80241-2405

12/29/2017



1 inch = 1.8 miles  
0 0.9 1.8 Miles

- TWP Corridor in Unincorporated Larimer County
- TWP Corridor outside Unincorporated Larimer County
- County Boundary
- Lake/Reservoir
- River/Stream/Canal/Ditch
- Potential Staging Area

- Boundaries Crossed by the Proposed Corridor
- Corporate Boundary
  - GMA Boundary
  - Fort Collins
  - Johnstown
  - Loveland
  - Timnath
  - Windsor

Figure ES-1  
TWP Corridor Map

Source: NHD, USGS, CDWR, Larimer and Weld Counties, CDOT, City of Thornton



Rob Helmick <helmicrp@co.larimer.co.us>

---

## Do not expand Douglas Road!

1 message

Alan Emory <snowdrift0@gmail.com>

Mon, Feb 19, 2018 at 2:57 PM

To: douglasroad@larimer.org, boccc@larimer.org, cityleaders@fcgov.com

It's a shame that Larimer County is even considering stealing private property away from citizens in an effort to get Thornton to pay for your Douglas Road expansion, all under the guise of "it needs to be done anyways". Shame on you all.

The main use on Douglas is commuter traffic from Wellington or east Douglas to west Fort Collins, mostly to Poudre High School. Once Turnberry is expanded as planned, and a new high school is built in Wellington as Poudre School District plans by 2020, Douglas will not be under such demand.

Why would you even think about stealing your citizen's properties?

It would also be a shame to see the City of Thornton siphon water off the Poudre River before it enters Fort Collins, and destroy all it gives to the City of Fort Collins.

It's time to be proactive, pro Poudre and pro social responsibility. Rather than constructing a damaging and disruptive pipeline, Thornton could leave the water in the Poudre until it reaches a takeout point near Windsor. The increased water flows would be significantly beneficial to the currently ailing health of the Poudre as it runs through Fort Collins, as well as to wetlands, environmental and recreational resources and the communities and businesses that depend on them.

It's never too late to do the right thing

Regards.

Alan Emory  
A Concerned Citizen, voter, and tax payer



Rob Helmick <helmicrp@co.larimer.co.us>

**RE: Polluters not Thornton should pay for pipeline or supplemental treatment needs**

1 message

Mark Koleber <info@thorntonwaterproject.com>

Mon, Feb 19, 2018 at 8:43 AM

To: mikepruz@gmail.com

Cc: rhelmick@larimer.org

Having trouble viewing this email? [Click here](#)



Mike,

Thank you for contacting the city regarding the Thornton Water Project. The State of Colorado has established procedures for determining what is allowed or not allowed to be discharged into the state's waterways, including rivers and streams. The Colorado Department of Public Health and Environment, through the Water Quality Control Commission, established and administers these procedures. However, these procedures do not ensure that the quality of the river does not degrade due to the discharges, urban runoff, etc. Thornton recognized this reality when it purchased high quality water, upstream from Fort Collins in the Poudre River. A pipeline from upstream of Fort Collins is needed to preserve the quality of the water that Thornton residents invested in when purchasing these water rights in the mid-1980's.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

From: mikepruz@gmail.com [mailto:mikepruz@gmail.com]

Sent: Thursday, February 15, 2018 10:24 AM

To: citymanager <citymanager@cityofthornton.net>

Subject: Polluters not Thornton should pay for pipeline or supplemental treatment needs

City of Thornton,

2/20/2018

co.larimer.co.us Mail - RE: Polluters not Thornton should pay for pipeline or supplemental treatment needs

illegal or place a fee on the polluters. Why should Thornton pay for

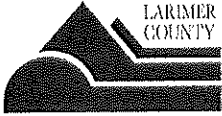
a pipeline because others are destroying the planet? Then the polluters can decide which costs less: A) Being green. B) Paying for and maintaining the pipeline. C) Paying and maintaining the supplemental water treatment needed to remove the pollutants. Get the state to give you this legal authority.

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_www.coloradoan.com\\_story\\_news\\_2018\\_02\\_15\\_thornton-2Dpipeline-2Dopponents-2Dwhy-2Dnot-2Drun-2Dwater-2Dthrough-2Dpoudre-2Dinstead\\_337336002\\_&d=DwlCAg&c=HbdC7ZIt35Izpq\\_rTxrry7TYIzAQZ-iiDvWKoqjOfQ&r=9rJ6Er9JrBnQucdtAUJlj9aI3WVAzIak-zq8gEDzwHc&m=Qv6B7K6DnNV\\_2vkA7QWh77JpDkpxCmQ2Nu5\\_FIMnZR&s=O9UeUKE7H\\_GpvmBRBUcQV-IPH4XJpBL27\\_LHITf3I58&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.coloradoan.com_story_news_2018_02_15_thornton-2Dpipeline-2Dopponents-2Dwhy-2Dnot-2Drun-2Dwater-2Dthrough-2Dpoudre-2Dinstead_337336002_&d=DwlCAg&c=HbdC7ZIt35Izpq_rTxrry7TYIzAQZ-iiDvWKoqjOfQ&r=9rJ6Er9JrBnQucdtAUJlj9aI3WVAzIak-zq8gEDzwHc&m=Qv6B7K6DnNV_2vkA7QWh77JpDkpxCmQ2Nu5_FIMnZR&s=O9UeUKE7H_GpvmBRBUcQV-IPH4XJpBL27_LHITf3I58&e=)

If you no longer wish to receive our emails, click the link below:

[Unsubscribe](#)

Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

1 message

---

Rosecrance, John <John.Rosecrance@colostate.edu>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>

Mon, Feb 19, 2018 at 9:20 AM

Dear Rob,

This note is regarding two concerns:

1. I live at 4433 Eagle Lake Drive and am concerned about the potential impact if the Thornton water project is diverted through our Eagle Lake neighborhood. I am in full support the proposed "South 2" route down Douglas Road for the Thornton pipeline project. I am also in full support about improvements to Douglas Rd and especially at the intersection with Terry Lake Rd. I was in an accident at that intersection and have witnessed the results of other accidents at that location.
2. Are there any future plans to improve Owl Canyon Road (West Colorado Rd 72) between North CR 17 and I 225? Specifically, I am hoping for a paved shoulder as the increased semi-truck traffic poses a significant danger for cyclists.

Thanks Rob,

John Rosecrance



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

**Northern Routes For Thornton Pipeline**

1 message

**JOHN R BENNETT** <WEBENNETTS@msn.com>

Sat, Feb 17, 2018 at 4:58 PM

To: "douglasroad@larimer.org" &lt;douglasroad@larimer.org&gt;

After looking at the NORTHERN ROUTES for the pipeline, I have encouraged Thornton to VASTLY SIMPLIFY things and use one NORTH of Douglas Road 1.5 or 2 miles NORTH.

I believe you should DENY their application for Douglas Road, SINCE NORTH MAKES COMMON SENSE!

Also - My impression is that the Eagle Lake HOA represented to Thornton, and then Thornton has held out to the public, that "residents" prefer Douglas Road, as quoted in the Thornton Sentinel newspaper.

This is not the case for the residents along Douglas Road. Thornton invited us, in August, to their Sept 22, 2017 informational

meeting. There, we found their decision was already made, perhaps with input from Eagle Lake, but NOT from Douglas Road residents.

Thank you!  
John Bennett  
3504 Canadian Pkwy  
970-482-5248



Rob Helmick <helmicrp@co.larimer.co.us>

**Fwd: Thornton pipeline**

1 message

**Linda Hoffmann** <hoffmalc@co.larimer.co.us> Fri, Feb 16, 2018 at 10:35 AM  
To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>  
Cc: Terry Gilbert <gilberrt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----  
From: **Larimer.org** <noreply@larimer.org>  
Date: Thu, Feb 15, 2018 at 4:29 PM  
Subject: Thornton pipeline  
To: bocc@larimer.org

**A message has been submitted to bocc@larimer.org from Larimer.org:**

February 15, 2018

Larimer County Commissioners,

After reading several sources of information on Thornton Pipeline issues I have some additional concerns. I appreciate that the decision has been delayed and hope you will consider the following points if you haven't already addressed them.

As I understand the plan the pipeline running through Fort Collins will connect out east with another pipeline running south to Thornton. Is this south running pipeline already in use? If so, what is the source of water currently. If not, has the route and land issues been resolved and building okayed? At that intersection, will there be any other source of water besides the Poudre? If there is another source what is it and is it of as high quality as the Poudre or is there a mixing with South Platte water at that point?

Is the quality of the water compromised as badly as Thornton claims between upstream Fort Collins and the connection to that south running pipeline? I find this hard to believe as the release of water from the water treatment plants have to meet EPA water standards and the runoff, both urban and agricultural, percolates through soil and is naturally cleaned. Industrial releases of water are also required to meet standards. I believe we have been good stewards of the water we use and send back, so a good quality of water is maintained.

Even if the water will require more treatment to meet Drinking Water Standards, Thornton should have thought about this years ago. Just because one has senior rights doesn't mean those rights need to be exercise at the diversion only that those rights are honored in the South Platte drainage so where the water is diverted is not an issue on receiving the water.

Sorry that it might cost more to treat the water and that pipeline is so much cheaper to build, maintain and repair. Why should the Fort Collins area suffer some impacts when there is another alternative?

And finally, unfortunately these water rights were sneakly bought up years ago. What was the beneficial use at the time they were obtained originally and has the water been put to a beneficial use since purchase? Water law requires the

**THORNTON WATER PROJECT 1041**

**119**

requirement of beneficial use to purchase and retain water rights. This purchased has caused much anger and distrust over the years.

Thank you,  
Sharon Johnson  
1160 Evenstar Court  
Fort Collins, CO 80526

### **Contact Details**

**Name:** Sharon Johnson

**Email:** sheepishco@comcast.net

**Phone:** 970-224-9871

The email was submitted on **Thursday, February 15, 2018 - 4:29pm**, logged in as: **Anonymous**





Rob Helmick <helmicrp@co.larimer.co.us>

**Fwd: to benefit Fort Collins and the county**

1 message

**Linda Hoffmann** <hoffmalc@co.larimer.co.us> Fri, Feb 16, 2018 at 10:37 AM  
To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnell@co.larimer.co.us>  
Cc: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----  
From: **Larimer.org** <noreply@larimer.org>  
Date: Fri, Feb 16, 2018 at 9:14 AM  
Subject: to benefit Fort Collins and the county  
To: bocc@larimer.org

**A message has been submitted to bocc@larimer.org from Larimer.org:**

Thornton owns the water, but a county, if it wants to, could control how Thornton gets the water out of the county. Please see this for inspiration:  
<https://coyotegulch.blog/2016/05/16/weld-county-considers-new-rules-regu...>  
What a boon it would be to Fort Collins to have that water flow in the river through town first!

**Contact Details**

**Name:** Chris Miller  
**Email:** cmspare1@gmail.com  
**Phone:**

The email was submitted on **Friday, February 16, 2018 - 9:14am**, logged in as: **Anonymous**



Rob Helmick <helmicrp@co.larimer.co.us>

**Fwd: P.S. to earlier message**

1 message

**Linda Hoffmann** <hoffmalc@co.larimer.co.us> Fri, Feb 16, 2018 at 10:48 AM  
To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>  
Cc: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----  
From: **Larimer.org** <noreply@larimer.org>  
Date: Fri, Feb 16, 2018 at 9:19 AM  
Subject: P.S. to earlier message  
To: bocc@larimer.org

**A message has been submitted to bocc@larimer.org from Larimer.org:**

P.S. Yes, it would cost more for Thornton to treat the water a little bit downriver, but they already treat similar South Platte River water. They CAN do it. They just don't want to. Again, what a boon it would be to Fort Collins and the county to have that water flow in the river through town first!

**Contact Details**

**Name:** Chris Miller

**Email:** cmspare1@gmail.com

**Phone:**

The email was submitted on **Friday, February 16, 2018 - 9:19am**, logged in as: **Anonymous**



Rob Helmick <helmicrp@co.larimer.co.us>

**TWP 1041 from LFRA**

2 messages

**Carie Dann** <Carie.Dann@lfra.org>

Fri, Feb 9, 2018 at 9:41 AM

To: Rob Helmick <rhelmick@larimer.org>

Cc: "info@thorntonwaterproject.com" <info@thorntonwaterproject.com>

Good morning. Please see attached comment from Loveland Fire Rescue Authority. The project should have minimal effect on our jurisdiction.

**Carie Dann**

*Captain/Deputy Fire Marshal*

Loveland Fire Rescue Authority

Community Safety Division



970-962-2518 - office

970-222-7490 - cell

www.LFRA.org

https://twitter.com/LovelandFRA

**Thompson Water Project #1041 2-9-18.pdf**  
177K

**Mark Koleber** <info@thorntonwaterproject.com>

Fri, Feb 16, 2018 at 9:19 AM

To: carie.dann@lfra.org

Cc: rhelmick@larimer.org

Having trouble viewing this email? [Click here](#)



Cari,

Thanks for your comments regarding the Thornton Water Project.

Required access permits will be obtained for temporary and permanent access locations from public roads. Emergency vehicle access needs will be maintained and construction activities coordinated with local fire departments, police departments, ambulance services and other emergency responders as necessary. Thank you for providing point of contact information for Loveland Emergency Telecommunications Center. Thornton and/or Thornton Water Project contractors will make contacts as appropriate to report closures and coordinate access.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Carie Dann [mailto:Carie.Dann@lfra.org]  
**Sent:** Friday, February 09, 2018 9:41 AM  
**To:** Rob Helmick <[rhelmick@larimer.org](mailto:rhelmick@larimer.org)>  
**Cc:** 'info@thorntonwaterproject.com' <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>  
**Subject:** TWP 1041 from LFRA

Good morning. Please see attached comment from Loveland Fire Rescue Authority. The project should have minimal effect on our jurisdiction.

**Carie Dann**

***Captain/Deputy Fire Marshal***

Loveland Fire Rescue Authority

Community Safety Division

970-962-2518 - office

970-222-7490 - cell

[www.LFRA.org](http://www.LFRA.org) [[lfra.org](http://lfra.org)]

<https://twitter.com/LovelandFRA> [[twitter.com](https://twitter.com/LovelandFRA)]

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Thornton Water Project, 12400 Washington St., Thornton, Colorado 80241 United States

**THORNTON WATER PROJECT 1041**

**124**

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177K

COPY RECEIVED  
BY ALL COMMISSIONERS

RECEIVED

February 27, 2018

MAR 02 2018

COMMISSIONERS' OFFICE

Stephen Johnson, Planning Commissioner Liaison

200 W. Oak Street, Suite 2200

Fort Collins, CO 80521

Mr. Johnson,

I am grateful to know you are responding to reports with regard to the Poudre River/Thornton Pipeline situation. I believe it is very important. After all, the Poudre River is a very important natural resource in northern Colorado. Its water supports humans in the form of drinking water, agricultural water, a water supply for some of the local breweries, and recreational use (the new whitewater rafting facilities are just an example). The Poudre River also supports wildlife and their habitat. This is all in danger of being reduced or negated altogether by the Thornton water plan.

My interest in this situation is both large scale and then it is also personal.

You see, our family had/has a 15 acre agriculturally zoned property in unincorporated Adams County, just to the north of Thornton's City limits. When my Father died, without a will, we were forced to deal with the consequences. At the time of our Dad's death, we had no idea what those consequences would be, but we were soon to find out.

I am telling you this because I believe our own family's situation is but a microcosm of what Thornton has planned in its large-scale "mission" for the Colorado landscape, including its plans for the piping of water from the Poudre River to facilitate the delivery of its "purchased" water 70 miles to the south. I will be telling this story in the form of our family's testimony:

shared drainage easement with the City of Thornton and the City of Westminster for drainage of the McKay Lake project, and which, by the way, is still, officially "owned" by the property owners of 14031 N. Washington Street and the property to the south, which owns the other "half" of the easement. At the time, my Dad was paid approximately \$60,000 to give up certain rights to the drainage easement portion of his property. This was the pro-rated amount for this portion of a \$2.3 million entire property's valuation in 2009.

Shortly after my Dad died on April 26<sup>th</sup>, 2014, and a couple of months after Joe Findley was hired to represent my Dad's estate, our family started noticing some irregularities in Joe Findley's handling of the estate, specifically, Mr. Findley had the property appraised and shared with the family, the "official appraisal" value" of \$600,000 by the CBRE professional land development group. This was in sharp contrast to what we had assumed its value to be from the professional valuation in 2009 of \$2.3 million. But considering there had been a downturn in the economy in the years between 2009 and 2014, and especially since my sister and I wanted to keep it in the family -which we specifically told Joe Findley, our Personal Representative about, and which is a totally legal approach - we thought the \$600,000 valuation would make it easier to refinance and buy back the property. That is when all hell broke loose.

When Joe Findley realized that my sister and I were cleaning up the property, in earnest, and getting it ready for refinancing, so that we could keep the property in the family, he took us to court for **Injunctive Relief from Independent Administration of the Estate**. We interpreted this as: Mr. Findley was willing to do anything to make sure that we did not keep the property in the family. We started suspecting other motivations for this. Specifically, we learned that Tyler Carlson of the Evergreen Development Group was conversing with and influencing Joe Findley's handling of the estate for his own interests and for the interest of Thornton as a city. Tyler Carlson of the Evergreen Development Group also works hand in hand with such firms as Norris Design, who in turn, works hand in hand with developers such as Lennar Homes and Shea Homes as well as such real estate firms as ReMax, Coldwell Banker and CBRE.

My sister, Trish Babbitt, and I, Karen Kalavity, were taken to court on October 16<sup>th</sup> 2014 to make sure that we could no longer have any input into our family's estate of over 50 years. The "appraisal" of \$600,000 by CBRE was presented as legitimate. It was "backed up" by a Market Analysis of \$675,000 by both ReMax and Coldwell Banker- who coincidentally made commissions on a sale of a property that we had intended to keep in the family and NOT sell off, in the first place. It was also a couple of weeks prior to my sister and I being summoned to court, that we learned the Lennar Homes project had just been approved. This was not a coincidence...it seemed to be a planned affair by our Personal Representative, Joe Findley and by the City of Thornton. This was the real reason that Joe Findley was not representing the family correctly, because he was working hand-in-hand with the Evergreen Development Group and Tyler Carlson, and indirectly with the City of Thornton. **This is all illegal in probate law.**

My sister and I had had to get separate legal help in the form of a lawyer named Wayne Stewart and Michael Graetz, who were aware of elder care law, but were not prepared for the degree of deceit and aggravated malice that the real estate component brought to this whole case. Because the judge believed the faulty claims and perjured witness accounts of the property situation, he ordered the sale of the property in less than 6 months, when a time frame of 1 year is the legal standard to resolve and

of the property after we told Lennar Homes "no". At the same time, our property was to have been passed down to us as heirs, not to be sold to other entities at a very low price to accomplish auxiliary goals for the City of Thornton and its developers. We have rights! We also know, now that Fraud has a Statute of Limitations of three years. We filed our first legal complaint on October 16<sup>th</sup>, 2016, two years to the day that my sister and I were taken to court fraudulently on October 16<sup>th</sup> 2014.

As well as having a claim against our Personal Representative, Joe Findley, we also have a claim against CBRE for their official "appraisal" which set this whole mess into motion, Coldwell, Banker and ReMax, who both, as companies, benefitted from the direct commissions on the sale of the property and who network with other real estate professionals and entities to make good money off of big projects like the construction projects happening in Thornton and other municipalities. This legal complaint has yet to be heard by the judge. Our lawyers have mentioned that our judge's time frame **NOT TO** make a decision, is the longest they have ever heard of...yet, she has a right to determine whether she wants to hear the case or not. At this point, our judge has not made the decision to hear the case, yet she has also declined to dismiss the case which all 4 defendants (Joe Findley of Kaufman and Findley, ReMAX, Coldwell Banker, and CBRE) asked for. Let me also remind you that our Formal Legal Complaint was not filed mindlessly...we had to talk with several lawyers and the Law firm of Randy Corporon, P.C. only filed once they believed they had sold grounds to do so.

I also want to note, that by zoning and construction restrictions, Lennar Homes should have had a secondary emergency access for their completed project of over 490 apartment homes they built just west of my Father's property. For quite a while, a portion of the finished apartment development was gated off in response to the fact that they cannot legally have that many units without a compensating secondary access for emergency vehicles. This is what our Father's property would have allowed them. We believe that Lennar Homes got tired of waiting for what they had been promised by Tyler Carlson and which was not going to happen because, we, as sisters had filed the legal complaint in October of 2016. As well, we had done a lot of preliminary legal work before ever having filed the legal complaint that Joe Findley and the other named defendants were made aware of.

One of our later amendments in the filing of the case noted that at one point in time, Thorncreek Church of the Nazarene was offered \$2.3 million for a 3-acre portion of the site. Wow, \$2.3 million on 3 acres, when we had only been offered \$700,000 for 15 acres? It was all becoming more and more suspicious and shady.

As time has gone by and while we have been patiently watching, and responding when we can... we've watched Thorncreek Church's site plan change. Where there was once space for growing crops, there is now only room for some -not so beautiful- buildings and parking. Where there was once access for Lennar Homes, the new access point onto Washington Street is now at the south side of the drainage easement on a separate site altogether. This still presents a problem. As a site planner and professional Landscape Architect for over 25 years, I still see a deficiency in emergency access that Lennar Homes has been allowed to exhibit. Theoretically, the City of Thornton would now have to build a suspension bridge, or something, in order to traverse the 30 to 40 foot drop in elevation at this point. An access point along Grant Street shows up in the drawing that cannot realistically be achieved for another



This is the testimony that I had presented to the Thornton City Council on October 24<sup>th</sup> 2017, as they were planning to vote for annexation of the 14031 N. Washington Street property which had once belonged to our family, and now is in litigation. This is also the testimony that I have presented to my Adams County Commissioners: Eva Henry, Steve O'Dorisio, Charles (Chaz) Tedesco, Erik Hansen, and Mary Hodge. They have all been silent on the matter. But by filing the Formal Legal Complaint, my sister and I have at least put the construction of the church and any disruption of the property on hold.

I am writing to you, so that you might note how these scenarios are similar. Our property had been in Thornton's crosshairs for several years before my Dad died. The city of Thornton used our Father, Jerry Kalavity's death, as the opportunity to annex the property, and take it over for their commercial uses and Master Plan "vision". I see the same strategy being used in Ft. Collins. Thornton is asking for a strange and circuitous route to pipe its "purchased" water. Instead of leaving the water in the Poudre for miles and then extracting it at the south end of the route, it is choosing to take water out at the north end and pipe it though miles and miles of Douglas Road, etc. Thornton claims this will be cheaper for them. Even if it were cheaper for Thornton, that does not give them the right to do things this way. But my argument is that the only reason this circuitous route may be cheaper for Thornton is because they plan to cheat all the property owners along the way. When Thornton tells us all that it will cost around \$400 million for this piping route, I am convinced that if Thornton were to pay all the affected property owners correctly, then it would actually be closer to a \$1 billion. After all, our Dad's property was really worth \$1.9 to \$2.3 million at the time of his death, while all the appraisers and market analysis "experts" brought the total value of the property to be at \$600,000 to \$675,000. I have the supporting documents showing that CBRE appraised it at \$600,000, while ReMax and Coldwell Banker appraised it at \$675,000. I also have the document from Westerra Appraisal which shows its true value on or around the time of my Dad's death (April 26<sup>th</sup>, 2014:the legal time frame) to be between \$1.9 and \$2.3 million dollars.

I also want to add that besides the financial fraud that was committed against our family, the site that had once been home to over a hundred prairie dogs, assorted rabbits, squirrels, birds, coyotes, and a pair of nesting golden eagles has been poisoned so as to destroy many of these native animals. It is truly heartbreaking and sickening to see. Thornton seems to be in awe of man-made junky structures as their highest and best use of our majestic landscapes. Just because Thornton has decided to make low-class, out-of-control growth at any expense their main goal in life does not mean that it is everybody's responsibility to follow suit.

Also, water and land use law, in itself, deserves more than Thornton presenting its own version of what it sees as environmentally responsible. There are numerous professionals in Ft. Collins, including professors of natural resources and water engineering who can tell you that Thornton's plan only makes sense for Thornton, but does not make sense for anyone else, including Ft. Collins, its inhabitants or its wildlife.

I would ask that you to consider how the Thornton Water Plan will affect Ft. Collins.

**The Thornton Water Plan has the potential to affect these transitional and tangential issues:**

February 19, 2018

Sent via U. S. Mail and Email

Larimer County Commissioners  
Lew Gaiter III  
Steve Johnson  
Tom Donnelly  
200 West Oak, Suite 2200  
Fort Collins, CO 80521

Mr. Rob Helmick  
Larimer County Planning  
200 West Oak  
Fort Collins, CO 80521

Mr. Mark Koleber  
City of Thornton  
12450 Washing Street  
Thornton, CO 80241-2405

Weld County Commissioners  
Mike Freeman  
Julie Cozad,  
Barbara Kirkmeyer  
Sean Conway  
Steve Moreno  
1150 O Street  
P.O. Box 758  
Greeley, CO 80631

Re: City of Thornton 1041 Permit Application and the Thornton Water Project

Dear Commissioners, Mr. Helmick and Mr. Koleber:

We are writing in regards to the City of Thornton's 1041 Permit Application currently making its way through the Larimer County process. As residents located along Larimer County Road 1 and Weld County Road 13, we would like to express our desire to have the Thornton Water Project pipeline placed in the middle of the current road right-of-way. We understand that the Town of Timnath has agreed to allow the alignment of the pipeline within the portion of the road located in Timnath immediately north or adjacent to our properties.

The current maps supplied to us from Western States Land Services, Inc. show that the proposed pipeline on LCR 1/WCR 13 south of Harmony Road is aligned within the road right-of-way until Larimer County Road 32 where it crosses into private land in Weld County. The maps indicate a placement on the

Sondrup parcel in Weld County, then again into the road right-of-way until it crosses into the Hoff parcel in Larimer County. The pipeline continues in Larimer County part way through the George parcel until it crosses over to the Weld County property of Westwind Farm, LLC. This route causes concern for us as property owners in that the proposed route cuts through irrigation ditches that are needed to service our crops and would impact our property values.

We would ask that Larimer and Weld Counties require the Thornton Water Project pipeline to remain in the middle of the County Line Road right-of-way from Harmony until Larimer County Road 32/Weld County road 68 ½.

We also note that Larimer County is now asking for additional information/materials from the City of Thornton regarding Field Survey Information, Pipe Alignment, Anticipated Construction Schedule, Pavement Restoration Plan and Utility Coordination. Larimer County requested this information in its January 26, 2018 letter for the 2.6 mile segment along County Road 54. We would request the same type of information for the portion of Larimer County Road 1/Weld County Road 13 that impacts our properties. It is our hope that the City of Thornton will be consistent in its application to Larimer County to include the additional information/materials for all properties along the TWP route.

Thank you for your consideration.

Sincerely,

/s/ See attached signature pages

David and Stephanie Hill, Larimer County Parcel No. 8601000008

Ron and Carole Sondrup, Weld County Parcel No. 080707000042

Jim and Sandy Helzer, Larimer County Parcel Nos. 8612406001 and 8612406002

Shawn and Pam Hoff, Larimer County Parcel No. 861200001

Mark and Linda George, Larimer County Parcel Nos. 8613105002 and 8613105001

Sincerely,

*David P. Hill Stephanie L. Hill*

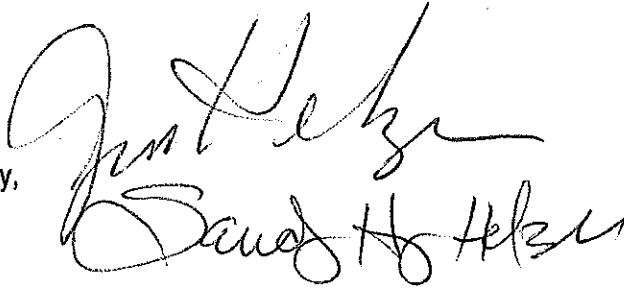
David and Stephanie Hill, Larimer County Parcel No. 8601000008  
4729 South Larimer County Road 1  
Fort Collins, CO 80525

Sincerely,

Ron and Carole Sondrup, Weld County Parcel No. 080707000042  
34310 Weld County Road 13  
Windsor, CO 80550

*Ronald W Sondrup*  
*Carole A Sondrup*

Sincerely,

Handwritten signatures of Jim Helzer and Sandy Helzer. The signature for Jim Helzer is written above the signature for Sandy Helzer.

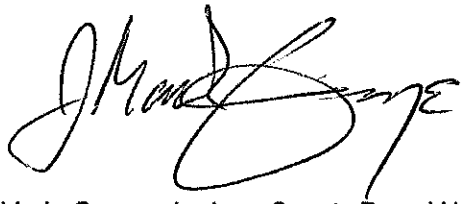
Jim and Sandy Helzer, Larimer County Parcel Nos. 8612406001 and 8612406002  
6301 South Larimer County Road 1  
Windsor, CO 80550

Sincerely,

A handwritten signature in cursive script that reads "Shawn & Pam Hoff". The signature is written in black ink and is positioned above the printed address.

Shawn and Pam Hoff, Larimer County Parcel No. 8612000012  
6405 South Larimer County Road 1  
Windsor, CO 80550

Sincerely,

A handwritten signature in black ink, appearing to read "Mark and Linda George". The signature is fluid and cursive, with the first name "Mark" being more prominent than the second name "Linda".

Mark and Linda George, Larimer County Parcel Nos. 8613105002 and 8613105001  
6801 South Larimer County Road 1  
Windsor, CO 80550



1/17/2018

Email: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

or mailed to Rob Helmick at:

Larimer County Community Development Division  
PO Box 1190  
Fort Collins CO 805221

**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at **4320 Eagle Lake Dr.** near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Nancy and Bob Terry



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

**Fwd: Thorton Water**

1 message

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>

Wed, Jan 17, 2018 at 10:45 PM

To: Lew Gaiter &lt;gaiterl@co.larimer.co.us&gt;, Steve Johnson &lt;johnsosw@co.larimer.co.us&gt;, Tom Donnelly &lt;donnelt@co.larimer.co.us&gt;

Cc: "Helmick, Rob" &lt;helmicrp@co.larimer.co.us&gt;, Terry Gilbert &lt;gilberrt@co.larimer.co.us&gt;

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.

----- Forwarded message -----

From: "Keiran Bissell" &lt;bissell.katherine@gmail.com&gt;

Date: Jan 17, 2018 8:39 PM

Subject: Thorton Water

To: &lt;bocc@larimer.org&gt;

Cc:

Hello,

I am a citizen of Fort Collins (Stuart and Whedbee crosstreets) and I am writing regarding my concerns about Thorton's pipeline and potential environmental damage. I hope the county commissioners are considering what's best for Fort Collins' parks, wetlands, and wildlife and work with Thorton to create a less disruptive plan such as taking out water at Windsor.

Keiran



Rob Helmick <helmicrp@co.larimer.co.us>

### support for Douglas Rd. route

1 message

Terry, Nancy <nterry@pmglending.com>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>

Wed, Jan 17, 2018 at 5:36 PM

Dear Rob,

As someone who's tried to keep up to speed on the Thornton pipeline I appreciate the County's responsiveness to the concerns of Larimer County residents who will be impacted by the pipeline. Of the 10 alternatives Thornton has looked at, I feel the solution most workable is to put the pipeline in Douglas Rd. and that was Thornton's first choice as well, after an analysis of the 10 different possible routes.

I'm certainly aware of the No-Pipe-Dream movement. I was not able to attend last night's meeting at the courthouse, but I have heard feedback from those who attended. It appears their beliefs include the County making Douglas Rd. a major truck route that will continue West to Hwy 287, widening it significantly and taking out homes along the way. Based on what I know of the Transportation plan that is not accurate. At the Jan. 25 meeting about Douglas Rd. will you be addressing these issues?

They also feel they can bring pressure to bear and change the County's recommendation/requirement to force Thornton to allow the water to run through Fort Collins and take it out in Windsor. We in Eagle Lake have taken the position we can work with Thornton, now that they are not targeting the pipeline through private property. So, my letter and email are in support of Thornton and the County putting the pipeline under Douglas Rd.

Thank you very much,

Nancy Terry

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Building #1 Suite 306  
Fort Collins, CO 80525

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**Thornton letter to County 1-17-18.pdf**

89K

**Email:** rhelmick@larimer.org

or mailed to Rob Helmick at:

Larimer County Planning Department  
200 W. Oak Street, Third Floor  
Fort Collins, CO 8052

**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at 408 Eagle Lake Court near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

I ask that you please include my comments in the 1041 application package.

Sincerely,

**John and Bonnie Helgeson**

Larimer County Planning Department  
200 W. Oak Street, Third Floor  
Fort Collins, CO 80521

January 15, 2018

Dear Senior Planner Rob Helmick:

We are writing to support the proposed "South 2" route down Douglas Road for the proposed Thornton pipeline project, as we believe it is the best route available for the reasons outlined below. We live at 4417 Eagle Lk S near Douglas Road and we are very sensitive to the impact this project will have on our residence and our neighbors.

We strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. We are happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipeline off private property to the mutual benefit of all property owners.

Additionally, we feel the project coordination opportunity between Larimer County, the City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas Road detailed in the County's Master Transportation Plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas Road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer County officials that will benefit taxpayers.

We ask that you please include our comments in the 1041 application package.

Sincerely,



Ronald and Vicki Norby

4417 Eagle Lk S, Fort Collins, CO 80524-8609

**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at 4855 Eagle Lake Drive near Douglas Road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Scott Tate

(970) 227-8185



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Thornton Water Project 1041 application with County along Douglas Road

2 messages

**Lynn U Nichols** <lynn.healthwrite@gmail.com>  
 To: cityleaders@fcgov.com, wtroxell@fcgov.com  
 Cc: bocc@larimer.org, helmicrp@co.larimer.co.us

Wed, Jan 24, 2018 at 9:29 PM

Dear Mayor Troxell and City Council members,

I urge you to get involved in the TWP in support of your citizens. As a leader in No Pipe Dream, a grassroots community group against the pipeline, now 450 people strong with legal representation, we are fighting this pipeline tooth and nail. We want your help. Please get involved! The south side of Douglas road for a good stretch before it hits Turnberry borders city limits. So why isn't Fort Collins involved???

We do not want to carry this burden for the County. We don't want to pay for the county's so called "cost savings" with our property values, easements on our property and destruction of trees and fences that line Douglas Road. We do not want Douglas to be expanded into an arterial roadway, simply because right now it would be convenient to do so for their friends (better friends than their own constituents) to the south by the name of Thornton. Their plan is shortsighted to save money by partnering with Thornton who has agreed to pay for the road. We have challenged them that this is a conflict of interest - the Commissioners cannot clearly make the right decision for their constituents when they are clouded by dollar signs to save money to repair the road, which was just repaved and previous to this scheming, wasn't slated for repair for 10 years!

Commissioner Gaiter recently said in this article Thornton pipeline opponents: Larimer County has conflict of interest on project after our group attended the County Commissioner meeting this past Tuesday to share public comments that he would vote to save the county money. We say, not with the shirts on our backs!

There is a solution to this madness. LEAVE THE WATER IN THE POUDE RATHER THAN PUTTING IT IN A PIPE.

As representatives of Fort Collins, you must see the benefit to that. Increased flow means a healthier less polluted river. Wouldn't that be great for the water park and River Park? Wouldn't all the River Park developers like to have a health river to promote? I think I will ask them. But right now, I am asking YOU to act. We are your very close by neighbors, many of us in "unincorporated Larimer County" but likely soon to be within city limits. Please take a risk and get involved and support us to stop this madness. We are not being heard by our own representatives in the county, so we turn to you.

Thank you and sincerely,

Lynn U Nichols

**Gerry Horak** <ghorak@fcgov.com>

Sat, Jan 27, 2018 at 11:27 AM

To: Lynn U Nichols <lynn.healthwrite@gmail.com>, City Leaders <CityLeaders@fcgov.com>, Wade Troxell <WTroxell@fcgov.com>

Cc: "bocc@larimer.org" <bocc@larimer.org>, "helmicrp@co.larimer.co.us" <helmicrp@co.larimer.co.us>

Lynn

Thanks for the emails, perspectives, concerns and recommendation. We agree that more water in the Poudre is a good thing. We have been working on that issue for 30 years. Thornton may agree to put more water in the river. However, without others, not Thornton, agreeing to pay to treat the water that becomes less clean as to flows past communities they will not consider that alternative. Although this issue now affects you directly, please realize this is not a recent issue and this proposed alternative has been considered.

**THORNTON WATER PROJECT 1041**

**144**



Sincerely

Gerry

**Gerry Horak**  
Mayor Pro Tem  
Councilmember  
District 6  
ghorak@fcgov.com  
217-2993  
123 North Mack Street  
Fort Collins, CO 80521

*With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can't guarantee that any email to or from Council will remain private under CORA.*

---

**From:** Lynn U Nichols <lynn.healthwrite@gmail.com>  
**Sent:** Wednesday, January 24, 2018 9:29:53 PM  
**To:** City Leaders; Wade Troxell  
**Cc:** bocc@larimer.org; helmicrp@co.larimer.co.us  
**Subject:** Thornton Water Project 1041 application with County along Douglas Road

[Quoted text hidden]

*Keep the water in the Poudre*

**STOP Thornton's Pipe Dream**

January 29, 2018

Larimer County Planning Commission  
Matt Lafferty, Liaison  
200 W Oak Street, # 3100  
Fort Collins, CO 80521

Larimer County Commissioners  
Linda Hoffmann, County Manager  
200 W. Oak Street, #2200  
Fort Collins, CO 80521

Dear Planning Commissioners and County Commissioners:

On January 5, 2018, Thornton filed its 1041 application to construct a large water pipeline known as the Thornton Water Pipeline. The Larimer County Planning Commission is currently scheduled to conduct a hearing on the Thornton Water Project 1041 permit application on February 21, 2018. The Larimer County Commissioner's hearing on the application is scheduled for March 26, 2018.

During a recent meeting, the County indicated that it has requested that Thornton make certain changes to the right of way for the pipeline. These changes to the right-of-way/1041 application have yet to be made public and thus we are unable to review or comment on the changes. Thus, we believe that the 1041 application is currently incomplete.

In addition, it has recently been brought to our attention that Larimer County is communicating with Thornton about entering into a partnership related to the construction and installation of the pipeline. This partnership would create a conflict of interest for the County because the County would become both the quasi-judicial governmental agency responsible for acting on the 1041 permit application as well as a proponent of the project. This conflict of interest issue must be resolved before an adjudication of the 1041 application commences.

For the reasons identified above, we are requesting that consideration of the 1041 application in the above scheduled hearings before Planning Commission and County Commissioners be tabled for at least 40 days, or later with the consent of Thornton. Section 12.4.2 of the County Land Use Code states:

"The board or commission conducting the public hearing can, on its own motion or at the request of any person, table the public hearing to a specified date. Tabling for more than 40 days without the applicant's consent is not permitted. Every effort must be made to conduct each public hearing expeditiously and without undue delay."

*Keep the water in the Poudre*

**STOP Thornton's Pipe Dream**

Accordingly, our request is supported by the Larimer County Code.

Please respond in writing to this request at least 2 weeks prior to the scheduled hearings so we can properly prepare .

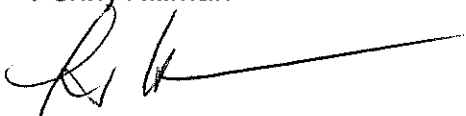
Thank you,

Lynn Utzman-Nichols



Steering Committee Member  
No Pipe Dream  
970-218-8514

Penny Hillman



Steering Committee Member  
No Pipe Dream  
970-518-3260



Rob Helmick <helmicrp@co.larimer.co.us>

**Fwd: Stop the Pipe Dream - reject Thornton's 1041 application to construct a pipeline!**

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Mon, Jan 29, 2018 at 9:51 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnell@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Rob -- Please add this message to the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: Larimer.org <noreply@larimer.org>

Date: Thu, Jan 25, 2018 at 2:24 PM

Subject: Stop the Pipe Dream - reject Thornton's 1041 application to construct a pipeline!

To: bocc@larimer.org

**A message has been submitted to bocc@larimer.org from Larimer.org:**

It's time to be proactive, pro Poudre and pro social responsibility. Rather than constructing a damaging and disruptive pipeline, Thornton could leave the water in the Poudre until it reaches a takeout point near Windsor. The increased water flows would be significantly beneficial to the currently ailing health of the Poudre as it runs through Fort Collins, as well as to wetlands, environmental and recreational resources and the communities and businesses that depend on them. It would also enhance the proposed River park and white water park in Old Town. Urge the Larimer County Commissioners to reject Thornton's 1041 plan and keep the water in the Poudre through town. Visit NoPipeDream.com for more.

**Contact Details**

**Name:** Cindy Pault

**Email:** jerroldpault@gmail.com

**Phone:** 9704843130

The email was submitted on **Thursday, January 25, 2018 - 2:24pm**, logged in as: **Anonymous**



Rob Helmick <helmicrp@co.larimer.co.us>

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## Douglas Road

1 message

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**Linda Greenman** <greenman.linda42@gmail.com>

Mon, Jan 29, 2018 at 9:37 AM

To: rhelmick@larimer.org

Please convey to the LC Commissioners my strong objections to accommodating Thornton's need to transport their water in a pipeline under Douglas Road. I have lived at 389 Captains Court for twenty years and my property which is one of the closest to the roadway would be most impacted by unnecessary (at this time) road widening. There is no need, in my opinion, for turning lanes, sidewalks, etc. in this rural area.

Sent from my iPad



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## In Support of the Thornton Pipeline Project

1 message

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**Amber Epstein** <Amberepstein@live.com>

Mon, Jan 29, 2018 at 8:10 PM

To: helmicrp@co.larimer.co.us

My name is Amber Epstein and my husband, Daniel Epstein and I live at 4011 Braidwood Drive in the Braidwood development near Douglas road. I am very sensitive to the potential impact the Thornton Water Pipeline project could have on my residence and neighbors. I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available.

It seems that the South 2 route is aimed at 1) minimizing the potential negative impact on property values and the environmental aesthetic of our communities, 2) maximizing the areas owned by the City of Thornton and keeping the physical pipeline off private property to the mutual benefit of all property owners and 3) if coordinated well, it should also minimize the overall disruption of the collective projects (Thornton's Pipeline, Larimer's Douglas Road, and NISP) will have on the community.

I feel the project coordination opportunity between Larimer County, City of Thornton, and the Northern Integrated Supply Project (NISP) is a unique opportunity for all parties to work together. The changes to Douglas road detailed in the county's master transportation plan (regardless of the Thornton Water Project) is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I believe many that don't support the South 2 route are just trying to avoid the personal disruption of the Douglas Road project. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Thank you for your time,

Amber & Daniel Epstein

4011 Braidwood Drive

Fort Collins, CO 80524

**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at **5149 Eagle Lake Drive** near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

I ask that you please include my comments in the 1041 application package.

Sincerely,

Tom MacKenzie  
970 232 5294



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thorton Water Pipeline 1041 Permit; SUPPORT FOR SOUTH 2 ROUTE

1 message

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**Linda Sheline** <lindamsheline@gmail.com>

Tue, Jan 30, 2018 at 10:24 AM

To: rhelmick@larimer.org

Cc: Dennis Pierro &lt;dpierro437@gmail.com&gt;, Mark Heiden &lt;mheiden@eaglelakefchoa.com&gt;, Harry Sheline &lt;hlsheline@gmail.com&gt;

Dear Rob Helmick, Senior Planner,

I am writing to support the proposed "South 2" route down Douglas road for the Thorton pipeline project. I believe that this is ultimately the best and most expedient route available. I live at 438 Pelican Bay near Douglas Rd. and I am aware of the impact that this project will have on my residence, property value, neighbors and the environment.

I feel strongly that this route makes efficient and conscientious use of public resources that preserves property values and the environmental aesthetic of our communities, which is why we purchased property here in the first place! I am pleased to see that this route maximizes the areas owned by the City of Thorton and keeps the physical pipeline off private property to the mutual benefit of all property owners.

I also believe that the project is the best possible scenario for Larimer County, the City of Thorton and Northern Integrated Supply Project (NISP). The changes to Douglas Road outlined in the county's master transportation plan are sorely needed; the intersection of Douglas Rd. and Route 1 is dangerous and scary. It seems efficient to seek this partnership in order to share the cost of improving Douglas Rd. with the City of Thorton and NISP. It is a smart and fiscally responsible approach by Larimer County officials that will benefit taxpayers.

Sincerely,  
Linda M. Sheline



3508 Terry Point Drive  
Fort Collins, CO 80524  
January 30, 2018

Larimer Count Planning Department  
Rob Helmick  
PO Box 1190  
Fort Collins, CO 80522

To: Larimer County Planning Commission and County Commissioners

From: Henry Shands

Subject: Comments on the Proposal for a Pipeline on Douglas Road

Sirs:

County workers, as public servants, serve their county residents for their good with the premise of "do no harm". As you review the request by the city of Thornton to install a pipeline under Douglas Road you must respect that premise.

The residents of Larimer County living along and the vicinity of Douglas Road will be greatly affected to the point of being harmed. Among those harms:

- Egress. Some sub-divisions have no alternative entrance or egress except Douglas Road, for themselves, for emergency vehicles, for ordinary trash and other services. There are many senior citizens in some of these sub-divisions who will be greatly affected. School busses will be affected and families with school children will have many more challenges including transporting children to new pickup points. Child safety must be considered to the list of harms.
- Disruption and Noise Abatement. There is evidence that, since existing utilities along Douglas Road are unknown and unmapped, surprises will occur and planned timelines will not hold. The planners and contractors have no idea of what surprises they will ultimately encounter thus adding unknown and possible long delays. The normal equipment noises for road construction may be augmented by additional special equipment with even greater noise issues for the community. The extremely long proposed construction time will be a very substantial "harm" to the residents of the area. (A recent install of a 3/8 mile gas line took something in the neighborhood of 2.5 months. Extrapolating that disruptive install for the length of Douglas Road work shows that proposed timelines cannot be trusted.)
- Wetlands health standards. The time to get the appropriate environmental assessment and impact approvals will add significantly to getting the project started. Installing a huge pipe through the wet areas may require significant abatement procedures involving time once a project is even approved. The water scoops to allow wetland water flow across Douglas Road will have to be enlarged and the pilings to support the pipeline in those areas will add to the cost and damage to the environment. The impact on residents in the section of Douglas Road between State Route 1 and North Shields Street will be substantial. The County officials will not get off the hook for a terrible decision to install a pipeline along Douglas Road.

An alternative plan to allow the water to remain in the river all the way through Fort Collins will avoid all of the above harms which can be avoided at little no environmental, monetary, or disruptive, safety or political cost. Surely, it may not be all that simple but the facts weigh in that direction. While there may be additional costs to process water passing through the city, those costs are small relative to the harm, bad will created and disruption to all the residents along

Douglas Road. Other parties wanting better recreational facilities utilizing water in Fort Collins have a desire to keep the water in the river as well. In that respect, that constituency also has strong interests to avoid harm on the project to install a pipeline on Douglas Road.

Conclusion. There are other options to installing a pipeline along Douglas Road with the potential disruption and multiple long-term expenses in the future. All of those options would be preferable to the harm caused to the residents along the Douglas Road corridor impacted. At the very least, the water should remain in the river as it passes through Fort Collins.



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Douglas Road Widening

1 message

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Erik Nelson <ENelson@enganalytics.com>  
To: "helmicrp@co.larimer.co.us" <helmicrp@co.larimer.co.us>

Tue, Jan 30, 2018 at 12:08 PM

Mr. Helmick,

My name is Erik Nelson. My wife Elizabeth and I live at 4130 Braidwood Drive, which is located at the northeast corner of CR17 and Douglas. I attended the County's meeting regarding the County's widening proposal for Douglas Road. I thought you all did a very good job both with the presentation and the Q&A session afterwards. In my job I periodically have to set up and run public meetings. It is a tough job to deal with angry people who don't understand the process or just want to vent their frustrations with change. You guys did really well. So anyway let's just get right to the point, **I fully support** the County's efforts to widen this roadway, and install a traffic light at SH-1.

I applaud the County's efforts to get ahead of development in this area of the county and try to head off traffic problems before they have a chance to develop. In the 5 years that I have lived on Braidwood I have seen the traffic on Douglas road increase significantly. Granted, some of it is due to the never-ending construction along 287 but much of it is also due to development in this area. As much as I hate to see our little country road become a larger arterial road it is inevitable that this section of the county will become developed and require additional infrastructure. Some of my contacts at the City of FC and other district leaders have informed me of the volume of new construction planned for this area. If all of that goes in the traffic loads on Douglas will go well beyond the projections that you presented in the meeting. The time to think about this is now, not after it is a problem.

In my view the improvements that are proposed, adding wider shoulders and bike lanes, adding a center turn lane in some places, will go a long way to improving the safety of this stretch of road. I only wish it could be done sooner. My son who is now 16 used to want to ride his bike to his friends' houses over in Terry Lake but my wife and I would never let him because of the lack of bike lanes and the traffic. I just recently witnessed a vehicle pedestrian accident at Douglas and Turnberry, luckily no one was seriously injured but the existing shoulders are not wide enough to provide adequate protection to the jogger and bicyclists that use this road on a regular basis. I frequently see vehicles cutting it close to riders because they don't want to move over, or I see vehicles swerving into the oncoming lanes to provide more space. Neither is a good situation.

As for the light at SH-1, let's just get that done!! I cringe each time my son drives to his grandparents' home in Wellington because he has to go through that intersection. I have seen several accidents there because people don't want to wait for a clear space and try to shoot across the intersection. It is very dangerous. My parents were nearly broadsided there a couple of months ago when someone blew the stop sign in front of them. Luckily they were not hit but it was still a close call. For every accident there are 10 close calls, and I see both all the time at this intersection.

I drive down Douglas road every day, sometimes 3 or 4 times. Frequently I see children playing on the narrow shoulder while they wait for the school bus or get dropped off after school. The current road configuration and traffic loads do not lend themselves to a safe environment. This road needs to be widened and bike/pedestrian lanes need to be installed.

If for one would welcome the opportunity to ride my bike to work on occasion, I currently will not do that because of the lack of separation between vehicles and bikes. I know many of my neighbors would also appreciate some bike lanes along Douglas. I have asked them to provide you with comments regarding this as well, hopefully they have.

Anyway, thanks for your time. Please pass my comments along to the BOCC and give my compliments to the County Development Team for doing a great job at the last meeting.

Lets get this approved so we can get it done.

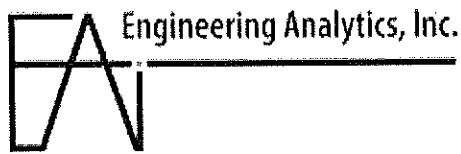
Thank you

Erik Nelson

**Erik J. Nelson, P.E.**

Vice President

Principal Civil/Geotechnical Engineer



**Engineering Analytics, Inc.**

1600 Specht Point Rd. #209

Fort Collins, CO 80525

[www.enganalytics.com](http://www.enganalytics.com)

970 488-3111 **Office** | 970 488-3112 **Fax** | 970 631-5088 **Cell**

[enelson@enganalytics.com](mailto:enelson@enganalytics.com)

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Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Thornton Pipeline

1 message

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Erik Nelson <ENelson@enganalytics.com>  
To: "helmicrp@co.larimer.co.us" <helmicrp@co.larimer.co.us>

Tue, Jan 30, 2018 at 12:36 PM

Mr. Helmick,

My name is Erik Nelson. My wife Elizabeth and I live at 4130 Braidwood Drive, which is located at the northeast corner of CR17 and Douglas. Our home is also located on the west side of Irrigation and Storage Lake No. 4. I wrote you previously about the Douglas Road Widening but wanted to send in a separate letter regarding the Thornton Pipeline since they really are two separate issues.

As I mentioned we live on the west side of Lake 4. That is the lake that Thornton is proposing to take the water out of to put into their pipeline. As an engineer who deals with water rights I understand all of issues related to water rights, and water use in Colorado. I understand that Thornton owns the water and that they have the right to use that water, it is their water after all. However, we all have some say in where they take it out of the river. From what I can tell the use of our lake as a takeout point for the pipeline could actually be beneficial for our lake. Our neighborhood is very active at this lake. It is a source of pride for our neighborhood to have a nice lake and it provides significant recreational and property value benefits to our neighborhood. From what I have been able to find about the Thornton project, its implementation could actually increase the condition of our lake by providing greater throughput of water and maintaining more consistent water levels in our lake. This would be good for the water quality and the fishery that it supports. Our lake also provides a significant ecological benefit to the area by providing improved habitat for wildlife in our area. Improving the water quality in the lake will have a benefit on this as well.

The recent push by the Save the Poudre and keep the water in the Poudre folks really ignores this whole issue. Furthermore, they ignore the fact that if the water stays in the river it doesn't make it to our lake which would have a serious detrimental effect on all of the items I listed above. Please don't fall for their claims that keeping the water in the Poudre is going to help the river in town. This water has been withdrawn from the river for over 100 years and most of it comes out at peak flow when it will not be noticed. Keeping this water in the river might have a very minor impact on increasing water levels through town but it will have a very serious detrimental effect on our lake and the other lakes above Lake 4 that rely on this water.

As to the routing of the pipeline to carry this water. Douglas Rd. makes the most sense of all the proposals put out there. All the other proposed routes have to cross a lot of private land which will have a serious impact on those property owners, potentially my own property. Douglas road is already a designated utility corridor and co-locating the utilities with the roadway makes a lot of sense. The route down Douglas would have the least impact on neighborhoods and private property of any of the other routes I have seen.

Furthermore I believe it makes a lot of sense to do the improvements to Douglas Road at the same time. I realize that the Douglas Road improvements were not originally planned for right now but I would rather have the road torn up once to get all of it done than to have two separate construction efforts that take much longer.

Please provide the BOCC with my comments and relay my support for the proposed pipeline routing down Douglas Rd.

**THORNTON WATER PROJECT 1041**

**157**

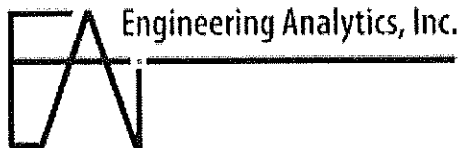
Thank you.

Erik and Elizabeth Nelson

**Erik J. Nelson, P.E.**

Vice President

Principal Civil/Geotechnical Engineer



Engineering Analytics, Inc.

**Engineering Analytics, Inc.**

1600 Specht Point Rd. #209

Fort Collins, CO 80525

[www.enganalytics.com](http://www.enganalytics.com)

970 488-3111 Office | 970 488-3112 Fax | 970 631-5088 Cell

[enelson@enganalytics.com](mailto:enelson@enganalytics.com)

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**Email:** [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

We are writing to support the proposed "South 2" route down Douglas Road for the Thornton pipeline project. We live at 451 Deerfield Circle near the entrance to Eagle Lake from Douglas Road and believe this route will have the least impact on us and the neighborhood. It also avoids crossing private property throughout the surrounding area.

Although we are not supporting Thornton's plan in general, we know they have a right to the water. Since the pipeline seems to be a given, we believe the collaboration opportunities will be a major benefit to everyone. We support the County in being willing to work with Thornton to satisfy their need while also achieving a significant and needed upgrade to Douglas Road. The proposed approach also appears to have fewer negatives and more positives than any of the other pipeline options.

Sincerely,  
Ed and Donna Slavik



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

**Citizen comment on Thornton water pipeline 1041 permit**

1 message

**Pabilonia, Kristy** <Kristy.Pabilonia@colostate.edu>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>  
Cc: "Podell, Brendan" <Brendan.Podell@colostate.edu>

Mon, Jan 15, 2018 at 1:05 PM

Hi –

Our family lives at 3942 Eagle Lake South. We are AGAINST any pipelines running through Eagle Lake subdivision properties.

Our preference would be for Thornton to take their water out closer to I-25 so that they do not disrupt properties in Fort Collins area. We've read a lot about how they bought up water rights and I don't agree with how they handled the situation and the impacts of their work on other communities. Asking Fort Collins residents to accept disruption to their properties supports Thornton but does NOT support Fort Collins residents, who pay property taxes and support the local community. I think Thornton water should not cause further disruption and instead take their water out close to I-25. In documents I've read from Thornton, they don't support this route because they want better water quality . . . I have a hard time sacrificing Fort Collins residents' rights and interests just so that Thornton has better water quality. If taking water out close to I-25 would make their water undrinkable, then I would support a Douglas Road route. . but if the water would be safely drinkable, then I would support requiring Thornton to take water out closer to I-25 so as not to disrupt Fort Collins neighborhoods.

Our preference for routes for the pipeline:

- 1) Take water out close to I-25, do not disrupt Fort Collins neighborhoods
- 2) Douglas Road route, if the above option is not possible

Thank you

Kristy Pabilonia

Brendan Podell

3942 Eagle Lake South, Fort Collins, CO 80524



**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at **5149 Eagle Lake Drive** near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

I ask that you please include my comments in the 1041 application package.

Sincerely,

Tom MacKenzie  
970 232 5294



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Thornton Pipeline Project

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Sun, Jan 14, 2018 at 1:48 PM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnell@co.larimer.co.us>

Cc: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>, Todd Blomstrom <blomstta@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.

### Linda Hoffmann

County Manager  
Larimer County, Colorado  
(970) 498-7004 (direct)

----- Forwarded message -----

From: **Barbara Frare** <barbarafrare@gmail.com>

Date: Fri, Jan 12, 2018 at 2:27 PM

Subject: Thornton Pipeline Project

To: bocc@larimer.org

Dear Commissioners,


As a home owner with property directly bordering Douglas Rd., I am writing to express my concern with the proposed Thornton Pipeline project.

Those of us who live on or around Terry Lake have affirmatively made the choice of living in quiet surroundings, close to nature, rather than living in the bustling city of Fort Collins. Adding truck traffic to our lake neighborhoods dramatically decreases the natural beauty of the area. Taking water away at an earlier access point directly affects wildlife, habitat, and recreational opportunities for all of us who enjoy and benefit from the Poudre River being in our community. I am at a loss as to why the citizens of Thornton, residents of Adams County, somehow have priority over the residents and tax payers of Larimer County! How do they have merit over the citizens you represent? Thornton's increased cost of water filtration is their issue, not ours.

To drill down to a very specific and personal level, my husband and I are one of 15 households on Harbor Way, a single access neighborhood with entrance and exit exclusively on Douglas. Our house is the closest to Douglas Road in our neighborhood, and therefore the most impacted by traffic and road noise. The on-going construction project on 287 at times has made a cut through from Shields to Douglas to I-25 an attractive option for large commercial trucks. I have called our local law enforcement several times in complaint about noise and speed of tractor trailer trucks on Douglas. The Sheriff's department acknowledged the problem of both speeding and overweight vehicles traveling on Douglas, as well as their efforts to curtail that activity. It is distressing to learn that what had been an occasional incident could now be daily traffic! The perceived financial benefit from any incentive proposed by Thornton will not benefit our family (your constituents), but it will devalue our home and decrease our quality of life. How is Thornton's fiscal benefit going to offset my direct financial loss?

I urge you to stop the Thornton pipeline project.

Thank you, Barbara Frare

303-653-4037  Call: 303-653-4037

3658 Harbor Way  
Fort Collins, CO 80524



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Fwd: Lies and untruths regarding the pipeline on Douglas Rd

1 message

Linda Hoffmann &lt;hoffmalc@co.larimer.co.us&gt;

Fri, Jan 12, 2018 at 1:13 PM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: Terry Gilbert <gilberrt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>, Todd Blomstrom <blomstfa@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.

----- Forwarded message -----

From: "Larimer.org" <noreply@larimer.org>

Date: Jan 11, 2018 3:52 PM

Subject: Lies and untruths regarding the pipeline on Douglas Rd

To: <bocc@larimer.org>

Cc:

### A message has been submitted to bocc@larimer.org from Larimer.org:

Please take into account all the fake news and exaggerations that are being spread to folks who are not informed truly and suddenly feel relevant by screaming all these untruths fed them by folks with agendas. I am neutral except for the fact that I will lose my farm to the City of Thornton either by sale or eminent domain. I will just try to get the best deal I can and deal with the consequences. It really pisses me off when I hear all the fake news that comes from the save the poudre nuts and now the nopipelin idiots. Please just try to get the truth out there about no more water from the river, no wider Douglas Rd right of way, no truck route taking their frontage, no vibration and noise that will cause their homes to fall down etc. These complainers should be thankful to get a better road paid for by someone else but the few have given the feeling of power to the many and it feels good to think they have control. This will go through with or without their blessing and we all have to make the best of it and look at the bright side.

Thank you

### Contact Details

**Name:** Richard Brauch

**Email:** rlbrauch@aol.com

**Phone:** 970-691-7125

The email was submitted on **Thursday, January 11, 2018 - 3:52pm**, logged in as: **Anonymous**



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

## Engineering Mailer

2 messages

**Mark Heiden** <mheiden@eaglelakefchoa.com>  
To: Rob Helmick <rhelmick@larimer.org>

Fri, Jan 12, 2018 at 11:35 AM

Rob – just a follow up from our conversation that the mailer did arrive yesterday and many residents here have mentioned receipt of it.

Just as an fyi here's what I posted on Nextdoor website today in response to No Pipeline tiring whining. Sorry about length.

Stop the nonsense indeed.

The "Save the Poudre" movement is filled with misinformation, cynical and wishful thinking and it's time to face the realities.

The only NIMBY war that exists was started by the "No Pipe Dream" group who on two separate occasions were asked to get together to meet with Larimer County and Thornton to understand the issues involved and get the facts straight but I was told "no thanks, you're either with us or against us."

You do have a say now – this is the 1041 process – quit complaining you were never accorded an opportunity to voice concerns.

Now to the issues.

Douglas Road was going to be widened. That is true. People are splitting hairs and complaining about the timeframe. They fault Larimer County for doing a good job in mitigating costs and smart fiscal maneuvering to the benefit of taxpayers and call it collusion. All in the face of transportation breakdowns and budget shortfalls for transportation funding throughout the state – and a governor calling for a tax increase to fund roads. Amazing.

You don't own Douglas Road. It is a public right of way. Is there more traffic? Sure. Will there be even more? Most definitely. Just ask people in south Fort Collins off of Timberline, Harmony, Horsetooth and other roads what happened to their 'rural road' when growth hit south. Well, now it's the north's turn and nothing is going to prevent it. I find it far better to be prepared for it than to deal with years of snarled traffic, dangerous intersections, potholes and lack of funding to do anything about it.

Pipeline or not, Douglas Road is going to be widened. I applaud the county in working for a solution that saves tax payer money while keeping an intrusive project from plowing through people's back yards, neighborhoods, and wetlands in Larimer County by putting it under a public right of way that we all own and benefit from.

Someone hit the nail on the head – "the whole Save the Poudre thing is a distraction." And somewhat ridiculous.

The true economic lifeblood of Larimer County is the benefit from the Poudre River the diversion and reservoir chain that has been developed over the past 150 years impacts Larimer County residents. It's not just a 20' wide few mile stretch of river in Fort Collins that will benefit some commercial interests there and some white water kayakers in a new park to be built.

How many more people enjoy recreational benefits like fishing, hiking, boating, swimming, canoeing, paddle boarding, etc. on our lakes and reservoirs than will benefit from additional Poudre River water in Fort Collins? How many birds, raptors, geese, ducks, fish and other wildlife that have developed around the reservoirs ecosystems will be disrupted by taking water out of the storage facilities in Northern Colorado and permanently moved to a diversion point in Windsor (to where nobody has said)?

How many homes border lakes and reservoirs that are fed by the Poudre whose quality of life may suffer with a substantial drop in water, and how much property tax revenue will the county lose if home values decrease even 10% due to a lack of water in historically full reservoirs that are now mud pits?

Are the residents around Terry Lake willing to drain their reservoir for the cause of Saving the Poudre? No – you probably want someone else to do it like the residents of Eagle Lake around Reservoir #3 and #4 which are the terminal point for Thornton Water.

A 'Structure Detail Report' about the Larimer County ditch (from which most water is diverted from the Poudre to various sources east) that I got a hold of details the Water Court's adjudication of water rights off of the Larimer County ditch. An impressive list of locations and municipalities have their fingers in the water through exchange and rights agreements with water rights that date back to 1862, 1864, 1868, 1873, 1878, and on. You get the idea. Here's a few of the entities: Overland Trail Reservoirs, Fossil Creek Reservoir, Weld County Water District, ELCO, Warren Lake Reservoir, Sherwood Reservoir, Fort Collins Irrigation Canal, Claymore Lake, Spring Creek, Lindenmeir Lake, Timnath Reservoir, Rockwell Reservoir, Horsetooth Reservoir, Joe Wright Reservoir as well as many other canals and ditches. And this does not include the Water Supply and Storage owned reservoirs and lakes that include Richards Lake, Linden Lake, Eagle Lake, Longs Pond, and others. Each of these entities has an interest in reduced water flow in the Larimer County Ditch if Thornton's diversion point is 'somewhere in Windsor'. I understand now why the 'Save the Poudre' folks told us in the early stages of all this that if we want to stop the pipeline that we need to 'lawyer up'.

I encourage people along Douglas Road to do the right thing for your long term benefit and work with us and other HOAs who are working to make this project as painless as possible with the maximum potential outcome. Cooperation, not confrontation. Get a desired outcome, not no seat at the table. No one is talking about going through private property, eminent domain or apocalyptic taking of homes. It is the utilization of space under a public right of way to the benefit of taxpayers, neighborhoods who don't want a pipeline through their yard, and certainly a more inclusive environmentally sound action than taking water from existing ecosystems to feed a few mile stretch in Fort Collins.

Please contact me through my email address at Eagle Lake if you or your HOA would like to be part of the solution. mheiden@eaglelakefchoa.com.

Best regards,

Mark

Mark Heiden, President

Eagle Lake Board of Directors

Hm 970-416-8432

Cell 970-988-8433

**Rob Helmick** <helmicrp@co.larimer.co.us>

Fri, Jan 12, 2018 at 1:59 PM

To: Todd Blomstrom <tblomstrom@larimer.org>, Terry Gilbert <gilbertt@co.larimer.co.us>, Matthew Lafferty <laffermn@co.larimer.co.us>

fyi

[Quoted text hidden]

--

Robert Helmick, AICP  
Larimer County Community Development Division  
Development Planning  
PO Box 1190  
Fort Collins CO 80524  
rhelmick@larimer.org  
970-498-7682



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Fwd: Mr. Horak, Re: Think outside the pipeline...

2 messages

**Terry Gilbert** <gilbertt@co.larimer.co.us>  
To: Rob Helmick <helmicrp@co.larimer.co.us>

Wed, Dec 20, 2017 at 9:18 AM

### COL. Robert "Terry" Gilbert (ret.) AICP

Community Development Director

Larimer County

Phone: (970) 498-7690

rtgilbert@larimer.org

www.larimer.org

----- Forwarded message -----

From: **Linda Hoffmann** <hoffmalc@co.larimer.co.us>

Date: Wed, Dec 20, 2017 at 8:26 AM

Subject: Fwd: Mr. Horak, Re: Think outside the pipeline...

To: Lew Gaiter &lt;gaiterl@co.larimer.co.us&gt;, Steve Johnson &lt;johnsosw@co.larimer.co.us&gt;, Tom Donnelly &lt;donnelt@co.larimer.co.us&gt;

Cc: Terry Gilbert &lt;gilbertt@co.larimer.co.us&gt;

Commissioners -- Forwarded for your information and consideration.

Terry -- Please see to it that this message is included in the public record for the application.

### Linda Hoffmann

County Manager

Larimer County, Colorado

(970) 498-7004 (direct)

----- Forwarded message -----

From: **Penny Hillman** <pjhillman@earthlink.net>

Date: Wed, Dec 20, 2017 at 7:48 AM

Subject: Mr. Horak, Re: Think outside the pipeline...

To: Gerry Horak &lt;ghorak@fcgov.com&gt;, CCSL &lt;CCSL@fcgov.com&gt;, "bocc@larimer.org" &lt;bocc@larimer.org&gt;

Good morning, Mr. Horak,

Thank you for the courtesy of your response. I am aware the Thornton pipeline was not an agenda item and that Fort Collins has no jurisdiction over the proposed pipeline. The Poudre River, however, is in your jurisdiction.

You were at a meeting with Larimer Commissioners who do have jurisdiction over the proposed pipeline. My letter to both you and the BOCC regarding said pipeline addressed a solution that would change the course of Poudre River history to the benefit of Fort Collins and Larimer County.

I greatly appreciate that Fort Collins fought Thornton's purchase of proposed use for nearly ten years and dearly wish you had been successful. That being the case, why would you not choose to support our efforts today?

It appears Thornton has a great capacity for dividing and conquering. They have used that tactic against us, divisively leveraging one neighborhood's NIBY fears against another. It was exactly that reprehensible conduct by Thornton that made me step back and look for alternatives to ramming a destructive 48" pipeline through anyone's neighborhood. After a sleepless night it finally occurred to me that while Thornton was claiming they were going to choose "one of ten locations", the real option was, "none of the above", because the water could, and should, stay in the Poudre River.

**THORNTON WATER PROJECT 1041**

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- We know it will be highly detrimental to ram a 48" pipeline through anyone's neighborhood.
- We know it will be highly beneficial to keep the water in the Poudre.

How do we work together to stop the detrimental action and create a pathway for the beneficial one?

Thank you, again, for your time and consideration.

All the best,

Penny Hillman

3305 Canadian Pkwy.  
Fort Collins, CO 80524  
NoPipeDream.com

-----Original Message-----

From: Gerry Horak  
Sent: Dec 19, 2017 1:37 PM  
To: CCSL , "bocc@larimer.org" , Penny Hillman  
Subject: Re: Think outside the pipeline...

Penny

Thanks for your email, perspectives and recommendation. The county did hold a regional elected officials meeting on Monday evening though the Thornton pipeline was not a scheduled agenda item. The city of Fort Collins has no jurisdiction over the proposed pipeline. In fact we fought Thornton purchase of proposed use for nearly ten years.

Sincerely

Gerry

**Gerry Horak**  
**Mayor Pro Tem**  
**Councilmember**  
**District 6**  
ghorak@fcgov.com  
**217-2993**  
123 North Mack Street  
Fort Collins, CO 80521

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**From:** Penny Hillman <pjhillman@earthlink.net>  
**Sent:** Friday, December 15, 2017 1:30:19 PM  
**To:** CCSL; bocc@larimer.org  
**Subject:** Think outside the pipeline...

Dear Fort Collins City Council and Larimer County Board of Commissioners,

For years we've read in the papers that one day Thornton will build a pipeline across Larimer County to access

**THORNTON WATER PROJECT 1041**

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their water. Stated as fact. As if there was no alternative. Thornton has invested a great deal of time and money going down this single path, when all this time there has been an alternative. One that does not destructively cram a 48" pipeline through peaceful neighborhoods without the consent, or even input from, those who are being directly damaged. One that can be beneficial for communities, the environment, and the economy in Larimer County and the City of Fort Collins, rather than harmful.

Thornton could choose another path. It could choose to access its water via the Poudre River instead of building a detested pipeline. Thornton doesn't want to do this because it will cost more money. How much will it cost the communities along Douglas Road to have their properties and lives torn apart? Not just in terms of money, but in terms of near and long range devastation of health, welfare, and property values? The damage will be irreparable. Larimer County residents should not have to pay for a problem Thornton created.

Thornton claims that by continuing to remove their water at the Larimer Canal they are not doing anything that hasn't already been done for the past 100 years. Well good golly, isn't that EXACTLY the point? The Poudre River is an ailing "C" grade river because it has been deprived of water for the past 100 years. Rivers need water. River are the natural, ecological pipelines for water.

Thornton has a once in a 100-year opportunity, in conjunction with Larimer County and the City of Fort Collins, to make a profoundly beneficial ecological difference, to think outside the pipeline and change the course of Poudre River history.

When you come together for your Dec. 18th Regional Meeting, please dedicate your efforts towards crafting an innovative plan to keep the water in the Poudre until it reaches a takeout point that crosses Thornton's pipeline in Windsor. Just imagine, if you will, what a profound impact that would have on the Poudre River, and the communities it struggles to support.

It's never too late to do the right thing.

Thank you for your time and consideration.

Penny Hillman

3305 Canadian Pkwy.  
Fort Collins, CO 80524  
NoPipeDream.com

**Linda Hoffmann** <hoffmalc@co.larimer.co.us> Tue, Dec 26, 2017 at 8:36 AM  
To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>  
Cc: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.

**Linda Hoffmann**  
County Manager  
Larimer County, Colorado  
(970) 498-7004 (direct)

----- Forwarded message -----

From: **Gerry Horak** <ghorak@fcgov.com>  
Date: Fri, Dec 22, 2017 at 10:40 AM  
Subject: Re: Mr. Horak, Re: Think outside the pipeline...  
To: CCSL <CCSL@fcgov.com>, "bocc@larimer.org" <bocc@larimer.org>, Penny Hillman <pjhillman@earthlink.net>

Penny

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Thanks for the feedback and I understand your frustration. I too am frustrated. I am for having more water in the river especially water that has not been in the river for over 100 years. Thornton as told city staff that if others build them a \$100M treatment plant to clean the water they might leave the water in the river. Again the Larimer County Commissioners will be reviewing Thornton's request for a 1041 permit and that to my knowledge is the best venue for voicing your concerns and getting Thornton's project modified.

Sincerely

Gerry

*With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can't guarantee that any email to or from Council will remain private under CORA.*

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**From:** Penny Hillman <pjhillman@earthlink.net>  
**Sent:** Wednesday, December 20, 2017 7:48:40 AM  
**To:** Gerry Horak; CCSL; boccc@larimer.org  
**Subject:** Mr. Horak, Re: Think outside the pipeline...

[Quoted text hidden]



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Douglas Road**

1 message

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**RICK HARVEY** <ALWAYSPERFECTION1@msn.com>  
To: "mpeterson@larimer.org" <mpeterson@larimer.org>  
Cc: "rhelmick@larimer.org" <rhelmick@larimer.org>

Thu, Jan 25, 2018 at 10:51 AM

Hello Mr. Peterson. My name is Rick Harvey and I'm the President of the Point Townhomes Association that's located at the north end of Terry Lake. Our only access from our Association is Douglas Road. All our residents are very concerned about speed and safety along Douglas Road. The proposal described in the public meeting notice I received in regards to Douglas Road will make the situation more dangerous. Currently, the speed limit on Douglas Road between Shields and Highway one is 35 mph. Most people drive much faster than 35, so that's a big problem. Widening the road and installing turn lanes will only allow vehicles to drive even faster. Currently, people making left hand turns actually helps slow down speeders. Another concern is the speed limit itself. I'm very concerned that if the road is made wider, the County will increase the speed limit. The area of Douglas Road from Shields to Highway One has several very steep hills. At the top on one of the steep hills is the intersection of Douglas Road and Swan Lane.

When you proceed to pull out from Swan Lane to Douglas Road, because of the steep hill, you cannot see vehicles coming from the west. If they are driving 35 mph, you can still have some close calls, but when vehicles are driving faster than 35 mph, it's very dangerous. We have lots of wildlife and waterfowl habitat along Douglas Road. Several times a day we have groups of Canada geese walk across Douglas Road from one wetland to the wetland on the other side of the road. If vehicles are not speeding there's time to see them and slow down. Widening the road and increasing the speed limit will make this a slaughter area for the geese. I think it's common knowledge that if the County allows more semi's going faster, they won't slow down and stop for the geese. The only welcome improvement needed would be the stop light at the intersection of Highway One and Douglas Road. All the other changes described in the notice are not needed.

Douglas Road is just fine. Another big concern of residents living along Douglas Road is the fear that the County will make Douglas Road a truck route connecting Highway 287 to I-25. This would be devastating to our quality of life and would drastically lower our property values. I know a truck route has been discussed for years and the obvious solution to this would be to make truck route connecting the two highways on Owl Canyon Road (County Rd 70). There is already on/off ramps at the I-25 intersection. County Road 70 is already paved from I-25 west bound to Highway 287. There's only about 4 miles that would need paved to make it paved all the way. Why impact a huge number of Larimer County residents when there are other options that would impact far fewer Larimer County residents.

Thank you for taking the time to hear my comments.



## TWP 1041 Application

6 messages

Mark Abshire &lt;mabshire333@gmail.com&gt;

Wed, Jan 10, 2018 at 2:08 PM

To: rhelmick@larimer.org, Thornton Water Project &lt;info@thorntonwaterproject.com&gt;

Hi Rob and Mark,

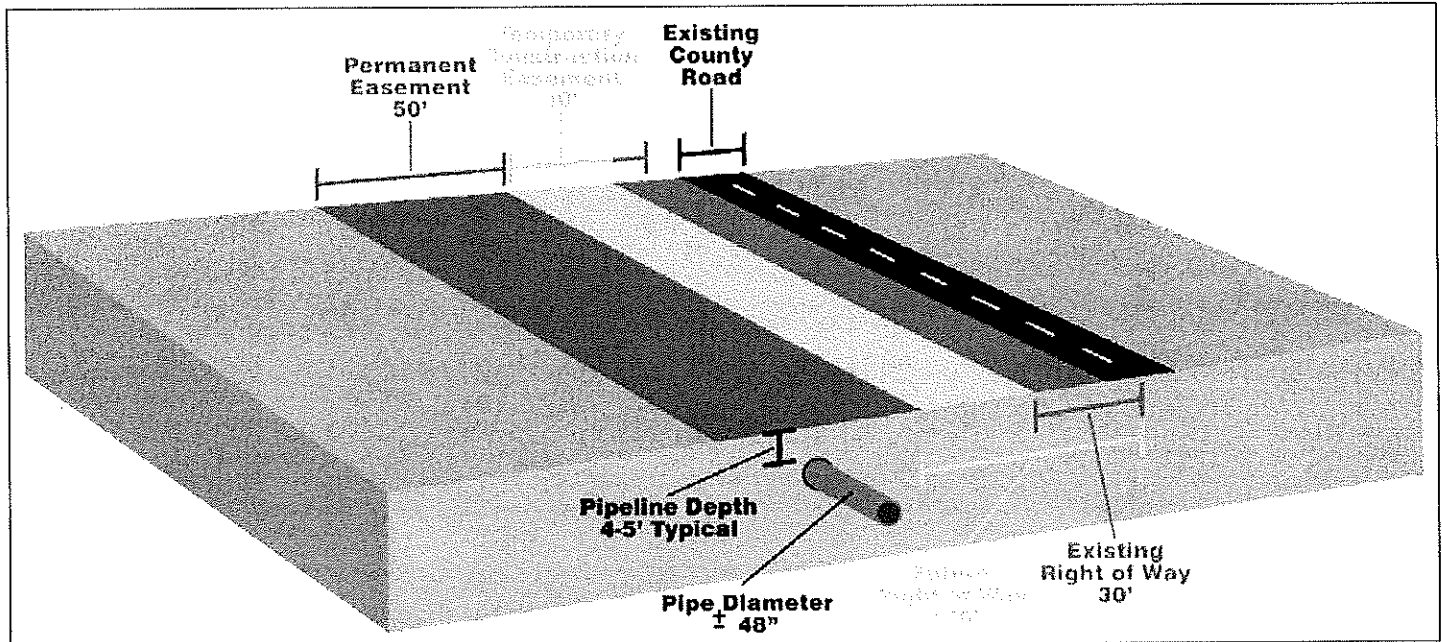
I am a property owner with a single access driveway to Douglas Road. I have briefly reviewed the TWP's 1041 application, and have a question I hope you can help me with relating to ROWs and easement acquisition.

I noted the following project design criteria from Section 2 of the application:

- 1.) On Page 2-8, under *Final Water Pipeline Alignment Design Criteria*, TWP states in the first bullet that "Where the corridor parallels Douglas Road and County Road 56, the water pipeline is proposed to be located in Larimer County ROW where feasible and as approved by Larimer County."
- 2.) Further, on Page 2-9 under *Land Acquisition*, TWP states that "The typical permanent easement width is anticipated to be 50-feet wide, and the typical temporary construction easement is anticipated to be an additional 40-feet in width as shown on Figure 2.a-5.", shown again below.

Douglas Road presently has a ROW of 30 feet each side of the centerline, as shown below. There is also a "20' Reserved County Road ROW" beyond that on both sides, bringing the total available ROW for Douglas Road to 100 feet. Figure 2.a-5 shows 2 conditions that are not consistent with design criterion 1.) above. Namely, they are:

- A. It indicates a future ROW easement of 120 feet (60 feet each side). However, the current max future Douglas Road ROW is 100 feet (30' + 20' each side).
- B. It indicates that the 50-foot permanent easement for the TWP is not located within the Douglas Road ROW as discussed in 1.) above, but rather on private property 30 feet from the Douglas Road ROW.



My questions related to this issue are:

- Q1. Is Figure 2.a-5 a standard boilerplate detail, that inaccurately conveys the current project in that it doesn't show the permanent TWP easement within the Douglas Road ROW as stated in design criterion 1) above?
- Q2. Does Figure 2.a-5 indicate that TWP expects the pipeline alignment to be outside of the Douglas Road ROW for the majority of the alignment?
- Q3. If TWP requires a construction easement of 90 feet, and the Douglas Road ROW is only 100 feet, does TWP's 90-foot construction easement include a temporary lane for local traffic?
- Q4. Could the TWP's 50-foot permanent easement be fully located within Douglas Road's 100-foot ROW, with temporary construction easements extending into adjacent private land with the intent of future ROW acquisition?

1/29/2018

co.larimer.co.us Mail - TWP 1041 Application

Q5. I was unable to find in the Larimer County Transportation Master Plan (adopted August 16, 2017) plans to widen Douglas Road, although TWP plans indicate widening Douglas Road to 3 lanes. With the existing 100-foot ROW, Douglas Road could still easily accommodate three 12-foot lanes with 8-foot shoulders. Has there been any discussion related to Larimer County widening the ROW to accommodate the TWP?

Thank you in advance for your time.

Mark Abshire  
3829 Twilight Lane  
692-4265

---

Mark Abshire <mabshire@enganalytics.com>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>, Thornton Water Project <info@thorntonwaterproject.com>

Fri, Jan 26, 2018 at 8:14 AM

Rob and Mark,

I know you have a lot on your plate, but I'm reviewing the 1041 so I can make comments to the planning commission before next month's hearing. Any word on this, please?

Mark

**From:** Mark Abshire [mailto:mabshire333@gmail.com]  
**Sent:** Wednesday, January 10, 2018 2:08 PM  
**To:** rhelmick@larimer.org; 'Thornton Water Project' <info@thorntonwaterproject.com>  
**Subject:** TWP 1041 Application

[Quoted text hidden]

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Rob Helmick <helmicrp@co.larimer.co.us>  
To: Mark Abshire <mabshire@enganalytics.com>

Fri, Jan 26, 2018 at 10:25 AM

Mark,

Q1. Is Figure 2.a-5 a standard boilerplate detail, that inaccurately conveys the current project in that it doesn't show the permanent TWP easement within the Douglas Road ROW as stated in design criterion 1) above? *Yes that is correct*  
Q2. Does Figure 2.a-5 indicate that TWP expects the pipeline alignment to be outside of the Douglas Road ROW for the majority of the alignment? *No for the reach from Shields to Turnberry the anticipation is that the entire easement and disturbed are will be within the ROW*  
Q3. If TWP requires a construction easement of 90 feet, and the Douglas Road ROW is only 100 feet, does TWP's 90-foot construction easement include a temporary lane for local traffic? *Local traffic will always be accommodated irrespective of the easements*  
Q4. Could the TWP's 50-foot permanent easement be fully located within Douglas Road's 100-foot ROW, with temporary construction easements extending into adjacent private land with the intent of full post-construction restoration and/or improvement? *Yes*  
Q5. I was unable to find in the Larimer County Transportation Master Plan (adopted August 16, 2017) plans to widen Douglas Road, although TWP plans indicate widening Douglas Road to 3 lanes. With the existing 100-foot ROW, Douglas Road could still easily accommodate three 12-foot lanes with 8-foot shoulders. Has there been any discussion related to Larimer County widening the ROW to accommodate the TWP? *No any widening of the ROW would be for Roadway improvements. Thornton is commencing survey work to determine if there are areas the the pipeline cannot be accommodated in the existing and or future ROW.*

[Quoted text hidden]

--  
Robert Helmick, AICP  
Larimer County Community Development Division  
Development Planning  
PO Box 1190  
Fort Collins CO 80524  
rhelmick@larimer.org  
970-498-7682

---

Mark Abshire <mabshire@enganalytics.com>  
To: Rob Helmick <helmicrp@co.larimer.co.us>

Fri, Jan 26, 2018 at 10:32 AM

Thanks, Rob.

**THORNTON WATER PROJECT 1041**

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Mark

**From:** Rob Helmick [mailto:helmicrp@co.larimer.co.us]  
**Sent:** Friday, January 26, 2018 10:26 AM  
**To:** Mark Abshire <mabshire@enganalytics.com>  
**Subject:** Re: TWP 1041 Application

[Quoted text hidden]

**Mark Koleber** <info@thorntonwaterproject.com>  
 To: mabshire@enganalytics.com  
 Cc: rhelmick@larimer.org

Fri, Jan 26, 2018 at 4:29 PM

Having trouble viewing this email? [Click here](#)



Mark,

Thanks for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you on your original email. With regard to your questions:

Q1. Is Figure 2.a-5 a standard boilerplate detail, that inaccurately conveys the current project in that it doesn't show the permanent TWP easement within the Douglas Road ROW as stated in design criterion 1) above? Answer: This diagram illustrates the location of the proposed water pipeline easement in undeveloped areas, which constitute a large part of the proposed project corridor. It does not reflect the proposal for the section of the project that would be constructed along Douglas Road.

Q2. Does Figure 2.a-5 indicate that TWP expects the pipeline alignment to be outside of the Douglas Road ROW for the majority of the alignment? Answer: Thornton's intent is to stay within the public right-of-way on Douglas Road where feasible. Thornton is conducting investigations to determine if and where constructing the water pipeline in the public right-of-way would be feasible, and will propose to narrow the "corridor" for construction in those areas where it is feasible to stay within the public right-of-way on Douglas Road.

Q3. If TWP requires a construction easement of 90 feet, and the Douglas Road ROW is only 100 feet, does TWP's 90-foot construction easement include a temporary lane for local traffic? Answer: Where Thornton is constructing the water pipeline within the public right-of-way of Douglas Road, a traffic control plan will be established to provide for local traffic and access.

Q4. Could the TWP's 50-foot permanent easement be fully located within Douglas Road's 100-foot ROW, with temporary construction easements extending into adjacent private land with the intent of full post-construction restoration and/or improvement? Answer: The manner or mechanism in which Larimer County permits Thornton to occupy the right-of-way for construction and operation of the water pipeline has yet to be determined. If temporary construction easements are needed outside the right-of-way on private property, the property owner would be compensated for that use, the area would be restored or improved to the extent practicable.

Q5. I was unable to find in the Larimer County Transportation Master Plan (adopted August 16, 2017) plans to widen Douglas Road, although TWP plans indicate widening Douglas Road to 3 lanes. With the existing 100-foot ROW, Douglas Road could still easily accommodate three 12-foot lanes with 8-foot shoulders. Has there been any discussion related to Larimer County widening the ROW to accommodate the TWP? Answer: Thornton's intent is to stay within the public right-of-way on Douglas Road, either in its current configuration, or in an expanded 3-lane configuration, where it is feasible. Larimer County's Douglas Road improvement project and the Thornton Water Project are independent projects that could be coordinated to reduce impacts to area residents, but expanding Douglas Road specifically to accommodate the Thornton Water Project has not been proposed or discussed.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700

**THORNTON WATER PROJECT 1041**

**174**

info@thorntonwaterproject.com  
www.thorntonwaterproject.com

If you no longer wish to receive our emails, click the link below:  
Unsubscribe  
Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

Mark Abshire <mabshire333@gmail.com>  
To: rhelmick@larimer.org, Thornton Water Project <info@thorntonwaterproject.com>  
Cc: Douglasroad@larimer.org, mpeterson@larimer.org, Tjuergens@larimer.org

Fri, Jan 26, 2018 at 5:53 PM

Mark and Rob,

Please refer to the first attached figure, which is Figure 3-3 of TWP's 1041 application with my review comments redlined over it. This sketch includes a 1/2-mile section of Douglas Road from Turnberry Road to the west, which is owned by the City of Fort Collins and not Larimer County. As shown on the sketch, if this is TWP's plan it will directly impact 8 properties and 25 single family homes with direct access to Douglas Road. Ten (10) of these residences are located directly within TWP's proposed permit corridor.

I have been in contact with the City of Fort Collins Engineering Department and confirmed that they have not received so much as a courtesy notification of TWP's plans for this stretch of Douglas Road (they are aware of TWP's 1041 application only because Larimer County provided them a set for review). Nor have the City Engineering or Utilities departments received any notification of an intent to locate utilities on this stretch, as I understand from last night's public information meeting is being expeditiously done for the rest of Douglas Road.




I am curious why Thornton hasn't contacted the City of Fort Collins to request that the pipeline remain in the road for this 1/2 -mile stretch, as was clearly presented as the preferred alternative, South 2 (slides attached), at TWP's September public meeting. I did not see in my review of the 1041 explicit mention of this condition and TWP's plan for it, other than it showing up subtly on various figures. A condition of this significance should have been addressed with the City and included in TWP's 1041 application prior to requesting the County's approval of TWP's 1041 permit application.

This condition is of great concern to me and will be for my neighbors as well. Please confirm if it is indeed TWP's plan to not place the pipeline within the ROW of this stretch of Douglas Road.

Mark Abshire  
3829 Twilight Lane  
Fort Collins, CO  
970-602-4265

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**3 attachments**

-  **TWP 1041\_Figure 3-3 Markup\_East End.pdf**  
369K
-  **TWP Presentation Larimer County Routing Study V2 20170829-2\_Slide 26.pdf**  
757K
-  **TWP Presentation Larimer County Routing Study V2 20170829-2\_Slide 27.pdf**  
259K

August 11, 2017

**More on the Northern Water Integrated Supply Project; an Update!!!**

Northern Water (Northern Integrated Supply Project) This is the Thornton **Water Project**; a meeting was held on June 29 at the Larimer County Courthouse.

A Work Session on this Project is coming

County Commissioners will be meeting

August 22, 2017 3:00 pm

Commissioners Office on 2<sup>nd</sup> floor

200 West Oak St

It appears that running the pipe under Douglas Rd is the preferred choice; according to Rob Helms at this time; his phone number is 498-7682. He is the project manager. If selected, the pipe will run from Shields up Douglas Rd. east to Colorado 1, and up to Turnberry. Land is proposed to be taken on both sides of Douglas Rd. The project will be slated to start in 2022 and will be 5-7 years in length. All of Douglas Road up to Turnberry will be affected.

To learn more, contact the commissioner's office at the listing below.

Larimer County Commissioners

498-7010

The Commissioners next regular meeting is indicated below.

Tuesday August 15<sup>th</sup> at 9:00 am in Commissioners Office

200 West Oak St

Public Comment at first part of meeting. The Water Project is not currently on the agenda.

Get Involved, if you live on or use Douglas Rd. you will be affected for 5-7 years once the project is started.

**The alternative was to run the Pipeline north of Douglas Rd. This was the alternative route that we were hoping for, as less homes and structures would be involved.**

Please get involved, It is possible that we can get the Commissioners to consider the alternate route!! No final decision has been voted on.

Your neighbors and friends on Douglas Rd. We are trying to get as many involved and informed as possible. Call a friend, the project manager or call your County Commissioners!!!





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route

1 message

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Mary Burrell <maryhburrell@gmail.com>  
To: rhelmick@larimer.org  
Cc: Jeff Burrell <jwburrell385@gmail.com>

Sat, Jan 20, 2018 at 12:56 PM

Dear Senior Planner Rob Helmick,

We are writing to support the proposed "South 2" route down Douglas Road for the Thornton pipeline project, as we believe it is the best route available. We live at **385 Eagle Watch** near Douglas Road and we are very sensitive to the impact this project will have on our residence and neighbors.

We strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. We are happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, we feel the project coordination opportunity between Larimer County, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas Road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. We applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas Road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer County officials that will benefit taxpayers.

We ask that you please include our comments in the 1041 application package.

Sincerely,

Mary & Jeff Burrell

385 Eagle Watch

Fort Collins, CO 80524



Rob Helmick <helmicrp@co.larimer.co.us>

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## Thornton Pipeline on Douglas Road

1 message

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**Mark Blosser** <markblosser@icloud.com>

Sat, Jan 20, 2018 at 10:17 AM

To: rhelmick@larimer.org

Hi Rod -

My name is Mark Blosser. I am a 25 year homeowner and resident at 4610 Eagle Lake Drive, just north of Fort Collins. I am aware of the current issues of the proposed Douglas Road location of the new water pipeline and appreciate the opportunity to offer my opinion on the placement of the new water pipeline. If Thornton is willing to pay for the Douglas Road improvements, including widening the road, I support running the pipeline along Douglas.

Thanks

Mark Blosser  
4610 Eagle Lake Drive  
Fort Collins, CO 80524

Rob Helmick, [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

1/22/2018

Larimer County Community Development Division  
PO Box 1190  
Fort Collins CO 805221

**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at 4720 Eagle Lake Drive in Eagle Lake Subdivision near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Ron and Lisa Zimmerman  
4720 Eagle Lake Drive  
Fort Collins, CO 80524



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

1 message

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C. J. Taylor <taylor.jerry@gmail.com>  
To: rhelmick@larimer.org

Mon, Jan 22, 2018 at 9:04 AM

Dear Senior Planner Rob Helmick,

We are writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as we believe it is the best route available. We live at **412 Eagle Watch** near Douglas road and are very sensitive to the impact this project will have on our residence and our neighbors. My wife and I attended several earlier meetings with both your staff and Thornton's planners and are pleased that they chose this route.

We are also hopeful that this will bring about coordination between the City of Thornton, and the Northern Integrated Supply Project (NISP) so that NISP also does not impact additional private property.

I ask that you please include my comments in the 1041 application package.

Sincerely,

Gerald Taylor  
Carolyn Taylor  
Eagle Lake Residents



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Thornton Pipeline path**

1 message

**Jim Kriewall** <jimkriewall@gmail.com>

Mon, Jan 22, 2018 at 11:30 AM

To: rhelmick@larimer.org

Dear Senior Planner Rob Helmick,

I am writing with regards to the proposed Thornton Pipe line proposal. I live at 4036 Eagle Lake South, about ¼ mile North of Douglas Road. This address is right on the path that the Thornton crew originally proposed to run the pipeline through. Obviously, I was delighted to hear that they have selected an alternate path via Douglas Road. Unfortunately for all those that live along Douglas, it would have a significant impact and so I would encourage your office to support the far North route around our community, putting the bulk of the work on property that the Thornton organization already owns. Although they have rejected this as being too expensive, I believe that the additional cost would be only a small fraction of the overall project and would have the extraordinary benefit of effecting the fewest property owners.

I recognize that many neighbors feel that the Douglas road path is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetics of our community. I am especially happy to see that it would keep the pipeline out of our neighborhood. If it goes though our community it will destroy our property values and all that I have worked for over the last 15 years.

Please reconsider the far Northern route. Failing this, then run it down Douglas. Whatever you do, please keep it out of our Eagle Lake community.

Sincerely,

Jim and Nancy Kriewall

Virus-free. [www.avast.com](http://www.avast.com)



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thornton Water Pipeline 1041 Permit, Support for South 2 Route

1 message

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Caryl Travnick <travnicks@gmail.com>  
To: rhelmick@larimer.org

Mon, Jan 22, 2018 at 12:45 PM

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at <458 Deerfield Circle> near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Caryl Lee Travnick



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

1 message

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**Doug Gibson** <dgibson66@gmail.com>  
To: rhelmick@larimer.org

Mon, Jan 22, 2018 at 12:49 PM

Dear Senior Planner Rob Helmick,

We are writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as we believe it is the best route available. We own property at 4734 Eagle Lake Drive near Douglas road and we are very sensitive to the impact this project will have on our property and neighbors.

We strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. We are happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, we feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. We applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Bette Gelfand and Douglas Gibson



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

1 message

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Gary Salomon <csu6655@gmail.com>  
To: rhelmick@larimer.org

Sat, Jan 20, 2018 at 3:50 PM

Larimer County Community Development Division  
PO Box 1190  
Fort Collins CO 805221

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available.

I live at **5025 Eagle Lake Dr.** near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities.

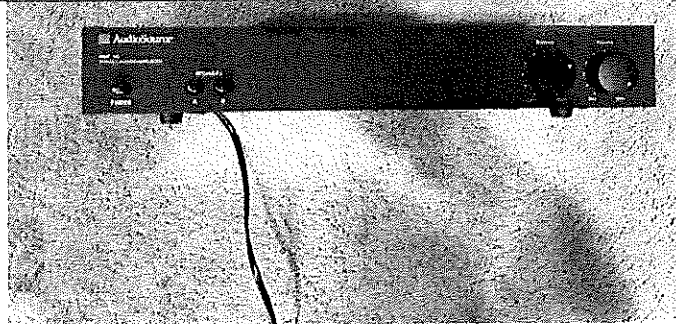
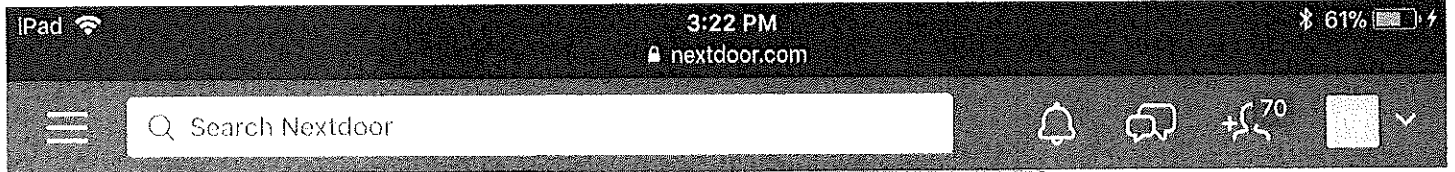
I am happy to see that this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer County, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer County officials that will benefit taxpayers.

Sincerely,

Gary Salomon  
5025 Eagle Lake Dr.  
Fort Collins, CO 80524





2d ago · For Sale & Free

Message

2 interested

Lynn Nichols, Terry Point

### Douglas Road Widening for more traffic

If you want to join the Douglas Road google group, send an email to: douglasrdcorridor+subscribe@co.larimer.co.us. Also, They are holding a meeting to discuss Douglas Road on TH, Jan. 25 starting at 5:30 at the courthouse. This is an opportunity to let your voice be heard if you don't want more traffic on Douglas. Let's repeat the requests of 1) lowering weight limits to not accommodate trucks, 2) putting up signs against jake breaking, 3) not widening Douglas and inviting trucks, 4) asking local hauling companies to use Hwy. 287 vs. Douglas Road, 5) doing whatever else is in their power to keep our rural road, rural.

The revised transportation plan is calling for Douglas to become a regional artery vs. a county road. Concerning.

1d ago · 13 neighborhoods in General

Thank Reply

4 Thanks · 2 Replies

marta rose, Highland Manor · 1d ago  
I cannot be there that evening .i hope a lot of people turn out.

Thank

Jesse Cox, Terry Point · 1d ago  
We too will not be able to attend, give'em hell.

Thank

[Add a reply.](#)

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**THORNTON WATER PROJECT 1041**

**185**

January 23, 2018

*Public Comment to the Larimer County Commissioners*

*I'm Karen Wagner, a resident of Larimer County, here to make five points in a brief three minutes, both as a private citizen and as a representative of the grassroots organization, No Pipe Dream. If I cannot complete these points in three minutes, I ask your indulgence to finish.*

*I'm here to raise an issue of conflict of interest, as is my First Amendment Right.*

- 1. Conflict of interest arises when a local government enters into a partnership arrangement with a permit applicant concerning a project that has a pending permit application before the local government.*
- 2. As recently as last week, the City of Thornton reported that it is in discussions with Larimer County about entering into a cost sharing partnership to install a water pipeline project, pending before Larimer County. (There are a multitude of Thornton-Larimer County communications documenting the proposed cost-sharing.)*
- 3. My comments today do not constitute ex parte communication, because they are presented in an open public meeting, that was properly noticed to the public. Thornton was free to attend today's public meeting and is free to comment. All commissioners are present today. I am presenting my comments during the Public Comment period on a matter of interest to residents of Larimer County. Therefore, my comments do not constitute ex parte communications with the Board. Any attempt to silence my comments are a violation of my First Amendment Right to inform the Board and public of this conflict.*

4. Instead, the real ex parte communications appear to be between the City of Thornton, which has a pending 1041 application and the County, which is the local government scheduled to take quasi-judicial action on the 1041 permit. The County must not enter into a partnership with Thornton related to the water pipeline project, because it would be a direct conflict of interest.

5.) The purpose of 1041 regulations is to protect public health, safety and the environment from large projects, such as pipelines. By entering into an agreement with Thornton that would financially benefit Larimer County, the County can no longer objectively protect the citizens of Larimer County from issues associated with the project.

The County must either maintain complete financial independence from the project, or the County Commissioners must recuse themselves from ruling on the 1041 application. Instead, a third party (another county, state agency or an independent contractor not paid by Larimer County or Thornton) must review and decide the 1041 application.

The Planning Commission and Board of Commissioners hearings should be cancelled, and all communications with Thornton on the project and 1041 permit application should cease.

Please advise when Larimer County will respond concerning the conflict of interest I've outlined. We have notified state and local media of the County's conflict of interest, and expect they will also be interested in the response.

A copy of this statement is provided to the County Manager for inclusion in the public record, as is Thornton's most recent communication with Larimer County citizens concerning sharing the costs of Douglas Road improvements.

**Rob Helmick** <helmicrp@co.larimer.co.us>

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**Thornton Pipe Line 18-ZONE2305**

1 message

**Jo downey** <bobjodowney@gmail.com>

Tue, Jan 23, 2018 at 1:51 PM

To: rhelmick@larimer.org

We are in support of the pipeline route along Douglas Road that the City of Thornton has selected to transfer the water it purchased in the 1960's. We live in the Eagle Lake subdivision and are familiar with the location of WSSC Reservoir No. 4. Though no actual design has been completed, it is important that the the pipeline utilize public right of way to the greatest extent possible. We have attended public meetings conducted by the City of Thornton and are aware of interest by Larimer County (and upcoming hearings) to undertake much needed safety improvements to Douglas Road. The Thornton route and the improvements to Douglas Road offer opportunities for cost-savings and coordination of both projects. Thank you. Bob and Maryjo Downey 4352 Eagle Lake South



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

1 message

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**Dennis Pierro** <dpierro437@gmail.com>  
To: rhelmick@larimer.org  
Cc: Dennis Pierro <dpierro437@gmail.com>

Tue, Jan 23, 2018 at 1:40 PM

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at 437 Pelican Bay near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Dennis Pierro

437 Pelican Bay  
Fort Collins, CO 80524  
(970)988-8845



Rob Helmick <helmicrp@co.larimer.co.us>

**Citizen comments to be included in the Planning Commission packet for 1041 Permit for Thornton Water Pipeline**

1 message

**Greeno, Lindsay** <L.Greeno@floodpeterson.com>

To: "bocc@larimer.org" <bocc@larimer.org>, "tdonnelly@larimer.org" <tdonnelly@larimer.org>, "swjohnson@larimer.org" <swjohnson@larimer.org>, "lgalter@larimer.org" <lgalter@larimer.org>, "jensen.jeffc@gmail.com" <jensen.jeffc@gmail.com>, "nwallace@frii.com" <nwallace@frii.com>, "ray@nocofoundation.org" <ray@nocofoundation.org>, "sean@hawaiianshirtguy.com" <sean@laffermn@co.larimer.co.us" <laffermn@co.larimer.co.us>, "wilsonjd@co.larimer.co.us" <wilsonjd@co.larimer.co.us>, "helmicrp@co.larimer.co.us" <helmicrp@co.larimer.co.us>

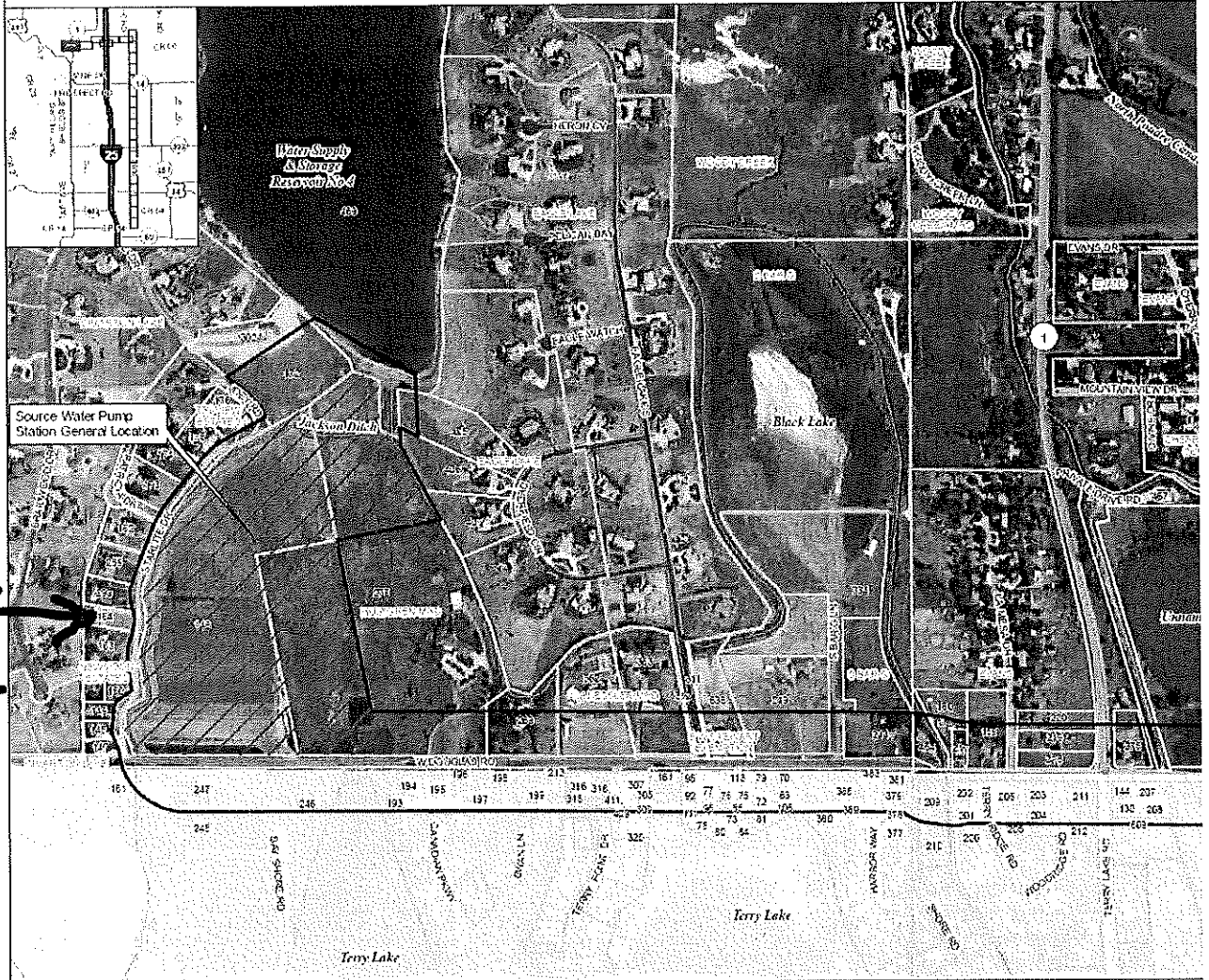
To All it Concerns:

I live on Starlite Drive just off of Douglas Road. Please see attached map from the 1041 Application below. Starlite Drive is also the private road that Thorton proposes to take from Reservoir #4 into their precious pipeline. I moved to my peaceful and tranquil street with my 7 year old daughter to get away from the hustle and bustle of the city. I can't imagine this all being taken away with the sounds of semi-truck's breaking, a massive construction project, not to mention the vibrations and dirt pumping of the water alone will disrupt the very foundations that our homes sit on. I am in tears thinking that our once quiet and private dirt road will be a construction zone and the peace that I so sought after will be ripped out from under me and my daughter. I won't feel safe allowing her to ride her bike on our private road. In addition, there are so many other huge factors in rejecting this preposterous way of getting water to Thornton.

Thornton's proposed pipeline means tearing up the road, devaluing my property, and disrupting my life and that of my neighbors who live in the 300+ homes with direct, easy commute to town. What will happen when an emergency vehicle needs to get into my single-entry neighborhood? I am concerned about: 1) Noise – both from construction and truck traffic), as well as from increased road vibrations. 2) Increased air pollution from increased traffic. 3) Safety for myself crossing the street and schoolkids catching the bus. Federal guidelines call for selecting a route that would affect the fewest amount of people. This selected route affects the most of those proposed. I urge the Larimer County to choose a different route, preferably doing some good by leaving the water in the Poudre through town. Visit NoPipeDream.com for more.

You have the power to do what is in the best interest of the people you serve. Don't destroy the lifestyles, peace, tranquility and beauty so many of us have worked our whole lives to create.

### Thornton Water Project



I live here

**Thornton**  
CITY OF THORNTON  
COLORADO  
13403 WASHINGTON ST  
THORNTON, CO 80241-2405

0 300 600

TWP Corridor in Unincorporated Larimer County  
 TWP Corridor outside Unincorporated Larimer County  
 County Boundary  
 Subdivision  
 Railroad  
 River/Stream/Canal/Ditch  
 \*Source Water Pump Station  
 General Location  
 GMA Boundary  
 Fort Collins



### THORNTON WATER PROJECT 1041

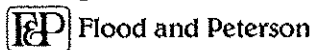


**Lindsay Greeno, PHR, SHRM-CP**

Director of Employee Engagement

Direct: 970.506.3225

LGreeno@FloodPeterson.com



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\*\*\* Insurance coverage cannot be bound or altered via email. Employee coverage cannot be obtained or altered via voicemail. Please contact your authorized Flood and Peterson representative with any questions. \*\*\* The contents of this message





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Fwd: Thornton Water Project 1041 Application

1 message

Jill Wilson <jwilson@larimer.org>  
 To: Rob Helmick <helmicrp@co.larimer.co.us>

Fri, Jan 19, 2018 at 7:48 AM

----- Forwarded message -----

From: **STEVE LUCAS** <s32.lucas@comcast.net>  
 Date: Fri, Jan 19, 2018 at 3:48 AM  
 Subject: Fwd: Thornton Water Project 1041 Application  
 To: Jill Wilson <jwilson@larimer.org>, Matt Lafferty <laffermn@co.larimer.co.us>

Regards,

Steve Lucas

----- Original Message -----

From: Scarlet Sparkuhl Delia <dr.sparkuhldelia@gmail.com>  
 To: s32.lucas@comcast.net  
 Date: January 18, 2018 at 9:35 PM  
 Subject: Thornton Water Project 1041 Application

Dear Mr. Lucas,

I write to you today in strong opposition to the Thornton Water Project 1041 permit application. I am a resident of the Braidwood HOA, at the intersection of Shields St. and Douglas Rd. We purchased our home 18 months ago after moving from Southern California. I am a family practice doctor in Fort Collins and my husband runs a plumbing and heating business locally. We moved to this beautiful, semi-rural community to raise our children and live a peaceful life remote from heavily trafficked roads close to nature. We moved here for a safe neighborhood for our children. We moved here to enjoy the peace and tranquility of this unique area of Larimer County.

I have read through the entire executive summary of the 1041 application, and as it reads, there are multiple items of great concern.

Thornton owns water rights, but they *do not* own land or easements to build this pipeline. There was no dialogue between the potentially affected residents and Thornton prior to submission of the application. There was no discussion about how or where this pipeline might be constructed that would not impact residents so severely. As residents of this area, we anticipate a significant drop in property values should this pipeline be constructed. An anticipated 10,000 square foot pump house with security lighting and fencing and a back-up diesel generator would be in the line of sight from our home, and in an area where our children play. And then there are the easements to service the pumphouse and pipeline. And a 500 feet – ¼ mile-wide corridor extending to I-25? This is a future of protracted construction and maintenance, with Thornton employees utilizing Starlite Dr., Douglas Rd. and remaining proposed pipeline route indefinitely. We also know that residents along Douglas Rd. face potential eminent domain of their homes. Their homes! This is where people live and raise

**THORNTON WATER PROJECT 1041**

**193**

their families, where we grow and leave our legacy. 5-6 years or more of construction? Both of my children will be teenagers by this time. We have already experienced the hardship of living with protracted construction of Hwy 287 since we moved here. The impacts to our quality of life, property values and degradation of surrounding natural environment would be significant.

But there is a much larger issue at hand. Progress and development and growth are natural processes in any community, and I support that. However, we know that this pipeline coincides conveniently with the anticipated Douglas Rd improvements that may not have taken place for many years to come. We know that money is a driving force in these plans and that Larimer County and the City of Thornton are hand-in-hand with both projects occurring simultaneously. However, both Larimer County and the City of Thornton have left out one critical element in the plan... the people of this community.

We the people elect officials to support our vision of development and progress. We the people elect officials to protect our rights, our homes, our quality of life and our future. As tax-paying constituents of this community, we rely on your support and protection from this potential devastation. Where is Larimer County's support and protection of the residents, their land and the natural environment? The City of Thornton has no concern for the potential degradation of quality of life, depletion of property values and derangement of the natural environment. It's Larimer County's obligation to care, and to do all in its power to prevent something as invasive as this. It's Larimer County's obligation to stand up for what is right, and what is in the best interests of your constituents. From the Larimer County Land Use Code, this project does not:

*"Maintain and enhance property values by stabilizing expectations, fostering predictability in land development and establishing a process that efficiently and equitably applies this code to individual sites while respecting property owner rights and the interests of Larimer County citizens. This requires balancing economic development with community values and individual property rights."*

Please consider the long-term effects that this enormous project would have on your constituents. Consider the loss in quality of life, the loss in property value, the loss of nature, and the loss of faith in our elected officials. Do the right thing and please oppose the Thornton Water Project 1041 application.

Sincerely,

Scarlet Sparkuhl Delia D.O.

Resident, Braidwood HOA

--  
Thank you,  
Jill Wilson  
Planning Technician  
Community Development Division  
970-498-7669



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Correspondence from No Pipe Dream

2 messages

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>

Thu, Jan 18, 2018 at 4:36 PM

To: Terry Gilbert <gilberrt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Cc: "Haag, Jeannine" <haagjs@co.larimer.co.us>

Please find the attached petition from citizens requesting that the County delay the hearing on the Thornton pipeline 1041 application. As I recall the County's land use code requires that the hearing be held within a specific number of days following submittal of a complete application unless the applicant agrees to a delay. Is that correct?

**Linda Hoffmann**

County Manager

Larimer County, Colorado

(970) 498-7004 (direct)

----- Forwarded message -----

From: <hoffmalc@co.larimer.co.us>

Date: Thu, Jan 18, 2018 at 3:26 PM

Subject: Correspondence from No Pipe Dream

To: hoffmalc@co.larimer.co.us

**hoffmalc\_1-18-2018\_15-24-10.pdf**  
314K

**Terry Gilbert** <gilberrt@co.larimer.co.us>

Thu, Jan 18, 2018 at 11:29 PM

To: Linda Hoffmann <hoffmalc@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>, "Haag, Jeannine" <haagjs@co.larimer.co.us>

Linda,

Yes, 90 days.

**COL. Robert "Terry" Gilbert (ret.) AICP**

Community Development Director

Larimer County

Phone: (970) 498-7690

rtgilbert@larimer.org

www.larimer.org

[Quoted text hidden]

RECEIVED

JAN 18 2018

COMMISSIONER'S OFFICE

January 25, 2018

To: County Commissioners, Planning Commission and County Manager,  
From: Concerned citizens, members of No Pipe Dream

The citizens of Larimer County request that the hearing dates for the Planning Commission and the Board of Commissioners concerning Thornton's 1041 application be extended to allow residents sufficient time to review and understand the 900+ page technical application and how it may affect their properties, property rights and quality of life.

The citizens of Larimer County also require additional time to weigh the Thornton Water Project's potential economic benefits against the long term costs to county taxpayers.

In addition, we believe the cumulative impacts of withdrawals from the Cache La Poudre River should be evaluated before the County acts on Thornton's 1041 application. A final environmental impact statement for the NISP project is expected in several months. The Final EIS must evaluate the cumulative impacts of all reasonable foreseeable projects affecting the Cache La Poudre River, including the NISP project when combined with impacts from Thornton's proposed withdrawal and other planned withdrawals from the river. We suggest that the County postpone the Planning Commission and County Commissioner hearings on the 1041 permit application until the cumulative impact assessment has been finalized in order to better assess the impacts to the river from these multiple water withdrawal proposals.

A prompt response to this request is appreciated. Please advise when the Board of Commissioners will communicate their decision regarding the extension.

Attached is a petition of residents who support this request, initiated by the grassroots group No Pipe Dream, who also, as an organized entity, request this extension.

We will be reaching out to the County Manager by January 31 to hear your decision.

Sincerely,


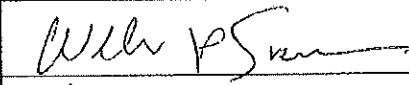


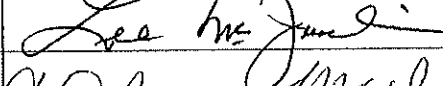
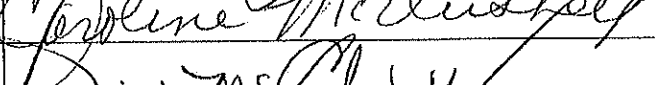
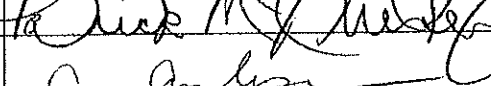
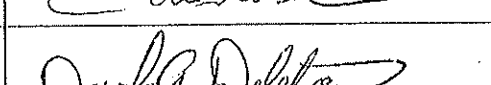
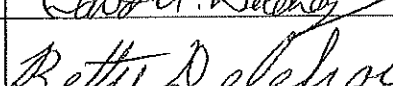
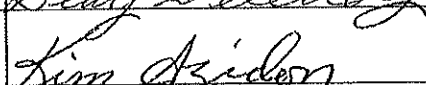
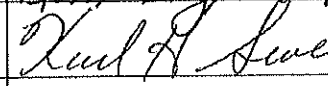
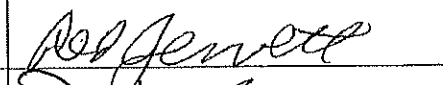
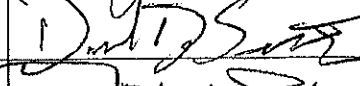
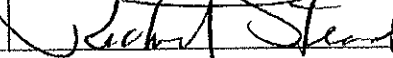

Your constituents &  
No Pipe Dream Supporters

## Petition to Request Extension of Thornton's 1041 Application Approval Process

In consideration of the size and technical detail of Thornton's 1041 Application, the citizens and taxpayers of Larimer County request a three-month extension of the approval process, extending the Planning Commission and Board of Commissioners Hearings to May and June 2018.

The application has been shepherded through the Planning Department for two years before citizens had a chance to view it. This timeframe represents an unreasonable burden for citizens to review and digest the huge application for the Thornton Water Project.

Therefore, as No Pipe Dream supporters, we request an extension per our signatures below.

	NAME	CITY/STATE	SIGNATURE
1	CHARMAINE STAVENAK	FC CO.	
2	WILLIAM SPENCE	FC CO	
3	Jay Mesec	FC CO	
4	DOUG HENDERSON	FT COLLINS	
5	LEE MEJUNKIN	FT COLLINS	
6	Caroline McDuskey	FT COLLINS	
7	Patrick McDuskey	FT COLLINS	
8	Ann Anderson	FT COLLINS CO	
9	David A. Delehoy	FT COLLINS CO	
10	Betty Delehoy	FT COLLINS CO	
11	Kim Dzidon	Fort COLLINS, CO	
12	Karl Swenson	FT COLLINS CO	
13	Red Jewett	FT COLLINS CO	
14	David Smith	FT COLLINS	
15	RICHARD STEADMAN	Fort COLLINS	

15

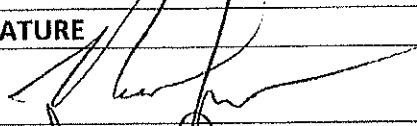
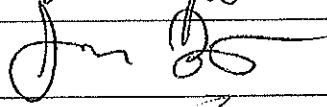
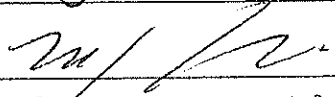
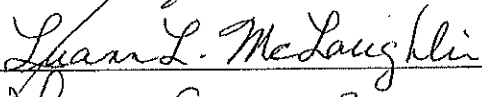

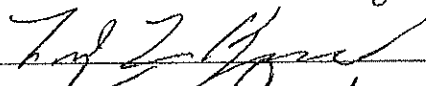
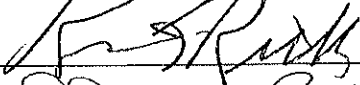
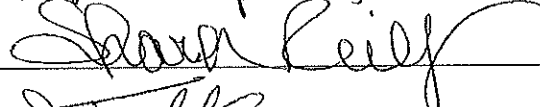
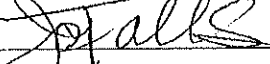
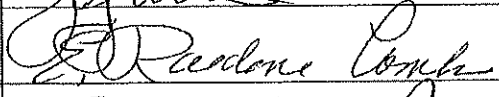
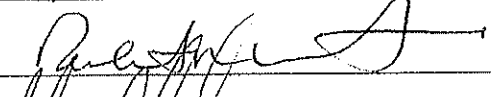
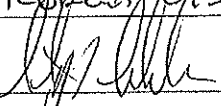
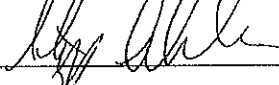

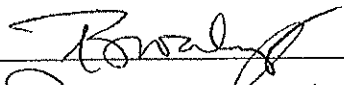
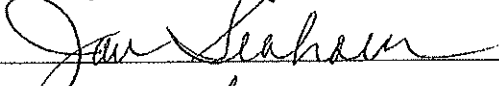
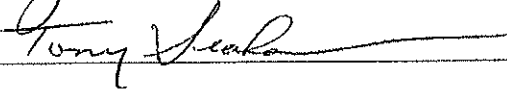
	NAME	CITY/STATE ADDRESS	SIGNATURE	EMAIL
1	STEVE ARMSTRONG	FT COLLINS CO	[Signature]	
2	Sue Armstrong	Ft. Collins Co	[Signature]	
3	Beal Lowe	Ft Collins Co	[Signature]	
4	JOHN STEVENS	FT COLLINS CO	[Signature]	
5	Holly Wright	Fort Collins CO	[Signature]	
6	Margaret Ho	Fort Collins CO	[Signature]	
7	MARK ABBISHIRE	FORT COLLINS, CO	[Signature]	
8	Jessy Parat	Fort Collins, CO	[Signature]	
9	Gary Weiskor	Fort Collins CO	[Signature]	
10	Dolly Bennett	Fort Collins CO	[Signature]	
11	John Bennett	Fort Collins, CO	[Signature]	
12	Cyrene Witherell Wonne	Fort Collins CO	[Signature]	
13	Barbara Turnbull	Ft. Collins	[Signature]	
14	Penny Janny	Ft. Collins, CO	[Signature]	
15	Tim KEETON	CLARIMER COUNTY WINASOR, CO	[Signature]	
16	LORETTA KEETON	Ft. Collins Co.	[Signature]	
17	WENDELL STAMPFLI	Ft Collins CO	[Signature]	
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	NAME	CITY/STATE	SIGNATURE
1	JOHN PRATT	Ft Collins	<i>John Pratt</i>
2	Pamela Bohan	Ft. Collins	<i>Pamela Bohan</i>
3	Rebecca Austin	Ft. Collins	<i>Rebecca Austin</i>
4	ROBERTA ERICSON	Ft. Collins	<i>Roberta Ericson</i>
5	Victoria Friedlieb	Ft. Collins CO	<i>Victoria Friedlieb</i>
6	John Curner	Berthoud CO	<i>John Curner</i>
7	Tyler Curnes	Berthoud CO	<i>Tyler Curnes</i>
8	Peter Dougherty	Loveland CO	<i>Peter Dougherty</i>
9	Emily CURNES	LOVELAND CO	<i>Emily Curnes</i>
10	Donald Blanchard	Ft Collins CO	<i>Donald Blanchard</i>
11	Patricia Blanchard	Ft Collins CO	<i>Patricia Blanchard</i>
12	Ed Vojensky	Ft. Collins CO	<i>Ed Vojensky</i>
13	Kim Vojensky	Ft. Collins CO	<i>Kim Vojensky</i>
14	Eddie Vojensky	Ft. Collins, CO	<i>Eddie Vojensky</i>
15	Teed Wolfe	Ft. Collins	<i>Teed Wolfe</i>
16	Alenna Brissey	Ft Collins	<i>Alenna Brissey</i>
17	Greg Brissey	Ft Collins	<i>Greg Brissey</i>
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	NAME	CITY/STATE	SIGNATURE
1	MINA KALMAN	FT. COLLINS CO	Mina Kalman
2	Sally Miller	FT. COLLINS, CO	Sally Miller
3	Katherine W. Dudzinski	FT. COLLINS, CO	Katherine W. Dudzinski
4	Rosemary Davenport	Fort Collins Co	Rosemary Davenport
5	Chris Reid	Fort Collins	Chris Reid
6	Andrew Miscio	Fort Collins	Andrew Miscio
7	Jean Bartok	Fort Collins	Jean Bartok
8	Kathleen Kilkelly	FT Collins CO	MK Kilkelly
9	Carol Jones	FT Collins CO	Carol Jones
10	Tony Rowland	FT Collins CO	Tony Rowland
11	Dolores Rowland	Fort Collins, CO	Dolores Rowland
12	Jeanette Helzer	Windsor CO	Jeanette Helzer
13	Dandy Helzer	Windsor CO	Dandy Helzer
14	Chuck Hull	Fort Collins	Chuck Hull
15	Shoko Hull	Fort Collins	Shoko Hull
16	PATRICIA FURLENZIN	FT COLLINS	Patricia Fur
17	Trisha Pendley	FT. COLLINS	Trisha Pendley
18	Hugh P Price	Fort Collins	Hugh P Price
19	Elaine Spencer	Fort Collins	Elaine Spencer
20			



	NAME	CITY/STATE	SIGNATURE
1	Tom Schell	Ft. Collins CO	Tom Schell
2	Sherrin Schell	Ft. Collins Co	Sherrin Schell
3	Paul Dudzinski	FT Collins	Paul Dudzinski
4	MARGARET NICOL	Ft COLLINS	Margaret Nicol
5	Madelene Bates	Ft. Collins	Madelene Bates
6	William Bates	Ft. Collins	William Bates
7	MARK L. Korb	Ft. Collins	M. L. Korb
8	PAT K. Korb	" "	Patricia Korb
9	Linda Greenman	387 CAPTAINS COURT	Linda Greenman
10	DON DEMMY	3605 TERRY RIDGE FT. COLLINS	Don Demmy
11	EDON VORBER	3605 TERRY RIDGE FT. COLLINS	Edon Vorber
12	Margaret Shukoff	FC/CO	Margaret Shukoff
13	MIKE LOUGHAN	FC/CO	Mike Loughan
14	Jim VanGorder	Fort Collins	Jim VanGorder
15	Peggy Bent	Fort Collins	Peggy Bent
16	Nancy Clegan	Ft. Collins	Nancy Clegan
17	Lucille O'Haugesen	Ft Collins	Lucille O'Haugesen
18	James C. Detling	Ft. Collins	James C. Detling
19	J. Linda Detling	Ft. Collins	J. Linda Detling
20	William J. Rossell	Fort Collins	William J. Rossell

	NAME	CITY/STATE	SIGNATURE
1	Norm Sager	Ft. Collins	
2	Jim Zapert	Ft Collins CO	
3	MIKE McLAUGHLIN	FT. COLLINS CO	
4	Luann McLaughlin	Ft. Collins, CO	
5	LAUREN FASCIANU-SAGE	Ft Collins CO	
6	<del>Ted Krueger</del>	FC CO	
7	Kevin Reilly	Ft. Collins CO	
8	Sharon Reilly	Ft Collins CO	
9	Joyce Falls	Ft Collins, CO	
10	Ed Reardon Combs	Ft. Collins	
11	Robert Wiscount	Ft Collins	
12		Ft. Collins	
13	VIVIAN NEWLIN	Ft. Collins	
14	Ted Walker	Ft. Collins	
15	Dr. Jan Seahorn	" "	
16	Tony Seaborn	FT. COLLINS	
17			
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	NAME	ADDRESS	SIGNATURE	EMAIL
1	James McCauley	3617 Woodridge Rd Fort Collins CO 80524	James McCauley	jm.mccauley@gmail.com
2	John Bennett	3504 Canadian Pkwy	John R Bennett	wkbennett@msa.com
3	Dolly Bennett	3504 Canadian Pkwy	Dolly Bennett	dbennett6905msa.com
4	Robert Kitchell	412 Terry Point Dr FC, CO 80524	Robert Kitchell	rip.kitchell@usa.net
5	Joy Falls	520 N. Sherwood ST. #8 FOCO 80524	Joy Falls	JFalls55@iCloud.com
6	MARK Korb	3630 Woodridge Dr 80524	M. Korb	KORBMARK2016@gmail.com
7	PAT KORB	" "	Pat Korb	(same as above)
8	Beal Love	1740 WCR 8056	Beal Love	email.beal@yahoo.com
9	Matt Johnson	200 West Oak St	Matt Johnson	
10	William Bates	1117 Windcrest Lane 80524	William Bates	g'lbent@kajabb.com
11	Pam Froome	3669 Pound Dr	Pam Froome	nordkoba@gmail.com
12	Carol Jones	6569 ECR 54	Carol Jones	cjonesmarrin@cowisp.net
13	Penni Janny	1318 San-Ford Dr FC, CO 80526	Penni M Janny	jannyfamily@juna.com
14	Allyx Gray	5821 WCR 54E Bellvue	Allyx Gray	dodge2k1@gmail.com
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	NAME	CITY/STATE	SIGNATURE
1	James A. Rickard	Ft. Collins CO	<i>James A. Rickard</i>
2	Jan M. Maryott	Ft Collins CO	<i>Jan M. Maryott</i>
3	Robert A. Kitchell	Ft Collins CO	<i>Robert A. Kitchell</i>
4	Carol Kitchell	Ft. Collins, CO	<i>Carol Kitchell</i>
5	Jim Muzyn	Ft Collins CO	<i>Jim Muzyn</i>
6	Ralph Lee	Ft/C CO	<i>Ralph Lee</i>
7	Kim Meyer Lee	Ft Collins CO	<i>Kim Meyer Lee</i>
8	William Lee	Ft. Collins CO	<i>William Lee</i>
9	JEAN KORFANTA	Ft Collins CO	<i>Jean C Korfanta</i>
10	GALERIE M'CAUPINE	Ft. Collins CO	<i>Galerie McAlpine</i>
11	Scott Williams	Ft. Collins CO	<i>Scott Williams</i>
12	Kent O'Neil	Ft Collins	<i>Kent O'Neil</i>
13	Betty O'Neil	Ft. Collins CO	<i>Betty O'Neil</i>
14	DEBBIE SHEAMAN	Ft. Collins CO	<i>Debra J Sheaman</i>
15	Kerry Sheaman	Ft Collins CO	<i>Kerry Sheaman</i>
16	Lori Feig-Sandoval	Ft. Collins, CO	<i>Lori Feig Sandoval</i>
17			
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	NAME	<del>ADDRESS</del> CITY/STATE	SIGNATURE	<del>PHONE</del>
1	LINDSAY GREENO	FT. COLLINS, CO	Lindsay Greeno	
2	Scarlet Sparkuhl Della	Fort Collins, CO	Scarlet Sparkuhl Della	
3	Joel A. Della #	Fort Collins, CO	Joel A. Della	
4	Jay L. Mesecc	Fort Collins Co	Jay L. Mesecc	
5	Gina C. Janett #	Ft Collins	Gina C. Janett	
6	Karen A. Wagner	Fort Collins, CO	Karen A. Wagner	
7	R WARREN LEMERICH	3751 STARLITE DR FT CO 80524	R Warren Lemerich	
8	Ann P. Sherwood	Ft. Collins CO,	Ann P. Sherwood	
9	Patricia A. Sherwood	Fort Collins, CO	Patricia A. Sherwood	
10				
11				
12				
13				
14				



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Thornton Water Project

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Thu, Jan 18, 2018 at 5:34 PM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnell@co.larimer.co.us>

Cc: Terry Gilbert <gilbert@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.

### Linda Hoffmann

County Manager  
Larimer County, Colorado  
(970) 498-7004 (direct)

----- Forwarded message -----

From: [tpjachowski@juno.com](mailto:tpjachowski@juno.com) <tpjachowski@juno.com>

Date: Thu, Jan 18, 2018 at 2:07 PM

Subject: Thornton Water Project

To: [bocc@larimer.org](mailto:bocc@larimer.org)

TO: Larimer County Commissioners;

I am writing concerning the possible construction of the Thornton Water Pipeline (TWP) along Douglas Road. As a homeowner whose property borders Douglas Road, I have several concerns about the project.

First: The proposed TWP corridor is 500 feet wide. That encompasses my entire property as well as a number of properties to the east and west of my home.. Allowing Thornton that much leverage in routing a 4 foot wide pipeline is grossly unrealistic and potentially destructive to numerous properties. Larimer County currently has a 30 foot utility easement along Douglas Road including my property. Xcel Energy just completed a new gas pipeline in that space. Allowing the pipeline a 500 yard corridor would allow Thornton to go outside of the easement and deeper into my property. To do that they would have to destroy numerous mature pine, elm and cottonwood trees that are at least 50 feet tall. These trees also provide a certain amount of noise buffer against the increased traffic level of Douglas road. Anything wider than the current easement would cause major property damage to me and my neighbors.

Second: the project will create a major traffic obstruction for many of the homes along Douglas including mine as I have no other means to exit my property.

Third: I find it hard to believe that the construction of the pipeline will cost less than upgrades to Thornton's current water treatment system if upgrades are even required. Other locales use water that has passed through Fort Collins, why can't Thornton? Thornton came up with this plan without consulting anyone in our neighborhood, why should we have to pay for Thornton's plan with or loss of access, destruction of personal property and ecological damage?

Fourth: Taking more water from the Poudre will continue to degrade downstream portions of the river as water levels continue to drop. With the current effects of climate change water levels will continue to drop increasing an already serious problem for the river and its ecosystem.

I firmly support leaving the water in the Poudre as long as practical to maintain the river and cause minimum inconvenience to people living along Douglas Road.

Tim and Phyllis Jachowski  
3620 Shore Road  
Ft. Collins, Colorado 80524

**THORNTON WATER PROJECT 1041**

**206**


E-Mail: [tpjachowski@juno.com](mailto:tpjachowski@juno.com)

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## The Unusual Link Between Alzheimer's and Coconut Oil (Watch)

Memory Repair Protocol

<http://thirdpartyoffers.juno.com/TGL3132/5a610cdf9666fcdf4dbdst03duc>

Sponsored Links 

3508 Terry Point Drive  
Fort Collins, CO 80524  
May 7, 2018

Larimer Count Planning Department  
Rob Helmick  
PO Box 1190  
Fort Collins, CO 80522

To: Larimer County Planning Commission and County Commissioners

From: Henry Shands

Subject: Comments on the Proposal for a Pipeline on Douglas Road

Sirs:

County workers, as public servants, serve their county residents for their good with the premise of "do no harm". As you review the request by the city of Thornton to install a pipeline under Douglas Road you must respect that premise.

The residents of Larimer County living along and the vicinity of Douglas Road will be greatly affected to the point of being harmed. Among those harms:

- Egress. Some sub-divisions have no alternative entrance or egress except Douglas Road, for themselves, for emergency vehicles, for ordinary trash and other services. There are many senior citizens in some of these sub-divisions who will be greatly affected. School busses will be affected and families with school children will have many more challenges including transporting children to new pickup points. Child safety must be considered to the list of harms.
- Disruption and Noise Abatement. There is evidence that, since existing utilities along Douglas Road are unknown and unmapped, surprises will occur and planned timelines will not hold. The planners and contractors have no idea of what surprises they will ultimately encounter thus adding unknown and possible long delays. The normal equipment noises for road construction may be augmented by additional special equipment with even greater noise issues for the community. The extremely long proposed construction time will be a very substantial "harm" to the residents of the area. (A recent install of a 3/8 mile gas line took something in the neighborhood of 2.5 months. Extrapolating that disruptive install for the length of Douglas Road work shows that proposed timelines cannot be trusted.)
- Wetlands health standards. The time to get the appropriate environmental assessment and impact approvals will add significantly to getting the project started. Installing a huge pipe through the wet areas may require significant abatement procedures involving time once a project is even approved. The water scoops to allow the wetland water flow under/across Douglas Road will have to be enlarged and the pilings to support the pipeline in those areas will add to the cost and damage to the environment. The impact on residents in the section of Douglas Road between State Route 1 and North Shields Street will be substantial. The County officials will not get off the hook for a terrible decision to install a pipeline along Douglas Road.

The alternative plan to allow the water to remain in the river all the way through Fort Collins will avoid all of the above harms which can be avoided at little no environmental, monetary, or disruptive, safety or political cost. Surely, it may not be all that simple but the facts weigh in that direction. While there may be additional costs to process water passing through the city, those costs are small relative to the harm, disruption and bad will created to all the residents along



Douglas Road. Other parties wanting better recreational facilities utilizing water in Fort Collins such as the kayak park have a desire to keep the water in the river as well. In that respect, that constituency also has strong interests to avoid harm on the project to install a pipeline on Douglas Road.

Conclusion. There are other options to installing a pipeline along Douglas Road without the potential disruption and multiple long-term expenses in the future. All of those options would be preferable to the harm caused to the residents along the Douglas Road corridor impacted. At the very least, the water should remain in the river as it passes through Fort Collins.



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Comments on Application For Phase 1 of Thornton Northern Project

1 message

K.A. Wagner &lt;kaswagner@me.com&gt;

Mon, May 7, 2018 at 3:51 PM

To: pcboard@larimer.org, Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

To The Larimer County Planning Commission  
& Board of County Commissioners:

Earlier this year Commissioner Tom Donnelly quipped at an Admin Matters Meeting that the current three commissioners would be gone by the time Thornton's pipeline project got underway and that citizens would have a new set of commissioners to complain to, when things went wrong. Commissioners Johnson & Gaiter smiled in agreement. Donnelly's statement says volumes about how the current Board of Commissioners views the county land use process and how little regard they have for the interests of their constituents.

The commissioners' bias toward development is born out by the fact that the board has approved 99% of every development application in recent memory—no matter the impacts on citizens and property owners. Whether it's an asphalt batch plant, quarry expansion, gravel operation, kennel, all types of pipelines/utilities or other intrusions, Larimer County residents face an uphill battle in opposing projects that affect their quality of life and their property values. The Thornton Northern Project represents another steep battle for affected county residents and those who value the environmental resources of our county.

In reaching a decision on the 1041 application for the Thornton Water Project (TNP,) Phase 1 of the Thornton Northern Project (TNP,) I urge you to consider the purpose of the state legislation that resulted in 1041 regulations. As you probably know, 1041 regulations were created because the Colorado State Legislature recognized the need for local control of projects of statewide interest and acknowledged the desire of county officials to protect the interests of residents and taxpayers affected by large scale projects, such as the Thornton Northern Project.

Thornton's current 1041 application is but the first segment of a three phase project, which will bore through 26 miles of Larimer County, along the Fort Collins GMA, and through the Towns of Timnath and Windsor, as it heads 70 miles south to deliver Cache la Poudre water to Thornton taps. That's a project of "statewide interest."

The TNP was aptly described by the Denver Post two years ago as "suburban aggression," because the extensive pipeline(s) project will result in enormous impacts and zero benefits to Larimer County taxpayers and residents.

The TWP/TNP will affect two mobile home parks (representing Larimer County's abysmal lack of affordable housing) and present public safety issues as it goes through the still active, 100 year old Prospect Energy Oilfield. However, Thornton's 1041 application mentions neither the mobile home parks nor the oilfield; Rob Helmick told me that Thornton will figure out how to negotiate the oilfield, when the pipeline construction gets there.

To consider approving Phase 1 of a 3-phase project for a designated "pipeline corridor" would be an abdication of duty. Doing so forfeits the County's ability to exercise local control for the protection of its citizens and, just as importantly, ignores the intent of Colorado's 1041 legislation.

Thornton's sketchy application attempts to segment a 3-phase project and, as such, provides no certitude for residents whose properties are (and will fall) within its path and may become a victim of eminent domain. Furthermore, the current application implies that illegal "spot zoning" will be utilized for a future pump station—an industrial use in FA-1 zoning, surrounded by residential development. If Phases 2 & 3 are implemented with the planned additional pump stations, the applicant—and the residents of Larimer County—can be assured that spot zoning is commonplace in Larimer County.

For the above reasons—and for the numerous conflicts with the Larimer County Master Plan and Land Use Code—I encourage you to DENY Thornton's 1041 application for the first phase of the destructive three phase project, until such time as the City of Thornton submits a complete application and construction schedule for the Thornton Northern Project.

Seriously, we all know the Denver suburb's not going to wait until 2065 to complete Phases 2 and 3—including additional pump stations, a return flow pipeline and the required ditch exchanges—to pipe the rest of their water to metro taps.

Karen Wagner

**THORNTON WATER PROJECT 1041****210**



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Please re-evaluate location of Thornton pipeline**

1 message

Dave &amp;/or Sue Wagie &lt;wagieds@gmail.com&gt;

Mon, May 7, 2018 at 3:56 PM

To: boccc@larimer.org, pcboard@larimer.org, helmicrp@co.larimer.co.us

Dear County Commissioners and Planning Commission

My wife and I live off Douglas road in Larimer county, but we also have 2 daughters and families that live in Fort Collins and enjoy the Poudre river. We have been watching all the public information (and attended a county commissioners meeting) on the Thornton pipeline, and ask that you require Thornton to provide alternatives to their current plan to use Douglas Road for the pipeline. Our reasons are:

- we believe taking water out of the Poudre north of Fort Collins will have negative environmental impacts on the river, reduce the water flow through town, and have economic impacts throughout the city for businesses that benefit from being on or near the river
- we believe taking water out south of town would benefit all concerned - it would reduce the cost of the pipeline and the impact on the city
- we believe that a pipeline on Douglas road will have severe negative impact on all the homeowners (like us) that live along that road - years of noise, dust, traffic problems, reduced property values, and environmental impact on Terry Lake and all the birds that nest there.
- we are alarmed at the recent news that this one pipeline will actually become **three** - as Thornton has plans for a second pipeline and the NISP pipeline may also piggy back on Thornton's pipeline - thereby increasing drastically all the negative impacts mentioned above!

In closing, we ask that the County delay its decision until a more thorough review of all the alternatives for the Thornton pipeline can be considered - including taking water out south of the Poudre. In addition we ask the County to ensure the public is informed of the potential for additional pipelines added to the Thornton pipeline location. Thank you for supporting your voters and county residents!

Dave & Sue Wagie  
3662 Point Drive  
Fort Collins

May 2, 2018

RECEIVED

Lew Gaiter, III, Chairman  
Steve Johnson  
Tom Donnelly  
Larimer County Commissioners  
200 W. Oak, Suite 2200  
Fort Collins, Co 80521

MAY 07 2018

COMMISSIONERS' OFFICE

Re: Thornton Water Project

Dear Larimer County Commissioners:

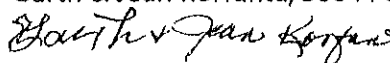
We are asking you to reject Thornton's 1041 application to run a pipeline down Douglas Road with a pump house in the vicinity of Douglas Road and Starlite. The residents of North Larimer County do not owe Thornton the right to tear up Douglas Road or take residents' property including fences, trees and yards. They may assure property owners they will not encroach on property along Douglas Road now but what about their future plans to put in additional pipelines on Douglas Road. Also consider NISP plans. The health of the Poudre River is at stake and with climate change and all the new housing being built, we all, including the City of Fort Collins and agriculture, need the Poudre River to be healthy and Thornton pumping millions of gallons of water from it will impact us all. There is no reason for Thornton to take water out of the river at the proposed point when it can be taken further South at the takeout point near Windsor. It is not our problem it will be more expensive for Thornton to do so. This area is a natural habitat for many species of birds. I fear this will disrupt their nesting habits and ruin this area where we all enjoy living. We all have worked hard to be able to buy in an area where we want to live. We did not buy a house out here to watch the main road be torn up, a pipeline installed and the ensuing continuous monitoring/repairing for said pipeline and pump house.

Another huge concern is the proposed pipeline being built beside or under Douglas Road. Heavy truck traffic has exploded in the last few months and as you know, there is and will be more and more traffic in the future with growth. "Federal guidelines for pipelines specifically advise against placing pipelines along roads, advising municipalities to select a site with the least "percent of route not along major corridors." The concern is vibrations from road traffic that may cause the sealant on pipes to crack and allow pipes to leak, causing possible liability to area homes and property owners." (Quoted from another source). We who live along Starlite frequently experience cracks in our homes due to the shale in this area. We are all very concerned the vibration from the pump house and pumped water will further cause the ground to shift and cause more damage to our foundations. This is a serious concern.

The proposed Thornton Water Project will diminish the value of our property all along the proposed corridor including the area surrounding the pump house. We have all worked hard to live here and you know there are a large number of older residents who have lived in their homes for years. What a shame after all their years of hard work and loving where they live to be faced with construction noise, vibrations, pollution and losing part of their property, such as the proposed pump house site. We could potentially have a view of a pump house, which would take up more than two acres out of the middle of a farm right in front of Starlite Drive. Please consider our property value decline with that view instead of an open space and a view of Terry Lake.

Please do the right thing and deny Thornton's 1041 Proposal. The Poudre River needs your "NO" vote as well as the residents of Larimer County and the City of Fort Collins.

Respectfully,  
Garth & Jean Korfanta/5004 Patricia Drive/Fort Collins 80524



**THORNTON WATER PROJECT 1041**

**212**



Rob Helmick &lt;helicrp@co.larimer.co.us&gt;

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**Comments to Planning Commission re: Thornton Pipeline**

1 message

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**DAVID ROY** <david.roy@comcast.net>  
Reply-To: DAVID ROY <david.roy@comcast.net>  
To: pcboard@larimer.com, helicrp@co.larimer.co.us

Mon, May 7, 2018 at 4:28 PM

Good afternoon;

As you deliberate Thornton's pipeline application, please consider that your first focus should be on the health and safety of Larimer County citizens today and tomorrow, and not Thornton's citizen's 60 years from now.

Another key focus should be on the Cache la Poudre river, and the threats it faces. You have a responsibility to ensure the protection of this river, while also following water law - the two are not immutable.

Send this application back to Thornton. Tell them to construct plans to deliver their water to their citizens in a manner that won't disrupt and damage neighborhoods, negatively affecting citizens quality of life, while also ensuring that the Cache la Poudre river is protected to the best of your abilities. These are not only sensible and legal things to do, doing these two things is the job you signed up for.

Thank you for working for the citizens of Larimer County and the protection of the Cache la Poudre river.

Best regards,

David Roy

2016 Evergreen Court

Fort Collins CO 80521

970-237-2794



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Please say NO to Thornton

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Mon, May 7, 2018 at 7:44 PM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnell@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Rob -- Please include this message in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: Larimer.org <noreply@larimer.org>

Date: Mon, May 7, 2018 at 11:49 AM

Subject: Please say NO to Thornton

To: bocc@larimer.org

### A message has been submitted to bocc@larimer.org from Larimer.org:

Dear commissioners,

I am writing to you to request that you deny Thornton's application to lay a pipeline along Douglas Road. Thornton has provided the Larimer County Planning Commission with a 1041 application, however, they have failed to provide alternate routes for their taking water from the Poudre River. We are simply asking that you deny Thornton's application. Thornton has the ability to take their water south of Fort Collins where it will neither interrupt the flow of the Poudre nor the citizens of Larimer county and in particular, the residents of the Douglas Road corridor. Many, many residents of Larimer county have come forth to you to ask that you put a stop to this disruptive pipeline. Please stand up to Thornton and say NO.

### Contact Details

**Name:** R Warren Lemerich

**Email:** warrenlemerich@gmail.com

**Phone:**

The email was submitted on **Monday, May 7, 2018 - 11:49am**, logged in as: **Anonymous**



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Concerns about Proposed Poudre Pipeline

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Mon, May 7, 2018 at 7:46 PM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Rob -- Please include this message in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Trish Babbitt** <chaang61@gmail.com>

Date: Mon, May 7, 2018 at 1:00 PM

Subject: Concerns about Proposed Poudre Pipeline

To: pcboard@larimer.org, boccc@larimer.org

Dear Larimer County Planning Commissioners,

I am writing today to express my concerns regarding Thornton's hopes to build a pipeline from Douglas Road to pipe water to Thornton, rather than allowing the river to run its natural course to a more natural location (much further south) before taking the water for use by Thornton residents.

The April 25, 2018 "Coloradoan" article, "Fact Check: Is Thornton Proposing One Pipeline or Three?" addresses some of my concerns. Among topics mentioned in the article is the situation that has been forced upon a farmer named Dick Brauch. According to the article,

*"Dick Brauch, who owns the farm where Thornton plans to place its pump house, is worried the city will hurt his operations. 'The farm's been in my family for 60 years, and I have no desire to sell,' he said, but he's negotiating with the city to avoid eminent domain.*

*The planned location for the 2.8-acre pump house would "take a big chunk out of the middle" of Brauch's land and be difficult to farm around, he said.*

*Koleber (Thornton's Water Project Director) said Thornton is working with Brauch and can probably accommodate his concerns."*

. <https://www.coloradoan.com/story/news/2018/04/25/fact-check-thornton-proposing-one-poudre-river-pipeline-3/542732002/>

**THORNTON WATER PROJECT 1041**

**215**

Therefore, it seems that Thornton has created its own problems by choosing to develop land which could have provided water and water filtering systems for its water users; now it wants to pipe pure water away from those of us north of Thornton who have depended on this water for years.

Under the **Environmental Services** heading, Raham writes,

*"Most of us tend to ignore this last category. It includes the services rendered by the network of plants, animals and microbes that keep the environment we depend on alive and healthy. When habitats are sufficiently large and intact, they perform these complex services without our intervention.*

*Many biologists and ecologists have proposed that we should put an economic dollar value on these critical services. Stephen R. Carpenter, for example, with the Millennium Ecosystem Assessment, says, "We have these indicators like gross national product to estimate the value of goods and services produced in an economy. We don't really have a state of the environment indicator." <https://news.wisc.edu/study-put-a-price-tag-on-environmental-services/>*

I hope that the Larimer County Planning Commissioners will do their best to show Thornton officials that (1) they need to find a better way to solve the problems they've created than that of building a destructive pipeline to bring themselves water, and (2) it would be in everybody's best interests to deepen our understanding of what really constitutes the *best use of any property in question*.

Will Mr. Koleber and others representing Thornton's interests truly put the interests of anybody in Larimer County before their own? Let's hope that we can convince them to do what is best for all, not just for those living downstream from our beautiful Poudre River.

Sincerely,

Patricia K. Babbitt





Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Thornton Water Project

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Mon, May 7, 2018 at 7:50 PM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Rob -- Please include this message in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Car Guy** <carguy1315@hotmail.com>

Date: Mon, May 7, 2018 at 5:08 PM

Subject: Thornton Water Project

To: "bocc@larimer.org" <bocc@larimer.org>

My wife and I reside on Terry Point. We and our neighbors depend on Douglas Road for all travel outside our development and the utilities sited there for reliable delivery of natural gas, electricity, telephone, internet and water to our homes. We have no alternative route to Ft. Collins, Wellington, LaPorte or I-25 and we have no alternative utilities.

I urge you to refuse Thornton's 1041 pipeline application for a pipeline corridor on Douglas Road because it will delay thousands of Larimer County commuters DAILY, diminish the quality of life for hundreds of Larimer County residents DAILY and subject Douglas Road to periodic destruction for DECADES.

What happens when Thornton's pipeline leaks or breaks? Tear up Douglas Road. What happens when Thornton wants to construct another pipeline? Tear up Douglas Road. What happens when NISP wants a pipeline? Tear up Douglas Road. What happens during initial or subsequent construction when a utility line is cut by accident? Douglas Road community members will be without phone, power, gas, internet or water! What happens if we want to sell our house and no one wants it because they don't want to risk all his? Will Thornton or Larimer County reimburse me for my reduced property value?

Why not move Thornton's water down Poudre River, water's natural route for thousands of years? Has anybody really studied this option? Why not build the pipeline on vacant land where it will not delay thousands of Larimer County residents daily for months AND be safe from vehicular traffic damage?

Why on earth would you, our elected Larimer County Commissioners, dedicated to preserving and enhancing Larimer County, destroy our quality of life, impede our travel for months and diminish our property values, by agreeing to this plan for the convenience of a municipality 60 miles away?

Yours Truly,

Jim & Nancy Cambon  
3517 Canadian Pkwy  
Ft. Collins, CO 80524



Rob Helmick <helmicrp@co.larimer.co.us>

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## Thornton pipeline feedback

1 message

**Kevin Krause** <kevkrause@gmail.com>

Tue, May 8, 2018 at 7:09 AM

To: pcboard@larimer.org

Cc: helmicrp@co.larimer.co.us

Planning Commission - The pipeline as currently planned is in the best interest of us county or state residents.

I am concerned that a river transport vs. pipeline option has not received fair and reasonable consideration or analysis, and as such, this less disruptive option must be analyzed to the same level as any other proposed solution.

The Poudre River is a vital staple within our county and there are well documented concerns that the proposed pipeline solution will have on its health based on portions of the river being impacted by fluctuating water levels, impairment of water, quality, increasing inputs from upslope land use activities, and impact of increasing diversions (or possible diversions) that can impact wildlife, river habit, and recreational river use.

Thornton could instead let the river act as a natural pipeline and divert the water farther south vs. the diversion point currently described for its project. I urge Larimer County officials and Thornton to examine the true options, real impacts and do the right thing for our county and our river.

Thank you,  
Kevin Krause  
Fort Collins

412 Terry Point Drive  
Fort Collins, CO 80524  
May 7, 2018

Larimer County Planning Department  
Attn: Rob Helmick  
200 W Oak St # 3100  
Fort Collins, CO 80521

RE: Thornton Pipeline

On February 2, 2018, the undersigned submitted a letter, subject, "Thornton Pipeline and Douglas Road Improvements", to the Larimer County Engineering Department, Attn: Mark Peterson, regarding the 1041 permit application of the City of Thornton. That letter remains valid, in terms of its comments and concerns, although somewhat dated, given submission of the Supplemental Additional Information, dated April 2, 2018, and the Supplement Addendum, dated April 10, 2018, by Thornton. Our current letter provides an update, based upon the information in Thornton's supplements, as well as information gained from other sources.

As stated previously, the undersigned reside at 412 Terry Point Drive and our property backs up to Douglas Road. We bought our home 25 years ago and have resided here since then. What attracted us in the first place, and continues to attract us, was the quiet neighborhood and lack of development pressures as contrasted to other areas of Fort Collins. We now find those values under attack by the proposed Thornton pipeline and related "improvements" that are a part of the Thornton Water Project.

At this stage, we have the following comments and concerns on Thornton's 1041 Permit application:

**A. Lack of Disclosure of the Full Extent of "Improvements" Needed by Thornton to Fully Implement Its Thornton Northern Project**

The City of Thornton, in its 1041 application, describes a 48-inch pipeline and associated pump station that would convey water from WSSC Reservoir #4 to Thornton, with the pipeline being routed along Douglas Road for 2.6 miles. Twenty-six miles of this pipeline, along with associated appurtenances, would be located in Larimer County. Thornton describes this as the "Thornton Water Project" (TWP). The alignment of the proposed pipeline is shown schematically in the recently submitted Supplemental Additional Information and Supplement Addendum. Based upon this information, the approach of requesting a permit for a single pipeline is both clear and deliberate on Thornton's part.

By way of background, the Colorado Supreme Court, in its 1996 decision, describes the Thornton Northern Project as a three-phase project. Phase I includes a pump station at WSSC Reservoir No. 4 and a 48-inch pipeline to carry water to Thornton. Phase II includes construction of a **parallel** 48-inch pipeline from WSSC Reservoir No 4. Phase III includes construction of a 72-inch return pipeline to convey flows to the Larimer County Canal; this pipeline does not use the Douglas Road corridor. A

2004 Water Court decision also found that the various project phases “comprise interrelated and incremental components of a single system...[that would be] built in stages.” [emphasis added] Further, a diligence filing by Thornton and a subsequent Water Court, Division 1, decree in 2015 includes a map showing these pipelines clearly. It should be noted that on the map the two, parallel 48-inch pipelines are routed to the north, then east, from WSSC Reservoir No. 4, not along Douglas Road. The map, Figure 1, is attached to this letter. As a related matter, there is no evidence in the record of Thornton having considered an option of keeping the flows in the Poudre River for withdrawal downstream.

It is clear that Thornton has crafted its current 1041 application to only include Phase I of the Thornton Northern Project (TNP) and to entitle this portion of the overall TNP the “Thornton Water Project” (TWP). This conclusion was reinforced by information that Thornton submitted in response to a CORA request. Specifically, TECHNICAL MEMORANDUM FINAL 5.2.1.1, Thornton Water Project, Hydraulic and Economic Analysis, Prepared for the City of Thornton by CH2M HILL, May 11, 2016, Revision July 12, 2017, Revision No. 11, clearly covers only the TWP, not the full TNP.

The potential impact of this approach to permitting pipelines and appurtenances to implement the TNP is discussed in the following section.

### **B. Construction of a Single Pipeline along Douglas Road vs. Two Parallel Pipelines**

By way of background, the 1041 Permit Application, Section 2.a.2 General Description, TWP Components, in part, included:

*“Typically, a 50-foot permanent easement for the water pipeline and an additional 40-foot temporary easement for construction will be purchased from property owners except where the TWP will be constructed in road ROW.”*

#### **“Final Water Pipeline Alignment Design Criteria**

During the Pre-Application Conference with Larimer County, Larimer County staff requested that the Application include design criteria that will be used for the selection and development of the final water pipeline alignment location within a Larimer County approved corridor. [...]  
*Where practicable, water pipeline design criteria are as follows:*

- Be outside the current and future planned road ROW unless otherwise approved by Larimer County. Where the corridor parallels Douglas Road and County Road 56, the water pipeline is proposed to be located in Larimer County ROW *where feasible and as approved by Larimer County.*
- Be *adjacent* to roads, current or future ROW, existing utility easements, and property lines.
- Utilize Thornton-owned property within the corridor.
- Minimize impacts to agricultural use.
- Minimize impacts to existing structures.
- Cross waters, irrigation ditches, roads, and railroads perpendicular to the feature.
- Minimize road crossings.

- Minimize impacts to environmental and cultural resources.
- Minimize impacts to open lands/conservation easements.” [emphasis added]

The foregoing language describes a “pipeline corridor”, which in concept and application is quite different than a typical utility occupying a road ROW. However, Thornton’s recent supplements show the single, 48-inch pipeline alignment within the 60-foot wide Douglas Road ROW, which does not meet the definition of a pipeline corridor. It should be noted that approval of a pipeline corridor would encourage its use by other utilities and projects, such as the Northern Integrated Supply Project (NISP).

As indicated, the alignment of the proposed 48-inch pipeline within the Douglas Road ROW is shown in Thornton’s supplements. This alignment is schematic and the routing varies back and forth between the eastbound and westbound lanes for a variety of reasons. This, in itself, would not leave room for a second, parallel pipeline.

Further, the supplements do not show cross-sections, typical or otherwise. Typical depth of burial of a waterline (or other wet utility) is 5-7 feet. For this size pipeline, a trench depth of about 12 feet would be required. This would require trench shoring, bracing, and blocking, given the limited room within the ROW for construction.

Specific requirements, extracted from the LARIMER COUNTY RURAL AREA ROAD STANDARDS, October 22, 2007, that would have to be met during construction include:

#### 12.1.4 Specific Conditions

12.1.4.1 Traffic Flow During Peak Hours. No interference with traffic flow on arterial or collector roads [such as Douglas Road] shall be permitted during the hours of 7:00 a.m. to 8:30 a.m. or from 4:30 p.m. to 5:30 p.m. unless authorized in writing by the Engineer.

#### 12.1.4.2 End of Day Lane Conditions

a. ASPHALT ROAD - When work is stopped for the day, all lanes of an arterial or collector road shall be opened to traffic unless approved by the Engineer. A traffic lane shall be considered satisfactorily open only if it is paved with hot or cold mix asphalt paving, except when an alternative temporary surface is allowed by the County as a condition of the permit.

12.1.4.5 Road Closures. Road closures will only be allowed at the approval of the Engineer

12.2.3 Submissions of Traffic Control Plans. Traffic Control Plans shall show in detail the proposed work area location and the traffic control devices being proposed. [...] Traffic control shall also include construction traffic routing requirements. Plans must be prepared by a certified Traffic Control Supervisor (TCS).

### 12.3.2 Excavation

6. Trenches shall be excavated along the lines and grades established and in no case shall be more than two hundred (200) feet in length, or be trenched or backfilled in non-continuous sections unless approved by the Engineer. Failure by the Contractor to comply with these requirements may result in an order to stop the excavation in progress until compliance has been achieved.

7. All excavated material shall be stockpiled in a manner that does not endanger the work or workers and that does not obstruct sidewalks, roads and driveways. No stockpiled materials shall be allowed on the asphalt surface or adjacent walkways. The work shall be done in a manner that will minimize interference with traffic and/or drainage of the road. The Contractor at the end of each day shall barricade all excavations and ditch lines, remove excess material from travel ways, and thoroughly clean all road, alleys and sidewalks affected by the excavation. If it becomes necessary, all roads, alleys (if asphalt or concrete) and sidewalks shall be swept or washed as required by the Engineer.

The foregoing requirements are extensive, although some discretion is granted to the Engineer.

Construction would need to be done “under traffic”, which means allowing normal traffic flow, with constraints, during construction. A good example of this can be seen in CDOT’s current reconstruction of State Highway 287. Added to these construction requirements are the requirements for access for emergency (fire, police, and medical) personnel and vehicles. It should be noted that the only access for our development, Terry Point, and the properties of many other affected homeowners is Douglas Road.

It is quite clear that a second, parallel 48-inch pipeline could not be constructed within the existing Douglas Road ROW. This would necessitate a new routing for the second pipeline, to include consideration of a pipeline corridor meeting Thornton’s definition, above. This is built into Thornton’s current approach of permitting only the TWP, without consideration of the requirements of the full TNP.

### **C. Larimer County Responsibilities, Relative to Property Owners**

The Larimer County Land Use Code, September 13, 2017, Section 2.3.1 – Purpose, Subsection B includes, in part, the following language:

**“B. Maintain and enhance property values by stabilizing expectations, fostering predictability in land development and establishing a process that efficiently and equitably applies this code to individual sites while respecting property owner rights and the interests of Larimer County citizens. This requires balancing economic development with community values and individual property rights.”**

From the foregoing, it is clear that the Planning Commission and County Commissioners would not be “...respecting property owner rights and the interests of Larimer County citizens.” by approving Thornton’s 1041 permit application, as submitted and amended.

#### D. Conclusion

In conclusion, the deliberate approach of Thornton to not reveal the full extent of the Thornton Northern Project in its 1041 permit application for the Thornton Water Project pipeline would:

- Foreclose the option of a second, parallel 48-inch pipeline, as called for in Phase II of the TNP, within the Douglas Road ROW.
- Require a new pipeline corridor with a different routing when the second pipeline is needed.

Finally, construction of the first 48-inch pipeline in the Douglas Road ROW would cause extensive disruption to Douglas Road for an extended period. This also includes disruption to the citizens of Larimer County who live along the road and those who regularly use the road.

In summary, the failure of the City of Thornton to disclose the entire scope of improvements needed to implement the Thornton Northern Project in its current 1041 permit application and amendments would clearly result in negative impacts to Larimer County and its citizens, should the Planning Commission and County Commissioners approve the current, amended application. The logical conclusion is that the Larimer County Planning Commissioners and County Commissioners should reject the current application and require that Thornton, should they choose to do so, prepare a plan that addresses the full implementation of the Thornton Northern Project.

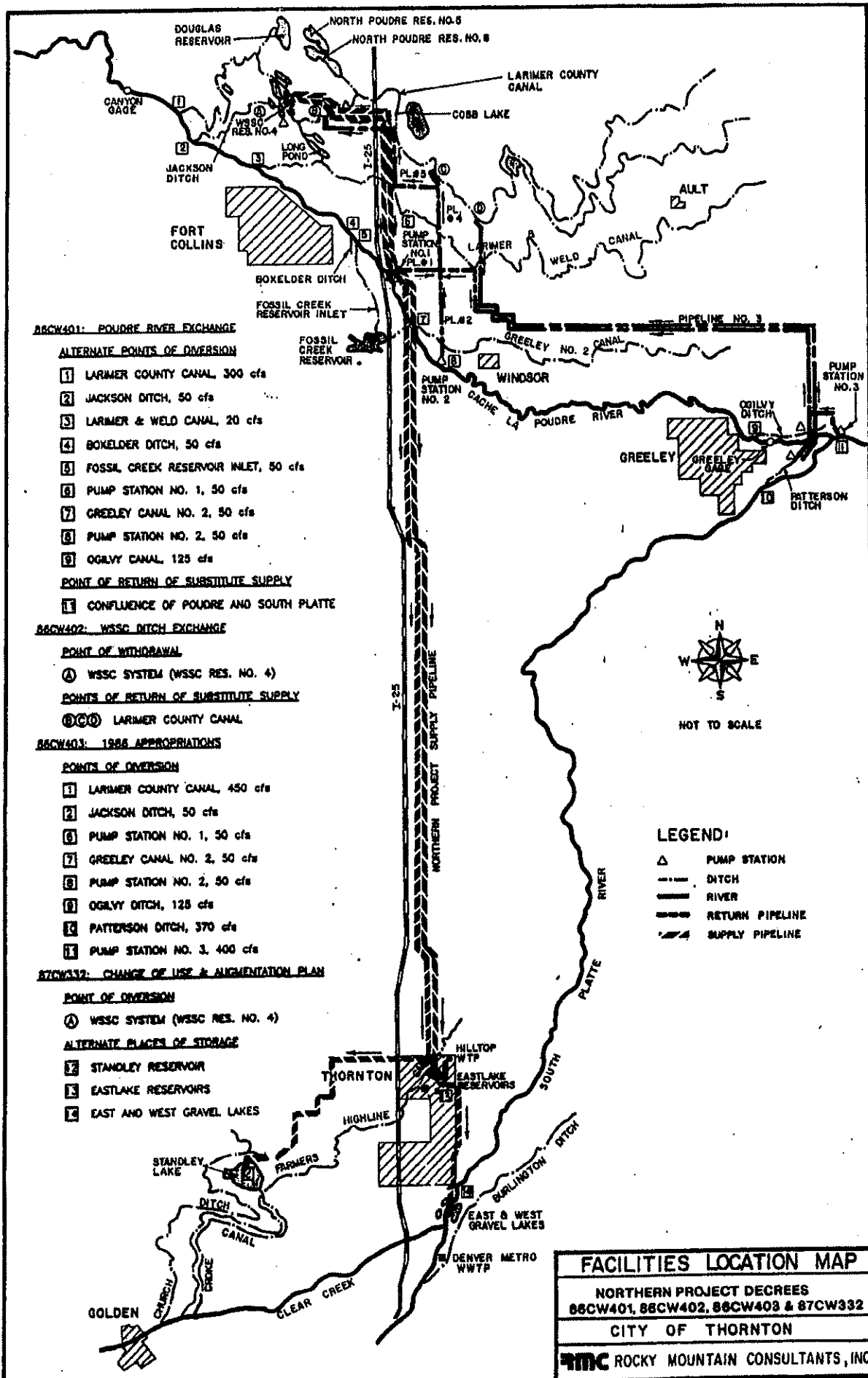
Please do not hesitate to contact us, should you have comments or need further information.

Yours truly,

  
Robert P. Kitchell, PE

  
Carole T. Kitchell

Attachment: Figure 1, Facilities Location Map, City of Thornton



**86CW401: POUDRE RIVER EXCHANGE**

**ALTERNATE POINTS OF DIVERSION**

- ① LARIMER COUNTY CANAL, 300 cfs
- ② JACKSON DITCH, 50 cfs
- ③ LARIMER & WELD CANAL, 20 cfs
- ④ BOXELDER DITCH, 50 cfs
- ⑤ FOSSIL CREEK RESERVOIR INLET, 50 cfs
- ⑥ PUMP STATION NO. 1, 50 cfs
- ⑦ GREELEY CANAL NO. 2, 50 cfs
- ⑧ PUMP STATION NO. 2, 50 cfs
- ⑨ OGLVY CANAL, 125 cfs

**POINT OF RETURN OF SUBSTITUTE SUPPLY**

- ⑩ CONFLUENCE OF POUDRE AND SOUTH PLATTE

**86CW402: WSSC DITCH EXCHANGE**

**POINT OF WITHDRAWAL**

- Ⓐ WSSC SYSTEM (WSSC RES. NO. 4)

**POINTS OF RETURN OF SUBSTITUTE SUPPLY**

- ⒷⒸⒹ LARIMER COUNTY CANAL

**86CW403: 1988 APPROPRIATIONS**

**POINTS OF DIVERSION**

- ① LARIMER COUNTY CANAL, 450 cfs
- ② JACKSON DITCH, 50 cfs
- ③ PUMP STATION NO. 1, 50 cfs
- ④ GREELEY CANAL NO. 2, 50 cfs
- ⑤ PUMP STATION NO. 2, 50 cfs
- ⑥ OGLVY DITCH, 125 cfs
- ⑦ PATTERSON DITCH, 370 cfs
- ⑧ PUMP STATION NO. 3, 400 cfs

**87CW332: CHANGE OF USE & AUGMENTATION PLAN**

**POINT OF DIVERSION**

- Ⓐ WSSC SYSTEM (WSSC RES. NO. 4)

**ALTERNATE PLACES OF STORAGE**

- ② STANDLEY RESERVOIR
- ③ EASTLAKE RESERVOIRS
- ④ EAST AND WEST GRAVEL LAKES

<b>FACILITIES LOCATION MAP</b>
NORTHERN PROJECT DECREES 86CW401, 86CW402, 86CW403 & 87CW332
CITY OF THORNTON
<b>RMC</b> ROCKY MOUNTAIN CONSULTANTS, INC.



TO: The Larimer County Commissioners

As a resident of Fort Collins, I am aware that the city of Thornton owns water rights from the Poudre River and will be building a pipeline in the near future from the Ft. Collins area to Thornton. The pipeline is to carry 14,000 acre feet a year to Thornton, as per an article I read on the internet. And, as I understand it, most of the farms from which Thornton bought the water are in Weld County. The required water that is still going to those farms is being carried there via a ditch north of Douglas Road.

The Poudre River is the reason that Fort Collins was built in this place. To its 160,000 plus residents it is a part of our identity. We value it for its life giving water, its possibilities for recreation, its beauty. But, to my knowledge, no persons living in Fort Collins have been contacted about this project. There have been no public meetings with discussion sponsored by the City of Thornton, or by the Larimer County Commissioners who will decide our fate. Few, if any persons, know that the decision for or against this pipeline will likely be decided in 2018. **YET, TAKING WATER OUT OF THE RIVER BEFORE IT EVER GETS TO FORT COLLINS AND PUTTING IT THROUGH A PIPELINE WILL CERTAINLY HAVE NO BENEFIT TO ANY CITIZEN OF FORT COLLINS, OR LARIMER COUNTY. IN FACT, IT WILL HAVE NEGATIVE EFFECTS.** The Poudre River has recently received a grade of C-. It is becoming less healthy as waters are removed. The pipeline will likely degrade it further.

My suggestions for this are:

Hold public meetings for Fort Collins residents and those of Larimer County, to educate them on the project and options. This is NOT a private subject. Allow citizens to express their preference for what will ultimately happen. Take the citizens seriously, please.

Consider very strongly allowing the Thornton water to run its course IN the Poudre and then build the pipeline for diversion to Thornton on the east side of I-25. Removing it, and destroying a residential area around Douglas Road is not acceptable, in my opinion. Nor, is it likely safe. There are active oil wells on both sides of the road, with pipes likely going under East Douglas Road.

Thank you for your consideration of this very important matter. It is a decision not to be taken lightly. **PLEASE DO THE RIGHT THING, CONSIDERING HOW THE DECISION WILL AFFECT ALL THE CITIZENS OF THIS AREA.**

*Georgia Locker*

Georgia Locker

713 Duke Square, Ft. Collins, CO 80525

(970) 482-4875

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Georgia Locker

713 Duke Square, Ft. Collins, CO 80525

(970) 482-4875



Rob Helmick <helmicrp@co.larimer.co.us>

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## Poudre River

1 message

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Catherine and Michael McDonald <cmrfamily@msn.com>  
To: "helmicrp@co.larimer.co.us" <helmicrp@co.larimer.co.us>

Mon, May 7, 2018 at 11:41 AM

We love the town of Fort Collins and we love the river that runs through it. Please encourage the City of Thornton to "do the right thing" and leave the water in the Poudre through town and create the take-out point near the town of Windsor (rather than construct a pipeline on Douglas Road). Please reject Thorton's proposed 1041 plan!

Thank you, Michael and Catherine McDonald



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Oppose the Thornton Pipeline as currently presented

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Mon, May 7, 2018 at 8:13 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnell@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Rob -- Please include this message in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **MerryRun** <merryrun@toadaway.net>

Date: Sun, May 6, 2018 at 5:37 PM

Subject: Oppose the Thornton Pipeline as currently presented

To: pcboard@larimer.org

Cc: bocc@larimer.org

Dear Larimer County Planning Commissioners,

You represent Larimer County, and therefore you represent the residents of Larimer County.

Does one (or more) water pipelines going under Douglas Road in Fort Collins and taking water from the flow of the Cache La Poudre River before reaching Fort Collins benefit residents of Larimer County in any way? No.

In fact, the project could do harm: how could the long planned Kayak Park on the Cache La Poudre River flowing through Fort Collins not be negatively impacted? Wildlife and plants and the general public would also benefit by having more, not less, water flowing in the river.

Residents near the proposed pipeline would suffer much noise, pollution, and disruption of their lives if the pipeline/s is approved. Who would want to move to the area knowing this huge project is imminent? Who would want to buy a home there? Colorado has winters that will ensure the pipeline/s project/s will take longer than planned to be completed. Try to imagine how you would feel if you were a resident near Douglas Road in Fort Collins should this flawed project be approved.

The City of Thornton must explore its options more thoroughly. It seems to me the City of Thornton would save money by not building the pipeline under Douglas Road in Fort Collins and instead take the water downstream of Windsor.

I strongly urge you to deny the permit application for Thornton's pipeline project.

Sincerely,

Carole Hossan

504 Edwards Street, Fort Collins, CO

(970) 416-7414

**THORNTON WATER PROJECT 1041**

**229**



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Fwd: Thornton's Water Project - 1041 Application

1 message

Linda Hoffmann &lt;hoffmalc@co.larimer.co.us&gt;

Mon, May 7, 2018 at 8:19 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnell@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

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**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Lynn U Nichols** <lynn.healthwrite@gmail.com>

Date: Sun, May 6, 2018 at 8:24 PM

Subject: Thornton's Water Project - 1041 Application

To: bocc@larimer.org, pcboard@larimer.org

Cc: cityleaders@fcgov.com

Hello,

Thank you for reading our email in its entirety. I am one of the founders of No Pipe Dream. I started organizing neighbors after the Sept 12 meeting in reaction to reading a Coloradoan article quoting Thornton saying they consulted with neighbors and that Douglas Road was the best solution/route for their water pipeline. I was especially upset because I had spoken with Mark Kolebar from Thornton in April 2017 and he reassured me that the selected route was through Eagle Lake. He said he was having meetings with them, and I asked if I could come. He said no.

We learned from Eagle Lake residents themselves that they suggested Douglas Road to Larimer County and Thornton, and you all went with it, without asking anyone who lived along it or off of it. As a reaction, interested neighbors came together and collected 400 signatures on a petition. Nearly 80 of us went to present it to the county commissioners during public comment time on Oct. 17, 2017 and we were banned from using the words Thornton and Pipeline.

That launched other people getting involved and No Pipe Dream was born, with the goal of keeping the water in the Poudre through town. We are strong advocates for the river, and equally strong advocates to move the pipeline off of Douglas Road, and we advocate finding a more suitable route for a pipeline corridor that will house multiple pipelines. We believe it is the right thing to do for Fort Collins and the Poudre River to leave the water in the river through town to where it meets the southbound pipeline.

The county initially said, as Rob Helmick admitted at the Douglas road meeting Jan 25, to "stay away from our county roads" when choosing a pipeline route, but for some reason, you all changed your minds. Why? We believe that Douglas road was a hasty choice, and not scientifically chosen as an ideal route.

We strongly oppose Thornton's incomplete 1041 application that just addresses phase 1 of the larger 3-phase Thornton Northern Project. We know a water decree, with documents as late as 2015, gives Thornton the right to add another 48" parallel pipeline along Douglas Road. In addition, a 72" return pipeline will carry dirty water back at 200



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Thornton water project**

1 message

**Sherrie Schell** <sherriesfitness@gmail.com>

Sun, May 6, 2018 at 8:29 PM

To: helmicrp@co.larimer.co.us

We live at the end of Starlite Drive which would be directly west of the proposed pump station. Our main question is why isn't the pump station being included in the initial planning/proposal of the pipeline? If the pipeline is approved we have no way of having a say in how the pump house is built or specifically located.

What type of a decibel level, as far as noise and what would be the guarantee that they would be required to maintain that standard? And, what type of lighting would there be at night? There's a reason that all of us live where we do. Out of town & without street lights or noise. This would destroy the quality of life that we've worked so hard to attain. Running the water in the river through town seems to be more than reasonable as far as a solution. Especially with the prospect of a water park being built and any other river corridor enhancements that may be made in the future. We owe Thornton nothing and we have absolutely nothing to gain if this is approved. Thornton's gains should not be made at a loss to the citizens of Larimer County & the City of Fort Collins.

Tom & Sherrie Schell  
709 Joey Road  
970-482-0279 (Tom)  
970-219-6298 (Sherrie)

Sent from my iPad



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Thornton Pipeline 1041 Application

1 message

**Wendell Stampfli** <stampflicox@gmail.com>  
To: "pcboard@larimer.org" <pcboard@larimer.org>  
Cc: "helmicrp@co.larimer.co.us" <helmicrp@co.larimer.co.us>

Sun, May 6, 2018 at 11:07 PM

Members of the Larimer County Planning Commission,

My husband and I are writing in regards to the proposed Thornton Pipeline and their 1041 Application. We will be directly affected by this project as our property backs up to Douglas Road. Federal guidelines call for selecting a route that would affect the fewest amount of people. Out of all the routes considered, this one has the most. Too many for even one pipeline. Thornton's use of describing Douglas Road as a pipeline corridor gives us pause as to how many pipelines are planned now and in the future. Thornton's inconsistent statements and lack of transparency concerning this issue alone is troubling. The current 1041 only covers one 48" pipeline to be installed completely under the current road. It doesn't address the 10,000 square foot pump station, complete with security fencing and lighting, parking lot, etc. nor the rezoning of the required 3 acres that is within a block of our property. We find this action completely unacceptable. The impact of the proposed pipeline and possible approval of the current 1041 application cannot be considered without the accompanied pump station as one does not work without the other.

We know that if this project goes forward, the negatives will outweigh the positives because there are no positives to this project for any Larimer County resident. Our road will be torn up, which in turn will affect the health of our trees that we planted many years ago to improve the value of our property and to act as a buffer to the road. All of us up and down the Douglas Road corridor will find it virtually impossible to sell our properties during construction and will find our properties severely devalued afterwards.

As your title of Larimer County Planning Commission implies, we assume you will be using the Larimer County Land Use Code as your guide. If you are trying to answer whether the Thornton Water Project qualifies on any of the points, let us answer for you. It does not. We understand that Thornton bought their water shares over 30 years ago, but it didn't guarantee them the right to transport them as cheaply as possible, on the backs of Larimer County residents. The Larimer County 1041 Application requires the applicant to consider alternatives. One would be for Thornton to change their point of diversion so their water shares would flow through Fort Collins, enhancing the river, City of Fort Collins, and ultimately Larimer County or take their route north using their own farmland acquired when they surreptitiously bought land to obtain said water shares.

As tax paying, voting constituents of Larimer County for over 43 years, we do expect you, the Larimer County Planning Commission to represent us and prioritize our welfare and happiness before catering to the whims and proposed budget constraints of a municipality 60 miles away.

Thank you for your attention.

Betsy Cox  
Wendell Stampfli  
504 Canadian Parkway  
Fort Collins, Co. 80524  
970-484-0615  
stampflicox@gmail.com



# **No Pipe Dream**

## **An association of citizens of Larimer County**

May 7, 2018

### **By hand delivery and email**

Larimer County Planning Commission (pcboard@larimer.org)

Rob Helmick (helmicrp@co.larimer.co.us)

Larimer County Planning Department

200 West Oak Street, Suite 3100

Fort Collins, Colorado 80521

Re: Comments to the Larimer County Planning Commission on the City of Thornton's Pending 1041 Permit Application

Dear Mr. Helmick:

On behalf of No Pipe Dream, an association composed of numerous affected Larimer County citizens, residents, and taxpayers living in or near the path of the proposed Thornton Water Project ("TWP") which is a subcomponent of the much larger Thornton Northern Project ("TNP"), we submit the following comments and concerns regarding Thornton's pending 1041 permit application ("1041 application") filed with the County on January 5, 2018 and supplemented on April 2, 2018. We also request that a representative of No Pipe Dream be allowed to make a 60-minute group presentation during the Planning Commission hearing scheduled for May 16, 2018. Please respond to this request in writing no later than May 10, 2018 to kaswagner@me.com.

To date, Thornton has not submitted a comprehensive 1041 application for the TNP. Instead, Thornton created a sub-project of the TNP and named it the "Thornton Water Project", for which it submitted a limited 1041 application to the County. Thornton's limited TWP 1041 application only seeks approval for a 26-mile pipeline in Larimer County and related appurtenances that would divert water from the Cache la Poudre River and convey that water to the City of Thornton for future municipal use, which represents only Phase 1 of the three-phase TNP. The Thornton Northern Project is a much larger project that would involve a possible second water pipeline, as well as return flow pipelines and additional pump stations that also would be located in Larimer County (Phases 2 and 3) and would deliver highly polluted water from the South Platte River into the Cache la Poudre watershed. A 2015 Colorado Water Court decision found that the "components of Thornton's water supply and of Thornton's water system are operated together as an integrated project or system."<sup>1</sup> Despite the integrated nature of the Thornton Northern Project, to date the City has failed to submit a comprehensive 1041

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<sup>1</sup> 2015 Water Court decision in Case 2013CW3015 at p. 12, ¶12 (attached hereto as Exhibit 1).

permit application disclosing all present and future land use impacts associated with the project.

Instead, Thornton has devised a permitting strategy designed to deny Larimer County and its citizens the right to understand the impacts of full development of the Thornton Northern Project. As discussed more fully below, full development of the Thornton Northern Project involves at least one more parallel water pipeline or enlarged pipeline, return flow pipelines, pump stations, delivery of highly polluted water into Larimer County from the South Platte River and/or other tributaries, all of which will be located in Larimer County. Thornton has intentionally “segmented” or “piecemealed” the TNP into smaller subcomponents to avoid disclosure of the full development impacts in a comprehensive 1041 evaluation. On April 16, 2018 Todd Barnes with the City of Thornton confirmed this fact in an email to a Larimer County citizen by admitting:

“the Thornton Water Project does not include the construction of parallel pipelines or other facilities that would be necessary to operate the ditch exchange... This single pipeline project is called the Thornton Water Project, and is the subject of Thornton’s 1041 application to Larimer County.”<sup>2</sup>

Thornton’s failure to submit a 1041 application for the Thornton Northern Project violates both the letter and the spirit of Colorado’s 1041 statute. In adopting the legislation for 1041, the legislature recognized that, “[a]dequate information on land use and systematic methods of definition, classification, and utilization thereof are either lacking or not readily available to land use decision makers.” C.R.S. §24-65.1-101(1)(b). The purpose of Colorado’s 1041 statute is to remedy this lack of information to land use decision makers by requiring developers to provide information on the full scope of development “which may have an impact on the people of the state beyond the immediate scope of the project.” *City County of Denver v. Bergland*, 517 F. Supp. 155 (D.Colo. 1981); *City County of Denver v. Bd. of County Comm’rs*, 760 P.2d 656 (Colo. App. 1988), *aff’d*, 782 P.2d 753 (Colo. 1989). Thornton’s 1041 application violates the letter and spirit of Colorado’s 1041 statute by denying Larimer County and its residents the opportunity to evaluate the impacts of the TNP beyond the immediate scope of Thornton’s intentionally segmented 1041 application that is limited to Phase 1 of the TNP.

Thornton claims that it is currently unable to predict if or when additional components of the Thornton Northern Project will be constructed. However, this claim belies other statements by Thornton. For example, Thornton has represented that, “Thornton utilizes a 50-year planning horizon for its water supply...”<sup>3</sup> No Pipe Dream submitted Colorado Open Records Act (“CORA”) requests to Thornton in an effort to obtain its most current 50 year strategic plan for development of the full Thornton Northern Project. To date, Thornton has failed to provide this document. No Pipe Dream requests that the Planning Commission recommend denial of the 1041 application and to

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<sup>2</sup> April 16, 2018 email of Todd Barnes, City of Thornton, attached hereto as Exhibit 2.

<sup>3</sup> Exhibit 2 hereto.

instruct Thornton to submit its most current and comprehensive 50-year strategic plan for its water supply as part of any future TNP 1041 application.

For the additional reasons discussed herein, No Pipe Dream and the undersigned residents of Larimer County request that the Planning Commission recommend DENIAL of Thornton's 1041 application.

1. **The standard of review of the 1041 application.**

The LUC establishes a high standard of review for approval of a 1041 application. Section 14.10.B of the LUC states:

A 1041 permit application may be approved **only when the applicant has satisfactorily demonstrated** that the proposal, including all mitigation measures proposed by the applicant, **complies with all of the applicable criteria** set forth in this section 14. **If the proposal does not comply with all the applicable criteria, the permit shall be denied**, unless the county commissioners determine that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria (emphasis added).

This standard of review requires the Planning Commission to recommend denial of the 1041 application unless the applicant demonstrates compliance with all criteria ("the permit **shall** be denied"). Use of the word "shall" in the above standard of review is mandatory, meaning that the Planning Commission does *not* have discretion to approve a 1041 permit application that fails to comply with all applicable criteria. LUC Section 3.3.C. The Planning Commission may not presume all criteria have been met. Instead, the applicant bears the heavy burden of proof that each criterion has been "satisfactorily demonstrated". If the applicant fails to make such a demonstration on any of the criteria, the application must be denied. This provision is consistent with the Colorado 1041 statute which states:

"The local government may approve an application for a permit to conduct an activity of state interest if the proposed activity complies with the local government's regulations and guidelines for conduct of such activity. If the proposed activity does not comply with the guidelines and regulations, the permit shall be denied." C.R.S. §24-65.1-501(4).

The first criterion for approval of a 1041 application listed in LUC Section 14.10.D. states that the proposal must be "consistent with the master plan...". Importantly, the Master Plan states:

**"ES-16-s1: Larimer County will not support future transfers of existing water resources out of the County without consideration of the impacts on present and future land uses including agriculture."**<sup>4</sup>

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<sup>4</sup> Plan at p. 6-15.

Thus, the Master Plan contains a strong statement disfavoring Thornton's proposal to transfer water out of the County that has historically irrigated agricultural lands. This requirement of the Master Plan also imposes a duty on Thornton to satisfactorily demonstrate "the impacts on present *and future* land uses" from both the TWP and the TNP. The requirement to assess impacts to "future land uses" clearly imposes a duty on Thornton to assess all future impacts associated with the TNP, including construction and operation of a second water pipeline and/or return flow pipelines in Larimer County as contemplated by the Colorado Supreme Court decision in *City of Thornton v. Bijou Water District*, 926 P.2d 1 (1996) and the more recent 2015 Water Court decision in Case 2013CW3015.<sup>5</sup> As such, the Planning Commission may "*not support*" (recommend approval of) Thornton's 1041 application without full and complete consideration of all impacts on present and future land uses resulting from Thornton's diversion of water from the County. As will be discussed more fully below, because Thornton's 1041 application fails to present such information or satisfactorily demonstrate the impacts on **present and future** land uses associated with both the TWP and TNP, it has failed to meet its burden of proof on all applicable criteria in the LUC and thus the Planning Commission must recommend DENIAL of the permit application. LUC Section 14.10.B.

2. **The entire Larimer County Code should apply to the application.**

Section 14.6.A of the Larimer County Land Use Code ("LUC") states: "[i]f a 1041 permit is required under this section 14, other sections of the Code shall not apply unless specifically stated in this section 14, or unless applied by the county commissioners as conditions of approval." Because the TWP (and more expansive TNP) will extend nearly the entire width and length of the County (west to east and north to south) and it has the potential for significant impacts through vast areas of the County, we request that the Planning Commission make a written recommendation that all sections of the LUC should apply to Thornton's 1041 application, not just Section 14 of the Code. Projects with countywide impacts should be subject to the most comprehensive regulation and not simply a subset of the County's land use code.

3. **Significant factual questions remain unanswered by Thornton**

Significant factual questions remain unanswered by Thornton regarding the current scope of full development of the TNP and the future impacts to properties and land uses in Larimer County. For example, in the Colorado Supreme Court decision in *City of Thornton v. Bijou Irrigation Co.*, 926 P.2d 1, 21 (1996)<sup>6</sup> the Court described the Thornton Northern Project as a three phase project as follows:

**Phase I.** In the year 2000, construction will begin on a **pumping station at WSSC Reservoir No. 4, a 48 inch pipeline to carry water 56 miles to Thornton, and numerous related facilities.** Initially, the Northern Project will

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<sup>5</sup> Attached hereto as Exhibit 1.

<sup>6</sup> Attached hereto as Exhibit 3.

deliver a minimum of approximately 1800 acre-feet during the year 2002, and will increase deliveries in annual increments of 500 to 1,300 acre-feet, matching Thornton's increasing need for water. Phase I deliveries will level off at an average of approximately 33,200 acre-feet per year in 2028. **Water delivered to Thornton in Phase I will be derived primarily from the gradual retirement of approximately 14,500 irrigated acres** served by WSSC and owned by Thornton and from new (1986) appropriations of water by Thornton from the Poudre.

**Phase II.** In 2026, to meet Thornton system demands over and above those satisfied by Phase I, **construction will begin on a parallel 48 inch pipeline to Thornton from WSSC Reservoir No. 4, together with a variety of other facilities, including return pipelines from the Poudre and South Platte Rivers** to the Larimer County Canal near Elder Reservoir and south of Cobb Lake. Deliveries of water to Thornton through Phase II facilities will begin in the year 2029 and combined deliveries from Phase I and Phase II facilities will average approximately 56,900 acre-feet per year. Additional water delivered to Thornton in Phase II will be derived primarily from a "ditch exchange" under which Thornton will withdraw water from the WSSC system and, in exchange, return an equivalent amount of water from other sources owned by Thornton. **The return water, or "substitute supply," will be pumped to the Larimer County Canal from various locations along the Poudre and South Platte Rivers.**

**Phase III.** In 2034 construction will begin on a parallel 72 inch return pipeline to deliver water back to the Larimer County Canal, thereby increasing the yield of the "ditch exchange" with the WSSC system. Additional deliveries from these Phase III facilities will begin in the year 2036 and will increase each year to help meet Thornton's increasing need. New water delivered during Phase III will be derived from the use of Thornton's WSSC shares for irrigation under the WSSC system to allow a ditch exchange on nearly the entire flow of the WSSC system. The yield of the project at full development, utilizing Phase I, II and III facilities, will average approximately 67,000 acre-feet per year. MOD at 3-4 (quoting Ex. A-649, at pp. xii-xiii, Project Completion Study Report, Draft Report, Addendum, prepared by Rocky Mountain Consultants, Inc.). **Thornton estimated that full development of the Northern Project will cost approximately \$427,000,000 and will meet Thornton's system demand through the year 2031.**

Thornton has strategically segmented Phases 2 and 3 from its 1041 permit application and instead limited the application to Phase 1. The 1041 application is limited to construction of a 48" pipeline and related appurtenances. Information on the construction of a second water pipeline and return flow pipelines described in Phases 2 and 3 of the Court's 1996 decision is not contained in the 1041 application, nor does the application foreclose future construction of these structures. Further, since the Supreme Court and Water Court decisions do not mandate a schedule of construction, Thornton could begin construction of Phase 2 and 3 at anytime.

In an attempt to determine Thornton's current scope for full development of the TNP, on April 3, 2018 a Colorado Open Records Act request was sent to Thornton requesting, "[t]he most current document in the City's possession, custody, or control describing whether the Thornton Water Project remains a three phase project."<sup>7</sup> In response, Thornton referred to an electronic document with the file name "13CW3015 TNP 2<sup>nd</sup> Diligence" which is a 2015 decision by the Colorado Water Court on the Thornton Northern Project.<sup>8</sup> This 2015 Water Court decision also describes the Thornton Northern Project as a three-phase project as follows:

**a. Phase I of the Northern Project includes a pipeline extending from the WSSC system to Thornton.** The raw water supply for Phase I is derived from Thornton's 283.354 Water Supply and Storage Company ("WSSC") shares and 1.25 Jackson Ditch shares (87CW332). Raw water can also be supplied from Thornton's junior conditional water rights (86CW403) and by exercise of the Poudre River Exchange to the WSSC and Jackson Ditch headgates (86CW401)...

**b. Phase II of the Northern Project will implement the Ditch Exchange (86CW402).** Phase II includes the delivery of raw water to Thornton derived from Phase I operations and the Ditch Exchange. **Phase II also includes facilities and operations to return a substitute supply to the WSSC system to complete the Ditch Exchange.**

**c. Phase III involves an expanded ditch exchange, in contrast to the partial ditch exchange in Phase II.** In Phase III, Thornton's WSSC shares will be returned to irrigation use under the WSSC system thereby allowing a ditch exchange on nearly the entire flow of the Larimer County Canal. **The yield will be delivered to Thornton, which will return an equivalent amount of substitute supply.**

The 2015 Water Court decision referred to by Thornton as representing "[t]he most current document in the City's possession, custody, or control describing whether the Thornton Water Project remains a three phase project" included a map outlining components of the TNP to be constructed in Larimer County.<sup>9</sup> The map shows a second parallel water pipeline, return flow pipelines, and additional pump stations to be located in Larimer County as part of the TNP.

While the 2015 Water Court decision does not reference a second water pipeline, nothing in Thornton's 1041 application, CORA responses, or other public statements specifically forecloses the future construction of a second pipeline in Larimer County as part of the TNP. Further, the 2015 Water Court decision still references the construction and operation of future return flow pipelines and pump stations in Larimer County as part of the TNP. Recent statements by Thornton hold open the possibility of further

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<sup>7</sup> Attached hereto as Exhibit 4.

<sup>8</sup> Attached hereto as Exhibit 5.

<sup>9</sup> Attached hereto as Exhibit 6.

diversions from the Poudre, including a second or enlarged water pipeline, return flow pipelines, pump stations and additional appurtenances.<sup>10</sup>

As such, many important factual questions remain unanswered by Thornton regarding the scope of full development of the TNP. In an attempt to get answers to these questions, on April 17, 2018 No Pipe Dream sent a letter to the County Commissioners requesting a written response by April 25, 2015 from Thornton to each of the following questions:

- 1) Does the Thornton Water Project remain a three-phase project? If so, what are the three phases, what pipelines and/or conveyances are associated with each phase, and what is the schedule for the construction of each phase?
- 2) Is the 48" water pipeline that is the subject of Thornton's current 1041 permit the only raw water delivery pipeline associated with the project? Or will the Project involve a future parallel 48" water pipeline as described as Phase II in the 1996 Supreme Court decision?
- 3) If the Project still includes additional conveyances (pipelines, return flows, ditch exchanges, or otherwise) not included in the current 1041 application, what is the schedule for Thornton to apply for a 1041 permit with Larimer County for the remaining conveyances?
- 4) If Thornton does not plan to seek a 1041 permit from Larimer County for all conveyances and/or pipelines, please explain why the County is not requiring the City to submit a comprehensive 1041 permit application for all phases of the Project?
- 5) Which private properties within Larimer County will be impacted by the construction of each of the pipelines/water conveyances that are not currently included in Thornton's 1041 application?
- 6) If the County does not know which properties will be impacted by all phases of the Project, why is the County allowing the City to segment the Project by limiting its current 1041 application to a single 48" pipeline instead of requiring a single comprehensive 1041 application for all phases of the Project?<sup>11</sup>

The Commissioners responded to this letter but failed to provide a commitment to a comprehensive 1041 review of the TNP.<sup>12</sup> However, Thornton provided an informal response to questions posed by the Rocky Mountain Collegian newspaper in an article published April 24, 2018.<sup>13</sup> In that article, Mark Koleber is attributed with the following exchange with the newspaper,

"[o]ne of the additional pipelines would parallel the currently planned pipeline running along I-25 south to Thornton and carry more shares of water, Koleber said. The second additional pipeline would bring water from east of Greeley to the reservoirs the current pipeline pulls from. The development of additional

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<sup>10</sup> Rocky Mountain Collegian article dated April 24, 2018 attached hereto as Exhibit 7.

<sup>11</sup> Attached hereto as Exhibit 8.

<sup>12</sup> Commissioners' letter responding to April 17 letter attached hereto as Exhibit 9.

<sup>13</sup> Exhibit 10.

pipelines, however, is not likely to happen anytime soon, if at all. Koleber said the single pipeline currently being planned will suit the city of Thornton's needs until 2065. Beyond that, Thornton is not sure if they will need to exercise additional water rights and further pull from Larimer County. However, further water diversion by Thornton is possible. Koleber said Thornton has what are known as conditional water rights. These are not definite as Thornton's current rights and could fluctuate from year to year depending on water availability. Yet, they do mean Thornton could look to Larimer County again if faced with a water shortage."

Thus, Thornton has admitted that its current 1041 permit does not represent the scale of full development of the TNP. As such, the 1041 application does not evaluate both present and future land use impacts associated with all possible water diversions from Larimer County.

As noted above, the Master Plan requires that Thornton's 1041 application include a satisfactory demonstration of all future land use impacts associated with the "transfers of existing water resources out of the County". Master Plan ES-16-s1. The Planning Commission, County Commissioners, and residents of Larimer County should not have to "guess" at the full scope of development of the TNP or its timing. To the contrary, the LUC and Master Plan require Thornton to either disclose the full scope of development of the TNP at the time of its 1041 application or foreclose future development as a condition of the permit. Thornton has done neither.

If Thornton is currently unable to disclose the full scope of development of the TNP, then its application is premature and should be withdrawn until it is able to do so. Alternatively, having failed to produce a satisfactory demonstration of impacts to future lands uses associated with an additional water pipeline, return flow pipelines, and pump stations, or foreclose the possibility of construction of these additional structures, the Planning Commission must deny the 1041 permit application.

**4. The 1041 application should be denied as incomplete.**

Section 14.10.A. of the LUC requires that "[t]he applicant must submit a complete and sufficient application..." for its project. For the reasons stated below, Thornton has failed to submit a complete and sufficient application covering the full scope of Thornton's Northern Water Project. The Planning Commission should find that Thornton's application fails to comply with Section 14.10.A. because its 1041 application is not complete or sufficient to identify all impacts resulting from the proposed TNP.

Thornton's 1041 application does not contain any information regarding the impacts to present and future lands uses, including agriculture, in Larimer County resulting from the transfer of existing water resources out of the County, as is required by the criteria in Master Plan ES-16-s1. For example, the 1041 application fails to identify all agricultural lands in Larimer County that have been dried up as a result of the proposed implementation of Phase 1 of the TNP and the impacts to those lands and



surrounding areas. These impacts include, but are not limited to: air pollution from dust, introduction of invasive species on and off the properties, loss of habitat resulting from elimination of irrigation, changes in soil and vegetation resulting from elimination of irrigation, impacts to property values on and off the properties, state of maintenance of structures located on lands eliminated from irrigation, economic impact from the permanent loss of the agricultural production of the land, and other impacts. Thornton's application also fails to identify Larimer County lands that would be dried up in the future as a result of implementation of Phases 2 and 3 of the TNP and the impacts to those lands and surrounding areas. Therefore, Thornton has failed to comply with the LUC criteria for both Phase 1 and Phases 2 and 3 of the TNP. Thornton's application must be denied.

The Master Plan also requires an evaluation of impacts to **future land uses**, including impacts from the second water pipeline as well as the return flow pipelines to be located in Larimer County, as described in the *City of Thornton* Colorado Supreme Court decision and the 2015 Water Court decision in Case 13CW3015. For example, the 1041 application fails to contain any information on these future TNP pipelines, pump stations, and return flow structures that would be located in the County. These future structures are likely to have greater impacts to the County than the current limited 1041 permit application. The Planning Commission must reject Thornton's strategy to "segment" the TNP into smaller projects, thus denying the County and its citizens the right to evaluate the cumulative impacts of the entire project on Larimer County. Before rendering any decision on Thornton's 1041 application, the Planning Commission should demand that: 1) Thornton clearly state in writing whether the second water pipeline, return flow pipelines, pump stations and related appurtenances will be constructed in the County; 2) Thornton outline the schedule for construction of the TNP; 3) Thornton maps the lands impacted by the construction; and, 4) Thornton details the impacts to those lands and their future land uses. It is clear from the Colorado Supreme Court decision in *City of Thornton* and the Water Court decision in 13CW3015 that Thornton intends to fully develop the TNP. If Thornton will not construct these components of the TNP in Larimer County, the 1041 application must clearly state this fact and Thornton must agree to forego future construction of these components of the TNP as a condition of approval of the 1041 application.

**Thornton has also illegally segmented the pump station from the 1041 application.** For example, Thornton's January 5, 2018 cover letter to its application states, "[a]s discussed with Larimer County Planning staff at the Pre-Application Conference held on May 26, 2016, the source water pump station is not part of this 1041 permit application, but will be separately permitted through the Site Plan Review permit process. Information on the source water pump station provided in the application is of a general nature and is included to present a more complete scope of the TWP. To date no design has been completed for the source water pump station and Thornton will submit a Site Plan Review permit application to Larimer County in accordance with LUC Section 6.0." The pump station is appurtenant to the water pipelines.<sup>14</sup> The pump station

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<sup>14</sup> January 5, 2018 1041 application ("1041 app."), Volume ("Vol.") 1, page ("p.") 2-7.

is connected to the pipeline and will include 40 million gallons/day pumps, a 2-acre building site, a 10,000 square foot building, associated equipment, an emergency backup diesel generator, industrial fencing, power lines, and security lighting. As such, the pump station has the potential to cause adverse impacts during construction and operation including noise, air pollution, light pollution, stormwater discharges, and degraded quality of life for adjacent residents. Thornton's failure to include the source water pump station, which is appurtenant to the pipeline, in its 1041 application renders the application incomplete and its attempt to have the pump station separately permitted through the Site Plan Review process, rather than through the 1041 process, constitutes an improper segmentation of the project which prevents consideration of all collective impacts from the proposed project during the 1041 process.

**5. The County has a direct institutional conflict of interest and therefore cannot adjudicate the 1041 application.**

Larimer County is the local government charged with rendering a quasi-judicial determination on the merits of Thornton's 1041 application. Thus, the County has an ethical obligation to maintain independence from the 1041 application and the applicant. Moreover, the County's determination on the 1041 application is discretionary. Ethical obligations must be more strictly adhered to when decisions are discretionary than when they are more mechanical in nature.

Article XXIX(1)(c) of the Colorado Constitution requires local governments to "avoid conduct that is in violation of their public trust or that creates a justifiable impression among members of the public that such trust is being violated."

Larimer County's adjudication of Thornton's 1041 application violates that public trust because the County has entered into a partnership with the 1041 applicant regarding installation of the water pipeline in the Douglas Road right-of-way. More specifically, this partnership is documented in emails obtained by NPD through a Colorado Open Records Act request:

- "County Staff will also request a separate meeting with Fort Collins to discuss the opportunity for a partnership between the County, City [of Fort Collins], Northern [Colorado Water Conservancy District] and Thornton along Douglas Road" regarding the installation of both the TWP and NISP pipelines. Email from Robert Helmick, County Planner to the City of Thornton and Northern Water dated June 5, 2017.<sup>15</sup>
- An email from Mark Koleber of the City of Thornton to Northern Water and Larimer County conveying a Douglas Road Coordination Statement and stating, "I think we should all be on the same page with the strategy before any of us post this on our websites, etc." and with Carl Brouwer proposing to mislead the public by mischaracterizing the TWP project as "a road project that happens to have a utilities in it, not the other way

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<sup>15</sup> Attached hereto as Exhibit 10.

around.” Email chain from June 20, 2017-June 22, 2017.<sup>16</sup> A markup draft of the Douglas Road Coordination Statement from June 20, 2017 includes edits deleting language notifying the public that disruption from the pipeline will be “significant” and removing notice to the public that Larimer County is coordinating “funding” for the joint project.<sup>17</sup>

- An email chain from May 23, 2017 in which Thornton states that Northern Water is “interested in coordinating activities related to the Thornton Water Project and Northern Water’s pipelines, including looking at the Douglas Road alignment and coordinating pipeline work with road work” being proposed by Larimer County. In addition, Larimer County sent an email to Thornton requesting “a separate meeting with Fort Collins to discuss the opportunity for a partnership between the County, City [of Fort Collins], Northern and Thornton along Douglas Road. In a separate email to Thornton, Larimer County states that it wants to address “[p]roposed financial contributions toward the overall project-hope to find a solution that is a benefit to all potential project partners.” Email chain from May 23, 2017.<sup>18</sup>
- In an email from Mark Peterson, Larimer County to the City of Thornton, on July 21, 2017 it states that “[w]e’re OK with you using the joint project statement that you’ve developed so long as you remove any county contact information. Please note that Larimer County does not intend to release or publish this statement” thus hiding the County’s involvement in the partnership with the 1041 applicant, the City of Thornton.<sup>19</sup>

As a result of its partnership, the County position has changed from an independent quasi-judicial arbiter of Thornton’s 1041 application to a project proponent with a financial stake in the construction of the TWP. As such, Larimer County is in violation of Article XXIX of the Colorado Constitution because its partnership with the 1041 project proponent is a “violation of their public trust or that creates a justifiable impression among members of the public that such trust is being violated.”

Larimer County’s partnership in Thornton’s 1041 project also violates the “Fair Process” principles mandated by the Larimer County Master Plan (“Plan”).<sup>20</sup> The 1997 Master Plan acknowledges that, “[s]tatements from the citizen input portion of the project indicate that the current land use planning process is considered to be unfair by people on all sides of the issue.”<sup>21</sup> The 1997 Plan was supposed to resolve these unfairness issues. Unfortunately, these issues have not been resolved and the County’s participation in the TNP only serves to perpetuate the perceived bias present in land use decision-making.

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<sup>16</sup> Attached hereto as Exhibit 11.

<sup>17</sup> Attached hereto as Exhibit 12.

<sup>18</sup> Attached hereto as Exhibit 13.

<sup>19</sup> Attached hereto as Exhibit 14.

<sup>20</sup> See, Larimer County Master Plan at p. 1-2.

<sup>21</sup> Plan at p. 1-2.

As such, Larimer County may no longer ethically process Thornton's 1041 application. The County must acknowledge its conflict of interest and ethical violation of Article XXIX of the Colorado Constitution and recuse itself from consideration of the application. An independent third party must be identified, in consultation with the public, to process Thornton's 1041 application.

#### **6. The TWP will adversely harm Larimer County residents**

Attached to this comment letter are declarations from Larimer County residents who will be significantly and adversely impacted by the proposed TWP project. These adverse impacts include:

- The original "500 foot construction corridor proposed by the Thornton Water Plan (TWP) encompasses my entire property...[e]xtending the easement into my property could potentially destroy 8 mature elm and cottonwood trees over 50 feet tall, 14 Junipers over 10 feet tall as well as a number of additional smaller trees...[a]ny construction between the current easement and my house would cause tremendous disturbance as it would only be about 20 feet from my back door, garage and driveway."<sup>22</sup>
- "the sounds of semi-trucks breaking, a massive construction project, not to mention the vibrations and diesel generator that will be installed to operate the pump house. The vibrations from the pumping of the water alone will disrupt the very foundations that our homes sit on. In addition the once beautiful open space that I overlook will be turned into an approximate 10,000 square-foot building to house pumps and associated equipment. The lighting source for the water pump station will also be glaring into my windows at night...I won't feel safe allowing [my daughter] to ride her bike on our private road."<sup>23</sup>
- "The construction will definitely impact the enjoyment of living in our home. We have no outlet except to Douglas Road and there are 17 units that require using the exit to Douglas (north Terry Point). This includes an aging population with some residents here in their high 80's... The pipeline...will take out trees of our HOA that provide protection of noise from Douglas Road."<sup>24</sup>
- "The only way out of our Association is to exit on Douglas Road...This past summer a gas company did some maintenance work on Douglas Road and there were long delays because they reduced traffic to one way with flagmen directing traffic...Larimer County residents gain nothing from the Thornton pipeline."<sup>25</sup>
- "For 365 days a year, our lives are centered around sustaining and building a superior herd of approximately 35 Red Angus cattle. They

<sup>22</sup> Jachowski Declaration attached hereto as Exhibit 15.

<sup>23</sup> Greeno Declaration attached hereto as Exhibit 16.

<sup>24</sup> McClusky Declaration attached hereto as Exhibit 17.

<sup>25</sup> Harvey Declaration attached hereto as Exhibit 18.

require a healthy supply of grassland to graze from during the warmer months, followed by hay and grassland during the colder months, with each individual cow needing a very specific amount of acreage to feed off of each day. In order to avoid overgrazing the land, we sell most of the offspring to commercial and registered breeders, as well as a few bred cows in the fall. Thornton's proposed 500-foot easement would remove a very large percentage of our land by Douglas road. To lose any of our land, or not be able to use the land for an extended period of time (such as not being able to irrigate or unable to graze while waiting for construction to be completed and reseeded areas to grow back), would be devastating to us and our livelihood. This would have an enormous physical and mental impact on the cattle (especially the incessant construction noise), it would decimate our arena which is used as a calving area, it would force us to pay for extra feed that we cannot afford financially, it would demand we lose our primary source of income by having to sell several more cattle to ensure the rest have enough to eat, and would destroy any solitude and privacy we have left."<sup>26</sup>

Loretta Keeton's home is only 95' from Douglas Road. The impacts to her property and her quality of life will certainly be adversely affected during construction.<sup>27</sup>

The McAlpines state that the project will disrupt the relaxing time they spend on their front porch.<sup>28</sup>

The Rickards are concerned with noise, flooding, delays, loss of property values, and safety issues.<sup>29</sup>

The Shirbers state that "this proposal has fundamentally changed our outlook on our life. It has forced us to rethink our future retirement on Douglas Road."<sup>30</sup>

The Stamflis state they "will most likely be forced to sell and move" from their home.<sup>31</sup>

The Conants state that "[w]e anticipate that noise associated with the pump station would be audible at our house day and night, which would negatively impact our enjoyment of our home and yard. We understand that the pump station would be illuminated at night, which also destroys

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<sup>26</sup> Sheaman Declaration attached hereto as Exhibit 19.

<sup>27</sup> Keeton statement attached hereto as Exhibit 20.

<sup>28</sup> McAlpine statement attached hereto as Exhibit 21.

<sup>29</sup> Rickards statement attached hereto as Exhibit 22.

<sup>30</sup> Shirber statement attached hereto as Exhibit 23.

<sup>31</sup> Stamfli statement attached hereto as Exhibit 24.

the quiet, rural nature of our property.”<sup>32</sup>

As noted above, the TWP even in its limited form will have significant and long-term adverse impacts to residents of Larimer County. In contrast, the citizens of Larimer County will receive **no benefits** from the project. On balance, the Planning Commission must recommend denial of the 1041 application.

7. **The cumulative impacts of the TNP and other pipelines have not been analyzed or disclosed.**

The TNP will also have devastating impacts to the Cache la Poudre River through Larimer County. Full development of the TNP will dewater the River adversely affecting habitat, wildlife, recreational opportunities, and aesthetics. There are also several other water projects planned that will adversely impact the Poudre, including but not limited to the Northern Irrigation Storage Project (“NISP”).<sup>33</sup> The cumulative impacts of these water projects, all of which will deplete flows in the Poudre, will all but de-water the river during certain times of the year.<sup>34</sup> However, Thornton’s 1041 application fails to evaluate the full development impact of the TNP individually and the cumulative impact of the TNP when combined with other water withdrawal projects.

As discussed below, there is a better alternative to the TNP that would prevent harm to Larimer County residents and the Cache la Poudre River.

8. **The harm to residents and the Cache la Poudre River in Larimer County can be avoided by a practical alternative.**

The Rowe Report asks a fundamental question that the Planning Commission must consider in evaluating Thornton’s 1041 applications; namely, “...why should Larimer County’s environment and residents have to deal with lowered water quality and its associated economic and environmental impacts as a result of the TWP so that the City of Thornton can have improved water quality?”<sup>35</sup> Fortunately, there is a reasonable alternative where Thornton can exercise its water rights but the health of the Poudre is protected. A Report by Lisa Buchanan reaches the conclusion that Thornton **change the point of diversion of water from the proposed Water Supply and Storage Company Reservoir No. 4 to a point further downstream in the Poudre.**<sup>36</sup> We call this alternative the “Citizens’ Poudre Alternative”. This practical alternative would mitigate many of the adverse impacts of the pipeline and pumping station to residents of Larimer County. In addition, it would increase flows in the Cache la Poudre through Fort Collins thereby increasing recreational opportunities, the environmental health of the watershed, and the aesthetics of the river that winds through the City of Fort Collins and

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<sup>32</sup> Conant declaration attached hereto as Exhibit 25.

<sup>33</sup> Report of Chris Rowe, p. 6 attached hereto as Exhibit 26.

<sup>34</sup> Exhibit 26.

<sup>35</sup> Exhibit 26, p. 8.

<sup>36</sup> Report of Lisa Buchanan attached hereto as Exhibit 27.

Larimer County parks, open space, and trails. Local business owners in the downtown area, as well as business owners in the River District have strongly voiced their support for Thornton leaving the water in the Poudre through town to enhance the downtown and River District areas.

Not only would the “**Citizens’ Poudre Alternative**” mitigate the impacts to Larimer County residents, it would also reduce construction costs for the City of Thornton by eliminating nearly miles of pipeline and staging areas.

The LUC Section 14 requires Thornton to mitigate impacts to Larimer County residents and employ reasonable alternatives. More specifically, the Larimer County LUC requires 1041 applicants to:

“present[] *reasonable siting and design alternatives* or explain[] why no reasonable alternatives are available” LUC Section 14.10 (D)(2);  
“conform[] with adopted county standards, review criteria and *mitigation requirements* concerning environmental impacts, including but not limited to those contained in this Code.” LUC Section 14.10 (D)(3);  
“[t]he proposal will not have a significant adverse affect on or will *adequately mitigate significant adverse affects on the land or its natural resources*, on which the proposal is situated and on lands adjacent to the proposal.” LUC Section 14.10 (D)(4);  
“[t]he *applicant will mitigate any construction impacts to county roads, bridges and related facilities*.” LUC Section 14.10 (D)(9); and,  
“[t]he proposal demonstrates a reasonable balance between the costs to the applicant to *mitigate significant adverse affects and the benefits achieved by such mitigation*.” LUC Section 14.10 (D)(11).

The “**Citizens’ Poudre Alternative**” will mitigate impacts to county roads and the residents by eliminating construction, noise, air pollution, water pollution, forced easements, and eminent domain proceedings while at the same time significantly reducing construction costs to the City of Thornton. Quite simply, the **Citizens’ Poudre Alternative** is the best and most responsible alternative for Larimer County, its residents, and the City of Thornton.

In response, the City of Thornton has argued that it prefers diversion of the water at the WSSC Reservoir No. 4 because the water quality is better, thus saving money on water treatment. While Thornton may have rights to the water, it does not have a right to dictate to Larimer County the location of diversion of that water. To date, Thornton has not provided any scientific or quantitative analysis of any increase in cost associated with withdrawing the water further downstream. Further, Thornton would save a significant amount of money in capital construction costs by eliminating a significant length of pipeline. The money saved by employing the **Citizens’ Poudre Alternative** can be invested to offset any additional costs. Finally, since the water is not currently needed in Thornton and instead is being secured for future residents, any additional water treatment

costs associated with the **Citizens' Poudre Alternative** can be offset by having new residents and business pay for tap fees and increased water treatment fees.

Further, the **Citizens' Poudre Alternative** would most certainly have received the most favorable score under Thornton's own alternatives analysis criteria.<sup>37</sup> Since the **Citizens' Poudre Alternative** would eliminate miles of pipeline, it would impact the fewest communities, damage much less infrastructure and roads, impact fewer wetlands, floodplains, and sensitive areas, avoid more geologic hazards, garner the preference of Larimer County residents, and most importantly would impact far fewer parcel owners. As such, the **Citizens' Poudre Alternative** must be fairly analyzed in a comprehensive alternatives analysis.

Decision makers in Larimer County have a straightforward decision: Will they protect the citizens of their own County by requiring Thornton to employ the practical and money saving **Citizens' Poudre Alternative** or will Larimer County decision makers side with the residents of Thornton some 70 miles away?

## 9. Overarching concerns with the 1041 application

### a. The County's 1041 regulations are unconstitutionally vague

The 1997 Master Plan acknowledged the vagueness of the LUC by stating, "[m]any citizens stated the concern that regulations were not clearly tied to the adopted Land Use Plan. Because standards were often unclear or even contradictory, land use decision sometimes appeared arbitrary or inconsistent."<sup>38</sup> Unfortunately, the LUC remains unconstitutionally vague.

Section 14.6 states that "[i]f a 1041 permit is required under this section 14, other sections of the Code shall not apply unless specifically stated in this section 14, or unless applied by the county commissioners as a condition of approval." As noted above, we have requested that the Planning Commission and County Commissioners state on the record that all sections and requirements found in the LUC shall apply to the TWP 1041 permit application. This is important for two reasons: first, there are important considerations in the LUC that are not found in the approval criteria for 1041 permit applications; and, second, as written the approval criteria in Section 14 are unconstitutionally vague and rely solely on criteria for approval of the TWP 1041 application would be legally vulnerable.

For example, one of the main purposes of the LUC is to "enhance property values...respect[] property owners rights and the interests of Larimer County citizens." Unfortunately, the criteria in Section 14 of the LUC for ruling on a 1041 completely fails

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<sup>37</sup> NPD does not support or agree with the criteria used in Thornton's analysis. This argument is presented solely to prove that the **Citizens' Poudre Alternative** would achieve the most favorable score under Thornton's own criteria.

<sup>38</sup> Plan at p. 7-1.



to include a consideration of impacts to property rights and property values of Larimer County residents. However, the “respect for individual property rights” is guaranteed in the Larimer County Land Use Plan.<sup>39</sup> Since Section 14.10(D)(1) of the LUC requires 1041 applications to be consistent with the master plan, the County must assess impacts to individual property rights in adjudicating the application. An analysis of impacts to individual property rights can only be determined once a final design for all pipelines, return flows, pump stations, and appurtenances is provided to the public and the County. In summary, the County may not render a decision on the 1041 application until a final specific design for the entire TNP is presented for public review and comment.

Approval of the TWP 1041 application could result in the future loss of property and property rights to residents of Larimer County in the form of eminent domain and/or forced easements. Construction of the pipeline will certainly result in destruction of private property and related structures. Larimer County must consider these impacts as part of its processing of the TWP 1041 permit. Thus, we request that Larimer County must state on the record that it will specifically apply the requirements of Section 2.3 of the LUC and all other provisions of the LUC in ruling on the 1041 application.

Further, the review criteria found in Section 14.10 of the LUC are unconstitutionally vague. For example, review criteria contain vague requirements such as submission of “reasonable” siting and design alternatives; a prohibition on “significant” adverse affects on land or natural resources; that the proposal will not “negatively” impact public health and safety” and that “recommendations of staff and referral agencies have been addressed to the satisfaction of the county commissioners.” Their vague criteria are undefined in the LUC and fail to provide objective standards upon which to judge the application. As such, the County must state on the record that it is requiring compliance with all provisions of the Code, thus providing more specificity upon which to judge the application.

b. The TWP is inconsistent with the overall purpose of the Larimer County Code

The stated purpose of the Larimer County Code is “to preserve, protect and improve the health, safety and general welfare of Larimer County residents and to implement the Larimer County Master Plan adopted Nov. 19, 1997, and any future amendments.” The Code also requires that land use decisions: “enhance property values...respect[] property owners rights and the interests of Larimer County citizens [and]...[p]rotect critical environmental resources, including wetlands, riparian areas, important wildlife habitats and special places of Larimer County.”<sup>40</sup>

The TWP 1041 application fails to prove that the project will comply with these purposes of the Code. Instead, as indicated in the attached declarations, the TWP will cause significant harm to the health, safety, and general welfare of the residents to Larimer County and insure no benefits to the residents of the County. Instead, all of the

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<sup>39</sup> Plan at p. 1-2.

<sup>40</sup> LUC Section 2.3.

benefits of the project will go to future residents of the City of Thornton, a city some 70 miles away and outside the boundaries of Larimer County. As noted in the attached declarations, the TWP will adversely impact property rights of Larimer County citizens, result in a loss of land and structures, and adversely impact wetlands and riparian areas.

c. The TWP is inconsistent with the Larimer County Master Plan

The Larimer County Master Plan must be “considered the ‘constitution’ for development in the County. It establishes Guiding Principles that should be achieved by all development.”<sup>41</sup>

Section 14.10(d)(1) requires that a 1041 proposal must be “consistent with the master plan and applicable intergovernmental agreements affecting land use and development.” Larimer County’s current Master Plan was adopted in 1997. For the reasons stated below, Thornton’s 1041 proposal is not consistent with the Larimer County Master Plan and therefore must be denied.

i. The proposal is not compatible with natural systems and existing uses.

The master plan requires new development to be compatible with natural systems and existing uses.<sup>42</sup> Thornton’s proposal is not compatible with natural systems and existing uses because:

1. The pump station is not compatible with the surrounding rural environment.

Although the application is fatally incomplete for failure to include the pump station, what we can glean from the application makes clear that the pump station is not compatible with the rural uses in the area. The pump station is essentially an industrial use being located in a rural agricultural area, surrounded by residential development approved by Larimer County decades ago. The pump station will create perpetual noise, require industrial interior and exterior lighting and security fencing, and otherwise resemble an industrial use. These are not the residential attributes shown in the illustrations presented. As noted in the Master Plan, “[n]oise, glare and odor conditions are an important component of the health, safety and quality of life of Larimer County residents.”<sup>43</sup> The pump station violates Master Plan Theme TH-1 and TH-4 by being incompatible with the surrounding land uses and failing to protect existing uses.<sup>44</sup> The impacts from the pump station include constant noise, diesel generators, additional power lines, 6 high capacity pumps, and increased traffic on Starlite Drive/Douglas Road. The proposed pump station also violates Growth Management Principle GM-7 of the Plan by failing to “protect rural character”.<sup>45</sup>

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<sup>41</sup> Plan at p. 1-3.

<sup>42</sup> Larimer County Master Plan (“Plan”) at p. iv.

<sup>43</sup> Plan at p. 6-9.

<sup>44</sup> Plan at p. 1-4.

<sup>45</sup> Plan at p. 2-13.

d. The 1041 application fails to consider the cumulative impact of TWP, NISP, and other diversions from the Cache la Poudre.

The Master Plan mandates that major projects such as the TWP must be evaluated in light of cumulative impacts from other reasonably foreseeable projects. More specifically, the Plan states, “[i]n addition to considering resources existing on a potential development site and the impacts that development might have on them, it is important to address cumulative impacts on resources.”<sup>46</sup> The Plan goes on to state, “[i]n general, there are two aspects of cumulative impacts: temporal and spatial. Temporal cumulative impacts are those that accumulate over time. Spatial cumulative impacts, in this context, consider impacts beyond a given development site. In most cases, both types of cumulative impacts are present.”<sup>47</sup> The Plan requires initiation and participation “in regional studies and implementation strategies concerned with resource protection.”<sup>48</sup> Again, the Plan clearly requires an analysis of cumulative impacts from projects such as the TNP.

The 1041 application fails to consider the cumulative impacts of the full development of the TNP, NISP, and other reasonably foreseeable water pipelines and diversion projects and their cumulative impacts on flows in the Cache la Poudre River, its ecosystem, impacts to recreation and the economy below the diversions, and impacts to communities from the development of multiple pipelines and water projects in the area. Since the 1041 application must be consistent with the Master Plan, the failure to consider cumulative impacts is fatal to the application and it must be denied.

The NISP project is subject to the National Environmental Policy Act, which also requires an analysis of cumulative impacts of water projects in the Larimer County area. Therefore, the County should either direct Thornton to conduct a cumulative impacts assessment, or withdraw its 1041 application until the NISP Environmental Impact Statement is prepared and can be evaluated.

e. The pump station is not an approved use in an FA zoning area

The 40 million gallon/day pump station is proposed on a parcel currently zoned FA (farming). Under Larimer County zoning regulations, the FA zoning does not allow a large water pumping stations as an authorized use.<sup>49</sup> Therefore, the pump station may not be constructed or operated on the parcel in question without a change in zoning.

**Any change in zoning of that individual parcel would constitute illegal spot zoning.** In addition, any change to the zoning of the proposed pump station parcel would not be consistent with the Larimer County Master Plan, which states, “LU-4 In rural

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<sup>46</sup> Plan at p. 6-2.

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Larimer County Zoning Regulation 4.1.1.

areas, allowed uses and residential densities shall be based on the current zoning of the property” and “LU-4-s2 Changes in existing zoning shall be approved only when the change supports rural; uses and maintains the open character of the rural area.”<sup>50</sup>

A change in zoning at the proposed pump station parcel would not support rural uses. Instead, it would allow an industrial high capacity pumping operation in an otherwise rural farming area. The change in zoning would also destroy the open character of the rural area, as would construction of the related pipeline.

Because the pump station parcel may not be re-zoned from FA and Thornton’s proposed use of the property does not comply with existing zoning, Thornton may not locate its pumping station at the proposed location. As noted above, we suggest that Thornton allow water to flow through Larimer County naturally in the Cache la Poudre River and divert its water near Windsor, Colorado. This alternative would save significant capital costs by avoiding construction of almost 20 miles of pipeline and avoid property damage and acquisition in Larimer County.

#### **10. Specific concerns with the 1041 application**

1. The 100-year old Prospect Energy Oil Field, which includes reopened wells, is not mentioned in the application. Part of this field is within Fort Collins city limits and includes the Hearthfire subdivision. Impacts and hazards associated with development near this oil field must be analyzed.

2. The TNP will potentially impact and/or eliminate two mobile home parks and thus adversely impact Larimer County’s limited supply of affordable housing.

3. The 1041 application fails to examine impacts to Larimer County and the Poudre watershed resulting from a change in timing of the water withdrawals from the Poudre. More specifically, the Rowe report states:

...the details of timing changes of the water diversions for the TWP are not identified in the 1041 application, which may be an oversight that needs correcting. The City of Thornton v. Bijou Irrigation Co case goes into detail on possible changes in diversion timing (Court 1996). It appears that the Thornton water rights that were converted as part of the court case from agricultural use to municipal use would result in changes in the timing of water diversions. Municipal water use timing is different than agricultural for a number of reasons. Primarily municipal water is withdrawn year-round, agricultural is seasonal. These changes in timing are likely to result in further impacts to the Poudre River downstream from the diversion point. Exhibit 26, p. 4.

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<sup>50</sup> Plan at p. 3-7.

The Planning Commission should recommend denial of the 1041 application and direct Thornton to analyze impacts from a change of timing of its withdrawals in the event it chooses to re-apply.

The Rowe Report also notes that the Lower Poudre River is failing to meet water quality standards and criteria for several pollutants and conditions. The Rowe report states, "...these water quality impairments will almost certainly continue and there is a likely prospect that these impacts may get worse with continued development in the basin and associated increased water diversions." Exhibit 26 at p. 6. The Planning Commission should recommend denial of the 1041 application based on these water quality impairments and a lack of an enforceable remedial plan (called a "TMDL"). The Planning Commission should instruct Thornton that the County will not entertain a 1041 application until an enforceable TMDL is developed for each impairment in the Poudre that includes an adequate margin of safety to ensure the long-term health of the river.

4. The alternatives analysis is severely flawed.

Appendix A to the 1041 application contains an alternatives analysis. For the following reasons, the alternatives analysis is severely flawed and fails to comply with the requirements of the Larimer LUC.

- a. The analysis is flawed because it does not evaluate any alternatives to the diversion of water from the WSSC outlet.

The alternatives analysis is flawed because it fails to evaluate any alternative other than the diversion of water from the WSSC outlet structure. This failure to consider other diversion locations results in significant unmitigated impacts to residents of Larimer County and therefore fails to comply with Section 14 of the LUC.

More specifically, the Larimer County LUC imposes the following requirements on 1041 proposals:

"present[] *reasonable siting and design alternatives* or explain[] why no reasonable alternatives are available" LUC Section 14.10 (D)(2);  
"conform[] with adopted county standards, review criteria and *mitigation requirements* concerning environmental impacts, including but not limited to those contained in this Code." LUC Section 14.10 (D)(3);  
"[t]he proposal will not have a significant adverse affect on or will *adequately mitigate significant adverse affects on the land or its natural resources*, on which the proposal is situated and on lands adjacent to the proposal." LUC Section 14.10 (D)(4);  
"[t]he *applicant will mitigate any construction impacts to county roads, bridges and related facilities.*" LUC Section 14.10 (D)(9); and,  
"[t]he proposal demonstrates a reasonable balance between the costs to the applicant to *mitigate significant adverse affects and the benefits achieved by such mitigation.*" LUC Section 14.10 (D)(11).

Emphasis added.

The alternatives analysis is fatally flawed by failing to consider downstream diversion locations. By failing to consider alternatives such as the **Citizens' Poudre Alternative** the 1041 application fails to:

- i) "present[] reasonable siting and design alternatives" such as using a point of diversion east of Fort Collins thus allowing greater flows in the Cache la Poudre river thus protecting the ecology and aquatic life in the stream;
- ii) "explain[] why no reasonable alternatives [to diversion from the WSSC] are available;
- iii) "adequately mitigate significant adverse affects on the land or its natural resources" during the construction of a 26 mile pipeline running through Larimer County;
- iv) "mitigate any construction impacts to county roads, bridges and related facilities" which largely could be avoided by employing the **Citizens' Poudre Alternative**" and,
- v) "demonstrate[] a reasonable balance between the costs to the applicant to mitigate significant adverse affects and the benefits achieved by such mitigation" which could only be accomplished by evaluating the **Citizens' Poudre Alternative** that would mitigate impacts to lands, road, and residents by eliminating a significant portion of the pipeline by moving the point of water diversion further downstream as presented in the **Citizens' Poudre Alternative**.

The County must reject the alternatives analysis as incomplete and deny the 1041 application.

- b. The analysis is incomplete because it fails to evaluate Reach 1.

The alternatives analysis states the following:

The water pipeline has been divided into the following reaches:

- Reach 1 – 168th Avenue to TWTP (at Thornton Parkway and Downing Street) and BWTP (at 86th Avenue and Colorado Boulevard)
- Reach 2 – WSSC Reservoir No. 4 outlet structure to 168th Avenue

The analysis of Reach 1 will be conducted after the completion of Thornton's Water and Wastewater 2018 Master Plan and is not a part of this technical report.

The alternatives analysis is incomplete because it fails to include an analysis of the entire pipeline. The County should reject the analysis as incomplete and deny the 1041 application.

- c. The alternatives analysis is flawed because it fails to examine the economics of the other alternatives.

The alternatives analysis is also severely flawed because it fails to conduct an economic analysis of reasonably practical alternatives. Thornton admits that the alternatives analysis is a “noneconomic” analysis.<sup>51</sup> However, a noneconomic analysis does not meet the requirements of the Larimer County LUC. For example, the LUC directs that a 1041 proposal meet the following requirements:

“present[] *reasonable siting and design alternatives* or explain[] why no reasonable alternatives are available” LUC Section 14.10 (D)(2); and, “[t]he proposal demonstrates a reasonable balance between the costs to the applicant to *mitigate significant adverse affects and the benefits achieved by such mitigation.*” LUC Section 14.10 (D)(11).

These requirements clearly require an economic analysis, including a balancing of “costs”. Thornton’s noneconomic alternatives analysis completely fails to comply with the requirements of Section 14 of the Larimer County LUC. The alternatives analysis must be rejected and the 1041 application denied.

**11. Any 1041 permit approval must include a condition prohibiting any future construction of pipelines, pump stations, or appurtenances not included in the current permit application.**

As stated above, the Planning Commission must recommend denial of the permit application because it fails to comply with all criteria for evaluating impacts to future Larimer County land uses resulting from the diversion of water from the Cache la Poudre River. The LUC states that “[i]f the proposal does not comply with all the applicable criteria, the permit shall be denied, unless the county commissioners determine that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria.” LUC Section 14.10.B. The only condition that could address Thornton’s failure to disclose land use impacts associated with future water diversions is a condition prohibiting any future construction of pipelines, pump stations, or appurtenances in Larimer County in any way related to the TNP. Therefore, if the Planning Commission is inclined to grant the permit application with conditions, we request that the following condition be included in the permit:

Thornton’s 1041 application is limited to a single 48” pipeline and its appurtenances, which is the first phase of the three phase TNP. Thornton’s 1041 application fails to include any information regarding land use impacts associated with additional water pipelines, pump stations, or return flow pipelines. Therefore, as an enforceable condition of this permit, Thornton may NOT develop or construct any future water pipelines, pump stations, return flow pipelines or any other structure in any way related to the Thornton Northern Project in Larimer County. This condition applies not only to Thornton but also to any subsequent purchaser, lessor, assignee, or any other party that subsequently may

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<sup>51</sup> 1041 application, Vol. 2, p. 1-1.

acquire any or all of Thornton's water shares related to the Thornton Northern Project. However, this condition does not prevent Thornton or any future owner of water shares related to the Thornton Northern Project from developing such water pipelines, pump stations, return flow pipelines, or appurtenances in any county other than Larimer County, Colorado provided that any such structures will be entirely located in counties other than Larimer County.

Alternatively, Thornton has repeatedly represented to the citizens of Larimer County that "a single pipeline from the WSSC system to the city is sufficient to deliver its share water and meet the community's needs through 2065." Based on Thornton's own promise to the citizens of Larimer County, any recommended approval of the 1041 permit application must include the following condition:

Thornton has represented to Larimer County and its citizens that the single pipeline that is the subject of its 1041 permit application "is sufficient to deliver its share water and meet the community's needs through 2065." Based on this representation by Thornton, as an enforceable condition of this permit, Thornton may NOT develop or construct any water pipelines, pump stations, return flow pipelines or any other structure in any way related to the Thornton Northern Project in Larimer County until 2066 at the earliest. This condition applies not only to Thornton but also to any subsequent purchaser, lessor, assignee, or any other party that subsequently may acquire any or all of Thornton's water shares related to the Thornton Northern Project. However, this condition does not prevent Thornton or any future owner of water shares related to the Thornton Northern Project from developing such water pipelines, pump stations, return flow pipelines, or appurtenances in any county other than Larimer County, Colorado provided that any such structures will be entirely located in counties other than Larimer County. Thornton also agrees that if it seeks approval from Larimer County in 2066 or thereafter, the City will file a single comprehensive application for all remaining phases and/or components of the TNP with Larimer County that will evaluate all cumulative impacts to the County resulting from the remaining components of the TNP, as well as from the TWP that is the subject of its current 1041 application.

## **12. Conclusion**

For the reasons stated herein, No Pipe Dream and the undersigned residents of Larimer County request that the Planning Commission recommend denial of Thornton's 1041 permit application.

No Pipe Dream Association

No Pipe Dream Steering Committee Members:

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Karen Wagner 1717 Linden Lake Road, Fort Collins, CO 80524

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Ed Vojensky 3352 Harbor Way, Fort Collins, CO 80524  
Martha Conant 508 Canadian Pkwy, Fort Collins, CO 80524  
Gloria Edwards 3612 Kenyon Dr. Ft. Collins 80524

Exhibit List

Exhibits

Exhibit List to No Pipe Dream's May 7, 2018 Planning Commission Comment Letter

1. 2015 Water Court decision in Case 2013CW3015
2. April 16, 2018 email of Todd Barnes, City of Thornton
3. *City of Thornton v. Bijou Irrigation District*, Colorado Supreme Court decision.
4. April 3, 2018 a Colorado Open Records Act request to City of Thornton.
5. City of Thornton's response to April 3, 2018 CORA request.
6. Map of Thornton Northern Project.
7. Rocky Mountain Collegian article dated April 24, 2018.
8. April 17, 2018 No Pipe Dream letter to the County Commissioners.
9. Larimer County Commissioners' letter responding to April 17, 2018 letter.
10. Email from Robert Helmick, County Planner to the City of Thornton and Northern Water dated June 5, 2017.
11. Email chain from June 20, 2017-June 22, 2017.
12. Mark up draft of email chain from June 20, 2017.
13. Email chain from May 23, 2017.
14. Email from Mark Peterson, Larimer County to the City of Thornton, on July 21, 2017.
15. Jachowski Declaration.
16. Greeno Declaration.
17. McClusky Declaration.
18. Harvey Declaration.
19. Sheaman Declaration.
20. Keeton statement.
21. McAlpine statement.
22. Rickards statement
23. Shirber statement.
24. Stamfli statement.
25. Conant declaration.
26. Chris Rowe Report.
27. Lisa Buchanan Report.

<p>DISTRICT COURT, WATER DIVISION 1, COLORADO</p> <p>P. O. Box 2038 Greeley, Colorado 80632</p> <hr/> <p><b>REGARDING THE APPLICATION FOR WATER RIGHTS OF THE CITY OF THORNTON</b></p> <p><b>IN LARIMER, WELD, AND ADAMS COUNTIES</b></p>	<p>DATE FILED: September 8, 2015 7:35 AM CASE NUMBER: 2013CW3015</p> <p style="text-align: center;">▲ Court Use Only ▲</p> <p>Case No.: 2013CW3015 (Originally Decreed in Consolidated Cases No. 86CW401, 86CW402, 86CW403 and 87CW332; First Diligence Decree Case No. 2004CW079 )</p>
<p style="text-align: center;"><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF THE WATER COURT</b></p>	

THIS MATTER comes before the Court on the application of the City of Thornton (hereinafter “Thornton” or “Applicant”) for a Finding of Reasonable Diligence. The Court having considered the pleadings and other filings herein, the stipulations of the parties, and the evidence presented, and otherwise being fully advised in this matter does hereby find and conclude as follows:

**FINDINGS OF FACT**

**Background**

1. The City of Thornton (“Thornton”) is a municipal corporation of the State of Colorado. It is a growing suburban community located north of the City and County of Denver and adjacent to the South Platte River a short distance downstream from, or north of, the South Platte River’s confluence with Clear Creek. Thornton owns and operates a municipal water and sewer utility system for the benefit of its customers within the City’s boundaries and for the provision of water and sewer service to such extra-territorial customers as it may serve within its service area pursuant to its city charter, agency relationships and contractual commitments. Thornton filed the application in this case seeking a finding of reasonable diligence toward Thornton’s completion of the Thornton Northern Project.
  
2. Thornton’s Northern Project was originally decreed in Consolidated Cases No. 86CW401, 86CW402, 86CW403, and 87CW332 on remand after the appeal in *City of Thornton v. Bijou Irrigation Co.*, 926 P.2d 1 (Colo. 1996). On March 9, 1998, the Water Court

entered its Findings of Fact, Conclusions of Law, Judgment and Decree on Remand (“the TNP Decree”) in Consolidated Cases No. 86CW401, 86CW402, 86CW403, and 87CW332. The conditional water rights awarded in the TNP Decree collectively comprise Thornton’s Northern Project Water Rights (“TNP Water Rights”). On March 31, 2004, Thornton timely filed its first Application for Finding of Reasonable Diligence for Thornton’s Northern Project in Case No. 2004CW79. On March 8, 2007, the Division One Water Court issued its Findings of Fact, Conclusions of Law, Ruling and Decree in Case No. 2004CW79, finding that Thornton had exercised reasonable diligence in development of the Thornton Northern Project.

3. The TNP Decree adjudicated (1) conditional direct flow and storage water rights on the Cache la Poudre (“Poudre”) and South Platte Rivers with 1986 appropriation dates [Case No. 86CW403] and (2) conditional appropriative rights of exchange for the Poudre River exchange (“Poudre River Exchange”) [Case No. 86CW401] and for the Water Supply and Storage Company (“WSSC”) exchange (“Ditch Exchange”) [Case No. 86CW402]. These are the conditional water rights for which Thornton must show the exercise of reasonable diligence. Collectively, all the components adjudicated by the TNP Decree comprise Thornton’s Northern Water Supply Project (“Northern Project”). The TNP Decree also included changes of water rights that Thornton owns in WSSC and the Jackson Ditch Company (“JDC”), quantification of certain lawn irrigation return flows, and a plan for augmentation, which are not at issue in this diligence proceeding.
  - a. The water rights that are the subject of this Decree are described in more detail in the TNP Decree. This Decree does not repeat all information that appears in the TNP Decree, and the Court hereby incorporates the TNP Decree, including its exhibits, as well as the Case No. 2004CW079 Decree and its exhibits by this reference.
4. By its Application in this case, Thornton sought a second finding of reasonable diligence with regard to its conditional rights for the Northern Project. The Northern Project is an integrated component of Thornton’s municipal water system for diverting, storing, treating, and delivering water throughout Thornton’s service area for beneficial use. During the time since its previous filing for diligence, Thornton has engaged in numerous diligence activities specific to the Northern Project as well as diligence in the development of Thornton’s integrated system, as described in additional detail below.
5. **Jurisdiction.** All notices of the Application were given in the manner required by law and this Court has jurisdiction over the subject matter of this proceeding and over all persons and property affected hereby, irrespective of whether those persons or owners of property have appeared. The TNP Water Rights are not located within a designated ground water basin. The time for filing statements of opposition has expired.
6. **Objectors.** Statements of opposition were timely filed by:
  - a. City of Fort Collins;

- b. North Poudre Irrigation Company;
- c. Cache la Poudre Water Users Association;
- d. Greeley Irrigation Company;
- e. City of Greeley; and
- f. Great Western Development Company, Inc.

No other parties filed statements of opposition in this case. The North Poudre Irrigation Company moved to withdraw its statement of opposition with Thornton's consent on June 3, 2015. On June 4, 2015, the Court granted North Poudre Irrigation Company's motion and ordered its statement of opposition withdrawn.

- 7. This case was referred to the water referee.
- 8. The Division Engineer filed a Summary of Consultation on June 28, 2013 (dated June 30, 2013). Thornton filed a response to the Summary of Consultation on August 9, 2013. This decree responds to and addresses the issues raised in the Summary of Consultation.
- 9. **Stipulations.** Thornton has entered into stipulations with the following parties on the basis that those parties would not further oppose entry of a decree herein:
  - a. Great Western Development Company, by stipulation dated July 3, 2014 and approved by the Court on July 7, 2014;
  - b. City of Greeley, by stipulation dated October 28, 2014, and approved by the Court on October 28, 2014;
  - c. City of Fort Collins, by stipulation dated February 12, 2015, and approved by the Court on February 15, 2015;
  - d. Greeley Irrigation Company, by stipulation dated March 18, 2015, and approved by the Court on March 19, 2015; and
  - e. Cache la Poudre Water Users Association, by stipulation dated August 17, 2015, and approved by the Court on August 24, 2015.

#### **Conditional Water Rights at Issue**

- 10. **Conditional Water Rights for 1986 Appropriations (86CW403):** The TNP Decree awarded Thornton conditional water rights (the "1986 Appropriations") for Municipal Uses as set forth below, all with appropriation dates of December 31, 1986, at eight points of diversion from the Cache la Poudre River and the South Platte River, in the amounts and at the locations listed below.

- a. Larimer County Canal:
  - i. Point of Diversion and Source: Headgate located on the north bank of the Cache la Poudre River in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 13, Township 8 North, Range 70 West, 6<sup>th</sup> P.M., Larimer County, Colorado, located approximately 600 feet north and 1,540 feet east of the southwest corner of said Section 13.
  - ii. Amount: 450 c.f.s., conditional.
- b. Thornton Pump Station No. 1:
  - i. Point of Diversion and Source: Headgate located on the south bank of the Cache la Poudre River or a subsurface infiltration gallery located immediately south of the Cache la Poudre River in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 34, Township 7 North, Range 68 West, 6<sup>th</sup> P.M., Larimer County, Colorado, located approximately 1,982 feet south and 2,349 feet west of the northeast corner of said Section 34.
  - ii. Amount: 50 c.f.s., conditional.
- c. Thornton Pump Station No. 2:
  - i. Point of Diversion and Source: Headgate located on the north bank of the Cache la Poudre River in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 24, Township 6 North, Range 68 West, 6<sup>th</sup> P.M., Larimer County, Colorado, located approximately 117 feet west and 1,226 feet north of the east one-quarter corner of said Section 24.
  - ii. Amount: 50 c.f.s., conditional.
- d. Jackson Ditch:
  - i. Point of Diversion and Source: Headgate located on the north bank of the Cache la Poudre River in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 30, Township 8 North, Range 69 West, 6<sup>th</sup> P.M., Larimer County, Colorado, located approximately 1,770 feet north and 990 feet east of the southwest corner of said Section 30.
  - ii. Amount: 50 c.f.s., conditional.
- e. New Cache la Poudre Canal, a.k.a. Greeley No. 2 Canal:
  - i. Point of Diversion and Source: Headgate located on the north bank of the Cache la Poudre River in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 11, Township 6 North, Range 68 West, 6<sup>th</sup> P.M., Larimer County, Colorado, located

approximately 2,550 feet south and 1,110 feet west of the northeast corner of said Section 11.

ii. Amount: 50 c.f.s., conditional.

f. Ogilvy Ditch:

i. Point of Diversion and Source: Headgate located on the north bank of the Cache la Poudre River in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 4, Township 5 North, Range 65 West, 6<sup>th</sup> P.M., Weld County, Colorado, located approximately 550 feet north and 2,100 feet east of the southwest corner of said Section 4.

ii. Amount: 125 c.f.s., conditional.

g. Patterson Ditch, Thornton Enlargement:

i. Point of Diversion and Source: Headgate located on the north bank of the South Platte River in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 21, Township 5 North, Range 65 West, 6<sup>th</sup> P.M., Weld County, Colorado, located approximately 700 feet south and 200 feet west of the northeast corner of said Section 21.

ii. Amount: 370 c.f.s., conditional.

h. Thornton Pump Station No. 3:

i. Point of Diversion and Source: Headgate located on the north bank of the South Platte River or a subsurface infiltration gallery located immediately north of the South Platte River in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 6, Township 5 North, Range 64 West, 6<sup>th</sup> P.M., Weld County, Colorado, located approximately 2,088 feet south and 1,123 feet east of the west one-quarter corner of said Section 6.

ii. Amount: 400 c.f.s., conditional.

i. Decreed Uses for 1986 Appropriations (86CW403): The decreed uses are as set forth in the TNP Decree.

11. **Thornton's Conditional Rights of Exchange (86CW401 & 402):** The TNP Decree confirmed conditional appropriative rights of exchange, each with an appropriation date of December 31, 1986 in the amounts and at the locations listed below (collectively, "Exchange Rights").

a. Decreed Uses for Rights of Exchange: The decreed uses are as set forth in the TNP Decree.

b. Poudre River Exchange (86CW401):

- i. Exchange Points of Diversion: Substitute supply water released by Thornton to the South Platte River under the Poudre River Exchange will be diverted by exchange at the following alternate Exchange Points of Diversion and in the maximum rate of flow available, up to the amounts listed below:
- (1) Larimer County Canal (location described in ¶ 10.a above): 300 c.f.s., conditional.
  - (2) Jackson Ditch (location described in ¶ 10.d above): 50 c.f.s., conditional.
  - (3) Thornton Pump Station No. 1 (location described in ¶ 10.b above): 50 c.f.s., conditional.
  - (4) New Cache la Poudre Canal, a.k.a. Greeley No. 2 Canal (location described in ¶ 10.e above): 50 c.f.s., conditional.
  - (5) Thornton Pump Station No. 2 (location described in ¶ 10.c above): 50 c.f.s., conditional.
  - (6) Larimer and Weld Irrigation Canal, a.k.a. Eaton Ditch:
    - (a) Decreed location and source: Headgate on the north bank of the Cache la Poudre River in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 34, Township 8 North, Range 69 West, 6<sup>th</sup> P.M., Larimer County, Colorado, located approximately 460 feet north and 2,150 feet east of the southwest corner of said Section 34.
    - (b) Amount: 20 c.f.s., conditional.
  - (7) Boxelder Ditch:
    - (a) Decreed location and source: Headgate on the south bank of the Cache la Poudre River in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 20, Township 7 North, Range 68 West, 6<sup>th</sup> P.M., Larimer County, Colorado, located approximately 2,530 feet south and 1,020 feet west of the northeast corner of said Section 20.
    - (b) Amount: 50 c.f.s., conditional.
  - (8) Fossil Creek Reservoir Inlet:



- (a) Decreed location and source: Headgate on the south bank of the Cache la Poudre River in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 21, Township 7 North, Range 68 West, 6<sup>th</sup> P.M., Larimer County, Colorado, located approximately 2,550 feet north and 50 feet east of the southwest corner of said Section 21.
      - (b) Amount: 50 c.f.s, conditional.
    - (9) Ogilvy Ditch (location described in ¶ 10.f above): 125 c.f.s., conditional.
  - ii. Point of Delivery of Substitute Supply to the River: In exchange for its diversions of Poudre River water at the above locations, Thornton will provide substitute water to the South Platte River at its confluence with the Poudre River, located in or near Section 6, Township 5 North, Range 64 West, 6<sup>th</sup> P.M., Weld County, Colorado. Thornton shall be entitled to convey water derived from the substitute supply sources down the South Platte River to the point of delivery of substitute supply.
  - iii. Sources of Substitute Supply: The substitute supply for the Poudre River Exchange may come from any sources allowed by the TNP Decree, pursuant to the procedures and terms and conditions in the TNP Decree.
- c. WSSC Ditch Exchange (86CW402):
- i. The Water Supply and Storage Company Exchange (“Ditch Exchange”) was decreed in Case No. 86CW402. this exchange allows Thornton to withdraw water (exclusive of any and all CBT water and return flows characterized as CBT water that may be present in the Jackson Ditch or WSSC system) at Thornton’s point of withdrawal out of WSSC Reservoir No. 4, or at such other point as may be mutually agreed upon by Thornton and WSSC, upon providing a like amount of water to these ditches, all as provided in the TNP Decree. The Ditch Exchange will allow Thornton to use, by exchange, water that is diverted into these ditches under the water rights, represented by shares in WSSC or the Jackson Ditch Company, of ditch company shareholders other than Thornton, under the terms and conditions of the TNP Decree and the Agreement between the Water Supply and Storage Company and the City of Thornton, Colorado, dated December 12, 1986 (as amended).
  - ii. Points of Delivery of Substitute Supply to Ditch: The points of substitution and exchange for the Ditch Exchange will be as follows, subject to the terms and conditions of the TNP Decree:

- (1) Larimer County Canal Headgate: When unappropriated water or exchange potential is available, a substitute supply will be introduced to the Larimer County Canal (location described in ¶ 10.a above) by diversion at its headgate, under the water rights awarded to Thornton in Cases No. 86CW401 or 86CW403.
- (2) Jackson Ditch Headgate: When unappropriated water or exchange potential is available, a substitute supply will be introduced to the WSSC System by diversion at the Jackson Ditch headgate (location described in ¶ 10.d above), under the water rights confirmed and the exchanges approved in Cases No. 86CW401 and 86CW403.
- (3) Larimer County Canal Points of Return: By discharge from Thornton's return pipelines, a substitute supply will be introduced directly into the Larimer County Canal at one or more of the following points:
  - (a) A point on the Larimer County Canal in Section 19, Township 8 North, Range 68 West, 6<sup>th</sup> P.M., Larimer County, Colorado, shown as Point B on Exhibit 1.<sup>1</sup>
  - (b) A point on the Larimer County Canal in Section 1, Township 7 North, Range 68 West, 6<sup>th</sup> P.M., Larimer County, Colorado, shown as Point C on Exhibit 1.
  - (c) A point on the Larimer County Canal in Section 17, Township 7 North, Range 67 West, 6<sup>th</sup> P.M., Weld County, Colorado, shown as Point D on Exhibit 1.
  - (d) A substitute supply may also be provided at such other points as may be mutually agreed upon by Thornton and WSSC.
- iii. Sources of Substitute Supply: The substitute supply for the Ditch Exchange may come from any sources allowed by the TNP Decree pursuant to the procedures and terms and conditions in the TNP Decree.
- iv. Amount: 750 c.f.s., conditional.
- v. Point where water is taken from ditch system: Water will be withdrawn pursuant to the Ditch Exchange at Thornton's point of withdrawal out of WSSC Reservoir No. 4, located in the N½, Section 23, Township 8 North,

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<sup>1</sup> Exhibit 1 to this decree is identical to Exhibit GG to the TNP Decree.

Range 69 West, 6<sup>th</sup> P.M., shown as Point A on Exhibit 1, or at such other point(s) in the WSSC System as may be mutually agreed upon by Thornton and WSSC, subject to the notice provisions provided in ¶ 14.3.1 of the TNP Decree and the terms and conditions of the TNP Decree.

- vi. Diversion and Delivery of Replacement Water or Substitute Supply: Thornton will make replacement of water to the Larimer County Canal as part of the operation of the Ditch Exchange by one or a combination of the following diversion or pump and pipeline arrangements:
- (1) Water from the South Platte to Larimer County Canal. Water will be diverted from the South Platte River by:
    - (a) Pump Station #3 (location described in ¶ 10.h above, and shown as Point 11 on Exhibit 1), and transported via pipelines #3, #4 and #5 to points "B," "C," and "D" on the Larimer County Canal, as shown on Exhibit 1, based on diversions under Thornton's conditional water right at Pump Station No. 3 as confirmed in the TNP Decree (Case No. 86CW403), and from any source of water lawfully available for such use.
    - (b) Patterson Ditch (location described in ¶ 10.g above, and shown as Point 10 on Exhibit 1), from which water will be pumped from Pump Station #3A, through return pipelines #3A, #3, #4 and #5 to points "B," "C" and "D" on the Larimer County Canal, as shown on Exhibit 1, based on diversions under Thornton's conditional water right as confirmed in the TNP Decree (Case No. 86CW403), and from any source of water lawfully available for such use.
  - (2) Water from the Poudre and South Platte to Larimer County Canal. Water will be diverted from the Poudre and South Platte Rivers by:
    - (a) Ogilvy Ditch: Water will be diverted from the Poudre River at the headgate of the Ogilvy Ditch (location described in ¶ 10.f above) and will then be pumped out of the ditch through pipelines #3A, #3, #4 and #5 to points "B," "C" and "D" on the Larimer County Canal, as shown on Exhibit 1, based on:
      - (i) Diversions from the Poudre under Thornton's water right awarded in the TNP Decree (Case No. 86CW403) at the Ogilvy Ditch headgate at the rate decreed for this point of diversion.

- (ii) Diversions by exchange, pursuant to the right approved in the TNP Decree (Case No. 86CW401), of Poudre River water at the Ogilvy Ditch headgate, at the rate decreed for this point of diversion.
  - (iii) Diversions from any source of water lawfully available to Thornton for such use.
- (b) Thornton Pump Station #2. Water will be diverted from the Poudre River at Thornton Pump Station #2 (location described in ¶ 10.c above) and conveyed via pipelines to points “B,” “C” and “D,” as shown on Exhibit 1, on the Larimer County Canal based on diversions from the Poudre:
- (i) Under Thornton’s conditional water rights awarded in the TNP Decree (Case No. 86CW403) at Thornton Pump Station #2 headgate, at the rate decreed for this point of diversion.
  - (ii) By exchange diversions, under the Poudre River Exchange approved in the TNP Decree (Case No. 86CW401), at the following points of diversion: Thornton Pump Station #2 at the rate decreed for this point of diversion; Boxelder Ditch at the rate decreed for this point of diversion, from which water is stored in Fossil Creek Reservoir and thereafter released to the Poudre River and re-diverted and introduced to Pipeline #2 at Pump Station #2; and, Fossil Creek Reservoir Inlet Canal at the rate decreed for this point of diversion, from which water is stored in Fossil Creek Reservoir and thereafter released to the Poudre River and re-diverted and introduced to Pipeline #2 at Pump Station #2.
  - (iii) From any source of water lawfully available to Thornton for such use.
- (c) Thornton Pump Station #1. Water will be diverted from the Poudre River at Thornton Pump Station #1 (location described in ¶ 10.b above) and conveyed via pipelines to points “B,” “C” and “D” on the Larimer County Canal, as shown on Exhibit 1, based on:

- (i) Diversions from the Poudre under Thornton's conditional water rights awarded in Case No. 86CW403 at the Thornton Pump Station #1 at the rate decreed for this point of diversion.
  - (ii) By exchange pursuant to the Poudre River Exchange approved in the TNP Decree (Case No. 86CW401) at the rate decreed for this point of diversion.
  - (iii) From any source of water lawfully available to Thornton for such use.
- (d) Jackson Ditch. Water will be diverted from the Poudre River at the Jackson Ditch headgate (location described in ¶ 10.d above), which flows into Long Pond, a WSSC reservoir, based on diversions from one or more of the following water rights:
- (i) Under Thornton's conditional water right awarded in the TNP Decree (Case No. 86CW403) at the Jackson Ditch, at the rate decreed for this point of diversion.
  - (ii) By exchange pursuant to the Poudre River Exchange approved in the TNP Decree (Case No. 86CW401) at the Jackson Ditch headgate, at the rate decreed for this point of diversion.
- (e) Larimer County Canal. Water will be diverted from the Poudre River at the Larimer County Canal headgate (location described in ¶ 10.a above) based on diversions from one or more of the following water rights:
- (i) Under Thornton's conditional water right awarded in the TNP Decree (Case No. 86CW403) at the Larimer County Canal headgate, at the rate decreed for this point of diversion.
  - (ii) By exchange pursuant to the Poudre River Exchange approved in the TNP Decree (Case No. 86CW401) at the Larimer County Canal headgate at the rate decreed for this point of diversion.
- vii. Thornton's diversions at the foregoing points of diversion are subject to specified flow rates and volumetric limitations, as set forth in the TNP

Decree, regardless of whether the water is diverted under Thornton's conditional water rights or diverted under Thornton's appropriative rights of exchange.

### **Findings Concerning Diligence**

12. **Thornton's water supply.** Thornton's water supply comes from the South Platte River and its tributaries, principally Clear Creek and the Cache la Poudre. The components of Thornton's water supply and of Thornton's water system are operated together as an integrated project or system. Thornton's current portfolio of water rights includes relatively senior direct flow and storage rights that have been changed from agricultural use, relatively junior direct flow and storage rights that Thornton has initiated, a variety of rights to divert or store water by exchange, and water provided to Thornton under contract. As described in the TNP Decree, Thornton initiated and has pursued the Northern Project because of the need to increase the supplies for Thornton's integrated municipal water system in view of the anticipated demands upon that system. In addition to the Northern Project, Thornton's water rights are primarily diverted from the South Platte River and Clear Creek in the Denver metropolitan area.
13. The Thornton Northern Project Decree identified three phases for the Northern Project.
  - a. Phase I of the Northern Project includes a pipeline extending from the WSSC system to Thornton. The raw water supply for Phase I is derived from Thornton's 283.354 Water Supply and Storage Company ("WSSC") shares and 1.25 Jackson Ditch shares (87CW332). Raw water can also be supplied from Thornton's junior conditional water rights (86CW403) and by exercise of the Poudre River Exchange to the WSSC and Jackson Ditch headgates (86CW401).
    - i. Thornton's diligence decree in Case No. 04CW79 provided that Phase I also includes development of certain appropriative rights of exchange decreed to Thornton in Case No. 96CW1116.
  - b. Phase II of the Northern Project will implement the Ditch Exchange (86CW402). Phase II includes the delivery of raw water to Thornton derived from Phase I operations and the Ditch Exchange. Phase II also includes facilities and operations to return a substitute supply to the WSSC system to complete the Ditch Exchange.
  - c. Phase III involves an expanded ditch exchange, in contrast to the partial ditch exchange in Phase II. In Phase III, Thornton's WSSC shares will be returned to irrigation use under the WSSC system thereby allowing a ditch exchange on nearly the entire flow of the Larimer County Canal. The yield will be delivered to Thornton, which will return an equivalent amount of substitute supply.

14. **Detailed Description of Diligence Activities.** The Court finds that Thornton has engaged in the steady application of effort to complete the appropriations of the conditional TNP Water Rights in a reasonably expedient and efficient manner under all the facts and circumstances. Moreover, Thornton has engaged in the steady application of effort to develop, improve and use water from its integrated water system.
- a. Diligence Period. The diligence period commenced on March 31, 2004, when the previous diligence application was filed and continued until Thornton's filing of the Application in this case on March 29, 2013. Thornton conducted the following diligence activities in furtherance of application of the TNP Water Rights to beneficial use during the diligence period.
15. Project-specific Diligence during the most recent diligence period:
- a. Prior to Thornton's conversion to municipal use of its WSSC and JDC share water, Thornton must comply with certain dry-up and revegetation requirements for its Northern Project farms pursuant to the TNP Decree. Thornton is in the process of fulfilling these requirements on approximately 50 of its 110 farms. Thornton has implemented a revegetation program to convert and maintain its farmland to comply with the TNP Decree requirements. Approximately 5,400 acres in this program have been established according to NRCS standards as required by the TNP Decree. The costs associated with this program were approximately \$2.6 million.
- b. Thornton maintains a Farm Management Office in the Town of Ault, which manages the City's agricultural properties and water rights which include farms and rental houses that are associated with the City of Thornton's Northern Project. Thornton has expended money to maintain the properties in leasable condition and to repair the houses, sprinkler systems, irrigation equipment, ditches, and associated improvements for each farm where necessary. The cost of this ongoing operation and maintenance was approximately \$4 million. Additionally, Thornton engaged in an extensive house repair program and expended over \$800,000 for this effort.
- c. Thornton makes voluntary payments to Weld and Larimer Counties in lieu of tax payments for the Northern Project farm properties. The payments are determined by working with the county assessors. These payments totaled approximately \$1,626,626.
- d. Thornton paid assessments for WSSC shares in the amount of approximately \$6 million.
- e. Thornton studied the WSSC system, including contributions toward a survey of the WSSC system.

- f. Thornton paid carriage fees for Patterson Ditch in the amount of \$32,400.
- g. Thornton paid assessments for northern ditch shares in the amount of over \$417,000. These ditches include: Bliss Lateral, Collins Lateral, Hayden Lateral, Jackson Ditch, Lakeside Lateral, Larimer and Weld Irrigation Company, Lonetree Lateral, North Poudre Irrigation Company, and Pierce Lateral.
- h. Thornton entered into an agreement updating its excess capacity agreement with WSSC on March 4, 2011.
- i. Pursuant to paragraph 60.2.3.5 of the TNP Decree, Thornton continues to operate a water quality monitoring program sampling numerous locations on the Poudre River, South Platte River, and the Larimer County Canal. Thornton samples up to 10 sites on a monthly basis from May to September. The annual cost associated with this monitoring program during the diligence period was approximately \$7,000.
- j. Thornton has acquired additional shares in certain ditch companies, including 5.5 shares of WSSC, 0.25 share of Jackson Ditch Company, 5 shares of Pierce Lateral, 1 share of Lone Tree Lateral, 12 shares of Good Lateral, and 1 share of Collins Lateral.
- k. Thornton filed statements of opposition in approximately 53 cases in order to protect its TNP Water Rights.
- l. As part of a water lease agreement entered into with Central Colorado Water Conservancy District on April 20, 2010, Thornton acquired a right of first refusal to match the terms of any offer Central receives for lease of available excess capacity in Central's Bypass Structures and/or Reservoirs on the Cache la Poudre River which would help pass water by dry sections of the Cache la Poudre River. The Right of First Refusal expired on October 31, 2013 and was renewed during the pendency of this case with a new expiration date of March 31, 2016.
- m. Pursuant to paragraph 57.7.1.2 of the TNP Decree, Thornton continues to operate a well metering program to measure the discharge of Thornton's irrigation wells. The meters are read monthly from March through November and one third of the meters are calibrated every year during the winter so that every meter is calibrated once every three years. The annual cost associated with this calibration schedule averaged \$8,000 during the diligence period.
- n. Pursuant to paragraph 57.3.3.4.4 of the TNP Decree, Thornton continues to operate a groundwater monitoring program reading groundwater levels of approximately 48 wells. The groundwater levels were read annually between February 15<sup>th</sup> and April 30<sup>th</sup> throughout the diligence period.



- o. Thornton is a member of the Standley Lake Operating Committee and contributes to certain operating expenses for that facility. Thornton contributed approximately \$754,000 for these expenses.
16. **System-wide Diligence.** In addition to the diligence activities related to Thornton's Northern Project described above, Thornton has diligently worked to develop and protect its integrated municipal water system, which includes the TNP Water Rights. Thornton's diligence activities on other portions of its integrated system are described below.
- a. Thornton filed Water Court applications and/or received decrees in the following cases, at an estimated expense of over \$2 million:
    - i. Thornton filed and pursued an application in Case No. 11CW203 ("Gravel Pit Exchanges") for a determination of reasonable diligence with respect to the water rights decreed in 96CW1116. Insofar as Thornton's diligence activities for the Gravel Pit Exchanges occurred during the diligence period for Thornton's TNP Water Rights, these activities are evidence of diligence in this case as well.
    - ii. Thornton filed and pursued an application in Case No. 08CW205 for a determination of reasonable diligence with respect to the water rights (the Exchange Reservoirs) decreed in Case No. 1991CW126. A diligence decree was obtained on July 2, 2012.
    - iii. Thornton substituted as the applicant in Arvada's Case No. 04CW326 and amended the application in that case to use the structures and water rights in Thornton's municipal system, to refine the storage volumes for the Cooley West Complex and North Dahlia Pit as decreed in Case No. 91CW126, to add a well field and Ford Seep as supplies for the Cooley West Complex and to adjudicate an augmentation plan for these sources.
    - iv. Case No. 92CW164 South Dahlia Pit Storage and Clear Creek Exchange Diligence – most recently decreed March 2013 in Case No. 11CW291.
    - v. Case No. 81CW451 Lower Clear Creek Ditch Enlargement Diligence – most recently decreed September 2007 in Case No. 06CW228.
    - vi. Case No. 83CW81 South Platte – Clear Creek Exchange Diligence – most recently decreed October 2007 in Case No. 04CW15.
    - vii. Case No. 96CW1117 Joint Application Diligence – most recently decreed October 2007 in Case No. 05CW159.
    - viii. Case No. 02CW180 South Platte Well Field and Augmentation Plan – decreed April 22, 2009.

- ix. Case No. 90CW231 Enlarged South Platte–Clear Creek Exchange Diligence – most recently decreed March 2011 in Case No. 09CW66.
  - x. Case No. 92CW22 Rogers Gravel Pit Diligence – most recently decreed April 2011 in Case No. 09CW77.
  - xi. Case No. 81CW448 West Gravel Lakes Diligence – most recently decreed May 2011 in Case No. 10CW277.
  - xii. Case No. 79CW376 Tani Lakes Diligence – most recently decreed October 2011 in Case No. 09CW163.
  - xiii. Case No. 08CW82 Citywide Ponds Augmentation Plan decreed in November 2011.
  - xiv. Case No. 90CW230 Clear Creek Juniors Diligence and Absolute – most recently decreed in March 2013 in Case No. 09CW70.
  - xv. Case No. 88CW261 Enlarged Metro-Burlington Exchange Diligence and Absolute – most recently decreed in April 2012 in Case No. 09CW108.
  - xvi. Case No. 79CW374 Original Metro-Burlington Exchange Diligence and Absolute – most recently decreed in April 2012 in Case No. 09CW164.
  - xvii. Case No. 99CW32 Hammer Pit Conditional Storage Right – decreed in March 2012.
  - xviii. Case No. 11CW74 Effluent Trade – decreed in December 2012.
- b. Protection of Water Rights in Thornton’s Integrated System. Thornton has filed statements of opposition in approximately 212 Water Court cases in order to protect its water rights, including TNP Water Rights, expending over \$2.4 million in the process.
  - c. In December 2010, Thornton closed on the purchases of the Rogers Gravel Pit and Hammer Gravel Pit. Thornton received the necessary permits to begin construction of diversion structures and the associated infrastructure for these facilities in 2012. Thornton has designed these structures and construction is scheduled to commence in 2013. As of the filing of the application in this case, approximately \$13 million had been spent on the purchase, monitoring at the gravel pit sites, permitting and design of the pump stations and river diversions for these gravel pits.
  - d. Thornton purchased the Zadel gravel pit in 2008. The cost of this acquisition was \$3.1 million. The Zadel gravel pit is currently being mined. When complete, this

gravel pit reservoir will be incorporated into Thornton's integrated water supply system.

- e. Thornton installed an impervious liner around the East Sprat Platte Gravel Pit, constructed an interconnection under the river to the West Sprat Platte Gravel Pit and designed and constructed the spillway on the East Sprat Platte Gravel Pit. Costs incurred during the diligence period were \$7.5 million. Thornton is also designing an impervious liner for the West Sprat Platte Gravel Pit and has spent about \$640,000 as of the filing of the application in this case.
- f. Thornton constructed a raw water return pipeline to convey water from the Cooley West Complex to the Wes Brown Water Treatment Plant. The cost of engineering, design and construction during the diligence period was approximately \$9.4 million.
- g. Thornton has continually improved, maintained and extended its treated water distribution system to provide water service to its customers.
- h. To prevent shoreline erosion of its gravel lakes, Thornton began a program of installing rip-rap to reinforce the shoreline. The cost of the improvements during the diligence period was approximately \$1.4 million. Thornton also engaged in an ongoing maintenance program at its gravel pit facilities including grounds maintenance, fencing, facilities repairs and operations.
- i. Thornton participated and continues to participate in a number of water quality stakeholder groups to protect its existing water supplies.
- j. Thornton is a member of the South Platte Water Related Activities Program ("SPWRAP") and spent over \$300,000 during the diligence period on membership.
- k. Thornton has a water conservation program that combines educational and promotional techniques which have instilled a solid water conservation ethic throughout the community. Thornton maintains one of the lowest residential daily per capita water consumption rates among Front Range cities in Colorado.

**17. Findings Concerning Non-speculation**

- a. Thornton's Need. Thornton's TNP Water Rights are needed for use in Thornton's municipal system to serve growing needs in Thornton's designated service area, to fulfill Thornton's obligations under agency or contractual relationships, or to meet Thornton's replacement or return flow obligations or extra-territorial commitments.

- b. Specific plan. Thornton has a specific plan and intent to divert, store, capture, exchange, possess and control, use and reuse the TNP Water Rights, as described more fully in the original TNP Decree.
- c. Continuing Plan and Intent. Thornton has, and had throughout the diligence period, a continuing, non-speculative plan and intention to use the TNP Water Rights to serve users of its integrated municipal water and sewer utility system, and for the provision of water and sewer service to such extra-territorial customers as it may serve from time to time pursuant to its City charter and contractual commitments.
- d. Continuing Need. Thornton has demonstrated a continuing need for all water which may reasonably become available for use under the TNP Water Rights in the amounts and for the purposes for which they have been adjudicated.
- e. Thornton's non-speculative plan and intent and need are discussed further in the Reality Checks section in paragraph 19 below.

18. **Findings Concerning "Can and Will"**

- a. Water availability. Water is available for Thornton to perfect the appropriations of the TNP Water Rights.
- b. Economic and Financial Feasibility. It is economically and financially feasible for Thornton to perfect the appropriations of the TNP Water Rights.
- c. Technical Feasibility. It is technically feasible for Thornton to perfect the appropriations of the TNP Water Rights.
- d. Access to Lands. Thornton has acquired or has a reasonable probability of acquiring the real property interests needed to perfect the appropriations of the TNP Water Rights. However, this decree does not adjudicate any real property interests in lands to Thornton.
- e. Permits and Authorizations. Thornton has acquired or has a reasonable probability of acquiring the permits and approvals that are necessary for it to perfect the appropriations of the TNP Water Rights.
- f. Feasibility. The Court finds that Thornton "can and will" complete the appropriation of the TNP Water Rights and apply the TNP Water Rights to beneficial use in the manner and for the purposes for which they were decreed within a reasonable time under all the facts and circumstances pertaining to these matters. Overall, there is a substantial probability that the Northern Project "can and will" be completed and that water will be diverted under the TNP Water Rights and put to use within a reasonable time.

19. **Findings Concerning “Reality Checks”**

- a. The TNP Decree requires that Thornton must address the “reality checks” provision of the TNP Decree in diligence proceedings.
- b. Since the entry of the TNP Decree, Thornton has not acted as a permanent lessor or wholesaler of water yielded by the Northern Project and Thornton has satisfied the reality checks for this diligence period.
- c. Thornton’s need for TNP Water Rights. During the trial that culminated in the TNP Decree, Thornton demonstrated that the City had a future need for the conditional TNP Water Rights. That need continues, based upon information developed during this diligence period. The projections that Thornton has developed, based upon its experience since the Northern Project trial, have been refined, but continue at this time to demonstrate a need for the full decreed amount of the TNP Water Rights.
- d. Thornton’s use or disposition of water rights. During the diligence period, Thornton has used its portfolio of water rights to supply water within Thornton’s service area and to meet certain other obligations. Thornton also filed several applications in Water Court for additional water supplies. Thornton participated in temporary and permanent trades of water and acquired some additional sources of water. In order to achieve long term per capita demand reductions, Thornton continued to implement its water conservation program. The purpose of Thornton’s acquisitions, trades, and water court filings during the diligence period was to improve Thornton’s water supply. Thornton was acting as a governmental entity seeking to ensure water supplies for the water users within its service area and not as a water seller on the open market.
- e. Thornton’s efforts to protect the quality of, and to treat, its existing supply at a reasonable cost. During the diligence period, Thornton has taken action to protect and treat its water supply at reasonable cost. For example, Thornton completed the implementation of microfiltration/ultrafiltration technology, modification of plant clarifiers, and addition of an additional 20 mgd capacity to its Wes Brown Water Treatment facility. Thornton has made sufficient efforts to protect and treat its existing water supply at reasonable cost during the diligence period.

20. **Other Findings**

- a. Integrated System. Thornton’s water rights portfolio and supply and treatment facilities are part of Thornton’s integrated municipal water and sewer utility system. Thornton’s Northern Project is a component of Thornton’s integrated system. Accordingly, the Court has considered Thornton’s work on the various features of its project or integrated system in evaluating Thornton’s diligence in this case.

- b. Right to Use Structures. Nothing in this Decree shall be construed to create, enlarge or diminish any right of Thornton to use land or structures owned by parties other than Thornton for the diversion, carriage, storage, or release of water, nor construed to enlarge or diminish any right to use lands, structures, or facilities currently possessed by Thornton. Thornton may use existing water diversion, carriage and storage structures only to the extent that it has acquired the right to do so from the appropriate entities, by purchase, by exercise of the power of eminent domain, or by other appropriate means. Similarly, Thornton may utilize land for the construction and operation of such structures only to the extent it has acquired the right to use such land from the appropriate entities, by purchase, by exercise of the power of eminent domain, or by other appropriate means. The extent and/or limits of Thornton's powers of eminent domain concerning specific lands or structures (including ditches) owned by parties other than Thornton are not determined by this decree.
- c. Continuation of TNP Water Rights. The Court finds that Thornton diligently pursued perfection of the TNP Water Rights during the diligence period and is entitled to continuation of the TNP Water Rights for an additional diligence period.
- d. Continuation of Terms and Conditions. The Court finds that the terms and conditions included in the original TNP Decree, shall continue to apply to the TNP Water Rights.

### CONCLUSIONS OF LAW

21. **Incorporation of Findings of Fact.** The foregoing Findings of Fact are incorporated herein to the extent that they constitute or include conclusions of law.
22. **Notice.** All notices of the Application required by law have been given. The application in this matter, and the resumé notice and newspaper publication thereof, was in all respects adequate to place all persons on inquiry notice of the relief granted herein. C.R.S. §§ 37-92-103 and 37-92-302.
23. **Jurisdiction.** The Water Court for Water Division 1 has jurisdiction over the subject matter of these proceedings and over all persons and owners of property who may be affected hereby, whether or not they have chosen to appear.
24. **Burden of Proof.** Thornton has met its burden of proof on all matters that it is required to establish in these proceedings.
25. **Satisfaction of legal requirements.** Thornton has satisfied all legal requirements for the entry of a decree in this case.
26. **Reasonable Diligence.** "The measure of reasonable diligence is a steady application of effort to complete the appropriations in a reasonably efficient and expedient manner

under all the facts and circumstances.” C.R.S. § 37-92-301(4)(b). Thornton’s actions, described above in the Findings of Fact, satisfy this standard and constitute reasonable diligence.

27. **Diligence on Integrated System.** “When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.” C.R.S. § 37-92-301(4)(b). The Court has considered Thornton’s work on the various features of the Northern Project and Thornton’s integrated system, and has concluded that Thornton has shown reasonable diligence in the development of the conditional water rights for all features of its Northern Project, which is part of Thornton’s integrated municipal water system.
28. **Non-abandonment.** Under C.R.S. § 37-92-301(5), it is appropriate for the Court to consider the abandonment of all or any part of the conditional water rights at issue in a proceeding for approval of reasonable diligence. Based upon the evidence, the Court concludes that none of the conditional TNP Water Rights have been abandoned during this diligence period.
29. **Non-speculation.** Under controlling Colorado Supreme Court precedent, an applicant in a diligence proceeding must establish that it continues to meet the non-speculation requirement contained in the definition of “appropriation” in C.R.S. § 37-92-103(3). Thornton’s development of the subject conditional water rights during this diligence period has not been based upon the speculative sale or transfer of the appropriative rights to persons not parties to the proposed appropriation. Thornton satisfies the requirements of C.R.S. § 37-92-103(3)(a)(I) because Thornton is a governmental agency and because, in the TNP Decree at ¶ 13, the Court found that: “the water and exchanges appropriated by Thornton are needed for use and will be used within the City’s municipal boundaries, within the City’s designated service area, or by persons or entities with which it has either agency relationships or firm contractual commitments,” and because that finding has remained true during this diligence period. Thornton satisfies the requirements of C.R.S. § 37-92-103(3)(a)(II) because during this diligence period Thornton had “a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses.”
30. **Can and will.** Also under controlling Colorado Supreme Court precedent, an applicant in a diligence proceeding must establish that it continues to meet the “can and will” requirement of C.R.S. § 37-92-305(9). Thornton has “established that the waters can be and will be diverted, stored, or otherwise captured, possessed and controlled and will be beneficially used and that the project can and will be completed with diligence and within a reasonable time.”
31. **Reality Checks.** Paragraph 59.2.1 of the TNP Decree provides:

As part of diligence proceedings and proceedings to make absolute the conditional portions of this Decree, Thornton will be required to make showings that the volumetric yield of the conditional water rights has been or will be needed by Thornton's projected growth. The purpose of these showings is to ensure that the water derived from Thornton's newly appropriated water rights is used for the City's own purposes and does not allow Thornton to become a permanent lessor or wholesaler of water yielded by these rights. In assessing such need, the Court may consider Thornton's service population at that time, Thornton's projected growth at that time, and Thornton's use or disposition of the portfolio of water rights Thornton now owns, including whether Thornton has made reasonable efforts to protect the quality of, and to treat, its existing supply at a reasonable cost, and the reasons for Thornton's manner of use or disposition of such supply. All or a part of the water rights confirmed in Case No. 86CW401 and/or 86CW403 may be cancelled if the Court finds, based upon subsequent events, that Thornton does not actually need the volume of water appropriated in these cases for the uses provided in this decree. Such cancellation may be implemented by a reduction in volumetric limits.

Having considered all elements specified in paragraph 59.2.1 of the TNP Decree, the Court concludes that Thornton has satisfied the reality checks during this diligence period, that Thornton continues to need the volume of water appropriated for the uses provided in the TNP Decree, and that no part of the conditional water rights confirmed in Case No. 86CW401 or 86CW403 should be cancelled at this time.

### **JUDGMENT AND DECREE**

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby adjudged, ordered and decreed as follows:

32. **Incorporation of Findings of Fact and Conclusions of Law.** The foregoing Findings of Fact and Conclusions of Law are incorporated herein as if set out verbatim.
33. **No change to original decree.** This decree continues the TNP Water Rights originally decreed in the TNP Decree. Nothing in this decree changes the TNP Decree or the TNP Water Rights. To the extent this decree differs from the TNP Decree in its description of the TNP Water Rights or the terms and conditions of their operation (other than continuation of those water rights and the new deadline for a diligence filing decreed in paragraph 34 below), the TNP Decree shall control. The provisions of the TNP Decree remain in effect, and are not modified by the terms of this decree.
34. **Continuation of Subject Water Rights.** Under C.R.S. § 37-92-301(4), it is ordered that the conditional water rights that are part of Thornton's Northern Project and that are the subject of this decree herein are continued in full force and effect through September 30,

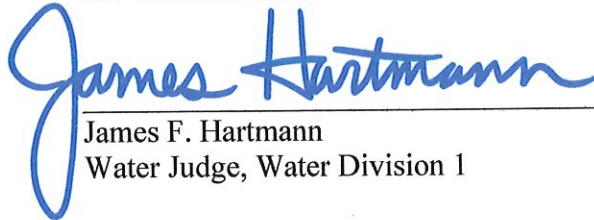


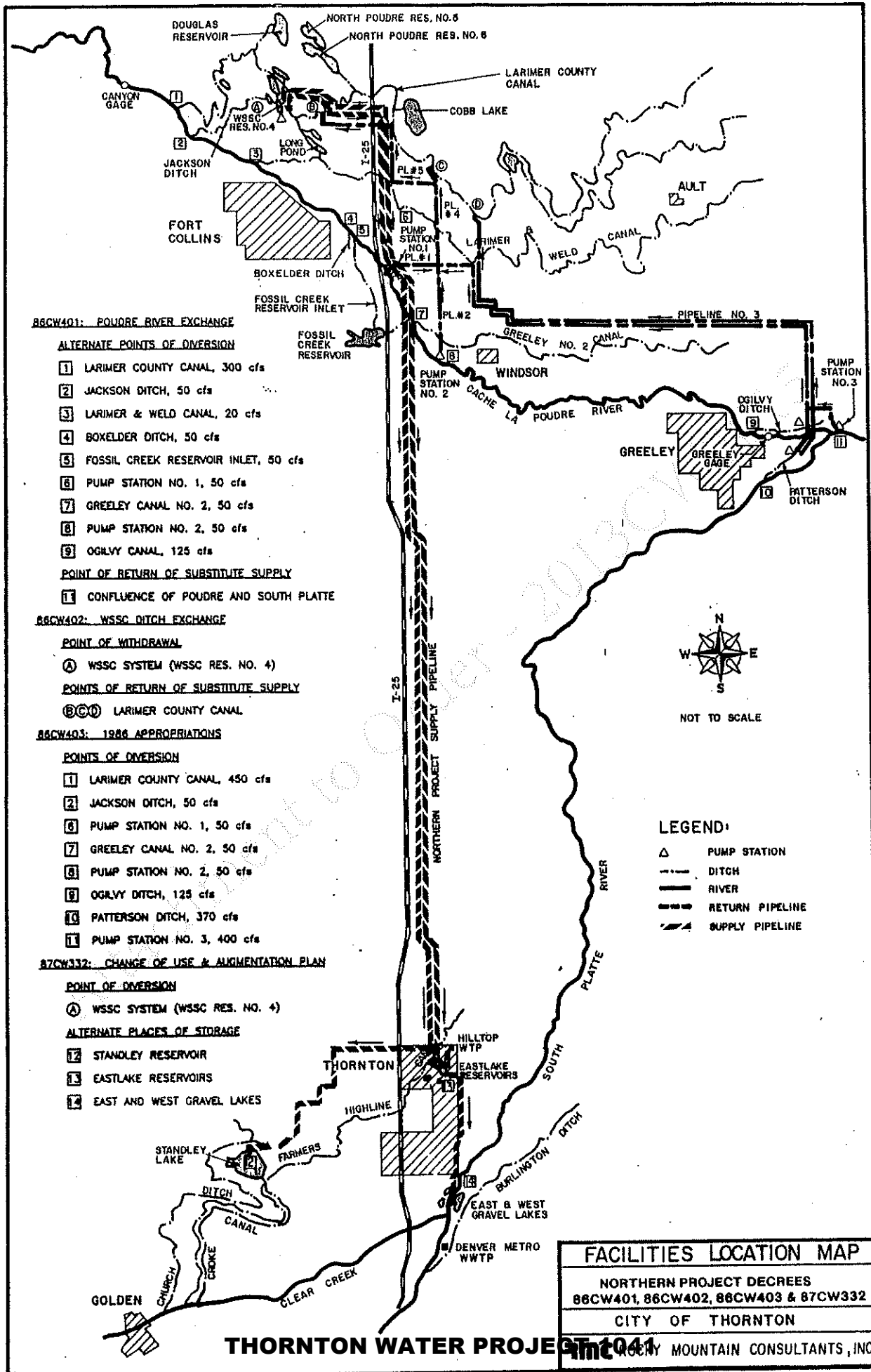
2021. If Thornton desires to maintain such conditional water rights, an application for a finding of reasonable diligence or for a finding that the conditional water rights have become absolute, in part or completely, by reason of the completion of the appropriations, shall be filed on or before the last day of September, 2021.

35. **Reality Checks.** The reality checks contained in the TNP Decree have been satisfied for this diligence period and no part of the water rights confirmed in Case No. 86CW401 or 86CW403 is cancelled by this decree. However, as stated in the TNP Decree, the Reality Checks shall continue to apply to future diligence proceedings and proceedings to make absolute the conditional water rights decreed in Case Nos. 86CW401 and 86CW403.
36. **Application Granted.** Thornton's application in this case is granted, subject to the provisions of this decree.

ENTERED this Eighth day of September, 2015.

BY THE COURT:

  
James F. Hartmann  
Water Judge, Water Division 1



**86CW401: Poudre River Exchange**

**ALTERNATE POINTS OF DIVERSION**

- 1 LARIMER COUNTY CANAL, 300 cfs
- 2 JACKSON DITCH, 50 cfs
- 3 LARIMER & WELD CANAL, 20 cfs
- 4 BOXELDER DITCH, 50 cfs
- 5 FOSSIL CREEK RESERVOIR INLET, 50 cfs
- 6 PUMP STATION NO. 1, 50 cfs
- 7 GREELEY CANAL NO. 2, 50 cfs
- 8 PUMP STATION NO. 2, 50 cfs
- 9 OGLVY CANAL, 125 cfs

**POINT OF RETURN OF SUBSTITUTE SUPPLY**

- 11 CONFLUENCE OF Poudre AND SOUTH PLATTE

**86CW402: WSSC DITCH EXCHANGE**

**POINT OF WITHDRAWAL**

- A WSSC SYSTEM (WSSC RES. NO. 4)

**POINTS OF RETURN OF SUBSTITUTE SUPPLY**

- B, C, D LARIMER COUNTY CANAL

**86CW403: 1986 APPROPRIATIONS**

**POINTS OF DIVERSION**

- 1 LARIMER COUNTY CANAL, 450 cfs
- 2 JACKSON DITCH, 50 cfs
- 6 PUMP STATION NO. 1, 50 cfs
- 7 GREELEY CANAL NO. 2, 50 cfs
- 8 PUMP STATION NO. 2, 50 cfs
- 9 OGLVY DITCH, 125 cfs
- 10 PATTERSON DITCH, 370 cfs
- 11 PUMP STATION NO. 3, 400 cfs

**87CW332: CHANGE OF USE & AUGMENTATION PLAN**

**POINT OF DIVERSION**

- A WSSC SYSTEM (WSSC RES. NO. 4)

**ALTERNATE PLACES OF STORAGE**

- 12 STANDLEY RESERVOIR
- 13 EASTLAKE RESERVOIRS
- 14 EAST AND WEST GRAVEL LAKES

**LEGEND:**

- △ PUMP STATION
- - - DITCH
- RIVER
- - - RETURN PIPELINE
- ▨ SUPPLY PIPELINE

**FACILITIES LOCATION MAP**  
 NORTHERN PROJECT DECREES  
 86CW401, 86CW402, 86CW403 & 87CW332  
 CITY OF THORNTON

**From:** Todd Barnes <Todd.Barnes@cityofthornton.net>  
**Subject:** Information - Thornton Water Pipeline  
**Date:** April 16, 2018 at 2:58:13 PM MDT  
**To:** "'lynn.healthwrite@gmail.com'"  
<lynn.healthwrite@gmail.com>

Greetings Lynn,

I am reaching out because I was informed of a Facebook live event No Pipe Dream will be holding tomorrow morning. Some elements of the announcement, as presented to me, were inaccurate regarding the city of Thornton's proposed water project. I'm hopeful that the information below will help clarify what the proposed project is and what it is not. We have also supplied this information to Larimer County staff and to the local media so that people can engage in factual discussion about the project.

Thornton has proposed, through Larimer County's 1041 permitting process, to construct a pipeline that will convey the water associated with the ditch company (Water Supply and Storage Company and Jackson Ditch Company) shares that the City purchased in the mid 1980's. We've become aware that several individuals have been reviewing the 1996 Colorado Supreme Court opinion in the Thornton Northern Project water rights case. The water rights described in that case were part of a long-term plan for Thornton's water supply. The Supreme Court opinion led to a Decree on Remand for the Thornton Northern Project. For clarity, we are working to explain to people what the Decree is and what it is NOT – and what the Thornton Water Project is and what it is NOT.

- A water rights decree gives permission to a water rights holder to divert water as long as the terms and conditions outlined in the decree are met.

- The decree does not require the water rights holder to divert the water or follow any specific plan, nor does it give permission to use or construct any facilities needed to divert the water.
- A water rights decree is all about how that particular water right fits into the grander scheme of water rights administration in the state.
- The 1041 Permit applied for as part of our CURRENT project doesn't give the permit holder any right to divert water, it addresses the impacts from construction and operation of a facility. They are separate approval processes, but both a decree and a facilities construction permit are needed to provide a water supply.

If at some point in the future - 50 or more years down the road - Thornton determines that it is time to pursue some or all of the additional water granted by the decree, Thornton would file the appropriate permits to construct the facilities necessary to deliver that water. To try to determine what permitting requirements would be appropriate 50 years in advance of any construction or operation would be pure conjecture, and it would be unreasonable to expect that Larimer County could do so effectively at this time -- it's also not what we are asking for in any part of our 1041 Permit application.

For example: if Thornton had been issued a permit at the time the water rights were filed in the mid-1980's, it would have been before Larimer County even had 1041 regulations, and before as much was known about the Poudre River. It's always best to permit facilities at the time they are needed so that the applicant can address the concerns that are important to a community at that time, and within the then-existing regulatory structure.

Here are some additional facts, also provided to Larimer County and the local media. We hope you read these carefully so that when people from your group speak at events like Tuesday's you are knowingly doing so from a factual basis. We're glad to have had an opportunity to provide you this information.

- In 1998, the city of Thornton obtained a Decree on Remand from the Water Court that granted Thornton the water rights associated with what was called the Thornton Northern Project (Thornton received an initial Northern Project Decree in 1994. That decree was appealed by Thornton and others to the Colorado Supreme Court, which issued its opinion in the case in 1996).
- This water court decree had multiple water rights associated with it, including the change of use of Water Supply and Storage Company (WSSC) and Jackson Ditch Company (JDC) shares from agricultural use to municipal use in Thornton, junior direct flow water rights to be used in Thornton, junior water rights exchanges on the Cache la Poudre River, as well as a ditch exchange with the remaining WSSC shareholders.
- The water rights in the decree were never intended to be developed all at once; rather, it was contemplated that the development and use of these water rights would follow the pace of Thornton's growth.
- To provide context for the development of the water rights, the water court decree described three project phases. Phase 1 was described as the delivery of Thornton's WSSC

and JDC water and junior water rights via a pipeline, as well as operation of some exchanges on the Cache la Poudre River;

- Phases 2 and 3 were described as a ditch exchange where Thornton would utilize the remaining WSSC share water for municipal purposes in exchange for **returning** other water to the WSSC system by way of return pipelines.

- The 1998 water court decree described **potential** facilities and timelines associated with each Phase, the decree only defines the terms and conditions Thornton must abide by to use the water; it does not authorize specific facilities, **nor does it require** that Thornton follow a specific plan or timeline for implementation.

Since 1998, the city's plans for how best to utilize the water rights decreed in the TNP has changed as water conservation by Thornton customers has drastically reduced the immediacy of projected demands, and growth rates within the city have fluctuated.

- Thornton utilizes a 50-year planning horizon for its water supply, and the city has determined that **only a portion of the water rights it was granted** in the Thornton Northern Project decree - specifically the use of the WSSC and JDC shares that Thornton owns - are necessary to meet the demands of Thornton's growth **through the year 2065**.

- Thornton has determined that a single pipeline from the WSSC system to the city is sufficient to deliver its share water and meet the community's water needs through 2065. This single pipeline project is called the Thornton Water Project, and is the subject of Thornton's 1041 application to Larimer County.

- The Thornton Water Project pipeline as proposed to Larimer County will only be used to deliver Thornton's WSSC and JDC share water; it will not be used to deliver Thornton's junior direct flow Cache la Poudre River water rights to Thornton, **and the Thornton Water Project does not include the construction of parallel pipelines or other facilities that would be necessary to operate the ditch exchange.**

Thank you for taking the time to read this letter and for hopefully being willing to share factual information about the Thornton Water Project.

Sincere Regards,

Todd Barnes  
Communications Director,  
Thornton, Colorado  
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303-829-2922 - mobile  
[www.cityofthornton.net](http://www.cityofthornton.net)

926 P.2d 1 (1996)

The CITY OF THORNTON, Applicant-Appellant/Cross-Appellee,

v.

**BIJOU IRRIGATION CO.; Bijou Irrigation District; Andrew Blase & Vivien Akin; Burlington Ditch, Land & Reservoir Co.; Central Colorado Water Conservancy District and its Ground Water Management Subdistrict; Cache La Poudre Water Users Assoc.; City of Arvada; City of Aurora; City of Brighton; City of Broomfield; City and County of Denver, acting by and through its Board of Water Commissioners; City of Englewood; City of Greeley; Consolidated Ditches of District No. 2; Colorado Division of Wildlife; Harold Deane; Delta Irrigation Co.; Excalibur Resources Co.; Farmers Reservoir & Irrigation Co.; Fort Morgan Irrigation & Reservoir Co.; Henrylyn Irrigation District; Irrigationists Assoc.; Jackson Lake Reservoir & Irrigation Co.; Jackson Ditch Co.; Larimer & Weld Irrigation Co.; Larimer & Weld Reservoir Co.; New Cache La Poudre Irrigating Co.; North Poudre Irrigation Co.; Ogilvy Irrigating & Land Co.; Paul Lind & Sons; Wanda Lee Rankin; Riverside Irrigation District; Riverside Reservoir & Land Co.; St. Vrain & Left Hand Water Conservancy District; Thompson Water Users Assoc.; Water Supply and Storage Co.; Western Sugar Co.; and Windsor Reservoir Co., Objectors-Appellees, and Alan Berryman, Division Engineer, Water Division No. 1, Appellee pursuant to C.A.R. 1(e), and Northern Colorado Water Conservancy District; Keith Amen; Warren & Viola Amen; J.W. and Bessy L. Hutcheson; Dwain & Vera Yetter, Colorado Division Engineer, Water Division 1 and State Engineer (by motion to intervene); Public Service Company of Colorado; Eastman Kodak Company—Colorado Division; City of Fort Collins; and Platte River Power Authority, Objectors-Appellees/Cross-Appellants.**

No. 94SA66.

Supreme Court of Colorado, En Banc.

October 15, 1996.

- 16 \*16 White & Jankowski, Michael D. White, David F. Jankowski, Scotty P. Krob, Joseph B. Dischinger, David C. Taussig, Thomas J. Davidson, Austin C. Hamre, Denver, for Applicant-Appellant/Cross-Appellee the City of Thornton.
- Epperson, McClary, Zorn & McClary, Donald F. McClary, Fort Morgan, for Objectors-Appellees Bijou Irrigation Co., Bijou Irrigation District, and the Irrigationists Assoc.
- Lind, Lawrence & Ottenhoff, Kim R. Lawrence, Greeley, for Objector-Appellee the Central Colorado Water Conservancy District, and the Ground Water Management Subdistrict of the Central Colorado Water Conservancy District.
- Fischer, Brown, Huddleson & Gunn, P.C., William H. Brown, Ward H. Fischer, William R. Fischer, Fort Collins, for Objectors-Appellees Cache La Poudre Water Users Assoc., and the Water Supply and Storage Co.
- 17 \*17 Sommermeyer, Wick, Dow & Campbell, Timothy J. Dow, Fort Collins, for Objectors-Appellees Larimer & Weld Irrigation Co., Larimer & Weld Reservoir Co., and Windsor Reservoir Co.
- Trout & Raley, P.C., Robert V. Trout, Jennifer Russell, Denver, for Objectors-Appellees/Cross-Appellants Northern Colorado Water Conservancy District, Keith Amen, Warren and Viola Amen, J.W. and Bessy L. Hutcheson, and Dwain and Vera Yetter.
- Gale A. Norton, Attorney General, Stephen K. Erkenbrack, Chief Deputy Attorney General, Timothy M. Tymkovich, Solicitor General, Patricia S. Bangert, Deputy Attorney General, Jennifer L. Gimbel, First Assistant Attorney General, Steven O. Sims, Assistant Attorney General, Natural Resources Section, Denver, for Objectors-Appellees/Cross-Appellants Colorado Division Engineer, Water Division 1, and State Engineer.

Gorsuch Kirgis L.L.C., Brian M. Nazareus, Denver, for Objector-Appellee/Cross-Appellant Public Service Company of Colorado.

Vranesh and Raisch, LLC, Jerry W. Raisch, Michael D. Shimmin, Douglas A. Goulding, Thomas Morris, Boulder, for Objectors-Appellees/Cross-Appellants Eastman Kodak Company—Colorado Division, and City of Fort Collins.

Moses, Wittemyer, Harrison and Woodruff, P.C., John Wittemyer, Christopher G. Wittemyer, Boulder, for Objector-Appellee/Cross-Appellant Platte River Power Authority.

Patricia L. Wells, Michael L. Walker, Henry C. Teigen, Casey S. Funk, Mary B. Rastall, Denver, for Amicus Curiae the City and County of Denver, acting by and through its Board of Water Commissioners (also designated as an Objector-Appellee).

David C. Hallford, Glenwood Springs, for Amicus Curiae Colorado River Water Conservation District.

Anderson, Gianunzio, Dude, Pifher & Lebel, P.C., Mark T. Pifher, Colorado Springs, for Amicus Curiae Twin Lakes Reservoir and Canal Company.

No appearance for the following Objectors-Appellees: Andrew Blase; Vivien Akin; Burlington Ditch, Land & Reservoir Co.; City of Arvada; City of Aurora; City of Brighton; City of Broomfield; City of Englewood; City of Greeley; Consolidated Ditches of District No. 2; Colorado Division of Wildlife; Harold Deane; Delta Irrigation Co.; Excalibur Resources Co.; Farmers Reservoir & Irrigation Co.; Fort Morgan Irrigation & Reservoir Co.; Henrylyn Irrigation District; Jackson Lake Reservoir & Irrigation Co.; Jackson Ditch Co.; New Cache La Poudre Irrigating Co.; North Poudre Irrigation Co.; Ogilvy Irrigating & Land Co.; Paul Lind & Sons; Wanda Lee Rankin; Riverside Irrigation District; Riverside Reservoir & Land Co.; St. Vrain & Left Hand Water Conservancy District; Thompson Water Users Assoc.; and Western Sugar Co.

Justice LOHR delivered the Opinion of the Court.

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19 \*19 This case involves the City of Thornton's Northern Project, one of the largest municipal water projects to come before



this court in recent memory. Thornton appeals, and various objectors who oppose the Northern Project cross-appeal, from portions of a decree entered by the District Court for Water Division No. 1 in four consolidated cases, case nos. 86CW401, 86CW402, 86CW403, and 87CW332. The trial court approved, subject to numerous terms and conditions, Thornton's applications for adjudication of new conditional water rights (including exchanges) and for changes in use of existing water rights. Together, the rights so decreed provide the foundation for the Northern Project, which is expected to yield in excess of 50,000 acre feet of water to Thornton per year. We affirm the trial court's entry of the decree granting Thornton's applications for adjudication of the conditional rights and the changes of use. We also affirm the majority of the terms and conditions imposed by the trial court. However, we conclude that certain of the terms and conditions imposed in the decree are invalid or unwarranted. Thus, we reverse the trial court with respect to those terms and conditions and remand to that court for proceedings consistent with this opinion.

## ***I. Facts and Procedural History***

### ***A. Facts***

The City of Thornton, the applicant in this case, is a municipal corporation of the State of Colorado. Thornton is a suburban community located north of the City and County of Denver on the South Platte River just north of, or downstream from, the confluence of that river with Clear Creek. The city owns and operates a municipal water and sewer system for the benefit of its citizens as well as certain additional consumers not located within the current municipal boundaries. The population served by Thornton's water system at the time of trial was approximately 78,000 people.

Thornton currently derives the majority of the water it provides to its customers from water rights on the South Platte River and Clear Creek. Because Thornton is located downstream from other municipal and industrial users in the Denver metropolitan area, much of the water available for diversion under Thornton's junior rights is polluted by runoff and effluent discharges before it reaches Thornton's diversion points. Not surprisingly, the quality of this water has been gradually deteriorating, resulting in present or projected future problems for Thornton in complying with the standards set in the federal Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26 (1994). Thornton projects that as little as 10,000 acre feet of the expected future annual dry year yield of 26,000 acre feet from its current raw water rights will be available for potable use in the future.

Compounding the city's water quality problems, projections developed by Thornton and its consultants indicate that Thornton's population can be expected to rise steadily and substantially over the next fifty years, greatly increasing the demand on the city's water supply system. These reports suggest that demand within Thornton's water service area may exceed 93,000 acre feet by the year 2056. In the early 1980s, Thornton officials became increasingly concerned about the city's ability to meet these projected demands and began investigating the potential use of a variety of sources to meet the city's future needs. Ultimately, Thornton settled on the Cache La Poudre River (sometimes referred to as the Poudre River) as its intended water source of the future and began to generate plans for what would eventually become the Northern Project.

In late 1985 and 1986, Thornton set the Northern Project in motion by purchasing a 47.23% interest (283.354 out of 600 outstanding shares) in the Water Supply and Storage Company (WSSC), a mutual ditch company organized pursuant to Colorado law. At the same time, Thornton purchased a 5.21% interest (1.25 out of 24 outstanding shares) in the Jackson Ditch Company (JDC), which is also a mutual ditch company. The activities of JDC are coordinated with those of WSSC due to WSSC's ownership of a substantial portion of the JDC shares.<sup>[1]</sup> Along with its purchase of these shares, Thornton acquired approximately 100 farms comprising over 21,000 acres on which the majority of the acquired shares had been historically used for irrigation. The total cost to Thornton of this acquisition was approximately 55 million dollars.

The water rights acquired through the purchase of WSSC shares are the backbone of the Northern Project. WSSC owns water rights in the Poudre basin on the eastern slope and in the adjoining Michigan, Laramie, and Colorado River basins on the western slope. These water rights include direct flow, storage, transmountain, seepage, and river exchange rights. A study of the water years 1950 through 1985 by Thornton's engineering consultant identified three major sources for water diverted by WSSC for distribution to its shareholders: (1) transmountain water, which originated on the western slope and was diverted through one of WSSC's four transmountain diversion structures (average annual diversion of approximately 30,000 acre feet); (2) native water that is obtained by exercise of the direct flow and storage rights owned

by WSSC (average annual diversions of approximately 31,500 acre feet); and (3) Colorado-Big Thompson (CBT) water diverted by virtue of WSSC's leasing of water produced by the CBT project (average annual diversions of approximately 14,000 acre feet).<sup>[2]</sup> The WSSC shares acquired by Thornton have been used by Thornton and its predecessors to irrigate the farms of WSSC shareholders in Larimer and Weld Counties north and east of Fort Collins. The change of use of these rights from irrigation to municipal uses will provide Thornton with access to a high quality source of raw water for its future municipal needs.

To effect the diversion and distribution of these waters to its shareholders, WSSC utilizes a wide variety of structures and facilities. WSSC operates the Larimer County Canal (sometimes referred to as the LCC), which has a capacity of approximately 750 cubic feet per second at its headgate and extends approximately fifty-eight miles from its point of diversion on the Cache La Poudre River near Ted's Place in Larimer County to U.S. Highway 85 between the towns of Pierce and Ault in Weld County. In addition to the LCC, WSSC operates and utilizes eleven reservoirs, three transmountain ditches, one transmountain tunnel, the Jackson Extension Ditch, the aforementioned shares in JDC, and units in the CBT project. Three major laterals, the Pierce Lateral, the Collins Lateral, and the Lone Tree Lateral, branch out from the LCC and supply water to WSSC shareholders, but these laterals are not owned by WSSC. In exchange for monetary and other considerations, Thornton has secured WSSC's permission to use all of the above facilities in the exercise of its newly acquired rights.

Thornton plans to construct the Northern Project in three phases, incrementally increasing its municipal water supply to meet its projected needs. The planned operation of the Northern Project involves a complex interrelationship of water acquisition and distribution methods, including diversion, exchange, storage, augmentation, and physical transportation. The following description, derived from a report prepared by Thornton's engineering consultants and adopted by the trial court in its Memorandum of Decision (sometimes referred to as the MOD), should provide a sufficient understanding of the project to support our subsequent analysis. We address more specific aspects of the project as they become relevant in the context of our discussion of particular issues raised on appeal.

21

Phase I. In the year 2000, construction will begin on a pumping station at WSSC Reservoir No. 4, a 48 inch pipeline to carry water 56 miles to Thornton, and numerous related facilities. Initially, the Northern Project will deliver a minimum of approximately 1800 acre-feet during the year 2002, and will increase deliveries in annual increments of 500 to 1,300 acre-feet, matching Thornton's increasing need for water. Phase I deliveries will level off at an average of approximately 33,200 acre-feet per year in 2028. Water delivered to Thornton in Phase I will be derived primarily from the gradual retirement of approximately \*21 14,500 irrigated acres served by WSSC and owned by Thornton and from new (1986) appropriations of water by Thornton from the Poudre.

Phase II. In 2026, to meet Thornton system demands over and above those satisfied by Phase I, construction will begin on a parallel 48 inch pipeline to Thornton from WSSC Reservoir No. 4, together with a variety of other facilities, including return pipelines from the Poudre and South Platte Rivers to the Larimer County Canal near Elder Reservoir and south of Cobb Lake. Deliveries of water to Thornton through Phase II facilities will begin in the year 2029 and combined deliveries from Phase I and Phase II facilities will average approximately 56,900 acre-feet per year. Additional water delivered to Thornton in Phase II will be derived primarily from a "ditch exchange" under which Thornton will withdraw water from the WSSC system and, in exchange, return an equivalent amount of water from other sources owned by Thornton. The return water, or "substitute supply," will be pumped to the Larimer County Canal from various locations along the Poudre and South Platte Rivers.

Phase III. In 2034 construction will begin on a parallel 72 inch return pipeline to deliver water back to the Larimer County Canal, thereby increasing the yield of the "ditch exchange" with the WSSC system. Additional deliveries from these Phase III facilities will begin in the year 2036 and will increase each year to help meet Thornton's increasing need. New water delivered during Phase III will be derived from the use of Thornton's WSSC shares for irrigation under the WSSC system to allow a ditch exchange on nearly the entire flow of the WSSC system.<sup>[3]</sup> The yield of the project at full development, utilizing Phase I, II and III facilities, will average approximately 67,000 acre-feet per year.<sup>[4]</sup> MOD at 3-4 (quoting Ex. A-649, at pp. xii-xiii, Project Completion Study Report, Draft Report, Addendum, prepared by Rocky Mountain Consultants, Inc.). Thornton estimated that full development of the Northern Project will cost approximately \$427,000,000 and will meet Thornton's system demand through the year 2031.

## B. Procedural History

Thornton's planning and acquisitions culminated in the filing of four water right applications seeking adjudication of the water rights necessary to initiate the Northern Project. The first three applications, case nos. 86CW401, 86CW402, and 86CW403, were filed on December 31, 1986. Case 86CW401 involves an application for confirmation of appropriative rights of exchange on the waters of the Cache La Poudre and South Platte Rivers. In its application in case 86CW402, Thornton also seeks confirmation of appropriative rights of exchange for an internal ditch exchange on the water in the LCC. Case 86CW403 involves an application for confirmation of new conditional water rights diverting from the Cache La Poudre and South Platte Rivers. The fourth application, case no. 87CW332, was filed on December 31, 1987. In this fourth application, Thornton sought approval to change the use of the water rights it acquired from WSSC from irrigation to municipal purposes, as well as approval of an extensive plan for augmentation. Because these individual applications were all part of the larger Northern Project, they were consolidated for trial before the water court.

22 Statements of opposition to the four applications were filed by a total of forty-nine parties. Based on pre-trial negotiations and discussions, twelve objectors withdrew their statements of opposition prior to trial.<sup>[5]</sup> In addition, Thornton negotiated stipulations with eighteen objectors, including the state and division engineers, eliminating their objections \*22 to Thornton's proposed decree. By the time the cases reached trial in the District Court, Water Division No. 1, fewer than ten objectors remained active participants. The trial progressed intermittently from August 7, 1991, to April 15, 1992, occupying fifty-seven days and producing almost 10,000 pages of transcripts and more than 1,300 trial exhibits. Closing arguments were held on October 8, 1992.

On August 16, 1993, the trial court issued its Memorandum of Decision. In the MOD, the trial court addressed many of the significant legal issues raised by Thornton's applications and ultimately concluded that Thornton was entitled to a decree. Following the issuance of the MOD, the parties and the court took part in numerous decree conferences to work out the terms of a final decree. The trial court issued its Findings of Fact, Conclusions of Law, Judgment and Decree (Decree) on February 18, 1994. In the eighty-eight page decree, the trial court granted Thornton's applications for confirmation of the new conditional appropriative rights with an appropriation date of December 31, 1986, and for the change of use of its WSSC shares to municipal use and the accompanying plan for augmentation.

The court, however, imposed conditions subjecting Thornton's exercise of the newly decreed rights to numerous terms and conditions designed to lessen the impact of the Northern Project on other water users. According to the court:

Operation of the Plan for Augmentation approved herein, as well as compliance with the terms and conditions imposed herein, will prevent unlawful injury to any vested water right which might otherwise result from the operation of the Thornton Northern Project through its component parts as approved, confirmed, awarded, and decreed herein, including operation of the conditional water rights, appropriative right of exchange, change of water rights, and plan for augmentation.

Decree, ¶ 18, at 29. Among the more significant limitations imposed on Thornton by the decree are: (1) a requirement that Thornton not exceed annual volumetric limitations in its diversion of water under its conditional rights; (2) a requirement that Thornton make certain future showings regarding its need for the claimed water; (3) a prohibition on the use of CBT water for purposes that create benefits for Thornton outside the boundaries of the Northern Colorado Water Conservancy District (NCWCD); (4) a prohibition on the reuse of Thornton's pro rata share of transmountain water diverted through the LCC; (5) a requirement that Thornton recharge certain groundwater aquifers for the benefit of downstream well users; and (6) a requirement that Thornton revegetate farms it will no longer irrigate as a result of its change of water rights to municipal purposes.

23 Following entry of the decree,<sup>[6]</sup> Thornton filed an appeal in this court challenging certain portions of the decree and conditions imposed therein.<sup>[7]</sup> Several objectors also cross-appealed the trial court's decision to enter the decree as well as various portions of the decree as entered, and certain other objectors filed briefs in response to Thornton's appeals.<sup>[8]</sup> We will not include here a \*23 comprehensive list of the issues raised on appeal, but reserve such identification for our subsequent discussions. Suffice it to say that the issues are numerous and encompass a number of important and previously unresolved questions of Colorado law.

## II. Adequacy of Notice

Among the issues raised by certain objectors on cross-appeal is the sufficiency of the notice provided by Thornton's applications and resumes in this case. Because the issue of notice implicates jurisdictional questions concerning the trial court's authority to enter portions of the decree, we consider this issue as a threshold matter.

Fort Collins and NCWCD challenge the trial court's decree of conditional storage and refill rights based on the alleged inadequacy of Thornton's applications and resumes relating to the Northern Project. In addition, Platte River Power Authority (PRPA) challenges the inclusion of certain water rights among those designated as available replacement waters for augmentation plan purposes in the final decree. Finally, Public Service Company of Colorado (Public Service) asserts that the decree is invalid because Thornton did not provide notice to water users in the basins of origin for certain of its transmountain water rights. The objectors base these challenges on the ground that Thornton's applications and resumes with respect to these claims provided inadequate notice of the nature and scope of the rights claimed, and that the trial court was therefore without jurisdiction to adjudicate these rights. We affirm the trial court's decisions with respect to the adjudication of storage and refill rights and the designation of replacement waters as well as the adequacy of the notices as to transmountain water rights.

## A. Standing

Before we can evaluate the sufficiency of the notice provided by Thornton's applications and resumes, we must address the contention by Thornton that the objectors do not have standing to raise this challenge. Thornton argues that a prerequisite for standing to challenge notice in a water proceeding is an allegation of failure to receive actual notice of the claims at issue. In support of its argument, Thornton cites two decisions of this court, Closed Basin Landowners Association v. Rio Grande Water Conservation District, 734 P.2d 627, 635-36 (Colo.1987), and Pueblo West Metropolitan District v. Southeastern Colorado Water Conservancy District, 689 P.2d 594, 602 n. 9 (Colo.1984) (*Pueblo I*). In these cases, however, we discussed standing in the context of a due process challenge to the constitutionality of the resume notice system as a whole, for which standing requires a finding of actual injury arising from the allegedly defective notice. See People v. Fuller, 791 P.2d 702, 709 (Colo.1990). In the present case, the objectors challenge only the adequacy of notice provided by particular applications and resumes, not the constitutionality of the entire notice system. Accordingly, the limitations on standing set forth in *Closed Basin* and *Pueblo I* are inapposite on these facts.

Statutory standing requirements to challenge the sufficiency for notice purposes of particular applications and resumes in water court proceedings are broad. Under section 37-92-302(1)(b), 15 C.R.S. (1990) (emphasis added), "[a]ny person ... who wishes to oppose the application" may file a statement of opposition with the water clerk. Once a party files such a statement, that party has standing to challenge on appeal the adequacy of published notice to support the judgment of the water court. Pueblo West Metro. Dist. v. Southeastern Colo. Water Conservancy Dist., 717 P.2d 955, 957-58 (Colo.1986) (*Pueblo II*). In the present case, all of the objectors who are challenging the sufficiency of Thornton's applications and resumes \*24 previously filed statements of opposition with the water clerk, and thus have standing to appeal the adequacy of published notice to support the judgment of the water court.

24

## B. Statutory and Case Law Standards

Because the objectors have standing to raise this challenge, we now evaluate the adequacy of the notice provided by Thornton's applications and resumes regarding the nature and scope of the rights claimed by Thornton. To do so, we must first briefly review the applicable notice framework. We then apply this framework to claims for storage and for refill rights and to designation of replacement waters.

### 1. Statutes

The resume system that governs the provision of notice in water cases is codified in section 37-92-302, 15 C.R.S. (1990 & 1995 Supp.). Initially, any person who desires a determination of a water right or a conditional water right, a determination with respect to a change of water right, approval of a plan for augmentation, or approval of a proposed or existing exchange of water must file with the water clerk a verified application setting forth facts supporting the ruling sought. § 37-92-302(1)(a), 15 C.R.S. (1990). Pursuant to section 37-92-302(2)(a), 15 C.R.S. (1995 Supp.), the water judges of the various divisions have developed standardized application forms for use in this process. Failure to use these standardized forms, however, does not automatically result in the application being considered insufficient. This

court has recognized an exception to the use of the standard forms where "strict conformity may be unsuitable, prejudicial, or impose an unreasonable burden." Closed Basin, 734 P.2d at 635 n. 4 (quoting C.R.C.P. 90).

Not later than the fifteenth of each month, the water clerk prepares a resume of all applications filed in the preceding month. § 37-92-302(3)(a), 15 C.R.S. (1990). Pursuant to section 37-92-302(3)(a), the resume must contain the name and address of the applicant, a description of the water right or conditional water right involved, and a description of the ruling sought. Notification of interested parties is then accomplished not through typical service of process methods but rather through the resume notice procedures unique to the determination of water rights. *Gardner v. Enewold*, 200 Colo. 221, 224, 614 P.2d 357, 359 (1980). Specifically, the water clerk must publish the resume in a newspaper of general circulation in the affected counties, § 37-92-302(3)(b), and mail a copy of the resume "to each person who the referee has reason to believe would be affected or who has requested the same by submitting his name and address to the water clerk," § 37-92-302(3)(c). Any person opposing the application may then file a verified statement of opposition. § 37-92-302(1)(b).

## 2. Case Law—General Standards

"[The] resume notice procedures are calculated to alert all water users on the stream system whose rights may be affected by the application and to provide these persons an opportunity to participate in the water right proceeding and to oppose the application." *Bar 70 Enters., Inc. v. Tosco Corp.*, 703 P.2d 1297, 1302-03 (Colo.1985). We evaluate compliance with the notice provisions with reference to the underlying purpose of the notice: "to put interested parties to the extent reasonably possible on *inquiry notice* of the *nature, scope, and impact* of the proposed diversion." *Closed Basin*, 734 P.2d at 634 (emphasis added). Any evaluation, therefore, must take into account the particular facts and circumstances of the case, and must assess the reasonableness of the notice in the context of the "practicalities and peculiarities" of the water project at issue. *Id.* at 633 (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314-15, 70 S.Ct. 652, 657-58, 94 L.Ed. 865 (1950)).

In *Monaghan Farms v. City & County of Denver*, we provided a general definition of the inquiry notice standard:

25 Inquiry notice requires sufficient facts to attract the attention of interested persons and prompt a reasonable person to inquire further. The receipt of inquiry notice charges a party with notice of all the facts that a reasonably diligent inquiry would have disclosed. *Colburn v. Gilcrest*, 60 \*25 Colo. 92, 94, 151 P. 909, 910 (1915). Consequently, alleged deficiencies invalidate the resume only if the resume taken as a whole is insufficient to inform or put the reader on inquiry of the nature, scope and impact of the proposed diversion.

807 P.2d 9, 15 (Colo.1991); accord *Board of County Comm'rs v. Collard*, 827 P.2d 546, 552 (Colo.1992). Once the applicant satisfies the initial burden of providing information that would alert a reasonable person to investigate the claims further, the potential objector bears the responsibility of conducting a reasonably diligent inquiry and is charged with all notice that such an inquiry would produce. *Monaghan Farms*, 807 P.2d at 15. The potential objector must be viewed as a "reasonably prudent party" and cannot establish the lack of adequate notice if on the basis of the published resume, he or she should have anticipated that the disputed rights might be at issue. *City of Thornton v. City of Ft. Collins*, 830 P.2d 915, 923 (Colo. 1992).

## C. Notice—Storage Rights

We address first the adequacy of the notice concerning Thornton's claims to storage rights. The challenged storage rights were adjudicated pursuant to Thornton's applications for confirmation of conditional appropriative rights of exchange in the Cache La Poudre and South Platte Rivers (case 86CW401) and in the Larimer County Canal in the WSSC distribution system (case 86CW402), and for confirmation of conditional direct diversion rights in the Cache La Poudre and South Platte Rivers (case 86CW403). Thornton's applications in all three cases contained similar descriptions of the intended uses of the claimed water. Thornton included the following representative description in the application in case 86CW403:

Uses of water. All municipal uses, including but not limited to irrigation, including agricultural irrigation, domestic use, recreational use, aesthetic use, use by direct flow, by storage [sic],[<sup>92</sup>] by exchange, by augmentation, use for augmentation of other uses and any other use lawfully made by the City of

Thornton.

(Emphasis added.) The resumes published and circulated by the water clerk relating to these applications reproduced the applications themselves, and the description of the potential uses of the claimed water listed in each resume was identical to the description printed in the corresponding application. The applications and resumes did not otherwise mention claims for storage rights.

In the final decree, the trial court adjudicated to Thornton conditional storage and refill rights in nineteen lakes and reservoirs.<sup>[10]</sup> The objectors argue that Thornton's applications and resumes provided insufficient notice of Thornton's claims for storage rights and that without adequate notice the water court had no jurisdiction to decree these rights. The trial court rejected the objectors' arguments. Specifically, in the Memorandum of Decision, the trial court stated that it was "satisfied that it has jurisdiction to grant a decree in this matter and that notice requirements have been met." MOD at 41. In the final decree, the court held that "the storage provided for in this decree in connection with Thornton's appropriations is incidental to, a part of, and implicit in a municipal water system and the municipal uses for which the appropriations were made. Adequate notice of the storage of the water so appropriated, as provided in this decree, was given by the application and resume herein." Decree, ¶ 12.4, at 13. The court expressly held that Thornton's applications and resumes were "adequate to give inquiry notice regarding claims for water storage and for refill consistent with and \*26 implicit in the normal operation of a municipal water system." Decree, ¶ 28.3, at 33; *see also id.* ¶ 27, at 33.

We have applied the inquiry notice standard in a number of recent cases. With the exception of cases presenting circumstances that suggested the misleading inclusion or omission of material facts, we have consistently accepted a broad definition of inquiry notice and found adequate the resume notice provided by the applicant. *See, e.g., Thornton v. Fort Collins*, 830 P.2d at 923 (resume that contained a general reference to the source for claimed water right held sufficient to notify potential objectors of specific diversions from that source); *Collard*, 827 P.2d at 552-53 (resume notice adequate where application revealed that substantial flows would be appropriated but did not clearly specify the type of right sought); *Closed Basin*, 734 P.2d at 635 (resume for a water salvage project that notified parties of amount of appropriation and effect on level of water table in a defined area held sufficient, even though specific well sites were not identified); *Pueblo II*, 717 P.2d at 957-58 (resume of application for change of point of diversion for a ditch right held sufficient to describe the water right involved despite failure to mention two wells that had been used as undecreed nearby alternate points of diversion); *Pueblo I*, 689 P.2d at 601-02 (resume of application to make conditional storage decrees absolute provided adequate notice that the source of the water to be stored was western slope streams despite the absence of any specific reference because the resume made reference to prior conditional decrees that identified the source of the water); *see also Monaghan Farms*, 807 P.2d at 15-16 (challenged resume held to provide adequate notice); *State Eng'r v. Smith Cattle, Inc.*, 780 P.2d 546, 551-52 (Colo.1989) (same).

The objectors contend that Thornton's applications are misleading because they follow the format of a direct flow application and omit any details of the extent of its storage claims. We disagree. In those cases in which we have held notice to be inadequate, the resumes are characterized by the complete absence of material information concerning the disputed water rights. For example, in *Stonewall Estates v. CF & I Steel Corp.*, 197 Colo. 255, 592 P.2d 1318 (1979), the applicant's resume of an application for a nontributary water right failed to mention the asserted nontributary nature of the water. We held the resume to be defective because in the absence of any indication that the water was claimed to be nontributary, and thus to be administered outside of the priority system for tributary water that protects senior appropriators, such appropriators had no cause to anticipate injury from the claims. *Id.* at 258, 592 P.2d at 1320. Similarly, in *Danielson v. Jones*, 698 P.2d 240, 246 (Colo.1985), we held that a resume that described an application as requesting a determination of a water right for "domestic, stock, and irrigation purposes" but omitted any reference to storage did not provide notice that the applicant also sought judicial recognition of fish culture and storage uses. *Id.*

The present situation more closely resembles those cases in which we upheld resume notices than the cases in which notices were deemed insufficient. Unlike the applicants in *Danielson* and *Stonewall*, Thornton did not omit all reference to the nature of the disputed right in its applications. The manners of use claimed included "use by direct flow, by storage, by exchange, by augmentation," thereby giving notice of the distinct and separate claim for storage rights. Given the use of the word "storage" in the resume and the expansive nature of Thornton's water project, neither the lack of details concerning the claimed storage rights nor the use of a direct flow application format was so misleading as to render the resulting decree void. *See Pueblo I*, 689 P.2d at 602 (sufficiency of resume notice upheld absent a "serious omission of material information").

27 The inquiry notice evaluation requires consideration of the facts surrounding each individual application and resume. In

the present case, the factual circumstances support a holding that Thornton's reference in its applications and resumes to use of its proposed exchanges and diversions "by storage" was sufficient to trigger an inquiry by the objectors into the extent of the storage rights claimed by Thornton. First, as noted \*27 above, Thornton's failure to use a standard application form designed for storage rights is not dispositive of the notice issue. Closed Basin, 734 P.2d at 635 n. 4. Second, given the enormous size of the water project proposed by Thornton and the extensive amounts of water claimed in or affected by its applications, as apparent from the resumes, it is inconceivable that a "reasonably prudent" potential objector would fail to anticipate that storage rights would be included in the project.<sup>[11]</sup> Once alerted by the reference to storage and the scope of the project, potential objectors bore the responsibility to inquire further into the claims being made by Thornton. See Collard, 827 P.2d at 552 (published resume seeking to appropriate substantial flows of identified streams "would raise a red flag (inquiry notice) to any person interested in water in the subject streams that significant water rights were being proposed in the areas described") (quoting water court conclusion). As the trial court noted, an applicant is not required to predict in the application and resume the exact nature of the water rights that will ultimately be decreed. Therefore, although Thornton's reference to its storage claims contained no specific detail, and perhaps could even be described as more general than would be permissible in most situations, it was sufficient under the circumstances of the present case to provide the objectors with inquiry notice of the storage rights ultimately decreed by the trial court. We therefore affirm the trial court's adjudication of storage rights in the final decree.<sup>[12]</sup>

### **D. Notice—Refill Rights**

28 In addition to storage rights in nineteen identified lakes and reservoirs, the trial court also decreed to Thornton the right to fill and refill these storage structures subject to certain volumetric limitations imposed by the court. The objectors contend that even \*28 if Thornton provided adequate notice of its storage claims, the applications and resumes did not provide adequate notice of any refill claims. For the reasons discussed below, we disagree with the objectors' argument and affirm the trial court's decree of refill rights to Thornton.

We again evaluate the adequacy of the notice provided by Thornton's applications and resumes under the inquiry notice standard. *E.g., Monaghan Farms*, 807 P.2d at 15. As discussed above, *see supra* p. 25, we must consider the practicalities and peculiarities of the individual case in our evaluation. Closed Basin, 734 P.2d at 633. Examining the absence of reference to refill claims in Thornton's applications and resumes in the context of the expansive nature of Thornton's water project, we conclude that Thornton's reference to "use ... by storage" provided sufficient inquiry notice of such claims. The very generality of the claims suggested the need to inquire into the extent of the storage and the manner in which it is to be accomplished.

As we discussed in section II(C), *supra*, the broad scope of the project reflected in Thornton's applications and the amount of water involved, together with the inclusion of "storage" among the designated uses, should have alerted potential objectors to the possibility that Thornton would require storage. Once alerted to potential storage claims, interested parties are required to conduct a reasonable inquiry into these claims and are charged with all knowledge that would result from such an inquiry. *Monaghan Farms*, 807 P.2d at 15. In the context of such a large water project, it is within the scope of the required reasonable inquiry into storage claims to investigate the possibility that refill rights are also claimed.<sup>[13]</sup> Accordingly, the notice provided by Thornton's applications and resumes satisfied the inquiry notice standard, and we affirm the trial court's adjudication of refill rights in the final decree.

### **E. Notice—Designation of Replacement Waters**

Objector Platte River Power Authority (PRPA) challenges the adequacy of the notice provided by Thornton's application and resume. However, PRPA focuses on the trial court's designation of replacement water rights available for use in Thornton's proposed plan for augmentation (case 87CW322). In its application in case 87CW332, which encompassed both the augmentation plan and proposed changes of use of certain water rights, Thornton identified the source of potential replacement waters as WSSC waters or "other sources lawfully available for such use." The resume repeats verbatim the description of replacement waters in Thornton's application.

29 In the final decree, the trial court provided a seventeen-page listing of the waters allowed for replacement use, which includes waters not specifically listed on Thornton's application or resume. PRPA argues that Thornton failed to comply with the notice requirements for a plan for augmentation and that the trial court exceeded its jurisdiction by decreeing the right to use waters for replacement purposes that were not listed in the application or resume. We disagree and affirm the

trial court's identification of \*29 sources for potential use as replacement waters.

To evaluate the adequacy of the notice provided by Thornton's application and resume for its plan for augmentation, we again apply the inquiry notice standard. Thornton argues that this court's decision in *City & County of Denver v. City of Englewood*, 826 P.2d 1266 (Colo.1992) (*Englewood*), which presented a situation factually similar to this case, should control our determination in the present case. We agree.

In *Englewood*, Denver sought the adjudication of conditional water rights to divert by exchange from the South Platte River. *Id.* at 1268-69. The statement of claim and resulting decree specified the uses to include "effectuating an exchange or transfer of water by the use of any public stream or its water." *Id.* at 1272. In a subsequent application to make portions of these conditional rights absolute based on the diversion of South Platte waters and their replacement with transmountain waters imported from the Colorado River, the trial court ruled against Denver and held that Denver's statement of claim in the earlier proceeding had provided insufficient notice of the use of non-South Platte waters for replacement purposes and that the decree did not authorize such a source of replacement water. *Id.* at 1271.

On appeal, this court reversed the determination of the trial court. We noted that both Denver's statement of claim and the conditional decree granted by the trial court stated that the water rights were for all municipal uses including "effectuating an exchange... of water by the use of any public stream." *Id.* at 1272. We held that this statement was sufficient to put interested parties on inquiry notice that sources other than South Platte River water might be introduced in replacement for water taken from the South Platte. *Id.* (citing *Monaghan Farms*, 807 P.2d at 15). The notice was sufficient to ensure that interested parties had a meaningful opportunity to participate in the water right determination process, and these parties were alerted to make additional inquiry into the source of replacement water.

Thornton's statements in its application and resume in case 87CW332 relating to replacement waters are directly analogous to the description used by Denver in *Englewood*. Thornton identified certain replacement waters, specifically waters derived pursuant to its WSSC water rights, but described additional replacement sources as "any source lawfully available for such use." This description was far from detailed or specific but, as in *Englewood*, the information provided was sufficient to alert potential objectors to the possibility that water rights other than the WSSC rights might be used for replacement.<sup>141</sup> Once alerted, these objectors could participate in the determination and conduct further inquiry to discover the full extent of Thornton's claims. Accordingly, the purpose of the notice provisions was served, see *Monaghan Farms*, 807 P.2d at 15; *Closed Basin*, 734 P.2d at 634, and Thornton's application and resume satisfied the inquiry notice standard. We affirm the trial court's determination that resume notice was sufficient to support the court's decree of potential replacement water sources available for use in Thornton's plan for augmentation.

## **F. Notice—Transmountain Water Rights**

30 In addition to adopting the notice arguments made by other objectors, objector Public Service raises an independent challenge to the jurisdiction of the trial court to approve Thornton's application for its change of water rights. Public Service argues that applicants for changes of transmountain water rights must provide notice to water users \*30 in both the basin of use (the basin into which the water is imported) and the basin of origin (the basin from which the water is exported). Thornton's resume in case 87CW332 was not published in the basins of origin, Water Divisions Nos. 5 and 6. Public Service contends that the publication of resume notice in the basin of use, Water Division No. 1, was not sufficient to provide inquiry notice to water users in the basins of origin. Public Service further asserts that this lack of notice deprived the trial court of jurisdiction over the change application. We disagree.

In *Department of Natural Resources v. Ogburn*, we determined that jurisdiction over a change of transmountain water rights rested with the water courts in both the basin of origin and the basin of use. 194 Colo. 60, 62, 570 P.2d 4, 5 (1977). However, we noted that the appropriate venue for determination of the requested change of use is the court in the basin of use. *Id.* at 62-63, 570 P.2d at 5. Because Water Division No. 1 is the basin of use in the present case, the case was properly before the water court for that division.

By virtue of its status as the proper venue for adjudication of Thornton's change proposal, the water court for Water Division No. 1 became the administrator of the unique resume-notice process. Thornton was responsible for initiating the process by submitting its change application to "the water clerk." § 37-92-302(1)(a), 15 C.R.S. (1990). The statute does not identify which divisional water clerk should receive the filing, but places no burden on the applicant to submit applications to water clerks in all divisions potentially affected by the proposal. In view of our decision in *Ogburn* concerning venue, Thornton's decision to file only in Division No. 1 was proper.



Once an application is filed, the responsibility for publishing notice shifts to the water court. The water clerk prepares a resume of all applications filed in the clerk's office during the month, § 37-92-302(3)(a), and must cause "publication to be made of each resume or portion thereof in a newspaper or newspapers as is necessary to obtain circulation once in every county affected, as determined by the water judge." § 37-92-302(3)(b). The water judge also has discretion to augment the published notice through announcements made on radio or television. § 37-92-302(3)(d). In the present case, the trial court exercised its discretion and required that notice be published only in the counties in Water Division No. 1.

In *Ogburn* we held only that proper venue for proceedings to change transmountain water rights is in the basin of use, not the basin of origin. *Ogburn*, 194 Colo. 60, 570 P.2d 4. Based on this precedent, holders of water rights that might be affected by such a change could reasonably expect the resume of an application for change to be published in the basin of use, where the case would be tried. Under these circumstances, and although it may be the preferred practice to publish in both the basin of use and the basin of origin, we cannot conclude that the trial court abused its discretion by limiting publication to newspapers in counties in the basin of use. See *Hock v. New York Life Ins. Co.*, 876 P.2d 1242, 1251 (Colo.1994) ("A reviewing court can conclude that the trial court abused its discretion only if the trial court's ruling is manifestly arbitrary, unreasonable, or unfair.").

We also note that there is no suggestion that any party has been injured by lack of notice. Public Service, the entity that raises the notice issue, is a party to this proceeding and cannot claim injury due to insufficient notice. Furthermore, the record provides no evidence of any other individual or entity on the western slope that alleged a lack of notice either prior to or during the trial. We do not suggest that the adequacy of notice should be evaluated at any time other than when it is due; however, the absence of any cognizable claim of harm resulting from the allegedly inadequate notice suggests that the trial court did not abuse its discretion in this case by electing not to publish notice in the basins of origin.

Finally, we note that the trial court provided protections for the interests of western slope water right holders when it entered the final decree. The court included the following protective provision:

31 *Transmountain Diversions.* The water rights represented by Thornton's WSSC shares include rights which divert water \*31 from other basins into the Poudre basin. In general, Thornton's interest in those water rights may not be exercised in a manner that will materially affect the amount and timing of water that historically has been available to water users in other Divisions. The following provisions will prevent such an affect[sic][.]

Decree, ¶ 59.4.2.1, at 77. The court then set forth volumetric and seasonal limitations on Thornton's pro rata shares of diversions from both Water Division No. 5 and Water Division No. 6. See Decree, ¶¶ 59.4.2.1.1 to .3, at 77-78.

For the foregoing reasons, we conclude that Thornton was not required to submit its change application to the water clerks in Water Divisions Nos. 5 and 6 and that the trial court did not abuse its discretion by choosing not to require publication of notice in those divisions. Accordingly, the absence of published notice in those basins did not deprive the trial court of jurisdiction to approve the proposed changes of use.

### **III. Conditional Water Rights**

We have resolved the preliminary issue concerning the adequacy of Thornton's applications and resume notices. We now address the validity of the trial court's decision to decree the conditional water rights, including conditional rights of exchange, requested in these applications.

#### **A. Introduction**

The next set of issues on appeal concerns Thornton's satisfaction of the requirements necessary to establish its requested adjudication of conditional water rights. A conditional water right is defined as "a right to perfect a water right with a certain priority upon the completion with reasonable diligence of the appropriation upon which such water right is to be based." § 37-92-103(6), 15 C.R.S. (1990). To establish a conditional water right, an applicant must show in general that a "first step" toward the appropriation of a certain amount of water has been taken, that the applicant's intent to appropriate is not based upon the speculative sale or transfer of the appropriative rights, and that there is a substantial probability that the applicant can and will complete the appropriation with diligence. In the present case, the trial court

decreed to Thornton conditional water rights with respect to its planned direct diversions from the Poudre and South Platte Rivers (case 86CW403) and its planned Poudre River and WSSC ditch exchanges (cases 86CW401 and 86CW402, respectively). Thornton and certain of the objectors have appealed portions of the trial court's rulings with respect to each of the elements of the conditional water right determinations. We will examine the requirements of each element as we address the parties' issues on appeal.

## **B. Overt Acts and Priority/Appropriation Date**

The first aspect of the trial court's conditional water rights ruling requiring our consideration on appeal is the appropriation or priority date established for Thornton's conditional rights. The court held that the necessary concurrence of an intent to appropriate and overt acts performed in furtherance of that intent was not achieved until December 31, 1986, the date on which Thornton filed its applications, and accordingly fixed that date as the appropriation date. Thornton appeals this decision and seeks an appropriation date of December 24, 1986, the date on which city consultants conducted a field survey of various alternate diversion points and posted signs announcing the city's intention to divert water. We agree with the trial court's conclusion that Thornton did not complete the overt act requirements until it filed its applications. We therefore affirm the December 31, 1986, appropriation date set by the trial court.

### **1. Elements of Overt Acts; Trial Court Ruling**

To inform our subsequent analysis, we summarize the basic elements for the determination of the appropriation date for a conditional water right, which are set forth in more detail in our recent decision in City of Thornton v. City of Fort Collins, 830 P.2d 915 (Colo.1992). Conditional water rights are designed to allow applicants to establish a current priority for a water right to be "32 developed in the future by making a "first step" toward appropriation of the desired water. *Id.* at 924. To establish this first step toward a conditional appropriation, the applicant must show the "concurrency of the intent to appropriate water for application to beneficial use with an overt manifestation of that intent through physical acts sufficient to constitute notice to third parties." *Id.* at 925 (quoting City of Aspen v. Colorado River Water Conservation Dist., 696 P.2d 758, 761 (Colo.1985)). Assuming the appropriation is completed with diligence, the date of appropriation for priority purposes will be the date on which the first step is completed. *Id.*

The first step thus consists of an intent prong and an overt acts prong. With respect to the overt acts requirement, we have held that the relevant acts must accomplish the following three functions: "(1) to manifest the necessary intent to appropriate water to beneficial use; (2) to demonstrate the taking of a substantial step toward the application of water to beneficial use; and (3) to constitute notice to interested persons of the nature and extent of the proposed demand upon the water supply." City of Thornton, 830 P.2d at 925 (quoting Bar 70, 703 P.2d at 1307). The necessary intent and overt acts need not occur in any particular order, but completion of the first step requires concurrence of the two and the priority date will be the date on which the last of the necessary elements is satisfied. *Id.* at 925-26.

To conclude this summary, we note the applicable standard of review: "[W]hether the relevant act or acts were sufficiently overt is a mixed question of law and fact, the resolution of which must be made by the court through the application of a legal standard to the particular facts of the case." *Id.* at 927 (quoting Bar 70, 703 P.2d at 1306). However, "the determination whether the requisite first step has been taken [still] must be made on an *ad hoc* basis, taking into account the particular facts in each case." *Id.* (quoting City of Aspen, 696 P.2d at 761). The applicant bears the burden of proving that an overt act or acts have fulfilled the necessary functions and, assuming the necessary intent has been established, that the first step thereby has been completed on a particular date. *Id.*

In the present case, the trial court's MOD contains specific findings regarding Thornton's completion of the first step requirements. Initially, the trial court stated that the following summary of events relating to the establishment of the first step, which the court derived from Thornton's trial brief, was supported by the evidence:

Thornton formed a specific, fixed intent<sup>[15]</sup> to appropriate water rights as part of its Northern Project, and performed overt acts in furtherance of that intent on or before December 24, 1986. On that date, Thornton conducted a detailed field survey of several of the points of diversion and posted signs along the Cache La Poudre river manifesting its intent and providing notice to others of its intent to appropriate. In the months preceding December of 1986, after Thornton obtained a major share ownership of the Water Supply and Storage Company ("WSSC") for use in the same project, the City employed several

consultants to determine what additional water rights should be acquired to insure a high-quality water supply for the City. The City staff and utilities attorney were directed to take the actions necessary to appropriate the water rights sought in these consolidated applications. Indeed, the specific applications now before the Court were reviewed and approved by Thornton's Utilities Board prior to their filing.

33 MOD at 35. The court then evaluated the overt acts performed by Thornton to determine whether these acts satisfied the three \*33 requisite functions articulated in *City of Thornton*. With respect to the first two functions, manifestation of the intent to appropriate and demonstration of a substantial step toward the application of water to beneficial use, the court found that Thornton presented sufficient evidence to establish the completion of these requirements on or before December 24, 1986.<sup>[16]</sup>

The court was not persuaded, however, that Thornton's actions on or before December 24, 1986, were sufficient to fulfill the third overt act function—*i.e.*, to constitute notice to interested parties of the nature and extent of the proposed demand upon the water supply. The court found that Thornton's activities with respect to the conditional appropriations prior to December 24, 1986, were not of a sufficiently public nature to put interested parties on notice. MOD at 37. Relying on the cross-examination testimony of Dan Ault,<sup>[17]</sup> Thornton's chief engineering consultant, the court held that although the signs posted by Thornton were sufficient to provide notice of a general intent to appropriate, "interested parties would have had to wait until publication of the resume—or perhaps more accurately, the filing of the application—to know the nature and extent of the proposed demand upon the water supply." *Id.* at 37. Thus, the court determined the appropriation date to be December 31, 1986, the date the applications were filed. *Id.* Thornton appeals the trial court's ruling, arguing that its actions on or before December 24, 1986, entitle it to a priority date of December 24, 1986, as a matter of law. Accordingly, we must examine the standards for evaluating the adequacy of notice in the context of the overt act requirements.

## 2. Adequacy of Overt Acts to Give Notice—General Standards

From the very earliest decisions concerning conditional rights, this court adopted an "inquiry notice" standard.<sup>[18]</sup> In *Fruitland Irrigation Co. v. Kruemling*, we explained the notice function of the first step test:

34 Certainly the first step demanded by the rule is nothing short of an open and notorious physical demonstration, conclusively indicating a fixed purpose to diligently pursue and, within a reasonable time, ultimately acquire a right to the use of water, and as its primary function is to give notice to those subsequently desiring to initiate similar rights, it must necessarily be of such a character that they may fairly be said to be thereby charged with at least such notice as would reasonably be calculated to put them on inquiry of the prospective extent of the proposed use and \*34 consequent demand upon the water supply involved.

62 Colo. 160, 165, 162 P. 161, 163 (1916). In the overt acts context, applicants must provide sufficient facts not only of a general intent to appropriate but, more specifically, of the "nature and extent of the proposed demand upon the water supply." *Bar 70, 703 P.2d at 1307*. However, such notice does not require an applicant to determine the exact amount of water to be diverted at a precisely located point of diversion. *City & County of Denver v. Colorado River Water Conservation Dist.*, 696 P.2d 730, 747 n. 13 (Colo.1985); *id.* at 751 ("A would-be appropriator must give some notice to others of the claim upon the water from a particular source to establish a conditional water right; locating the diversion points with absolute specificity is not required."). Therefore, the inquiry notice required in the overt acts context is something more than mere notice of an unrefined intent to appropriate but something less than a detailed summary of exact diversion specifications. Ultimately, whether particular acts are sufficient to constitute inquiry notice of the impact on the water supply must be determined in light of the facts and circumstances of each case. *City of Aspen*, 696 P.2d at 761.

## 3. Adequacy of Thornton's Acts to Give Notice

In the present case, the trial court implied that Thornton's activities on or before December 24, 1986, were sufficient to provide notice of a general intent to appropriate water from the Cache La Poudre River. MOD at 35. However, the court ruled that these actions, when viewed either individually or collectively, were insufficient to provide the necessary notice of the nature and extent of the proposed demand of these diversions on the water supply.<sup>[19]</sup> Our review of the relevant

acts leads us to affirm the trial court's conclusion.

### a. Signs

Initially, we consider the significance of the signs posted by Thornton consultants during their December 24, 1986, survey of potential diversion sites on the Cache La Poudre and South Platte Rivers. According to the testimony of Thornton engineering consultant Dan Ault, handmade signs prepared by the consultants were placed at six different proposed diversion sites along those rivers on December 24, 1986. On December 26, 1986, the consultants posted identical signs at five additional points on the rivers. *Id.* Depending on the intended use of the particular point of diversion, the information on the signs consisted of either the statement, "Initiation of appropriation by and point of exchange for the City of Thornton," or the statement, "Point of exchange for the City of Thornton." Each sign was also numbered as a point of diversion (one through eleven) and contained the date on which it was posted (December 24 or 26, 1986).

Based on their limited informational content, we hold that the signs posted by Thornton, although providing notice of a general appropriative intent, do not provide inquiry notice as to the nature and extent of the demand on the water supply. The signs provided no basis for even a general estimate by interested parties of either the potential uses or potential quantities of water proposed to be diverted. Thornton's consultant conceded as much on cross-examination and, as the trial court noted in the MOD, *see* MOD at 36-37, the consultant's testimony suggests that reference would have to be made to the application and resume to determine the potential impacts of these posted diversions. The signs gave no hint of the huge scope of Thornton's intended diversions.<sup>[20]</sup> \*35 To hold them sufficient as inquiry notice—*i.e.*, as exciting the interest of the various parties that would be affected throughout the entire Poudre and South Platte Basins—would effectively eliminate the notice requirement in the overt acts context.

### b. Surveys

We find Thornton's undertaking of the surveys similarly insufficient to provide the requisite inquiry notice. As noted above, on December 24 and 26, 1986, Thornton's consultants staked and posted signs at eleven potential diversion and exchange points that were eventually identified as proposed diversion points in Thornton's applications for conditional water rights and exchange rights. In addition, surveyors with the consulting company apparently surveyed two of the diversion points on December 24, 1986, and another on December 26, 1986. However, the consultants had only limited contact with individuals while engaged in their task and no public notice other than the posted signs accompanied these actions. We have previously held that field trips in the nature of preliminary reconnaissance do not, in and of themselves, constitute overt acts providing adequate notice to interested parties. City of Thornton, 830 P.2d at 928; Bar 70, 703 P.2d at 1307-08. Although the trial court apparently viewed Thornton's survey efforts as more significant than the preliminary reconnaissance conducted in City of Thornton and Bar 70, and thus held that those efforts satisfied the substantial step requirement, here the surveys were not sufficiently public or informative, either in isolation or in combination with the posted signs, to put interested parties on inquiry notice of the extensive nature of the proposed diversions.

### c. Formal Acts

Finally, Thornton argues that various formal acts performed by Thornton and its employees and elected officials were sufficient to satisfy the first step test. According to the testimony of Thornton's mayor, beginning in April of 1986 she and members of Thornton's utilities staff conducted informational meetings with the WSSC board and shareholders and contacted elected officials in several areas to be affected by the project.<sup>[21]</sup> On May 30, 1986, in connection with the offering of bonds to finance certain aspects of the Northern Project, Thornton issued an official statement in the nature of a prospectus that contained limited information concerning certain parts of the Northern Project.<sup>[22]</sup> On July 17, 1986, the Thornton Utilities Board passed a resolution to pursue appropriations from the Poudre River.<sup>[23]</sup> Finally, \*36 on December 12, 1986, Thornton entered into an agreement with WSSC regarding the future exchange of water within the WSSC system as part of the Northern Project. In City of Thornton, we recognized that formal acts may qualify as overt acts provided that they perform one or more of the three required functions. 830 P.2d at 927. We further held that when a municipality is the applicant, relevant formal acts may include resolutions passed or other official decisions made. *Id.* However, with respect to satisfaction of the notice function, the adequacy of formal acts is necessarily dependent on the degree to which that information is made available to the general public. Formal resolutions, absent publicity attending their passage, are much more likely to provide evidence of the first two steps—*i.e.*, manifestation of the intent to

appropriate and completion of a substantial step—than of the third step requirement of notice to interested parties. We do not suggest that formal acts can never satisfy all purposes of the notice requirement, but simply note that internal municipal resolutions are unlikely to come to the attention of interested parties unless further efforts reasonably calculated to impart such notice are taken. See *Fruiland*, 62 Colo. at 165, 162 P. at 163 (requiring notice "of such a character that [interested parties] may fairly be said to be thereby charged with at least such notice as would reasonably be calculated to put them on inquiry of the prospective extent of the proposed use and consequent demand upon the water supply involved") (emphasis added).

In the present case, the record does not establish that Thornton publicized its formal acts to the extent necessary fairly to charge potentially interested parties with inquiry notice of the proposed extent of the intended appropriations. Thornton's informational meetings with specific entities were certainly sufficient to provide notice to those entities. However, Thornton has not established that it published details of its intended appropriations on or before December 24, 1986, and does not allege that it discussed its plan with and provided individual notice to all interested parties. Similarly, Thornton provided no evidence that the Utilities Board resolution was published in a newspaper or otherwise circulated in a manner that would reasonably be calculated to bring it to the attention of other water users on the Poudre.<sup>[24]</sup> Finally, the official statement released in connection with the bond sale did not even mention the proposed diversions from the Poudre, and thus did not provide inquiry notice of a general intent to make those appropriations. Under the circumstances of the present case, we hold that these formal acts did not fulfill the notice function, either individually or in combination with the survey and sign-posting conducted by Thornton.

For the foregoing reasons, we affirm the trial court's determination of the priority date for Thornton's conditional appropriations as December 31, 1986, the date of the filing of the relevant applications.

### C. Intent and Anti-Speculation

We now move to the intent prong of the first step test. Under this prong, an applicant must establish an intent to appropriate water for application to beneficial use. *City of Aspen*, 696 P.2d at 761. Pursuant to the anti-speculation doctrine, an applicant's intent to appropriate cannot be based upon the subsequent speculative sale or transfer of the appropriative rights. In the present case, the trial court held that Thornton formed the necessary nonspeculative intent. Objectors NCWCD and Fort Collins appeal this finding and argue that Thornton's plan violates the anti-speculation doctrine. Resolution \*37 of the issues raised by NCWCD and Fort Collins requires an examination of the anti-speculation doctrine as it applies to municipalities. Our specific analysis will be informed by a general overview of the anti-speculation doctrine as it has developed in Colorado water law.

#### 1. Overview of Anti-Speculation Doctrine

Our seminal case in this area is *Colorado River Water Conservation District v. Vidler Tunnel Water Co.*, 197 Colo. 413, 594 P.2d 566 (1979). In that case, Vidler Tunnel Water Company (Vidler), a private corporation, sought a conditional storage decree for a reservoir as part of a planned transmountain diversion project. *Id.* at 415, 594 P.2d at 567. The corporation planned to sell the water to municipalities on the eastern slope for general municipal use but had not obtained firm contractual commitments binding those municipalities to purchase or receive the water. *Id.* at 415-16, 594 P.2d at 568-69. We held that Vidler's plan, which essentially depended on an unsubstantiated assumption that general population growth would produce a need for more water in the future and that municipalities would seek to satisfy this need from Vidler's supply, did not establish the necessary intent to apply the appropriated water to beneficial use. *Id.* In the absence of firm contractual commitments for the use of water not intended by Vidler for its own use or of agency relationships between Vidler and the intended users, we held Vidler's application unduly speculative. *Id.* Because the applicant in *Vidler* was a private corporation, we did not consider whether these strict requirements applied equally to municipal applicants.

Although *Vidler* has most often been cited as defining the anti-speculation doctrine, we did not articulate a new legal requirement in that case, but rather merely applied longstanding principles of Colorado water law. See *City & County of Denver v. Colorado River Water Conservation Dist.*, 696 P.2d 730, 757 (Colo.1985); *Rocky Mountain Power Co. v. Colorado River Water Conservation Dist.*, 646 P.2d 383, 388-89 (Colo.1982). Thus, we must examine *Vidler's* predecessors to determine the scope of the application of the anti-speculation doctrine to municipal applicants.



The question of a municipality's ability to appropriate water to meet future needs first received significant attention from this court in City & County of Denver v. Sheriff, 105 Colo. 193, 96 P.2d 836 (1939). In *Sheriff*, the City of Denver appealed the trial court decision granting certain absolute water right decrees requested by Denver but adopting several conditions that limited Denver's ability to lease or sell water obtained by exercise of those water rights to other entities in the event that use of the water was not necessary to meet the city's immediate needs. *Id.* at 198-201, 96 P.2d at 838-40. This court struck down those limitations as an improper restriction on Denver's attempts to ensure an adequate supply of water for its constituents. We emphasized the necessity of preserving the flexibility of municipalities to exercise their managerial judgment in resolving their water supply problems, *id.* at 201, 96 P.2d at 840-41, and made the following statement regarding the unique circumstances of municipal water providers:

The concern of the city is to assure an adequate supply to the public which it serves. In establishing a beneficial use of water under such circumstances the factors are not as simple and are more numerous than the application of water to 160 acres of land used for agricultural purposes. A specified tract of land does not increase in size, but populations do, and in short periods of time. With that flexibility in mind, it is not speculation but the highest prudence on the part of the city to obtain appropriations of water that will satisfy the needs resulting from a normal increase in population within a reasonable period of time.

*Id.* at 202, 96 P.2d at 841. The *Sheriff* decision clearly counsels against a strict application of the anti-speculation doctrine to municipalities seeking to provide for the future needs of their constituents.

We again recognized the unique need of municipalities for planning flexibility in City & County of Denver v. Northern Colorado Water Conservancy District, 130 Colo. 375, 276 P.2d 992 (1954) (*Blue River*). \*38 In *Blue River*, Denver sought, in part, a direct flow conditional decree for water from the Blue River, a tributary to the Colorado River on the western slope. *Id.* at 380-81, 276 P.2d at 995-96. Several objectors challenged Denver's application on the ground that the city's water supply was adequate without the claimed Blue River water, and that to base a decree solely on projected future needs would be improperly speculative. *Id.* at 384, 276 P.2d at 997. We noted the divergent estimates of the future growth and needs of the city but ultimately reached the following conclusion:

We cannot hold that a city more than others is entitled to decree for water beyond its own needs. However, an appropriator has a reasonable time in which to effect his originally intended use as well as to complete his originally intended means of diversion, and when appropriations are sought by a growing city, regard should be given to its reasonably anticipated requirements. Van Tassel Real Estate & Live Stock Co. v. City of Cheyenne, 49 Wyo. 333, 54 P.2d 906; Denver v. Sheriff, 105 Colo. 193, 96 P.2d 836.... While the witnesses as to Denver's future water requirements were not in agreement, there was substantial evidence to support a finding of future need for water from the Blue River within a reasonable time. This is amply confirmed by the City's rapid subsequent growth.

*Id.* at 384, 276 P.2d at 997. Thus, under *Blue River*, a city may appropriate water for its future needs without violating the prohibition on speculation so long as the amount of the appropriation is in line with the city's "reasonably anticipated requirements."

As discussed above, *Vidler* was decided in the context of a private corporation's application for water rights and did not involve a municipality. However, interpreting *Vidler* in conjunction with *Sheriff* and *Blue River*, we do not read the requirements of firm contractual commitments or agency relationships applied to private parties in *Vidler* to apply with equal force to municipalities. This limited exception to the *Vidler* requirements is supported by actions taken by the General Assembly. In 1979, immediately following the *Vidler* decision, the legislature amended the definition of "appropriation" in the Water Right Determination and Administration Act of 1969 to codify the prohibition on speculation articulated in *Vidler*: Ch. 346, sec. 5, § 37-92-103(3)(a), 1979 Colo. Sess. Laws 1366, 1368 (codified at § 37-92-103(3)(a), 15 C.R.S. (1990)); see In Re Board of County Comm'rs of Arapahoe County, 891 P.2d 952, 959-60 & n. 7 (Colo.1995) (*Arapahoe County*). Following the amendment, subsection 103(3)(a) now states:

(3)(a) "Appropriation" means the application of a specified portion of the waters of the state to a beneficial use pursuant to the procedures prescribed by law; but no appropriation of water, either absolute or conditional, shall be held to occur when the proposed appropriation is based upon the speculative sale or transfer of the appropriative rights to persons not parties to the proposed appropriation, as evidenced by either of the following:

(I) The purported appropriator of record does not have either a legally vested interest or a reasonable

expectation of procuring such interest in the lands or facilities to be served by such appropriation, *unless such appropriator is a governmental agency or an agent in fact for the persons proposed to be benefited by such appropriation.*

(II) The purported appropriator of record does not have a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses.

§ 37-92-103(3)(a), 15 C.R.S (1990) (emphasis added).

39 By enacting the above provision, the General Assembly endorsed the *Vidler* holding with respect to private parties but also recognized the need for governmental agencies, which include municipalities and other agencies responsible for supplying water to individual users, to exercise some planning flexibility with respect to future water needs. This exception, however, does not completely immunize municipal applicants from speculation challenges. Rather, as part of the statute codifying *Vidler*, the exception must be read as consistent with the scope of the \*39 exception recognized for municipalities in those decisions underlying *Vidler*, such as *Sheriff* and *Blue River*. Thus, under section 37-92-103(3)(a), a municipality may be decreed conditional water rights based solely on its projected future needs, and without firm contractual commitments or agency relationships, but a municipality's entitlement to such a decree is subject to the water court's determination that the amount conditionally appropriated is consistent with the municipality's reasonably anticipated requirements based on substantiated projections of future growth.<sup>[25]</sup>

Contrary to NCWCD's contentions, the above construction is consistent with our anti-speculation cases decided after the enactment of section 37-92-103(3)(a). We have reviewed numerous challenges to decrees based on the anti-speculation doctrine subsequent to *Vidler* and the enactment of section 37-92-103(3)(a). However, almost all of those cases concerned applications by private parties rather than by municipalities. See *Arapahoe County*, 891 P.2d at 962-66 (evaluating claim initiated by private party and later purchased by county); *Jaeger v. Colorado Ground Water Comm'n*, 746 P.2d 515 (Colo.1987); *Lionelle v. Southeastern Colo. Water Conservancy Dist.*, 676 P.2d 1162 (Colo.1984); *Rocky Mountain Power*, 646 P.2d 383. Our sole post-*Vidler* case addressing speculation in the municipal application context is *City & County of Denver v. Colorado River Water Conservation District (CRWCD)*, 696 P.2d 730 (Colo.1985).

In *Denver v. CRWCD*, the City of Denver claimed various conditional water rights pursuant to adjudication suits filed in 1968. According to the findings of the water referee, Denver intended to use this water not within its own boundaries or for its own future development but rather to sell or lease to water users outside the city limits. *Id.* at 737. For reasons independent of the anti-speculation doctrine, the water referee denied all of Denver's claims and the water court upheld this denial.<sup>[26]</sup> *Id.* at 737-38.

On appeal, this court tangentially addressed the speculation issue by remanding to the water court for consideration of whether the city complied with the *Vidler* requirements—*i.e.*, whether the city could establish "plans to use that water within its own boundaries, firm contractual commitments to supply that water to users outside its boundaries, or agency relationships with such users." *Id.* at 757. In the present case, NCWCD argues that *Denver v. CRWCD* establishes the applicability of the *Vidler* requirements to municipalities. According to NCWCD, our use of the word "boundaries" refers exclusively to a city's boundaries as they exist at the time of the application rather than the reasonably anticipated future boundaries of the municipal applicant. Thus, NCWCD contends that our language in *Denver v. CRWCD* precludes municipalities from appropriating water based on projected requirements for future growth areas outside the current municipal boundaries. We disagree with this contention.

40 We previously noted that municipalities require sufficient flexibility within the anti-speculation doctrine to allow them to plan for future water needs. See *supra* part III(C)(1). If we adopt NCWCD's contention that plans must be based on use within existing boundaries, we would read this flexibility out of the rule and undercut our prior statements in *Sheriff* and *Blue River*. Such a reading would also be inconsistent with the governmental agency exception in section 37-92-103(3)(a), \*40 15 C.R.S. (1990).<sup>[27]</sup> Our holding in *Denver v. CRWCD* must be viewed as limited to the unique facts of that case. Denver sought the claimed water to sell it for profit to parties outside its own boundaries. The city was acting in the capacity of a water supplier on the open market rather than as a governmental entity seeking to ensure future water supplies for its citizens. Accordingly, the municipal planning exception was simply inapplicable, and Denver was required to comply with the full range of requirements applicable to private parties under *Vidler*. Thus understood, *Denver v. CRWCD* does not eliminate a municipality's ability to plan for the future, and municipal appropriations for reasonably anticipated future requirements, including requirements for projected growth areas not presently within the municipal boundaries, are valid if the municipality substantiates such need.

## 2. Review of Trial Court's Ruling on Intent and Anti-Speculation

Having clarified the standard for evaluating anti-speculation challenges to municipal applications for water rights, we now review the trial court's ruling in the present case. Initially, we note that the trial court's resolution of this issue implicates both factual and legal issues. We review the court's interpretation of section 37-92-103(3)(a) and the court's determination of the correct legal standards as questions of law and need not defer to the trial court's decisions on those matters. Bloomer v. Board of County Comm'rs of Boulder County, 799 P.2d 942, 944 (Colo.1990).

In its Memorandum of Decision, the trial court discussed the application of section 37-92-103(3)(a) and summarized the standard for evaluating the intent required for municipal applications for determination of conditional water rights as follows: "A municipality may take into consideration facts indicating that its physical area is likely to expand in the course of growth. Planning need not be limited to current geographic limits if there is reasonable expectation that those limits will expand." MOD at 40. We conclude that the trial court recognized the municipal exception and thus applied the proper legal standard to Thornton's claims.

The remainder of the court's decision—*i.e.*, determination of the municipality's reasonably anticipated requirements and intended use—presents questions of fact that necessarily require evaluations of evidence. See In re Applications of the Upper Gunnison River Water Conservancy Dist., 838 P.2d 840, 847, 848 (Colo.1992) (*Upper Gunnison*). The trial court is entitled to deference on factual issues, and we will not disturb the court's predicate factual determinations on appeal "unless the evidence is wholly insufficient to support those determinations." *Id.* at 847; Southeastern Colo. Water Conservancy Dist. v. Twin Lakes Assocs., Inc., 770 P.2d 1231, 1239 (Colo.1989).

Thornton presented extensive evidence to support both its projections of future water demand and its ultimate intent to use all of the claimed water within its future boundaries or service areas. Various witnesses and planning experts employed by Thornton testified that Thornton is projected to achieve a population of approximately 379,000 by the year 2050 with a concomitant water demand of more than 90,000 acre feet per year, a demand that cannot be met by Thornton's current water supply. In support of this testimony, Thornton offered planning documents and studies prepared by its water consultants that explain the calculation of these estimates. Thornton also presented evidence of the city's history of rapid growth and expansion—from one square mile and 10,000 people in 1956 to 25 square miles and 60,000 people in 1991—and planned future economic development. Furthermore, the evidence suggests that Thornton had adopted an aggressive policy of water service expansion and annexation prior to filing the conditional water rights applications at issue. Thornton had entered into agreements with contiguous municipalities, including Northglenn, \*41 Westminster, and Commerce City, and with Adams County attempting to define Thornton's future growth areas and to limit the ability of other entities to provide water service in those areas. In addition, it had entered into a substantial number of contracts to provide water service, many contingent on annexation, within that future growth area. These activities tend to corroborate Thornton's higher growth projections.

NCWCD and Fort Collins challenged Thornton's projections as unreasonably optimistic and presented contrasting testimony and projections, in particular the population growth projections for the Denver metropolitan area prepared in conjunction with the 1985 Environmental Impact Study for the then-proposed Two Forks Project. However, the trial court ultimately found Thornton's projections, which the court described as "based on studies conducted by experts in the field and appear[ing] to have considerable basis in fact and in theory," to be "optimistic, but not unreasonable." MOD, at 40. Although the evidence presented by the parties is in conflict, the record as a whole provides adequate support for the trial court's finding that Thornton's projections are a reasonable estimation of the city's anticipated future water requirements.<sup>[28]</sup>

With respect to Thornton's intent to use the claimed water within its future boundaries, several witnesses involved in the planning process for the Northern Project testified that the intent was always to serve its present and future citizens. Moreover, the Thornton Utilities Board resolution approving the project stated that the conditional appropriations were to be made "in order to help meet the needs of present and anticipated future customers of the City of Thornton." This testimony, coupled with Thornton's aggressive attempts to annex and to expand its water service area and customer base, supports a finding that Thornton intends to use the claimed water for its own needs.

Fort Collins and others disputed Thornton's intent to use all of the claimed water within its future boundaries or service areas, charging that statements in planning documents for the Northern Project reveal an original intent on the part of Thornton to sell some of the claimed water to finance the costs of the project. The trial court noted the objectors' allegations of Thornton's intent to sell the water, see MOD at 40, but was not persuaded to deny the decree.<sup>[29]</sup> The court



ultimately found that "[t]he preponderance of the evidence is that the water and exchanges appropriated by Thornton are needed for use and will be used within the City's municipal boundaries, within the City's designated service area, or by persons or entities with which it has either agency relationships or firm contractual commitments." Decree, ¶ 13, at 13. Again, the record as a whole adequately supports the trial court's conclusion that the decreed water was necessary to supply the reasonable future water requirements of the city of Thornton and its service areas and will be used for that purpose.

42 In the present case, the trial court evaluated the evidence pursuant to the proper legal standard. Furthermore, the trial court's factual \*42 findings that the decreed water is consistent with Thornton's reasonably anticipated water requirements and that the water will eventually be used to satisfy needs within Thornton's boundaries or service areas have an adequate basis in the record. Therefore, we accept these findings and uphold the court's determination that Thornton established a nonspeculative intent to appropriate the claimed water. In view of our conclusion that Thornton accomplished the requisite overt acts as discussed in the preceding section, we hold that Thornton has established the requirements of the first step test.

### **D. Can and Will Doctrine**

We turn now to the final requirement that must be satisfied to establish a conditional water right. The legislature defined the "can and will" requirement as follows:

No claim for a conditional water right may be recognized or a decree therefor granted except to the extent that it is established that the waters can be and will be diverted, stored, or otherwise captured, possessed, and controlled and will be beneficially used and that the project can and will be completed with diligence and within a reasonable time.

§ 37-92-305(9)(b), 15 C.R.S. (1990). The trial court specifically held that Thornton met the requirements of the "can and will" test. Fort Collins appeals that conclusion, arguing that substantial gaps remain in the project that render Thornton's ability to complete the project unacceptably uncertain. The findings of the trial court are supported by the evidence; thus we affirm that court's determination that Thornton can and will divert the water to beneficial use and complete the project with diligence and within a reasonable time.

### **1. Can and Will—Standard**

The "can and will" requirement, enacted by the legislature in 1979, Ch. 346, sec. 6, § 37-92-305(9)(b), 1979 Colo.Sess.Laws 1366, 1369, is a relatively new addition to the list of requirements that must be satisfied to establish a conditional water right. Due to its relatively brief history, we have addressed this provision in few decisions. However, in Arapahoe County, 891 P.2d 952, we had occasion to discuss in detail the legislative history of the "can and will" statute and our prior precedent regarding this provision. Accordingly, rather than repeat that discussion in the context of the present case, we will briefly summarize relevant aspects of that opinion.

In Arapahoe County, we noted that the legislative goal of section 37-92-305(9)(b) was "'to reduce speculation associated with conditional decrees and to increase the certainty of the administration of water rights in Colorado.'" 891 P.2d at 960 (quoting FWS Land & Cattle Co. v. State, Div. of Wildlife, 795 P.2d 837, 840 (Colo.1990)). Based on our review of the legislative history of the "can and will" provision, we further noted that "the purpose of the statute was to prevent speculation by denying recognition of claims for conditional water rights that have no substantial probability of maturing into completed appropriations." *Id.* at 960 & n. 8 (citing testimony before the House Agriculture Committee). Although the "can and will" requirement is aimed at eliminating speculation, it is not identical to the anti-speculation doctrine enunciated in Vidler, 197 Colo. at 417-18, 594 P.2d at 568-69, and codified in section 37-92-103(3)(a), 15 C.R.S. (1990). The latter requires that the applicant show a nonspeculative intent to put the water to beneficial use for its own purposes or that it support its application by concrete evidence of commitments from or agency relationships with the ultimate users of the water. However, the "can and will" provision extends further, requiring the applicant to establish a substantial probability that this intended appropriation can and will reach fruition. Arapahoe County, 891 P.2d at 961.

Ultimately, we stated the standard for evaluation of an application under the "can and will" statute:

43 The "can and will" statute should be construed to require an applicant for a conditional water right decree

to establish that there is a substantial probability that within a reasonable time the facilities necessary to effect the appropriation can and will be completed with diligence, and that \*43 as a result waters will be applied to a beneficial use. Proof of such a substantial probability involves use of current information and necessarily imperfect predictions of future events and conditions.

*Id.*<sup>[30]</sup> Implicit in this standard is the legislative focus on preventing speculation. Therefore, the "can and will" requirement should not be applied rigidly to prevent beneficial uses where an applicant otherwise satisfies the legal standard of establishing a nonspeculative intent to appropriate for a beneficial use.<sup>[31]</sup>

## 2. Review of Trial Court's Ruling on Can and Will

Having set forth the standard for evaluating an applicant's proposal under section 37-92-305(9)(b), we now turn to the facts of the present case. Following its review of the evidence presented by the parties, the trial court made the following ruling: "The waters subject to Thornton's appropriation can and will be diverted, stored, exchanged or otherwise captured, possessed, and controlled and will be beneficially used and the project can and will be completed with diligence and within a reasonable time." Decree, ¶ 12.3, at 13, ¶ 33.5, at 37; *see also id.* ¶¶ 33.1-33.4, at 34-37. Fort Collins appeals the trial court's resolution of this issue based on the following two allegations: (1) the planned diversion facilities cannot accommodate the rate of flow decreed with respect to certain of the decreed rights; and (2) completion of Thornton's project is dependent on contingencies including the future acquisition of additional replacement supplies, storage capacity, and contracts with other water users. We address these contentions in reverse order.

### a. Contingencies

It is undisputed that Thornton had not resolved every contingency relating to the completion of the Northern Project prior to the trial court's issuance of the conditional decree. Among the additional requirements necessary for the eventual completion of the exchange portions of the project are an additional 15,000 acre feet of substitute supply water and 25,000 acre feet of storage capacity, as well as first-use contracts with WSSC shareholders to allow completion of the planned WSSC ditch exchange in Phase III. Fort Collins argues that the presence of such contingencies necessarily requires a finding that Thornton has not satisfied its burden of proof with regard to the "can and will" requirements. We disagree.

In prior cases, we recognized various factors that are relevant considerations in evaluating whether the "can and will" statute has been satisfied but which are not necessarily determinative elements of the applicant's proof. *See Arapahoe County*, 891 P.2d at 961-62 n. 9 (citing several relevant factors); *see also In re Gibbs*, 856 P.2d 798, 802-03 (Colo.1993) (present right and prospective ability to use structures and facilities necessary for appropriation is non-dispositive factor in "can and will" determination); *Public Service Co. v. Board of Water Works*, 831 P.2d 470, 478-79 (Colo.1992) (issue of economic feasibility is one relevant factor in "can and will" determination). Under the particular circumstances of the present case, we conclude that the presence of future contingencies is a similarly non-dispositive factor to be considered in combination with other relevant factors in determining whether the \*44 applicant has established a substantial probability of project completion. In our view, despite these contingencies, the record as a whole contains sufficient evidence to establish a substantial probability that Thornton can and will complete the Northern Project with diligence and within a reasonable time.<sup>[32]</sup>

During the course of the trial, Thornton presented substantial evidence concerning its commitment and ability to achieve completion of the Northern Project. Initially, Thornton established the critical element of availability of both unappropriated water and exchange potential to the trial court's satisfaction. Thornton also presented evidence that it had secured stipulations with the owners of most of the existing structures to be used in the project, that necessary additional facilities can and will be constructed to divert, store, and deliver the water, that it had obtained most of the necessary substitute supply of water for the project, and that the city can pay for completion of the project. Regarding its commitment to complete the project, Thornton presented evidence that, prior to trial, it had already invested \$73,000,000 and utilized more than 35,000 work hours of consultants on project analysis, planning, and design.

Although substantial steps have been taken by Thornton to secure the facilities and water rights necessary for eventual completion of the Northern Project, future contingencies still remain. However, circumstances relating to these contingencies render them less persuasive in the "can and will" analysis. Initially, both the additional water supply and

the additional storage capacity not yet acquired by Thornton are not necessary until Phase III of the project, which is not scheduled to deliver water until the year 2036. See MOD at 3. Thornton presented evidence that it has adequate substitute supplies and adequate storage rights to accommodate planned development through Phases I and II. Furthermore, Thornton's expert testified that the city had investigated and identified, though admittedly not contracted for, potential sources for the necessary additional water supply and storage capacity. Finally, although Thornton has not yet acquired first-use contracts with WSSC shareholders to enable it to complete the planned ditch exchange component of the project, the relevant portion of the exchange is not scheduled to take place until Phase II, which will first deliver water in approximately 2029. See MOD at 3. These actions further support a determination that Thornton can and will successfully resolve these contingencies prior to the projected completion date of the project.

45 As noted above, the legislative purpose underlying the "can and will" requirements is the prevention of speculation. See Arapahoe County, 891 P.2d at 960. Thornton has established a nonspeculative intent to put the Northern Project water to beneficial use, see *supra* part III(C)(2), and is subject to future diligence requirements to monitor \*45 further its use and need for the appropriated water, see *infra* part IV(A)(2). Furthermore, through its substantial investment in this project, Thornton has shown a commitment to completing the appropriations by application of water to beneficial use. Thornton's evidence of factors supporting the substantial probability of future completion is sufficient to outweigh the presence of future contingencies.

### ***b. Conformity Between Decreed Flow Rates and Capacities of Diversion Structures***

The other "can and will" issue raised by Fort Collins relates to alleged discrepancies between the physical capacity of diversion structures for delivery of water to Thornton from certain decreed diversion points and the decreed flow rates assigned to those points. Fort Collins argues that this court's prior decision in *Southeastern Colorado Water Conservancy District v. City of Florence*, 688 P.2d 715 (Colo.1984), requires a direct connection between the flow rate decreed for a conditional water right and the physical capacity of the diversion structures that the applicant proposes to build to utilize these rights. Thus, with respect to these identified points of diversion, Fort Collins contends that Thornton cannot satisfy the "can and will" requirements.

We disagree with Fort Collins' contention that *Florence* controls our decision in the present case. In *Florence*, we reversed the trial court's grant of a conditional decree based in part on the differential between the rate of the diversion sought and the design capacity of the applicant's water system. However, our decision was based on shortfalls in the applicants' entire system capacity, including storage, and did not impose a rigid requirement of absolute correlation between decreed flows and intake or delivery pipe or diversion structure capacity.<sup>[33]</sup> Thus, where an applicant establishes that its system design can accommodate through storage or other means any differences between decreed flow rates and lesser carrying capacities at points of ultimate delivery, *Florence* does not act as a barrier to a finding that the applicant can and will divert at the decreed rate.

46 The record does not establish a shortfall in the entire water system capacity, as was the case in *Florence*. Fort Collins does not identify a lack of capacity in the headgate diversion structures where the initial diversions will be made, and the record shows that these capacities match or exceed the decreed flow rates. Rather, it argues that the pipelines designed for ultimate delivery of the diverted water to Thornton are incapable of delivering the entire decreed flows. However, Fort Collins apparently does not take into account that Thornton's system is not designed to deliver diverted water directly from the headgates to the pipelines. Thornton's expert testified that decreed storage would be available to allow diversion at the full flow rate, with subsequent controlled release at the capacity of the pipeline delivering the water to its ultimate place of use. Moreover, some of this diverted water will not be transported to Thornton but rather will be released to satisfy Thornton's replacement obligations. *Id.* Unlike the situation in *Florence*, Thornton's storage capacity and other applications will allow the diversions to take place at the decreed rates without the need to build or improve upon diversion facilities beyond the plans encompassed in the project proposal. Sufficient evidence was introduced to support the trial court's decree encompassing the flow rates at issue, to establish that Thornton's system design is adequate, and to support the finding that Thornton can and will use the decreed quantities of \*46 water. For the foregoing reasons, we affirm the trial court's holding that Thornton can and will divert the water to beneficial use and complete the project with diligence and within a reasonable time.

In sum, based upon our review of the relevant case law and of the voluminous record associated with these issues, we

find support for the trial court's conclusion that Thornton fulfilled all the necessary requirements to establish conditional water rights for its Poudre River exchange, its Poudre and South Platte River diversions, and its WSSC ditch exchange. Thornton established the required "first step" by forming a nonspeculative intent to use the claimed water for its future water service needs and completing the required overt acts culminating in the filing of its applications on December 31, 1986. Thornton also established that it can and will complete the necessary facilities and divert the claimed water within a reasonable period of time. Accordingly, we affirm the trial court's decision to decree the claimed conditional rights with an appropriation date of December 31, 1986.

#### **IV. Terms and Conditions of Decree**

In its Memorandum of Decision the trial court aptly stated that "[t]he applicant is clearly entitled to a decree. It is only the terms of that decree which are in dispute." MOD at 42. Having affirmed the trial court's determination that Thornton has established the right to a decree for its Northern Project, we too must address the parties' disputes as to the scope of those rights. In granting the decree, the trial court carefully considered the issues and imposed numerous terms and conditions on the exercise of Thornton's conditional rights. Although only a relatively few conditions are appealed in comparison to the number actually imposed, each appealed condition, or determination that a condition was not necessary, requires individual analysis of the specific facts and circumstances that initiated its imposition. Therefore, the remainder of this opinion is devoted to resolving conflicts over the conditions the trial court imposed or declined to impose.

#### **A. Volumetric Limits and Reality Checks**

We initially address the validity of certain general restrictive conditions imposed by the trial court that relate to Thornton's completion of its appropriations based on its decreed conditional water rights. Specifically, Thornton appeals the volumetric limits imposed by the trial court to restrict the total water diverted through operation of the Northern Project and the "reality checks" provisions affecting Thornton's future diligence requirements.

##### **1. Volumetric Limits**

The first general provision challenged by Thornton concerns volumetric limits on the yield of the entire Northern Project. The trial court quantified the conditional water rights decreed to Thornton in terms of cubic feet per second, a rate-of-flow measurement. The final decree placed specific limitations, however, on the volumetric yield that Thornton could divert under each of the four proposed appropriations that collectively make up Thornton's Northern Project,<sup>[34]</sup> as well as on the volumetric yield of the entire project. Thornton appeals the limitations on its new conditional appropriations of river exchange diversions, direct river diversions, and ditch exchange withdrawals, as well as the limitation on total project yield to the extent it affects Thornton's new appropriations.<sup>[35]</sup>

- 47 We hold that the trial court may impose this type of limitation, provided that \*47 (1) the limitation conforms to the amount of available water for which the applicant has established both a need and a future intent and ability to use, or (2) that the limitation is specifically found by the court to be necessary to prevent injury to other water users. Here, the total volumetric yield limit does not conform to the trial court's findings with respect to Thornton's established water requirements and the availability of water for appropriation, and the trial court made no specific finding that the total yield limitation was necessary to protect other water users against injury. Therefore, we remand to the trial court with instructions either to conform the volumetric yield limitations to its findings of fact regarding Thornton's water requirements or to make specific findings identifying the potential injury that will be ameliorated by the volumetric yield restrictions set forth in the decree.

Initially, we note that a conditional water right is limited to the amount of water available for appropriation, Arapahoe County, 891 P.2d at 962, and for which the applicant can establish a nonspeculative intent to put to beneficial use while satisfying the "can and will" requirements, FWS Land & Cattle Co. v. State, Div. of Wildlife, 795 P.2d 837, 841 (Colo.1990). In other words, the amount of a conditional right is limited to that amount of water for which the applicant has satisfied the requirements for a conditional appropriation, and the water court should enter a decree for that amount. See *id.* (water court's function of determining a water right "includes the quantification of the amount and priority of absolute and conditional water rights") (citing §§ 37-92-301(2), -302(1)(a), 15 C.R.S. (1989 Supp.)). In quantifying the

permissible yield of a conditional water right, the water court is not imposing an independent limitation; rather, it is merely formalizing in the decree the scope of the conditional water right as it has been established by the applicant. See Rominiecki v. McIntyre Livestock Corp., 633 P.2d 1064, 1067 (Colo.1981) ("diversions are limited to an amount sufficient for the purpose for which the appropriation was made, even though such limitation may be less than the decreed rate of diversion"). Thus, it is within the water court's authority to include conditions in the decree that limit the yield of the rights to the amount for which water is available and for which the applicant has established a need and a future intent and ability to use.

In the present case, the trial court decreed both conditional direct flow and conditional storage rights to Thornton for use in the Northern Project. With respect to the direct flow rights, the decree specifies the exact diversion rates, measured in cubic feet per second, available to Thornton at each specific point of diversion. However, with respect to the storage rights, the decree identifies the structures in which Thornton may store water but does not impose individual volumetric limitations on storage in each structure. In the absence of further limitations, this combination of decreed flow rates and essentially unlimited storage rights would contravene the scope of the established conditional rights by allowing Thornton to divert an amount of water far in excess of its proven requirements. Thus, the inclusion in the decree of volumetric limits on Thornton's new conditional appropriations was justified.

However, we cannot affirm the amount set by the trial court as the volumetric limit on total project yield. The relevant provision of the decree reads as follows: "The total amount of project yield shall be limited to no more than the following amounts: 1] 76,000 a.f. [acre feet] in any one year; 2] an average annual yield of 56,800 a.f. during any thirty-six year period, and; 3] during the first thirty-six years of project operation only, an average of 65,300 a.f. during any consecutive ten year period." Decree, ¶ 59.4, at 77. Thus, over the life of the project, Thornton's total available annual yield from all of its decreed diversions is limited to 56,800 acre feet. This figure does not comport with the trial court's findings of fact concerning the amount of water for which Thornton has established a future need and an intent and ability to use or its findings with respect to available water.

48 In the final decree, the court recognized that Thornton's future demand for water in its service area is expected to reach over \*48 94,000 acre feet per year, Decree, ¶ 8.3, at 5, and that the water and exchanges appropriated by Thornton were necessary for use and will be used to satisfy the city's future municipal requirements, Decree, ¶ 13, at 13-14. Taking into account the existing water supplies available to Thornton, which range from 10,000 to 26,000 acre feet depending on water quality concerns, Decree, ¶ 8.3, at 5, the trial court's findings support Thornton's claim that it has established a need for between 68,000 and 84,000 acre feet of water per year.<sup>[36]</sup> Furthermore, the court made express findings that water was available in excess of the diversions to be made by Thornton. Decree, ¶ 14.2.4, at 18; *id.* ¶ 15.4, at 28. These findings do not support a project volumetric yield limitation of 56,800 acre feet, significantly below the amount of established need and available water.<sup>[37]</sup> Unless its projected future demand is adjusted downward as a result of future diligence proceedings, and in the absence of any finding of specific need for limitations to protect against injury to other water users, Thornton's new conditional appropriations should be subject only to volumetric limits consistent with the amount of water found by the court to be necessary and available for the city's future requirements.

Although not in conformity with the evidence concerning the scope of Thornton's conditional rights, the court's setting of a project yield limit below established need and availability could be valid if necessary to protect other water users against injury to their existing rights. Thornton argues that the water court is not authorized to apply a "no-injury" standard to appropriations other than changes of water rights or plans for augmentation. See § 37-92-305(3), 15 C.R.S. (1990). However, our prior decisions reveal that under appropriate circumstances, new conditional appropriations may be decreed subject to conditions designed to protect other appropriators against injury resulting from the appropriations. See Fox v. Division Eng'r for Water Div. 5, 810 P.2d 644, 646 (Colo.1991) (decree of conditional water right may not be granted in absence of concurrent plan for augmentation that will prevent injury to senior rights by ensuring enough available water to exercise conditional right); Southeastern Colo. Water Conservancy Dist. v. City of Florence, 688 P.2d 715, 718 (Colo.1984) (same); Lionelle v. Southeastern Colo. Water Conservancy Dist., 676 P.2d 1162, 1167-68 (Colo.1984) (same). In this case, the court made general findings that "there will be no injury to specific water rights if the  
49 Thornton Northern Project is operated in accordance with the terms and conditions established [in this decree]." Decree, \*49 ¶ 18, at 29. However, the court made no specific findings relating to the potential injury to existing water rights that would be prevented by the established volumetric limits. Cf. Southeastern Colo. Water Conservancy Dist. v. Fort Lyon Canal Co., 720 P.2d 133, 147, 150 (Colo.1986) (water court erred in failing to enter specific, detailed findings of injury to other appropriators). Absent such a finding, we are not in a position to evaluate the validity of the volumetric limitation as a protection against injury to existing rights.

City of Thornton

April 3, 2018

To whom it may concern:

Pursuant to the Colorado Open Records Act, C.R.S. § 24-72-200.1 et seq, No Pipe Dream and Karen A Wagner request the documents described below related to the Thornton Water Project ("Project") that will convey drinking water from the Cache La Poudre watershed and convey the water to the City of Thornton ("City") via pipeline for municipal use. PDF format preferred.

By means of background, in the Colorado Supreme Court decision of *City of Thornton v. Bijou Irrigation Co.*, 926 P.2d 1, 21 (1996) the court described the Thornton Water Project as a three phase project as follows:

Phase I. In the year 2000, construction will begin on a pumping station at WSSC Reservoir No. 4, a 48 inch pipeline to carry water 56 miles to Thornton, and numerous related facilities. Initially, the Northern Project will deliver a minimum of approximately 1800 acre-feet during the year 2002, and will increase deliveries in annual increments of 500 to 1,300 acre-feet, matching Thornton's increasing need for water. Phase I deliveries will level off at an average of approximately 33,200 acre-feet per year in 2028. Water delivered to Thornton in Phase I will be derived primarily from the gradual retirement of approximately 14,500 irrigated acres served by WSSC and owned by Thornton and from new (1986) appropriations of water by Thornton from the Poudre. Phase II. In 2026, to meet Thornton system demands over and above those satisfied by Phase I, construction will begin on a parallel 48 inch pipeline to Thornton from WSSC Reservoir No. 4, together with a variety of other facilities, including return pipelines from the Poudre and South Platte Rivers to the Larimer County Canal near Elder Reservoir and south of Cobb Lake. Deliveries of water to Thornton through Phase II facilities will begin in the year 2029 and combined deliveries from Phase I and Phase II facilities will average approximately 56,900 acre-feet per year. Additional water delivered to Thornton in Phase II will be derived primarily from a "ditch exchange" under which Thornton will withdraw water from the WSSC system and, in exchange, return an equivalent amount of water from other sources owned by Thornton. The return water, or "substitute supply," will be pumped to the Larimer County Canal from various locations along the Poudre and South Platte Rivers. Phase III. In 2034 construction will begin on a parallel 72 inch

return pipeline to deliver water back to the Larimer County Canal, thereby increasing the yield of the "ditch exchange" with the WSSC system. Additional deliveries from these Phase III facilities will begin in the year 2036 and will increase each year to help meet Thornton's increasing need. New water delivered during Phase III will be derived from the use of Thornton's WSSC shares for irrigation under the WSSC system to allow a ditch exchange on nearly the entire flow of the WSSC system. The yield of the project at full development, utilizing Phase I, II and III facilities, will average approximately 67,000 acre-feet per year. MOD at 3-4 (quoting Ex. A-649, at pp. xii-xiii, Project Completion Study Report, Draft Report, Addendum, prepared by Rocky Mountain Consultants, Inc.). Thornton estimated that full development of the Northern Project will cost approximately \$427,000,000 and will meet Thornton's system demand through the year 2031.

The Thornton Water Project requires a 1041 Permit from Larimer County ("County"). To date the City of Thornton has not submitted a 1041 application for all three phases of the Project. Instead, the City of Thornton has only submitted a 1041 application for a single 48" pipeline, pump station, and related appurtenances. In light of the above-cited Supreme Court decision and the City of Thornton's 1041 application, we request the following documents:

- 1) the most current document in the City's possession, custody, or control describing whether the Thornton Water Project remains a three phase project;
- 2) the most the most current document in the City's possession, custody, or control identifying the schedule for applying for a 1041 permit with Larimer County for all three phases of the project;
- 3) if the City does not plan to seek a 1041 permit from Larimer County for all three phases and pipelines, the most current document in the City's possession, custody, or control describing why the City is not applying for a 1041 permit for all three phases of the project and pipelines;
- 4) the most current document in the City's possession, custody, or control describing why the City is not presently applying for a 1041 permit for all three phases of the Project;
- 5) all feasibility studies analyzing possible alternatives to Thornton's preferred Project proposal as submitted in its 1041 permit application, including but not limited to any alternative of pulling water from the Cache La Poudre River further east in either eastern Larimer County or western Weld County;
- 6) the most current map or descriptions of the proposed location of all three pipelines in Larimer County as described in the Supreme Court decision;
- 7) the most current analysis of private properties that will be impacted by the

- construction of all three pipelines in Larimer County;
- 8) all documents indicating whether the City has applied for, and/or received, any money, loans, financing, grants, or any other financial assistance through any branch of the federal government to design, construct, or operate any aspect of the Project;
  - 9) the most current document describing any federal permit or approval that may be needed to undertake any aspect of the Project, including but not limited to any permit under the Clean Water Act, Endangered Species Act, and National Environmental Policy Act.

Karen A Wagner

For No Pipe Dream  
970-227-7437  
kaswagner@me.com



**From:** Patty Cisneros <Patty.Cisneros@cityofthornton.net>  
**Date:** April 4, 2018 at 4:53:42 PM MDT  
**To:** "'kaswagner@me.com"' <kaswagner@me.com>  
**Subject:** Thornton Public Records Request

Dear Ms. Wagner:

In response to your April 3, 2018 Public Records Request, the following documents and responses are provided:

2 of 13

4/13/18, 1:49 PM

- 1) The most current document in the City's possession, custody, or control describing whether the Thornton Water Project remains a three phase project.

Response: Please see "13CW3015 TNP 2nd Diligence.pdf" enclosed.

- 2) The most the most current document in the City's possession, custody, or control identifying the schedule for applying for a 1041 permit with Larimer County for all three phases of the project.

Response: The city has no responsive documents.

- 3) If the City does not plan to seek a 1041 permit from Larimer County for all three phases and pipelines, the most current document in the City's possession, custody, or control describing why the City is not applying for a 1041 permit for all three phases of the project and pipelines.

Response: The city has no responsive documents.

- 4) The most current document in the City's possession, custody, or control describing why the City is not presently applying for a 1041 permit for all three phases of the Project.

Response: The city has no responsive documents.

5) All feasibility studies analyzing possible alternatives to Thornton's preferred Project proposal as submitted in its 1041 permit application, including but not limited to any alternative of pulling water from the Cache La Poudre River further east in either eastern Larimer County or western Weld County.

Response: Please see "Pages from COT1-#645255-v1-060314\_Planning\_Session\_Agenda\_and\_Communication.pdf" enclosed.

6) The most current map or descriptions of the proposed location of all three pipelines in Larimer County as described in the Supreme Court decision.

Response: Please see "4663\_001.pdf" attached or last page "13CW3015 TNP 2nd Diligence.pdf" enclosed.

7) The most current analysis of private properties that will be impacted by the construction of all three pipelines in Larimer County.

Response: The city has no responsive documents.

8) All documents indicating whether the City has applied for, and/or received, any money, loans, financing, grants, or any other financial assistance through any branch of the federal government to design, construct, or operate any aspect of the Project.

Response: The city has no responsive documents.

9) The most current document describing any federal permit or approval that may be needed to undertake any aspect of the Project, including but not limited to any permit under the Clean Water Act, Endangered Species Act, and National Environmental Policy Act.

Response: Please see "TWP Sign Permitting FINAL 20161129.pdf" enclosed. This information can also be found at: [https://thorntonwaterproject.com/wp-content/uploads/2017/02/TWP\\_Permitting.pdf](https://thorntonwaterproject.com/wp-content/uploads/2017/02/TWP_Permitting.pdf). See also: The Thornton Water Project Larimer County 1041 Permit Application, which can be found at: [https://onlineportal.larimer.org/EnerGov\\_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305?inf\\_contact\\_key=1bb269b467c19f39bf7b18f9b4ecd4b1ed5d0a9d62b7e43c6a756767a4574eb0](https://onlineportal.larimer.org/EnerGov_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305?inf_contact_key=1bb269b467c19f39bf7b18f9b4ecd4b1ed5d0a9d62b7e43c6a756767a4574eb0)

This will now close your request for information.


Thank you,


Patty Cisneros

Thornton City Clerk - Records

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**4 attachments**

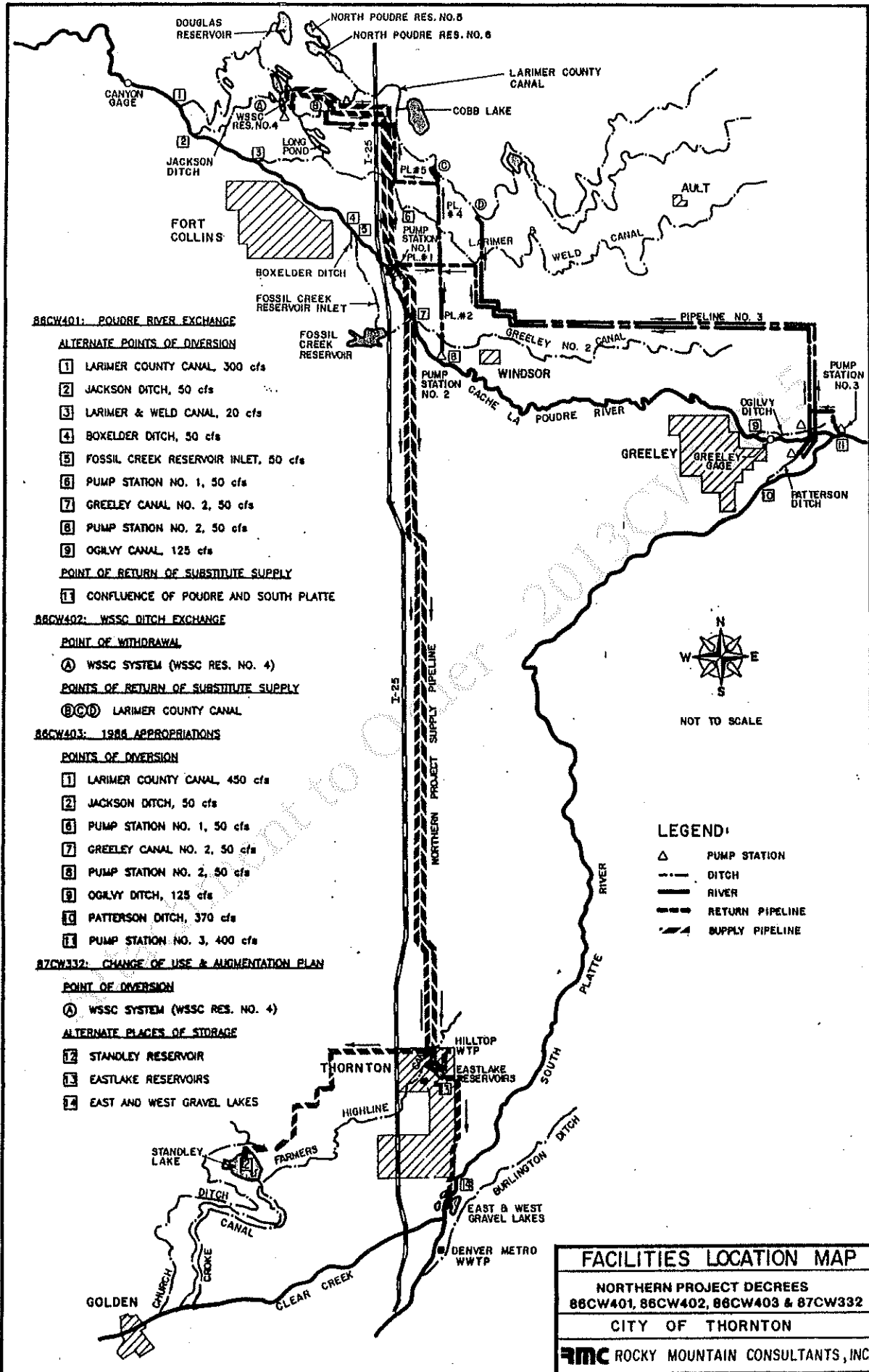
 **13CW3015 TNP 2nd Diligence.pdf**  
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 **4663\_001.pdf**  
107K

 **TWP Sign Permitting FINAL 20161129.pdf**  
105K

 **Pages from COT1-#645255-v1-060314\_Planning\_Session\_Agenda\_and\_Communication.pdf**  
5359K

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**86CW401: POUDRE RIVER EXCHANGE**

**ALTERNATE POINTS OF DIVERSION**

- 1 LARIMER COUNTY CANAL, 300 cfs
- 2 JACKSON DITCH, 50 cfs
- 3 LARIMER & WELD CANAL, 20 cfs
- 4 BOXELDER DITCH, 50 cfs
- 5 FOSSIL CREEK RESERVOIR INLET, 50 cfs
- 6 PUMP STATION NO. 1, 50 cfs
- 7 GREELEY CANAL NO. 2, 50 cfs
- 8 PUMP STATION NO. 2, 50 cfs
- 9 OGILVY CANAL, 125 cfs

**POINT OF RETURN OF SUBSTITUTE SUPPLY**

- 11 CONFLUENCE OF POUDRE AND SOUTH PLATTE

**86CW402: WSSC DITCH EXCHANGE**

**POINT OF WITHDRAWAL**

- A WSSC SYSTEM (WSSC RES. NO. 4)

**POINTS OF RETURN OF SUBSTITUTE SUPPLY**

- B, C, D LARIMER COUNTY CANAL

**86CW403: 1988 APPROPRIATIONS**

**POINTS OF DIVERSION**

- 1 LARIMER COUNTY CANAL, 450 cfs
- 2 JACKSON DITCH, 50 cfs
- 6 PUMP STATION NO. 1, 50 cfs
- 7 GREELEY CANAL NO. 2, 50 cfs
- 8 PUMP STATION NO. 2, 50 cfs
- 9 OGILVY DITCH, 125 cfs
- 10 PATTERSON DITCH, 370 cfs
- 11 PUMP STATION NO. 3, 400 cfs

**87CW332: CHANGE OF USE & AUGMENTATION PLAN**

**POINT OF DIVERSION**

- A WSSC SYSTEM (WSSC RES. NO. 4)

**ALTERNATE PLACES OF STORAGE**

- 12 STANDLEY RESERVOIR
- 13 EASTLAKE RESERVOIRS
- 14 EAST AND WEST GRAVEL LAKES

**LEGEND:**

- △ PUMP STATION
- - - DITCH
- RIVER
- RETURN PIPELINE
- SUPPLY PIPELINE

<b>FACILITIES LOCATION MAP</b>
NORTHERN PROJECT DECREES 86CW401, 86CW402, 86CW403 & 87CW332
CITY OF THORNTON
<b>RMC</b> ROCKY MOUNTAIN CONSULTANTS, INC.

## Thornton pipeline to use water from Larimer County, land of resident

By Ty Betts - April 24, 2018

In the 1980s, the City of Thornton bought land and water rights located in Larimer County. Now, in the face of growth, they have to get that water to their city, but it will not be without opposition.

The **Thornton Water Project** involves the construction of a 48-inch wide, 70-mile long pipeline, running underground from northwestern Larimer County, east along Douglas Rd. and then south along Interstate 25 to its end-point above the city.

Mark Koleber, the Thornton Water Project Director, said the pipeline will be able to convey 40 million gallons per day, which will help supply summer water demand. Thornton plans to have the pipeline approved and built by 2025. This involves the construction of a pump station just below the reservoir to pull from. For this, the city needs to work with a private landowner.

Dick Brauch currently owns the land Thornton is seeking to build the pump station on. Brauch said his 22-acre plot has been in his family since 1962. His son was recently looking to start back up the once active tree farm, but Brauch said this is now unlikely to happen due to the location of land Thornton is looking to obtain. Brauch said Thornton is currently looking to gain about five acres of his property.

"It pretty much takes the heart out of the whole situation cause that is where the trees were, that's where they'd be," Brauch said.

Brauch said Thornton is currently working to negotiate a deal with him. If nothing can be settled upon, Thornton will still be able to seize what they need using eminent domain.

"Every water utility in the state of Colorado has eminent domain power," said Todd Barnes, communications director for the City of Thornton. "But, what we have been focused on for years now is making sure we come to agreements with landowners."

Barnes said Thornton offers fair compensation on land they need to acquire and will pay for land appraisals so the landowner does not have to.

While Brauch understands Thornton needs his property, he said it is a helpless feeling to be told he is losing his land. Brauch also said although eminent domain should be for the public good, he and the people in Larimer County will not be the ones who benefit.

"What upsets me the most is that the people who stand to gain the most are the developers in Thornton who will now be able to build more lots and the city of Thornton which will gain a larger tax base," Brauch said.



*A No Pipe Dream sign is posted along Douglas Rd. where a portion of the pipeline is planned to run. (Ty Betts | Collegian)*

Representatives of No Pipe Dream, a Fort Collins-based organization comprised of around 500 members, recently spoke to the Larimer County Board of County Commissioners in an effort to influence a permit being issued to Thornton for the construction of the pipeline, said Warren Lemerich, one of the founders of No Pipe Dream.



"We are not disputing the water rights that Thornton owns legally. No one is," Lemerich said. "What we are doing is asking Thornton to do the right thing and take the water from the (Poudre) River South of Fort Collins."

The water Thornton will exercise their rights to was diverted from the Poudre River system over a hundred years ago, said John Stokes, Fort Collins Natural Areas Department director. This means the water level of the Poudre will likely see no change if the pipeline is implemented.

"The water right that they are currently developing to put in a pipe will not change the flow regime through Fort Collins," Stokes said.

**“  
THE WATER RIGHT THAT THEY ARE CURRENTLY  
DEVELOPING TO PUT IN A PIPE WILL NOT  
CHANGE THE FLOW REGIME THROUGH FORT  
COLLINS**

**– John Stokes, Fort Collins Natural Areas Department  
Director**

Lemerich said he is not convinced, as he still expects the pipeline to decrease the flow of the Poudre. However, this skepticism is not why Lemerich helped start No Pipe Dream. Lemerich said he views this water project as a way to actually increase flow to the Poudre River.

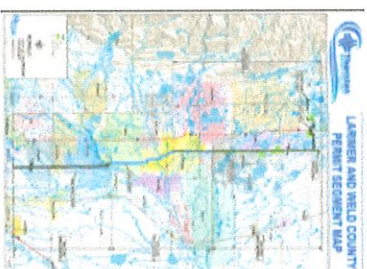
"If they did the right thing and chose to take the water out south of Fort Collins, in the Timnath-Windsor area, we would see that flow restored," Lemerich said.

The water needs to go east, and using the Poudre to transport it instead of a pipeline would introduce water to the river that has historically been used for agriculture. Lemerich said this would have positive

recreational and environmental impacts on a river whose health is diminishing.

Barnes said the city of Thornton purchased water rights north of Fort Collins for a reason.

"The City of Thornton picked this water source for the high quality of the water," Barnes said. "If we were to leave it in the Poudre and take it out farther down the Poudre, it goes past several wastewater treatment plants and industrial runoff areas and municipal runoff areas. The quality of the water is degraded to the point that it no longer has the value it has now."



*This shows the City of Thornton's plan for the route of the proposed water pipeline running south from Larimer County. (Photo courtesy of Thornton Water Project)*

More recently, lapses in communication have come about in Thornton's permitting process. No Pipe Dream member Lynn Nichols said she was alarmed to find two additional pipelines planned in a document obtained through an open records request.

"With the City of Thornton, we've discovered papers and court cases that show that it is not just a one phase project it is a three-phase project," Nichols said.

One of the additional pipelines would parallel the currently planned pipeline running along I-25 south to Thornton and carry more shares of water, Koleber said. The second additional pipeline would bring water from east of Greeley to the reservoirs the current pipeline pulls from.

The development of additional pipelines, however, is not likely to happen anytime soon, if at all. Koleber said the single pipeline currently being planned will suit the city of Thornton's needs until 2065. Beyond that, Thornton is not sure if they will need to exercise additional water rights and further pull from Larimer County.

However, further water diversion by Thornton is possible. Koleber said Thornton has what are known as conditional water rights. These are not as definite as Thornton's current rights and could fluctuate from year to year depending on water availability. Yet, they do mean Thornton could look to Larimer County again if faced with a water shortage.

Water projects like these, which draw controversy from private landowners and organizations like No Pipe Dream, are nothing new to Colorado.

"People don't know that the big cities have water pipelines that travel great distances," Barnes said. "They all have major pipelines that bring water to them. This project is not something new to the state at all."

Collegian reporter Ty Betts can be reached at [news@collegian.com](mailto:news@collegian.com) or on Twitter [@tybetts9](https://twitter.com/tybetts9).

**Comment policy: *The Rocky Mountain Collegian* encourages discussion and discourse within our comments section, but we reserve the right to moderate and ban users for the following behaviors:**

1. Hate speech or slurs based on race, gender, sexual orientation, religion or creed.
2. Ad hominem (personal attacks) against another commenter or writer.
3. Proselytizing (attempting to convert others to your religion) or otherwise advertising your religion or attacking someone for theirs.
4. Doxing (posting someone's address or personal information) in order to intimidate a writer or another commenter.
5. Spamming our website with promotional offers or links to other sites.
6. Off topic conversations not pertaining to the article or content.



**Ty Betts**

Ty Betts is a news reporter for the Rocky Mountain Collegian. He is a sophomore studying natural resources and journalism and can be found on Twitter @TYBetts9.



# *Keep the water in the Poudre!*

nopipedream.com

**STOP**

**Thornton's  
Pipe Dream**

April 17, 2018

Larimer County Commissioners  
Steve Johnson, Lew Gaiter, III, Tom Donnelly  
200 West Oak, Suite 2200  
Fort Collins, CO 80521

Planning Commissioners  
Ray Caraway, Jean Christman, Mina Cox, Jeff Jensen, Curtis Miller, Nancy Wallace,  
Sean M. Dougherty, Gary Gerrard and Steven Lucas  
200 West Oak  
Fort Collins, CO 80521

Larimer County Planning Department  
Matt Lafferty, Principal Planner  
Rob Helmick, Senior Planner

Dear Commissioners and Planners:

We are writing with significant concerns and questions regarding the scope of the City of Thornton's current 1041 application for the Thornton Water Project ("Project") that will convey drinking water from the Cache La Poudre to the City of Thornton ("City") via pipeline(s) for municipal use and associated conveyances.

By means of background, in the Colorado Supreme Court decision of City of Thornton v. Bijou Irrigation Co., 926 P.2d 1, 21 (1996) the court describes the Thornton Water Project as a three phase project as follows:

Phase I. In the year 2000, construction will begin on a pumping station at WSSC Reservoir No. 4, a 48 inch pipeline to carry water 56 miles to Thornton, and numerous related facilities. Initially, the Northern Project will deliver a minimum of approximately 1800 acre-feet during the year 2002, and will increase deliveries in annual increments of 500 to 1,300 acre-feet, matching Thornton's increasing need for water. Phase I deliveries will level off at an average of approximately 33,200 acre-feet per year in 2028. Water delivered to Thornton in Phase I will be derived primarily from the gradual

retirement of approximately 14,500 irrigated acres served by WSSC and owned by Thornton and from new (1986) appropriations of water by Thornton from the Poudre. Phase II. In 2026, to meet Thornton system demands over and above those satisfied by Phase I, construction will begin on a parallel 48 inch pipeline to Thornton from WSSC Reservoir No. 4, together with a variety of other facilities, including return pipelines from the Poudre and South Platte Rivers to the Larimer County Canal near Elder Reservoir and south of Cobb Lake. Deliveries of water to Thornton through Phase II facilities will begin in the year 2029 and combined deliveries from Phase I and Phase II facilities will average approximately 56,900 acre-feet per year. Additional water delivered to Thornton in Phase II will be derived primarily from a "ditch exchange" under which Thornton will withdraw water from the WSSC system and, in exchange, return an equivalent amount of water from other sources owned by Thornton. The return water, or "substitute supply," will be pumped to the Larimer County Canal from various locations along the Poudre and South Platte Rivers. Phase III. In 2034 construction will begin on a parallel 72 inch return pipeline to deliver water back to the Larimer County Canal, thereby increasing the yield of the "ditch exchange" with the WSSC system. Additional deliveries from these Phase III facilities will begin in the year 2036 and will increase each year to help meet Thornton's increasing need. New water delivered during Phase III will be derived from the use of Thornton's WSSC shares for irrigation under the WSSC system to allow a ditch exchange on nearly the entire flow of the WSSC system. The yield of the project at full development, utilizing Phase I, II and III facilities, will average approximately 67,000 acre-feet per year. MOD at 3-4 (quoting Ex. A-649, at pp. xii-xiii, Project Completion Study Report, Draft Report, Addendum, prepared by Rocky Mountain Consultants, Inc.). Thornton estimated that full development of the Northern Project will cost approximately \$427,000,000 and will meet Thornton's system demand through the year 2031.

This Supreme Court decision was followed by a 2004 Water Court decision ("City of Thornton 04CW079) which described the three phase Project as follows:

"Thornton's Northern Project is designed to operate in three phases in addition to the exchanges described in Case No. 96CW1116. (i) Phase I of the TNP includes a pipeline extending from the WSSC system to Thornton...(ii) Phase II of the TNP will implement the Ditch Exchange (86CW402). Phase II includes the delivery of raw water to Thornton derived from Phase I operations and the Ditch Exchange. Phase II also includes facilities and operations to return a substitute supply to the WSSC system to complete the Ditch Exchange. (iii) Phase III involves an expanded ditch exchange in contrast to the partial ditch exchange in Phase II."

The 2004 Water Court decision also found that the various Project phases "comprise interrelated and incremental components of a single system...[that would be] built in stages."

Attached is a map, included as Exhibit 1 to the 2004 Water Court ruling, displaying the various Project pipelines, conveyances, and return flows. This map was also recently provided to No Pipe Dream by Thornton in response to our request for the most current delineation of

the Project. As shown on the map, all three phases and associated pipelines and conveyances will be located within Larimer County.

The Thornton Water Project requires a 1041 Permit from Larimer County ("County"). To date, it appears that Thornton has not submitted a 1041 application for all three phases of the Project and all associated pipelines and conveyances to be located in Larimer County. Instead, Thornton has only submitted a 1041 application for a single 48" pipeline, pump station, and related appurtenances. In light of the above-cited Supreme Court and Water Court decisions, we have the following significant concerns and questions regarding the scope of the Project and the current 1041 application:

- 1) Does the Thornton Water Project remain a three-phase project? If so, what are the three phases, what pipelines and/or conveyances are associated with each phase, and what is the schedule for the construction of each phase?
- 2) Is the 48" water pipeline that is the subject of Thornton's current 1041 permit the only raw water delivery pipeline associated with the project? Or will the Project involve a future parallel 48" water pipeline as described as Phase II in the 1996 Supreme Court decision?
- 3) If the Project still includes additional conveyances (pipelines, return flows, ditch exchanges, or otherwise) not included in the current 1041 application, what is the schedule for Thornton to apply for a 1041 permit with Larimer County for the remaining conveyances?
- 4) If Thornton does not plan to seek a 1041 permit from Larimer County for all conveyances and/or pipelines, please explain why the County is not requiring the City to submit a comprehensive 1041 permit application for all phases of the Project?
- 5) Which private properties within Larimer County will be impacted by the construction of each of the pipelines/water conveyances that are not currently included in Thornton's 1041 application?
- 6) If the County does not know which properties will be impacted by all phases of the Project, why is the County allowing the City to segment the Project by limiting its current 1041 application to a single 48" pipeline instead of requiring a single comprehensive 1041 application for all phases of the Project?

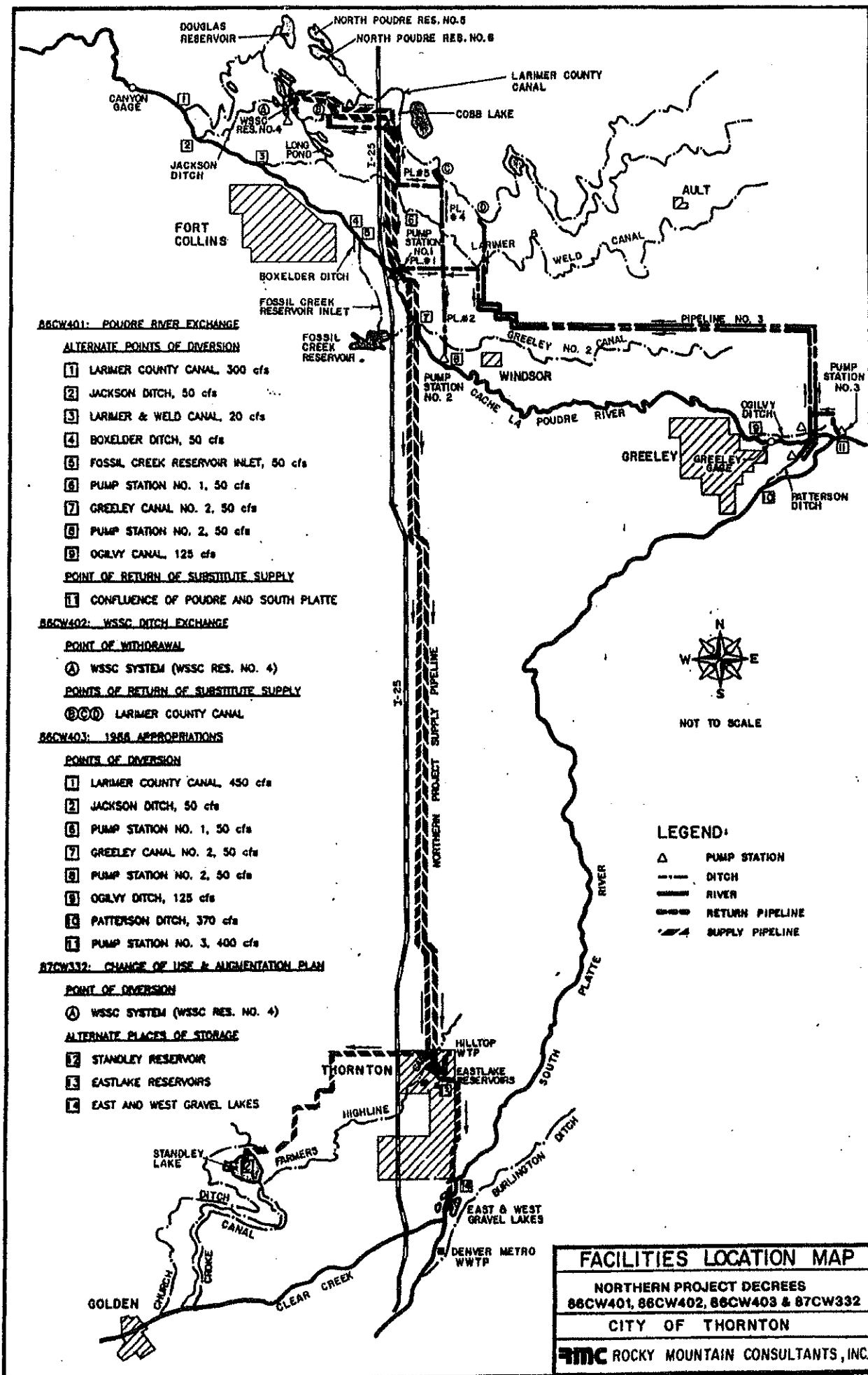
In light of the apparent deficiencies in Thornton's 1041 application, we are writing to request that Larimer County immediately inform Thornton that its 1041 application appears to be incomplete and will not be processed by the County until a comprehensive 1041 application is submitted showing all phases of the Project, all pipelines and conveyances to be located in Larimer County, and all lands and waters within Larimer County that will be impacted by each phase of the Project. As such, we also ask that the Planning Commission and County Commissioner hearings currently scheduled for May 16, 2018 and July 9, 2018 be vacated. Finally, we request that the County provide a written response, by April 25, 2018, to each question contained in this letter and state whether the County will agree to both reject the current 1041 application as incomplete and vacate the currently scheduled hearings.

Thank you,

No Pipe Dream Steering Committee Members:

Lynn Utzman-Nichols	505 Canadian Pkwy, Fort Collins, CO 80524
Karen Wagner	1717 Linden Lake Road, Fort Collins, CO 80524
Charmaine Stavedahl	3607 Woodridge Road, Fort Collins, CO 80524
Robert P. Kitchell	412 Terry Point Drive, Fort Collins, CO 80524
R. Warren Lemerich	3709 Starlite Drive, Fort Collins, CO 80524
Betsy Cox	504 Canadian Pkwy, Fort Collins, CO 80524
Loretta Keeton	1000 E. Douglas Road, Fort Collins, CO 80524
Susan Marshall	3221 Cinnamon Court, Fort Collins, CO 80524
Yvonne Wittreich	1001 E. Douglas Road, Fort Collins, CO 80524
Ed Vojensky	3352 Harbor Way, Fort Collins, CO 80524
Martha Conant	508 Canadian Pkwy, Fort Collins, CO 80524
Gloria Edwards	3612 Kenyon Dr. Ft. Collins 80524





**86CW401: Poudre River Exchange**

**ALTERNATE POINTS OF DIVERSION**

- 1 LARIMER COUNTY CANAL, 300 cfs
- 2 JACKSON DITCH, 50 cfs
- 3 LARIMER & WELD CANAL, 20 cfs
- 4 BOXELDER DITCH, 50 cfs
- 5 FOSSAL CREEK RESERVOIR INLET, 50 cfs
- 6 PUMP STATION NO. 1, 50 cfs
- 7 GREELEY CANAL NO. 2, 50 cfs
- 8 PUMP STATION NO. 2, 50 cfs
- 9 OGILVY CANAL, 125 cfs

**POINT OF RETURN OF SUBSTITUTE SUPPLY**

- 1 CONFLUENCE OF POUDBRE AND SOUTH PLATTE

**86CW402: WSSC DITCH EXCHANGE**

**POINT OF WITHDRAWAL**

- 4 WSSC SYSTEM (WSSC RES. NO. 4)

**POINTS OF RETURN OF SUBSTITUTE SUPPLY**

- 8, 9 LARIMER COUNTY CANAL

**86CW403: 1988 APPROPRIATIONS**

**POINTS OF DIVERSION**

- 1 LARIMER COUNTY CANAL, 450 cfs
- 2 JACKSON DITCH, 50 cfs
- 6 PUMP STATION NO. 1, 50 cfs
- 7 GREELEY CANAL NO. 2, 50 cfs
- 8 PUMP STATION NO. 2, 50 cfs
- 9 OGILVY DITCH, 125 cfs
- 13 PATTERSON DITCH, 370 cfs
- 11 PUMP STATION NO. 3, 400 cfs

**87CW332: CHANGE OF USE & AUGMENTATION PLAN**

**POINT OF DIVERSION**

- 4 WSSC SYSTEM (WSSC RES. NO. 4)

**ALTERNATE PLACES OF STORAGE**

- 2 STANDLEY RESERVOIR
- 3 EASTLAKE RESERVOIRS
- 4 EAST AND WEST GRAVEL LAKES

<b>FACILITIES LOCATION MAP</b>	
NORTHERN PROJECT DECREES 86CW401, 86CW402, 86CW403 & 87CW332	
CITY OF THORNTON	
TMC ROCKY MOUNTAIN CONSULTANTS, INC.	

April 23, 2018

Ms. Lynn Utzman-Nichols  
No Pipe Dream  
505 Canadian Parkway  
Fort Collins CO 80524

Dear Ms. Utzman-Nichols :

The Larimer County Community Development Division has reviewed your letter of April 17, 2018.

The following information is provided by the Larimer County Community Development Department in response to six questions outlined within the letter titled “Keep the water in the Poudre!”, dated April 17, 2018.

1. *Does the Thornton Water Project remain a three-phase project? If so, what are the three phases, what pipelines and/or conveyances are associated with each phase, and what is the schedule for the construction of each phase?*

The scope of the proposed Thornton Water Project included in the Larimer County 1041 application is specified within the application materials, available at the following location:

[https://onlineportal.larimer.org/EnerGov\\_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305](https://onlineportal.larimer.org/EnerGov_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305). The 1041 permit application does not include multiple phases of additional pipelines as described in your letter.

2. *Is the 48” water pipeline that is the subject of Thornton’s current 1041 permit the only raw water delivery pipeline associated with the project? Or will the Project involve a future parallel 48” water pipeline as described as Phase II in the 1996 Supreme Court decision?*

The City of Thornton submitted a 1041 permit application for a water pipeline as described in the application materials. The application materials do not include a proposal to install a second parallel 48-inch diameter pipeline in the future. If the City of Thornton pursues future infrastructure improvements not included in the current 1041





application, such as a second parallel pipeline, the City would be required to begin a new 1041 permit application process at the time the additional infrastructure is proposed.

- 3. If the Project still includes additional conveyances (pipelines, return flows, ditch exchanges, or otherwise) not included in the current 1041 application, what is the schedule for Thornton to apply for a 1041 permit with Larimer County for the remaining conveyances?*

The City of Thornton has outlined the scope of the proposed project within the 1041 permit application. Thornton has not provided Larimer County with a schedule for construction of potential additional facilities in the future, beyond the facilities described in the current permit application.

- 4. If Thornton does not plan to seek a 1041 permit from Larimer County for all conveyances and/or pipelines, please explain why the County is not requiring the City to submit a comprehensive 1041 permit application for all phases of the Project?*

Larimer County reviews and acts upon complete applications submitted to the County for consideration. If the City of Thornton pursues future infrastructure improvements not included in the current 1041 application, such as a second parallel pipeline, the City would be required to begin a new 1041 permit application process at the time the additional infrastructure is proposed. The City of Thornton has not informed Larimer County that they intend to pursue future parallel pipelines so only the infrastructure considered in this application will be approved, conditionally approved or denied with the current application.

- 5. Which private properties within Larimer County will be impacted by the construction of each of the pipelines/water conveyances that are not currently included in Thornton's 1041 application?*

The City of Thornton has provided the proposed alignment for conveyance facilities included in the scope of the project included in the permit. The City has not requested 1041 approval of additional parallel facilities as outline in your letter and has not provided the County with proposed alignments for facilities not included in the current application.

- 6. If the County does not know which properties will be impacted by all phases of the Project, why is the County allowing the City to segment the Project by limiting its current 1041 application to a single 48" pipeline instead of requiring a single comprehensive 1041 application for all phases of the Project?*

Larimer County is reviewing the 1041 application in accordance with the standards established by Section 14 of the Larimer County Land Use Code. Again, the City of



---

Thornton has not requested 1041 approval of additional future facilities beyond the improvements outlined in the current application materials.

In summary while we appreciate your interest in this application, the County has found that the application and supplemental materials submitted in consideration of the application are suitable for review and have accordingly scheduled the hearings for this matter before the Larimer County Planning Commission and the Board of County Commissioners.

Sincerely,

Robert Helmick, AICP  
Senior Planner, Development Review  
Community Development Division

XC: file  
County Attorney  
Board of County Commissioners



## Patricia Johnsen

---

**From:** Mark Koleber  
**Sent:** Tuesday, June 06, 2017 7:38 AM  
**To:** 'Todd Blomstrom'  
**Cc:** John Himyak; Gerald Simpson (External)  
**Subject:** RE: conference call

Thanks, Todd.

Mark

**From:** Todd Blomstrom [mailto:blomstta@co.larimer.co.us]  
**Sent:** Monday, June 05, 2017 4:46 PM  
**To:** Mark Koleber <Mark.Koleber@cityofthornton.net>  
**Subject:** Fwd: conference call

Mark,

Northern Water will be joining our conference call on Wednesday.

Call-in numbers and the participant code is provided below.

x2400 (Internal County Extension)  
[+1 \(970\) 980-2400](tel:+19709802400) (Local dial in)  
[+1\(844\) 552-5553](tel:+18445525553) (Toll Free Incoming)

Participant Code: 8863786

On Mon, Jun 5, 2017 at 3:20 PM, Stephanie Cecil <[scecil@northernwater.org](mailto:scecil@northernwater.org)> wrote:

Rob,

Carl and I can call into this on Wednesday at 1 PM. Can you please send the call-in information?

Thank you!



**Stephanie Cecil, P.E.** | Water Resources Project Engineer  
220 Water Ave | Berthoud, CO 80513  
Direct [970-622-2231](tel:970-622-2231) | Cell [970-685-0061](tel:970-685-0061)

Main 800-369-RAIN (7246) | Fax [877-851-0018](tel:877-851-0018)  
[www.northernwater.org](http://www.northernwater.org) | [Find us on Facebook](#)

**From:** Rob Helmick [mailto:[helmicrp@co.larimer.co.us](mailto:helmicrp@co.larimer.co.us)]  
**Sent:** Monday, June 05, 2017 1:13 PM  
**To:** Stephanie Cecil <[scecil@northernwater.org](mailto:scecil@northernwater.org)>; Carl Brouwer <[cbrouwer@northernwater.org](mailto:cbrouwer@northernwater.org)>  
**Cc:** Todd Blomstrom <[tblomstrom@larimer.org](mailto:tblomstrom@larimer.org)>  
**Subject:** conference call

Stephanie and Carl!

Todd Blomstrom, Public Works Director, has arranged a conference call with Thornton for 1pm on this coming Wednesday.

We thought it appropriate to invite you all to participate, I realize how late the notice for this is. The information below is from the e-mail between us and Thornton. If you can and would like to join in please let me know and I will get you the call in information as it becomes available.

Ultimately, we will need to address the following main items for the option of co-location along Douglas:

- Alignment Location/Extent - start and end points along Douglas Road for both Northern and Thornton
- Approximate schedule - high level estimate of start and end dates for both Northern and Thornton (at this point, a specific year would be helpful)
- Basic information on anticipated size, depth, and spacing for both pipelines
- Proposed financial contribution towards the overall project - hope to find a solution that is a benefit to all potential project partners

Transportation staff from Larimer County and the City of Fort Collins are meeting on June 2 to discuss the identification of "Regional Roadways". This effort will improve our ability to focus delivery efforts on specific transportation improvements. As part of this discussion, the County is proposing that Douglas Road be included as a regional roadway. During this meeting, County staff will also request a separate meeting with Fort Collins to discuss the opportunity for a partnership between the County, City, Northern and Thornton along Douglas Road.

--

Robert Helmick, AICP  
Larimer County Community Development Division

Development Planning  
PO Box 1190  
Fort Collins CO 80524  
[rhelmick@larimer.org](mailto:rhelmick@larimer.org)  
[970-498-7682](tel:970-498-7682)

## Patricia Johnsen

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**From:** Mark Koleber  
**Sent:** Thursday, June 22, 2017 9:24 AM  
**To:** 'Carl Brouwer'; 'Todd Blomstrom'; Stephanie Cecil  
**Cc:** 'rhelmick@larimer.org'; Mark Peterson  
**Subject:** RE: Douglas Road Project Message

Thanks, Carl. Let us know when it's appropriate to get together to continue the discussion.

Mark

---

**From:** Carl Brouwer [mailto:cbrouwer@northernwater.org]  
**Sent:** Wednesday, June 21, 2017 4:20 PM  
**To:** Mark Koleber <Mark.Koleber@cityofthornton.net>; 'Todd Blomstrom' <blomstta@co.larimer.co.us>; Stephanie Cecil <scecil@northernwater.org>  
**Cc:** 'rhelmick@larimer.org' <rhelmick@larimer.org>; Mark Peterson <petersmr@co.larimer.co.us>  
**Subject:** RE: Douglas Road Project Message

All,  
We are going to discuss this with our senior management and Board in the near future. Please hold off on any formal announcement to the public until that has happened. Also, my two cents would be that any communication regarding Douglas Road improvement plans be handled by Larimer County staff. This should be a road project that happens to have a utilities in it, not the other way around.  
Thanks for your help on this.  
Regards,  
Carl



**Carl Brouwer, P.E., PMP** | Project Management Department Manager  
220 Water Ave | Berthoud, CO 80513  
Direct 970-622-2298 | Cell 970-744-0632  
Main 800-369-RAIN (7246) | Fax 877-851-0018  
[www.northernwater.org](http://www.northernwater.org) | [Find us on Facebook](#)

---

**From:** Mark Koleber [mailto:Mark.Koleber@cityofthornton.net]  
**Sent:** Tuesday, June 20, 2017 3:10 PM  
**To:** 'Todd Blomstrom' <blomstta@co.larimer.co.us>; Stephanie Cecil <scecil@northernwater.org>  
**Cc:** 'rhelmick@larimer.org' <rhelmick@larimer.org>; Mark Peterson <petersmr@co.larimer.co.us>; Carl Brouwer <cbrouwer@northernwater.org>  
**Subject:** Douglas Road Project Message

Todd and Stephanie,

Attached is a new version of the Douglas Road Coordination Statement, which has been revised to reflect comments from Northern Water and Larimer County. I also included some comments where I thought it might helpful to explain why I did/didn't include some changes. Please look this over, and let me know if you are OK with this version, or what changes you would like to see.

Once we have the document agreed-to, we should set up a conference call to discuss how this is going to be disseminated, and a strategy for how we're collectively going to deal with contacts from the Coloradoan, etc. I think we should all be on the same page with the strategy before any of us post this on our websites, etc. In that regard, please let me know what times you might have available through the end of the week for a conference call. Feel free to include your PIOs, Communications folks, etc. as you deem appropriate.

Thanks,

Mark



## Patricia Johnsen

---

**From:** Mark Koleber  
**Sent:** Tuesday, June 20, 2017 3:10 PM  
**To:** 'Todd Blomstrom'; Stephanie Cecil  
**Cc:** 'rhelmick@larimer.org'; Mark Peterson; Carl Brouwer  
**Subject:** Douglas Road Project Message  
**Attachments:** Douglas Road Coordination Statement v2.docx

Todd and Stephanie,

Attached is a new version of the Douglas Road Coordination Statement, which has been revised to reflect comments from Northern Water and Larimer County. I also included some comments where I thought it might helpful to explain why I did/didn't include some changes. Please look this over, and let me know if you are OK with this version, or what changes you would like to see.

Once we have the document agreed-to, we should set up a conference call to discuss how this is going to be disseminated, and a strategy for how we're collectively going to deal with contacts from the Coloradoan, etc. I think we should all be on the same page with the strategy before any of us post this on our websites, etc. In that regard, please let me know what times you might have available through the end of the week for a conference call. Feel free to include your PIOs, Communications folks, etc. as you deem appropriate.

Thanks,

Mark

In an effort to keep all interested stakeholders informed of ongoing discussions, the following is an update regarding the possible improvements to Douglas Road, the Northern Integrated Supply Project Pipeline, and the Thornton Water Project.

~~Larimer County~~, Northern Water and the City of Thornton are exploring the feasibility of combining their separate infrastructure projects into a coordinated project with the Larimer County Engineering Department that would result in completion of needed infrastructure improvements while minimizing disruptions to area residents.

Both Northern Water and Thornton plan to construct water transmission pipelines in the County north of Fort Collins. ~~They have each identified an area from Douglas Road to County Road 56, and from Shields Street to Turnberry Road, as a corridor through which the pipelines might be located.~~ As part of their investigations into possible pipeline routes, both entities are evaluating west to east alignments within a 1.5 mile wide corridor from Douglas Road north, and both have identified a potential pipeline route in or along Douglas Road between Shields Street and Turnberry Road. ~~they are looking into whether the pipelines could be constructed in or along Douglas Road.~~

~~Larimer County has identified in~~ As part of their Transportation Masterplan update process, Larimer County is considering potential improvements along that Douglas Road to address future capacity and safety needs to be improved to lessen congestion and increase safety. This work could include shoulder widening the road, adding a center turn lane, and improving the intersection at Douglas Road and Highway 1.

These three projects, if done separately, would each temporarily inconvenience area residents, ~~and would increase the overall time that Douglas Road traffic would be disrupted.~~ However, if the projects could be completed as one coordinated project, along the same route, the disruption and overall time that Douglas Road traffic is impacted, though still significant, would be minimized/reduced. In addition, if the pipeline projects can be coordinated with the road improvements, public rights of way could possibly be used for portions of the pipeline routes instead of privately-held properties.

~~Larimer County~~, Northern Water and the City of Thornton will be working with Larimer County over the next several months to explore the feasibility of this potential coordinated project, including timing, constructability, and funding. ~~are committed to working with property owners in the area to reduce the impact of the construction where feasible. They will spend the next several months exploring the feasibility of this potential coordinated project, including timing, constructability, and funding, as well as how best to engage area residents in the process.~~

If you would like to provide comments at this time, contact information is provided below:

Larimer County Engineering Department

Phone

Email

Northern Water

Phone

**Commented [MK1]:** Stephanie, I modified your language slightly since our potential alignment in Douglas Road doesn't go as far west as Shields Street.

**Commented [MK2]:** Northern suggested this be removed, Larimer County Engineering did not. I included it initially because think it is important that the residents see that we recognize there will be a big impact. With that said, I'm fine with removing it if Northern feels strongly about removing it, and Larimer County doesn't have a problem with removing it.

**Commented [MK3]:** I included this to let the residents know we're committed to reducing construction impact whether in Douglas Road or not, but I'm OK with taking it out since it is somewhat extraneous to the Douglas Road discussion.

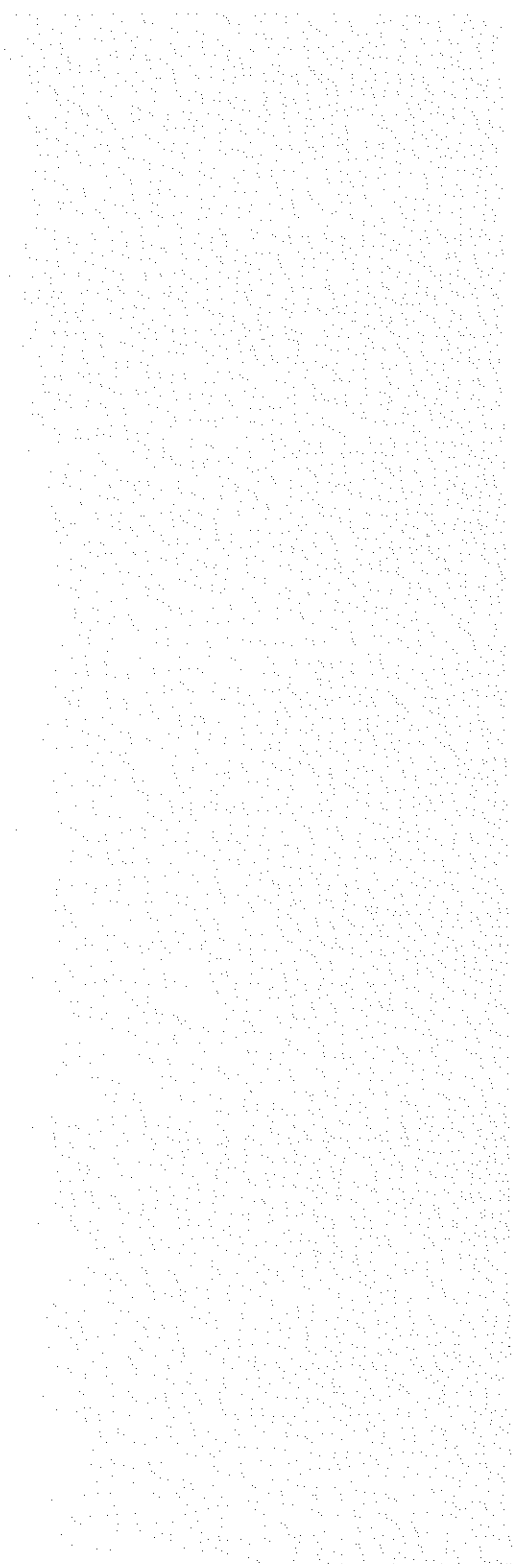
**Commented [MK4]:** Northern suggested having one contact instead of listing all three. I like the idea since it would greatly improve consistency in messaging and information. In my opinion, Larimer County would seem to be the logical "one contact", but I don't want to volunteer them for this. If we stay with three contacts, we'd need some way to ensure consistency.

**Email**

City of Thornton

720-977-6700

[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)



## Patricia Johnsen

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**From:** Todd Blomstrom <blomstta@co.larimer.co.us>  
**Sent:** Tuesday, May 23, 2017 9:26 AM  
**To:** Mark Koleber  
**Subject:** Re: Thornton Water Project

Ultimately, we will need to address the following main items for the option of co-location along Douglas:

- Alignment Location/Extent - start and end points along Douglas Road for both Northern and Thornton
- Approximate schedule - high level estimate of start and end dates for both Northern and Thornton (at this point, a specific year would be helpful)
- Basic information on anticipated size, depth, and spacing for both pipelines
- Proposed financial contribution towards the overall project - hope to find a solution that is a benefit to all potential project partners

On Tue, May 23, 2017 at 9:16 AM, Mark Koleber <[Mark.Koleber@cityofthornton.net](mailto:Mark.Koleber@cityofthornton.net)> wrote:

That time (June 7 at 1pm) should work, Todd. Could you send me a bullet list of the points you might want to discuss so that I can be sure to have the right staff available for the call?

Thanks

Mark

**From:** Todd Blomstrom [mailto:[blomstta@co.larimer.co.us](mailto:blomstta@co.larimer.co.us)]  
**Sent:** Tuesday, May 23, 2017 9:10 AM  
**To:** Mark Koleber <[Mark.Koleber@cityofthornton.net](mailto:Mark.Koleber@cityofthornton.net)>  
**Subject:** Re: Thornton Water Project

Hi Mark,

I apologize for the delayed response. Transportation staff from Larimer County and the City of Fort Collins are meeting on June 2 to discuss the identification of "Regional Roadways". This effort will improve our ability to focus delivery efforts on specific transportation improvements. As part of this discussion, the County is proposing that Douglas Road be included as a regional roadway. During this meeting, County staff will also



request a separate meeting with Fort Collins to discuss the opportunity for a partnership between the County, City, Northern and Thornton along Douglas Road.

I would like to have a conference call with you on June 7 at 1 pm, along with our County Transportation Planning staff. Would this work for you?

Thanks,

Todd

On Thu, May 18, 2017 at 7:35 AM, Mark Koleber <[Mark.Koleber@cityofthornton.net](mailto:Mark.Koleber@cityofthornton.net)> wrote:

Todd and Rob,

I spoke with folks from Northern Water, and though I don't want to speak for them, I believe they are interested in coordinating activities related to the Thornton Water Project and Northern Water's pipelines, including looking at the Douglas Road alignment and coordinating pipeline work with road work. Have you had a chance to discuss this with Fort Collins? Is it time to schedule a meeting with all parties to see how we might move this concept forward?

Thanks

Mark

## Patricia Johnsen

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**From:** Mark Peterson <petersmr@co.larimer.co.us>  
**Sent:** Friday, July 21, 2017 1:33 PM  
**To:** Mark Koleber  
**Subject:** Re: Joint Douglas Road Statement

Mark,

We're OK with you using the joint project statement that you've developed so long as you remove any county contact information. Please note that Larimer County does not intend to release or publish this statement.

Rob Helmick is out of the office during the last week of August so I haven't identified any good alternatives to August 23rd unless we want to look at dates in early September.

We'll see you next week at our meeting and can discuss this further if need be.

Regards,  
Mark

Mark R. Peterson, P.E.  
County Engineer  
Larimer County Engineering  
[mpeterson@larimer.org](mailto:mpeterson@larimer.org)  
970-498-5700  
970-498-7986 fax  
[www.larimer.org/engineering](http://www.larimer.org/engineering)

On Fri, Jul 14, 2017 at 7:49 AM, Mark Koleber <[Mark.Koleber@cityofthornton.net](mailto:Mark.Koleber@cityofthornton.net)> wrote:

All,

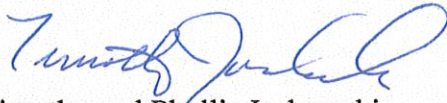
We had a meeting with Northern Water on Wednesday, and we confirmed that Northern is OK with using the Joint Project Statement that we all worked on. So, a couple of questions: 1) Is Larimer County still OK with us (asking only for Thornton at this time) using that statement?, and 2) Will Larimer County be taking any action to release or publish the statement? Our plan is to incorporate the statement into an update that we plan to send in the near future to the stakeholders (HOAs, etc.) we've been in touch with around the WSSC reservoirs. At this point, we won't include any Larimer County contact info, since the update says we're exploring it, not necessarily requesting public comment at this time.

Thanks



Declaration concerning the proposed Thornton Water Pipeline Project

1. We are Timothy and Phyllis Jachowski. Our address is 3620 Shore Road, Fort Collins, Colorado. We have lived here since May 2012.
2. We are members of No Pipe Dream.com
3. The northern border of our property is Douglas Road, as such any pipeline development will have an impact on our property. The 500 foot construction corridor proposed by the Thornton Water Plan (TWP) encompasses my entire property. There already exists a 60 foot Larimer County right of way along Douglas road on my property. This right of way currently has water, sewer, gas, cable and electric utilities running through it. Since TWP has not identified the exact route of their pipeline I assume it could come anywhere inside the already existing easement up to and including my southern boundary.
4. Extending the easement into my property could potentially destroy 8 mature elm and cottonwood trees over 50 feet tall, 14 Junipers over 10 feet tall as well as a number of additional shrubs and smaller trees.
5. Any construction between the current easement and my house would cause tremendous disturbance as it would only be about 20 feet from my back door, garage and driveway. My only exit from my property is Douglas Road so that would cause additional problems
6. Needless to say construction immediately outside my house would create significant problems for our family and greatly affect our quality of life.



Timothy and Phyllis Jachowski  
3620 Shore Road  
Fort Collins, Colorado 80524



January 26, 2018

To Whom it May Concern,

My name is Lindsay Greeno, I live at 3809 Starlite Drive, Fort Collins, CO 80524, and I have lived there a little over a year. I am currently a proud member of the No Pipe Dream association. The proposed pipeline is projected to tie in directly at Reservoir #4 and come directly down Starlite Drive. I don't believe the pipeline will pass through my property directly, but it may be close enough to require an easement. In doing so it will cause construction damage to our private dirt road and most definitely will take out part of my acreage and shrubs. Starlite Drive is a private road that Thornton proposes to install the pipeline from Reservoir #4 and a 2 story pump station to retrieve the water from Reservoir #4 into their precious pipeline. I moved to my peaceful and tranquil street with my 7 year old daughter to get away from the hustle and bustle of the city. We wanted open space to be outside, run, ride bikes, see wildlife (and we do), and enjoy the quiet rural life. I can't imagine this all being taken away with the sounds of semi-truck's breaking, a massive construction project, not to mention the vibrations and diesel generator that will be installed to operate the pump house. The vibrations from the pumping of the water alone will disrupt the very foundations that our homes sit on. In addition the once beautiful open space that I overlooked will be turned into an approximate 10,000 square-foot building to house pumps and associated equipment. The lighting source for the water pump station will also be glaring into my windows at night. We don't even have street lights on our private dirt road. I can't image looking at all of this right out my front door. I am in tears thinking that our once quiet and private dirt road will be a construction zone and municipality trucks will be going up and down to service their pump house. The peace that I so sought after will be ripped out from under me and my daughter. I won't feel safe allowing her to ride her bike on our private road. In addition, there are several other small children on our little road, the safety concerns I have alone should be a huge factor in rejecting this preposterous way of getting water to Thornton.

Sincerely,

Lindsay Greeno



We have lived at 3673 Point Dr. For 5 years. We are Patrick and Caroline McCluskey and have attended the information meetings at the Court House. The pipeline won't pass through our property but will be two houses away and will take out trees of our HOA that provide protection of noise from Douglas Road.

The construction of the pipeline will definitely impact the enjoyment of living in our home. We have no outlet except to Douglas Road and there are 17 units that require using that exit to Douglas (north Terry Point). This includes an aging population with some residents here in their high 80's. With this in mind we have frequent emergency vehicles that only have access to our residents by using Douglas Road. Most of the residents along the pipeline have to use Douglas Road as their only outlet from their residence.

Our main concern is that we have to rely on outside services to help maintain our aging lifestyles and disruption to Douglas Road will affect our health choices. Of course, the construction will be dirty, noisy, disruptive and seems to be an unnecessary choice of routes for this project.

Caroline and Patrick McCluskey

NO PIPE DREAM DECLARATION

Friday, January 26, 2018

1. Name: Rick Rickard

2. Address: 825 E. Douglas Rd., Ft Collins, CO 80524

3. How long at this address? 20 years

4. Are you a member of the No Pipe Dream Association? (circle one)  YES  NO

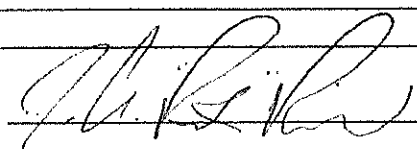
5. How close will the pipeline come to you property and/or will it pass through your property?  
Hard to establish, as specifics not yet determined. At a minimum, it appears that this project, in conjunction with Larimer County's proposal to rebuild Douglas Rd., will take approximately 30 feet of our property from the road inward. Given a 500 foot ROW (250ft either side of road center), we stand to lose our dwelling, as well, rendering our property useless.

6. Will an easement to your property be required? If so, what damage (i.e. loss of trees, fences, gardens, structures, etc.) will be caused to your property?  
Even if the minimum loss described above were all that were incurred, this would result in the loss of 8 mature pine trees as well as 4 mature Russian Olive trees. Additionally, due to a need to reconfigure our driveway due to the shortening of our north driveway, we may also incur the loss of an island containing 4 mature Aspens, as well as the attached landscaping.

7. How will construction impact your use and enjoyment of your home?  
This should appear obvious. Driving through mud clogged temporary access through the process, noise, and delays having a tremendous impact as I come and go from my property 5-7 times daily. Permanent impacts anticipated are potential for flooding, constant construction related to maintenance repairs, traffic noise brought closer to home, safety, and a reduction in property values and thus, net worth.

8. Are there any special circumstances why the construction will adversely affect your life?  
The noise and potential increased traffic will alter the very reason that we chose to purchase and reside here. The noise and potential safety issues of moving the road closer to our dwelling, should be obvious. Aside from disrupting our quiet and quiet, ~~the~~ the negative impact on our property values could result in less equity in our property, thus reducing our net worth and impacting long term plans for retirement.

9. Do you live near the proposed pump station near the Water Supply and Storage Co (WSSCP) Reservoir No. 4? If so, how will operation of the pump station adversely affect your use and enjoyment of your property? (may only affect West Douglas Rd.)

10. Signature: 

\*\*Please use the back of this paper for any additional comments or suggestions.\*\*

## A Letter Addressing Thornton's Pipe Dream:

Our names are Kerry and Debbie Sheaman and we reside at 400 East Douglas Road, Fort Collins. Eugene and Virginia Malm, Debbie's parents, purchased this property in 1959 and then we in turn purchased it from them in 1985. Debbie has lived here nearly 52 years and we have jointly lived here since 1985. This 62-acre property is more than a piece of land to us; it's where we raised our children, where we created a working cattle ranch, and it's our retirement place from years of hard work, just like her parents before us. Our family has invested 40+ years of "Sweat Equity" in this property, from building barns and fences, to remodeling homes, to the daily chores of cleaning up corrals, to tree maintenance, to irrigating our pastures to keep the grass plentiful, to organizing equipment to make it functional for us and presentable to passerby's. There is unfinished work yet and we will not give up on our lifelong interests now.

For 365 days a year, our lives are centered around sustaining and building a superior herd of approximately 35 Red Angus cattle. They require a healthy supply of grassland to graze from during the warmer months, followed by hay and grassland during the colder months, with each individual cow needing a very specific amount of acreage to feed off of each day. In order to avoid overgrazing the land, we sell most of the offspring to commercial and registered breeders, as well as a few bred cows in the fall. Thornton's proposed 500-foot easement would remove a very large percentage of our land by Douglas road. To lose any of our land, or not be able to use the land for an extended period of time (such as not being able to irrigate or unable to graze while waiting for construction to be completed and reseeded areas to grow back), would be devastating to us and our livelihood. This would have an enormous physical and mental impact on the cattle (especially the incessant construction noise), it would decimate our arena which is used as a calving area, it would force us to pay for extra feed that we cannot afford financially, it would demand we lose our primary source of income by having to sell several more cattle to ensure the rest have enough to eat, and would destroy any solitude and privacy we have left.

Yes, our land offers the construction crew a quarter of a mile of easy working conditions, but at what cost to us?? This property contains a historical 12-acre natural spring fed lake that has been present long before this county was ever settled. The property itself sits on a sandstone rock formation about three feet below the surface. Therefore, the water table is very high, especially during the summer when the Water Supply Storage canal is actively running water. Digging a deep trench anywhere near this property could ultimately break the seal of this lake. Then what? What would happen to the lake? Would it ruin our sub irrigated pastures? Would the cattle have a continuous water source anymore? Would the water fowl be affected? Not to mention the Highland Lateral ditch of North Poudre that runs under Douglas Road and serves

three dozen land owners to the south of our property. Will they have access to that water anymore?

Additional concerns involve the Fiber Optics that have already been installed by Wellington on the north side of Douglas just inside our pasture fence. Elco has a water line running along Douglas, which includes our water tap with a pressure reducer on it. There is a buried gas line that crosses Douglas. What happens when those lines are cut/damaged/moved and how many people will be affected besides us? How will our animals be able to survive without water for even a day? As with any other American, water and gas lines are a vital part of our livelihood and should only be tampered with for immediate safety concerns, nothing else. Lots of healthy trees will have to be cut down and perfectly good iron and wire fences will have to be torn down. We have a two- fold drain-tiled water tank, located next to the road, and is used to supply water for the cattle. Will it be destroyed? Lastly, how will emergency, utility, commercial, and other farm related vehicles be able to provide services with limited road access? These are just a few primary concerns that we have for our place. We can't imagine what other problems will be presented to those that live so much closer to the road or have medical needs.

As you have read, our property is not only our home, but our livelihood and the product of our blood, sweat, and tears. A direct quote from the Larimer County spotlight page says: "The county has a rich agricultural and western heritage that is reflected in our commitment to a high quality of life and preservation of our natural areas." We pray to keep this heritage alive and to protect the beauty, productivity, and integrity of this place so as to pass it on to our future family generations. We hope that you consider our concerns and do NOT make Douglas Road a pipeline route or a main traffic arterial. There are several other options more feasible than Douglas Road. Thank you for your time and we appreciate all the hard work that will go into your decision. Do not let someone else's lack of foresight be a lifelong problem for Douglas Road residents.

Sincerely,

Kerry and Debbie Sheaman

NO PIPE DREAM DECLARATION

Friday, January 26, 2018

1. Name: SCOTT & VALERIE McALPINE
2. Address: 928 E. DOUGLAS RD. FT COLLINS CO 80524
3. How long at this address? 26 YRS.
4. Are you a member of the No Pipe Dream Association? (circle one)  YES  NO
5. How close will the pipeline come to you property and/or will it pass through your property?  
THE 500' EASEMENT LINE RUNS THROUGH OUR HOME THE HOUSE SETS APPROX 200+ FT. FROM THE ROAD THE PIPELINE DIRECTLY RUNS THROUGH THE FRONT OF OUR PROPERTY
6. Will an easement to your property be required? If so, what damage (i.e. loss of trees, fences, gardens, structures, etc.) will be caused to your property?  
YES, WE WILL LOSE PREVIOUS ACRES & POST & RAIL FENCING. USE OF OUR DRIVEWAY ALLEYS, ONLY ENTRANCE ONTO OUR PROPERTY.
7. How will construction impact your use and enjoyment of your home?  
NOT ONLY THE AESTHETICS OF GRADIENT PASTURE - FRONT YARD BUT WE SPEND A LOT OF TIME ON OUR FRONT PORCH ADMIRING THE OPEN VIEW & MOUNTAINS AS WE DON'T HAVE THIS VIEW FROM THE BACK OF THE HOUSE
8. Are there any special circumstances why the construction will adversely affect your life?  
CONSTRUCTION WILL DISRUPT THE RELAXING TIME WE SPEND ON OUR FRONT PORCH; POSSIBILITY OF HOME SALE AS WE PREPARE FOR RETIREMENT IS LOST. HOBBY FARM ACREAGE BEING DECREASED OR LG. ANIMAL CLASSIFICATION REDUCED AFFECTS VALUE.
9. Do you live near the proposed pump station near the Water Supply and Storage Co (WSSCP) Reservoir No. 4? If so, how will operation of the pump station adversely affect your use and enjoyment of your property? (may only affect West Douglas Rd.)  
ON DOUGLAS RD - CLOSE ENOUGH TO SEE DRIVE BY IT EVERY DAY
10. Signature: Valerie McAlpine

\*\*Please use the back of this paper for any additional comments or suggestions.\*\*

NO PIPE DREAM DECLARATION

Friday, January 26, 2018

1. Name: LORETTA KEETON
2. Address: 1000 E. Douglas Rd.
3. How long at this address? 46 YRS.
4. Are you a member of the No Pipe Dream Association? (circle one)  YES  NO
5. How close will the pipeline come to you property and/or will it pass through your property?  
IT WILL PROBABLY PASS THROUGH - DETERMINED BY WHERE THEY ACTUALLY PUT IT.
6. Will an easement to your property be required? If so, what damage (i.e. loss of trees, fences, gardens, structures, etc.) will be caused to your property?  
AN EASEMENT WILL BE REQUIRED.  
I WILL LOSE THIRTEEN EVERGREEN TREES.  
I WILL LOSE SIX PLUM TREES - ONE APPLE TREE - ONE PEASH TREE, FOUR GUM TREES - TWO SILVER MAPLE - SEVERAL LILAC BUSHES AND FLOWER BEDS.
7. How will construction impact your use and enjoyment of your home?  
MY HOME IS NINETY FIVE FEET FROM THE ROAD.  
IT WILL PROBABLY TAKE IT OUT.
8. Are there any special circumstances why the construction will adversely affect your life?  
I WILL PROBABLY LOSE MY FAMILY HOME.  
I WILL LOSE ALL MY LANDSCAPING.  
I WILL PROBABLY HAVE TO MOVE AWAY FROM WHERE I WANTED TO SPEND MY RETIREMENT YEARS.
9. Do you live near the proposed pump station near the Water Supply and Storage Co (WSSCP) Reservoir No. 4? If so, how will operation of the pump station adversely affect your use and enjoyment of your property? (may only affect West Douglas Rd.)  
No
10. Signature: Loretta Keeton

\*\*Please use the back of this paper for any additional comments or suggestions.\*\*

NO PIPE DREAM DECLARATION

Friday, January 26, 2018

1. Name: Michael, Alesia, Hannah Schirber

2. Address: 1340 E. Douglas Rd

3. How long at this address? 2001 17 yrs

4. Are you a member of the No Pipe Dream Association? (circle one) YES NO

5. How close will the pipeline come to you property and/or will it pass through your property? The project as proposed will greatly affect my home. My home sits 130' from the center of the road

6. Will an easement to your property be required? If so, what damage (i.e. loss of trees, fences, gardens, structures, etc.) will be caused to your property? My property will be affected by an easement which will include fencing, paved driveway, mature trees and landscaping and if the greatest easement is put in affect this will destroy my home and shop.

7. How will construction impact your use and enjoyment of your home? If the proposed Easement is in affect then our home will be destroyed. If a lesser easement is considered it will greatly devalue our property and the peace and quite we now know as home.

8. Are there any special circumstances why the construction will adversely affect your life? This proposal has fundamentally changed our outlook on our life. It has forced us to rethink our future retirement on Douglas Road

9. Do you live near the proposed pump station near the Water Supply and Storage Co (WSSCP) Reservoir No. 4? If so, how will operation of the pump station adversely affect your use and enjoyment of your property? (may only affect West Douglas Rd.)

10. Signature: Alesia Schirber

\*\*Please use the back of this paper for any additional comments or suggestions.\*\*

Wendell and Betsy Stampfli  
504 Canadian Parkway  
Ft. Collins CO 80524

My wife Betsy and I are Colorado natives and have lived in this home for 13 years. Betsy and I are both members of 'No Pipe Dream'. Our property backs up to Douglas Road.

The proposed easements will impact our property greatly. The proposed 50 ft. easement and resulting construction will take out our five stately cottonwoods, one green ash, several olive trees, our earth berm and landscaping including four mature blue spruce, two mature Austrian pines, several mature lilacs and numerous spreading junipers. Our north, west, south and east facing fence and gate enclosing our garden, storage area will be lost as will our timbered composting station. A question remains regarding the possibility of an additional easement being added beyond the 50 ft. which would impact our property even more.

When we moved here 13 years ago the property was largely an expanse of water thirsty blue grass with extensive wasteful watering requirement. My wife and I are artists and gardeners and conservationists. During the course of 13 years we have replaced the inefficient and wasteful landscape with hundreds of water efficient trees and shrubs-all by our own hands. We have reduced water usage by 2/3. Over the course of our property renovation we have grown to love the privacy and wildlife habitat that we have created. The proposed destruction and devastation that this unnecessary and unwanted pipeline project will bring to us and our neighbors is tragic. Betsy and I will most likely be forced to sell and move. Not only will we miss our home but a large part of our financial nest egg as well. We are indeed heartbroken!

The proposed pump station will be NW of us on the North side of Douglas Road. Other than the resulting noise and light pollution the negative effects of the pump station are unknown to us at this time.

Thank you,

Wendell and Betsy Stampfli



**1. Name, address, how long you have lived at the address.**

Martha and Dale Conant  
508 Canadian Parkway, Fort Collins CO 80524  
We've lived at this address since 1975

**2. I am a member of the No Pipe Dream association.**

**3. How close will pipeline come to your property? Will it pass through your property?**

From north to south, our lot is 190 feet long. If the easement of 500 feet from the ROW is used, the pipeline would pass through our property.

**4. Will an easement to your property be required? If so, what damage will construction of the pipeline cause to your property? Any loss of fences, trees, garden, structures?**

If an easement of 20 feet or so to our property is required, we could lose mature trees, landscaping and fences. Our dog is often out in our fenced backyard, so we would need to add new fencing.

**5. How will construction of pipeline interrupt your use and/or enjoyment of living in your home?**

We anticipate that construction noise and dust would prevent us from using our backyard and from having our windows open in the warm weather. Even when we're indoors, we anticipate the noise would be a constant disturbance. The dust would settle indoors, whether or not the windows are open, so the house would be difficult to keep clean. In addition, because the only one entry/exit from our neighborhood is on Douglas Road, construction will make access to our neighborhood more difficult. That will negatively impact us as well as friends and family when they visit.

**6. Are there any special circumstances why construction or operation of the pipeline will adversely affect your life?**

At this time we are unable to anticipate any additional ways that construction and operation of the pipeline will adversely affect our lives. We do expect that our property value will decrease, however, either due to loss of trees and/or increased traffic on Douglas Road.

**7. Do you live near the proposed pump station near the Water Supply and Storage Co (WSSCP) Reservoir No. 4? If so, how will operation of the pump station adversely affect your use and enjoyment of your property?**

We live approximately 1/2 mile east of the proposed pump station, on the south side of Douglas Road. We anticipate that noise associated with the pump station would be audible at our house day and night, which would negatively impact our enjoyment of our home and yard. We understand that the pump station would be illuminated at night, which also destroys the quiet, rural nature of our property.

**8. Signatures**

*Martha Conant*  
*Dale Conant*

The Thornton Water Project and Associated Water Quality Impacts

A Report to the County Commissioners of Larimer County in Response to the  
City of Thornton 1041 Application

By: Chris Rowe, Senior Environmental Scientist

April 20, 2018

## Introduction

The purpose of the City of Thornton's Thornton Water Project (TWP) "is to convey domestic water from the Water Supply and Storage Company (WSSC) system purchased by Thornton in the mid-1980's to enhance Thornton's water supply reliability and drought resiliency, help address source water quality issues, and meet municipal and industrial demands of Thornton's water customers through 2065. The TWP is being configured to deliver an average of 14,000-acre feet of water annually" (Thornton 2018).

In the City of Thornton TWP 1041 permit application to Larimer County, the City of Thornton describes the proposed project as an "approval of an approximate 500-foot to ¼-mile wide TWP corridor to construct, operate, and maintain the TWP, which includes up to approximately 26 miles of a buried 48-inch domestic water transmission line (water pipeline) and associated appurtenances in unincorporated Larimer County" (Thornton 2018).

As is evidenced by the 1041 permit application, the TWP is a significant undertaking that will have impacts across the northern Front Range. The TWP 1041 permit application attempts to identify and address some of the potential impacts resulting from the project. For example, the application analyzes potential water quality impacts from stormwater runoff from the ground disturbing activities and identifies mitigation approaches to minimize those impacts. While this approach of analyzing and mitigating the direct impacts of the project is essential, the complex nature and large scope of the TWP project will also result in numerous indirect impacts that the TWP permit application does not address but are equally or even more important to address. In addition, the TWP 1041 permit application does not address the cumulative impacts that would occur with this project, and along with other existing and proposed area water resource projects are taken together.

The purpose of this brief report is to analyze one of the main impacts the 1041 TWP permit application misses. Specifically, this report analyzes likely impacts to the water quality and associated habitat on the lower portion of Cache La Poudre River (Poudre River) and its tributaries from the proposed TWP large scale water diversion. The proposed water diversion point is located at the WSSC Reservoir No. 4. The Poudre River diversion point for the WSSC Reservoir No. 4 is located near Bellvue, Colorado below the Poudre Canyon. This report will also work to establish that the best interests of Larimer County and its residents would be served by moving the TWP diversion point to the Larimer County border just east of Interstate 25.

## Background

### Poudre River

The Poudre River along the reach from Bellvue to the Larimer County line east of Interstate 25 is highly altered. Numerous studies have documented the changes that have occurred to the Poudre River as a result of water diversions and land use development in the area. The Poudre River, its associated floodplain, and riparian areas are part of a complex watershed basin that has been modified by over 150 years of human activities resulting in dramatic changes to the quantity and quality of the basin's water

resources. Dramatic and often detrimental impacts have also occurred to the physical structure of the river, along with its floodplain and riparian areas. These impacts resulted in large scale changes to the area fish and wildlife populations.

The Poudre River receives numerous inputs of water, sediment, phosphorous, and other pollutants from the numerous upslope land use activities related to activities such as agriculture return flows, urban storm water runoff, and waste water discharge. The Poudre River is also heavily diverted, with waters being redirected to towns and farms across the region.

A recent report by the City of Fort Collins gives the lower 24-mile section of the Poudre River an overall health grade of a C (City of Fort Collins, 2017). According to the report the C grade “indicates that even though the Poudre has been altered and degraded by a suite of local and system-wide stresses that impair its health, it continues to support basic elements of a functioning river ecosystem” (City of Fort Collins, 2017).

One of the main impacts identified in the report revolves around water diversions. The report states that “diversions directly affect components of flow regime, including peak flow, base flow, and rate of change. Peak flows can be truncated by diversions made during spring and summer, while base flows are commonly decreased by diversions during fall and winter or during drought. Rates of flow change can be impacted when diversions are opened and closed, especially during periods of low flow” (City of Fort Collins, 2017).

The Fort Collins report calculates the average flow rate and annual volume of water diverted during winter months (November through March) from each diversion point on the Poudre River. Based on these calculations, the report states that “An average of about 38,000 acre-feet per year is diverted from the Poudre in or above the study area during winter months, and wintertime dry-ups sometimes leave the river with little to no flow” (City of Fort Collins, 2017). The diversions reduce the overall flow in the River which results in detrimental impacts to the River and its users. For example, at the Larimer Weld Canal diversion point, the Poudre River flow averages less than 35 cfs (cubic feet per second) 135 days a year (Associates 2015). In addition, the depletions during low-flow periods cause lower base flow and/or prolonged periods of low flow causing some segments of the Poudre River to run dry below diversions during winter. For example, on average, below the Greeley water supply diversion, there are three days with no flow at all, as well as at other diversion structures downstream (City of Fort Collins, 2017).

The impacts of these reductions in flows in the Poudre River, particularly during already low flow months, are detrimental to the Poudre River’s fish populations, its riparian communities, and to recreation opportunities including the City of Fort Collins planned whitewater park. Essentially, the changes in flow regime and sediment loads change the Poudre River from a broad channel that is in contact with its floodplain to more of a drainage ditch that has characteristics similar to a narrow irrigation ditch that generally remains within its banks. These characteristics result in a river with fewer habitats for fish, reduced recreation opportunities, and a higher risk of damage during flooding.

## **TWP Diversions and Flow Changes**

According to the TWP 1041 permit application, the 48-inch diameter TWP pipeline could deliver up to 14,000 acre-feet of water per year to the City of Thornton which is located in the northeast of the Denver metropolitan area. The population of the City of Thornton is expected to approximately double from about 130,000 up to about 242,000 in the coming decades. The TWP pipeline would be capable of conveying 40 mgd (million gallons per day) of water (Thornton 2018). This equates to approximately 65 cubic feet per second. For reference, the City of Fort Collins diverts for its use approximately 34,000-acre feet annually for its water uses (Collins, Water Supply & Demand - Web page 2018). Also, as noted above, the Poudre River flows at under 35 cubic feet per second for multiple days per year. An interesting note about the TWP pipeline, based on conservative calculations, the 48-inch diameter TWP pipeline would likely carry a couple times the 14,000-acre feet of water per year that Thornton says it plans to divert which brings into question what the long-term diversions to the pipeline might be. In addition, given that the average Coloradoan used 250 gallons of water per day, the amount of additional water that Thornton would need to handle estimates 122,000 new Thornton residents, is about twice the amount listed in the TWP 1041 application (31,000-acre feet).

In addition to the above discussion on Thornton's potential water needs is the information contained in the 1996 Colorado Supreme Court Decision - City of Thornton v. Bijou Irrigation Co. (Court 1996) This decision describes the current TWP 1041 application as "Phase I" of a three-phase process for water diversion. Phase II is described in the Court decision as beginning in 2029 and combining deliveries from Phase I and Phase II facilities with an average diversion approximately 56,900 acre-feet per year. Phase III is described in the court decision beginning in 2034 when construction will begin on a parallel 72-inch return pipeline to deliver water back to the Larimer County Canal, thereby increasing the yield of the "ditch exchange" with the WSSC system. According to the Court decision the project water yield at full development, utilizing Phase I, II and III facilities, will average approximately 67,000 acre-feet per year.

Water delivered to Thornton in Phase I will be derived primarily from the gradual retirement of approximately 14,500 irrigated acres served by WSSC and owned by Thornton and from new appropriations of water by Thornton from the Poudre. Phase II (Court 1996). In 2026, to meet Thornton system demands over and above those satisfied by Phase I, construction will begin on a parallel 48-inch pipeline to Thornton from WSSC Reservoir No. 4, together with a variety of other facilities, including return pipelines from the Poudre and South Platte Rivers to the Larimer County Canal near Elder Reservoir and south of Cobb Lake. Deliveries of water to Thornton through Phase II facilities will begin in the year 2029 and combined deliveries from Phase I and Phase II facilities will average approximately 56,900 acre-feet per year. Additional water delivered to Thornton in Phase II will be derived primarily from a "ditch exchange" under which Thornton will withdraw water from the WSSC system and, in exchange, return an equivalent amount of water from other sources owned by Thornton. The return water, or "substitute supply," will be pumped to the Larimer County Canal from various locations along the Poudre and South Platte Rivers. Phase III. In 2034 construction will begin on a parallel 72-inch return pipeline to deliver water back to the Larimer County Canal, thereby increasing the yield of the "ditch exchange" with the WSSC system. Additional deliveries from these Phase III facilities will begin in the year 2036 and will increase each year to help meet Thornton's increasing need. New water delivered during Phase III will be derived from the use of Thornton's WSSC shares for irrigation under the WSSC system to allow a ditch exchange on nearly the entire flow of the WSSC system. The yield of the project

at full development, utilizing Phase I, II and III facilities, will average approximately 67,000 acre-feet per year.

As specified in the TWP 1041 permit application, Thornton's diversion would likely occur from the WSSC Reservoir No. 4. Water diverted to this reservoir comes through the Jackson Ditch. The water for the Jackson Ditch comes out of the Poudre at a diversion point near Bellvue, CO (Thornton 2018). These are headwater waters that exit the Poudre Canyon just upstream from Bellvue and area generally of high quality.

The WSSC water rights controlled by Thornton come from three sources: (1) native water from the Poudre River on the eastern slope; (2) imported water from the basins of the Laramie, Michigan, and Colorado Rivers on the Western Slope; and (3) water derived from the Colorado-Big Thompson Project in accord with the allotment contract entered into with North Colorado Water Conservation District (Court 1996). Based on a study of WSSC's historical diversion practices, the shares now owned by Thornton have produced an average annual diversion of 16,041-acre feet of native water and 14,222 acre feet of transmountain water (Court 1996). Under the agreement, some of the total amount of water decreed (30,263-acre feet) would be used to ensure that other water rights are not otherwise impacted. As a general rule, about half of an agriculture water right is consumed, mostly through evaporation, while the remainder flows back to the system for use by subsequent water rights holders.

Thornton's water rights actions related to the WSSC involved converting the water rights from agricultural to municipal use which launched a legal battle that wound up in the Colorado Supreme Court. The State Water Court issued its final decree in 1998 (Coloradoan 2017). Thornton changed the use of the 14,222-acre feet of transmountain water to municipal and industrial uses so that these waters can be used to extinction, a term referring to not needing to return any flow to the system (Court 1996). The court decree was a very complicated undertaking and generally beyond the scope of this report.

Other than broad outlines, the details of timing changes of the water diversions for the TWP are not identified in the 1041 application, which may be an oversight that needs correcting. The *City of Thornton v. Bijou Irrigation Co* case goes into detail on possible changes in diversion timing (Court 1996). It appears that the Thornton water rights that were converted as part of the court case from agricultural use to municipal use would result in changes in the timing of water diversions. Municipal water use timing is different than agricultural for a number of reasons. Primarily municipal water is withdrawn year-round, agricultural is seasonal. These changes in timing are likely to result in further impacts to the Poudre River downstream from the diversion point.

The TWP and the City of Thornton do not appear to have an instream flow program for the Poudre River that would be used to mitigate potential impacts in times of drought and during seasonal low flows. An instream flow program would work to augment water volumes in the Poudre River during these critical times. It is worth noting that the City of Fort Collins in coordination with State agencies and Northern Water Conservancy District do have a voluntary instream flow program to address potential detrimental impacts resulting from low flows in the Poudre River.

## **Poudre River Water Quality**

Due to ongoing water quality concerns, extensive studies have been carried out on the Poudre and its tributaries. In addition, extensive efforts have been undertaken into improving the quality of the water. Many of these efforts are driven by regulatory requirements such as the State's Water Quality Control Act. Water quality issues are generally broken down into three categories, including the chemical, physical, and biological components of the river. The three components can then be compared to water quality standards set by State and Federal agencies. These standards come under the federal Clean Water Act and the State's Water Quality Control Act, but other regulations may also apply.

The City of Fort Collins's State of the Poudre River report gives the lower portion of the river a grade of B, however, it states that "local impairment issues are apparent, when the river is assessed at finer resolution" (City of Fort Collins, 2017). In particular, high-water temperatures continue to cause problems for the Poudre's fish and other aquatic insects. Increased water temperature also can result in other water quality issues such a lower dissolved oxygen levels, increased bacteria and algae counts, and the potential of ammonia formation. Higher water temperature is often associated with lower flows.

As a result of water quality issues in the Poudre River and its tributaries, the State's Water Quality Control Commission has listed portions of the lower Poudre as "Water Quality Impaired" (Department Of Public Health And Environment 2017). These listings are derived from requirements under the Clean Water Act to identify and address water quality issues. Impairments on all or portions of the lower Poudre include:

Temperature - exceedances of the acute maximum daily temperature standard have been observed, as well as exceedances of the chronic standard, and the maximum weekly average temperature. Generally, exceedances occur in the summer months but can also occur in early spring.

Total phosphorous - concentration measured in the Poudre exceeded CDPHE's proposed warm-water standards of 170 µg/L more than once over the last five years. While the Poudre is not listed as impaired for total phosphorous, it would be if the new total phosphorous standard were in place. In addition, the Poudre is subject to a State phosphorous control regulation. High phosphorous levels often lead to high levels of algae and can lead to high bacteria counts.

Copper – the Poudre River from Monroe Canal to Shields Street are listed as impaired for Copper. Copper can be toxic to fish and aquatic insects at low concentrations.

Selenium – The mainstem of the Cache la Poudre River from Shields Street above the confluence with Boxelder Creek is listed as impaired for Selenium. Selenium bioaccumulates in the aquatic food chain and chronic exposure in fish and aquatic invertebrates can cause reproductive impairments (EPA 2018).

E. coli – The Poudre River from Box Elder Creek to S. Platte River is listed as impaired during the fall months for the bacteria E. coli. The bacteria E. coli is an indicator of the potential presence of harmful bacteria.

Taken together, these impairments demonstrate that the Poudre River has continued detrimental water quality impacts. These impairments are being addressed by all levels of government along with local

citizens. There are significant costs associated with addressing these impacts. These impacts also result in impacts to fisheries, riparian areas, and to recreation opportunities. While progress is being made, these water quality impairments will almost certainly continue and there is a likely prospect that these impacts may get worse with continued development in the basin and associated increased water diversions.

### **Northern Integrated Supply Project**

The Northern Integrated Supply Project (NISP) is a water supply project proposed by the Northern Colorado Water Conservancy District to provide 40,000 acre-feet of water annually to help meet the future water needs of 15 towns and water districts in northern Colorado (Northern Colorado Water Conservancy District 2017). This project has been in the planning process for a number of years.

Depending on the final plan and execution of this project, additional withdraws from the Lower Poudre River are likely to occur and may result in additional detrimental impacts to the lower Poudre. There are ongoing communications between Northern Water and Thornton on the execution of their respective water rights, when and where diversions would occur, and the potential impacts these actions could result in. However, there does not appear to be any joint plan by the two organizations to address potential detrimental impacts resulting from the two projects.

### **Economics**

Maintaining or improving water quality in the lower Poudre River has considerable financial costs. The determination of water quality impairments has led local governments, business, and local residents to expend significant financial resources to address the water quality decline. The economic cost can involve activities such as upgrades to wastewater treatment plants, installation of stormwater management facilities, and limits on land development. Activities that result in further declines in water quality will require further economic expenditures that would be borne by local governments, businesses, and residents. For example, a recent upgrade to the Boxelder Sanitation District wastewater treatment plant cost rate payers ten million dollars in order to address water quality issues such as ammonia treatment and future nitrogen effluent limits. In addition, the use of the Poudre as a recreational amenity is at risk if the Poudre River's water quantity and quality continue to decline resulting in decreased recreational revenues.

### **Discussion**

In summary, water resource development has resulted in significant impacts to the lower Poudre River system. Many of these impacts are beneficial to the residents of Larimer County by providing water resources for development and for agriculture. There are however some detrimental impacts resulting from water resource development of the lower Poudre River and its tributaries. These impacts include increased pollutants, detrimental impacts to fisheries, loss of river habitat, loss of recreational opportunities, and increased costs to address the water quality impacts. These positive and detrimental impacts are widely understood and well documented.



The indirect detrimental impacts from the change in flow regimes related to the implementation of the TWP are not fully known but would be likely to occur if the TWP proceeds as planned. At issue is the change in use and diversion of the TWP water. As it currently stands, the TWP water is used for agricultural purposes or not used at all as it awaits the TWP to bring the water to Thornton. Generally, this means that the water is left in the Poudre or diverted out of the Poudre in the winter and spring and released in the mid to late summer to area farms in the vicinity of the WSSC Reservoir No. 4. These diversions can occur regardless of whether or not the Poudre River has sufficient water to maintain a minimal flow in the river channel. It should be noted these water rights are a type of property right that are owned by the City of Thornton, and cannot be taken away, but the timing and use are governed by the State.

As noted above, approximately 50% of the water used to irrigate area farms is consumed, mostly lost to evaporation, while the rest returns to the area water supply. Some of this return water is further used by subsequent water users, some contributes to shallow groundwater, some ends up back in the river, and often a combination of all three. However, while Thornton's water rights require some return flow, there will still be a loss of water to the system as at least half of the Thornton's water rights allow the water to be completely consumed, which will not allow any return flow to the area water supply. This means that there will be a loss of water in the basin as a result of the TWP. Under the proposed TWP plan, much of the water diverted will end up in the TWP pipeline and will not return to the lower Poudre River as return flow or for other uses.

During low flow periods, the reduction of water volume resulting from the TWP could represent a significant portion of the flow in the Poudre River. This could also lead to additional days where there is no flow at all or extreme low flows in the Poudre River. Lower flows could likely also lead to higher temperature in the river during the summer and fall when the return flow would otherwise be occurring. This could result in less flow to dilute the copper and selenium levels, leading to higher concentrations of these pollutants. Phosphorous concentrations may also be increased as there is less water to dilute the phosphorous loads from area wastewater treatment plants and stormwater runoff. Higher phosphorous levels generally lead to increased algae production and can lead to increased E. coli counts.

In addition, the NISP project will result in further diversions that would also result in water quality impacts as discussed above. When analyzing the potential impacts of the TWP, the additional and cumulative impacts for NISP diversions must also be analyzed. Given the NISP and other possible diversion projects, it would seem prudent that further analysis of the cumulative impacts of the existing and proposed diversions is needed prior to undertaking the TWP.

Per the discussion above, it would appear that the TWP would likely have detrimental impacts to the lower Poudre River. These detrimental indirect impacts were not analyzed in the 1041 application. This omission by the City of Thornton should be corrected before the 1041 application proceeds. There needs to be a detailed analysis performed on the water quality and related impacts of the TWP before proceeding.

It is clear that the TWP 1041 application did not contain what the City of Thornton has planned for subsequent TWP phases. This failure to include the City's reasonably foreseeable plans in the TWP 1041 application would appear to result in a failure by the City of Thornton to follow the Larimer County's Land Use Ordinance and may invalidate the current TWP 1041 application. The residents of Larimer

County clearly have the right to know what the City of Thornton has already planned under the subsequent phases of the TWP project and to include that as part of their TWP 1041 application.

Larimer County has a number of responsibilities with respect to the TWP. First, the County's primary responsibilities are always to take care of the County's economy, environment, human health, and the well-being of its residents, as indicated in the Land Use Code. Given the TWP's limited benefits offered to Larimer County (indirect road improvements) and the likely detrimental impacts from this project, it would seem that the County would have serious reservations about the TWP project. Before the County were to act on the 1041 TWP application, additional study and analysis is clearly required in order to more fully identify potential indirect and cumulative impacts and ways to address these impacts.

One apparent approach the County should consider is moving the point of diversion for the TWP from Bellvue to the eastern end of the county. This would reduce or eliminate many of the detrimental impacts identified in this report. After all, Thornton officials have identified their proposed diversion location because, as they have said, they want the cleanest water possible. Running the water through the lower Poudre River would result in contaminants and increase the cost of treating the water (Coloradoan, 2017). It appears that Thornton is asking that Larimer County pick up the cost of reduced water quality and its associated detrimental impacts, while Thornton gets the benefits of an up-stream diversion. Larimer County is not under any obligation to approve Thornton's 1041 TWP project permit and can choose instead to require a change to the diversion point. The legal issues related to the change in diversion location would need to be borne by Thornton. These legal issues include changes to Thornton's water rights and getting a Clean Water Act 404 permit from the Corp of Engineers. Larimer County is doing a favor to Thornton in considering this project; it would seem that the County should not suffer from the detrimental impacts of the project while gaining very little in return. One must ask, why should Larimer County's environment and residents have to deal with lowered water quality and its associated economic and environmental impacts as a result of the TWP so that the City of Thornton can have improved water quality?

In summary, in my professional, objective opinion as a non-citizen of Larimer County, it does not appear to be in Larimer County's best interest to allow the TWP as proposed to proceed.

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Please contact Chris Rowe, Senior Environmental Scientist and former Fort Collins resident, for any additional questions or comments related to this report ([chris.rowe1000@gmail.com](mailto:chris.rowe1000@gmail.com)).

## **About the Author**

Chris Rowe is a watershed scientist with twenty-five plus years of expertise in water resources and environmental management. Chris has a Master of Science degree in Watershed Science with a concentration in water quality and a Bachelor's of Science degree in Recreation Resources with a concentration in conservation education, both from Colorado State University. Chris is an environmental and regulatory professional who focuses on environmental planning and assessment. Through many years of experience, Chris has established a wide set of proven competencies and skills to ensure successful outcomes with applicable environmental requirements on the Federal, State and local levels. Areas of expertise include NEPA, CWA, ESA, CERCLA, SPCC, RCRA, CAA, audits, project management, client development, technical writing, Environmental Management Systems, and others. Chris has a lifelong commitment to natural resource management and conservation.

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DRAFT Preliminary  
Assessment of an  
Alternative Diversion  
Location for Thornton  
Water Rights Using  
Poudre River Water  
Quality Data

Thornton Water Rights in the  
WSSC and JDC Ditches  
5/7/2018

Lisa Buchanan  
LRB Hydrology & Analytics

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## Executive Summary

The No Pipe Dream Association requested this study to ascertain if Thornton could divert its water shares of the Water Supply and Storage Company (WSSC) and the Jackson Ditch Company (JDC) from the Cache La Poudre at a downstream location – the “Citizen’s Poudre River Alternative” – rather than at the WSSC Reservoir #4. This analysis shows that Thornton could divert Poudre River water from above the Mulberry Reclamation Plant in Fort Collins without impacting water quality of its supply. As such, the Citizen Poudre River Alternative is a viable alternative.

Currently the WSSC and JDC divert water at their head gates located downstream of Greeley’s Bellevue Water Treatment Plant on the Poudre River. Thornton’s preferred alternative, termed the Thornton Northern Project, for delivery of their WSSC and JDC ditch shares is to continue to divert at these head gates, store their water in WSSC Reservoirs #2, #3, and #4, and pump out of WSSC Reservoir #4 into a pipeline that will travel east along Douglas Road and beyond to the Weld and Larimer county line where the pipeline will turn south to the City of Thornton. This report evaluates the possibility of diverting Thornton’s shares at a downstream location on the Poudre River, an alternative Thornton has not endorsed because of water quality concerns.

For this assessment the Poudre River was divided into 5 sections. Two coincide with State Stream Segments 10a – from the North Fork of the Poudre River to the WSSC head gate - and 10b – starting at the WSSC head gate to Shields Street where state Stream Segment 11 begins. Segment 11 was divided into 3 sections; Section 1 from Shields Street to the Mulberry Reclamation Plant, Section 2 from below the Reclamation Plant to the Drake WWTP, and Section 3 from below the Drake Plant to Boxelder Creek. Water quality data from 2008 to 2013, obtained from the state stream classification assessment team, were sufficient to characterize water quality in each of these sections. The database included data on several metals, nutrients, pH, dissolved oxygen, E-coli, and inorganic compounds, sulfate and hardness, used to represent Total Dissolved Solids which was not included in the state database.

Water quality results were first compared to Safe Drinking Water Act primary and secondary drinking water standards to determine which parameters were of concern for a drinking water supply. All primary drinking water standards were met in all sections. Secondary drinking water standards for pH, manganese, iron, sulfate, and TDS were exceeded to varying degrees in some sections. Stream water quality was primarily impacted by hardness and sulfate concentrations [TDS], particularly in the two downstream sections of Segment 11 – downstream of the Reclamation Plant.

Water quality data for the WSSC and JDC ditches and reservoirs up to WSSC Reservoir #4 is not collected by the WSSC. Thornton has agreed to provide their ditch and reservoir water quality information (personal communication with Mark Koleber on 5/4/2018). Since the WSSC head gate diverts water at the most upstream point in Segment 10b, for purposes of this report it was assumed that ditch water quality was similar to that in Segment 10b.

Levels of hardness and sulfate throughout the year are comparable between Segment 10b and the upper section of Segment 11, above the Reclamation Plant, and tended toward upstream water quality

in Segment 10a in the summer months; therefore, Thornton could divert Poudre River water from above the Reclamation Plant in the summer months without impacting water quality of its supply. In fact, this section could qualify for a water supply classification.

Assuming Thornton would divert during the summer months, the full amount of Thornton's water rights in the WSSC and JDC ditches in Phase I of the TNP, up to between 29,000 and 33,000 acre-feet (AF) by substitution of return flow obligations, would not provide enough dilution to improve water quality in the two most downstream sections of Segment 11 to levels in Segment 10b. If Thornton were to divert its water rights out of these two sections, to preserve the quality of its water would require pre-treatment.

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## Appendices

### Appendix A

Table A-1: Water Quality Results and Comparison to SDWA Standards: Upstream of Fort Collins – State Segment 10A

Table A-2: Water Quality Results and Comparison to SDWA Standards: Lion Park - State Segment 10B

Table A-3: Water Quality Results and Comparison to SDWA Standards: Downstream of Shields Street to Mulberry Reclamation Plant – State Segment 11, Section 1

Table A-4: Water Quality Results and Comparison to SDWA Standards: Downstream of Mulberry Reclamation Plant, Upstream of Drake WWTP – State Segment 11, Section 2

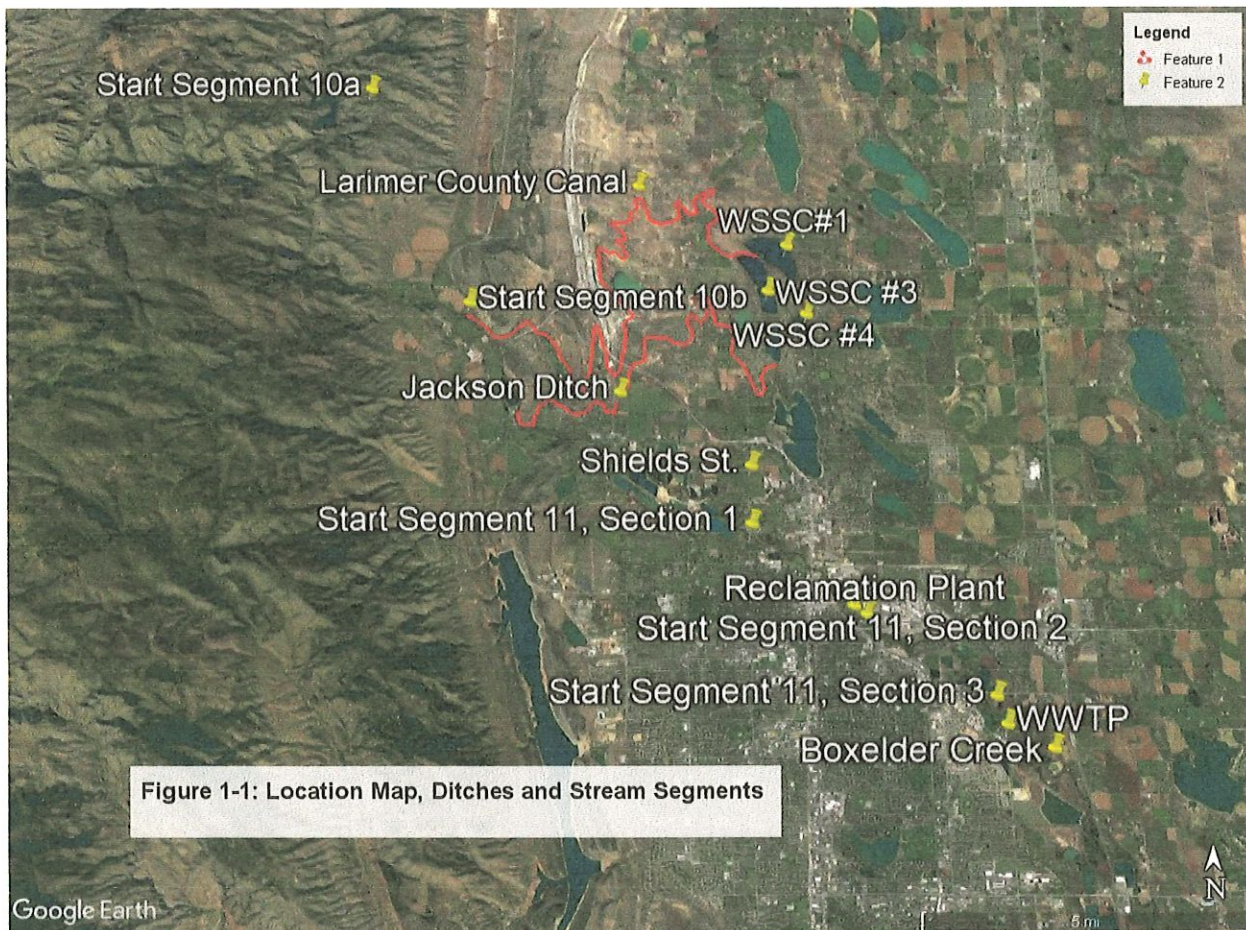
Table A-5: Water Quality Results and Comparison to SDWA Standards: Downstream of Drake WWTP Upstream of Boxelder Creek - Segment 11, Section 3

Appendix B: Summary of Thornton Northern Project Decree



## 1.0 Introduction

The No Pipe Dream Association has proposed a “Citizen’s Poudre River Alternative” to Thornton’s proposed Thornton Water Project (TWP). Thornton proposes to utilize the Water Supply and Storage Company (WSSC) and Jackson Ditch (JDC) diversion structures, the Larimer County Canal (LCC) and Jackson Ditch conveyances, and storage in WSSC reservoirs 2, 3, and 4 prior to pumping water from WSSC #4 reservoir into a pipeline to Thornton. The pipeline would travel east from WSSC Reservoir #4 along and east of Douglas Road to the County line prior to heading south to Thornton. The LCC and JDC ditches are shown on Figure 1-1. The distance between the LCC and JDC head gates and WSSC Reservoirs #2, #3, and #4 are approximately 15 and 9 miles, respectively.



Thornton did not provide information on another alternative which would have evaluated the possibility of diverting its shares of WSSC and JDC water at a downstream location on the Poudre River. Thornton has stated that they have omitted this alternative because of water quality issues. In addition, the Poudre River is not classified for Water Supply use in Segment 11, starting at Shields Street in Fort Collins; another reason Thornton wishes to divert Poudre water at the LCC and JDC, both in Segment 10b which is classified for Water Supply use.

This report, requested by the No Pipe Dream Association, evaluates water quality data, obtained from the state, for Poudre River State Stream Segments 10a, 10b, and 11 as shown in Figure 1-1. These Segments span the city from the upper USGS streamflow gage (06752000), located upstream of the city and approximately two miles upstream of the LCC ditch head-gate, to the lower USGS streamflow gage (06752280) located upstream of Boxelder Creek. Segment 11 is further subdivided into three sections of river: 1) Shields street to above the Mulberry Reclamation Plant (including USGS streamflow gage 06752260), 2) the Reclamation Plant to above the Drake WWTP, and 3) below the Drake WWTP to above Boxelder Creek. In the following discussions, state stream segments are referred to as “Segments” and sections within State Segment 11 are referred to as “sections.” Water quality data are used to:

- Evaluate variation in spatial and seasonal water quality along the Poudre River,
- Compare water quality data to Clean Water Act Safe Drinking Water Standards to assess the suitability for use as a drinking water supply,
- Using water quality data, identify potential alternative diversion locations on the Poudre River,
- Determine which parameters might affect water treatment requirements,
- Determine if upstream water quality in downstream sections of the Poudre could be achieved by dilution effects if Thornton’s water rights were diverted downstream, and
- For parameters identified in the water quality screen, estimate the increase in loads from upstream to a potential alternative diversion point – loads which may increase treatment requirements due to the change in diversion location.

Stream water quality is presented in Section 2. Water quality data are compared to Safe Drinking Water Act standards in Appendix A in support of the Section 2 evaluation. Section 3 is a discussion of water quality in the WSSC and JDC ditch and storage systems up to WSSC reservoirs #2, #3, and #4 in which Thornton plans to store its water prior to moving it through the Northern Project pipeline to the city. Using hardness and sulfate to represent TDS concentrations, Section 4 evaluates how much additional upstream water is required to reduce in-stream hardness concentrations to upstream levels. Additional flow requirements are then compared to the potential increase in stream flow if Thornton diverts its share of WSSC and JDC ditch water at a downstream location. The terms of Thornton’s decree are summarized in Appendix B. Section 4 also discusses increased loads of sulfate and hardness in the sections 2 and 3 of Segment 11.

## **2.0 Poudre River Water Quality Analysis**

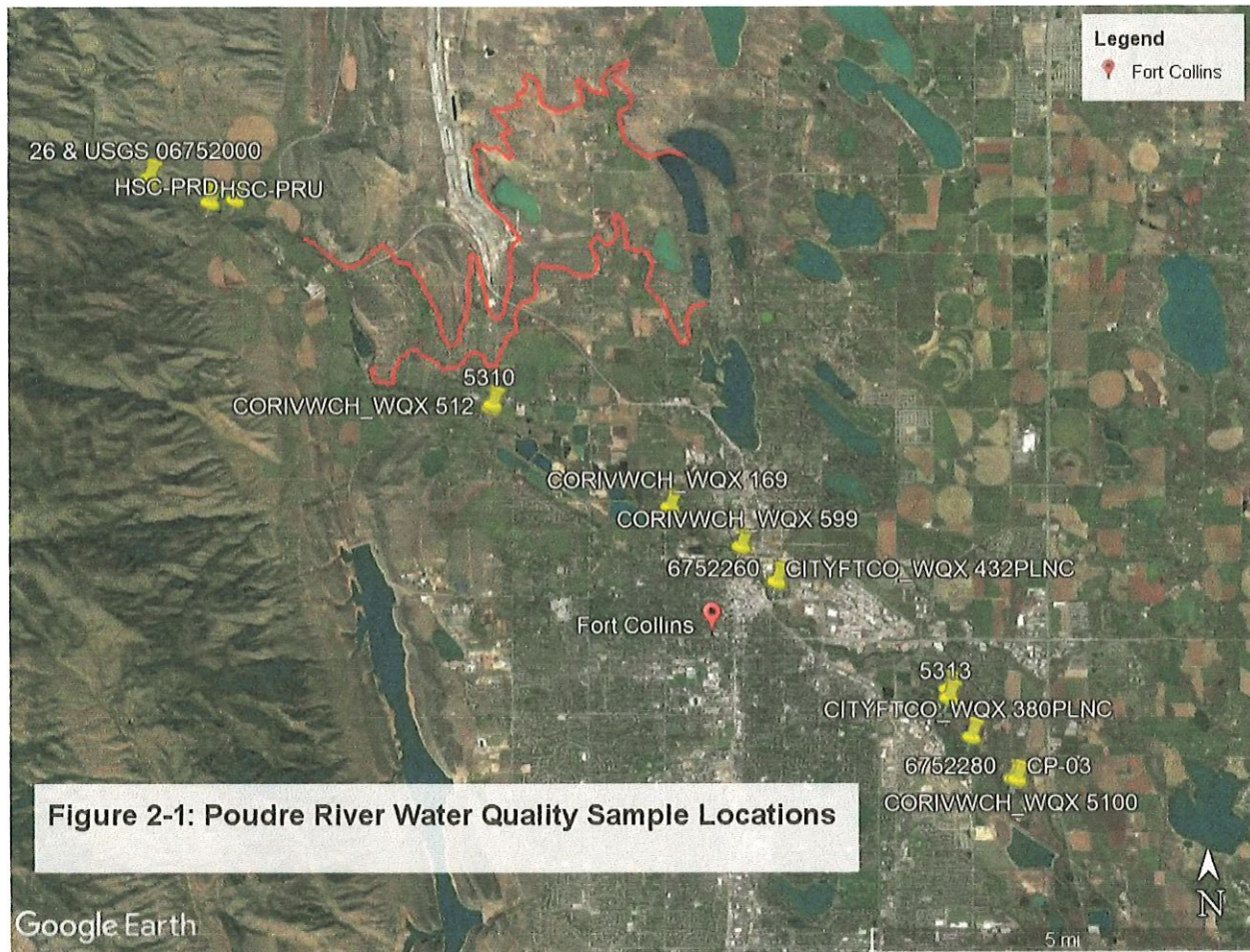
### **2.1 Poudre River Water Quality Data**

Water quality data collected between 2008 and 2013 were obtained from the Colorado Department of Health and Environment (CDPHE) Water Quality Control Division for Poudre River Segments 10a, 10b, and 11. Every three years the WQCD places a data call, compiled by the assessment unit at the WQCD, to periodically evaluate stream conditions and classifications for Colorado streams. This database includes water quality data collected by Fort Collins, the USGS, Northern Colorado Water Conservancy District, and the WQCD (Table 2-1). As shown, Segment 11 is further subdivided into three sections of

river: 1) Shields street to above the Mulberry Reclamation Plant, 2) the Reclamation Plant to above the Drake WWTP, and 3) below the Drake WWTP to above Boxelder Creek.

<b>Table 2-1: Poudre River Sample Sites</b>			
<b>Sample Site Designation and Location</b>	<b>Sampled By</b>	<b>Northing Location</b>	<b>Easting Location</b>
<b>Poudre River Upstream of Fort Collins – State Segment 10a</b>			
00000026 & USGS Flow Gage 06752000 CACHE LA POUFRE R ABOVE FORT COLLINS	WQCD	40.66444	-105.2238889
HSC-PRD Cache La Poudre River downstream of Hansen Feeder Canal	Northern	40.6606	-105.2032
HSC-PRU Cache La Poudre River upstream of Hansen Feeder Canal	Northern	40.6601	-105.2094
<b>Poudre River Including LCC and JDC Diversion Locations - State Segment 10B</b>			
CORIVWCH_WQX 512 Lions Park	CDSN	40.62181	-105.1402689
5310 CACHE LA POUFRE RIVER AT LIONS PARK	WQCD	40.62233	-105.1398333
<b>Poudre River Downstream of Shields Drive, Upstream of Reclamation Facility – State Segment 11</b>			
CORIVWCH_WQX 599 Lee Martinez Pk	CDSN	40.595714	-105.0784037
CORIVWCH_WQX 169 Shield's Br	CDSN	40.6031	-105.0958
6752260 : Same location as USGS Flow Gage CACHE LA POUFRE RIVER AT FORT COLLINS, CO	USGS	40.58915	-105.0697002
CITYFTCO_WQX 432PLNC Poudre River @ Lincoln Ave MM43.2	CDSN	40.588987	-105.06988
<b>Poudre River Downstream of Reclamation Plant, Upstream of Drake WWTP – State Segment 11</b>			
CORIVWCH_WQX 602 Prospect	CDSN	40.567053	-105.0272772
5313 CACHE LA POUFRE AT PROSPECT ROAD, FORT COLLINS	WQCD	40.56716	-105.02715
CITYFTCO_WQX 380PNAT Poudre River @ Nature Center	CDSN	40.559874	-105.021624
CITYFTCO_WQX 390PPROS Poudre River at Prospect Bridge MM39	CDSN	40.568824	-105.027266
<b>Poudre River Downstream of Drake WWTP to Upstream of Box Elder Creek – Section 11</b>			
6752280 : Same location as USGS Flow Gage CACHE LA POUFRE RIV AB BOXELDER CRK NR TIMNATH, CO	USGS	40.5519269	-105.011365
CITYFTCO_WQX 370PBOX Poudre River @ Boxelder Sanitation MM 37	CDSN	40.551938	-105.010574
CORIVWCH_WQX 5100 Environ Learning Center	CDSN	40.551885	-105.0110313
CP 03 :Cache La Poudre upstream of confluence with Boxelder Creek	WQCD	40.551837	-105.010385





**Figure 2-1: Poudre River Water Quality Sample Locations**

The LCC head gate is located at the start of Segment 10b, approximately one mile downstream of the Hansen Canal where it enters the Poudre River. The Jackson Ditch head gate is approximately two miles into Segment 10b and two miles above the Lion Park sample location. As such, water quality of Poudre River water at the LCC head gate is likely intermediate between the upstream Segment 10a and Segment 10b quality. Water quality at the JDC head gate likely reflects water quality results for the Lion Park sample location.

## 2.2 Comparison to State Safe Drinking Water Standards

State of Colorado has the authority to administer the Safe Drinking Water program in Colorado. State drinking water standards are noted in 5 CCR 1002-11 by the Department of Public Health and Environment, Water Quality Control Commission. Drinking water standards for contaminants for which data were available are shown in Table 2-2. In addition, the drinking water Maximum Contaminant Limit Goal (MCLG) for E-coli is zero after treatment in the Water Treatment Plant. Therefore, E-coli data were compared to the Stream Classification Water Quality Standard of 126 (per 100 ml). In addition, dissolved oxygen levels were compared to Stream Classification Water Quality Standards of 6.0 mg/L in Segments 10a and 10b and 5.0 mg/L in Segment 11. As noted in Section 11.45(8), SMCLs “primarily affect the aesthetic qualities relating to the public acceptance of drinking water. At considerably higher

concentrations of these contaminants, health implications may also exist as well as aesthetic degradation.”

<b>Table 2-2: State Safe Drinking Water Standards<sup>1</sup></b>			
	<b>Maximum Contaminant Level<sup>2</sup></b>	<b>Maximum Contaminant Level Goal<sup>3</sup></b>	<b>Secondary Maximum Contaminant Level<sup>4</sup></b>
<b>Inorganics (mg/L)</b>			
pH	--	--	6.5 to 8.5
nitrate	10 (as N)	10 (as N)	--
nitrite	1 (as N)	1 (as N)	--
total nitrate and nitrite	10 (as N)	10 (as N)	--
sulfate	--	--	250
Total Dissolved Solids	--	--	500
<b>Dissolved Metals (ug/L)</b>			
Aluminum	--	--	50 to 200
Arsenic	10	0	--
Cadmium	5	5	--
Copper	1,300 <sup>5</sup>	1,300	1,000
Iron	--	--	300
Lead	15 <sup>5</sup>	0	--
Manganese	--	--	50
Selenium	50	50	--
Silver	--	--	250
Zinc	--	--	5,000

<sup>1</sup>From 5 CCR -11 section 11.45

<sup>2</sup>Maximum Contaminant Level (MCL) is the maximum level of a contaminant in drinking water, which is delivered to any consumer (Section 11.3 (40)).

<sup>3</sup>Maximum Contaminant Level Goal (MCLG) is the maximum level of a contaminant level in drinking water at which no known or anticipated adverse effects on human health would occur. ... MCLGs are non-enforceable health goals (Section 11.3 (41)).

<sup>4</sup>Secondary Maximum Contaminant Level (SMCL) is the maximum of a contaminant allowed in water which is delivered to the consumer of a public water system. SMCLs are not enforceable but are intended as guidelines. The SMCLs are defined in 40 CFR 143.3 as amended July 1, 2013 (Section 11.3 (63)).

<sup>5</sup>Action level

Results of comparison to Safe Drinking Water Standards are shown in Appendix A, Tables A-1 through A-5 for each of the 5 sections of Poudre River considered here. Tables note the number of samples taken on a stretch of river, the number of non-detects, the average, median, maximum, and minimum concentration, and the number of samples that were greater than the standard. As shown, metals were often below the detection limit. Detection limit reporting varied considerably – as negative values, less than the detection limit, zero, or the detection limit. All non-detects were labeled with a “U” in the database. The noted detection limit was utilized to calculate water quality statistics; therefore, for parameters with a high proportion of non-detects the statistics reflect reported detection limits. It was important, though, to retain non-detects in the statistics as the preponderance of data were below the detection limit for most metals. Detection limits were well below standards. In addition, some samples

were qualified with “J” or “B” qualifiers – indicating that the detected value was below the official detection limit or that the parameter was also detected in the blank. Since these qualifiers were very infrequent, and would not substantially influence the statistics, the sample was retained in the analysis.

Exceedances of Drinking Water Standards are summarized in Table 2-3. A “v” indicates that all sample results were below the standard – no exceedances. In some cases there were no data, as indicated. When a sample exceeded the standard for a parameter, the number of samples that exceeded the standard out of the total samples collected (e.g. 22 in 207) is noted in Table 2-3. In general, only parameters with Secondary Maximum Contaminant Limits exceeded those standards. Concentrations of the majority of water quality samples were below the State Drinking Water Standards in all stream sections. Water quality statistics for those parameters which exceeded Drinking Water Standards are shown in Table 2-4.

**Table 2-3: Summary of Exceedances of State Drinking Water Quality Standards**

Parameter	Upstream Segment 10a	Lion Park Segment 10b	Upstream of Reclamation Plant – Segment 11	D/S of Recl. Plant to U/S of WWTP – Segment 11	D/S of WWTP to U/S of Boxelder Creek – Segment 11
pH	5>8.5 in 123	8>8.5, 2<6.5 in 45	10>8.5, 11<6.5 in 339	20>8.5, 3<6.5 in 379	5>8.5, 1<6.5 in 225
E-coli	No data	No data	22 in 207	68 in 393	31 in 192
Dissolved Oxygen	v	v	v	v	2 in 213
Nitrate	No data	No data	v	v	v
Nitrite	No data	No data	v	v	v
Sulfate	v	1 in 16	v	12 in 62	18 in 39
Aluminum	v	v	v	v	v
Arsenic	v	v	v	v	v
Cadmium	v	v	v	v	v
Copper	v	v	v	v	v
Iron	1 in 123	v	2 in 179	v	v
Lead	v	v	v	v	v
Manganese	4 in 123	4 in 59	14 in 93	5 in 118	6 in 13
Selenium	v	v	v	v	v
Silver	v	v	v	v	v
Zinc	v	v	v	v	v

Water quality data indicate that pH of stream waters tends toward higher pH when exceeding the standard of 8.5 in most sections, up to 11.7 upstream of Fort Collins Segment 10a. Samples where pH was below 6.5 did not fall below pH of 6.0. Dissolved iron concentrations exceeded the secondary standard (300 ug/L) in very few samples collected upstream of Fort Collins in Segment 10a and above the Mulberry Reclamation plant in Segment 11, but not in any other stream sections. Average, median, and minimum iron concentrations were highest in the upstream section of the Poudre; the highest maximum iron concentration occurred upstream of the Reclamation plant and the second highest iron result was again in the upstream section. Manganese levels exceeded the standard (50 ug/L) in a few samples in each river section. Because of the low number of manganese samples collected downstream

of the Drake WWTP, it appears that a higher percentage (46 percent) of samples exceeded the manganese standard and could be indicative of higher manganese loading to this section.

Table 2-4: Statistics for Parameters That Exceeded SDWA Standards					
Parameter	Upstream Segment 10a	Lion Park Segment 10b	Upstream of Reclamation Plant – Segment 11	D/S of Recl. Plant to U/S of WWTP – Segment 11	D/S of WWTP to U/S of Boxelder Creek – Segment 11
pH					
No Samples	123	45	339	379	225
Average	7.8	8.12	7.7	7.9	7.7
Median	7.8	8.29	7.8	7.9	7.7
Maximum	11.7	9.05	9.9	9.5	8.9
Minimum	6.6	6.38	6.1	6.1	6.4
E-Coli (#/100 mls)					
No Samples	No data	No data	207	393	192
Average			68	212	127
Median			16	23	26.9
Maximum			1986	17329*	6,131
Minimum			1	1	0
Sulfate (mg/L)					
No Samples	84	16	48	62	39
Average	3.7	55.2	27.1	105	453
Median	3.2	22.2	19.5	57.9	180
Maximum	30	360	78.6	360	3400
Minimum	10	4.8	0	0	7.21
Iron (ug/L)					
No Samples	123	59	179	110	94
Average	97.5	37.7	68.2	59.3	47.1
Median	64.4	37.0	52.6	43.5	37.4
Maximum	532	108	841	265	221
Minimum	14.5	0.0	0	0	0
Manganese (ug/L)					
No Samples	123	59	93	58	13
Average	9.5	12.3	29.5	22.5	45.9
Median	5.4	8.0	19.1	17.1	42
Maximum	70	70	179	73	74
Minimum	0.0	0	0	0	7

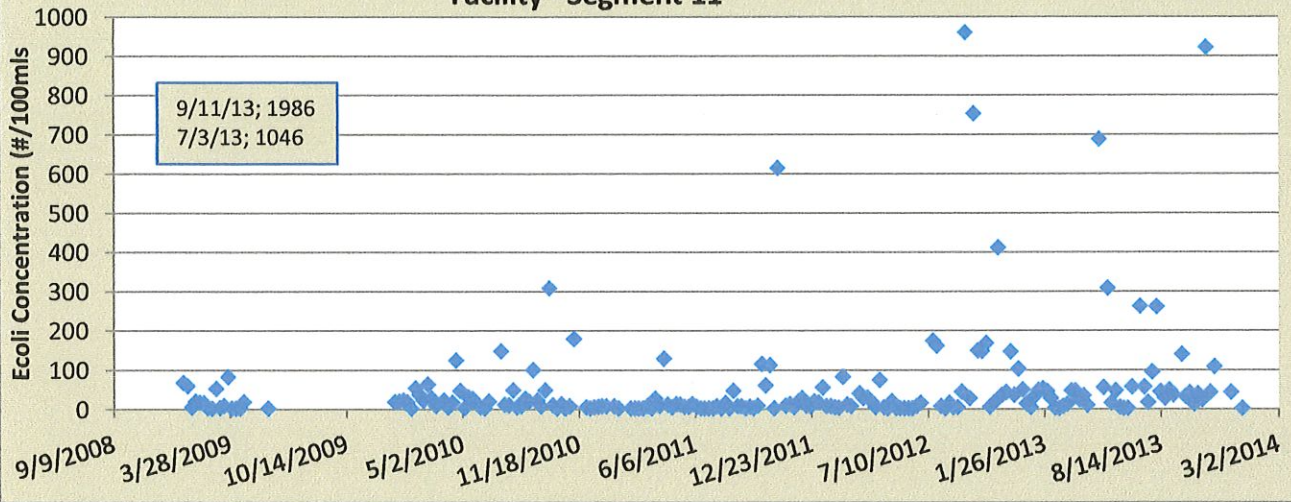
- Duplicate sample measured 2,616 # per 100 mls.

### E-coli

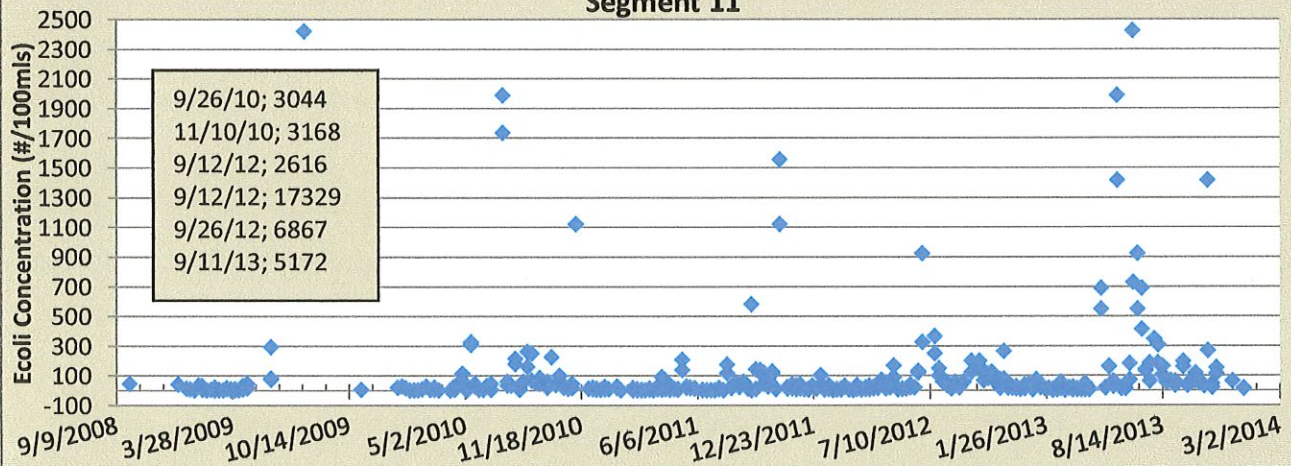
Maximum E-coli concentrations were highest downstream of the Reclamation Plant and likely reflect contamination of surface waters after storm events. Very high maximum values are offset by longer term low levels of E-coli exemplified by low median concentrations compared to average and maximum



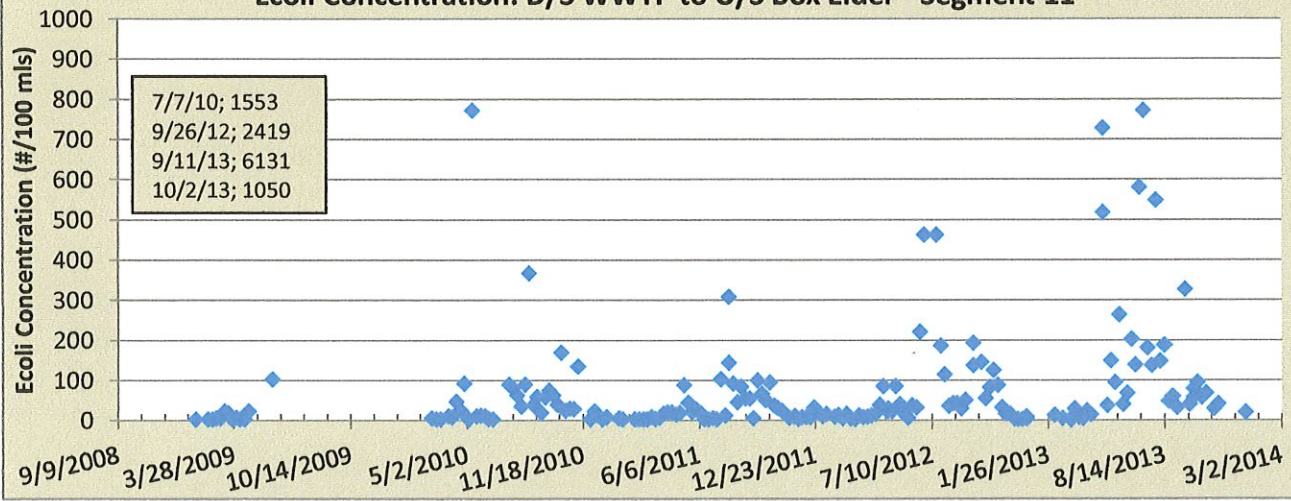
**Figure 2-2 A: Ecoli Concentration: Shields Drive to Mulberry Reclamation Facility - Segment 11**



**Figure 2-2 B: Ecoli Concentration: D/S Reclamation Facility to U/S WWTP - Segment 11**



**Figure 2-2 C: Ecoli Concentration: D/S WWTP to U/S Box Elder - Segment 11**





values. The median is the mid-point of the data set where half the values lie below and half lie above this concentration. E-coli concentrations are depicted graphically in Figure 2-2 A, B, and C. In all three sections for which there was data – samples were not analyzed for E-coli counts in Segments 10a and 10b, the upper two sections in this analysis – the majority of results lay below 100 counts per 100 mls. By far the highest concentrations of E-coli were observed in the section between the Reclamation Plant and the Drake WWTP, likely due to runoff from pond areas in this section. Note that, in this section, no negative values were reported. The axis in Figure 2-2 B was presented in this manner so that the first major axis subdivision was at 100 counts per 100 mls for comparison to Figures 2-2 A and C.

The highest counts were typically observed in fall months, periods with low stream flow and fall storms. In particular, the September 2013 flood resulted in high levels of E-coli in the Poudre in all three Segment 11 sections. However, the highest levels of in-stream E-coli counts were seen in 2012, a very low flow year (See Figure 2-5 below). Unfortunately, E-coli counts were not conducted in upstream sections – Segments 10a and 10b - so these data could not be compared to upstream concentrations. In general, the lowest concentrations of E-coli were seen in the upper section of Segment 11, upstream of the Reclamation Plant, where only 22 of 207 total samples exceeded the 126 count per 100 mls stream standard. E-coli concentrations improved below the Drake WWTP to Boxelder Creek from the section between the Reclamation Plant and the Drake WWTP. In addition, a seasonal pattern can be seen with the lowest counts consistently occurring in late fall, winter, and early spring months when surface runoff is reduced. E-coli counts are important since drinking water standards require a count of zero prior to distribution to customers.

### **2.3 Total Dissolved Solids**

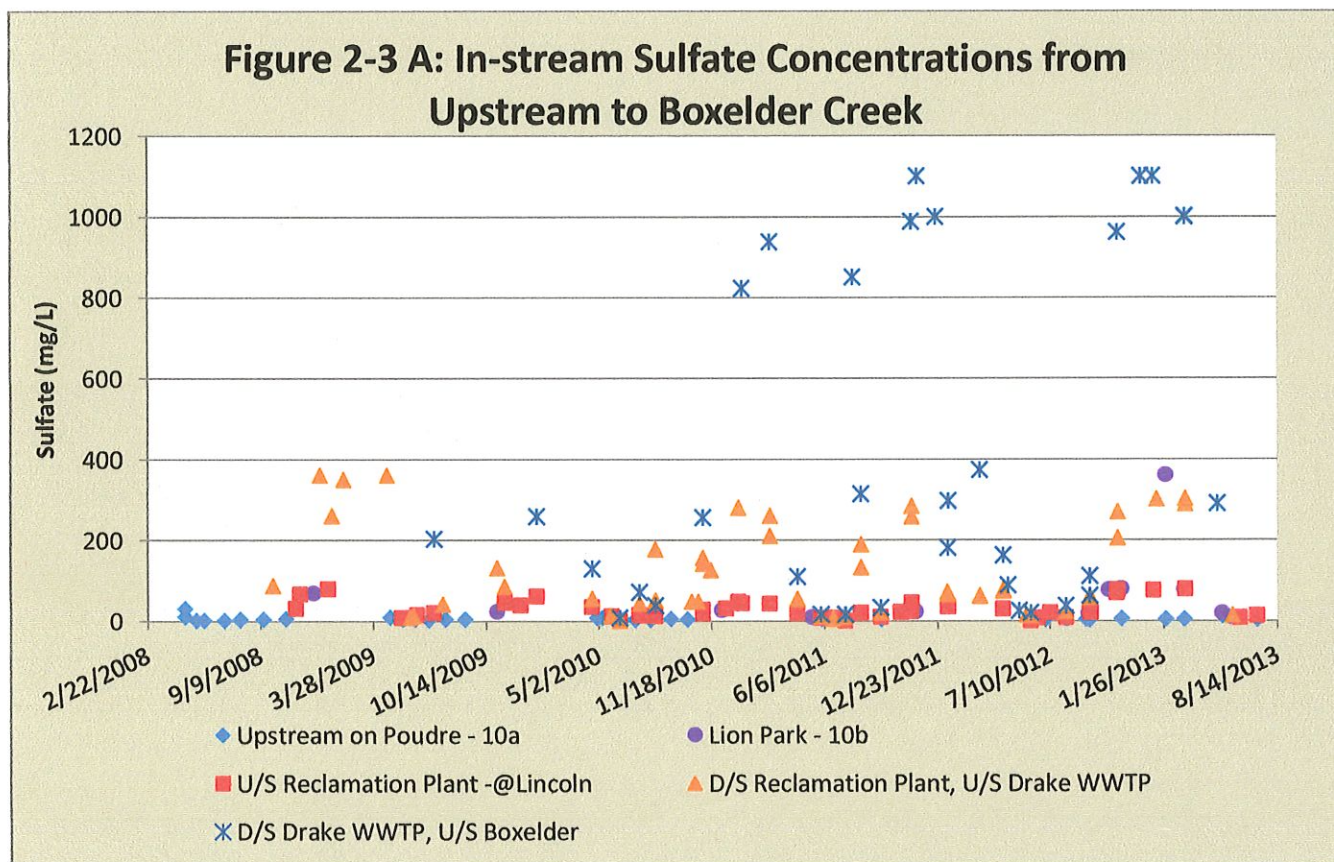
The secondary drinking water standard for TDS equals 500 mg/L. Total Dissolved Solids (TDS) is measured in the laboratory by weighing the solid residue that remains after a sample has been dried under elevated temperature. No TDS values were reported in the state data. Alternatively, TDS can be calculated by summing cations and anions in water samples. Typically, the major cations and anions – calcium, magnesium, sodium, potassium, sulfate, bicarbonate/carbonate, and chloride - are the predominant parameters that contribute to TDS. In some areas of the southwest, iron and manganese may also contribute significantly to TDS. Hardness, a measure of calcium and magnesium concentrations, and sulfate data are available in the state database. However, sodium, potassium, alkalinity, and chloride are not included in the database. Therefore, individual components of TDS are discussed below but TDS has not been calculated here. Also, iron and manganese concentrations are much lower than reported cation and anion concentrations and so are not considered in this discussion of TDS.

Cations and anions are introduced to the stream via return flows from irrigated agricultural areas. Some of the irrigation water applied to crops percolates downward to groundwater which then flows in the direction of the potentiometric surface toward surface streams. An exception to this is groundwater that is not in connection with surface streams termed non-tributary groundwater. In the process of moving through the subsurface, groundwater dissolves salts and minerals from the soil matrix transporting them to surface water. The lag time between application of irrigation water and

groundwater reaching the stream as well as stream flows that are made up predominantly of groundwater inflows result in a seasonal increase of salt concentrations in late fall and winter months.

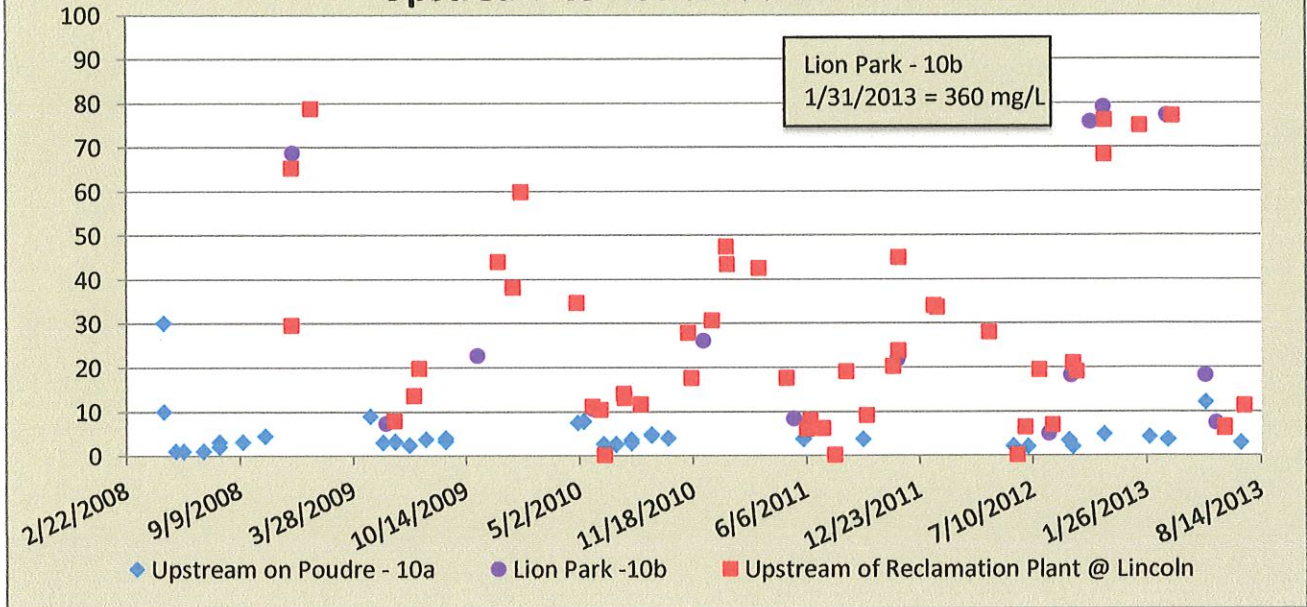
Sulfate

Sulfate not only has a parameter specific secondary drinking water standard but also contributes to total dissolved solids (TDS) in water. Sulfate shows a seasonal pattern, though different from E-coli counts. This pattern, shown in Figure 2-3 A, is seen in all downstream sections of the Poudre River. In summer months, when stream flow is predominantly snowmelt driven, sulfate concentrations in Segment 10b and all sections of Segments 11 are reduced to near upstream levels. Sulfate concentrations increase in a downstream direction within Segment 11. Figure 2-3 B, with only Segments 10a, 10b, and the upstream section of Segment 11 (above the Reclamation Plant), show this seasonal pattern in more detail. These seasonal and spatial patterns are also shown in Table 2-5 which compares summertime (May, June, July and August) to overall sulfate statistics (repeated from Table 2-4). Sulfate concentrations in Segment 10b and the upper portion of Segment 11 above the Reclamation plant are similar in timing and range of concentrations, though water quality in the upper portion of Segment 11 may be slightly better than in Segment 10b.





**Figure 2-3 B: Sulfate Concentration on Poudre River  
Upstream to Reclamation Plant**



**Table 2-5: Comparison of Overall Versus Summertime Sulfate Statistics**

Parameter	Upstream Segment 10a	Lion Park Segment 10b	Upstream of Reclamation Plant – Segment 11	D/S of Recl. Plant to U/S of WWTP – Segment 11	D/S of WWTP to U/S of Boxelder Creek – Segment 11
<b>Overall Sulfate Statistics (mg/L)</b>					
Average	3.7	55.2	27.1	105	453
Median	3.2	22.2	19.5	57.9	180
Maximum	30	360	78.6	360	3400
Minimum	10	4.8	0	0	7.21
<b>Summertime (May through August) Sulfate Statistics (mg/L)</b>					
Average	3.9	23.7	12.5	41.7	95.2
Median	2.9	10.6	11.5	21.1	36.7
Maximum	12.0	77.0	19.9	159.9	313.4
Minimum	2.0	4.8	6.2	5.2	7.2

**Hardness**

Hardness is the amount of dissolved calcium and magnesium in water and is typically introduced to streams via groundwater inflows, particularly when waters have been in contact with limestone or gypsum. As discussed above, calcium and magnesium concentrations are expected to increase in late fall and winter months due to irrigation return flows and due to surface water flows that are predominantly fed by groundwater at this time of year. Water with 0 to 60 mg/L as CaCO<sub>3</sub> hardness is classified as soft, 61 to 120 mg/L is moderately hard, and 121 to 180 mg/L is hard water. Over 180 mg/L as CaCO<sub>3</sub> is considered very hard (USGS Water-Supply Paper 2254 page 159).

“The World Health Organization suggested an upper limit of 500 mg/L [for hardness]. According to the American Water Works Association, . . . “ideal” water should not contain more than 80 mg/L hardness. Hardness in water used for ordinary domestic purposes does not become particularly objectionable until it reaches a level of 100 mg/L or so” (USGS Water-Supply Paper 2254 page 159).

In particular, calcium and magnesium ions can react and form a precipitate with sulfate ( $\text{SO}_4^{2-}$ ) and bicarbonate ( $\text{HCO}_3^-$ ) ions. Precipitates of calcium and magnesium are termed hard water scale which clogs pipes and water fixtures. Higher hardness waters are more prone to precipitate when the pH of solution is less than 9 (generally in the range of surface water) and at higher temperatures.

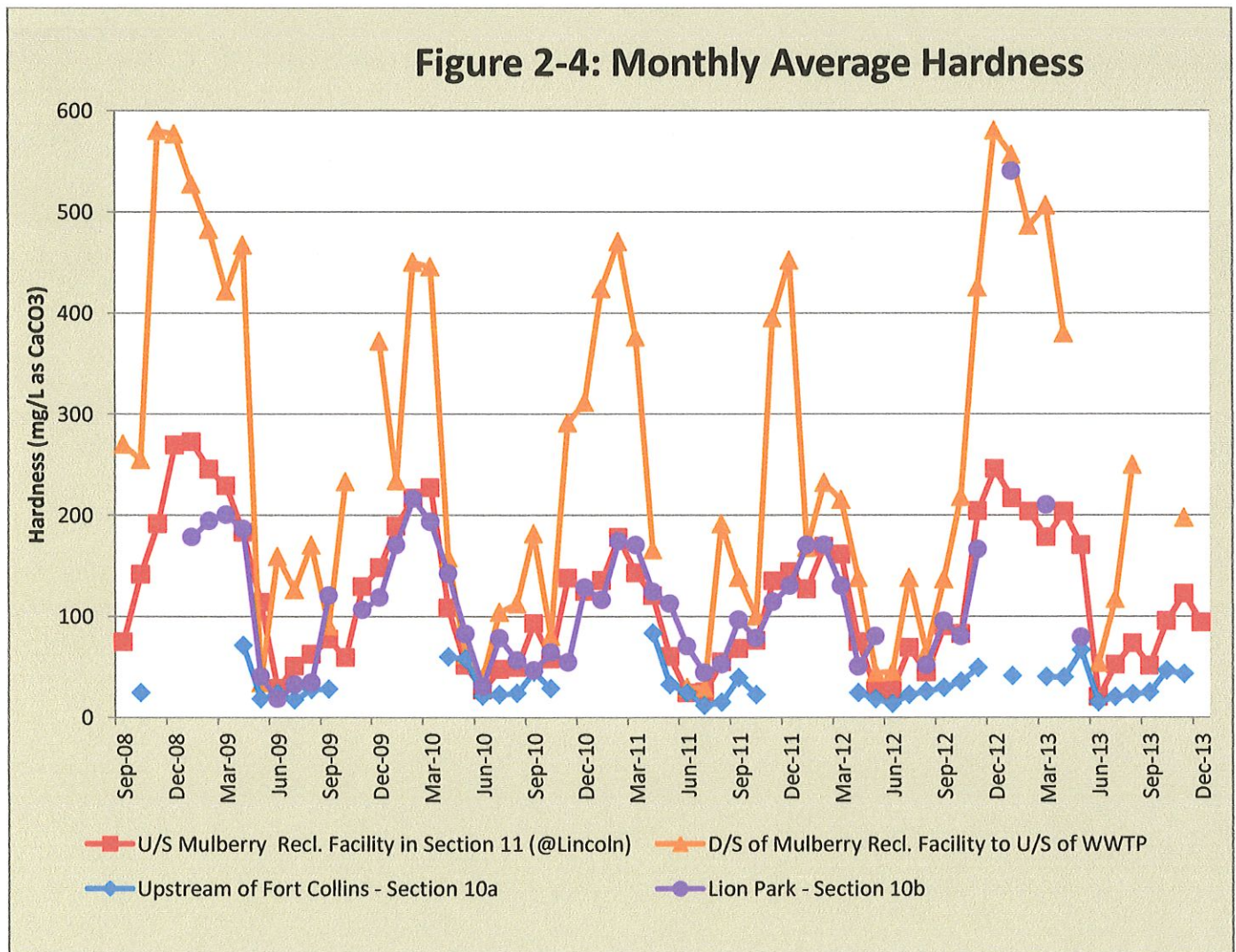
Hardness data statistics are shown in Table 2-6 for the entire data set and for the summer season alone. As expected, summer season levels of hardness are substantially lower than overall hardness concentrations. This pattern of better summertime water quality is also shown in Figure 2-4, showing average monthly hardness. Average monthly flow at USGS gages 06752000, upstream of Fort Collins in Segment 10a, 06752260, downstream of Lincoln Street in the upper section of Segment 11, and 06752280, upstream of Boxelder Creek, is shown in Figure 2-5. As shown, high flow months exhibit a dip in hardness concentrations since surface stream flows originate predominantly from snowmelt during these months.

Further downstream, between the Reclamation Plant and the Drake WWTP, hardness concentrations may dip to upstream levels in early summer but rise above this level by July and August. Downstream of the Drake WWTP, surface water quality is of lesser quality than in upstream sections of Segment 11. This may be due to larger influx of groundwater in the form of return flows from irrigation of agricultural lands in this stretch of the Poudre such that, even in summertime, groundwater inflow is proportionately higher in this section compared to snowmelt stream flow. Hardness data below the Drake WWTP was not included in Figure 2-4 to add clarity to the other Poudre River sections. All individual data are shown in Figure 2-6 including the furthest downstream section in this analysis. Monthly flow at Lincoln Street (USGS 06752280) is comparable to flow recorded at the USGS gage located upstream of Boxelder Creek (USGS 06752260) even though three diversions – Cache La Poudre Reservoir Inlet, Boxelder Ditch, and Fossil Creek Reservoir Inlet all divert in this section of stream. Inflow from the Reclamation and Drake WWT Plants offset diversions as do groundwater return flows, evidenced by the increase in dissolved solids in this section.

In general, summertime concentrations of hardness fall below 80 mg/L, the preferred level for drinking water in Segments 10a, 10b, and the upper portion of Segment 11 and are borderline in the section of Segment 11 below the Reclamation Plant. Between the Reclamation Plant and the Drake WWTP, hardness concentrations sometimes exceed or approach the TDS secondary standard of 500 mg/L in winter months. Though not shown on Figure 2-4 but included in Figure 2-6, this also occurs in the furthest downstream section of Segment 11 – below the Drake WWTP and Boxelder Creek. In particular, summertime hardness concentrations in this downstream section were reduced to near upstream levels in 2010, 2011, and 2012, especially in early summer, likely due to the preponderance of surface water flow that originates from snowmelt at this time, flow that remains in the stream after extensive upstream diversions.

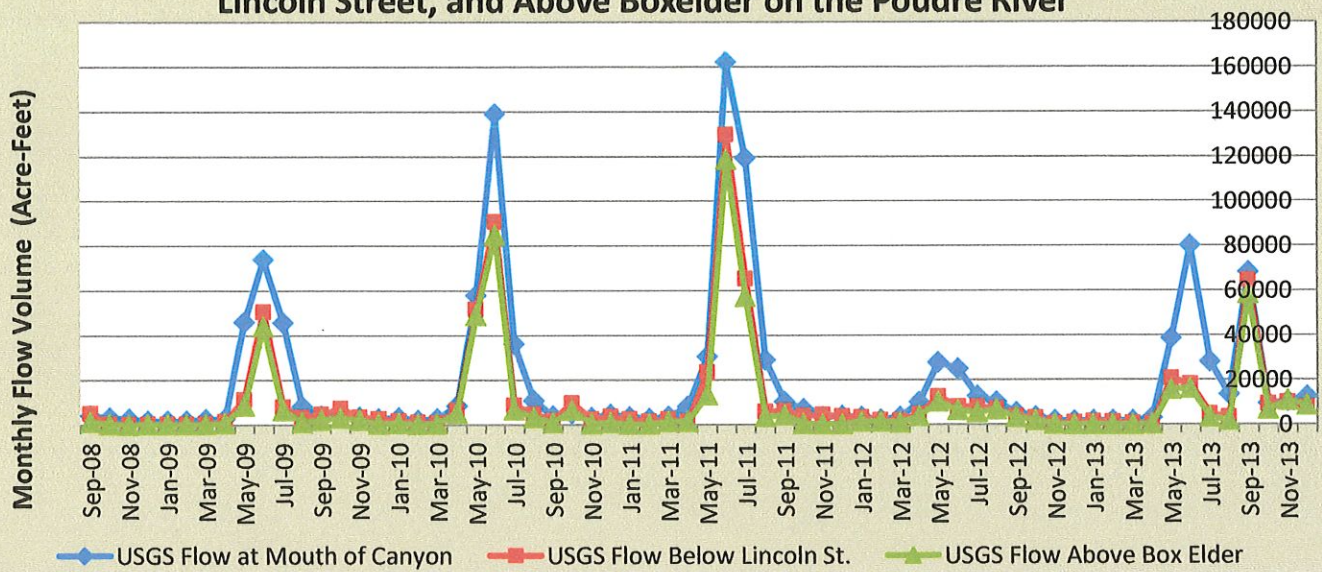


Table 2-6: Hardness Statistics					
Parameter	Upstream Segment 10a	Lion Park Segment 10b	Upstream of Reclamation Plant – Segment 11	D/S of Recl. Plant to U/S of WWTP – Segment 11	D/S of WWTP to U/S of Boxelder Creek – Segment 11
Hardness (mg/L) (Annual Statistics)					
Average	32.4	119	121	247	460
Median	26.1	112	110	206	279
Maximum	82.9	540	440	644	1390
Minimum	11.5	18.0	14	20	23.6
Hardness (mg/L) (May, June, July, August Statistics)					
Average	25	57	54	98	176
Median	22	52	50	84	109
Maximum	66	112	170	250	639
Minimum	12	18	20	29	34

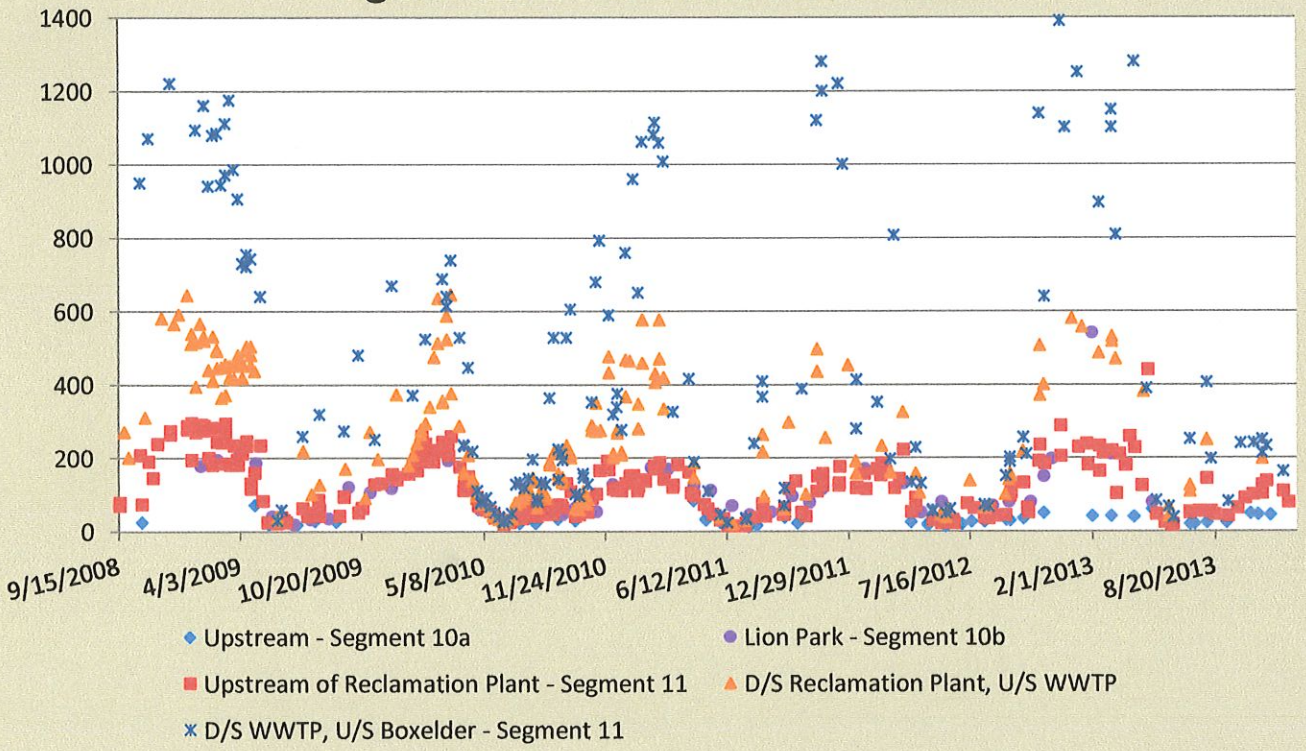




**Figure 2-5: Flow at USGS Gages: At the Mouth of the Canyon, Below Lincoln Street, and Above Boxelder on the Poudre River**



**Figure 2-6: Overall Hardness Data**



### 3.0 Comparison of In-stream with Ditch Water Quality

The WSSC ditch head gate is located at the transition point between Segment 10a and 10b. It is downstream of water quality sample sites in Segment 10a and upstream of water quality sample sites in Segment 10b. As such, the water quality at the diversion head gate is not defined and may be of intermediate quality between these sample sites. The JDC head gate is located in Segment 10b upstream of the 10b sample location and so is more likely to reflect water quality at that site than the upstream site in Segment 10a. Not only is water quality at the ditch head gates unknown but the quality of water in the WSSC Reservoir #4, from which Thornton will be collecting its water rights, is unknown at this time.

WSSC and JDC water rights were changed in seepage decrees W-1748, W-1877, W-7157 to adjudicate approximately 20 points of diversion for seepage inflows along the LCC and JDC ditches. Seepage flow originates in agricultural areas irrigated by the North Poudre Irrigation Company (NPIC). Therefore, seepage into the ditches is high enough to warrant adjudication of seepage flows in the WSSC and JDC water rights portfolio. As mentioned in the Introduction section of this report, water diverted into the WSSC ditch travels approximately 14 to 15 miles prior to WSSC Reservoirs #2 and #3. As the ditch travels through agricultural areas, it is likely that seepage into the WSSC ditch influences ditch water quality. Likewise, JDC ditch water is probably impacted by return seepage in the 9 miles between the JDC head gate and WSSC Reservoir #4. Return periods, the time it takes for groundwater return flows to reach the ditches, may be fairly short since the ditch runs through these agricultural areas. Thus, ditch water quality is probably impacted by return flows, even during the early diversion season. Likewise, water quality in WSSC Reservoirs #2, #3, and #4 may be impacted by seepage inflow.

WSSC does not monitor water quality in its ditch system; therefore, it is unclear if ditch water quality in WSSC Reservoirs #2, #3, and #4, those to be utilized by Thornton for storage, is better than that in the Poudre River during high flow summer months.

A CORA request has been filed with Thornton for water quality data, if any are available, obtained from the WSSC and JDC ditches.

For purposes of this evaluation, to be conservative, it is assumed that water quality in the ditch system is similar to that in Segment 10b.

### 4.0 Dilution and Loading of In-stream Water Quality

#### 4.1 Water Yield from Thornton Water Rights

WSSC water rights, of which Thornton owns 47.2 percent of its shares, include native Poudre River flows, imported trans-mountain (TM) western slope water from the Laramie, Michigan, and Colorado Rivers, and Colorado Big Thompson (CBT) water. WSSC has a storage right for their trans-mountain diversions in Chambers Lake and the Joe Wright Reservoir near the Continental Divide. Per WSSC, native Poudre River flows are diverted first during the high flow snowmelt runoff season. TM water rights are utilized from the end of the snowmelt season to support irrigation requirements on the ditch. A brief

summary of the decree and decisions made by the Colorado Supreme Court are provided below and in Appendix B.

In a standard water rights transfer of the point of use and type of beneficial use, only the portion of the water right that was consumptively used in the historical period can be transferred. Thornton's share of WSSC water would produce, on average, 16,041 AF of native Poudre water and 14,222 AF of trans-mountain water. Of these amounts, 8,256 AF of native water and 6,106 AF of trans-mountain water were consumptively used in the past. In addition, the quantity and timing of return flows to surface water streams and tributary groundwater needs to be maintained. However, this water rights transfer was more complex and was heard by the Colorado Supreme Court.

The Supreme Court ruled that Thornton can reuse to extinction and is not obligated to maintain return flows of waters that originate in trans-mountain diversions. The Supreme Court also ruled that Thornton does not need to maintain groundwater flow to non-tributary wells but will need to deliver 5,125 AF to tributary wells that have benefited from deep percolation of irrigation water in the past. Also, conditional water rights were appropriated for the purpose of exchange and substitution. Other water rights owned by Thornton in the lower Poudre River and in the South Platte can be utilized to substitute for return flow obligations in these rivers. This allows Thornton to divert additional water from the upper WSSC system. In the decree, the estimated average annual yield for Phase I of the project, using only substitution for return flow obligations and dry up of 14,500 acres of farm land, is 29,000 AF. In the Supreme Court Ruling, the maximum yield in Phase I was 33,200 AF, potentially due to its ruling on floating shares which were not tied to any land. In Phases II and III, Thornton plans to pump water from other water rights back to the LCC ditch to be used by other irrigators in exchange for diverting additional water from the WSSC system in excess of its shares of the WSSC and JDC water allotments. This analysis focused only on the potential addition to instream flows from Phase I of the Northern Project.

#### 4.2 Dilution Required in Segment 11 to Achieve Water Quality of Segment 10b

Thornton's operation of its Northern Project is complex, variable depending on the year, and uncertain. However, it is possible that the volume of Thornton's water rights, if left in the stream, might provide enough dilution to mitigate decreased downstream water quality. Therefore, a dilution factor was evaluated first to determine how much streamflow would need to be added to the Poudre River to achieve water quality of Segment 10b in each section of Segment 11. Overall, average dissolved manganese and iron as well as pH levels are below or within SDWA standards in all sections of Segment 11; therefore, TDS represented by hardness and sulfate concentrations were evaluated here. As indicated above, water quality in Segment 10b is used to represent ditch water quality. In addition, it was assumed that Poudre River water would be diverted in the high flow season of May through August when in-stream water quality is best.

The average of summertime (May through August) streamflow in 2009 to 2013 was used to calculate the dilution volumes below. Streamflow data from the three USGS gages; upstream USGS gage number 06752000, USGS gage at Lincoln Street 06752260, and USGS gage above Boxelder Creek 06752280, were



used to represent flows in Segment 10b, section 2 of Segment 11 below the Reclamation Plant, and section 3 in Segment 11 below the Drake WWTP. Average summertime flows from 2009 to 2013 for these locations were 49,617 AF, 26,663 AF, and 23,172 AF, respectively.

Dilution Volume for Section 1 of Segment 11 – upstream of the Reclamation Plant

Water quality in the upper section of Segment 11, upstream of the Reclamation Plant, is similar to and sometimes of better quality than that in Segment 10b. In addition, water quality of the majority of samples collected between 2008 and 2013 are below SDWA primary drinking water standards with only infrequent exceedances of secondary drinking water standards. As such this section should be classified similarly to Segment 10b as a Water Supply. Thornton could divert from this location without impacting their water treatment process.

Dilution Volume for Section 2 of Segment 11 – Downstream of the Reclamation Plant, Upstream of Drake WWTP

Average hardness in this section of Segment 11 during the summer season is 98 mg/L as CaCO<sub>3</sub>, above the recommended level of 80 mg/L and in excess of hardness in Segment 10b of 57 mg/L as CaCO<sub>3</sub>. The additional average volume of upstream Poudre River flow required to achieve the hardness quality of Segment 10b is 8,200 AF flow in this section [equal to (98/57 mg/L hardness times 26,663 AF) minus 26,663 AF]. The additional average volume of upstream Poudre River flow required to achieve the sulfate quality of Segment 10b (23.7 mg/L) is 20,250 AF in this downstream section with average sulfate concentrations of 41.7 mg/L. Additional volumes are averages that would need to be supplied over the 4 month period from May through August, therefore, water diverted in Phase I of the Northern Project are likely not sufficient to achieve the water quality of Segment 10a by dilution alone in Section 2 of Segment 11.

Dilution Volume for Section 3 of Segment 11 – Downstream of the Drake WWTP, Upstream of Boxelder Creek

Average hardness in this section of Segment 11 during the summer season is 176 mg/L as CaCO<sub>3</sub>, above the recommended level of 80 mg/L and in excess of hardness in Segment 10b of 57 mg/L as CaCO<sub>3</sub>. The additional volume of upstream Poudre River flow required to achieve the hardness quality of Segment 10b is 71,548 AF. The additional volume required to achieve the sulfate quality of Segment 10b (23.7 mg/L) is 69,900 AF in this downstream section with average sulfate concentrations of 95.2 mg/L. Additional volumes are averages that would need to be supplied over the 4 month period from May through August, therefore, water diverted in Phase I of the Northern Project are likely not sufficient to achieve the water quality of Segment 10a by dilution alone in Section 3 of Segment 11.

4.3 Additional Loading of Hardness and Sulfate

Per the decree, Thornton plans to implement the Northern Project slowly, starting with diversion of 1,800 AF in the first year and ramping up diversions by 500 to 1,300 AF per year. In the first years of diversions the water quality in the lower two sections of Segment 11 would be

essentially unchanged from current conditions. Additional loading, above that in Segment 10b, was calculated on a unit basis for the lower two sections of Segment 11 if Thornton were to divert its water rights in these sections. As noted above, diverting from the upstream section of Segment 11 would not impact Thornton's water treatment process.

#### Additional Loading from Section 2 of Segment 11 – Downstream of the Reclamation Plant, Upstream of Drake WWTP

The existing upstream unit load in Segment 10b is 5.0 pounds per day per acre-foot of hardness and 2.1 pounds per day per acre-foot of sulfate. Unit hardness loads would increase by 3.6 pounds per day per acre-foot or by 72 percent. Unit sulfate loading would increase by 1.6 pounds per day per acre-foot or by 76 percent compared to upstream unit load levels if water was diverted in Section 2 of Segment 11.

#### Additional Loading for Section 3 of Segment 11 – Downstream of the Drake WWTP, Upstream of Boxelder Creek

The existing unit upstream load in Segment 10b is 5.0 pounds per day per acre-foot of hardness and 2.1 pounds per day per acre-foot for sulfate. Unit hardness loads would increase by 10.5 pounds per day per acre-foot or by 210 percent in this section. Unit sulfate loading would increase by 6.3 pounds per day or approximately 300 percent over upstream loads of these parameters if water was diverted in this Section 3 of Segment 11.

At low diversion rates which are expected in the first few years of operation of the Thornton Project, additional flows in the stream will not substantially improve water quality. Use of the above estimates of increased unit loading for design purposes is justified.

## **6.0 Conclusions**

The No Pipe Dream Association requested this study to ascertain if Thornton could divert its water shares of the Water Supply and Storage Company (WSSC) and the Jackson Ditch Company (JDC) from the Cache La Poudre at a downstream location – the "Citizen's Poudre River Alternative" – rather than at the WSSC Reservoir #4. This analysis shows that Thornton could divert Poudre River water from above the Mulberry Reclamation Plant in Fort Collins without impacting water quality of its supply. As such, the Citizen Poudre River Alternative is a viable alternative.

Water quality data for the WSSC and JDC ditches and reservoirs up to WSSC Reservoir #4 is not collected by the WSSC. Since water quality in the WSSC ditch and reservoir system is likely affected by seepage of irrigation return flows from up-gradient agricultural areas and is considered the biggest data gap in this analysis. Thornton has agreed to provide their ditch and reservoir water quality information (personal communication with Mark Koleber on 5/4/2018). Since the WSSC head gate diverts water at the most upstream point in Segment 10b, for purposes of this report it was assumed that ditch water quality was similar to that in Segment 10b.

Levels of hardness and sulfate throughout the year are comparable between Segment 10b and the upper section of Segment 11, above the Reclamation Plant, and tended toward upstream water quality in Segment 10a in the summer months; therefore, Thornton could divert Poudre River water from above the Reclamation Plant in the summer months without impacting water quality of its supply. In fact, this section could qualify for a water supply classification.

Assuming Thornton would divert during the summer months, the full amount of Thornton's water rights in the WSSC and JDC ditches in Phase I of the TNP, up to between 29,000 and 33,000 acre-feet (AF) by substitution of return flow obligations, would not provide enough dilution to improve water quality in the two most downstream sections of Segment 11 to levels in Segment 10b. If Thornton were to divert its water rights out of these two sections, to preserve the quality of its water would require pre-treatment.

Given that Thornton will start by diverting small volumes of water into its Northern Project, increased loads of hardness and sulfate between Segment 10b and Sections 2 and 3 of Segment 11 were calculated for average 2008 to 2013 conditions on a per acre-foot or unit basis. Hardness loads increase by 72 and 210 percent in Sections 2 and 3 of Segment 11, respectively. Sulfate loads increase by 76 and 300 percent in these sections, respectively.

Increases in TDS loading on downstream sections of the Poudre are likely due to return flows of irrigation water applied to agricultural areas. A program to reduce irrigation water application to more closely match consumptive use of the crops may alleviate this loading. Return flows could be provided by other water sources in the stream.

## **Appendix A**

### **Water Quality Results and Comparison to SDWA Standards**

**Table A-1: Water Quality Results and Comparison to SDWA Standards: Upstream of Fort Collins – State Segment 10A**

**Table A-2: Water Quality Results and Comparison to SDWA Standards: Lion Park - State Segment 10B**

**Table A-3: Water Quality Results and Comparison to SDWA Standards: Downstream of Shields Street to Mulberry Reclamation Plant – State Segment 11, Section 1**

**Table A-4: Water Quality Results and Comparison to SDWA Standards: Downstream of Mulberry Reclamation Plant, Upstream of Drake WWTP – State Segment 11, Section 2**

**Table A-5: Water Quality Results and Comparison to SDWA Standards: Downstream of Drake WWTP Upstream of Boxelder Creek - Segment 11, Section 3**

**Table A-1: Water Quality Results and Comparison to SDWA Standards:  
Upstream of Fort Collins – State Segment 10A**

Parameter	No Samples	No of Non-detects	Average	Median	Maximum	Minimum	SDWA standard	# > standard
pH	123	na	7.829	7.8	11.7	6.6	6.5 to 8.5	5>8.5 0<6.5
Hardness (mg/L CaCO <sub>3</sub> )	68	0	32.4	26.1	82.9	11.5	--	--
E.Coli (#/100mls)	No data						126	
Temp. (°C)	50	0	10.1	10.0	21.0	0.0	--	--
Dissolved Oxygen (mg/L)	50	0	10.7	10.5	15.5	7.8	6.0	0
<b>Inorganics (mg/L)</b>								
Ammonia (NH <sub>3</sub> )	122	5	0.004	0.002	0.089	0.00	--	--
NO <sub>5</sub>	68	7	0.041	0.024	0.780	0.001	--	--
TKN	117	3	0.41	0.25	2.66	0.100	--	--
Nitrate (NO <sub>3</sub> )	0						10(asN)	--
Nitrite (NO <sub>2</sub> )	0						1(as N)	--
Sulfate (SO <sub>4</sub> )	84	6	3.7	3.2	30	10	250	0
TP	116	0	0.046	0.020	0.564	0.007		
<b>Dissolved Metals (ug/L)</b>								
Aluminum	10	7	38.9	40	88	0	50 - 200	3 - 0
Arsenic	54	4	0.26	0.28	0.62	0.50	10	0
Cadmium	54	37	0.056	0.010	0.60	0.00	10	0
Copper	116	10	1.12	1.0	5 (ND)	0.41	1,000	0
Iron	123	0	97.5	64.4	532	14.5	300	1
Lead	54	10	0.16	0.10	1.00	0.00	15	0
Manganese	123	8	9.5	5.4	70	0.0	50	4
Selenium	54	13	0.18	0.11	1.0	0.0	50	0
Silver	51	8	3.70	1.0	26.0	0.0	100	0
Zinc	51	8	3.71	1.0	26	0.0	5,000	0

**Table A-2: Water Quality Results and Comparison to SDWA Standards:  
Lion Lakes - State Segment 10B**

Parameter	No Samples	No of Non-detects	Average	Median	Maximum	Minimum	SDWA standard	# > standard
pH	45	0	8.12	8.29	9.05	6.38	6.5 to 8.5	8>8.5 2<6.5
Hardness (mg/L CaCO <sub>3</sub> )	51	0	119	112	540	18.0		
E.Coli (#/100mls)	0						126	
Temp. (°C)	50	0	10.1	10.0	21.0	0.0		
Dissolved Oxygen (mg/L)	50	0	10.7	10.5	15.5	7.8	6.0	0
<b>Inorganics (mg/L)</b>								
Ammonia	16	3	0.014	0.003	0.061	0.0		
NO <sub>5</sub>	16	0	0.339	0.084	2.460	0.0		
TKN	7	2	0.353	0.290	0.640	0.10		
Nitrate	0						10(asN)	
Nitrite	0						1(as N)	
Sulfate	16	0	55.2	22.2	360	4.8	250	1
TP	12	0	0.016	0.010	0.044	0.0		
<b>Dissolved Metals (ug/L)</b>								
Aluminum	7	5	28.9	20	55	0.0	50 - 200	1>50
Arsenic	59	0	0.056	0.0	0.67	0.0	10	0
Cadmium	59	7	0.04	0.0	0.60	0.0	10	0
Copper	59	7	1.08	0.0	5.0	0.0	1,000	0
Iron	59	0	37.7	37.0	108	0.0	300	0
Lead	59	5	0.15	0.0	3.0	0.0	15	0
Manganese	59	0	12.3	8.0	70	0	50	4
Selenium	58	4	0.113	0	3.1	0	50	0
Silver	7	7	0.70	0.70	0.70	0.70	100	0
Zinc	59	2	8.28	6.3	53.0	0	5,000	0

Table A-3: Water Quality Results and Comparison to SDWA Standards: Downstream of Shields Street to Mulberry Reclamation Plant – State Segment 11, Section 1								
Parameter	No Samples	No of Non-detects	Average	Median	Maximum	Minimum	SDWA standard	# > standard
pH	339	0	7.7	7.8	9.9	6.1	6.5 to 8.5	10>8.5 11<6.5
Hardness (mg/L CaCO <sub>3</sub> )	262	0	121	110	440	14		
E.Coli (#/100mls)	207	0	68	16	1986 in 9/2013 1046	1	126	22
Temp. (°C)	344	0	8.9	9.725	20.7	-1		
Dissolved Oxygen (mg/L)	335	0	9.7	9.51	15.13	5.1	5.0	0
Inorganics (mg/L)								
Ammonia	290	254	0.0079	0	0.97	0		--
NO <sub>5</sub>	81	2	0.14	0.119	0.39	0		--
TKN	0	--	--	--	--	--		--
Nitrate	198	48	0.145	0.1	0.8	0	10(asN)	0
Nitrite	259	198	0.0012	0	0.02	0	1(as N)	0
Sulfate	48	3	27.1	19.5	78.6	0	250	0
TP	0							
Dissolved Metals (ug/L)								
Aluminum	9	3	15.7	2.6	65.5	0	50 - 200	1>50
Arsenic	132	110	0.073	0	1	0	10	0
Cadmium	132	119	0.022	0	0.31	0	10	0
Copper	186	67	1.31	1	10.3	0	1,000	0
Iron	179	3	68.2	52.6	841	0	300	2
Lead	132	112	0.55	0	9.2	0	15	0
Manganese	93	5	29.5	19.1	179	0	50	14
Selenium	132	123	0.017	0	0.42	0	50	0
Silver	91	89	0.00024	0	0.011	0	100	0
Zinc	131	39	7.97	6.5	48.3	0	5,000	0

Table A-4: Water Quality Results and Comparison to SDWA Standards: Downstream of Mulberry Reclamation Plant, Upstream of Drake WWTP, State Segment 11, Section 2								
Parameter	No Samples	No of Non-detects	Average	Median	Maximum	Minimum	SDWA standard	# > standard
pH	379	0	7.9	7.9	9.5	6.1	6.5 to 8.5	20>8.5 3<6.5
Hardness (mg/L CaCO <sub>3</sub> )	222	0	247	206	644	20		
E.Coli (#/100mls)	393	0	212	23	17329* 6867*	1	126	68
Temp. (°C)	388	0	10.6	10.9	23.8	0		
Dissolved Oxygen (mg/L)	369	0	10.2	9.92	15.53	5.69	5.0	0
Inorganics (mg/L)								
Ammonia	413	387	0.016	0	1.43	0		
NO <sub>5</sub>	23	1	0.41	0.19	1.6	0		
TKN	73	42	0.250	0	1.59	0		
Nitrate	378	25	0.47	0.36	1.84	0	10(asN)	0
Nitrite	379	326	0.0046	0	0.13	0	1(as N)	0
Sulfate	62	1	105	57.9	360	0	250	12
TP	189	101	0.040	0	1.01	0		
Dissolved Metals (ug/L)								
Aluminum	1	0	53	53	53	0	50 - 200	1>50
Arsenic	108	83	0.108	0	0.93	0	10	0
Cadmium	117	107	0.022	0	0.34	0	10	0
Copper	121	51	1.06	0.69	10.0	0	1,000	0
Iron	110	7	59.3	43.5	265	0	300	0
Lead	117	114	0.0057	0	0.249	0	15	0
Manganese	58	2	22.5	17.1	73	0	50	5
Selenium	118	93	0.384	0	3.32	0	50	0
Silver	72	71	0.000056	0	0.004	0	100	0
Zinc	116	96	2.21	0	57	0	5,000	0

- Maximum values from September 2012, low flow year. Ecoli count equal 5172 per 100mls in September 2013.



**Table A-5: Water Quality Results and Comparison to SDWA Standards:  
Downstream of Drake WWTP Upstream of Boxelder Creek - Segment 11, Section 3**

Parameter	No Samples	# Non-detects	Average	Median	Maximum	Minimum	SDWA standard	# > standard
pH	225	0	7.7	7.7	8.9	6.4	6.5 to 8.5	5>8.5 1<6.5
Hardness (mg/L CaCO <sub>3</sub> )	149	0	460	279	1390	23.6		
E.Coli (#/100mls)	192	1	127	26.9	6,131* 2,419*	0	126	31
Temp. (°C)	227	0	10.38	10.13	25	0		
Dissolved Oxygen (mg/L)	213	0	9.44	9.25	14.4	3.09	5.0	2
<b>Inorganics (mg/L)</b>								
Ammonia	258	192	0.027	0	0.97	0		
NO <sub>5</sub>	73	0	0.677	0.51	2.59	0.025		
TKN	38	14	0.38	0.36	1.56	0		
Nitrate	176	12	0.499	0.365	1.9	0	10(asN)	0
Nitrite	236	153	0.0056	0	0.18	0	1(as N)	0
Sulfate	39	0	453	180	3400	7.21	250	18
TP	88	45	0.034	0	0.341	0		
<b>Dissolved Metals (ug/L)</b>								
Aluminum	6	3	16	1.2	82	0	50 - 200	1>50
Arsenic	47	19	0.276	0.3	0.92	0	10	0
Cadmium	47	41	0.0069	0	0.23	0	10	0
Copper	100	23	1.16	1.11	4.3	0	1,000	0
Iron	94	3	47.1	37.4	221	0	300	0
Lead	46	35	0.063	0	1.2	0	15	0
Manganese	13	0	45.9	42	74	7	50	6
Selenium	47	17	2.04	0.92	9.3	0	50	0
Silver	98	82	0.004	0	0.21	0	100	0
Zinc	46	29	12.6	0	130	0	5,000	0

- Maximum value from September 2013 flood, next largest is from September 2012, a low flow year, third largest is 1,553 per 100 mls in July 2010.

## Appendix B

### Summary of Thornton Northern Project Decree

In the 1980s, Thornton bought 100 farms totaling over 21,000 acres and, along with the land, acquired water rights to 47.2 and 5.21 percent of the shares in the Water Supply and Storage Company (WSSC) and the Jackson Ditch Company (JDC), respectively. Because WSSC also owns 6.25 shares of JDC the ditch, Thornton's portion of WSSC rights in the JDC ditch increase Thornton's ownership to 17.51 percent of the JDC ditch rights. The Larimer County Canal and the Jackson Ditch divert water from the Poudre River upstream of the City of Fort Collins and downstream of Greeley's Bellevue Water Treatment Plant. WSSC water rights include native Poudre River flows, imported trans-mountain (TM) western slope water from the Laramie, Michigan, and Colorado Rivers, and Colorado Big Thompson (CBT) water. WSSC has a storage right for their trans-mountain diversions in Chambers Lake and the Joe Wright Reservoir near the Continental Divide. Per WSSC, native Poudre River flows are diverted first during the high flow snowmelt runoff season. TM water rights are utilized from the end of the snowmelt season to support irrigation requirements on the ditch.

Consumptive Use: Thornton was awarded the right to change the use type and location of its WSSC and JDC water rights, excluding its share of CBT water, to include municipal uses within the City of Thornton service area (87CW332). The diversion point was not changed in the decree from the WSSC and JDC head gates. Historically, their proportion of the ditch shares would, on average, have provided 16,041 Acre Feet (AF) of native and 14,222 AF of TM diversions at the ditch head gate. When changing the use and location of a water right, only the portion that was consumptively used in the past can be transferred; water that is lost to the system via crop use and evaporation from farm acreage. On average, consumptive use on irrigated acreage owned by Thornton equaled 8,256 AF of native water and 6,106 AF of imported water. Thus, Thornton has the right to, on average, 14,362 AF from this source.

Return Flows: Water not lost to the hydrologic system includes surface water runoff to waterways and deep percolation to groundwater that eventually reaches surface streams; return flows that can be utilized by diverters downstream of where they enter the stream or groundwater systems. The timing and quantity of return flows need to be retained after a change in water rights so downstream water rights are not impacted. In Thornton's case, return flows from their irrigated acreage return to the Poudre River, the South Platte River, other diversion ditches, and to groundwater users – the timing and quantity of which need to be mimicked in the future.

Groundwater fed by historical irrigation is utilized by 155 wells on Thornton's property. Per the decree (87CW332 [11.4@12](#)), Thornton is required to replace groundwater recharge water for tributary but not non-tributary wells on the property. Thornton's property was divided into 5 sections. Historic recharge to groundwater in Sections 1, 2, and 3 did not benefit from recharge and so groundwater in these sections will not need to be addressed in the future. In Sections 4 and 5, 5,125 AF of return flows to groundwater wells will need to be replaced. Thornton plans to supply this groundwater via recharge

basins. It is unclear if they propose to use their ditch water rights or other water rights for this recharge system.

Thornton plans to use other water rights on the Poudre and South Platte Rivers to substitute for its return flow obligations so that it can divert additional water from the WSSC system. In Phase I of the project, substitute supplies will be provided by exchange points downstream on the Poudre River, re-useable wastewater effluent discharge to the South Platte, re-useable lawn irrigation return flows, and with reservoir releases. Substitution waters will satisfy water needs of senior appropriators on the Poudre and South Platte Rivers.

### Exchanges

In later phases of the project, Phase II and Phase III, water from Thornton's other rights will be delivered back to the LCC and JDC ditches for use by the remaining irrigators so that Thornton can divert additional WSSC water to the city by exchange. Conditional water rights for this exchange were given a priority date of December 31, 1986. Points of diversion for water rights along the Poudre River that can be used for substitution and/or exchange include:

- Thornton Pump Station No 1 - Poudre River (50 cfs)
- New Cache La Poudre Canal or Greeley No 2 Canal (50 cfs)
- Thornton Pump Station No 2 (50 cfs)
- Larimer and Weld County Irrigation Canal of which Thornton is a shareholder (20 cfs)
- Boxelder Ditch (50 cfs)
- Fossil Creek Reservoir Inlet owned by NPIC in which Thornton is a shareholder (50 cfs)
- Ogliviv Ditch (125 cfs)

### Reuse of Trans-mountain Water

The Colorado Supreme Court ruled that Thornton could reuse to extinction the portion of WSSC water supplied by trans-mountain sources. Therefore, Thornton would not need to replicate return flows associated with its trans-mountain water, or 4,373 AF of return flows. Therefore, Thornton could divert its full amount of trans-mountain supplied water (14,222 AF) with no return flow obligations and with full reuse of this water to extinction. For instance, if this water is transferred to Thornton for municipal use, the portion that is not consumed can be reused within the city or discharged to the South Platte River as part of the substitution or exchange program for WSSC water.

### Colorado Big-Thompson Water

On average, WSSC utilizes 14,000 AF of CBT water. Thornton cannot transfer its share of the CBT water to Thornton for municipal uses and cannot use CBT water for satisfying return flow or ditch seepage obligations per the NCWCD rules under its Repayment Contract. These rules restrict use of CBT water to in-district uses.

For the foregoing reasons, we remand to the trial court with instructions either to conform the total project volumetric yield limitation to its findings of fact regarding water availability and Thornton's water requirements or, if the limitation was intended to protect against potential injury to existing water rights, to make specific findings identifying the injury<sup>[38]</sup> that will be ameliorated by restricting project yield to an average of 56,800 acre feet per annum over a thirty-six year period as set forth in the decree.

## 2. Reality Checks

Thornton also takes issue with a second general limitation imposed by the trial court, the conditions referred to by the parties and the court as "reality checks." Although the trial court ultimately accepted Thornton's projections of its future growth and anticipated water requirements, the court noted that these projections were "optimistic," and "there is at least a possibility that they will not be achieved." MOD at 40. In addition, the court acknowledged certain objectors' concerns, given the expansive nature of Thornton's claims, that the city intended to sell portions of the water to finance project costs. *Id.*; see *supra* note 29. Consequently, the court conditioned its decree of conditional water rights to Thornton in cases 86CW401 and 86CW403<sup>[39]</sup> on Thornton's compliance with certain "reality checks." The conditions imposed are as follows:

*Reality Checks and Cancellation.* As part of diligence proceedings and proceedings to make absolute the conditional portions of this decree, Thornton will be required to make showings that the volumetric yield of the conditional water rights has been or will be needed by Thornton's projected growth. *The purpose of these showings is to insure that the water derived from Thornton's newly appropriated water rights is used for the City's own purposes and does not allow Thornton to become a permanent lessor or wholesaler of water yielded by these rights.* In assessing such need, the Court may consider Thornton's service population at that time, Thornton's projected growth at that time, and Thornton's use or disposition of the portfolio of water rights Thornton now owns, including whether Thornton has made reasonable efforts to protect the quality of, and to treat, its existing supply at a reasonable cost, and the reasons for Thornton's manner of use or disposition of such supply. *All or a part of the water rights confirmed in 86CW401 and/or 86CW403 may be canceled if the Court finds, based on subsequent events, that Thornton does not actually need the volume of water appropriated in these cases for the uses provided in this decree.*

Decree, ¶ 56.2.1, at 69 (emphasis added).

50 Thornton appeals two aspects of the "reality checks" imposed by the court. First, Thornton argues that the requirement that "50 the city establish the continuing need for and beneficial use of the "volumetric yield" is inconsistent with traditional diligence requirements for water rights decreed in terms of flow rate (cubic feet per second), as are Thornton's rights here. Second, Thornton contends that the trial court lacks authority to monitor or exercise control over Thornton's use of its existing portfolio of water rights. For the reasons discussed below, we hold that the trial court's imposition of specific diligence requirements was within its authority and uphold the requirement that Thornton show its continuing need for the volumetric amount of water claimed. Furthermore, we conclude that the trial court, with certain limitations, may consider Thornton's use of its existing water rights portfolio as a factor in evaluating diligence. Accordingly, we reject Thornton's challenges to the inclusion of the "reality checks" in the final decree.

### a. Volumetric Yield

Thornton initially challenges the requirement that it show at future diligence proceedings "that the volumetric yield of the conditional water rights has been or will be needed by Thornton's projected growth."<sup>[40]</sup> Decree, ¶ 56.2.1, at 69. As explained above, see *supra* part IV(A)(1), the trial court did not exceed its authority by imposing volumetric limitations on Thornton's conditional appropriations, so long as these limits were based either on the amount of available water for which Thornton had established a need and a future intent and ability to use, or on the need to protect other appropriators against injury. Given this holding, particularly with respect to need-based limitations, the court's ability to monitor the accuracy of the limits imposed by evaluating Thornton's continuing needs is a logical extension of the authority to set volumetric limits. Accordingly, the trial court was justified in exercising its monitoring authority under the circumstances of the present case.

51 The water court decreed conditional rights to Thornton pursuant to the governmental agency exception to the anti-



speculation doctrine, codified in section 37-92-103(3)(a), 15 C.R.S. (1990). This exception allows governmental agencies, including municipalities, some freedom from anti-speculation limitations to allow them to plan for the future water needs of their constituents. See *supra* part III(C)(1). However, the exception also creates the potential that the water rights decreed will exceed the applicant's needs, because the water court must make its determinations of a city's reasonably anticipated requirements based on projections of water demand that cannot be verified at the time the decree is entered. See *Four Counties Water Users Ass'n v. Colorado River Water Conservation Dist.*, 159 Colo. 499, 512, 414 P.2d 469, 476 (1966) ("Passage of time and events occurring prior to granting any final decree will produce definite \*51 answers to the questions upon which the trial judge made findings based on speculative ... evidence.... Only time can definitely determine whether all, a part or none of the claimed water is needed.") (quoting *Metropolitan Suburban Water Users Ass'n v. Colorado River Water Conservation Dist.*, 148 Colo. 173, 194, 365 P.2d 273, 284 (1961)).

If the trial court's requirement that Thornton make future showings of continued need is invalid, there is no remedy to correct inaccuracies in the original projections and therefore no mechanism to assure that the conditional decree is in an amount that Thornton predictably can make absolute based on adjusted, realistic estimates of future need. Accordingly, the inclusion of this requirement is consistent with the purpose underlying both the anti-speculation doctrine and the diligence requirement, i.e., preserving unappropriated water for users with legitimate, documentable needs. Compare *Vidler*, 197 Colo. at 417, 594 P.2d at 568 ("To recognize conditional decrees grounded on no interest beyond a desire to obtain water for sale would—as a practical matter—discourage those who have need and use for the water from developing it.") with *Upper Gunnison River Water Conservancy Dist. v. Board of County Comm'rs of Arapahoe County*, 841 P.2d 1061, 1065 (Colo.1992) (requirement of diligence prevents "the accumulation of conditional water rights without diligent efforts to complete the projects to the detriment of those needing and seeking to make immediate beneficial use of the same water") (quoting *CRWCD v. Denver*, 640 P.2d at 1141). Such concerns were particularly relevant in the present case due to the large quantities of unappropriated water claimed by Thornton and the conflicting evidence concerning Thornton's projected needs and its possible speculative intent. This court has identified speculative intent as a factor for consideration in diligence determinations.<sup>[41]</sup> *Public Serv. Co. v. Blue River Irrigation Co.*, 829 P.2d 1276, 1280 (Colo. 1992) (holding that the trial court properly considered an objector's claim that the applicant exhibited an "intent to hoard" as part of the totality of the circumstances in its reasonable diligence determination). Under the facts and circumstances of the present case, the trial court was justified in imposing mandatory consideration of that factor through "reality checks" on the accuracy of Thornton's projected needs.<sup>[42]</sup> Accordingly, we uphold \*52 this condition as a valid and reasonable exercise of the water court's authority.<sup>[43]</sup>

### ***b. Use or Disposition of Existing Water Rights***

As part of the future review of Thornton's growth projections mandated by the "reality checks," the trial court permitted consideration of "Thornton's use or disposition of the portfolio of water rights Thornton now owns, including whether Thornton has made reasonable efforts to protect the quality of, and to treat, its existing supply at a reasonable cost, and the reasons for Thornton's manner of use or disposition of such supply." Decree, ¶ 56.2.1, at 69. The trial court's language reflects a valid concern that the receipt by Thornton of vast amounts of Northern Project water will reduce its incentive to preserve and maximize the use of its present water supply. Therefore, with certain limitations noted below, we approve the trial court's consideration of Thornton's use, treatment, and disposition of its existing water rights as a factor in the "reality checks" review.

Our rationale for this conclusion is simple: the conduct of Thornton with regard to its existing water rights may be indicative of the reality of its need for the newly decreed rights. Accordingly, the trial court cannot assure the effectiveness of the "reality checks" unless it is allowed to consider such conduct as one among many relevant factors. We do not suggest that the trial court may utilize this provision directly to impede the sale or disposition by Thornton of its existing rights. As we noted in *Sheriff*, 105 Colo. at 201, 96 P.2d at 840, restrictive conditions in new decrees with the express purpose of "prevent[ing] any sale, lease or alienation" of existing water rights are not permissible. However, to shield from mere consideration Thornton's use of its existing rights creates the potential for Thornton to avoid the anti-speculative purpose of the "reality checks" provisions. The trial court must be sensitive in its application of the relevant provision to avoid the situation that arose in *Sheriff*. However, exercised properly, the trial court's consideration of Thornton's conduct with respect to its existing water rights will not inappropriately infringe on the water management \*53 decisions of Thornton's municipal water officials. Accordingly, we affirm the trial court's authority to consider during future diligence proceedings Thornton's use of its existing water rights portfolio in determining the city's need for its newly decreed conditional water rights.



## ***B. Use of Colorado-Big Thompson Water***

We next address the extent to which Thornton may use the units of Colorado-Big Thompson project water it acquired by virtue of its purchase of shares in WSSC. Thornton's proposed Northern Project included two components that involve the use of CBT water for purposes other than those for which that water is presently used by WSSC shareholders, and a third component utilizing return flow credits for CBT waters. Objector NCWCD argued, and the trial court agreed, that all proposed uses of CBT water by Thornton are prohibited attempts to derive benefit from CBT waters outside the boundaries of the NCWCD. Thornton's authority to undertake such uses, or lack of authority as determined by the trial court, is dependent upon the nature of the right to CBT water possessed by Thornton and the extent of permissible limitations placed on that right by the terms of the contracts, statutes, and regulations governing the use of CBT water. Our resolution of these issues requires a brief overview of the CBT project and the role of NCWCD in administering the waters derived from that project. In a prior opinion of this court, *Town of Estes Park v. Northern Colorado Water Conservancy District*, 677 P.2d 320, 323-24 (Colo.1984), we conducted a similar review. The following summary borrows liberally from that discussion.

### ***1. Overview of Colorado-Big Thompson Project***

NCWCD is a quasi-municipal corporation that was established in 1937 pursuant to the Water Conservancy Act, sections 37-45-101 to -153, 15 C.R.S. (1990 & 1995 Supp.). The NCWCD boundaries encompass portions of six northern Colorado counties, but do not include the City of Thornton. NCWCD was formed for the principal purpose of participating with the federal government in the construction of the CBT project. See *People ex rel. Rogers v. Lelford*, 102 Colo. 284, 294, 79 P.2d 274, 280 (1938). In furtherance of that goal, NCWCD and the United States of America entered into a contract on July 5, 1938, denominated the Contract Between the United States and the Northern Colorado Water Conservancy District Providing for the Construction of the Colorado-Big Thompson Project, Colorado (Repayment Contract). The CBT project effects the diversion of water from the Colorado River system on the western slope via a thirteen-mile tunnel to the Big Thompson River on the eastern slope for ultimate delivery to NCWCD. Under the terms of the Repayment Contract, the United States constructed the facilities necessary for completion and operation of the project, and NCWCD agreed to repay the costs allocated to the irrigation, domestic, and related benefits of the project, exclusive of power benefits.<sup>[44]</sup> *Estes Park*, 677 P.2d at 323. The Repayment Contract provides that title to the water rights remains in the United States, but vests administrative authority in NCWCD to control the distribution of the CBT water provided to the district. Pursuant to the Water Conservancy Act (sometimes referred to as the WCA), the Board of Directors of NCWCD has enacted rules and regulations (the NCWCD rules) to provide a framework to govern its distribution of this water. See § 37-45-134(1)(a), 15 C.R.S. (1990) (water conservancy district board of directors may "make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water"). NCWCD allocates CBT water by entering into allotment contracts with entities seeking the use of such water.

On July 11, 1986, NCWCD entered into an allotment contract with WSSC, a mutual ditch company, for the supply of 2088 acre feet of CBT water (Allotment Contract).

54 \*54 The contract placed certain restrictions on the use of this water and required that WSSC agree to abide by the provisions of the Water Conservancy Act, the terms of the Repayment Contract, and the NCWCD rules. In preparation for the implementation of its Northern Project, Thornton purchased 47.23 percent of the shares of WSSC by late 1986. As a shareholder of WSSC, Thornton is entitled to its pro rata share of the water obtained by exercise of the water rights owned by WSSC, including 47.23 percent, or approximately 981 acre feet, of the 2088 acre feet of CBT water allotted to WSSC. Thus, Thornton's right to CBT water is derived solely and directly from the allotment contract executed between WSSC and NCWCD. As successor-in-interest to WSSC, Thornton can take no greater right to this water than the right held by WSSC under the terms of the Allotment Contract. *Green v. Chaffee Ditch Co.*, 150 Colo. 91, 98, 371 P.2d 775, 779 (1962).

### ***2. Thornton's Proposed Primary Uses and Trial Court's Ruling***

Thornton proposes two primary uses of CBT water as part of its Northern Project. Following implementation of its Northern Project, which contemplates the dry-up of Thornton's farms in the WSSC service area, Thornton will no longer use its pro rata share of CBT water by directly applying it to lands within the boundaries of NCWCD. Accordingly,



Thornton seeks other methods of application that will allow the city to derive benefit from these CBT units. First, beginning in about 2002, Thornton proposes to stop irrigating certain farms and to leave the CBT water associated with those farms in the Larimer County Canal to satisfy its obligations to WSSC for replacement of system losses resulting from other aspects of the Northern Project. This transfer, which Thornton describes as a simple conveyance of water, will allow Thornton to divert more of its remaining share of the WSSC water supply, other than the CBT water, to its own use outside the district, but the direct use of the CBT water will continue to take place within the boundaries of NCWCD on the lands owned by other WSSC constituents receiving the replacement water. Second, in approximately 2026, as part of Phases II and III of its Northern Project, Thornton proposes an internal ditch exchange. Thornton will pump significant amounts of WSSC water, including CBT water, to Thornton and replace it by exchange with other water of lower quality derived from a variety of Thornton's other water rights. Thornton argues that the substitute supply water becomes CBT water through the "character of exchange" rule, citing section 37-80-120, 15 C.R.S. (1990), and this court's decision in *City & County of Denver v. Fulton Irrigating Ditch Co.*, 179 Colo. 47, 58, 506 P.2d 144, 149 (1972). Thus, Thornton contends that although the CBT water is physically leaving the boundaries of NCWCD, the water remains in the district for purposes of legal analysis.

The trial court denied both of Thornton's proposed uses of its CBT units.<sup>[45]</sup> The court initially focused on the language of the 1938 Repayment Contract. Under the terms of that contract, the court found that CBT water usage is limited to use for "irrigation, domestic, municipal, and industrial purposes." Citing this court's decision in *Town of Estes Park v. Northern Colorado Water Conservancy District*, 677 P.2d 320 (Colo. 1984), which prohibited the use of CBT water for augmentation purposes under a different section of the Repayment Contract, the court held that it is "perhaps doubtful" that replacement falls within the uses authorized by the contract, even though the replacement water will subsequently be used for permitted purposes. MOD at 30. The court also reviewed the provisions of the Water Conservancy Act, specifically section 37-45-118, 15 C.R.S. (1990), which sets forth the powers of the board of directors of a water conservancy district. Based on its review, the court held that section 118(1)(j) of the Water Conservancy Act and the terms of the Repayment Contract manifest an intent that the "direct \*55 benefits" of the water supply created by the CBT project be limited to the district. MOD at 32. The court posited that this policy, although "parochial," might be explained by the principle of rewarding only those who pay taxes for the district. *Id.*

The court found further support for the prohibition of extra-district benefit in the regulations enacted by NCWCD. Specifically, Book II, Rule IV, limits the allotment of water to entities that make beneficial uses in the area lying within the district. Similarly, the Allotment Contract executed between WSSC and NCWCD limits use and benefit to lands within the district. According to the trial court, these documents prohibit Thornton's proposals for use of CBT water.<sup>[46]</sup> MOD at 32-34. The trial court did not accept Thornton's argument that the water it exchanges for CBT water becomes CBT water by operation of the character of exchange rule, labelling that rule a "legal fiction" that cannot disguise the removal of CBT water from the district. MOD at 32; Decree, ¶ 36, at 37-38. The court stated its ultimate conclusion on the issue as follows:

*Colorado-Big Thompson Project Water.* Applicant is entitled to continue to use its pro rata portion of CBT water owned, leased or controlled either by Applicant or by WSSC for agricultural purposes within the WSSC system as has occurred historically, so long as no benefit of CBT water leaves the boundaries of the Northern Colorado Water Conservancy District, either directly, indirectly, or by exchange.

....

44.2 *Other Uses of CBT Water Proposed by Thornton Not Lawful.* For the reasons stated in the Memorandum of Decision, the Court finds that Thornton's other proposed uses of CBT are unlawful. Such unlawful uses include, but are not limited to, the following:

44.2.1 *Payment of Obligations to WSSC.* Thornton may not receive a credit against ditch seepage losses or other return flow replacement obligations to WSSC for CBT water which Thornton leaves in the ditch for use by other WSSC shareholders.

44.2.2 *One Component of "Ditch Exchange"* CBT water may not be diverted by exchange from the Larimer County Canal for direct use outside of the District regardless of whether it is replaced by Thornton with other water.

Decree, ¶ 44, at 39.

### 3. Review of Trial Court's Ruling

Our review of the trial court's denial of Thornton's proposed uses of its shares of CBT water turns on the resolution of two core issues: (1) whether the terms of the contracts, statutes, and rules governing Thornton's use of CBT water prohibit the accrual of indirect benefits<sup>421</sup> outside of the boundaries of NCWCD; and (2) even if the first question is answered in the affirmative, whether these provisions supersede general Colorado statutes purportedly authorizing Thornton's proposed uses. We address these issues in turn.

#### a. Consistency with Governing Contracts, Statutes, and Rules

56 By the terms of the Allotment Contract between WSSC and the NCWCD, to which \*56 Thornton became subject by virtue of its purchase of WSSC shares, Thornton agreed to be bound by the provisions of the Repayment Contract, the Water Conservancy Act, the NCWCD rules, and the Allotment Contract itself, all of which the trial court found to prohibit Thornton from using CBT water in a manner that creates direct or indirect benefits that accrue outside the boundaries of the NCWCD. Thornton argues that the WCA and the Repayment Contract limit only the direct beneficial use of CBT water outside of the district and do not extend this prohibition to indirect benefits. Thornton further contends that the NCWCD rules and the Allotment Contract should also be read as limiting only direct extra-district use to make these latter provisions consistent with the intent exhibited in the controlling documents, the WCA and the Repayment Contract. To determine whether the trial court ruled correctly, we must examine in more detail the provisions of these four governing documents.

#### i. Water Conservancy Act and Repayment Contract

The parties agree that the relevant provisions of the Water Conservancy Act and the Repayment Contract are applicable in the present situation. The Water Conservancy Act articulates the scope of authority of water conservancy districts, including the NCWCD. The following provisions define the specific powers vested in the Board of Directors of a water conservancy district:

XX-XX-XXX. General powers. (1) The board has power on behalf of said district:

(b)(l)(B) To sell, lease, encumber, alien [sic], or otherwise dispose of water, waterworks, water rights, and sources of supply of water for use within the district;

....

(j) To appropriate and otherwise acquire water and water rights within or without the state; ... to provide, sell, lease, and deliver water for municipal and domestic purposes, irrigation, power, milling, manufacturing, mining, metallurgical, and any and all other beneficial uses and to derive revenue and benefits therefrom; ... but the sale, leasing, and delivery of water for irrigation, domestic, and other beneficial purposes as provided in this section, whether the water is developed by the principal district or a subdistrict thereof, shall only be made for use within the boundaries of either the principal district or the subdistrict, or both.

§ 37-45-118(1)(b)(l)(B), -118(1)(j), 15 C.R.S. (1990).

The Repayment Contract augments the statutory provisions by specifically defining the scope of the NCWCD's authority with respect to the distribution of CBT project water. See *Estes Park*, 677 P.2d at 326 ("The [Repayment C]ontract prescribes the manner in which Colorado-Big Thompson project water is to be used and reused."). Initially, Article 16 of the Repayment Contract provides in pertinent part:

On payment of all construction repayments by the District as required by this contract, and compliance by the District with the covenants it is required to perform, the District shall have the perpetual right to use all water ... that becomes available through the construction and operation of this project, for irrigation, domestic, municipal, and industrial purposes, but excluding any and all uses for power. It is agreed and understood that the use of water made available by the project shall be primarily for irrigation and domestic uses; and that the manner of delivery shall be to this end.



Articles 17 and 19 also discuss the distribution of CBT project water. Article 17 contains the following relevant language: "It is understood and agreed that the District may dispose of part of its water to parties desiring to use the project water for domestic, municipal and industrial purposes as permitted by the Act of February 25, 1920, (41 Stat. 451), within the limitations provided for in this contract." Article 19 states in pertinent part:

57 The District will cause all water filings for the project made in its name or in its behalf to be assigned to the United States, and all water filings so assigned, or made by the United States for the project, shall be made and held subject to the provisions of Article 16, primarily for domestic, irrigation, \*57 municipal, industrial and recreational uses in the District....

Finally, Article 25 addresses the potential for sale of water by the NCWCD to extra-district users:

It is agreed that such part of the project water supply as, in the opinion of the Secretary [of the Interior], may not be required for irrigation and domestic use in the District may be disposed of for irrigation and domestic uses outside the District, either by direct diversion and use or by means of exchange. Any such disposal of water shall be by contract on such terms as the Secretary may fix, subject to the approval of the Board of Directors of the District.

The trial court held that the provisions of both the statute and the contract evince an intent that the direct benefits of CBT water remain within the boundaries of the NCWCD. MOD at 32. Thornton essentially concedes the limitation on direct beneficial use of CBT water outside the district but argues that these provisions do not support a ban on indirect, extra-district benefits. Thornton further contends that certain provisions in the Repayment Contract and in a related Colorado statute pertaining to extra-district use are inconsistent with the trial court's apparent determination that extra-district benefits are per se impermissible. Although we agree with Thornton that extra-district use and benefits are not per se impermissible, we concur in the trial court's conclusion that the WCA and the Repayment Contract evince a general intent to preserve the benefits of CBT water for NCWCD constituents.

Initially, we read the terms of the Repayment Contract to place control of the distribution of CBT water firmly in the hands of the NCWCD Board of Directors. Article 16 grants the district a perpetual right to use the water for specified purposes and Article 17 establishes authority to dispose of the water in compliance with the terms of the contract. Thus, the NCWCD has discretion, limited by the terms of the Repayment Contract and the provisions of the WCA, to direct the allocation and distribution of CBT project water. The substantive limitation placed on the district's discretion, inherent in both the Repayment Contract and the WCA, is that the benefits of CBT water are to be provided only to those users who apply the water within the district boundaries. Both the statute and the contract explicitly limit permissible uses to those within the district, *see* Repayment Contract, art. 19, at p. 19; § 37-45-118(1)(b)(I)(B), -118(1)(j), 15 C.R.S. (1990). We are convinced that the WCA and the Repayment Contract reflect recognition of the administrative and financial role of the NCWCD in the CBT project and were intended to reserve the direct benefits of the CBT water for the district. Although neither the statute nor the contract expressly discusses the validity of indirect extra-district benefits, this does not establish that a distinction was intended to be made between the two types of benefits.

58 We are also unpersuaded that this general intent to preserve CBT benefits for the NCWCD is compromised by the presence of language in the Repayment Contract or water administration statutes authorizing the extra-district use of CBT water under certain regulated circumstances not present here. Article 25 of the Repayment Contract provides for the sale of excess water for use outside of the district, including by exchange. Similarly, section 37-83-106, 15 C.R.S. (1990), allows water conservancy districts to enter into cooperative agreements with other political subdivisions for the lease or exchange of water outside of district boundaries under regulated conditions.<sup>[48]</sup> These \*58 provisions certainly suggest that extra-district use is permissible under certain circumstances and, thus, not per se impermissible under the contract and statutes. However, we do not read these provisions as inconsistent with the focus on intra-district use and benefit that pervades the Repayment Contract and the WCA. These provisions allow extra-district use only in specified situations, and the ultimate authority to approve such transactions rests with NCWCD. This administrative structure is consistent with the vesting of general distributive power in the district and allows NCWCD to exercise protection of its constituents' interests. Accordingly, we conclude that the derivation of extra-district benefits from the use of CBT water, while not per se impermissible, is discouraged and strictly limited by the provisions of the Repayment Contract and the WCA.

## *ii. NCWD Rules and Allotment Contract*

We now turn to the NCWCD rules and regulations and the terms of the Allotment Contract. Pursuant to rulemaking authority granted under section 37-45-134(1)(a), the NCWCD Board of Directors has enacted rules and regulations that implement the limitations placed on the distribution of CBT water by the WCA and the Repayment Contract. The NCWCD rules provide that, in addition to the rules themselves, "[a]ll water deliveries by the District will be governed by the requirements of the Colorado Water Conservancy District Act, the repayment contract between the District and the United States, and in conformance with all allotment contracts between the District and its water users." NCWCD Rules (Ex. P-12), Book I, sect. 2. In addition, the following provisions of the NCWD Rules are relevant to determining the permissibility of extra-district benefits:

Book II (General Information Section): The authority to allot, reallocate, transfer, and dispose of water by appropriate contracts is given in the statutes to the Board of Directors of the District. However, the Board is precluded, by law, from allotting water which gives rise to beneficial uses outside the boundaries of the District.

Book II, Rule IV: The beneficial uses of water supply allotted by the District shall be restricted to the area lying within the District.

While the statute authorizes the Board to provide, sell, lease, or otherwise dispose of water for beneficial purposes, it does so—"... provided the sale, leasing, and delivery of water ... shall only be made for use within the District." (§ 150-5-13(10), C.R.S.1963) [now codified at § 37-45-118(j), 15 C.R.S. (1990) ]

(A) Interpretations and policies of the Board: —

(1) The Directors believe the intent of the water allotment restriction to District lands was to confine the benefits to the taxpayers and allottees who are the financial supporters of the project and its operations. Hence, the Board will not allot water to any organization unless there is included within the District boundaries all lands provided with water service through the water systems or subsidiary systems owned, controlled, or operated by such organization *and whether such water delivery service is provided directly, by exchange, or otherwise.*

(Emphasis added.)

The terms of the WSSC Allotment Contract, from which Thornton derives its right to CBT water, incorporate similar limitations on the use of such water:

2. It is understood and agreed by the Applicant that any water allotted by the Board of Directors of said District shall be for domestic, irrigation, or industrial use within or through facilities or upon lands owned, operated, or served by said Applicant, provided however, that all lands, facilities, and serviced areas which receive benefit from the allotment (whether water service is provided by direct delivery, by \*59 exchange, or otherwise) shall be situated within the boundaries of the Northern Colorado Water Conservancy District.

....

6. Applicant agrees that the water allotment shall be beneficially used for the purposes and in the manner specified herein, and that this agreement is made for the exclusive benefit of the Applicant and shall not inure to the benefit of any successors, assigns, or lessees of said Applicant without prior specific approval of the Board of Directors of said District.

(Emphasis added.)

The prohibition on accruing indirect, extra-district benefits from CBT water that was implicit in the WCA and the Repayment Contract is made explicit in the above provisions. Thornton argues that these provisions constitute an impermissible extension of the limitations on distribution of CBT water set forth in the WCA and the Repayment Contract. However, in light of our interpretation of the latter provisions, the NCWCD rules and the Allotment Contract are entirely consistent with the expressed intent that CBT benefits remain within the district. NCWCD did not exceed its authority under the WCA and the Repayment Contract by subjecting CBT water allotments to these restrictions. Therefore, in the absence of exceptions not applicable here, the derivation of any extra-district benefit from the use of CBT water is prohibited.

### **iii. Conclusion**

Thornton's proposals violate both the spirit of the WCA and the Repayment Contract and the letter of the NCWCD rules and the Allotment Contract. Thornton's proposal to use CBT water to satisfy replacement obligations will allow the city to increase the amount of water that it applies to municipal uses outside the boundaries of NCWCD. Although the direct use remains within the district, Thornton would receive indirect benefits outside of the district that derive from its use of CBT water within the district.<sup>[49]</sup> Similarly, the operation of the exchange on CBT water, even if the character of exchange rule applies and the direct use is deemed to occur within the district, results in significant quality and quantity benefits to Thornton outside of the NCWCD boundaries. Furthermore, Rule IV(A) of the NCWCD rules and Article 2 of the Allotment Contract specifically preclude the acquisition of extra-district benefits by exchange.<sup>[50]</sup> The trial court correctly assessed Thornton's proposals as attempts to extend benefits to its lands outside of the district in contravention of the provisions of the governing statutes, rules, and contracts.

### **b. Consistency with Colorado Water Policy and Statutory Law**

60 Thornton's second major contention, however, is that the administrative scheme governing the distribution and use of CBT water should not be read to supersede general Colorado water policy and statutory law. Thornton contends that application of the doctrine of maximum use and the general exchange statutes require the trial court to approve Thornton's proposals in the absence of a showing that injury would result to other appropriators. *See, e.g.*, § 37-92-305(3), 15 \*60 C.R.S. (1990). Thornton essentially urges that we give no effect to the specific prohibitions in the NCWCD rules and the Allotment Contract when a proposed use of CBT water is otherwise permissible under Colorado water law. A review of our prior cases reveals that Thornton's position is without merit.

### **i. Contract Provisions**

Initially, as discussed above, Thornton derives its right to CBT water solely from the Allotment Contract executed in 1986 between WSSC and NCWCD. This court has recognized that a contractual right to make use of water is "far different" than a water right acquired by original appropriation, diversion, and application to beneficial use. *Green v. Chaffee Ditch Co.*, 150 Colo. 91, 98, 371 P.2d 775, 779 (1962). A contract water user is, in effect, a consumer whose rights are determined by the terms of that contract, and successors in interest can acquire no greater right. *Id.* at 98, 371 P.2d at 779; *see also Wright v. Platte Valley Irrigation Co.*, 27 Colo. 322, 61 P. 603 (1900); *Wyatt v. Larimer & Weld Irrigation Co.*, 18 Colo. 298, 33 P. 144 (1893); *La Junta & Lamar Canal Co. v. Hess*, 6 Colo.App. 497, 42 P. 50 (1895). The terms of the Allotment Contract clearly preclude the accrual of benefits derived from the use of CBT water to lands and users outside the boundaries of NCWCD. Thornton was or should have been aware of these contractual conditions at the time it acquired its interest in WSSC. Thus, Thornton is bound by these conditions in accord with the intent of the original parties.

Where, as here, the scope of a water right is defined by contract, the general provisions of Colorado water law are not necessarily inapplicable, but their application is subject to the terms of the contract.<sup>[51]</sup> *Merrick v. Fort Lyon Canal Co.*, 621 P.2d 952, 955-56 & nn. 3, 4 (Colo.1981) (holding that contract provisions controlled over provisions of plan for augmentation statute, section 37-92-305(3)); *see also Estes Park*, 677 P.2d at 326-27 (applying contract terms rather than statutory provisions in denying plan for augmentation); *Perdue v. Fort Lyon Canal Co.*, 184 Colo. 219, 223, 519 P.2d 954, 956 (1974) (regardless of statutory provisions, an appropriator may by contract make its priority inferior to another). Thus, Thornton's assertions that its proposals will not injure other appropriators and will comply with the statutory provisions addressing replacement and exchange are not relevant to our evaluation. The injury determination contemplated by the exchange statutes is not applicable because the contract explicitly prohibits extra-district benefits regardless of injury. *See Merrick*, 621 P.2d at 956 n. 5. Were we to hold otherwise and approve Thornton's proposals, the effect would be to alter the terms of the parties' agreement and enlarge the benefits received by Thornton in excess of those for which it contracted. Given the clear contractual limitations on the scope of Thornton's CBT water right, we cannot apply conflicting statutory provisions to create a new contract between the parties.

### **ii. NCWD Rules**

The Allotment Contract also explicitly provides that WSSC, and by succession Thornton, must abide by the rules and regulations enacted by the NCWCD Board of Directors. Thornton maintains that these rules do not override general water right adjudication statutes. We disagree. We have addressed the legitimacy of imposing regulations on water rights more strict than the applicable statutory requirements in cases concerning mutual ditch company bylaws, and we have consistently upheld reasonable limitations on the statutory rights of a water user. *See, e.g., In re Application for Water Rights of the Fort Lyon Canal Co.*, 762 P.2d 1375, 1379 (Colo.1988); *Fort Lyon Canal Co. v. Catlin Canal Co.*, 642 P.2d 501, 509 (Colo.1982); *Model Land & Irrigation Co. v. Madsen*, 87 Colo. 166, 285 P. 1100 (1930). We find this principle

61 equally applicable \*61 to reasonable rules enacted by conservancy districts, entities which have statutory authority to make such rules, *see* § 37-45-134(1)(a), 15 C.R.S. (1990), and we conclude that the NCWCD rules precluding extra-district use and benefit constitute reasonable limitations on Thornton's exercise of its contractual right to use CBT water. NCWCD has a responsibility to protect its water supply for the benefit of its constituents, and the benefits of CBT water may reasonably be reserved for those who have financed the project, the taxpayers within the boundaries of NCWCD. Furthermore, the NCWCD rules do not impermissibly infringe on the jurisdiction of the water court to regulate the exercise of water rights. As evidenced by the presence of this issue before us today, the court has jurisdiction to resolve disputes over the interpretation and application of these rules. *See Catlin Canal*, 642 P.2d at 507-08. Because we find the NCWCD rules to impose reasonable limitations on the use of CBT water, we hold that the prohibitions on extra-district benefit supersede the general replacement and exchange statutes.

For the foregoing reasons, we hold that the Repayment Contract, the WCA, the NCWCD rules, and the Allotment Contract reflect an intent on the part of legislature and the contracting parties to limit all benefits of CBT water to water users and uses within the NCWCD boundaries. Furthermore, we hold that these provisions provide a reasonable framework for the distribution of CBT water that supersedes the general statutory framework governing exchanges and replacement use. Accordingly, we affirm the trial court's denial of Thornton's proposed application of CBT water for replacement and exchange purposes creating benefits for Thornton outside the boundaries of NCWCD.

#### 4. Thornton's Proposed Use of CBT Seepage Water

A third element of Thornton's Northern Project also implicates the use of CBT water. As part of its proposed change of use of its WSSC shares from irrigation to municipal purposes (case 87CW332), Thornton sought to change certain seepage rights originally decreed to WSSC and the Jackson Ditch Company. The water that supplies those decreed rights consists of surface return flows from the irrigation of farms above the LCC by shareholders of North Poudre Irrigation Company (NPIC). For its irrigation, NPIC uses two types of water: (1) water diverted at its Poudre River headgate pursuant to direct river rights, and (2) additional Poudre River water diverted by exchange with CBT water rights owned by NPIC below its headgate. Thornton sought to change the use of all of these return flows and apply them to municipal use in Thornton. However, the trial court apparently applied the character of exchange rule to classify the NPIC water diverted by exchange as CBT water and thus found that a portion of the return flows from NPIC's irrigation were made up of CBT water. *See Decree*, ¶¶ 11.4.1.1, at 11-12. The court held that return flows of CBT water were specifically reserved by the Repayment Contract to the United States for the use of NCWCD. MOD at 30-31. Accordingly, the court prohibited Thornton from taking for municipal use outside of the district the amount of seepage water the court identified as deriving from irrigation with CBT water—approximately 300 acre feet per year. Decree, ¶¶ 11.4.1.1, at 11-12.

We affirm the trial court's denial of Thornton's proposal for the change of use and subsequent extra-district use of return flows deriving from irrigation with CBT water. Article 19 of the Repayment Contract specifically addresses the use and reuse of seepage and return flows attributable to the use of CBT water,<sup>[52]</sup> and we reviewed that portion of the contract in

62 *Town of Estes Park* \*62 *v. Northern Colorado Water Conservancy District*, 677 P.2d 320 (Colo.1984). In *Estes Park*, we held that it is apparent on the face of the agreement that "the parties intended Article 19 of the [Repayment C]ontract to reserve return flows for the use of the district." *Id.* at 326. Noting the importance of return flow rights to the organizational and operational scheme of the district, we further stated that the "reservation expressly extends to all return flow water resulting from the construction of the project and importation of Colorado River water into the South Platte watershed." *Id.* Given our interpretation of Article 19 in *Estes Park*, we cannot approve Thornton's proposed change of use and credit for return flows to the extent that these flows consist of CBT water. The return flows Thornton seeks to change to municipal uses and to use outside of the district are specifically reserved for allocation and use by NCWCD,<sup>[53]</sup> thus prohibiting Thornton's extra-district application. Although these seepage waters were previously allocated to and used by WSSC, WSSC applied these waters on lands within the district and such use did not conflict with the allocative authority of the NCWCD. Based on the terms of Article 19 of the Repayment Contract and our holding in *Estes Park*, we affirm the



trial court's denial of seepage credit from CBT waters to Thornton.

### **C. Reuse of Transmountain Water**

The next issue is one of great importance to water users statewide and drew substantial comment from the parties in their briefs and at oral argument. We refer to Thornton's proposed reuse of transmountain water<sup>[54]</sup> it obtained by virtue of its purchase of shares in WSSC. The trial court prohibited Thornton from reusing these transmountain waters and required the replication of return flows associated with the historical use of these waters for irrigation. Thornton, with the support of several amici, appeals the trial court's ruling.

#### **1. Historical Use and Thornton's Reuse Plan**

63 We first summarize the historical use of the transmountain water rights at issue and then review Thornton's plan to reuse these waters. As has been noted, the first phase of the Northern Project is comprised of the change in use of water rights acquired from WSSC and subsequent delivery of water associated with these rights to Thornton. Historically, the water diverted by WSSC has been derived from three sources: (1) native \*63 water from the Poudre River on the eastern slope; (2) imported water from the basins of the Laramie, Michigan, and Colorado Rivers on the western slope; and (3) water derived from the Colorado-Big Thompson Project in accord with the allotment contract entered into with NCWCD.<sup>[55]</sup> Decree, ¶ 11.4, at 11. Based on a study of WSSC's historical diversion practices, the shares now owned by Thornton have produced an average annual diversion of 16,041 acre feet of native water and 14,222 acre feet of transmountain water. Decree, ¶ 11.4.1, at 11.

The transmountain water rights utilized in the WSSC system are exercised by diversions via four separate collection ditches for ultimate delivery to the headgate of the Larimer County Canal, the main artery of the WSSC system. The shareholders of WSSC have traditionally used the transmountain water associated with these diversions to irrigate farms located in Larimer and Weld Counties. The return flows and seepage water associated with this irrigation historically accrued to the South Platte and Poudre Rivers, where they have been further utilized by appropriators on those streams.<sup>[56]</sup> With the exception of the limited use of tailwater ponds to capture wastewater, neither WSSC nor its shareholders had ever exercised a right of reuse with respect to these transmountain waters prior to their sale to Thornton.<sup>[57]</sup> Furthermore, WSSC apparently did not formulate an intent to reuse these waters until at least 1978. Thornton completed its acquisition of WSSC shares in 1986. As part of its Northern Project, Thornton proposed the change of these shares from irrigation to municipal uses for application within its water service area beginning in the year 2002. The result of this change would be the discontinuance of irrigation with this water and the concomitant loss of associated return flows and seepage. Thornton claimed that it was not required to replicate these return flows and seepage water, which had historically totaled approximately 6700 acre feet annually, for the benefit of downstream users in the South Platte basin. See Decree, ¶ 11.4.6, at 12. Instead, Thornton proposed to change the use of the 14,222 acre feet of transmountain water historically produced and attributable to its share of the WSSC water rights to municipal uses within Thornton and to successively use and reuse these waters to extinction. Thornton proposed to continue this practice until the initiation of Phase III of the Northern Project in approximately 2034, when the city will change the use of its shares back to irrigation in preparation for the full operation of the WSSC ditch exchange. Various objectors challenged Thornton's proposal on the related grounds that reuse of this water was prohibited and that replication of return flows was required.

#### **2. Trial Court Ruling**

64 In its Memorandum of Decision, the trial court identified the core legal issues raised by the parties as (1) whether an importer of transmountain water seeking to reuse that water must have an intent to reuse at the \*64 time of the original appropriation, and (2) whether the right to reuse transmountain water is subject to abandonment. To resolve these questions the court undertook a review of the law of Colorado and of other western states. This review culminated in the following holding:

The decree in these cases will deny the right to reuse the "old" transmountain diversions of the Water Supply and Storage Company on two separate grounds, each of which is sufficient to support that denial:

1. The Water Supply and Storage Company had no intent to reuse at the time of the original appropriation

of the "old" transmountain waters.

2. The Water Supply and Storage Company had abandoned the right to reuse the water diverted as a result of the "old" transmountain diversions.

MOD at 17.

The trial court drew support for an initial intent requirement from various sources, including case law from Colorado, see *City & County of Denver v. Fulton Irrigating Ditch Co.*, 179 Colo. 47, 58, 506 P.2d 144, 150 (1972), and California, see *City of Los Angeles v. City of San Fernando*, 14 Cal.3d 199, 123 Cal.Rptr. 1, 43, 537 P.2d 1250, 1292 (1975), and the scholarship of Samuel Wiel, a California water lawyer who wrote on water law in the early decades of this century, see Samuel Wiel, *Mingling of Waters*, 29 Harv. L.Rev. 137 (1915).

Convinced that initial intent to reuse is a precondition to the reuse of transmountain waters, the court reviewed the evidence concerning WSSC's intent at the time of initial importation. With respect to this issue, the court made the following factual finding:

The preponderance of the evidence clearly indicates that the original developers of the transmountain diversions involved here had no intention of recapturing or reusing the water. No such plans were developed for over fifty years after the initial appropriations. There were numerous improvements in the collecting system to increase the yield of the system, but no efforts to establish a reuse plan. Indeed, the whole question does not seem to have been broached until the 1960's.

MOD at 10. The court did not accept Thornton's argument that WSSC could not have formed such an intent because it had no knowledge that the right to reuse existed until the 1969 passage of the imported water reuse statute, § 37-82-106, 15 C.R.S. (1990). The court found it "unlikely" that the early developers of the WSSC system were unaware of the possibilities of reuse, given the Colorado courts' recognition of reuse in the developed underground water context and the discussion of such rights in the scholarship of the period.

The trial court's determination that reuse rights can be abandoned also resulted from its examination of numerous sources and precedents. The court initially reviewed section 37-82-106, 15 C.R.S. (1990), pertaining to the reuse of imported water. The court found this statute unhelpful in determining the applicability of abandonment to Thornton's right to reuse its "old" foreign water based on the statute's admonition that "[n]othing in this section shall be construed to impair or diminish any water right which has become vested." § 37-82-106(1). According to the trial court, if the reuse right were considered to be abandoned prior to the 1969 enactment of section 106(1), then this sentence would bar the revival of such a right. The court found existing Colorado case law to be nondeterminative and declared the abandonment question to be "a completely open one in Colorado."<sup>[58]</sup> MOD at 16.

65 \*65 Ultimately, the trial court stated its belief that the right to reuse transmountain water should be subject to abandonment and determined that WSSC had abandoned its right to reuse prior to Thornton's acquisition of a pro rata share of the "old" foreign water. MOD at 17. Thus, the trial court ruled that Thornton did not have the right to reuse the "old" foreign water and could not effect its proposed change of water rights without replacing return flows associated with these waters. The trial court implemented its holding by imposing the following condition in the final decree:

*Replacement of Old Foreign Water Return Flows.* This Court concludes that Thornton shall have the same obligations regarding return flows from the change of use of its pro rata share of the old foreign waters within the WSSC System as it has regarding the return flows from the change of use of its pro rata share of the native waters within the WSSC System. Applicable rulings concerning return flows from native water sources contained in the Court's Memorandum of Decision, shall be equally applicable to both native and old foreign waters within the WSSC System. However, nothing herein shall be interpreted to require a continuation of the importation of foreign water.

Decree, ¶ 45.2, at 39; see also *id.* ¶ 19, at 29-30; *id.* ¶ 48.3, at 40. Accordingly, Thornton was required to comply with the replacement and recharge requirements imposed elsewhere in the decree, see Decree, ¶ 54.3.3, at 48-58, to the full extent of the return flows and seepage waters historically produced by the use of the "old" transmountain waters.

On appeal, Thornton takes issue with both of the trial court's bases for denying its reuse claims. The gist of Thornton's argument is that the right to reuse foreign water is inherent in the initial appropriation and importation of the water. Accordingly, Thornton contends that WSSC's right to reuse the "old" transmountain waters was neither subject to an

initial intent requirement nor subject to abandonment. Thus, Thornton asserts that the trial court decision is erroneous as a matter of law and that the requirement that Thornton replicate the historical return flows associated with its shares of foreign water is invalid. The various objectors who submitted briefs on this issue raise numerous counterarguments and urge us to affirm the trial court's ruling.

### 3. Development of Law of Reuse

Resolution of this issue requires that we decide various questions concerning the use and reuse of foreign or imported water that have been alluded to, but not squarely addressed, in our prior opinions. We begin our analysis with a review of our general treatment of water producers who introduce "new" water into a watershed, as well as the contrasting treatment afforded users of native water.

#### a. Native Water

With respect to seepage and return flows from the use of native water, the rule in Colorado has been clear and unambiguous for at least seventy years:

It is elementary that the waters of the public streams of this state belong to the people, and that appropriators acquire only a right of use. It is also settled law that an appropriator is limited in his use of water to his actual needs. He must not waste it, and if there is a surplus remaining after use, it must be returned to the stream whence it came.

Pulaski Irrigating Ditch Co. v. City of Trinidad, 70 Colo. 565, 568, 203 P. 681, 682 (1922). Appropriators of water native to a public stream have no automatic right to capture and reuse this water after the initial application to beneficial use. Instead, these return flows and seepage waters become water tributary to a natural stream and subject to diversion and use under the appropriations and associated system of priorities existing on the stream. Thus, a user of native water can secure a right to reuse return flows only by establishing the elements necessary to complete an independent appropriation of those waters. See Water Supply & Storage Co. v. Curtis, 733 P.2d 680, 682-83 (Colo. 1987).

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#### \*66 b. Foreign Water

However, a different standard has evolved for water that is brought into a watershed or stream system from a source unconnected with the receiving system. This so-called "foreign water" includes nontributary groundwater introduced into a stream as well as water imported from an unconnected stream system. In the present case, we are addressing the latter, water transported from westward-flowing river systems on the western slope to eastward-flowing river systems on the eastern slope. A review of Colorado case law<sup>[59]</sup> and statutory provisions concerning such transmountain foreign water reveals that importers of such water enjoy greater rights of use and reuse than do users of native water.

We first noted the unique status of transmountain water in Brighton Ditch Co. v. City of Englewood, 124 Colo. 366, 237 P.2d 116 (1951). The case focused on an application for a change in point of diversion and change of use by the City of Englewood.<sup>[60]</sup> However, as support for our holding that the downstream appropriators could not establish injury based on a potential diminution of transmountain water return flows from Englewood's change in diversion point, we cited a California case for the proposition that "appropriators on a stream have no vested right to a continuance of importation of foreign water which another has brought to the watershed." *Id.* at 377, 237 P.2d at 122 (citing Stevens v. Oakdale Irrigation Dist., 13 Cal.2d 343, 90 P.2d 58 (1939)). This court's adoption of this principle in Brighton Ditch suggests an implicit recognition that an importer has a greater right to use the water for its own beneficial purposes than do appropriators of native water.

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There were no further developments in the law concerning foreign water until 1969, when the General Assembly enacted an imported water statute as part of the Water Right Determination and Administration Act \*67 of 1969. See Ch. 373, sec. 21, § 148-2-6, 1969 Colo. Sess. Laws 1200, 1223-24. That statute is now codified at section 37-82-106(1) and reads:

XX-XX-XXX. *Right to reuse of imported water.*

(1) Whenever an appropriator has lawfully introduced foreign water into a stream system from an

unconnected stream system, such appropriator may make a succession of uses of such water by exchange or otherwise to the extent that its volume can be distinguished from the volume of the streams into which it is introduced. Nothing in this section shall be construed to impair or diminish any water right which has become vested.

§ 37-82-106(1), 15 C.R.S. (1990).<sup>[61]</sup> Section 106(1) expressly establishes that the rules applicable to foreign water differ from the rules that govern the use of native water. The parties dispute the scope of the right encompassed by this provision, and we will discuss their differing interpretations later in this section. However, in view of the language of this statute, it cannot credibly be disputed that some right to reuse foreign water exists.<sup>[62]</sup>

Soon after the enactment of section 106(1), this court decided City & County of Denver v. Fulton Irrigating Ditch Co., 179 Colo. 47, 506 P.2d 144 (1972), a case that involved the new statute and the City of Denver's rights in water it obtained through transmountain diversions. In *Fulton*, Denver sought a declaratory judgment that it had the right to make successive uses of its diverted transmountain water while it maintained dominion over that water. *Id.* at 51, 506 P.2d at 146. Specifically, Denver sought to reuse sewage effluent derived from the treatment of transmountain water originally used within the city. The defendants opposing this plan were water users downstream from the point where the effluent was previously returned to the stream.

This court in *Fulton* ultimately upheld Denver's right to reuse its transmountain water. We initially held that the imported water statute, then codified at 1969 Perm. Supp., 1963 C.R.S. 148-2-6, authorized Denver to "re-use, make successive uses, and after use to have the right of disposition of imported water," subject to contrary contractual obligations. *Id.* at 52, 506 P.2d at 147. However, we also held that such a right in foreign water existed independently of the statute, citing our early developed water cases. *Id.* at 52-53, 506 P.2d at 147; *see also supra* note 59. This court dismissed the downstream appropriators' objections, viewing its holding as a logical extension of the holding in *Brighton Ditch* that downstream appropriators have no right to the continuation of water importation. *Id.* at 53, 506 P.2d at 147. We also reasoned that permitting reuse of western slope water by eastern \*68 slope importers would achieve the goal of minimizing the amount of water imported. *Id.* at 54, 506 P.2d at 148.

The *Fulton* decision leaves no doubt that separate reuse rules, grounded in both statutory and common law, apply to foreign water, and in subsequent decisions we have consistently upheld, if not clearly defined, a right of reuse for importers of transmountain water that does not exist for appropriators of native water. *See, e.g., Public Serv. Co. v. Willows Water Dist.*, 856 P.2d 829, 833 n. 8 (Colo.1993) ("An appropriator of native, tributary water, which historically flows back to the stream from whence it comes, is permitted only one use of the water because the return flows are subject to water rights on the stream in the order of their priority. By contrast, the owner of a water right which has been imported into a stream system has the right to successive reuse, to extinction, of the water."); *City & County of Denver v. City of Englewood*, 826 P.2d 1266, 1272 n. 7 (Colo.1992) ("Currently, an appropriator who introduces imported water into a stream system has at least a limited right to reuse the water it imports."); *Town of Estes Park v. Northern Colo. Water Conservancy Dist.*, 677 P.2d 320, 326 (Colo.1984) ("Subject to contractual obligations, and possibly other limitations not relevant here, a developer of foreign water has the right to use, reuse, successively use, and dispose of such water."). This right allows the flexible and efficient use of foreign water, minimizes the amount of water imported from the western slope, and recognizes that absent the importer's efforts, the water would never have been available for use or reuse. *See City of Florence v. Board of Waterworks*, 793 P.2d 148, 153-54 (Colo.1990); *Water Supply & Storage Co. v. Curtis*, 733 P.2d 680, 685 (Colo.1987).

#### **4. Characteristics of Right to Reuse Foreign Water**

We thus confirm the existence of an importer's right to use and reuse transmountain water. The crux of the present case, however, is an issue of first impression in Colorado: the characteristics of that reuse right and the extent to which it is limited by other principles and provisions of Colorado water law. The objectors argue, and the trial court held, that there are two significant limitations on the reuse rights of an importer: (1) the importer must establish an intent to reuse at the time of the initial appropriation and diversion of the transmountain water, and (2) the importer's reuse right is subject to abandonment based on nonuse. Thornton contends that these limitations are unsupported by either the statutory or common law of this state. Based on our review of the reuse statute, section 37-82-106, 15 C.R.S. (1990), and the case law of this and other western jurisdictions, we hold that the limitations imposed by the trial court are inapplicable to foreign water. Accordingly, we reverse the trial court's determination that Thornton is prohibited from utilizing the return flows deriving from its rights in foreign water and remand to that court for proceedings consistent with this decision.



### **a. Intent to Reuse**

We first analyze the objectors' contention that an importer of foreign water must establish an intent to reuse foreign waters at the time of original appropriation and diversion. Our starting point is the reuse statute. The first sentence of section 37-82-106(1) reads as follows:

Whenever an appropriator has lawfully introduced foreign water into a stream system from an unconnected stream system, such appropriator may make a succession of uses of such water by exchange or otherwise to the extent that its volume can be distinguished from the volume of the streams into which it is introduced.

On its face, the statute does not include a requirement that the importer establish an initial intent to reuse to preserve its right to reuse this foreign water in the future. Indeed, the plain language of this provision supports precisely the opposite conclusion. The phrase "[w]henever an appropriator has lawfully introduced foreign water" suggests that the reuse right is inherent and self-actuating—*i.e.*, "whenever" importation takes place, the right to reuse simultaneously and automatically attaches. Thus, a plain reading of the statute suggests that legal importation of foreign water is the only prerequisite<sup>69</sup> for future reuse and successive use of such water.

However, certain objectors assert that interpreting the reuse right as inherent in the importation of foreign water is in violation of the constitutional doctrine of prior appropriation. They argue that Article XVI, section 5, of the Colorado Constitution reserves all unappropriated water of natural streams to the people of the state, and the automatic reservation of foreign water for reuse would impermissibly prohibit its appropriation. Thus, the objectors contend that an importer must meet the requirements for appropriation, including intent and beneficial use, to acquire a right of reuse. We disagree with this assertion.

Our prior cases concerning foreign water establish that such water does not fit squarely within the definition of waters of a "natural stream" as contemplated by the constitutional provision cited by the objectors. See, *e.g.*, *Florence v. Board of Waterworks*, 793 P.2d at 154; *Curtis*, 733 P.2d at 685. Although transmountain water begins as tributary water in its basin of origin, by virtue of its importation into a different stream system it takes on the character of foreign water. Thus, like developed water and nontributary groundwater, transmountain water is not regulated entirely within the prior appropriation system. Because foreign water is not considered part of the natural stream in its basin of use, the absence of a requirement that reuse of such water be established by appropriation does not run afoul of the constitutional provision cited by the objectors. Absent a constitutional conflict, the objectors' reading of the statute to require an additional appropriation for reuse is insupportable. Such an interpretation would subject importers of foreign water to the same standard applied to native water appropriators, a result that would render void the reuse right recognized for importers and their successors at common law and by statute. See *supra* part IV(C)(3)(b).

Although this court has not specifically ruled on the existence of an initial intent requirement, our reading of the statute is consistent with our discussion of reuse rights in prior cases. In *Fulton*, in the context of a discussion of abandonment that we acknowledged as nonbinding, we made brief mention of facts in the record pertaining to Denver's intent to reuse its imported water. 179 Colo. at 58-59, 506 P.2d at 150. However, we noted only that Denver may have had in mind the reuse of its imported water "*possibly* since its first transmountain diversion." *Id.* at 58, 506 P.2d at 150 (emphasis added). Had we contemplated a strict initial intent requirement in *Fulton*, this limited reference would have been insufficient to support affirmance of Denver's reuse rights.

In *Curtis*, 733 P.2d 680, the applicant before the court was seeking to reuse stored water that consisted of a mixture of both native and imported water. With respect to the native water, we denied the request based on the applicant's failure to establish that it possessed a fixed intent to reuse and successively use the water in a beneficial manner. *Id.* at 685. However, with respect to the imported water, for which the applicant had presented no additional evidence of intent to reuse, we approved this reuse. *Id.* The *Curtis* decision certainly suggests that initial intent to reuse foreign water is unnecessary, although we did not explicitly so state.

Most recently, in *Public Service Co. v. Willows Water District*, 856 P.2d 829, we considered the right to reuse nontributary groundwater. The defendant had begun pumping this groundwater in 1974, but did not formulate a plan to reuse the water until 1986. *Id.* at 831. Analogizing to *Fulton*, we upheld the defendant's right to reuse this nontributary groundwater. *Id.* at 832-34. Although we did not focus on the initial intent issue, we arrived at our decision notwithstanding the absence of an intent to reuse during the first twelve years that the defendant diverted these waters. Other than the above cases,

our prior decisions either do not consider intent to reuse or touch on it only in the context of dicta concerning the issue of abandonment. Based on our review, we find no support for an initial intent requirement in Colorado case law.<sup>[63]</sup>

70 \*70 In view of the absence of any statutory or decisional support, we cannot agree with the trial court's initial intent ruling. Rather, we conclude that an importer of transmountain water need not have an intent to reuse this water at the time of the original appropriation and importation to maintain the subsequent right of reuse.

### ***b. Abandonment***

Having decided that an importer of foreign water need not possess the intent to reuse such water at the time of the original appropriation, we now turn to the question of whether the reuse right may be abandoned if reuse is not initiated within a reasonable time after first use. The trial court held that reuse rights in foreign water are subject to abandonment and that the rights at issue in this case were abandoned. We disagree with the first holding and therefore need not consider the second. We conclude that under the present statutory scheme governing foreign water, the right of reuse is not subject to abandonment.

"Abandonment of a water right" is statutorily defined in pertinent part as "the termination of a water right in whole or in part as a result of the intent of the owner thereof to discontinue permanently the use of all or part of the water available thereunder." § 37-92-103(2), 15 C.R.S. (1990). Under this definition, the crucial elements for finding abandonment are the intent to abandon and non-use of the water right. People v. City of Thornton, 775 P.2d 11, 17-18 (Colo.1989). Thus, the elements of abandonment are essentially the converse of those essential for appropriation of native water and reuse rights, i.e., intent to use and actual beneficial use of the water.

The native water right construct is not applicable to foreign water reuse rights, however. As we discussed in part IV(C)(4)(a), *supra*, importers of foreign water need not make an additional appropriation of return flows to gain the right to reuse these waters. The reuse right is inherent in the importation and is triggered whenever foreign water is lawfully introduced. § 37-82-106, 15 C.R.S. (1990). Thus, unlike reuse rights in native water, such rights in foreign water do not require either intent or beneficial use to come into being. As a logical matter, rights that do not require intent and use for their formation cannot be abandoned solely on the basis of an absence of a contemporaneous intent to use and a period of non-use. The reuse right remains with the importer until the right is transferred by the importer or the importation ceases.

Our conclusion that foreign water reuse rights are not susceptible to abandonment finds support in the provisions of section 37-82-106, 15 C.R.S. (1990). In addition to defining the genesis of the reuse right as the original importation, section 106(1) indicates that the reuse and successive use of foreign water is perpetual "to the extent that its volume can be distinguished from the volume of the streams into which it is introduced." § 37-82-106(1). The focus of this requirement is on quantification and measurement of the water to be reused, and the statute does not require an importer to maintain continuous physical control over the water. Willows, 856 P.2d at 833-34. When the foreign water can no longer be distinguished volumetrically, it becomes part of the natural stream and cannot be reused by the importer. However, the requirement attaches to each importation so that a current failure to distinguish the volume of foreign water from the receiving stream does not preclude future distinction and reuse.

This theme is continued in section 37-82-106(2). That section provides that foreign water,

71 when released from the *dominion* of the user, becomes a part of the natural surface stream where released, subject to water rights on such stream in the order of their priority, but nothing in this subsection (2) shall affect the rights of the developer or \*71 his successors or assigns with respect to such foreign ... water.

§ 37-82-106(2) (emphasis added). By using the words "released from the dominion" rather than the word "abandon," the provision apparently contemplates relinquishment of specific portions of water, a physical substance over which an importer can establish dominion, rather than relinquishment of the future reuse right, which would not normally be associated with the concept of dominion. In other words, the physical release of specific *water* to the stream does not result in the abandonment of the future *right* to discontinue this release and to reuse the imported water to extinction.<sup>[64]</sup> Our interpretation is fully consistent with the common law rule that downstream users of return flows from foreign waters gain only a right in the water that they actually divert and do not have a vested right in future importation. *E.g., Brighton Ditch, 124 Colo. at 377, 237 P.2d at 122.*

Both Thornton and the objectors cite existing case law of Colorado and other jurisdictions to support their respective positions. However, our review of the relevant authority has revealed no case suggesting that our interpretation of section 37-82-106 is incorrect. Although we have noted the unresolved status of abandonment in the context of foreign water rights on numerous occasions, any such discussion has been either dicta, *see, e.g., Fulton*, 179 Colo. at 58-59, 506 P.2d at 150, or included a disclaimer that we were not deciding the abandonment question, *see, e.g., Curtis*, 733 P.2d at 685 n.3. Accordingly, we are not governed by, and find little assistance in, prior Colorado decisions. Furthermore, we discern no clear directives in the decisions of courts in other western states. In our view, the language of section 37-82-106 and the established policy of rewarding importers for their efforts in bringing "new" water to a watershed are compelling.<sup>[65]</sup> For the reasons discussed above, these considerations weigh against the extension of abandonment principles to foreign water reuse rights.<sup>[66]</sup> Accordingly, we conclude \*72 that the right to reuse foreign water is not subject to abandonment by non-use.

### c. Injury

We have determined that an importer of foreign water need not establish an initial intent to reuse to initiate the reuse right and that such right is not subject to abandonment. However, certain objectors further argue that even if foreign water may be reused without initial intent and cannot be abandoned, this reuse remains subject to "no-injury" review to protect the rights of junior appropriators. These objectors base their argument on two grounds. First, they rely on the language of the second sentence of section 37-82-106(1), which protects vested rights against impairment resulting from the reuse of foreign water. Second, these objectors argue that Thornton attempts to secure the reuse of this water as part of a change of water rights proceeding and thus the statute governing such changes, section 37-92-305(3), 15 C.R.S. (1990), must be applied. Under this theory, the trial court's requirement that Thornton replicate foreign water return flows was a valid condition necessary to prevent injury to downstream appropriators. We disagree with these contentions.

The second sentence of section 37-82-106(1) reads as follows: "Nothing in this section shall be construed to impair or diminish any water right which has become vested." The objectors argue that they have established vested rights in the return flows from Thornton's foreign water based on the failure of Thornton and WSSC to reuse this water for over eighty years, and that these are the rights intended to be protected by the statutory language. The trial court held that if any reuse right had been abandoned prior to passage of this provision and the water put to beneficial use by another appropriator, this sentence "would prevent a revival of that right." MOD at 15. However, this interpretation conflicts with both our holding in this case that foreign water reuse rights are not subject to abandonment, *see supra* part IV(C)(4)(b), and our prior statements that downstream appropriators have no rights to the continuance of importation, *e.g., Brighton Ditch*, 124 Colo. at 377, 237 P.2d at 122. By holding that abandonment does not apply to reuse rights in foreign water, we clarify that downstream users of foreign water return flows gain a right only in the water actually released to the stream. Thus, although Thornton has no claim to water previously released, the downstream users cannot compel Thornton to continue the release of this water based solely on the downstream users' history of diversions. Moreover, we have consistently maintained that appropriators on a stream have no vested right to a continuance of importation of foreign water which another has brought to the watershed. *E.g., Willows*, 856 P.2d at 834; *Fulton*, 179 Colo. at 53, 506 P.2d at 147; *Brighton Ditch*, 124 Colo. at 377, 237 P.2d at 122. Because the ability of downstream users to divert imported water exists entirely at the sufferance of the importer, any right of these users to such water does not vest even after an extended period of use. Accordingly, the objectors cannot gain rights to this imported water that rise to the vested status necessary to secure protection under section 37-82-106(1).<sup>[67]</sup>

Similar reasoning precludes the application of the change of water rights statute to foreign water. Section 37-92-305(3) provides for the approval of a change of water right if the change "will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right..." As discussed above, any right in imported water return flows possessed by downstream users is not a vested water right. Thus, these users are not among those slated for protection in a change of water right proceeding.<sup>[68]</sup> \*73 *See Willows*, 856 P.2d at 834 & n. 13 ("distinguishing water brought into a natural drainage from another drainage ... is synonymous with non-injury" because appropriators have no vested rights in such water that may be injured). We reached a similar conclusion in *City of Florence v. Board of Waterworks*, 793 P.2d 148 (Colo. 1990). Based on a review of the legislative scheme and prior case law governing imported water, we held that foreign water was exempt from the restrictions of section 37-92-305(3):

[I]mporters of foreign water are accorded wide latitude as to the use and disposal of the appropriated water.

....

For example, the appropriator of such waters may reduce or eliminate the amount of foreign water available to junior appropriators, by changing the time, place or manner in which these waters are used, even if junior appropriators are adversely affected.... Because these actions involve foreign water and are addressed by section 37-82-106, 15 C.R.S. (1989), the general change of water right criteria, defined in section 37-92-103(5), 15 C.R.S. (1973), ... are inapplicable.

*Id.* at 154 (citations omitted). The scheme governing foreign water contemplates that such water will be administered independently of the system governing native water. Accordingly, the "no-injury" provisions do not present a barrier to Thornton's reuse of its foreign water, and the trial court's replication requirement was not justified under the statutory provision governing changes of water rights.

## 5. Laches and Equitable Estoppel

We thus conclude that Thornton retains a legal right to reuse the "old" foreign waters it acquired by purchasing shares in WSSC. However, certain objectors argue that our holding does not resolve this issue. They seek relief in equity, arguing that Thornton lost its right to reuse these waters under the doctrines of laches and equitable estoppel. We address these contentions in turn.<sup>69]</sup>

### a. Laches

"Laches is a form of estoppel and contemplates an unconscionable delay in asserting one's rights which works to the defendant's prejudice or injury in relation to the subject matter of the litigation." Lin Ron, Inc. v. Mann's World of Arts & Crafts, Inc., 624 P.2d 1343, 1345 (Colo.App.1981). The elements of laches are: "(1) full knowledge of the facts; (2) unreasonable delay in the assertion of available remedy; and (3) intervening reliance by and prejudice to another." Manor Vail Condominium Ass'n v. Town of Vail, 199 Colo. 62, 64, 604 P.2d 1168, 1170 (1980) (quoting Herald Co. v. Seawell, 472 F.2d 1081 (10th Cir.1972)). Fort Collins argues that junior appropriators on the Poudre River have relied for almost 100 years on return flows from irrigation with transmountain water of the lands associated with Thornton's WSSC shares. Fort Collins maintains that the delay by WSSC and Thornton in asserting their reuse rights is unexcused and will cause extreme prejudice to these downstream users. We disagree.

74 \*74 In light of our holdings concerning the creation and life of a reuse right in transmountain water, *see supra* part IV(C)(3)(b), Fort Collins' allegations of laches are without merit. Initially, laches is not applicable to a party who has no duty to act. Atchison v. City of Englewood, 193 Colo. 367, 377, 568 P.2d 13, 20 (1977); Michels v. Clemens, 140 Colo. 82, 88-89, 342 P.2d 693, 698 (1959). Because WSSC gained the right to reuse its transmountain water by virtue of the act of importing it, *see supra* part IV(C)(4)(a), WSSC was not required to assert a claim to this water. Accordingly, Thornton's right, derived by transfer from WSSC, cannot be defeated by a perceived delay in taking an action it was not required to take.

Furthermore, the prejudice required to establish the defense of laches, as a form of estoppel, must necessarily result from reliance on the actions of the opposing party that is justifiable under the circumstances of the case considered as a whole. Simineo v. Kelling, 199 Colo. 225, 228, 607 P.2d 1289, 1291 (1980). We noted above that it has long been the rule in Colorado that downstream users cannot establish vested rights in the continuation of the importation of foreign water. *See, e.g., supra* part IV(C)(3)(b). In light of this rule, Fort Collins and the other downstream users were not justified in relying on the continued release of these foreign water return flows. Because their reliance was unreasonable, the downstream users cannot establish the requisite prejudice attributable to WSSC's alleged delayed initiation of its reuse right. Thus, we hold that Thornton's proposed reuse of its foreign water is not barred by the doctrine of laches.

### b. Equitable Estoppel

Objectors NCWCD and PRPA assert that WSSC relinquished its rights to reuse its transmountain water, and that Thornton is now estopped from claiming such reuse rights, by virtue of statements allegedly made to that effect by Mr. Ward Fischer, WSSC's attorney in previous water right matters. Resolution of this issue requires an examination of the facts and circumstances giving rise to the objectors' claims.

In the late 1970s, PRPA, an electric utility owned by four northern Colorado cities, began seeking a totally consumable source of water for one of its power plants. PRPA entered into negotiations with Fort Collins and WSSC concerning a plan that would provide transmountain water for use within Fort Collins and subsequent capture and reuse at PRPA's power plant. The water to be used under this plan consisted of so-called "new" foreign water, *i.e.*, newly created transmountain water associated with an increase in the utilization of WSSC's transmountain decrees by reason of improvements in its collection and distribution system, as opposed to "old" foreign water, *i.e.*, water diverted under these transmountain decrees prior to such improvements. These three parties entered into an agreement on August 10, 1978, confirming their intent to complete the plan (Three-Way Agreement) and submitted an application to the water court for approval. The water court approved the application in case W-9322-78 and entered a decree on April 24, 1979.

One element of the plan envisioned in the Three-Way Agreement required the use of Horsetooth Reservoir, a storage facility owned by NCWCD. Accordingly, the parties were required to secure NCWCD's consent to use this facility prior to obtaining the decree in this case. Negotiations ensued, and NCWCD ultimately opted not to file an objection with the water court in case W-9322-78.

The terms of the Three-Way Agreement and the application and decree in case W-9322-78 explicitly state that the plan at issue contemplated the reuse of only the "new" foreign water. Paragraph 7 of the Three-Way Agreement includes the following language:

75 Water [Supply and Storage] Company and Fort Collins recognize that each of them could, under the law, make claim to all of the benefits provided by [§ 37-82-106, 15 C.R.S.] in relation to all of said [imported] waters.... It is therefore their intent to limit the plan contemplated by this Agreement to the re-use of new foreign waters, \*75 without affecting their rights, if any, to make a succession of uses of all foreign waters. [70]

Similarly, the revised application filed with the water court contained the following language:

8. Water [Supply and Storage] Company and Fort Collins recognize that each of them could, under the law, make claim to the right to reuse all foreign waters imported by them into the Cache La Poudre Basin. However, they expressly do not assert this claim in this proceeding and, therefore, for the purpose of this plan have separated their foreign waters into two categories and defined these as "old foreign waters" and "new foreign waters."

Finally, the water court noted in the decree that "[w]hile [WSSC] and Fort Collins assert that all foreign water is properly reusable under the law, each restricts, for the purposes of the present plan, the amount of water from foreign sources which it intends to deliver to [PRPA] for a successive use." The court ultimately stated:

The Court is not called upon to conclude, and does not conclude, what further succession of uses beyond those approved in this plan may or may not be legally or factually proper. This decree is not *res judicata* as to whether reuse of volumes of water in excess of the volumes of water decreed herein is or is not legally or factually allowable.

Ex. P-1A, p. 17.

Early in 1979, about the time of the trial court's entry of the decree in case W-9322-78, the 146 Company, a shareholder of WSSC, filed an application in the water court seeking approval of the reuse of certain "old" foreign waters (the 146 plan). Upon learning of this filing, WSSC attorney Ward Fischer wrote a letter to Bill Southard, the president of 146 Company, in which he expressed WSSC's opposition to the 146 plan. WSSC continued its objection in the water court proceedings on the 146 plan, and the court eventually denied the application on June 12, 1981.

The preceding history brings us to the present case. NCWCD and PRPA contended at trial that by the actions of Mr. Fischer, WSSC's attorney in the negotiations leading up to the Three-Way Agreement and in the proceedings relating to the 146 plan, WSSC waived its rights to reuse its "old" foreign water and that Thornton, as successor to WSSC, is estopped from now asserting these rights. The objectors initially claimed that Mr. Fischer made representations during negotiations preceding the Three-Way Agreement that the proposed plan only contemplated the reuse of "new" foreign water and that WSSC did not contemplate ever asserting the right to reuse its "old" foreign water in the future. NCWCD claims that its decision to refrain from objecting to the reuse of the "new" foreign water was based on the assurances allegedly made by Mr. Fischer regarding reuse of WSSC's "old" foreign water.

In support of this claim, the objectors sought to introduce testimony of parties present at these negotiations regarding their recollections of alleged representations made by Mr. Fischer. Chief among the witnesses who asserted such recollections was John Sayre, counsel for NCWCD during the relevant negotiations. Mr. Sayre's testimony was presented in the form of a videotaped deposition because he was unable to appear at the trial. The trial court initially admitted Mr. Sayre's testimony as an exhibit, but later struck the testimony as irrelevant. The court ruled, in pertinent part:

All right. I'm going to sustain the motion to strike that. It appears to me that this is totally irrelevant. I don't believe that the apparent authority of attorneys acting on behalf of their clients extends anywhere near as far as has been related.

76 And I don't think that, unless it was shown that Mr. Fischer—assuming—and I would say, and I hope I'm not influenced by that, that I didn't believe it anyway— but, assuming that all that was true, Mr. Fischer has know [sic] apparent authority \*76 or actual authority, as far as the evidence shows, to indicate, to waive these water rights valued at, you know, millions of dollars.

And it's inconceivable to the Court— although I might say, this is another ground for the motion—but I think a thing of that nature, of that importance, would not be left to mere recollections of counsel 20 years later and that it wouldn't have been incorporated in some written document.

I am going to strike that. I'm doing that partly because it seems to me that this whole—and I think counsel recognize this is somewhat out of character for me— but the whole thing, it seems to me, was a red herring and was putting Mr. Fischer in a very unfortunate position, and, to my mind, for absolutely no reason.

Volume 53 of trial transcript at 13-14.

The objectors also offered the letter from Mr. Fischer to Mr. Southard regarding the 146 plan as evidence that these previous representations had been made and that WSSC had given up its reuse rights. The trial judge, who also presided over the trial involving the 146 plan, made the following statement regarding this issue:

May I suggest, since the witness doesn't seem to have much of a recollection of any of this, and since the Court's recollection is pretty clear, and just so everybody knows what it is; that ... although the [WSSC] opposed Southard's application, they in no way at no time indicated that they didn't think they had a right to use [the "old" foreign water].

They didn't think that Southard had a right to a decree, but they did not do anything to indicate that they didn't think they had a right to use [the "old" foreign water].

Volume 64 of trial transcript at 153.

Although the above passages imply the trial court's disinclination to accept the objectors' claims, the court was not required to rule on the estoppel issue because of its holding that WSSC had not formed an initial intent to reuse its "old" foreign water and had abandoned those rights.

Both PRPA and NCWCD appeal the trial court's ruling on the admissibility of the Sayre deposition and reassert their claims of estoppel that were not ruled upon by the trial court. For reasons explained below, we affirm the exclusion of the Sayre testimony. We also conclude that neither objector has satisfied the elements necessary to establish estoppel.

We have previously addressed the application of equitable estoppel to claims involving water rights and articulated the necessary elements as follows:

The essential elements of an equitable estoppel as related to the party estopped are: (1) Conduct which amounts to a false representation or concealment of material facts, or, at least, which is calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (2) intention, or at least expectation, that such conduct shall be acted upon by the other party; (3) knowledge, actual or constructive, of the real facts. As related to the party claiming the estoppel, they are: (1) Lack of knowledge and of the means of knowledge of the truth as to the facts in question; (2) reliance upon the conduct of the party estopped; and (3) action based thereon of

such a character as to change his position prejudicially...

Aubert v. Town of Fruita, 192 Colo. 372, 374, 559 P.2d 232, 234 (1977) (quoting Jacobs v. Perry, 135 Colo. 550, 556, 313 P.2d 1008, 1012 (1957) (citation omitted)). We need not attempt to assess the satisfaction of all the elements here, for the failure to establish any one of the elements of estoppel bars such a claim. Federal Lumber Co. v. Wheeler, 643 P.2d 31, 36 (Colo.1981). It is well-established that a party claiming estoppel must show that its reliance on the actions or statements of the other party was justified and reasonable under the circumstances of the case considered as a whole. Simineo v. Kelling, 199 Colo. 225, 228, 607 P.2d 1289, 1291 (1980). In the present case, neither objector can establish the reasonable reliance necessary \*77 to prevail on its estoppel claims.<sup>[71]</sup>

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The trial court specifically found that the evidence presented by the objectors did not establish that Mr. Fischer, as WSSC's attorney, had the actual or apparent authority to waive forever WSSC's potential right to reuse its "old" foreign water. This ruling, which the court made in the context of determining the admissibility of the testimony of Mr. Sayre, was based on its review of the evidence presented to that point, including the Sayre deposition. We are satisfied that the court's finding is supported by the evidence, and we conclude that this factual finding serves to defeat the estoppel claim made by the objectors.

The objectors contend that they relied on statements made by Mr. Fischer concerning WSSC's future intent to reuse its foreign water and further contend that this reliance was justified based on the authority they perceived to be vested in Mr. Fischer as WSSC's attorney. The trial court did not find support for this perception of authority in the record, implicitly suggesting that it was not reasonable to believe that counsel would have the blanket authority to waive, by unrecorded oral statements, water rights potentially worth millions of dollars. Absent facts supporting the reasonableness of the objectors' perception that Mr. Fischer had the apparent authority to waive these rights, the objectors' reliance on Fischer's alleged statements was not reasonable or justified. Accordingly, the objectors<sup>[72]</sup> have not established the reasonable reliance necessary to prevail on an estoppel claim.<sup>[73]</sup> We conclude that WSSC was not estopped, and therefore Thornton is not estopped, from asserting its right to reuse its transmountain waters in the future.

## 6. Summary

To summarize, we conclude that an importer of transmountain water need not have the intent to reuse this water at the time of the initial appropriation and importation to preserve the right to reuse this water in the future. Furthermore, we hold that this reuse right is not subject to abandonment \*78 principles, and approval of the change of use of such a right does not require compliance with the "no-injury" requirement of section 37-92-305(3). Finally, we hold that Thornton's proposed reuse of its pro rata share of WSSC's "old" foreign water is not barred by the doctrines of laches or equitable estoppel. Accordingly, we reverse the ruling of the trial court on this issue and remand to that court for proceedings consistent with our decision, including the elimination of the condition in the decree requiring Thornton to replicate return flows associated with its transmountain water.

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## D. Recharge Obligations

In addition to requiring that Thornton replicate return flows from its foreign water to downstream surface water users, the trial court also required that Thornton maintain historical return flow patterns associated with the irrigation use of its native water. This condition, which Thornton appeals, was imposed by the court in part to protect junior appropriators drawing groundwater from an aquifer supplied by these return flows against injury resulting from the city's proposed change of its WSSC water rights from irrigation to municipal uses (case 87CW332). Thornton's proposal contemplates changing the use of the city's proportional interest in water rights held by WSSC and the Jackson Ditch Company from their historical agricultural uses to municipal uses in Thornton's water system. As a result of this change, Thornton will no longer irrigate a substantial portion of the lands previously irrigated with water from those shares. This cessation of irrigation will reduce or eliminate return flows<sup>[74]</sup> from these farms, which amount to approximately 10,430 acre feet per year. Decree, ¶ 11.4, at 12.

The return flows from the Thornton farms have historically fed an alluvial aquifer that underlies those farms and adjacent lands between the farms and the Poudre and South Platte Rivers. This aquifer is relatively thin and could not support extensive groundwater extraction prior to the commencement of irrigation under the WSSC system. Hydrologic evidence suggests that the water moves through channels in the aquifer and, if uninterrupted, flows in the direction of, and would

eventually reach, the river system. As irrigation return flows and deep percolation enlarged the aquifer, a sharp increase in the use of agricultural wells took place on the north side of the Poudre basin. These wells, which number approximately 1,400 and divert as much as 90,000 acre feet of groundwater per year, are junior in priority to downstream surface rights. The majority of these wells, including those operated by objectors Amen, Hutcheson, and Yetter, were constructed in the area between the WSSC farms and the Poudre and South Platte Rivers to intercept the return flows from the irrigation of these farms as the water passes through the aquifer on its way to supply users on these rivers.

Although current hydrological data suggests that the aquifer supplying the wells at issue is dependent on return flows from WSSC irrigation and is tributary to the Poudre and South Platte Rivers, these facts were apparently not always recognized. In a voluminous 1953 decree adjudicating both surface and groundwater rights in the area then classified as Water District No. 3, Water Division No. 1, State of Colorado, the trial court for that jurisdiction made the following ruling:

In the findings and decree herein, unless otherwise stated, as to each well or system of wells awarded a priority number, the source of water is found to be subjacent ground water not substantially tributary to any natural stream and which would not appreciably by natural conditions reach or augment the flow of any natural stream, and such water is thus appropriated and reasonably used for beneficial irrigation of the lands, or adjacent lands, upon which each well is located and belonging to or possessed by the owner or claimant of such well...

- 79 *In re Adjudication of Priorities in Water Dist. No. 3, Water Div. No. 1, State of Colo.*, \*79 Civil Action No. 11217, (Larimer County District Court Sept. 10, 1953) (entered in the record as Ex. A-713) (hereinafter 1953 decree). This decree applied to approximately 400 of the wells in the north Poudre basin, including the well currently operated by individual objectors J.W. and Bessy L. Hutcheson. Pursuant to this decree, these wells have been operated as nontributary and are not subject to augmentation requirements applicable to tributary wells for the protection of downstream appropriators.

The parties agree that the standard for water court approval of a change of water right has been established by the General Assembly. Pursuant to section 37-92-305(3), 15 C.R.S. (1990), an application for a change of water right shall be approved if such change "will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right." At trial, Thornton conceded its duty to protect other water users against the loss of return flows of native water resulting from its proposed change but argued that it need only replace these flows to senior appropriators on the South Platte River and not to junior well diverters dependent on Thornton's irrigation for maintenance of the alluvial aquifer. The well owners argued that their groundwater diversions were also entitled to protection and that Thornton must replicate its return flows in a manner that recharges the aquifer supplying these wells.

The trial court initially addressed this issue in its Memorandum of Decision. The court rejected Thornton's contention that it need not maintain an artificial condition created by its return flows, noting the dependence of substantially all South Platte basin water rights on return flows. The court also recognized that underground water that is tributary to a natural stream is subject to appropriation in the same manner as surface water in a stream. Accordingly, the trial court determined that junior appropriators of tributary underground water are entitled to the same protection against injury in a change of water right proceeding as surface appropriators. MOD at 24. The court found that return of the replacement flows directly to the river would be insufficient to protect the well operators from injury and held that the replacements "must be in amounts and at times and locations which parallel the historic return flows from the Thornton farms." MOD at 25. The court noted, but specifically did not give effect to, the provisions of the 1953 decree declaring certain of the affected wells to be nontributary. MOD at 24.

The court implemented this decision in the final decree by imposing a groundwater recharge program to be conducted concurrently with Thornton's operation of its change of water rights. The court divided the lands historically irrigated by Thornton shares into five geographic sectors and one sector associated with "floating" shares not specifically assigned to identified farms and imposed varying recharge requirements in those sectors "to account for subdrainages within the watershed, geology, hydrology and other factors." Decree, ¶ 11.4.7, at 13. Specifically, the court found that replacement of 5,125 acre feet of return flows attributable to historical irrigation of those farms located in sectors 4 and 5 and to irrigation with "floating" shares was necessary to prevent injury to the well operators. *Id.* ¶¶ 21.6, 21.7, at 31. With respect to sectors 1, 2, and 3, the court found that the historical recharge that occurred in those sectors did not significantly accrue to the benefit of wells and that the removal of that recharge would have no injurious impact on ground water levels in the vicinity of existing wells. *Id.* ¶ 21.7, at 31. Accordingly, Thornton was not required to replace return flows in these sectors. The mechanics of the groundwater recharge program are set forth in decree paragraph 54.3.3.4 and its accompanying subparagraphs, see Decree, ¶ 54.3.3.4, at 49-54, but the ultimate result is that Thornton must



replace 5,125 acre feet of return flows through artificial recharge pits, injection wells, or other similar means.

80 Thornton appeals the trial court's determination that the well operators are entitled to maintenance of return flows that would otherwise be lost by Thornton's change of water rights. By satisfying its replacement obligations by delivering water 68-172 directly to the surface stream, Thornton would be able to make an initial use of the water for municipal \*80 purposes prior to using it for replacement purposes. Therefore, Thornton argues that it should be allowed to repay these return flows directly to senior appropriators on the South Platte who would receive these waters absent the initial diversion by Thornton and the subsequent interception of return flows by the well operators. In the alternative, Thornton argues that any recharge obligation should be limited to tributary wells and should not accrue to the benefit of wells decreed and operating as nontributary.

## 1. Replacement Directly to Stream

We first address Thornton's contention that return flows should be replaced directly to the stream to which they historically returned, for the benefit of senior appropriators on the stream, without regard to intervening junior wells that have intercepted this flow. One of the basic tenets of Colorado water law is that junior appropriators are entitled to maintenance of the conditions on the stream existing at the time of their respective appropriations. Orr v. Arapahoe Water & Sanitation Dist., 753 P.2d 1217, 1223 (Colo.1988); City of Westminster v. Church, 167 Colo. 1, 11-12, 445 P.2d 52, 58-59 (1968); Farmers Highline Canal & Reservoir Co. v. City of Golden, 129 Colo. 575, 579, 272 P.2d 629, 632 (1954). Equally well established is the principle that a change of water rights cannot be approved if the change will injuriously affect the vested rights of other water users. § 37-92-305(3), 15 C.R.S. (1990); Orr, 753 P.2d at 1223; Green v. Chaffee Ditch Co., 150 Colo. 91, 106, 371 P.2d 775, 783-84 (1962); City of Colo. Springs v. Yust, 126 Colo. 289, 294, 249 P.2d 151, 153 (1952). This protection extends not only to surface water users but to users of all water tributary to a natural stream, including appropriators of tributary underground water. See §§ 37-92-102(1)(a), -103(11) (incorporating all waters of a natural stream in scope of Water Right Determination and Administration Act of 1969, and including tributary underground water as a component of a natural stream); see also Danielson v. Vickroy, 627 P.2d 752, 757-58 (Colo.1981) (distinguishing tributary groundwater from designated groundwater); Safranek v. Town of Limon, 123 Colo. 330, 334, 228 P.2d 975, 977 (1951) (recognizing presumption that all groundwater is tributary and subject to prior appropriation doctrine as part of the waters of the stream). Furthermore, this protection extends to junior appropriators' rights in return flows:

It has been fundamental law in this state that junior appropriators have rights in return flow to the extent that they may not be injured by a change in the place of use of the irrigation water which provides that return flow.

City of Boulder v. Boulder & Left Hand Ditch Co., 192 Colo. 219, 222, 557 P.2d 1182, 1184 (1976).

Thus, the law clearly mandates that junior appropriators with vested rights in underground water tributary to a natural stream are entitled to protection against injury resulting from another water user's change of water rights. Thornton argues that this protection does not extend to water users that depend solely on an "artificial" water supply, as it characterizes the affected well operators in this case. Thornton adopts this characterization because the irrigation water used on the Thornton farms and the resulting return flows to the wells would not be available to the affected wells in the absence of the initial transportation of the water through the LCC. Specifically, Thornton argues that under natural conditions—*i.e.*, absent diversion of Poudre River water north and east of the river via the LCC—the wells would not have physical access to Poudre River water. Citing cases pertaining to imported and developed water, Thornton asserts that the junior well appropriators are not entitled to the continuance of this "artificial" supply of water. We decline to equate the water used by Thornton for irrigation in the present case with imported or developed water entitled to special treatment under Colorado law.

81 We have recognized in prior cases that appropriators of certain types of water rights are burdened with fewer restrictions on the use of such rights than are applicable to normal appropriative rights. See *supra* part IV(C). For example, water users that import "foreign" water from the western \*81 slope to the eastern slope have rights of reuse not associated with native water flows and, in that context, we have held that "appropriators on a stream have no vested right to a continuance of importation of foreign water which another has brought to the watershed." City of Denver v. Fulton Irrigating Ditch Co., 179 Colo. 47, 53, 506 P.2d 144, 150 (1972); (quoting Brighton Ditch Co. v. City of Englewood, 124 Colo. 366, 377, 237 P.2d 116, 122 (1951)). Similarly, entities that produce or develop artificial water that would otherwise

have been unavailable to the stream system—e.g., water trapped in abandoned mine shafts—can exert a continuing right to such water outside the existing priority system on the stream. See Comrie v. Sweet, 75 Colo. 199, 201, 225 P. 214, 215 (1924).

However, we have also recognized a distinction between the introduction of entirely new imported or developed water from an unconnected system and the mere transportation of water to different areas within the same general system. In Benson v. Burgess, 192 Colo. 556, 561, 561 P.2d 11, 15 (1977), we discussed an appellant's claim that water transported from one stream to another stream, both of which were tributary to the same river, should be treated as imported water for the purpose of evaluating rights in return flows. Although that issue was not dispositive, we incorporated the following discussion relevant to the present case:

We wish to mention another distinction in Fulton [Irrigating Ditch], 179 Colo. 47, 506 P.2d 144, involving transmountain diverted water. Here, Surface Creek and Currant Creek are in close proximity to each other. Their confluences with the Gunnison River are only about four miles apart. As illustrated by the Cedar Mesa irrigation, surface flow could be transported by gravity over a relatively short distance from Surface Creek to Coryell Gulch, the tributary of Currant Creek. We need not, and do not, express an opinion as to the rights of a municipality where there is, as appellants characterize it, a "transbasin" diversion with uses such as Denver employed in Fulton. We merely point out that there is a vast distinction between a transmountain diversion as was involved in Fulton and a so-called transbasin diversion of irrigation water as here.

*Id.* at 561, 561 P.2d at 15. Although our discussion of this issue constituted dicta in Benson, we see no distinctions in the present situation that convince us that a contrary line of reasoning should be adopted. Through its use of the Larimer County Canal, Thornton transports water from the Poudre River to an area that the river otherwise would not have reached. However, the area to which the water is carried is not within an entirely different watershed or drainage area. The water was initially diverted from the Poudre River, a tributary of the South Platte River, and the aquifer fed by the return flows from irrigation with this water remains a part of the tributary system of these rivers. Thus, unlike water imported from across the Continental Divide, Thornton's irrigation water is not new to the system; Thornton essentially changed only the place of use of that water. This type of diversion is common in Colorado and users downstream from these diversions have every reason to believe that they are among those protected against injury. Therefore, we decline to extend the special treatment afforded imported and developed water to the "transbasin" diversion within the same general water system at issue here.

Thornton further suggests that it should be able to replace the return flows directly to the river because the South Platte surface diverters hold rights more senior than the well operators and have a superior entitlement to return flow maintenance. Such a distinction is both unsupported and impermissible. Neither the statute nor the case law conditions the protection that must be provided to other users in a change of water right proceeding on the relative priority of the potentially injured users. See § 37-92-305(3), 15 C.R.S. (1990); see also Southeastern Colo. Water Conservancy Dist. v. Rich, 625 P.2d 977, 980-81 (Colo. 1981). Although a junior well operator's ultimate ability to divert return flows may be subject to a call by a more senior appropriator with surface rights downstream, the administration of these competing priorities is vested in the state and division engineers. See §§ 37-92-501, -502, 15 C.R.S. (1990); Rich, 625 P.2d at 980-81. The relationships among these potentially injured downstream users have no bearing on the duties of Thornton as the applicant for a change of water rights. Thornton must protect all vested water rights affected by the proposed change against injury.<sup>[75]</sup> For the foregoing reasons, we affirm the trial court's determination that well operators drawing from tributary groundwater are entitled to the maintenance of return flows as a condition of a change of water right.

## **2. Application to Wells Decreed Nontributary**

Our holding that Thornton must replace return flows for the benefit of tributary well users does not terminate our review of the recharge condition. Thornton argues that even if tributary well operators are entitled to replacement of return flows, this protection should not extend to those wells decreed and operated as nontributary wells. The record shows that the well operated by objector Hutcheson and approximately 400 other wells in and around the recharge area were decreed as nontributary in a 1953 adjudication. The trial court refused to give effect to this decree, declaring in hindsight that the decree reached erroneous scientific conclusions. MOD at 24. Notwithstanding the trial court's determination, we hold that the principle of collateral estoppel requires us to honor the 1953 decree and to treat the wells covered in that decree as nontributary.



The doctrine of collateral estoppel, or "issue preclusion," mandates that the final decision of a court on an issue actually litigated and determined is conclusive of that issue in any subsequent suit. City of Denver v. Consolidated Ditches Co., 807 P.2d 23, 32 (Colo.1991); Pomeroy v. Waitkus, 183 Colo. 344, 350, 517 P.2d 396, 399 (1973). Collateral estoppel bars relitigation of an issue if: (1) the issue is identical to that actually and necessarily adjudicated in a prior proceeding; (2) the party against whom estoppel is asserted was a party or in privity with a party in the proceeding; (3) there was a final judgment on the merits; and (4) the party against whom estoppel is asserted had a full and fair opportunity to litigate the issues in the prior proceeding. City & County of Denver v. Block 173 Assocs., 814 P.2d 824, 831 (Colo.1991); Industrial Comm'n v. Moffat County Sch. Dist. RE No. 1, 732 P.2d 616, 619-20 (Colo.1987).

83 The applicability of the doctrine of collateral estoppel to the present case is clear. The proceedings culminating in the 1953 decree were directed at determining the priority of competing rights in both surface water and groundwater in the area then classified as Water District No. 3. Because nontributary groundwater was not integrated into the surface water priority system, the trial court necessarily received evidence as to the tributary or nontributary status of the approximately 400 wells at issue in order to determine the relative priority of well diversions. Based on these proceedings, in which the current well operators or their predecessors participated or had an opportunity to participate, the court specifically found that the source of water for the wells at issue was "not substantially tributary to any natural stream and which would not appreciably by natural conditions reach or augment the flow of any natural stream." Ex. A-713, at p. 7. Following an adjudication process in which the relevant parties had an opportunity to \*83 litigate the issue, the court issued a final judgment that these wells are nontributary. Under the doctrine of collateral estoppel, this judgment is enforceable against the original well operators and their successors.

Based on evidence in the present case, the trial court stated that the Larimer County District Court's 1953 determination that the wells were supplied from nontributary sources was erroneous. Although the evidence seemingly supports this conclusion, we do not agree with the trial court's decision that the 1953 decree need not be given effect. As we have previously noted, a "trial court has jurisdiction to render an erroneous decision, which may be reviewed on appeal. Consequently, a judgment entered within the jurisdiction of the court, even though wrong, is not subject to collateral attack." Closed Basin Landowners Ass'n v. Rio Grande Water Conservation Dist., 734 P.2d 627, 637 (Colo.1987) (citation omitted). Pursuant to the 1953 decree, the decreed wells have been operated under the rules governing nontributary wells—i.e., they have operated free from the requirements placed on tributary wells that downstream flows be augmented to compensate for out-of-priority diversions. The operators of these decreed nontributary wells are not now free to seek partial tributary status for these wells under circumstances where nontributary status is no longer advantageous. Although the trial court does not purport to overturn the 1953 decree, its holding essentially amounts to a collateral attack on the initial nontributary determination. Such an attack, even on an erroneous decision, is barred by the doctrine of collateral estoppel. See State Eng'r v. Smith Cattle, Inc., 780 P.2d 546 (Colo.1989) (holding that the doctrine of res judicata barred relitigation of an allegedly erroneous court determination that certain waters were not tributary to the Arkansas River).

The wells adjudicated nontributary in the 1953 decree must therefore be treated as nontributary in the present matter as well. Nontributary groundwater users are not specifically excluded from the injury protection provisions of the Water Right Determination and Administration Act of 1969, see § 37-92-305(3), 15 C.R.S. (Colo.1990) (protecting "vested water rights" against material injury from change of water right), and rights in such water may be adjudicated under the Act, see § 37-92-203(1), 15 C.R.S. (1990). However, the right to withdraw nontributary groundwater is not governed by the doctrine of prior appropriation but derives from a separate legislatively-prescribed system based on ownership of the overlying lands. American Water Dev., Inc. v. City of Alamosa, 874 P.2d 352, 369 (Colo.), cert. den., U.S. 115 S.Ct. 575, 130 L.Ed.2d 491 (1994). Because the 1953 decree essentially found no hydrologic connection between the source for the wells decreed nontributary and the underground flows tributary to the Poudre River, it would be logically inconsistent to grant protection for these decreed nontributary wells against the loss of return flows recognized as tributary to that river. Accordingly, those wells decreed as nontributary in the 1953 decree are not entitled to maintenance of return flows. We therefore remand to the trial court for identification of the location of these decreed nontributary wells and for revision of its recharge condition in light of our decision.

### ***E. Revegetation***

As a condition of the approval of Thornton's change of use of its WSSC shares, the trial court imposed future revegetation requirements for the presently irrigated lands that will be taken out of irrigated agricultural production following its proposed change of use. Because the revegetation conditions are complex and detailed, we include only a

brief summary here.

84 Under the terms of the decree, prior to converting its WSSC shares to municipal uses, Thornton must establish one of the following on the lands that will no longer be irrigated: (1) dryland farming practices; (2) native grasses or other self-sustaining suitable dryland ground cover; or (3) suitable nonagricultural uses. Decree, ¶ 54.9, at 65-66. If dryland farming is chosen, Thornton must obtain an initial determination from experts approved by the Division Engineer that the land is suitable for such farming and must again obtain such a determination after \*84 the land has been operated as dryland farm for three years. If Thornton chooses to establish dryland ground cover, the determination that such ground cover is suitable shall be made in accordance with the standards used by the United States Department of Agriculture Soil Conservation Service in its Conservation Reserve Program by a person with appropriate expertise in the field of agronomy as determined by the Division Engineer. The trial court also retained jurisdiction "to review the Division Engineer's approval of experts as well as those experts' determinations," Decree, ¶ 59, at 66, and "to review determinations as to whether a self-sustaining suitable dryland ground cover has or has not been established." Decree, ¶ 63.1.3, at 87. Thornton challenges the validity of these conditions.

The change in use of a water right from irrigation to other purposes often results in serious detrimental consequences for the land no longer receiving water. In 1992, the General Assembly stressed the importance of mitigating these negative effects by enacting a statute requiring conditions on such changes in use that ensure the revegetation of the dewatered lands. The revegetation provision, originated as Senate Bill 92-92, reads as follows:

*Standards with respect to rulings of the referee and decisions of the water judge. (4.5) Terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses include reasonable provisions designed to accomplish the revegetation of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court.*

§ 37-92-305(4.5), 15 C.R.S. (1995 Supp.). By its terms, however, this provision did not take effect until April 16, 1992, and applies only to applications for changes of water rights filed on or after that date. Ch. 334, sec. 3, § 37-92-305(4.5), 1992 Colo. Sess. Laws 2289, 2290. Because Thornton's change application was filed in 1987, the statute is not directly applicable in this matter.

However, the absence of a direct statutory mandate requiring that revegetation conditions be imposed does not necessarily resolve this issue. We must determine whether the water court, prior to the passage of section 37-92-305(4.5), possessed the power to impose a revegetation condition on the exercise of Thornton's change in use—*i.e.*, whether section 37-92-305(4.5) vested new authority in the water court or merely codified previously existing powers and practices. Thornton initially argues that the General Assembly's limitation of the application of section 37-92-305(4.5) to applications filed after its passage indicates that the power to impose revegetation conditions was not previously within the authority of the water court and that the date restriction was intended to protect pending applications from the exercise of these new powers. This contention is refuted, however, by the legislative history of Senate Bill 92-92.<sup>[76]</sup> Senator McCormick, the sponsor of section 305(4.5), argued for passage of the bill by citing the revegetation conditions already imposed by certain water courts to protect dewatered lands. Addressing the Senate Agriculture, Natural Resources, and Energy Committee, Senator McCormick described the impact and genesis of the bill:

85 [T]his is perhaps a degree of a token bill... but I think that it's a meaningful token \*85 and I think that it puts in the hands of the water courts, who have demonstrated extreme good faith in this regard that they can in their own geographical area, with consideration of their own hydrology, take some minimal steps to stop the desert encroachment that I foresee coming.... And I recognize the good faith effort that Aurora, for example, has put forth in the lower Arkansas Valley.... That was done only because of a judgment of the court, in what amounted to dicta in my opinion, as [the judge] enunciated in his decision that, "You shall not take that water until [you meet certain revegetation conditions]." .... And so that's what this does.

Hearings on S.B. 92-92 Before the Senate Agriculture, Natural Resources, and Energy Committee, 58th Gen. Assembly, 2d Reg. Sess., Feb. 4, 1992, Audio Tape No. 92-7. Senator McCormick also gave the following explanation of the bill to the full Senate immediately before the Senate voted to approve the bill on second reading:

The purpose of this [bill] is to make sure that we take some planned legal steps to prevent the intrusion of the "Great American Desert" into large areas of rural Colorado.... The impact of [section 305(4.5)] will be

to put into statutes a formal notice of what Judge Tracey in southeastern Colorado has already ruled and is available as dicta. I think that it's proper to put this into the statute, that it will be beneficial to the state of Colorado.

Floor Debate on S.B. 92 Before the Full Senate, 58th Gen. Assembly, 2d Reg. Sess., Feb. 18, 1992, Audio Tape No. 92-11.

Senator McCormick's statements reveal a recognition that a water court had acted properly in imposing revegetation requirements prior to the consideration and passage of Senate Bill 92-92. The bill was intended to codify and institutionalize the use of these revegetation conditions and did not represent the creation of a new form of condition on changes in use of water rights. In light of the explicit recognition of previous judicially imposed revegetation conditions in the legislative history, we cannot accept Thornton's contention that the legislature's inclusion of an effective date limitation reflects an intention by the General Assembly that the water courts be prohibited from imposing revegetation conditions on applications filed before passage of section 37-92-305(4.5). Thurman v. Tafoya, 895 P.2d 1050, 1055 (Colo.1995) (if statute is ambiguous, court may consider the statute's legislative history as indicative of legislative intent); Hyland Hills Park & Recreation Dist. v. Denver & R. Grande W.R.R., 864 P.2d 569, 574 n. 7 (Colo.1993) (contemporaneous statements of individual legislators made at committee hearings are relevant as indicia of legislative intent). The date limitation merely leaves the decision regarding the imposition of revegetation conditions on changes in use applied for before the passage of section 37-92-305(4.5) where it already rested—*i.e.*, in the sound discretion of the water court.

Our past decisions concerning the administration of changes of water rights further support the conclusion that section 37-92-305(4.5) merely made specific an existing implicit water court discretionary power. Thornton argues that prior to the enactment of that statute, the water court's authority to impose conditions on a change in water right was strictly limited to situations in which such conditions were necessary to prevent injury to vested water rights. Because neither the record nor the trial court decree identifies any injury to vested water rights that would occur in the absence of the revegetation condition, Thornton contends that such a condition exceeded the water court's authority. However, a brief examination of the role of the water court reveals that Thornton's contentions are without merit.

86 The development of Colorado water law has always been driven by the scarcity and value of this resource within the state. Accordingly, the water right administration system developed by the General Assembly focuses on alleviating the scarcity by "maximiz[ing] the beneficial use of all of the waters of this state," § 37-92-102(1)(a), 15 C.R.S. (1990), and preserving the value by protecting vested rights in state waters, *e.g.*, *id.* § 102(2)(a); § 37-92-305(3). Under the Water Right Determination and Administration Act of 1969, §§ 37-92-101 to -602, 15 \*86 C.R.S (1990 & 1995 Supp.), the water judges are given the difficult task of achieving the integration of these oft-conflicting policies. Thus, an important aspect of the water court's task is to assure the maximum beneficial use of water while adequately protecting against injury to vested water rights. *E.g.*, Northern Colo. Water Ass'n v. Three Peaks Water, Inc., 859 P.2d 836, 844 (Colo. 1993); State Eng'r v. Castle Meadows, Inc., 856 P.2d 496, 505 (Colo.1993); In re Water Rights of Cities of Aurora & Colo. Springs, 799 P.2d 33, 37 (Colo.1990); Orr v. Arapahoe Water & Sanitation Dist., 753 P.2d 1217, 1223 (Colo.1988).

In addition to this dual focus on maximum beneficial use and the protection of water rights, water judges must give consideration to the potential impact of the utilization of water on other resources. Our decisions establish that the goal of maximum utilization must be "implemented so as to ensure that water resources are utilized in harmony with the protection of other valuable state resources." Castle Meadows, 856 P.2d at 505. In Southeastern Colorado Water Conservancy District v. Shelton Farms, Inc., 187 Colo. 181, 529 P.2d 1321 (1974), we recognized the potential dangers of adopting a water principle that would encourage the elimination of plant life to the detriment of land and other resources:

We are not unmindful that the statute speaks of the policy of maximum beneficial and integrated use of surface and subsurface water. But efficacious use does not mean uplifting one natural resource to the detriment of another. The waters of Colorado belong to the people, but so does the land. There must be a balancing effect, and the elements of water and land must be used in harmony to the maximum *feasible* use of both.

*Id.* at 191, 529 P.2d at 1327 (emphasis in original); accord R.J.A., Inc. v. Water Users Ass'n of Dist. 6, 690 P.2d 823, 828-29 (Colo. 1984) (effects on other resources and preservation of the natural environment are proper considerations for the water court in implementing the beneficial use of water); In re Rules & Regulations Governing the Use, Control,

and Protection of Water Rights, 674 P.2d 914, 935 (Colo.1983) ("Optimum use [of water] can only be achieved with proper regard for all significant factors, including environmental and economic concerns."); §§ 37-92-102(3), -103(4), 15 C.R.S. (1990) (recognizing the need for "reasonable" preservation of the natural environment and allowing minimum stream flow and natural lake surface level and volume appropriations on behalf of the people of the state of Colorado for that purpose). These provisions and precedents leave little doubt that the water court's ability to impose conditions to protect against injury to natural resources other than water existed prior to the passage of section 37-92-305(4.5).

In the present case, Thornton seeks to change the use of certain of its water rights to municipal uses, with the concomitant result that numerous farms previously irrigated by the exercise of these rights will no longer receive water. In the absence of revegetation or other suitable reuse, these previously productive lands may revert to desert or suffer weed infestation that would threaten their future usefulness. Given these potentially deleterious effects on a significant quantity of land, we find the revegetation condition an acceptable and important tool to accomplish the goal of maximum feasible use of both land and water. Thus, we hold that imposition of the revegetation condition was within the trial court's authority, existing prior to the passage of section 37-92-305(4.5), to balance the beneficial use of water with the preservation of other natural resources, see Shelton Farms, 187 Colo. at 191, 529 P.2d at 1327; R.J.A., Inc., 690 P.2d at 828-29, and we affirm the revegetation condition imposed by the trial court and the court's retention of jurisdiction to ensure the proper compliance with the terms of the condition.

### **F. Dry-Up Conditions**

87 An additional issue relating to Thornton's change of water rights concerns the trial court's decision not to impose dry-up requirements on additional farms in the WSSC service area. As a component of its Northern Project, Thornton purchased 283.354 of the 600 issued and outstanding shares in the \*87 Water Supply and Storage Company (WSSC). Of the shares purchased by Thornton, approximately 251 shares were obtained in combination with the lands on which these shares had been used for irrigation. Thornton acquired approximately 31.5 shares, referred to as the "floating shares," independent of any accompanying land. Although evidence of the historical use of these "floating shares" is limited, a significant majority of these shares apparently were previously used to irrigate lands not among those lands later purchased by Thornton. Testimony at trial indicated that the "floating shares" had been or were soon to be transferred for use on the Thornton lands.

Thornton intends to implement its change of water rights to allow the use of its share of WSSC water in Thornton beginning in the year 2002. As part of its decree granting Thornton's proposed change, the trial court imposed certain dry-up conditions on Thornton "to prevent expansion of use of non-Thornton WSSC or JDC shares which may be moved to Thornton farms following the removal of Thornton's shares from irrigation." Decree, ¶ 54.6, at 61-63. Specifically, the court required Thornton to dry up—*i.e.*, prevent any future irrigation on—those farms that it acquired along with its WSSC shares. *Id.* However, despite NCWCD's attempts to secure additional dry-up restrictions, the court did not require Thornton to dry up any lands historically irrigated by the "floating shares."

The trial court based its decision on both findings of fact and a conclusion of law. Initially, the court made the following factual finding in its decree:

*Water Adequacy and Dry-up.* The irrigated farmland which receives water attributable to WSSC and JDC shares is generally water-short or marginally water-adequate. There is either insufficient or merely adequate water available to satisfy the potential consumptive use of the crops grown. Historically, consumptive use of water attributable to WSSC and JDC shares was limited by the amount of water available for diversion and not by the amount of land available for irrigation. Therefore, dry-up of Thornton's farms as provided by the terms and conditions below will be adequate to prevent injury from expanded use due to Thornton's change of water rights.

Decree, ¶ 11.4.5, at 12. Furthermore, in the Conclusions of Law section of the final decree, the trial court held:

While prevention of injury to other vested water rights is a legal requirement which must be met by each applicant for a change of use of a water right, complete dry-up of all land on which the water has been used is not always necessary to prevent injury, and therefore is not a legal requirement. Under the circumstances of this case, the terms and conditions regarding dry-up contained in this decree are adequate to prevent injury. Enlarged Southside Irr. Ditch Co. v. John's Flood Ditch Co., 116 Colo. 589, 183 P.2d 556, 557 (1947).



Decree, ¶ 42, at 38. Objector NCWCD appeals the trial court's decision not to require additional dry-up of lands historically irrigated with the "floating shares."

As we have noted throughout this opinion, the legal requirements for approval of a change of use of a water right are codified in section 37-92-305(3), 15 C.R.S. (1990). Pursuant to this provision, the water court shall approve a change in water right "if such change ... will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right." *Id.* To ensure the protection of such rights, the parties may suggest and the water court may impose conditions on the change, including the dry-up of previously irrigated lands. See *In re Application for Water Rights of Certain Shareholders in Las Animas Consol. Canal Co.*, 688 P.2d 1102, 1105 (Colo.1984) (*Las Animas Canal*) (requiring dry-up as one of several conditions for approval of change of use of an agricultural water right). However, the statute does not mandate the complete dry-up of all lands irrigated prior to the change, and the trial court correctly held that dry-up is required only to the extent that it is necessary to serve the statute's purpose of preventing injury to water rights. Consequently, complete dry-up is not, as a \*88 matter of law, a required condition in every change case involving irrigation water rights, and the validity of a dry-up condition turns on the facts and circumstances of each particular change application.

The applicant for a change of water right bears the initial burden of establishing the absence of injurious results from the proposed change. § 37-92-305(3), 15 C.R.S. (1990) ("The applicant shall ... have the burden of sustaining the application ... and in the case of a change of water right or a plan for augmentation the burden of showing absence of any injurious effect."); *Rominiecki v. McIntyre Livestock Corp.*, 633 P.2d 1064, 1068 (Colo.1981). Once the applicant successfully meets this initial burden, however, the objectors have the burden of going forward with evidence of injury to existing water rights, *Simpson v. Yale Invs., Inc.*, 886 P.2d 689, 697 (Colo.1994); *Las Animas Canal*, 688 P.2d at 1108, and such injury "must be demonstrated by evidential facts and not by potentialities." *Simpson*, 886 P.2d at 696 (quoting *Brighton Ditch Co. v. City of Englewood*, 124 Colo. 366, 371, 237 P.2d 116, 119-20 (1951) (citations omitted)). Thus, the water court's injury determination follows a factual inquiry that requires the court to assess the credibility of competing evidence presented by the parties. See *State Eng'r v. Castle Meadows, Inc.*, 856 P.2d 496, 508 (Colo.1993) ("The issue of injurious effect is inherently fact specific and one for which we have always required factual findings.").

In the present case, the trial court recognized that the possible injury to be addressed by dry-up requirements is the potential for enlarged use of non-Thornton WSSC water shares on farms previously irrigated with Thornton's WSSC shares. Decree, ¶ 54.6, at 61. Specifically, if other WSSC shareholders can improve the efficiency of their future irrigation use, they would retain additional water that could be used to irrigate the lands no longer irrigated by Thornton, with the ultimate result that consumptive use would increase and downstream users would suffer a loss of return flows. At trial, both Thornton and NCWCD, the objector appealing the trial court's decision on this issue, presented extensive expert testimony concerning the need for dry-up requirements in the final decree and the likelihood that injurious expanded use would occur. We will not overrule the trial court's evaluation of this evidence on appeal. *Willows Water Dist. v. Mission Viejo Co.*, 854 P.2d 1246, 1251 (Colo. 1993) ("The sufficiency, probative effect, and weight of the evidence before the water court, together with the inferences and conclusions to be drawn therefrom, will not be disturbed unless they are so clearly erroneous as to find no support in the record.").

Thornton's expert, water engineer and consultant Dan Ault, testified that the WSSC system is a water-short system without sufficient water available to meet the demands of crops across the entire acreage of the system. Ault estimated that the WSSC system had available only seventy-nine percent of a full water supply, basing this testimony on a farm-by-farm and system-wide analysis of the available water supply within the WSSC system and the potential consumptive use of the crops on the farms. The impact of this testimony is that complete dry-up is unnecessary because there will be insufficient water to expand irrigation onto additional lands. Accordingly, Ault stated that Thornton's consolidated applications, as limited by the terms and conditions agreed upon by the parties, which included dry-up requirements affecting the Thornton farms but not lands irrigated by the "floating shares," could be approved and operated without injury to other water users.

NCWCD introduced the testimony of their own experts, water engineers Eric Wilkinson and Jon Althofen. Wilkinson testified that the majority of the "floating shares" have historically been used on non-Thornton farms and that the change to municipal use without the dry-up of specific lands could cause injury to existing water rights through expansion of use of other shares on these lands. Althofen's testimony centered on whether the WSSC system could be characterized as a water-short system. He offered his opinion that a system, like the WSSC system, that did not meet potential consumptive use requirements but produced both deep percolation and surface runoff should not be considered water-short because this percolation \*89 and runoff could be captured by more efficient irrigation methods for expanded use on other available

lands. Accordingly, Althofen testified that the WSSC system is water adequate and susceptible to enlarged use if complete dry-up is not required.

After reviewing the conflicting evidence and opinions presented by the parties, the trial court accepted the characterization of the WSSC system lands presented by Dan Ault, Thornton's expert. Specifically, the court found that the lands served by the WSSC water system are "generally water-short or marginally water-adequate," and that "the consumptive use of water attributable to WSSC and JDC shares was [historically] limited by the amount of water available for diversion and not by the amount of land available for irrigation." Decree, ¶ 11.4.5, at 12. Therefore, the court held that dry-up of lands historically associated with the "floating shares" was not required to prevent injury.<sup>[77]</sup> See *id.*; Decree, ¶ 42, at 38.

Given the factual nature of the injury inquiry, the water court's "factual determinations and conclusions based thereon cannot be disturbed on appeal if they are based on the record." Simpson, 886 P.2d at 698; accord Peterson v. Ground Water Comm'n, 195 Colo. 508, 516, 579 P.2d 629, 634 (1978). In the present case, the trial court held that the terms and conditions relating to dry-up in the decree, which required dry-up of the Thornton farms but did not require the dry-up of lands associated with the so-called "floating shares," were sufficient to prevent injury to existing water rights.<sup>[78]</sup> Our review of the record establishes that sufficient competent evidence existed to support the water court's determination that dry-up of lands previously irrigated by the "floating shares" was not necessary to prevent injury. Accordingly, we affirm the trial court's determination and decline to require any additional dry-up conditions.

### **G. Kodak Water Quality Issue**

We turn now to issues relating to the potential water quality impacts of the Northern Project. The first of these issues on appeal concerns the water court's resolution of certain water quality issues raised by objector Eastman Kodak Company, Colorado Division (Kodak). Kodak operates a manufacturing plant on the Poudre River near Windsor, Colorado. As part of its industrial processes, Kodak uses between 1.1 and 1.3 million gallons of water per day. Kodak receives this water pursuant to an allotment contract with NCWCD, and the water is delivered after treatment by the City of Greeley. Following the use of this water at the plant, it is collected and treated at Kodak's on-site industrial wastewater treatment plant. After treatment, Kodak discharges the water into the Poudre River.

90 Kodak's discharge of treated wastewater is conducted under a wastewater discharge permit issued by the Colorado Department of Health<sup>[79]</sup> Water Quality Control Division \*90 (Water Quality Division or Division). Pursuant to this permit, Kodak's discharge must meet or remain below certain effluent limits for various chemicals, including ammonia. These effluent limits are based in part on an average low-flow value in the river in the vicinity of Kodak's discharge point,<sup>[80]</sup> and Kodak has consistently met these current limitations through operation of its existing treatment facility.

Thornton's proposed Poudre River exchange (case 86CW401) will have a negative, if indirect, impact on Kodak's waste treatment operations. The exchange proposed by Thornton contemplates the diversion of water from the Poudre River above the location of Kodak's plant and return of the substitute supply into the Poudre below the plant. The water being exchanged upon is not water necessary to satisfy Kodak's appropriative rights—*i.e.*, the amount of water remaining in the river after the exchange diversion will be sufficient to allow Kodak to divert the full amount of its appropriative right. Furthermore, as a consequence of the location of the point chosen for return of the substitute supply, none of the substituted water even passes by the Kodak facility. The effect of the exchange about which Kodak complains, however, is the substantial depletion of Poudre River flows at Kodak's plant. Kodak presented evidence that this depletion in flow will affect the average low-flow rates on which Kodak's effluent limits are based and result in stricter unionized ammonia limits on Kodak's discharged water. Kodak alleges that such more stringent standards would require the construction of an entirely new treatment facility at a cost of between nine and twelve million dollars. Kodak objected to Thornton's exchange, seeking imposition by the water court of unspecified terms and conditions to protect the company against these negative impacts on its treatment operations.

91 In its Memorandum of Decision, the trial court interpreted Kodak's request for protective terms and conditions as a request for a minimum instream flow right for waste dilution purposes, MOD at 37, and held that it was forbidden to decree such a right except as specifically authorized by statute, *id.* The court noted that "issues relating to water quality are primarily the concern of the appropriate federal and state administrative agencies." *Id.* The court ultimately approved the exchange subject to various conditions designed to provide protection of water quality.<sup>[81]</sup> However, these \*91 conditions assure that the substitute supply to be introduced into the river below Kodak's plant will meet statutory



standards, see §§ 37-80-120(3) and 37-92-305(5), 15 C.R.S. (1990), and do not provide any relief to Kodak.<sup>[82]</sup> Accordingly, Kodak appeals the trial court's decision to approve the Poudre River exchange without specifically addressing the impact of the exchange on Kodak's water treatment operations.

## 1. Relation Between Appropriation Doctrine and Quality Issues

From the earliest cases, Colorado courts have given at least some recognition to water quality concerns, holding, for example, that a water right does not include the right to discharge pollutants that detrimentally affect downstream users. See, e.g., Suffolk Gold Mining & Milling Co. v. San Miguel Consol. Mining & Milling Co., 9 Colo.App. 407, 48 P.828 (1897); see also Wilmore v. Chain O'Mines, Inc., 96 Colo. 319, 44 P.2d 1024 (1934); Humphreys Tunnel & Mining Co. v. Frank, 46 Colo. 524, 105 P. 1093 (1909). However, beyond recognition of this general prohibition on unreasonable discharges, the system of water quality regulation in Colorado reflects a continued conflict with and subordination to the prior appropriation system. Rather than consolidating the power to regulate water quantity and water quality in the same body, Colorado divides responsibilities for these matters between two very distinct entities. The prior appropriation system, embodied in the adjudication of appropriative rights to water, is presided over by the judiciary in general and the water court in particular. See Water Right Determination and Administration Act of 1969, §§ 37-92-101 to -602, 15 C.R.S. (1990 & 1995 Supp.). Operating under the constitutional and statutory policy of maximum beneficial use, see, e.g., Colo. Const. art. XVI, §§ 5 & 6; § 37-92-102(1)(a), 15 C.R.S. (1990); Fellhauer v. People, 167 Colo. 320, 336, 447 P.2d 986, 994 (1968), the water court reviews applications for adjudication of appropriative rights and evaluates compliance with the statutorily mandated components of diversion and beneficial use, see §§ 37-92-103(3)(a), -103(4), -103(7), -305(9)(a), 15 C.R.S. (1990). Although the water court must consider the effects on other water users when a water right owner seeks a change of water right, see § 37-92-305(3), 15 C.R.S. (1990), water court protection of such other users has traditionally been limited to ensuring that they do not suffer a decrease in the quantity of water available through exercise of their rights. See, e.g., In re Application for Water Rights in Las Animas Consol. Canal Co., 688 P.2d 1102 (Colo.1984); City of Colo. Springs v. Bender, 148 Colo. 458, 366 P.2d 552 (1961). The court is explicitly required to consider water quality issues only in the case of an exchange whereby water is being actively substituted into the stream for the use of other appropriators, see, e.g., § 37-80-120(3), 15 C.R.S. (1990). The water court's primary concern is thus limited to aspects of appropriations unrelated to water quality.

92 In the Colorado Water Quality Control Act, §§ 25-8-101 to -703, 11A C.R.S. (1989 & 1995 Supp.), the legislature delegated authority over water quality regulation to the Water Quality Control Commission and the Water Quality Division. These agencies \*92 were created to develop and enforce water quality standards across the state. See §§ 25-8-202, -302, 11A C.R.S. (1989 & 1995 Supp.). Although these agencies exercise considerable authority over water users, the legislature made clear its intention that this authority cannot be exercised in a manner that significantly compromises the appropriative rights of present or future water users. The Water Quality Control Act states in pertinent part:

No provision of this article shall be interpreted so as to supersede, abrogate, or impair rights to divert water and apply water to beneficial uses in accordance with the provisions of sections 5 and 6 of article XVI of the constitution of the state of Colorado, compacts entered into by the state of Colorado, or the provisions of articles 80 to 93 of title 37, C.R.S., or Colorado court determinations with respect to the determination and administration of water rights. Nothing in this article shall be construed, enforced, or applied so as to cause or result in material injury to water rights.

§ 25-8-104(1), 11A C.R.S. (1989). Water quality regulation that affects water rights without causing material injury or impairment is not necessarily prohibited. However, section 25-8-104(1) serves notice that despite the importance of water quality regulation, the legislature's primary emphasis in enacting this scheme is to maximize beneficial use and to minimize barriers to further beneficial appropriation. The result of this policy decision is essentially to focus water quality regulation on uses culminating in unreasonable discharges, as such discharges are not part of any appropriative right under common law.

For better or worse, this dual system limits the ability of both the water court and the water quality control agencies to address certain water quality issues. The plight of appropriators in Kodak's situation, who allege quality impacts as a result of appropriative depletion rather than substandard discharge or supply water, is a prime example of the limitations of the present system to provide remedies for all types of injuries. The statutory scheme governing water exchange proposals places a clear limitation on the "discharge" aspect of all exchanges—i.e., the provision of the substituted

supply of water. See § 37-80-120(3) ("Any substituted water shall be of a quality and continuity to meet the requirements of use to which the senior appropriation has normally been put."); § 37-92-305(5) ("Any substituted water [in the case of plans for augmentation including exchange] shall be of a quality and quantity so as to meet the requirements for which the water of the senior appropriator has normally been used..."). These statutory provisions are intended to protect the quality of the substitute supply for those senior appropriators who receive this water. To ensure compliance with this requirement in the present case, the trial court included these conditions in the decree to be administered by the state engineer. See Decree, ¶ 54.4.3, at 68. Neither the statute nor the decree, however, provides relief to an appropriator in Kodak's situation. Under the decreed operation of the Poudre River exchange, Thornton will return the substitute supply water to the river below the location of Kodak's plant. Kodak is physically unable to receive any of this substitute supply. Thus, the discharge-oriented water quality provisions relating to exchanges fail to protect appropriators in Kodak's position.<sup>[83]</sup>

## 2. Relation Between Quality and Cognizable Injury

93 Kodak argues, however, that under the "no-injury" statute, § 37-92-305(3), 15 C.R.S. (1990), the trial court can and must take into account quality impacts not related to substitute supply and impose any terms \*93 and conditions necessary to ensure that operation of the exchange will not "injuriously affect" Kodak's water rights. Accordingly, Kodak takes issue with the trial court's decision not to include any conditions in the decree to protect Kodak against increases in its wastewater treatment costs. Whether section 37-92-305(3) applies to all water exchange projects is not clear from the statutory language. However, we need not decide that issue in the present case. Even assuming that "no-injury" review of Thornton's exchange was required, we agree with the trial court that the legislative water quality scheme is not designed to protect against quality impacts unrelated to discharges or substitute water and specifically prohibits the water court from imposing the protective measures necessary to remedy depletive impacts of upstream appropriations on an appropriator in Kodak's situation.<sup>[84]</sup>

Kodak does not allege that operation of the Poudre River exchange will reduce the quantity of water available in the river to a volume less than the amount of its appropriative right. Kodak also cannot contend that the substitute supply provided by Thornton in the Poudre River exchange will affect the quality of the water diverted to its plant. The sole negative impact of the Poudre River exchange on Kodak's treatment operations results from a diminution in the flow of excess river water—*i.e.*, water that would otherwise flow by Kodak's plant but that is in excess of the amount that can be diverted under Kodak's water right. Because the volume of water in a stream just upstream of the discharge point is a controlling variable in the formula to set effluent limits, Kodak contends that diminution in flow caused by operation of the exchange will necessarily result in more stringent effluent limits for Kodak. However, to avoid this impact on Kodak's treatment operations, the trial court would have had to impose conditions that required maintenance of sufficient volume in the stream to preserve the average low-flow values that determine Kodak's effluent limits. Despite Kodak's arguments to the contrary, such protection would necessarily require the imposition of conditions creating a private instream flow right for Kodak for the purpose of waste dilution or assimilation.<sup>[85]</sup>

## 3. Relation Between Quality and Minimum Stream Flow

The legislature expressed a clear intent to prohibit private parties from adjudicating instream flow rights. Pursuant to section 37-92-102(3), 15 C.R.S. (1990), the General Assembly vested exclusive authority in a state entity, the Colorado Water Conservation Board (CWCB), to appropriate minimum stream flows and limited the purpose for these appropriations to "preserv[ation of] the environment to a reasonable degree." See *City of Thornton v. City of Fort Collins*, 830 P.2d 915, 930 (1992); *Board of County Comm'rs v. Collard*, 827 P.2d 546, 551 n. 10 (Colo. 1992). The same provision reinforces this exclusivity with the following prohibition:

94 \*94 In the adjudication of water rights pursuant to this article and other applicable law, no other person or entity shall be granted a decree adjudicating a right to water or interests in water for instream flows in a stream channel between specific points ... for any purpose whatsoever.

§ 37-92-102(3), 15 C.R.S. (1990). The meaning of this exclusive delegation of authority is clear—the judiciary is without authority to decree an instream flow right to any private entity.

The legislature similarly prohibited the Colorado Water Quality Commission and the Water Quality Division from imposing

minimum instream flows in the course of their water quality protection activities. These agencies must perform their duties subject to the following restriction: "Nothing in this article shall be construed to allow the commission or the division to require minimum stream flows...." § 25-8-104(1), 11A C.R.S. (1989). This language reinforces the legislative intent expressed in the water right adjudication provisions that minimum stream flows are not a valid tool for protecting water quality.

Even in the absence of a specific legislative prohibition, the type of right sought by Kodak is inconsistent with Colorado law and policy concerning appropriations. Kodak currently diverts the full amount of its appropriative right, which it exercises pursuant to its water allotment contract with NCWCD, and the company does not argue that Thornton's exchange will affect its future ability to divert its maximum appropriated amount. Instead, Kodak claims an additional amount of water, above that amount which it can lawfully divert, to ensure the less expensive exercise of its right. Because this additional water exceeds the amount to which Kodak is entitled under its water right, Kodak cannot claim such water as part of its original appropriation. See *Rominiecki v. McIntyre Livestock Corp.*, 633 P.2d 1064, 1067 (Colo.1981) (appropriative right is limited to amount of water actually diverted and put to beneficial use). Without an appropriative right or otherwise established beneficial use, Kodak is not entitled to protection of its incidental use of this water against lawful appropriations by other users. See Colo. Const. art XVI, § 6 ("The right to divert the unappropriated water of any natural stream to beneficial uses shall never be denied."); see also *Bender*, 148 Colo. at 462, 366 P.2d at 555 ("[An appropriator] is not entitled to command the whole or a substantial flow of the stream merely to facilitate his taking the fraction of the whole flow to which he is entitled.") (citing *Schodde v. Twin Falls Water Co.*, 224 U.S. 107, 119, 32 S.Ct. 470, 472, 56 L.Ed. 686 (1912)). Absent a new appropriation, Kodak cannot establish a protected right to waters in excess of its current appropriation. We decline Kodak's invitation to avoid the effect of the specific prohibition on private instream flow rights by creating such a right in the guise of a condition imposed on the lawful appropriations of others.<sup>[86]</sup> Under the current system, with its emphasis on maximum beneficial use, Kodak's reliance on unappropriated water in excess of its appropriative right is subject to the risk that a lawful appropriator will appropriate that excess water.

#### **4. Conclusion**

We are not unaware of the interrelationship between water quantity and water quality concerns or the specific impact that Thornton's exchange will have on Kodak's operations. However, exchanges in the nature of Thornton's proposal are innovative methods of increasing the beneficial use of the state's waters. Under the current legislative scheme, the impact of which Kodak complains is tolerated as a consequence of the policy of maximum beneficial use. The decision whether further to integrate the consideration and administration of water \*95 quality concerns into the prior appropriation system is the province of the General Assembly or the electorate. Thus, we affirm the trial court's decision not to include conditions in the final decree designed to protect Kodak's waste treatment operations.

#### **H. Quality of Substitute Supply for WSSC Ditch Exchange**

The second water quality issue on appeal concerns the provisions in the final decree that regulate the quality of the substitute supply of water to be provided by Thornton as part of its planned WSSC ditch exchange (case 86CW402).

##### **1. Facts**

In 1986, Thornton entered into an agreement with WSSC in which WSSC consented to the operation of the exchange subject to the terms and conditions included in the agreement. At a special meeting of WSSC shareholders on December 19, 1986, the shareholders voted to ratify the agreement by a margin, including shares voted by Thornton, of 490.23 shares to 51.25 shares. Subsequently, on December 31, 1986, Thornton filed an application with the water court to adjudicate this exchange as an appropriative right. Thornton's proposal for the ditch exchange contemplates the out-of-priority diversion of high quality water from the Larimer County Canal, the main artery in the WSSC water supply system, to the city's water service area for municipal use beginning in approximately 2029. In return, Thornton will provide a substitute supply of lower quality water to the LCC from Poudre and South Platte River sources. In Phase II of the Northern Project, this exchange will operate only on the water associated with the non-Thornton WSSC shares. In Phase III, the exchange will be expanded to operate on all WSSC water in the LCC, including Thornton's WSSC shares.

The trial court imposed the following general requirements on the quality of the substitute supply that Thornton must

provide to complete the ditch exchange:

The substitute supply returned to the Larimer County Canal consists of water to be diverted from the Poudre and South Platte Rivers and must be of a quality and continuity to meet the requirements of use to which the water of all non-Thornton WSSC shareholders has normally been put, and must be of a quality and quantity so as to meet the requirements for which the water of all non-Thornton WSSC shareholders has normally been used. Furthermore, said substitute or replacement water must meet the lawful requirements of the non-Thornton WSSC shareholders at the time and location and to the extent the seniors would be deprived of their lawful entitlement by the Applicant's diversions and shall comply with all other water quality provisions of this decree applicable to the Ditch Exchange. The substitute supply returned to the Larimer County Canal shall comply with all contractual obligations of Thornton, including but not limited to the WSSC/Thornton contract, as well as with the other provisions of this decree.... Thornton's substitute supply shall also comply with the provisions of any lawful statute, regulation or ordinance of general applicability limiting, regulating or prescribing the quality of water which may be used for agricultural irrigation whether such statute, regulation or ordinance is now in existence or is adopted or enacted in the future, including future modifications thereof, and whether enacted or adopted by the State Engineer or any other governmental entity.

Decree, ¶ 14.3.6.3, at 24.

96 The "WSSC/Thornton contract" referenced by the trial court is the 1986 agreement in which WSSC consented to Thornton's operation of the exchange. Paragraph 5 of that contract requires that any substitute water provided by Thornton meet minimum water quality standards. The initial standards to be met are attached to the contract as Exhibit A and set parameters for a wide variety of contaminants to preserve the quality of the water for agricultural use. The contract provides, however, that if the actual water quality in the LCC drops below the contract standards, then the ambient quality of the ditch water becomes the temporarily acceptable standard. Finally, the contract allows for the temporary or permanent modification \*96 of the standards by mutual agreement of WSSC and Thornton. The contract does not explicitly specify the place at which the quality of the substitute supply must be measured.

In addition to the general decree provision quoted above, the trial court also placed more specific restrictions on Thornton's provision of substitute supply. The court delegated responsibility for determining the adequacy of the substitute supply to the State Engineer, Decree, ¶ 57.2.3.1, at 73, but held that the decree shall not act as an impediment to lawful regulatory and enforcement activities by other regulatory agencies, *id.* ¶ 57.2.3.2, at 73. The court further held that the substitute supply shall comply, "at its point of discharge to the ditch," with any statute or regulation governing the quality of water that may be used for normal agricultural irrigation. *Id.* ¶ 57.2.3.3, at 73. The court noted the provision of the WSSC contract allowing reduction of water quality standards to meet ambient levels of contaminants but clarified that this provision may never result in the quality of the substitute supply failing to meet the minimum water quality standards required for a discharge into a stream classified for agricultural use. *Id.* ¶ 57.2.3.5.1, at 74. The decree imposes monitoring requirements to be conducted throughout the operation of the ditch exchange at both the intake of the pump stations returning the substitute supply to the LCC, *id.* ¶ 57.2.3.5.2, at 74, and at various points along the WSSC system, *id.* ¶ 57.2.3.5, at 73-74. Finally, as a remedy specifically enforceable by WSSC shareholders who demonstrate a material impairment of their historical uses due to the quality of Thornton's substitute supply water, the court required Thornton to acquire at fair market value the lands and shares of such shareholders. *Id.* ¶ 57.2.3.4, at 73.

Notwithstanding these provisions, certain objectors argue that the decree is not sufficient to guarantee the protection of their uses at their points of diversion from the LCC. Objectors Amen, Hutcheson, and Yetter (the objecting shareholders) are WSSC shareholders who irrigate lands by diversion from the LCC below the point where Thornton will return the substituted water required to complete the exchange. They concede that the trial court applied the proper standard in the decree by requiring that Thornton provide substitute supply of a quality and continuity to meet the requirements of use to which the water of all non-Thornton shareholders has normally been put. However, the objecting shareholders contend that the provisions of the decree allow the measurement of the quality of the substitute supply to take place at the point of entry into the LCC rather than at the point at which the downstream senior appropriators divert it for their use. Due to general deterioration in the water quality as it progresses down the LCC, the objecting shareholders contend that measurement at the point of discharge will not provide adequate protection to users with headgates many miles downstream of the discharge point. We are satisfied, however, that the decree provisions are adequate to ensure that the substitute supply standards will be met.



## 2. Standards and Application to Facts

The principal standard governing the provision of substitute supply as part of a water exchange is codified in section 37-80-120(3), 15 C.R.S. (1990). The trial court correctly utilized this standard, which states that "[a]ny substituted water shall be of a quality and continuity to meet the requirements of use to which the senior appropriation has normally been put," as the standard that Thornton must meet with its substitute supply water.<sup>[87]</sup> This statutory standard is clearly directed at protecting the beneficial uses to which water has been applied by senior appropriators prior to the exchange. However, the objecting shareholders argue that inclusion of the statutory standard in the decree and delegation of its enforcement to the state engineer is not sufficient to protect senior appropriators. They seek an interpretation \*97 by this court that the standard set forth in section 37-80-120(3) can be met only by measuring water quality at the headgate of each downstream user forced to accept the substitute supply. We are convinced that the administrative structure set forth in the applicable statutes and regulations is sufficient to ensure protection of these downstream seniors. Thus, we decline to identify a particular point or points of compliance that the state engineer must utilize in enforcing the statutory requirements.

The trial court's decree delegates authority to the state engineer to make the necessary determinations under the statutes and regulations governing the quality of the substitute supply. Decree, ¶ 57.2.3.1, at 73. This delegation is consistent with the exchange statute, which confers certain authority on the state engineer to regulate exchanges in the absence of adjudication by the applicant. See § 37-80-120, 15 C.R.S. (1990). Pursuant to section 25-8-202(7), 11A C.R.S. (1989), the state engineer's water quality control responsibilities are integrated into the general administration of water quality under the Water Quality Control Act, and regulations have been promulgated to guide the actions of the state engineer in this role. See 2 CCR 402-8 (1992). The parties urge conflicting interpretations regarding the proper points of compliance under these regulations, but we need not resolve these differences here. Under both the statute and the regulations, the mandate of the state engineer in reviewing the quality aspects of an exchange is clear: the substitute supply must be of a quality to meet the requirements of use to which the senior appropriation has normally been put. The regulations are sufficiently broad to allow the state engineer's office to exercise its professional judgment in adopting a method of regulation that will ensure that the statutory standard is met, and the absence of more specific direction will not compromise the protective goals of the statute. Accordingly, we hold that the state engineer is capable of ensuring compliance with these provisions without specific instructions on where to measure the quality of the substituted water.

In accord with this holding, we do not read the provisions of the decree or of the WSSC/Thornton contract to infringe upon the ability of the state engineer to enforce the mandate of section 37-80-120(3), 15 C.R.S. (1990). Under the terms of the decree, the state engineer must protect the historical beneficial uses of senior appropriators receiving substitute water. Paragraph 57.2.3.3 of the decree, which requires that quality standards in all lawful statutes be met at the point of discharge of the substitute supply into the ditch, does not override the statutory purpose of protecting downstream users, and the state engineer's office must conduct its evaluation using whatever measurement techniques it deems necessary. If water quality monitoring at the point of discharge is insufficient to ensure compliance with section 37-80-120(3), the decree does not prevent the state engineer's office from taking additional action to fulfill its statutory duty to protect downstream users.

Similarly, compliance with the water quality standards in the WSSC/Thornton contract does not necessarily relieve Thornton of its statutory duty to comply with section 37-80-120(3).<sup>[88]</sup> If Thornton can establish to the satisfaction of the state engineer that compliance with the contractual standards will also protect downstream historical uses, then it need not implement further quality control efforts for the purpose of complying with section 37-80-120(3). However, if compliance with the standards is not sufficient to satisfy the statutory requirements, then Thornton's contractual compliance will not be sufficient to fulfill the terms of the decree.

## 3. Additional Safeguards

Our holding finds support in the facts and circumstances of this case and in the additional protective provisions included within the decree. Thornton will not begin operating the exchange or providing substitute supply water until approximately 2029. Thus, \*98 the facts concerning the historical usage of water by senior appropriators and the existing water quality standards may change in such a manner as to render this entire dispute moot. In anticipation of potential changes, the decree fully incorporates any future water quality standards in effect at any time during operation of the exchange. See

Decree, ¶ 57.2.3.3, at 73. Moreover, the decree provides that the trial court will retain jurisdiction in two relevant areas: (1) to review all determinations of the state engineer, Decree, ¶ 63.4, at 88, and (2) until ten years after the ditch exchange becomes fully operational, to reconsider the question of whether the decree provisions relating to water quality are adequate, *id.* ¶ 63.5, at 88. In addition, the WSSC/Thornton contract provides for court adjudication of disputes over proposed changes in the water quality standards adopted in that agreement. Thornton is also required to conduct a monitoring program during the operation of the ditch exchange, which would logically include sampling at points in the vicinity of the headgates of downstream appropriators affected by the exchange. See Decree, ¶ 57.2.3.5, at 73-74.<sup>[89]</sup> These provisions substantially supplement the statutory protection granted to the objecting shareholders and, together with the requirements of section 37-80-120(3), provide adequate assurance that historical uses of affected appropriators will be protected. For the foregoing reasons, we affirm the trial court's determination that the provisions relating to the substitute supply for the ditch exchange are sufficient to protect the historical uses of recipients of that substitute supply.

### ***I. Payment of Division Engineer's Expenses of Administration***

The final issue on appeal concerns the trial court's inclusion in the decree of a provision creating the possibility that Thornton may be required to pay certain future expenses of the division engineer associated with that office's supervision of the operation of the Northern Project. The Northern Project is unquestionably a municipal water project of great magnitude and complexity. Not only does the project require enormous investment by Thornton, but it also requires the division engineer to play a critical role in the oversight and administration of the provisions of the final decree. By the state engineer's count, the division engineer has been assigned thirty-nine specific duties to ensure compliance with the forty pages of terms and conditions included in the final decree. Anticipating the potential resource drain from its role in the Northern Project, the state engineer (on behalf of the division engineer) successfully sought a decree provision allowing it to petition the court to mandate contribution of funds by Thornton in the event that the division engineer's resources fall short of the amount needed to complete its duties under the decree. The resulting provision reads as follows:

*Administrative Assistance to Division Engineer.* The terms of this decree may impose responsibilities on the Division Engineer in addition to those duties which he is normally required to perform. In addition, the complexity of this decree may complicate the performance of normal duties of the Division Engineer's Office. In the event that the Division Engineer is unable to perform such additional duties because of the shortage of funding for adequate support personnel, the Division Engineer may petition this Court for a determination, upon good cause shown, that Thornton shall pay the cost of such administrative assistance as is necessary for the performance of said additional duties. Said payment shall be in the amount and subject to terms and conditions then determined by the Court.

Decree, ¶ 60.6, at 86.

99 Thornton argues that this potential contribution requirement improperly involves the court in resource allocation decisions outside of its sphere of authority. We agree and remand to the trial court with directions \*99 to remove the above provision from the final decree.

The state engineer and division engineer are legislatively assigned broad powers and responsibilities for administration, distribution, and regulation of waters of the state. See generally §§ 37-92-501, -501.5, -502, 15 C.R.S. (1990). We have discovered no statutory authority that would authorize a court to impose on a private party any part of the expense incident to exercise of those powers or fulfillment of those responsibilities. Rather, section 37-92-202(4), 15 C.R.S. (1990), specifically provides that "[t]he expenses of the offices and staffs of the division engineers shall be provided for out of state funds."

In *Kelly Ranch v. Southeastern Colorado Water Conservancy District*, we discussed the proper division of authority between the branches of government in the context of resources available to the State Engineer's office:

We give short shrift to the argument, mentioned in the water court's ruling, that the plan [for augmentation] should not be approved by reason of manpower shortages in the State Engineer's office.... [This], we submit, [is] not [a] problem[ ] for the judiciary, but [is] rather for the Executive Branch in general and the State Engineer in particular, and for the General Assembly.

191 Colo. 65, 79, 550 P.2d 297, 307-08 (1976). The decision to adopt a policy that requires water users to fund the

administrative activities of the state or division engineer is squarely within the province of the legislature.

The state engineer argues that legislative authority for imposition of the costs of administration of the Northern Project is to be found in section 37-92-502(4). That section provides, in relevant part:

Each division engineer with the approval of the state engineer shall administer the movement of water involved in any plan for augmentation or water use project which is in effect in his division. If any such plan or project involves the movement of water from one division to another, then the administration of such movement shall be the direct responsibility of the state engineer, but he may act through the appropriate division engineers. In such administration the division engineers and the state engineer shall issue such orders as are necessary and appropriate and may utilize any funds, public or private, and any other resources made available to them.

§ 37-92-502(4), 15 C.R.S. (1990). Section 37-92-502(4) was enacted prior to our decision in *Kelly Ranch* as part of the Water Right Determination and Administration Act of 1969. See ch. 373, sec. 1, § 148-21-35, 1969 Colo. Sess. Laws 1200, 1217. Giving its words their plain meaning, the statute merely authorizes the state engineer and division engineer in the performance of their water administration functions to utilize private funds that may be made available to them. It does not empower a court to impose obligations on private parties to provide such funds.

In the present case, the trial court exceeded the scope of its judicial authority by involving itself in questions concerning the funding of the Division Engineer's activities. Accordingly, this provision of the decree cannot stand, and we remand to the trial court with directions to delete the challenged paragraph from the final decree.

## V. Conclusion

In summary, we affirm the trial court's conclusion that the applications and resumes provided adequate notice to support the decree (*supra* part II). We also affirm the conclusion that Thornton satisfied the requirements to support the decree for conditional water rights with an appropriation date of December 31, 1986 (*supra* part III). We affirm as well the adoption of volumetric limits and reality checks (*supra* part IV(A)), the rejection of the use of CBT water (*supra* part IV(B)), the requirement to supply replacement water to tributary well owners (*supra* part IV(D)), the revegetation requirement (*supra* part IV(E)), the dry-up conditions (*supra* part IV(F)), the rejection of Kodak's water quality injury argument (*supra* part IV(G)), and the condition concerning \*100 the monitoring of the quality of substitute water for the WSSC ditch exchange (*supra* part IV(H)). We reverse the trial court's ruling concerning the quantification of volumetric limits (*supra* part IV(A)) and remand for further proceedings on that issue. We also reverse the judgment denying reuse of transmountain water and hold that transmountain water rights are not subject to an intent to reuse requirement and are not subject to abandonment (*supra* part IV(C)(1)-(4) and (6)). We also hold that Thornton's rights to reuse transmountain water have not been lost by laches or equitable estoppel (*supra* part IV(C)(5)). Additionally, we reverse the requirement to supply replacement water to wells decreed nontributary (*supra* part IV(D)(2)) and the condition concerning a possible future requirement for payment of the division engineer's costs of administration (*supra* part IV(i)). Accordingly, we affirm in part, reverse in part, and remand for further proceedings consistent with this opinion.

KOURLIS, J., concurs in part and dissents in part, and MULLARKEY, J., joins in the concurrence and dissent.

HOBBS, J., does not participate.

Justice KOURLIS, concurring in part and dissenting in part:

I concur with Sections I, II, III, and IV(A)-(H) of the majority opinion; however, I respectfully dissent from Section IV(I) and that portion of Section V in which the majority remands the case to the trial court with directions to delete paragraph 60.6 of the Decree. I believe that the issue of whether Thornton may be required to pay some cost of administrative assistance necessary for the performance of additional duties imposed upon the division engineer by the terms of the Decree is prematurely presented. Therefore, I would decline to address the validity of paragraph 60.6 at this time.

Paragraph 60.6 will only have operative effect in the event that the division engineer is unable to perform duties imposed under the terms of the Decree "in addition to those duties which he is normally required to perform" and only if that inability to perform is based on a "shortage of funding for adequate support personnel." Decree, ¶ 60.6, at 86.<sup>[1]</sup> These responsibilities will only be activated when part or all of the Northern Project is operational. Construction on Phase I, Phase II, and Phase III is proposed to begin in the years 2000, 2026, and 2034, respectively. See Maj. op. at 20-21.

There is necessarily some uncertainty as to whether any of the three Phases of the Northern Project will be completed. See Maj. op. at 43-45. Under these circumstances, I consider it prudent to defer consideration of the validity of paragraph 60.6 of the Decree until such time as the division engineer may seek to invoke its provisions.

Further, in addressing this issue, I believe the majority unnecessarily limits the authority of the trial court and constrains the powers of the state engineer. Because it is not clear to me that the trial court lacks the power to implement paragraph 60.6 or that the state engineer lacks the statutory authority to petition the trial court for costs associated with additional duties imposed by the Decree, I would not take such a restrictive view.<sup>[2]</sup>

101 The majority holds that the "trial court exceeded the scope of its judicial authority by involving itself in questions concerning the funding of the Division Engineer's activities." Maj. op. at 99. The majority reaches this result because of the absence of any \*101 "statutory authority that would authorize a court to impose on a private party any part of the expense incident to exercise" of the state and division engineer's legislatively assigned powers and responsibilities for regulation of waters of the state. Maj. op. at 98. The plain impact of the Decree, however, involves the creation of numerous additional duties for the division engineer. Some statutory authority for creating these duties is contained in section 37-92-304(6), 15 C.R.S. (1990), which, in relevant part, provides:

Any decision [of the water judge] may contain any other provision which the water judge deems proper in determining the rights and interests of the persons involved.

If this broad grant of authority enables the trial court to create new duties for the state and division engineers, it may similarly be read to authorize the trial court to impose costs to pay for these duties if the water judge deems such costs "proper in determining the rights and interests of the persons involved." If the trial court can impose a duty, it is conceivable that it may also apportion the costs associated with that duty.<sup>[3]</sup>

The majority further holds that "the decision to adopt a policy that requires water users to fund the administrative activities of the state or division engineer is squarely within the province of the legislature." Maj. op. at 99. In my view, the legislature has already authorized the state engineer to charge an individual water user for the cost of services which specifically benefit that user.

Section 37-80-102(1), 15 C.R.S. (1990), provides:

(1) [The state engineer] has executive responsibility and authority with respect to:

. . . . .

(k) Such other acts as may be reasonably necessary to enable him to secure the effective and efficient operation of the division of water resources, including power and authority to make and enforce such rules or regulations as he may find necessary or desirable to effectuate the performance of his duties.

Citing, in part, the authority granted by this section, the state engineer has promulgated rules and regulations imposing fees on those persons who use data provided by the state engineer about the water supplies of the state. See Rules 4-6, 2 C.C.R. 402-9 (1994).<sup>[4]</sup> These fees cover the costs of collecting, studying, and distributing the data. *Id.* Section 37-80-102(1)(k) can be read to authorize the state engineer to promulgate rules and regulations imposing fees in other contexts if such fees are necessary to enable the state engineer to "secure the effective and efficient operation of the division of water resources."

Here, the division engineer must carry out the provisions of the Decree to secure the effective operation of the division of water resources. Paragraph 60.6 only authorizes the state engineer to petition the court for costs associated with additional duties imposed by the Decree if funds are necessary to enable the division engineer to carry out these duties. Thus, section 37-80-102(1)(k) authorizes the state engineer to promulgate necessary rules and regulations, including the charging of fees, to enable the division engineer to perform such additional duties as are imposed by the Decree.<sup>[5]</sup>

102 \*102 There is no evidence in the record that the state engineer promulgated a rule or regulation applicable to this case. However, an agency is not required to promulgate rules or regulations as long as the enabling statute provides adequate constraints for administrative actions. Douglas County v. Public Utils. Comm'n, 829 P.2d 1303, 1311 (Colo. 1992). "The guiding consideration is whether these constraints are sufficient to insure that administrative action will be rational and consistent in the first instance and that subsequent judicial review of that action is available and will be effective." Cottrell v. City & County of Denver, 636 P.2d 703, 709-10 (Colo. 1981).



The method of imposing costs created by paragraph 60.6 is both rational and subject to judicial review. The state engineer can only recover costs if the division engineer is unable to perform duties imposed under the terms of the Decree "in addition to those duties which he is normally required to perform." Decree, ¶ 60.6, at 86. This condition ensures that Thornton is only required to pay costs for additional duties performed specifically for Thornton's benefit. In addition, the state engineer must petition the court for a determination "upon good cause shown." *Id.* This requirement ensures judicial review before any payments are made. Thus, the authority granted to the state engineer by section 37-80-102(1)(k) coupled with the restrictions imposed by paragraph 60.6 entitles the state engineer to collect costs for administrative assistance.

Thus, as an initial matter, I would decline to reach the issue of the validity of paragraph 60.6 at this time because I believe that facts could exist in which such fees would be appropriate, and we are currently evaluating the provision in a vacuum devoid of any factual context. If I were to decide the issue, I would hold the provisions of paragraph 60.6 valid. Hence, I dissent in part.

I am authorized to say that Justice MULLARKEY joins in this concurrence and dissent.

[1] WSSC owns 6.25 shares in JDC, constituting 26.0% of the 24 outstanding shares.

[2] During this same period, the average annual diversions by the JDC through the Jackson Ditch, which were comprised solely of native water, were approximately 6200 acre feet.

[3] The transfer of water based on exercise of WSSC water rights from the LCC for municipal use in Thornton will be discontinued in Phase III. Instead, this water will be returned to irrigation uses and will be exchanged upon as part of the expansion of the WSSC ditch exchange begun in Phase II.

[4] In the final decree, the court limited the total annual average yield during any thirty-six year period from operation of the Northern Project to 56,800 acre feet.

[5] An additional objector was dismissed by order of the trial court on August 13, 1990.

[6] Following entry of the decree and prior to appeal, objector Platte River Power Authority filed a motion to amend the judgment. The motion was not ruled on by the trial court and thus was deemed denied pursuant to C.R.C.P. 59(j).

[7] We have jurisdiction over these cases by virtue of Colo. Const. art VI, § 2, and § 13-4-102(1)(d), 6A C.R.S. (1987), which statutorily excludes from the court of appeals' jurisdiction appeals from final judgments of district courts in "[w]ater cases involving priorities or adjudications." See also C.A.R. 1(a)(2).

[8] The objectors who filed cross-appeals are Northern Colorado Water Conservancy District, in conjunction with individual objectors Keith Amen, Warren and Viola Amen, J.W. and Bessy L. Hutcheson, and Dwain and Vera Yetter; the Colorado State Engineer and the Division Engineer for Water Division 1; Public Service Company of Colorado; Eastman Kodak Company— Colorado Division; City of Fort Collins; and Platte River Power Authority. Various other objectors filed briefs in this appeal in opposition to Thornton, including Cache La Poudre Water Users Assoc., and, collectively, Larimer & Weld Irrigation Co., Larimer & Weld Reservoir Co., and Windsor Reservoir Co. All of the above objectors acted in various combinations in briefing and arguing this case on appeal. For simplicity, we refer in some instances in this opinion to issues raised by "certain objectors" without specifically identifying the particular objectors or noting that others did not join.

In addition to the above parties, Water Supply and Storage Company filed an answer brief in response to certain arguments made by the objectors on cross-appeal, and three amici curiae, City and County of Denver, acting through its Board of Water Commissioners, Colorado River Water Conservation District, and Twin Lakes Reservoir and Canal Company, filed briefs in support of Thornton's proposed reuse of its transmountain waters. Water Supply and Storage Company and the amici are not included in our references to objectors.

[9] Hereinafter spelled "storage" even when referring to the quoted language.

[10] The trial court placed certain restrictions on the storage rights adjudicated in the final decree. The court decreed that water stored under the rights granted in case 86CW403 could not be stored for longer than one year in the WSSC System Reservoirs or longer than two months in the Pump Station and Poudre Basin Reservoirs. Decree, ¶ 56.3.2, at 71. The court placed no limitations on the duration of storage for rights decreed under cases 86CW401 and 86CW402 or on the water stored in the terminal storage reservoirs in the vicinity of Thornton.

[11] Following publication of the resumes for Thornton's applications, 49 objectors filed statements of opposition. The record provides no indication that any potential objector failed to file a statement of opposition based on a lack of detail in Thornton's description of its storage claims, and no individuals or entities who had not previously filed statements of opposition petitioned the court for permission to file a subsequent objection after the details of these claims were furnished. The objectors now asserting this notice challenge were among the original 49 objectors and were afforded the opportunity to investigate further the scope of Thornton's claims. Accordingly, in

this particular case, although not dispositive of the adequacy of notice, it appears that all interested parties had a full and fair opportunity to oppose the application and participate in the water right proceeding.

[12] By affirming the adjudication of Thornton's storage claims, however, we do not endorse the trial court's description of the storage rights decreed as "incidental to, a part of, and implicit in a municipal water system and the municipal uses for which the appropriations were made." Decree, ¶ 12.4, at 13. Colorado law has long recognized a distinction between the right to use the direct flow of natural waters and the right to store those waters for future use, see *In re Applications of the Upper Gunnison River Water Conservancy District*, 838 P.2d 840, 852 (Colo.1992); *Handy Ditch Co. v. Greeley & Loveland Irrigation Co.*, 86 Colo. 197, 199, 280 P. 481, 481-82 (1929); *Holbrook Irrigation Dist. v. Fort Lyon Canal Co.*, 84 Colo. 174, 191, 269 P. 574, 581 (1928), and an appropriation for one type of right does not encompass the other type, *City & County of Denver v. Northern Colo. Water Conservancy Dist.*, 130 Colo. 375, 387-88, 276 P.2d 992, 998-99 (1954) (*Blue River*); *Handy Ditch*, 86 Colo. at 199-200, 280 P. at 481-82. Whether water diverted pursuant to a decree is used immediately or stored for future use affects the potential impact of the diversion on other water users, see *Danielson*, 698 P.2d at 245, and adequate notice of each particular right sought is required. The right to store water is not an automatic incident of the right to a direct use diversion.

In the present case, Thornton's applications and resumes provided adequate notice of the rights claimed because they contained sufficient information pertaining to both storage and direct flow claims to put potential objectors on inquiry notice of those independent claims. Had Thornton made no mention of storage, it could not have overcome this defect by alleging that its requested direct flow rights carried automatic storage privileges incident to the intended municipal uses. The trial court's classification of Thornton's extensive storage claims, some for reservoirs up to fifty miles outside the city boundaries, as incidental to its direct flow municipal uses erroneously eliminates the distinction between direct flow and storage rights. A municipality has no special license to claim water rights relating to its storage reservoirs and rights relating to its direct flow water system without differentiating between the two. Accordingly, although we affirm the adjudication of storage rights encompassed by the final decree, we specifically reject the above ground as a basis for finding that notice was adequate.

[13] The objectors argue that they cannot be charged with inquiry notice of Thornton's refill claims because they were entitled to rely on the traditional Colorado common law principle that storage rights in reservoirs are limited to one fill annually. See, e.g., *Upper Gunnison*, 838 P.2d at 851. This argument is not persuasive under the circumstances existing in this case. All of the objectors challenging notice in this action filed statements of opposition and fully participated in the trial court proceeding. Thus, these objectors were in a position to determine the nature of the rights claimed by Thornton. They cannot argue that they were entitled to rely on the one-fill presumption after receiving actual notice of the substance of Thornton's claims. No evidence has been presented suggesting that Thornton's failure to include specific refill language in its resumes denied any interested party the opportunity to oppose the application and participate in the proceeding.

This is not a situation where a specific storage reservoir was identified and a specific capacity described with no indication of intent to refill. Rather, any interested party here was made aware of the necessity of inquiring into the extent of the claimed storage and whether the storage capacity was to be provided by single annual fills of a large number of reservoirs or multiple fills of a lesser number.

[14] PRPA argues that reliance on the *Englewood* case is misplaced because that court was interpreting the notice provisions of the 1943 Adjudication Act, 1963 C.R.S. § 148-9-1 to -27, the predecessor to the current statutory system. See *Englewood*, 826 P.2d at 1268-69. Although the 1943 Act did require slightly less information from applicants in its application process, compare 1963 C.R.S. § 148-9-8 with § 37-92-302(2)(a) (1995 Supp.), both the current and former provisions required identification of water sources, the type of information at issue here. Furthermore, in both *Englewood* and this case, the governing standard is inquiry notice, not strict compliance with statutory notice procedures. Thus, we do not find *Englewood* to be distinguishable in any significant manner from the present case.

[15] Certain objectors appealed the trial court's determination that Thornton established the nonspeculative intent required to satisfy the intent prong of the first step test. We review and affirm the trial court's ruling in the next part of our discussion. However, no objector has appealed the trial court's specific ruling in the MOD that Thornton formed its intent on or before December 24, 1986, and we accept this ruling for the purposes of determining the appropriation date. Accordingly, the appropriation date is the earliest date on which the overt acts prong of the first step test was satisfied.

[16] The trial court made the following ruling:

The activities of December 24, 1986, and actions prior thereto, manifested the necessary intent. The court finds that the surveys conducted on December 24, 1986, constituted a substantial step toward the application of water to a beneficial use. In so finding the court may be extending the word "substantial" to its ultimate extreme.

MOD at 36. These findings have not been appealed.

[17] The testimony relied on by the court was as follows:

Q [by Mr. Shimmin] Okay. I'm going to ask you to assume that, as an engineer, you weren't working for the City of Thornton in this case, but were rather hired by the owner of one of these ditch structures. Having seen one of those signs posted, and the question the owner poses to you as an expert is, "Tell me what this means, how much are they claiming, what is going to be the demand on the river as a result of this claim." What would your answer have been?

....

A [by Mr. Ault] Well, as an engineer, I would be very alert to that sign, and I would advise my client that they better carefully read any resume that comes out to know all the details about it, that they are on notice that the City of Thornton has made a filing here, and with all the rumblings going on up in that area in 1986, I would have advised my client to carefully review any resume notice.

MOD at 36-37.

[18] There are obvious similarities between the inquiry notice required in the context of overt acts undertaken in pursuit of a conditional water right and the inquiry notice standard for water rights applications and resumes that we discussed in the preceding section. See *supra* part II(B)(2). However, because the two standards require the analysis of different types of activities, one entirely written and the other encompassing other physical manifestations of intent, a slightly different line of authority has developed for each standard. Therefore, in this section we analyze only those cases construing inquiry notice in the overt acts context.

[19] Thornton argues that the trial court applied an improper standard in making its notice determination. Specifically, Thornton points to the trial court's statement that "interested parties would have had to wait until publication of the resume—or perhaps more accurately the filing of the application ... to know the nature and extent of the proposed demand on the water supply," MOD at 37 (emphasis added), as evidence that the court abandoned the inquiry notice standard in favor of a higher knowledge requirement. While we are not convinced that the trial court's use of "to know" reflects the application of an improper standard, the standard applied by the trial court cannot be determined with certainty. Regardless, we are satisfied that uncontroverted evidence in the record establishes the facts necessary to enable us to resolve the notice issues under the proper standard without remand. See *Denver v. CRWCD*, 696 P.2d at 746-47.

[20] Thornton argues that similar signs were held to provide adequate inquiry notice by this court in *Denver v. CRWCD*, 696 P.2d 730. We do not agree that the present case is factually similar. In the relevant portion of *Denver v. CRWCD*, the City of Denver both posted signs and published notice in locally circulated newspapers, and we found the combination of the two sufficient to provide the requisite notice. *Id.* at 753-54. Furthermore, the information posted on the signs and in the newspaper by Denver contained more detailed information than the signs posted by Thornton. Although Denver's signs did not contain a total diversion amount, the signs at least indicated that a major diversion was planned. We noted that the signs and published notices "consisted of paraphrases of pertinent parts of the resolution [of the applicant]," which identified the intended appropriation as "all of the unappropriated waters" of the Colorado and Eagle Rivers and their tributaries at and above certain designated sections in the United States Government survey system. *Id.* at 753.

[21] The mayor also testified that Thornton "spent a great deal of time making newspaper contacts," but this testimony is not supported in the record by copies of any newspaper articles or official releases published in any newspaper prior to December 31, 1986. Thornton does not allege that notice of its diversion plans was published in a newspaper prior to that date.

[22] The project description in this statement referred only to the purchase and subsequent use of WSSC shares and water. The statement does not mention potential appropriations on the Poudre or South Platte Rivers.

[23] The resolution was memorialized in the Board minutes as follows:

Mr. Reeser moved that the staff and utilities attorney be and are hereby directed to undertake the necessary actions to perfect appropriations of water from the Cache La Poudre River, including but not limited to: a right to divert at least 100 cfs through the headgate at [sic] the Water Supply and Storage Company; a right to exchange upon the water being diverted by the Water Supply and Storage Company from the Cache La Poudre River at a point near its headgate; a right to exchange from the confluence of the Cache La Poudre with the South Platte River up to the headgate of the Water Supply and Storage Company, or other points which may utilize water resources as owned or controlled by the city, all in order to help meet the needs of present and anticipated future customers of the City of Thornton. The motion was seconded by Mr. Greer and approved by a unanimous vote.

Ex. A-36.

[24] Because the resolution was not adequately circulated, we do not address whether the resolution contains sufficient detail to put an interested party on inquiry notice of the prospective extent of the proposed use and consequent demand on the water supply.

[25] Most front range municipalities in Colorado could conjecture growth in the next few decades at exponential rates. To some extent, that growth is directly related to the ability of the municipality to supply water. Hence, the projection becomes a self-fulfilling prophecy if the municipality secures a right to the water necessary to sustain the growth. We do not view such conjecture as sufficient substantiation to support a conditional decree for water. Municipalities must do more than represent to the water court that if they had water, they would be able to grow.

[26] Although noting that Denver intended to sell or lease the claimed water for use outside of its boundaries, the referee apparently based his holding on an interpretation of Denver's charter and other authorities that denied to the city the authority to appropriate water solely for use outside of its boundaries. *Denver v. CRWCD*, 696 P.2d at 737.

[27] Section 37-92-103(3)(a) was enacted in 1979, more than ten years after the City of Denver applied for confirmation of the rights at issue in *Denver v. CRWCD*. See Ch. 346, sec. 5, § 37-92-103(3)(a), 1979 Colo. Sess. Laws 1366, 1368. Accordingly, the statute was

not applicable to Denver's claims and the court did not discuss the governmental agency exception.

[28] In the final decree, the trial court made the following additional finding:

Thornton has reason to believe that the firm yield of the City's existing supplies will fall short of anticipated demand around the turn of this century and thereafter.... Demand within the City's 1986 service area (including its extended service area) is expected to reach over 94,000 [acre feet] per year. These concerns are a reasonable basis for Thornton's planning for the future.

Decree, ¶ 8.3, at 5.

[29] The court made the following statements regarding the allegations of speculative intent:

Certain objectors see in applicant's 1986 Water Resources Development Plan a scheme to sell portions of the water to be produced as a result of these applications to others at higher future prices. They think this will be a method used to finance the huge costs of the project. Applicant denies any such speculative intent.

For these reasons consideration should be given at the time of settling the decree herein as to whether it should include "reality checks" at certain stated intervals to determine if the projections are being met. Perhaps jurisdiction should be reserved so that if it becomes evident that the projected growth will not be achieved, the project can be scaled down accordingly. The court makes no determination of the matter, but only suggests it as a subject for further discussion.

MOD at 40. The final decree ultimately included such "reality checks." We discuss the validity of these provisions in part IV(A)(2), *infra*.

[30] As part of our decision in *Arapahoe County*, we clarified that the applicant must establish the availability of sufficient water to allow the intended appropriation as an element of satisfying the "can and will" requirements embodied in the quoted standard. 891 P.2d at 962. This element is not at issue in the present case. The trial court found that sufficient water was available to satisfy Thornton's claims, and the objectors did not appeal that finding.

[31] We noted in *Arapahoe County* that the policy of maximum utilization of water, *see, e.g., Felthauer v. People*, 167 Colo. 320, 336, 447 P.2d 986, 994 (1968); § 37-92-102(1)(a), 15 C.R.S. (1990), provides guidance in construing the "can and will" statute. *Arapahoe County*, 891 P.2d at 962. Where the evidence presented by the applicant establishes that speculation is not a real concern, the "can and will" statute, while still an important check as to the feasibility of the intended appropriation, should not be applied to prevent on technical grounds an appropriation that would serve the goal of maximum utilization. Accordingly, whether an applicant has established a substantial probability of completing the intended appropriation necessarily requires an ad hoc determination in light of the particular facts and circumstances of each case.

[32] The parties dispute whether additional water court decrees must be obtained to effect completion of the project. Fort Collins argues that if we find that additional decrees are necessary to the completion of the project, our decision in *Public Service Co. v. Board of Water Works*, 831 P.2d 470 (Colo.1992), requires us to hold that the "can and will" requirements have not been satisfied. We do not interpret that case as mandating such a holding based solely on the need for a future decree.

In *Public Service*, the applicant sought a decree for an exchange of water rights that included as a crucial component storage in a reservoir mandated for construction pursuant to the terms of a prior decree. 831 P.2d at 474-75. Testimony by the applicant's own expert suggested that the applicant had no present intent to construct the necessary reservoir and, in fact, intended to seek a future decree deleting the reservoir construction requirement from the original decree. *Id.* at 476. We upheld the trial court's determination that the applicant had not fulfilled the "can and will" requirement. However, this court's focus was on the absence of intent to complete the appropriation as decreed, and we considered the intent to apply for a future decree only as evidence of this lack of intent. *Id.* at 477-78. We did not set forth or even suggest a rule that no project be approved if it requires additional future decrees to allow eventual completion.

In accord with our holding in *Public Service*, we treat the possibility that future decrees will be required as a relevant, but non-dispositive, consideration in evaluating whether a project can and will be completed. Therefore, under the particular facts and circumstances of this case, we can resolve the "can and will" issues without determining absolutely whether future decrees are required to complete the Northern Project.

[33] In *Florence*, the applicants sought a decree for a conditional water right to divert 100 cubic feet per second (c.f.s.) of water, although their existing water system was designed to handle only 4.7 c.f.s. 688 P.2d at 716. This court reversed the trial court's grant of a conditional decree, holding that the applicants' ability to enlarge their system capacity in the future was not sufficient to establish that the water actually would be diverted. *Id.* at 718. However, the evidence presented in *Florence* was not limited to the capacity of the applicants' diversion structures but rather encompassed the capacity of all elements of the applicants' water system. *Id.* at 716 n. 1 ("testimony indicated that ... the applicants' surface water intake screens and pumping, treatment plant, settling pond and storage capacities all were designed to handle not much more than 4.7 c.f.s. of water").

[34] These four proposed appropriations are the Poudre River exchange (case 86CW401), the WSSC ditch exchange (case 86CW402), the Poudre River and South Platte River direct diversions (case 86CW403), and the change of water rights and plan for augmentation (case 87CW332).



[35] Thornton concedes that the water court is authorized to limit the yield from a change of water right or plan for augmentation to prevent injury to other water users under section 37-92-305(3), 15 C.R.S. (1990). Therefore, it does not appeal the limitations placed on the change of water rights decreed by the court pursuant to Thornton's application in case 87CW332, which include limits on the amount of water Thornton may derive from its pro rata share of WSSC's transmountain diversions.

[36] Pursuant to the "reality checks" provisions, Decree, ¶ 56.2.1, at 69, which we discuss in part IV(A)(2), *infra*, Thornton's projected need may be decreased based on findings during future diligence proceedings. Should a portion of Thornton's conditional rights be cancelled in the future based on those provisions, the volumetric limits must be reduced accordingly.

[37] In addition to the limit on the total yield of the project, the court also imposed individual limitations on the four specific appropriations that make up the project. Diversions by river exchange pursuant to case 86CW401 are limited individually at various point of diversion, with an aggregate annual volumetric limit of 8,100 acre feet in any thirty-six year period. Decree, ¶ 59.4.3.2, at 80. Direct river diversions pursuant to case 86CW403 are limited individually at various points of diversion, with an aggregate annual volumetric limit of 27,000 acre feet in any thirty-six year period. Decree, ¶ 59.4.4.2, at 81. Diversions by ditch exchange pursuant to case 86CW402 are limited to an annual volumetric diversion of 41,000 acre feet in any thirty-six year period. Decree, ¶ 59.4.5, at 81-82.

In addition, the exercise of the change of water rights approved pursuant to case 87CW332 is subject to an aggregate volumetric yield limitation of 24,180 acre feet in any thirty-six year period. Decree, ¶ 59.4.2, at 77-79. However, under Thornton's proposal for Phase III of the Northern Project, the exercise of the change of water rights will be discontinued and the WSSC ditch exchange will be expanded to encompass all of the Thornton and non-Thornton WSSC shares. Therefore, these two portions of the project will never be operating at full capacity during the same period.

Because the trial court did not differentiate between operation of the WSSC ditch exchange in Phase II (exchange only on non-Thornton shares) and in Phase III (exchange on both Thornton and non-Thornton shares), it is difficult to determine whether the limits on the individual aspects of the Northern Project are in conflict with the court's findings as to Thornton's future requirements. However, the court should review and alter these limits on remand if necessary to maintain consistency with any changes made to the total project limitation.

[38] The "no-injury" standard applies, with limited exceptions, to protect only existing water rights or decreed conditional water rights. See, e.g., § 37-92-305(3), 15 C.R.S. (1990). The reduction in the amount of unappropriated water available to other users resulting from a new conditional appropriation is an inherent aspect of the prior appropriation system of administering water rights and does not constitute an injury for which water right holders are entitled to protective decree conditions.

[39] The trial court required satisfaction of the "reality checks" only with respect to the rights decreed pursuant to Thornton's application for appropriative diversions by exchange from the Poudre River in case 86CW401 and direct diversions from the Poudre and South Platte Rivers in case 86CW403. See Decree, ¶¶ 56, 56.2.1, at 69. The court did not place similar conditions on its approval of Thornton's application for confirmation of the WSSC ditch exchange in case 86CW402. See *infra* note 43 for a discussion of the validity of this distinction.

[40] As an element of its argument that the water court may not impose diligence requirements beyond mere physical progress toward diversion at appropriated rates, Thornton appeals the water court's use of the term "volumetric yield" to quantify the showing of need required to establish future diligence. Thornton argues that by decreeing the conditional rights in terms of specific flow rates (cubic feet per second), the court established the terms by which the diligence evaluation must be made—*i.e.*, by reference to Thornton's progress toward diversion at these flow rates. We disagree with Thornton's position.

Initially, as explained above, the water court has the discretion to impose conditions on decreed rights that affect the requirements for establishing diligence. In the present case, the court imposed the "reality checks" for the express purpose of ensuring that Thornton uses its newly appropriated rights for its own purposes and does not become a permanent lessor or wholesaler of water yielded by these rights. Decree, ¶ 56.2.1, at 69. To accomplish this purpose, the court will measure the future requirements established by Thornton at trial against the city's actual and projected demands at the time of future diligence proceedings. At trial, Thornton expressed its projected future requirements in terms of acre feet, a volumetric yield measurement. The trial court's findings pertaining to Thornton's future needs are also quantified in acre feet, Decree, ¶ 8.3, at 5. Accordingly, to establish a consistent standard for measuring the accuracy of Thornton's initial projections, the trial court acted within its discretion when it cast the standard in terms of volumetric yield. That such a standard increases the time it will take for Thornton to make its rights absolute because of the need to achieve the decreed yield rather than to divert at a decreed rate does not justify altering this requirement. We affirm the trial court's use of a volumetric, rather than a flow rate, standard for evaluating future diligence.

[41] In the present case, the trial court required that Thornton make its showing of need during future diligence proceedings, which are required every six years pursuant to statute. § 37-92-301(4)(a)(I), 15 C.R.S. (1995 Supp.). The statute defines reasonable diligence as follows: "The measure of reasonable diligence is the steady application of effort to complete the appropriation in a reasonably expedient and efficient manner *under all the facts and circumstances.*" § 37-92-301(4)(b), 15 C.R.S. (1990) (emphasis added). We are satisfied that, contrary to Thornton's contentions, the statutory definition is sufficiently broad to encompass the requirements imposed by the trial court in this case. Cf. *Colorado River Water Conservation Dist. v. City & County of Denver*, 640 P.2d 1139, 1142 (Colo.1982) ("A court in making a diligence determination must look at all factors which can be considered as important in determining whether an appropriator is satisfying the terms of a conditional water decree by developing it for a beneficial use in the most expedient and efficient fashion

possible under the circumstances.").

[42] Thornton relies heavily on this court's decision in City & County of Denver v. Sheriff, 105 Colo. 193, 96 P.2d 836 (1939), to support its argument that the trial court is without authority to limit use of Thornton's decreed rights after the city has established the requirements necessary for the entry of a decree. However, the relevant portion of the *Sheriff* decision dealt with absolute rather than conditional rights and thus does not control our decision in the present case.

In *Sheriff*, the City of Denver sought an adjudication of water rights in certain western slope waters. The trial court granted Denver an absolute decree for 335 cubic feet per second, making a specific finding that the water had been applied beneficially by the city. *Id.* at 208, 96 P.2d at 842. However, the court imposed a condition that the waters could be used only to supplement the city's current supply of eastern slope water after the city made full and economical use of this existing supply. *Id.* at 198, 96 P.2d at 839. Denver appealed this condition with respect to its restrictive effect on both the city's previously existing eastern slope water rights and its newly decreed western slope water rights, the latter of which are relevant here. This court struck down the restrictive condition, holding that the trial court's finding that the water had been put to beneficial use confirmed that Denver had a vested property right. Accordingly, the court held that restrictions on that absolute right were "invalid and an invasion of vested rights." *Id.* at 208, 96 P.2d at 843.

Unlike the right at issue in *Sheriff*, Thornton's newly decreed rights subject to the "reality checks" are conditional, not absolute. Therefore, these rights remain, by statutory mandate, subject to future diligence proceedings. § 37-92-301(4), 15 C.R.S. (1990 & 1995 Supp.). Thornton's rights are vested, but subject to forfeiture for noncompliance with diligence requirements and the terms of the decree defining the conditional rights. See *supra* part IV(A)(2); *Mooney*, 194 Colo. at 479, 573 P.2d at 539. Accordingly, our invalidation of the restrictive conditions on Denver's absolute water rights in *Sheriff* does not require a similar holding with regard to the "reality checks" on Thornton's conditional rights in the present case.

[43] Without express explanation, the trial court restricted the application of the "reality checks" to the conditional rights decreed to Thornton pursuant to its applications in cases 86CW401 and 86CW403. Thus, the court did not require similar showings with respect to the WSSC ditch exchange rights decreed pursuant to Thornton's application in case 86CW402. Fort Collins takes issue with this distinction, arguing that the possibility of speculation by Thornton is equally likely with respect to the ditch exchange rights. We agree with the trial court's decision to distinguish the ditch exchange rights.

Conditional exchange rights on private ditches, although appropriative, do not create opportunities for speculation equivalent to those created by conditional appropriations of previously unappropriated water or public exchange potential. The anti-speculation doctrine prohibits would-be appropriators from tying up unappropriated water for the purpose of extracting a profit rather than accomplishing a beneficial use. Vidler, 197 Colo. at 417, 594 P.2d at 568. An appropriation of previously unappropriated water or public exchange potential removes that resource from the total pool of water available for appropriation by other users. The appropriator receives a right in water not previously in its possession or committed to other uses; thus the temptation to make a profitable sale of these rights is substantial.

In an appropriative exchange of water rights in a private ditch, the right decreed to the applicant does not have an effect on the amount of water available to other appropriators. The water subject to exchange is not otherwise available for direct appropriation; any would-be appropriator must purchase or negotiate an exchange agreement, and in this case a right of first use, with the water right holders. The exchanger is not monopolizing a previously unused resource and the future sale of rights diverted by exchange is analogous to the transfer of an absolute right, which is not subject to the anti-speculation doctrine. Accordingly, we do not find it necessary to extend application of the "reality checks" to Thornton's conditional ditch exchange rights.

[44] This repayment was originally scheduled to take place over a forty-year period following completion of the project. Pursuant to a subsequent renegotiation, the repayment did not actually begin until 1962. 2 George Vranesh, *Colorado Water Law* § 7.3, at 789 & n. 129 (1987).

[45] The trial court initially noted a possible ripeness issue because Thornton does not propose to implement either of these proposals until at least 2002. However, the trial court found it appropriate to address these issues under current law with the understanding that any intervening changes in the law must be addressed if and when they occur. We agree with this decision.

[46] The trial court also pointed to what it described as a "more fundamental reason" for denying Thornton's claims. The trial court stated that the CBT project was intended to create a supplemental supply of water for northern Colorado and was never intended to be a base supply for the area. According to the trial court, Thornton's proposed exchange using CBT water will allow removal of substantial portions of the base water supply, thus converting the CBT water from a supplemental to a base supply. The trial court held that such a result should not be permitted. Because we decide the relevant issues on other grounds, we express no opinion on the validity of this component of the trial court's decision.

[47] Within this section, we use the term "direct benefits" to refer to those benefits that accrue to the user at the point of application of the CBT water. For example, the application of water to irrigate farmland obviously creates a direct benefit to the user of that farmland. "Indirect benefits" refer to those benefits that accrue to the user as a result of the use of CBT water but are received in areas other than the lands on which the CBT water is applied. For example, the application of CBT water to fulfill a water user's obligation to another water user creates an indirect benefit because non-CBT water is not required for this obligation and can be used elsewhere.

[48] This section states in pertinent part:

XX-XX-XXX. Authority of political subdivisions to lease or exchange water. Water conservancy districts and water conservation districts which own or hold rights to water may enter into cooperative agreements with other political subdivisions of the state for the lease or exchange of water produced in the exercise of such district's water rights and the construction or use of waterworks within or outside of district boundaries, according to such terms as such district and political subdivision agree upon. Conservation districts, conservancy districts, and other political subdivisions of the state may enter into agreements with each other to provide funds or undertake measures to carry out section 37-45-118(1)(b)(IV), including agreements for the exchange or lease of such water outside the boundaries of the conservation or conservancy district.... Any water rights leased or exchanged under this section shall be only for the time certain contained in each such agreement or extension thereof. Any water rights or changes of water rights which are necessary to implement such agreements shall be adjudicated as provided by law.

§ 37-83-106, 15 C.R.S. (1990).

[49] With respect to Thornton's replacement use proposal, the trial court's ruling also suggested that the Repayment Contract prohibited the use of CBT water for replacement purposes because such use is not among the uses enumerated in the contract. Because we find this proposal prohibited on other grounds, we need not address that aspect of the trial court's ruling. However, we note that the trial court's interpretation may be unnecessarily technical given that the water used for replacement would subsequently be used for permitted purposes.

[50] Thornton points to other exchanges conducted on CBT water as support for its contention that its own exchange should be approved. Specifically, Thornton describes an exchange system operated by North Poudre Irrigation Company that uses CBT water as a substitute supply to allow the company to divert Poudre River water at its headgate above the point where CBT water enters the river. However, in contrast to Thornton's proposed exchange, NPIC uses the water it diverts entirely within the NCWCD and does not attempt to derive any extra-district benefit. Thus, the NPIC exchange does not violate the contractual and regulatory prohibition on accruing CBT benefits outside of the district, and the comparison to Thornton's proposed exchange is inapposite.

[51] The "character of exchange" rule is an example of such a provision. The trial court labeled this rule a "legal fiction," MOD at 32, and declined to apply it when evaluating Thornton's proposed exchange. However, given the terms of the Allotment Contract, we need not discuss the applicability or validity of this rule. Whether or not the rule was applied, the proposed exchange will result in extra-district benefits for Thornton, a result that is prohibited under the terms of the Allotment Contract defining Thornton's right.

[52] Article 19 provides in pertinent part:

There is also claimed and reserved by the United States for the use of the District for domestic, irrigation and industrial uses, all of the increment, seepage and rerun flow water which may result from the construction of the project and the importation thereby, from an extraneous source, to-wit, from the Colorado River watershed, of a new and added supply of water to average 320,000 acre-feet, or more, annually, into the streams of the South Platte watershed from which the irrigable lands within the District derive their water supply; and the right is reserved on behalf of the District to capture, recapture, use and reuse the said added supply so often and as it may appear at the stream intake headgates of ditches and reservoirs serving lands within the District.

Said captured, recaptured and return flow water shall be, by the Board of Directors of the District, allocated only to the irrigable lands within the District already being partially supplied with water for irrigation, using as a basis for such allocation the decreed priorities existing at the date of this contract, and without other or additional consideration or payments by the owners of such lands therefor; provided no such captured, recaptured or return flow water shall be taken and held as supplying any appropriation or decreed priority of any such ditch or reservoir.

Any overplus of such captured, recaptured and return flow water shall be rented, sold or disposed of for domestic, irrigation and industrial uses within the District, at such times under such conditions, and upon such terms as the Board of Directors of the District may, from time to time, determine.

It is understood and agreed that the United States does not abandon or relinquish any of the increment or seepage or return flow water coming from the irrigation of lands or other uses supplied with water from or through the works constructed by the United States, but that the same is reserved and intended to be retained for the use and benefit of the District.

[53] Thornton argues that by its express wording Article 19 reserves the district's right in return flows only to the extent that these flows "may appear at the stream intake headgates of ditches and reservoirs serving lands within the District." See Repayment Contract art. 19, at p. 19. We did not adopt such a narrow reading in *Estes Park*, and we decline to do so here. In the context of the entire article, which conveys a clear intent to claim and reserve all CBT return flows for the use of the NCWCD, the language cited by Thornton is merely descriptive and does not limit the extent of the return flow reservation.

[54] In this section, we use the terms "fransmountain water," "imported water," and "foreign water" interchangeably to refer to water diverted from streams on the western slope and transported for use in the river basins on the eastern slope.

[55] The CBT water is also water imported from the western slope. However, as explained in the preceding section, the distribution and use of this water is governed by an independent statutory and contractual scheme. Thus, our discussion of foreign or imported water in this section does not encompass CBT water.



[56] As discussed in the next section, see *infra* part IV(D)(1), certain of these flows travel through an alluvial aquifer on their way to the rivers and are intercepted by a number of wells in the north Poudre basin.

[57] Within the last two decades, WSSC completed a series of improvements in its collection and distribution system, most notably a substantial enlargement of the storage capacity of Long Draw Reservoir, that allowed WSSC to increase the utilization of its transmountain decrees. These improvements resulted in the creation of a supply of "new" foreign water, as distinguished from the "old" foreign water historically derived by exercise of those rights. On August 10, 1978, WSSC entered into an agreement with Fort Collins and PRPA in which the latter parties recognized WSSC's right to reuse these "new" foreign waters. The right to reuse these waters was subsequently confirmed by a decree of the water court. *In re Application of Platte River Power Auth., Water Supply & Storage Co., and the City of Fort Collins, Colo.*, Case No. W-9322-78 (Colo. Dist. Ct., Water Div. No. 1 1979). The parties do not dispute that Thornton may reuse the "new" foreign water subject to the terms of the decree in Case No. W-9322-78. Therefore, our discussion of the reuse issue concerns only Thornton's right to reuse the "old" foreign water.

[58] The trial court conceded that no Colorado court has declared an abandonment of an importer's right to reuse. However, the court noted that this court made statements in certain imported water cases that suggest the possibility of abandonment in certain circumstances. MOD at 15 (citing *Fulton*, 179 Colo. at 58-59, 506 P.2d at 150; *Brighton Ditch Co. v. City of Englewood*, 124 Colo. 366, 371, 237 P.2d 116, 119 (1951)). Thus, the trial court found both Thornton's and the objectors' interpretations of the relevant cases to be plausible but not clearly controlling. MOD at 15-16.

The court also reviewed and discussed decisions of the courts of other states, including California, Wyoming, Montana, and Nevada, but found these decisions to be unhelpful or inapposite.

[59] This court first recognized an exception to the priority system for native waters for producers of water extracted from an underground source unrelated to the natural flow of the stream, referred to as "developed water." See, e.g., *Ripley v. Park Center Land & Water Co.*, 40 Colo. 129, 90 P. 75, (1907) (water trapped behind impervious granite layer in abandoned mine shafts). To reward the producer's efforts to increase the availability of water in the system, we upheld a right to this water in the producer that was independent of the priority system already in place on the stream. See *Comrie v. Sweef*, 75 Colo. 199, 201, 225 P. 214, 214 (1924) ("That one who artificially develops or produces water and adds or turns the same into a natural stream, which water would not in due course otherwise have reached the stream on the surface or in the underlying sands, may acquire a right thereto superior to the adjudicated rights of earlier appropriators of the natural waters of the stream only, may be conceded."); *Ripley*, 40 Colo. at 133, 90 P. at 76 ("We have held that such contributions [of developed water] to a natural stream belong to the one who made them."); *Platte Valley Irrigation Co. v. Buckers Irrigation, Milling & Improvement Co.*, 25 Colo. 77, 82, 53 P. 334, 336 (1898) (water users entitled to use of water in a stream to the extent that by their efforts and expenditures they had increased its average, continuous flow). The theme of rewarding contributors of "new" water was also subsequently incorporated into the context of "transbasin" diversions, i.e., water transported out of the particular basin of origin but into an interrelated stream, as between two tributaries of the same river. See *Coryell v. Robinson*, 118 Colo. 225, 194 P.2d 342 (1948); *San Luis Valley Irrigation Dist. v. Prairie Ditch Co.*, 84 Colo. 99, 268 P. 533 (1928); see also *City & County of Denver v. Fulton Irrigating Ditch Co.*, 179 Colo. 47, 53, 506 P.2d 144, 147 (1972) ("[W]e see no distinction between the rights of owners of developed water from a mine and the rights of Denver as to its imported water.").

Whether these transbasin diversions would be considered foreign water under the doctrine as it operates today is doubtful. See *infra* pp. 84-85. However, the traditional principle of rewarding the importers of foreign water that drove these decisions is also evident in more recent statutory and common law precedent.

[60] The water rights at issue were South Platte River rights purchased by Englewood for the purpose of developing a water supply independent of water provided by Denver. *Brighton Ditch*, 124 Colo. at 368-69, 237 P.2d at 118-19. One of several arguments offered by objectors was "that Englewood now derives its supply of water from Denver; that because of that requirement Denver requires and diverts water from the Western Slope, the waste and return flow of which go to the benefit of appropriators down the stream; that if Englewood obtains its supply of water from a source other than Denver, the latter city will require less water from Western Slope diversion, and appropriators down the stream will suffer loss of the waste and return flow of such water heretofore enjoyed." *Id.* at 377, 237 P.2d at 122. Thus, the issue of foreign water constituted only a tangential aspect of the case.

[61] A second section was added to this statute in 1979. See Ch. 346, sec. 2, § 37-82-106(2), 1979 Colo. Sess. Laws 1366, 1366-67. Section 106(2) reads as follows:

(2) To the extent that there exists a right to make a succession of uses of foreign, nontributary, or other developed water, such right is personal to the developer or his successors, lessees, contractees, or assigns. Such water, when released from the dominion of the user, becomes a part of the natural surface stream where released, subject to water rights on such stream in the order of their priority, but nothing in this subsection (2) shall affect the rights of the developer or his successors or assigns with respect to such foreign, nontributary, or developed water, nor shall dominion over such water be lost to the owner or user thereof by reason of use of a natural watercourse in the process of carrying such water to the place of its use or successive use.

§ 37-82-106(2), 15 C.R.S. (1990). We will discuss this section in greater detail in the context of our discussion of the applicability of abandonment principles to reuse rights in foreign water. See *infra* part IV(C)(4)(b).

[62] Fort Collins proposes a conflicting interpretation of section 106(1) based on the use of the word "appropriator." See § 37-82-106(1),



15 C.R.S. (1990). According to Fort Collins, this reference means that all rights in foreign water, both of initial use and reuse, are limited to appropriators who, as the term suggests, establish their rights through appropriation. We discern a more limited meaning in the relevant portion of section 106(1). In the phrase, "[w]henver an appropriator has lawfully introduced foreign water into a stream system," the word "appropriator" refers to the importer's status as one who has lawfully appropriated the foreign water in the basin of origin. The appropriation referred to is the appropriation of the water for original use, not for reuse.

[63] Certain objectors urge the importation of an intent requirement from the law of California. However, in view of the substantial and material differences between the water law of this state and that of California, *see generally* William R. Attwater & James Markle, *Overview of California Water Rights and Water Quality Law*, 19 Pac. L.J. 957 (1988), we are not persuaded that California water law provides assistance in resolving the issues before us.

[64] In *Denver v. Fulton Irrigating Ditch*, we took note of the following excerpt from the California case of *Stevens v. Oakdale Irrigation District*:

Waters brought in from a different watershed and reduced to possession are private property during the period of possession. When possession of the actual water, or corpus, has been relinquished, or lost by discharge without intent to recapture, property in it ceases. This is not the abandonment of a water right but merely an abandonment of specific portions of water, i.e., the very particles which are discharged or have escaped from control.

*Fulton*, 179 Colo. at 58, 506 P.2d at 150 (quoting *Stevens v. Oakdale Irrigation Dist.*, 13 Cal.2d 343, 350, 90 P.2d 58, 61-62 (1939)).

We took no position in *Fulton* on whether this quote accurately reflects the common law in Colorado prior to the enactment of § 37-82-106, and we take no position now. Section 37-82-106 reflects an intent that the release of foreign water return flows does not terminate the reuse right. Whether the statutory language is derived from California law is unclear, but in the absence of controlling Colorado precedent we base our determination that abandonment does not apply solely on the plain statutory language. *Dunton v. People*, 898 P.2d 571, 573 (Colo.1995) (where language of statute is clear, court should apply statute as written).

[65] The trial court was unconvinced that the policy of rewarding importers should extend to Thornton as a "remote successor" of a developer of transmountain water. However, precisely such a result is suggested by the language of § 37-82-106(2), which states that "[t]o the extent that there exists a right to make a succession of uses of foreign, nontributary, or other developed water, such right is personal to the developer or his successors, lessees, contractees, or assigns."

[66] Certain objectors argue that failure to subject reuse rights to the possibility of abandonment is in derogation of the policy of maximum beneficial use. They contend that if importers retain the rights to reuse foreign water even in the absence of any beneficial use, then the water could go unused for extended periods of time until the importer chooses to exercise its rights. This argument ignores the reality of the diversion of water in the South Platte basin. These stream systems are largely overappropriated, *see Cache La Poudre Water Users Ass'n v. Glacier View Meadows*, 191 Colo. 53, 58, 550 P.2d 288, 292 (1976), and any water that is released from dominion by Thornton can be expected to be diverted to satisfy appropriative rights. Although individual appropriators cannot gain vested rights in the continuation of these releases, any water released becomes part of the natural stream and will be distributed in conformance with the priority system on the stream. Thus, the question is not whether the water will be reused but who will have the right to do so. Even in times when Thornton is not reusing its foreign waters, other users on the stream will predictably take advantage of these excess waters. Viewed in this light, the exemption of foreign water reuse rights from abandonment principles does not conflict with the policy of maximum use.

[67] In our prior cases, we have recognized the right of an importer to sell or lease its reuse rights and to limit those rights by contract. *See Estes Park*, 677 P.2d at 326; *Fulton*, 179 Colo. at 52, 506 P.2d at 146. Such rights of a transferee are among the rights that derive protection from the final sentence of § 37-82-106(1).

[68] Fort Collins argues that this court's decision in *Department of Natural Resources v. Ogburn*, 194 Colo. 60, 570 P.2d 4 (1977), requires the opposite conclusion. In that case, we held that the proper venue for a proceeding for change of use of a transmountain diversion water right is in the importing basin. The city bases its argument on the following language in Justice Erickson's dissent: "The majority ignores the legal fact that appropriators of water rights in the 'gaining' division [the division receiving imported water] cannot establish rights in the imported water as against the importer." *Id.* at 63, 570 P.2d at 6 (Erickson, J., dissenting). According to Fort Collins, the majority in *Ogburn* did not ignore the principle cited by Justice Erickson, but rather rejected it by declining to adopt the reasoning of the dissent. However, the majority makes no mention of the relative rights of users of foreign water in the receiving basin, and we find no evidence in the majority opinion of the intent envisioned by Fort Collins. In the absence of an explicit ruling, we do not interpret this case to overrule established precedent conditioning the ability of downstream users to avail themselves of foreign water return flows on the importer's continued importation and release. *E.g.*, *Fulton*, 179 Colo. at 53, 506 P.2d at 147; *Brighton Ditch*, 124 Colo. at 377, 237 P.2d at 122.

[69] Because the trial court held that Thornton's right to reuse its foreign waters was barred by the absence of an initial intent and the presence of facts establishing abandonment, the court did not specifically address the issues of laches or estoppel in the Memorandum of Decision or the final decree.

[70] The parties expressly recognized that others had historically relied on return flow from the old foreign water and sought to avoid the conflict that could be expected to result from attempts to reuse such water, while simultaneously continuing to assert their rights to do

so.

[71] Although our present discussion does not require further review of estoppel principles, we note that we have consistently required that claimants meet a high standard to establish such a claim in the water right context:

[B]efore the conduct of one party will create an estoppel in favor of another with respect to the title of the subject-matter of dispute between them, it must appear that the party against whom such estoppel is sought to be established was apprised of the true state of his own title; that by such conduct he intended to deceive or thereby was guilty of such negligence as to amount to a fraud; that the other was not only destitute of all knowledge regarding the true state of his title, but of the means of acquiring such knowledge. *There must be some degree of turpitude in the conduct of a party before a court of equity will estop him from the assertion of his title, when the effect of the estoppel is to forfeit his property, and transfer its enjoyment to another.*

*Lower Latham Ditch Co. v. Loudon Irrigating Canal Co.*, 27 Colo. 267, 274-75, 60 P. 629, 631 (1900) (emphasis added) (citations omitted); see also *Aubert*, 192 Colo. at 374, 559 P.2d at 234; *Upper Harmony Ditch Co. v. Stunkard*, 177 Colo. 6, 12, 492 P.2d 631, 634-35 (1972); *Jacobs*, 135 Colo. at 556-57, 313 P.2d at 1012; *Farmers Reservoir & Irrigation Co. v. Fulton Irrigating Ditch Co.*, 108 Colo. 482, 500, 120 P.2d 196, 205 (1941).

[72] In addition to failing to establish that it reasonably relied on Mr. Fischer's statements, PRPA did not establish that it was prejudiced by its alleged reliance. PRPA was a party to the Three-Way Agreement and participated in the development of the associated plan through and beyond the issuance of the decree in case W-9322-78. Unlike NCWCD, which alleged that it refrained from entering an objection in case W-9322-78 in reliance on Mr. Fischer's statements concerning the reuse of "old" transmountain water, PRPA does not allege any facts that might establish a prejudicial change in position. See *Baumgartner v. Tweedy*, 143 Colo. 556, 558, 354 P.2d 586, 588 (1960) (estoppel arises only where one detrimentally alters his position in reliance on another's conduct). The absence of evidence of prejudice provides additional support for our decision that PRPA's claim of estoppel is not supported.

[73] We also affirm the trial court's decision not to admit the deposition testimony of John Sayre. The objectors sought to introduce Mr. Sayre's testimony for the purpose of introducing statements of Mr. Fischer that allegedly supported the objectors' claims of abandonment and estoppel. Given (1) our holding that abandonment principles do not apply to transmountain reuse rights, and (2) the trial court's ruling that Mr. Fischer did not have the authority to waive these rights, which we affirm in this decision, Mr. Sayre's testimony regarding Mr. Fischer's alleged statements is not relevant.

[74] Return flows consist of "irrigation water seeping back to a stream after it has gone underground to perform its nutritional function." *City of Boulder v. Boulder & Left Hand Ditch Co.*, 192 Colo. 219, 223, 557 P.2d 1182, 1185 (1976).

[75] Thornton asserts that the record does not establish evidence of injury to wells other than the three operated by the named objectors, Amen, Hutcheson, and Yetter. However, an applicant must bear the initial burden of showing the absence of injurious effect from a proposed change of water right. *Southeastern Colo. Water Conservancy Dist. v. Fort Lyon Canal Co.*, 720 P.2d 133, 146 (Colo.1986); *Rominiecki v. McIntyre Livestock Corp.*, 633 P.2d 1064, 1068 (Colo.1981); *Weibert v. Rothe Bros.*, 200 Colo. 310, 316, 618 P.2d 1367, 1371 (1980). Only if the applicant can make a prima facie showing of no injury does the burden of going forward shift to objectors to show evidence of potential injury. *In re Application for Water Rights of Certain Shareholders in the Las Animas Consol. Canal Co.*, 688 P.2d 1102, 1108 (Colo.1984). In the present case, the trial court reviewed the evidence and determined that Thornton's plan to return replacement flows directly to the river would not be sufficient to prevent injury. MOD at 24-25. We will not overturn this factual determination on appeal. See *In re Gibbs*, 856 P.2d 798, 801 (Colo.1993) (factual findings of water court that are supported by competent evidence in the record will not be disturbed on appeal).

[76] Thornton argues for the application of the principle of statutory interpretation that subsequent modification of a statute creates a presumption that the legislature intended the statute to have a meaning different from the law as it existed prior to the modification. *Trustees of Colo. Carpenters & Millwrights Health Benefit Trust Fund v. Pinkard Constr. Co.*, 199 Colo. 35, 39, 604 P.2d 683, 685 (1979). While we acknowledge the usefulness of such presumptions in the absence of more direct evidence of legislative intent, where, as here, legislative history is available concerning the relevant provisions, we rely on that history as more reflective of the intent of the legislature. See *Vega v. People*, 893 P.2d 107, 112 (Colo.) (legislative intent in enacting a statute is determined primarily from plain language of the statute and secondarily from the statute's legislative history), *cert. denied*, \_\_\_ U.S. \_\_\_, 116 S.Ct. 233, 133 L.Ed.2d 161 (1995); *General Elec. Co. v. Niemet*, 866 P.2d 1361, 1364 (Colo.1994).

[77] NCWCD argues that the trial court's decision creates a disincentive for parties acquiring irrigation water rights with the intent of changing their use to other purposes to acquire the irrigated lands historically associated with the water rights. This argument is without merit because the trial court's determination is limited to the factual circumstances existing in this case. Any future applicant who seeks to acquire shares of water without purchasing associated lands must still fully adjudicate a change application and satisfy the burden of showing the absence of injurious effect in the context of the affected water system.

[78] NCWCD argues that the trial court's decision not to require dry-up of the lands historically irrigated by the "floating shares" is logically inconsistent with its decision that complete dry-up of the Thornton farms is necessary to prevent potential injury arising from the enlarged use of non-Thornton shares. According to NCWCD, the trial court had no basis on which to distinguish the potential for enlarged use associated with Thornton's "floating shares" and its other WSSC shares. Any such logical inconsistency, however, could instead suggest that the requirement to dry up the Thornton farms in this area that the trial court found to be "generally water-short or

marginally water-adequate" was conservative. The trial court accepted the testimony of Thornton's expert witness that the dry-up conditions imposed would protect against injury to owners of vested water rights and decreed conditional water rights. This evidence fully supports the trial court's determination of non-injury.

[79] This department is now known as the Colorado Department of Public Health and the Environment. See § 25-8-301, 11A C.R.S. (1995 Supp.).

[80] Discharge permits regulate discharges through effluent limits, which set forth the permissible concentrations of pollutants in the discharged wastewater. See § 25-8-103(6), 11A C.R.S. (1989). The effluent limits are calculated to ensure that water quality standards developed by the Water Quality Commission will be met in each relevant area of the stream. See § 25-8-204, 11A C.R.S. (1989); 5 CCR 1002-8 (1995). One controlling variable in calculating effluent limits is the volume of water in the stream just upstream of the discharge point. The volume of water is measured as a statistically determined, biologically based average low flow, termed the 30 E 3 flow. 5 CCR 1002-8, § 3.1.9, at 9.12. Should a detrimental change in stream flow occur, the Division is authorized to impose stricter effluent limits to maintain the water quality standards. 5 CCR 1002-2, § 6.9.2(2), at 55 (1996). Thus, a reduction in average low-flow conditions in a stream may result in stricter effluent limits in a discharge permit.

[81] The court imposed the following conditions on the operation of the Poudre River exchange:

55.4.3 *Quality, Quantity, and Continuity.* The substitute water provided in accordance with Thornton's Poudre River appropriative right of exchange will be of a quality and continuity to meet the requirements of use to which senior appropriations have normally been put, and will be of quality and quantity so as to meet the requirements for which the water of the senior appropriators has normally been used. Furthermore, said substitute or replacement water will meet the lawful requirements of the senior diverters at the time and location and to the extent the seniors would be deprived of their lawful entitlement by the Applicant's diversions.

55.4.3.1 *State Engineer Determination.* The State Engineer shall make such determinations as to the quality, quantity and continuity of the substitute supply as are required by applicable and lawful statutes (e.g., §§ 37-80-120, 37-83-101, et seq., C.R.S.) and regulations (e.g., those promulgated under § 25-8-202(7)) in effect at any time this exchange is being exercised.

55.4.3.2 *Enforcement by Governmental Entities in Addition to State Engineer.* This decree shall not constitute an impediment to lawful regulatory and enforcement activities by appropriate administrative agencies.

55.4.3.3 *Future Water Quality Standards.* Unless otherwise required by paragraph 55.4.3.2, Thornton's substitute supply shall comply with the provision of any lawful statute, regulation or ordinance of general applicability limiting, regulating or prescribing the quality of water which may be used for normal agricultural irrigation whether such statute, regulation or ordinance is now in existence or is adopted or enacted in the future, including future modifications thereof, and whether enacted or adopted by the State Engineer or any other governmental entity.

The court also retained jurisdiction to review the sufficiency of the water quality provisions in the decree. Decree, ¶ 63.5, at 88.

[82] The trial court made the following ruling regarding dilution flows:

33.2.2 *Dilution Flows.* For the reasons set forth in Section VII of the Memorandum of Decision, this Court makes no provision concerning dilution flows for municipal or industrial wastewater treatment plants, however, this decree is no impediment to enforcement or other actions by administrative or other agencies.

Decree, ¶ 33.2.2, at 36.

[83] Kodak apparently makes a separate allegation that Thornton's provision of substitute water in connection with another part of the Northern Project, the WSSC ditch exchange, will adversely affect the chemistry of the water at Kodak's discharge point. Although Kodak's plant is below the point of release for the substitute supply water for that portion of the project, the WSSC ditch exchange will exchange upon the water of WSSC shareholders in the Larimer County Canal, a great distance away from Kodak's discharge point. Kodak is certainly not one of the senior appropriators whose water is being exchanged upon; thus, the substitute supply provisions are not intended to protect Kodak in this situation.

[84] The language of the decree indicates that the trial court did apply the "no-injury" standard of § 39-92-305(3) in reviewing Thornton's proposed appropriative exchanges:

34. *Changes of Water Rights, Appropriative Rights of Exchange, and Plan for Augmentation.* The changes of water rights, appropriative rights of exchange, and plan for augmentation approved herein will not injuriously affect the owners or persons entitled to use water under any vested water right or decreed conditional water right as long as those changes and exchanges are operated and administered in accordance with the terms and conditions of this decree.

Decree, ¶ 34, at 37. Without deciding the applicability of that standard in the present case, we affirm the result reached by the trial court.

[85] In order for Kodak to maintain its current treatment system after operation of the exchange, conditions would have to be imposed on the exchange that would preserve the current effluent limits. Assuming the absence of other factors, these limits will remain intact so long as the statistically based average low-flow of the river remains at or above a certain rate. Kodak argues that conditions preserving

this average low-flow are distinguishable from a minimum stream flow because with the former the flow can vary above and below the average on a short-term basis. We fail to see such a distinction. Whether a requested flow rate is quantified as a specific minimum flow or as an average rate, the effect of granting such a right is to remove a certain amount of water from the appropriation system by decreeing that it remain in the stream, a result prohibited by the legislature. See *infra* pp. 207-10.

[86] This court has never approved this type of indirect appropriation. Kodak cites a water court case in which the court imposed on a change of water right the very condition that Kodak seeks here, a minimum flow requirement to avoid any detrimental impact on a downstream user's sewage treatment plant. *In re Application for Water Rights of the Bd. of Waterworks of Pueblo, Colo.*, No. 84CW177 (Dist. Ct., Water Div. No. 2, February 24, 1988). That case was appealed to this court but the minimum flow condition was not one of the issues on appeal. *City of Florence v. Board of Waterworks*, 793 P.2d 148 (Colo.1990). Accordingly, we expressed no opinion as to the merits of such a requirement. *Id.* at 152-53 & n. 8.

[87] Section 37-92-305(5), 15 C.R.S. (1990), addressing "plans for augmentation including exchange," imposes an essentially identical standard: "Any substituted water shall be of a quality and quantity so as to meet the requirements for which the water of the senior appropriator has normally been used...."

[88] Because we determine that the provisions of the WSSC contract do not compromise the protection afforded senior appropriators under section 37-80-120(3), we need not address the issue of whether the actions of the WSSC board or the ratification by other shareholders could bind the objecting shareholders to the terms of the contract.

[89] We also note that in the event that a senior appropriator can establish a material impairment to historical uses resulting from the adverse quality impacts of the substitute supply, the appropriator may compel Thornton to purchase the affected lands and shares at fair market value. Decree ¶ 57.2.3.4, at 73.

[1] The majority states that the state engineer sought the insertion of the provision contained in paragraph 60.6 in the Decree. Maj. op. at 98. The record does not contain any motion brought by the state seeking such a remedy. The lack of a documented motion detailing circumstances under which fees could be imposed further supports my concern that this issue is being addressed prematurely and in the absence of a real controversy.

[2] Although paragraph 60.6 specifically authorizes the division engineer to petition the trial court for costs, the state engineer is ultimately responsible for the work of the division engineer. See §§ 37-80-102(1), 37-80-105, 15 C.R.S. (1990). The additional duties created by the Decree are effectively imposed upon the state engineer. Thus, for purposes of this dissent, I will assume that it is the state engineer who would be making application for the costs of administrative assistance on behalf of the division engineer.

[3] It should be noted that § 37-92-202, 15 C.R.S. (1990), provides that "[t]he expenses of the offices and staffs of the division engineers shall be provided for out of state funds." An issue to be addressed would be whether the cost of administrative assistance necessary for the performance of additional duties imposed by the Decree is an expense of the office or staff of the division engineer. Resolution of this question will depend upon the nature of the assistance rendered and thus cannot be addressed in the absence of an actual request for specified costs.

[4] Several other statutes also support the state engineer's authority to promulgate these regulations. The most specific of the statutes is § 37-80-111.5(1)(a), 15 C.R.S. (1996 Supp.), which provides that "[t]he state engineer shall set and collect fees by rules and regulation for the distribution of data generated, collected, studied, and compiled about the water supplies of this state, which fees shall reflect the direct and indirect costs of such distribution."

[5] I note that this interpretation of § 37-80-102(1)(k) is consistent with the general principle that a property owner may be required to pay the costs of public improvements if the property is specially benefited by the improvements over and above the general benefit to the public at large. *Bethlehem Evangelical Lutheran Church v. City of Lakewood*, 626 P.2d 668, 672 (Colo.1981). See also *Beaver Meadows v. Board of County Comm'rs*, 709 P.2d 928, 935 (Colo.1985) (it is within the police power of the state to impose on a developer the burden of providing reasonable improvements to public facilities made necessary by a development as a condition of approval of that development).

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Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

**Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.**

1 message

---

**Doug Hamilton** <dougdeerfld@gmail.com>  
To: rhelmick@larimer.org

Fri, Jan 19, 2018 at 10:48 AM

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at 350 Deerfield Circle near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

A handwritten signature in cursive script, appearing to read "Doug Hamilton".

Doug Hamilton



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route

1 message

---

James Rios <rios.jim@gmail.com>  
To: rhelmick@larimer.org

Fri, Jan 19, 2018 at 11:27 AM

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at 4615 Eagle Lake Dr. near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Jim Rios  
4615 Eagle Lake Dr.  
Fort Collins, CO, 80524



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route

1 message

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Mary Burrell <maryhburrell@gmail.com>  
To: rhelmick@larimer.org  
Cc: Jeff Burrell <jwburrell385@gmail.com>

Sat, Jan 20, 2018 at 12:56 PM

Dear Senior Planner Rob Helmick,

We are writing to support the proposed "South 2" route down Douglas Road for the Thornton pipeline project, as we believe it is the best route available. We live at **385 Eagle Watch** near Douglas Road and we are very sensitive to the impact this project will have on our residence and neighbors.

We strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. We are happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, we feel the project coordination opportunity between Larimer County, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas Road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. We applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas Road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer County officials that will benefit taxpayers.

We ask that you please include our comments in the 1041 application package.

Sincerely,

Mary & Jeff Burrell

385 Eagle Watch

Fort Collins, CO 80524

5133 Eagle Lake Drive  
Fort Collins, CO 80524  
January 18, 2018

RECEIVED  
JAN 23 2018

Rob Helmick, Senior Planner  
Larimer County Planning Department  
200 W. Oak Street, Third Floor  
Fort Collins, CO 80522

Re: Citizen Comment on Thornton Water Pipeline 1041 Permit  
Support for South 2 Route

Dear Mr. Helmick,

I am writing in support of the South 2 route down Douglas Road for the Thornton pipeline project. I believe it is the best available route. I live near Douglas Road and am very concerned about the impact this project will have on our neighborhood.

I feel the proposed South 2 route down Douglas Road is the best route for all of our communities in this area. Keeping the physical pipe off private property is to the benefit of all property owners.

The improvements to Douglas Road shown in the Master Transportation Plan is very much needed and will improve the safety on that road for all. In addition, sharing the cost of these improvements with the City of Thornton benefits all taxpayers.

I ask that you include this letter in the 1041 application package.

Sincere yours,

  
Ron Young



RECEIVED  
JAN 23 2018

Date: January 19, 2018

From: Ted and Ellen Zibell  
5141 Eagle Lake Drive  
Fort Collins, CO 80524

To: Rob Helmick, Senior Planner  
Larimer County Planning Department  
200 W. Oak Street, Third Floor  
Fort Collins, CO 80522

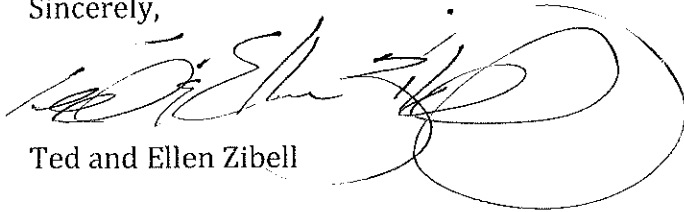
Re: Proposed Thornton Water Pipeline  
Support of the South 2 Route

As members of a neighborhood directly affected by the planned Thornton Water Project pipeline, we want to express our support of the South 2 route.

We believe utilizing Douglas Road for the pipeline route will minimize the impact for all of us living in the area. Coordinating planned improvements to Douglas Road with the installation of the pipeline is key to minimize the works impact on those along the route. We were thankful to see that Route 2 was also found to be one of the most cost effective options.

Thank you for listening to all those affected by the planned Thornton Water Project pipeline work.

Sincerely,



Ted and Ellen Zibell

4451 Eagle Lake Drive  
Fort Collins, CO 80524  
January 18, 2018

RECEIVED  
JAN 23 2018

Rob Helmick, Senior Planner  
Larimer County Planning Department  
200 W. Oak Street, Third Floor  
Fort Collins, CO 80522

Re: Citizen Comment on Thornton Water Pipeline 1041 Permit  
Support for South 2 Route

Dear Mr. Helmick,

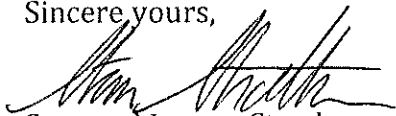
We are writing in support of the South 2 route down Douglas Road for the Thornton pipeline project. We believe it is the best available route. We live near Douglas Road and am very concerned about the impact this project will have on our neighborhood.

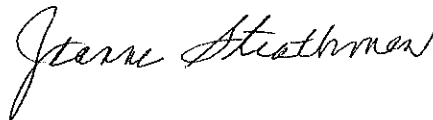
We feel the proposed South 2 route down Douglas Road is the best route for all of our communities in this area. Keeping the physical pipe off private property is to the benefit of all property owners.

The improvements to Douglas Road shown in the Master Transportation Plan is very much needed and will improve the safety on that road for all. In addition, sharing the cost of these improvements with the City of Thornton benefits all taxpayers.

We ask that you include this letter in the 1041 application package.

Sincere yours,

  
Stan and Jeanne Strathman





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

**Thornton Pipeline**

1 message

Jim Janik &lt;jaj131@aol.com&gt;

Tue, Jan 23, 2018 at 10:19 AM

To: rhelmick@larimer.org

Cc: JimKriewall@gmail.com, jaj131@aol.com, Kratt@aol.com, christine.kratt@bms.com

Dear Senior Planner Rob Helmick,

The purpose of this email is to support the proposed "South 2" route down Douglas Road for the Thornton pipeline Project as the most logical route of those being proposed. At the last meeting several routes had been studied and the South 2 route was chosen based on a comprehensive evaluation of many factors. Thornton and the county should stay with that decision. I live at 4020 Eagle Lake South, near Douglas Road, and I am concerned about the impact that this project will have on my residence and my neighbors. I am happy to see that proposal "South 2" route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

I understand that there are plans for much needed improvements along Douglas road that will make it safer for children, pedestrians, cyclists, and motor vehicles. As we are a platinum bicycling community, a wider Douglas with bike lanes and a traffic light at Hwy 1 and Douglas, will keep the many bicycle riders that go up and down Douglas Road safer. Since disruptions along Douglas road are inevitable, this is an opportunity for project coordination and cost sharing between Larimer County, City of Thornton, and Northern Integrated Supply Project (NISP).

I am pleased to learn that your office is seeking this partnership to share the cost of improving Douglas road with the City of

Thornton and NISP as a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

In conclusion, I support "South 2" because when implemented effectively it can:

- + Save money for Larimer County taxpayers.
- + Minimize the impacts on Douglas Road and Eagle Lake residents.
- + Improve safety for all vehicles traveling Douglas Road
- + Minimize the use of private land.
- + Maximize the use of land owned by the City of Thornton .

I ask that you please include my comments in the 1041 application package.

Sincerely, Jim and Barbara Janik

4020 Eagle Lake South  
Ft. Collins, CO 80524

**Email:** [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Rob Helmick at:

Larimer County Community Development Division

PO Box 1190

Fort Collins CO 805221140

**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at **421 Deerfield Circle** near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

*Charles R. Sarran*  
*Mary Joyce Sarran*

Charles R. & Mary Joyce Sarran



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route

1 message

Dan K &lt;Dan2x@msn.com&gt;

Mon, Jan 22, 2018 at 7:47 PM

To: "rhelmick@larimer.org" &lt;rhelmick@larimer.org&gt;

Cc: "JimKriewall@gmail.com" &lt;JimKriewall@gmail.com&gt;, "jaj131@aol.com" &lt;jaj131@aol.com&gt;, "Kratt, Christine" &lt;christine.kratt@bms.com&gt;

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas Road for the Thornton Pipeline Project as the most logical route of those being proposed. I live at 457 Deerfield Circle, near Douglas Road, and I am concerned about the impact that this project will have on my residence and my neighbors. I am happy to see that proposal "South 2" route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

It is my understanding that currently there are plans for much needed improvements along Douglas road that will make it safer for children, pedestrians, cyclists, and motor vehicles. This means not only that disruptions along Douglas road are inevitable, but also that this is an opportunity for project coordination and cost sharing between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP).

I am pleased to learn that your office is seeking this partnership to share the cost of improving Douglas road with the City of Thornton and NISP as a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

In conclusion, I support "South 2" because when implemented effectively it can:

- + Save money for Larimer County taxpayers.
- + Minimize the impacts on Douglas Road and Eagle Lake residents.
- + Minimize the use of private land.
- + Maximize the use of land owned by the City of Thornton .

I ask that you please include my comments in the 1041 application package.

Sincerely, Dan Kiskis

457 Deerfield Circle

Ft. Collins, CO 80524

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.

Sent from my iPad

Begin forwarded message:

**From:** Scarlet Sparkuhl Delia <dr.sparkuhldelia@gmail.com>  
**Date:** January 18, 2018 at 9:59:17 PM MST  
**To:** bocc@larimer.orgaitaaa  
**Subject:** Thornton Water Project 1041 Application

Dear Commissioners,

I write to you today in strong opposition to the Thornton Water Project 1041 permit application. I am a resident of the Braidwood HOA, at the intersection of Shields St. and Douglas Rd. We purchased our home 18 months ago after moving from Southern California. I am a family practice doctor in Fort Collins and my husband runs a plumbing and heating business locally. We moved to this beautiful, semi-rural community to raise our children and live a peaceful life remote from heavily trafficked roads close to nature. We moved here for a safe neighborhood for our children. We moved here to enjoy the peace and tranquility of this unique area of Larimer County.

I have read through the entire executive summary of the 1041 application, and as it reads, there are multiple items of great concern.

Thornton owns water rights, but they *do not* own land or easements to build this pipeline. There was no dialogue between the potentially affected residents and Thornton prior to submission of the application. There was no discussion about how or where this pipeline might be constructed that would not impact residents so severely. As residents of this area, we anticipate a significant drop in property values should this pipeline be constructed. An anticipated 10,000 square foot pump house with security lighting and fencing and a back-up diesel generator would be in the line of sight from our home, and in an area where our children play. And then there are the easements to service the pumphouse and pipeline. And a 500 feet – ¼ mile-wide corridor extending to I-25? This is a future of protracted construction and maintenance, with Thornton employees utilizing Starlite Dr., Douglas Rd. and remaining proposed pipeline route indefinitely. We also know that residents along Douglas Rd. face potential eminent domain of their homes. Their homes! This is where people live and raise their families, where we grow and leave our legacy. 5-6 years or more of construction? Both of my children will be teenagers by this time. We have already experienced the hardship of living with protracted construction of Hwy 287 since we moved here. The impacts to our quality of life, property values and degradation of surrounding natural environment would be significant.

But there is a much larger issue at hand. Progress and development and growth are natural processes in any community, and I support that. However, we know that this pipeline coincides conveniently with the anticipated Douglas Rd improvements that may not have taken place for many years to come. We know that money is a driving force in these plans and that Larimer County and the City of Thornton are hand-in-hand with both projects occurring simultaneously. However, both Larimer County and the City of Thornton have left out one critical element in the plan... the people of this community.

We the people elect officials to support our vision of development and progress. We the people elect officials to protect our rights, our homes, our quality of life and our future. As tax-paying constituents of this community, we rely on your support and protection from this potential devastation. Where is Larimer County's support and protection of the residents, their land and the natural environment? The City of Thornton has no concern for the potential degradation of quality of life, depletion of property values and derangement of the natural environment. It's Larimer County's obligation to care, and to do all in its power to prevent something as invasive as this. It's Larimer County's obligation to stand up for what is right, and what is in the best interests of your constituents. From the Larimer County Land Use Code, this project does not:

*"Maintain and enhance property values by stabilizing expectations, fostering predictability in land development and establishing a process that efficiently and equitably applies this code to individual sites while respecting property owner rights and the interests of Larimer County citizens. This requires balancing economic development with community values and individual property rights."*

Please consider the long-term effects that this enormous project would have on your constituents. Consider the loss in quality of life, the loss in property value, the loss of nature, and the loss of faith in our elected officials. Do the right thing and please oppose the Thornton Water Project 1041 application.

Sincerely,

Scarlet Sparkuhl Delia D.O.

Resident, Braidwood HOA



JAN 22 2018

January 17, 2018

COMMISSIONER'S OFFICE

Dear Commissioner Johnson,

I write to you today in strong opposition to the Thornton Water Project 1041 permit application. I am a resident of the Braidwood HOA, at the intersection of Shields St. and Douglas Rd. We purchased our home 18 months ago after moving from Southern California. I am a family practice doctor in Fort Collins and my husband runs a plumbing and heating business locally. We moved to this beautiful, semi-rural community to raise our children and live a peaceful life remote from heavily trafficked roads close to nature. We moved here for a safe neighborhood for our children. We moved here to enjoy the peace and tranquility of this unique area of Larimer County.

I have read through the entire executive summary of the 1041 application, and as it reads, there are multiple items of great concern.

Thornton owns water rights, but they *do not* own land or easements to build this pipeline. There was no dialogue between the potentially affected residents and Thornton prior to submission of the application. There was no discussion about how or where this pipeline might be constructed that would not impact residents so severely. As residents of this area, we anticipate a significant drop in property values should this pipeline be constructed. An anticipated 10,000 square foot pump house with security lighting and fencing and a back-up diesel generator would be in the line of sight from our home, and in an area where our children play. And then there are the easements to service the pumphouse and pipeline. And a 500 feet – ¼ mile-wide corridor extending to I-25? This is a future of protracted construction and maintenance, with Thornton employees utilizing Starlite Dr., Douglas Rd. and remaining proposed pipeline route indefinitely. We also know that residents along Douglas Rd. face potential eminent domain of their homes. Their homes! This is where people live and raise their families, where we grow and leave our legacy. 5-6 years or more of construction? Both of my children will be teenagers by this time. We have already experienced the hardship of living with protracted construction of Hwy 287 since we moved here. The impacts to our quality of life, property values and degradation of surrounding natural environment would be significant.

But there is a much larger issue at hand. Progress and development and growth are natural processes in any community, and I support that. However, we know that this pipeline coincides conveniently with the anticipated Douglas Rd improvements that may not have taken place for many years to come. We know that money is a driving force in these plans and that Larimer County and the City of Thornton are hand-in-hand with both projects occurring simultaneously. However, both Larimer County and the City of Thornton have left out one critical element in the plan... the people of this community.

We the people elect officials to support our vision of development and progress. We the people elect officials to protect our rights, our homes, our quality of life and our future. As tax-paying constituents of this community, we rely on your support and protection from this potential devastation. Where is Larimer County's support and protection of the residents, their land and the natural environment? The City of Thornton has no concern for the potential degradation of quality of life, depletion of property values and derangement of the natural environment. It's Larimer County's obligation to care, and to do all in its power to prevent something as invasive as this. It's Larimer

COPY RECEIVED  
BY ALL COMMISSIONERS

County's obligation to stand up for what is right, and what is in the best interests of your constituents. From the Larimer County Land Use Code, this project does not:

*"Maintain and enhance property values by stabilizing expectations, fostering predictability in land development and establishing a process that efficiently and equitably applies this code to individual sites while respecting property owner rights and the interests of Larimer County citizens. This requires balancing economic development with community values and individual property rights."*

Please consider the long-term effects that this enormous project would have on your constituents. Consider the loss in quality of life, the loss in property value, the loss of nature, and the loss of faith in our elected officials. Do the right thing and please oppose the Thornton Water Project 1041 application.

Sincerely,



Scarlet Sparkuhl Delia D.O.

Resident, Braidwood HOA

Board of County Commissioners

18 January 2018

200 West Oak,

Suite 2200

Fort Collins CO 80521

RECEIVED

JAN 22 2018

COMMISSIONER'S OFFICE

Dear Sirs,

Thornton Pipeline

You will be aware that there is considerable anxiety over the proposed route that Thornton have proposed which includes Douglas Road. Those immediately affected (including myself) are concerned that you should take the following matters into consideration before you agree to their 1041 proposal:

- Thornton's original proposal was to take the line north and east through Eagle Lakes. They had a number of meetings and discussions with the Eagle Lake Owners and dropped that proposal which would have disrupted far fewer Owners. Why?
- Thornton has seemingly not looked at other ideas despite the fact that they maintain they have looked at "several" – they are unable to name a single one. Why?
- It was reported in the local media that FC Roads dept. were "excited" about the Douglas Road proposal. Why?
- Thornton has deliberately omitted the proposed pump station from the 1041. This is probably because they wildly misled Owners of Starlight and Braidwood about the size of this building and showed pictures of rather pretty barn like structures. A 10,000 sq ft building surrounded by security fencing and lighting is not what they described.

I ask you to please keep in mind the **Larimer County Land Use Code** during your deliberations. I believe that we, as Owners and tax payers within Larimer County, deserve greater consideration than future Owners of property in a Denver suburb.

I hope you will ask Thornton to reconsider their options.

Thank you



Chris Reid (3740 Braidwood Drive)

COPY RECEIVED  
BY ALL COMMISSIONERS



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

1 message

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Terry Bieritz <tbieritz@gmail.com>  
To: rhelmick@larimer.org

Wed, Jan 24, 2018 at 10:54 AM

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at **4835 Eagle Lake Drive, Fort Collins**, near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,  
Terry Bieritz



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

---

## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

1 message

Serena <serenaservicesco@gmail.com>  
To: rhelmick@larimer.org

Wed, Jan 24, 2018 at 10:31 AM

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at **4835 Eagle Lake Drive, Fort Collins**, near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Serena Bieritz





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route

1 message

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Richard & Anne Dolph <rmdcor@bajabb.com>  
Reply-To: Richard Dolph <rmdcor@bajabb.com>  
To: rhelmick@larimer.org

Wed, Jan 24, 2018 at 12:30 PM

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at **5024 Eagle Lake Drive, Fort Collins, CO. 80524** near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Richard Dolph



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Comment on Thornton Water Pipeline 1041 Permit: South #2 Route Support**

1 message

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**Andy Burleigh** <burleigh.andy@yahoo.com>  
Reply-To: Andy Burleigh <burleigh.andy@yahoo.com>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>

Wed, Jan 24, 2018 at 12:37 PM

Dear Mr. Helmick:

As residents of the Eagle Lake neighborhood (4616 Eagle Lake Drive), we have followed with great personal interest the plans for the Thornton Water Pipeline. After reviewing the various route proposals, it seems very clear to us that the South #2 Route is the most favorable. South #2 Route has the least impact on residential properties and natural areas, is the most fiscally responsible, and takes advantage of already existing thoroughfares (Douglas Road). We highly support the South #2 Route plan and request that the Larimer County Planning Commission endorse this plan, as well.

Sincerely,

Andy and Joan Burleigh



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Citizen Comment on Thornton Water Pipeline 1041 Permit - Support for South 2 Route

1 message

Harry Sheline &lt;hlsheline@gmail.com&gt;

Wed, Jan 24, 2018 at 11:24 AM

To: rhelmick@larimer.org

Cc: Dennis Pierro &lt;dpierro437@gmail.com&gt;, Mark Heiden &lt;mheiden@eaglelakefchoa.com&gt;, Lin Sheline &lt;lindamsheline@gmail.com&gt;

Attention: Senior Planner - Rob Helmick,

My name is Harry Sheline and my wife, Linda and I live at 438 Pelican Bay in the Eagle Lake development near Douglas road. I am very sensitive to the potential impact the Thornton Water Pipeline project could have on my residence and neighbors. I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available.

Although there are many residents that will advocate their opinion over others (in most cases based on personal gain) I do not want to advocate my opinion over theirs because I'm not sure I have all the facts or know what the prioritized criteria Larimer County would use in selecting a route. It seems that the South 2 route is aimed at 1) minimizing the potential negative impact on property values and the environmental aesthetic of our communities, 2) maximizing the areas owned by the City of Thornton and keeping the physical pipeline off private property to the mutual benefit of all property owners and 3) if coordinated well, it should also minimize the overall disruption of the collective projects (Thornton's Pipeline, Larimer's Douglas Road, and NISP) will have on the community.

As a suggestion for the meeting(s), discussing the Larimer County decision criteria before seeking personal opinions may help minimize a lot of the "we vs. they" discussion.

I feel the project coordination opportunity between Larimer county, City of Thornton, and the Northern Integrated Supply Project (NISP) is a unique opportunity for all parties to work together. The changes to Douglas road detailed in the county's master transportation plan (regardless of the Thornton Water Project) is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I believe many that don't support the South 2 route are just trying to avoid the personal disruption of the Douglas Road project. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Harry Sheline  
918-629-4322**From:** Harry Sheline <hlsheline@gmail.com>**Subject:** Thornton Water Project - TWP**Date:** April 7, 2017 at 11:03:15 AM MDT**To:** rhelmick@larimer.org**Cc:** Linda Sheline <lindamsheline@gmail.com>

Robert, when I talked with Terry Gilbert at yesterday's meeting with Commissioner Lew Gaiter III, he suggested that I send you an email requesting to be put on the "Thornton Water Project (TWP)" information list. I am very interested in the information Thornton includes in their 1041 permit application. I'm glad that Larimer is requiring Thornton to follow the 1041 process because initially it seemed that they anticipated being able to just push their plan through. I would have expected their hired guns/consultants to be more informed and less egotistical, but maybe that's to our advantage. In your role as the senior planner

**THORNTON WATER PROJECT 1041****464**



for development review, I give you a lot of credit having to interface with the group. So far at the Larimer County HOA meetings where the TWP has been discussed, Thornton (T) has responded to most of the concerns/issues with "T acknowledged the concern", "T will take it into consideration", "T can look into it", etc. I've also been told that the residents will need to communicate our concerns directly to Larimer County because Thornton will not convey them to you. I anticipate your 1041 process as the best way to do this and contribute to a workable solution. Thanks in advance! My contact information is below if I can be of help:

Harry Sheline  
438 Pelican Bay  
Fort Collins, CO. 80524  
918-629-4322  
hlsheline@gmail.com

RECEIVED

JAN 22 2018

COMMISSIONER'S OFFICE

3740 Braidwood Drive

Fort Collins

CO 80524

Board of County Commissioners

200 West Oak Street

Suite 2200

Fort Collins, CO 80521

Dear Sirs,

I am writing to you to request that you reject the 1041 application that has been submitted by Thornton.

My property is bordered by Douglas Road and I am appalled by the apparently casual acceptance by Larimer County, of Thornton's disregard for the disruption to property owners along the proposed route of their pipeline.

I was at the meeting in the autumn when Lou Gaiter announced that nobody would be permitted to use either the word "Thornton" or "pipeline". We had a very real sense that we were about to be forced to accept something without fair and reasonable discussion.

If it goes ahead, this will disrupt not one but several neighbourhoods. Some will even lose their property. All will experience property devaluation. All will experience years of disruption caused by major construction right on our doorsteps.

It is our understanding that the initial plan put forward by Thornton was to lay the pipe they need further north – crossing agricultural land. The land owner refused and the Douglas road plan was put forward – to the distress of homeowners in several neighbourhoods.

We have been made aware of a rumour that Larimer County and the city of Fort Collins have supported the Douglas Road plan because Thornton will (while putting in their pipeline) widen the road sufficiently to make it a viable truck route. This would not cost Fort Collins anything – but the cost to our neighbourhoods is incalculable.

Thornton MUST reconsider and put forward more reasonable proposals.

Thank you for your consideration,

Rosemary Davenport



cc Fort Collins Roads Department; Fort Collins City Council; Fort Collins Mayor; cc Kevin Duggan/The Coloradoan

COPY RECEIVED  
BY ALL COMMISSIONERS



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Thornton Water Project Route - please keep the Douglas Road route**

1 message

JGano @ Gmail &lt;jgano1144@gmail.com&gt;

Fri, Jan 26, 2018 at 11:31 AM

To: helmicrp@co.larimer.co.us

Dear Rob,

I support the currently selected route for the Thornton Water Project, TWP, pipeline along Douglas Road.

My wife and I live at 4115 Braidwood Drive. I do not agree with the very vocal folks speaking against the Douglas Road route for the TWP pipeline. Rather, having attended the "alternate route" presentation by the TWP folks and seen how the TWP people responded to the original suggestions by Eagle Lake, I believe TWP has thought through the decision thoroughly, exhaustively considered the alternate routes and come to a reasonable solution.

Of course, there is no ideal location that will satisfy everyone but this project will get built, there is no doubt there, and taking advantage of Douglas Road rather than cutting through local neighborhoods seems a very reasonable idea. The fact that Douglas Road was scheduled to be repaired anyway is an added positive factor.

Thanks for your time.

Jim and Carole Gano  
4115 Braidwood Dr.  
Ft. Collins, CO 80524

**Due no later than: 2/7/2018**

**Email:** [rhelmick@larimer.org](mailto:rhelmick@larimer.org)  
or mailed to Rob Helmick at:  
Larimer County Community Development Division  
PO Box 1190  
Fort Collins CO 805221

**Subject Line:** Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route.

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at **<insert address>** near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

*Paul & Patricia Dinkins*



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Douglas Rd. Information Meeting...

1 message

Penny Hillman &lt;pennyjhillman@yahoo.com&gt;

Fri, Jan 26, 2018 at 8:39 AM

To: "bocc@larimer.org" <bocc@larimer.org>, "lgaiter@larimer.org" <lgaiter@larimer.org>, "swjohnson@larimer.org" <swjohnson@larimer.org>, "tdonnelly@larimer.org" <tdonnelly@larimer.org>, "rhelmick@larimer.org" <rhelmick@larimer.org>, "tblomstrom@larimer.org" <tblomstrom@larimer.org>, "mpeterson@larimer.org" <mpeterson@larimer.org>, "rtgilbert@larimer.org" <rtgilbert@larimer.org>, "pcboard@larimer.org" <pcboard@larimer.org>, "john.kefalas.senate@state.co.us" <john.kefalas.senate@state.co.us>, "vicki.marble.senate@state.co.us" <vicki.marble.senate@state.co.us>, "kevin@kevinlundberg.com" <kevin@kevinlundberg.com>, "joann.ginal.house@state.co.us" <joann.ginal.house@state.co.us>, "jeni.arndt.house@state.co.us" <jeni.arndt.house@state.co.us>, "perrybuck49@gmail.com" <perrybuck49@gmail.com>, "hugh.mckean.state@gmail.com" <hugh.mckean.state@gmail.com>, "jared.polis@mail.house.gov" <jared.polis@mail.house.gov>, "wtroxell@fcgov.com" <wtroxell@fcgov.com>, "boverbeck@fcgov.com" <boverbeck@fcgov.com>, "raymartinez@fcgov.com" <raymartinez@fcgov.com>, "ksummers@fcgov.com" <ksummers@fcgov.com>, "kstephens@fcgov.com" <kstephens@fcgov.com>, "rcunniff@fcgov.com" <rcunniff@fcgov.com>, "ghorak@fcgov.com" <ghorak@fcgov.com>

I would like to offer my reflections after attending Larimer County's Public Informational Meeting for Douglas Road on 1/25/18.

From an article in the Northglenn-Thornton Sentinel, 1/25/18: "Todd Barnes, communications director for the city of Thornton, said in an email to the Sentinel that there are no plans to take property. "The plan currently is to **stay entirely in the right of way along the Douglas Road.**"

When I quoted that statement at the Douglas Rd. meeting last night, Mr. Helmick stated, "And **that is what it says in their 1041.**"

Those statements do not correspond with what is written in Thornton's 1041 Executive Summary: "Larimer County staff indicated that locating the water pipeline in Larimer County road ROW **may** be allowed at **some** locations."

If it is not specifically written in the 1041 Application, it does not exist.

At the Douglas Rd. meeting, Mr. Blomstrom told the assembled, who had complained about the 500' corridor, that Larimer County "has asked Thornton to narrow the corridor down (via a process that will take an indeterminate number of weeks) and they have agreed to try to do that". Why didn't Larimer County request that in the first place?

From Thornton's 1041 Executive Summary: "**Larimer County staff requested** that Thornton propose a preferred alignment with a 500-foot wide corridor for the TWP in the area around the WSSC Reservoirs and east to Larimer County Road 9. The 500-foot wide corridor allows flexibility in locating the water pipeline during final design of the TWP, **and future action or approval by Larimer County under Larimer County's 1041 permit process should not be required so long as the water pipeline is installed within the 500-foot wide corridor.**"

Carte blanche permission to put the pipe anywhere Thornton decides, **with no future action or approval by Larimer County under Larimer County's 1041 permit process.**

Larimer County has sold us down the river for the price of a road... and we still don't know what that price is, or if, in fact, any of the pipeline will be in county road ROW. If this 1041 is accepted, Thornton has free reign to ram the entire pipeline across private lands, because, as noted above, "**future action or approval by Larimer County under Larimer County's 1041 permit process should not be required so long as the water pipeline is installed within the 500-foot wide corridor.**"

Is it any wonder there is zero trust? Larimer blames this epic fiasco on Thornton and Thornton blames it on Larimer and nobody tells the truth to the citizens who are going to be damaged by this.

Now that the public is reading the 1041 in detail and learning how they have been thrown to the wolves, Larimer and Thornton want a do-over. Another chance (as if three years has not been long enough), to give Thornton the time to modify their 1041 and try to narrow the 500' corridor that Larimer County **requested** they use.

A do-over creates a distinct disadvantage for the citizens of Larimer County. By law we are to be given the time-frame

**THORNTON WATER PROJECT 1041**

**469**

specified in 1041 code to examine, evaluate, and respond to the 1041 Permit that was filed by the City of Thornton. That 90-day clock started ticking Dec. 28, 2017 and the application was not made available to the public until eleven days later, on Jan 8, 2018. Eleven days of our allotted time-frame already lost. Amending that application so many weeks after it has been filed, and not allowing Larimer Citizens the full 90 days to assess and respond to the **revised** information, truncates our time for evaluating and responding to the submitted application and deprives us of our 5th amendment due-process rights.

This just keeps getting worse, and frankly, I don't see how this doesn't wind up in court for the next 10 to 15 years. If it does, the blame lies squarely at the feet of Larimer County, Northern Water and the City of Thornton, who have all worked hand-in-glove in creating this beast.

Three years, hundreds of thousands of dollars spent on high dollar engineering and PR firms, and an international law firm, and this is what they came up with... because the pervasive vagueness and ambiguity in Thornton's 1041 Application is not by accident, it is by design.

Which is consistent with and perfectly described in a 1986 letter from Water Supply and Storage Company's President, Harvey Johnson, to shareholders....

*"The Board has now had an opportunity to review the form agreements which grants the City of Thornton first use of a shareholder's water, and is unanimous in its recommendation to the shareholders that they not execute such contracts.*

*The contract is **vague**, not only in this respect, but in others; and, in fact, there are **certain provisions** which our **company's counsel find so ambiguous as to be unable to advise us how they will be interpreted**. He does, however, point out that **any disagreement as to meanings certainly puts each shareholder at a disadvantage**, in that the shareholder, as an **individual, cannot afford the legal costs for judicial determination of such questions which can be so easily assumed by a city like Thornton.**"*

Wise advice... **"unanimous in its recommendation... that they not execute such contracts."**

I suggest Larimer County strongly recommend to the City of Thornton that they withdraw their 1041 Application.

There has got to be a better way. Where was the effort to openly and transparently explore an option that would be supremely beneficial to Larimer County and Fort Collins rather than horrifically destructive to the residents who live along and are served by Douglas Rd., or any other neighborhood?

On their own, Thornton has no interest in exploring this. That is clear in their 1041 Permit Application. They want, what they want, and they want their water in a pipe.

We've seen what has happened to Ault and Pierce. We know how Thornton has taken away the water and growth potential in those communities to feed Thornton's own future growth. Thornton now has an unprecedented opportunity to be a good neighbor, to be an ecological hero and a leader in environmental stewardship, to change the course of the Poudre River's history.

This is, quite literally, a once in a century opportunity. We are in one of those rare and precious moments in time where we can, if we put aside what divides us and work together for the greater good, bring about a change that will benefit countless generations. We must act now, because once that water goes into Thornton's pipe, the opportunity is lost to us forever. It comes down to this...

- We know it will be highly detrimental to ram not just one, but two 48" pipelines down Douglas Rd.
- We know it will be highly beneficial to keep the water in the Poudre River.

How do we **all work together** to stop the detrimental action and create a pathway for the beneficial one? We need a community coalition who will step up and look beyond the institutional roadblocks towards a higher, greater calling of protecting our community's' citizens as well as their precious, irreplaceable, resources.

We, **collectively**, can do better. We can learn from the experiences of others:

In the 1990's Colorado Springs Utilities wanted to build a major water diversion that would have taken water from the Holy Cross Wilderness Area south of Vail and transported it to Colorado Springs.

Once the project was formally announced in 1991, homeowners in surrounding neighborhoods quickly joined in opposition

## **THORNTON WATER PROJECT 1041**

**470**

"It was just a pipeline," said said Gary Bostrom, of Colorado Springs Utilities. "What could go wrong?" "We didn't really understand the importance of partnering with and involving the public in decision-making."

Public acceptance and support, so long taken for granted, now had to be earned. Stakeholders had to be identified, involved and informed. Plans and projects would have to be created with new partners, and ancient feuds would have to be settled.

The citizens of Larimer County and Fort Collins and our treasured Poudre River are stakeholders. We are not to be taken for granted. NEW plans and projects must be created with us as partners, and issues that have divided us, set aside for the greater good.

In today's era of such pervasive disharmony, dissatisfaction, and disillusionment, let's do something different. Let's be an example and give the next generation not only a healthy Poudre River, but a reason for hope.

Sincerely,

Penny Hillman  
3305 Canadian Pkwy.  
Fort Collins, CO 80524



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Fwd: Letter to all 9 planning commissioners

1 message

Jill Wilson <jwilson@larimer.org>  
To: Rob Helmick <helmicrp@co.larimer.co.us>

Fri, Jan 26, 2018 at 12:41 PM

She would like this put with the file and in the hearing packet.

----- Forwarded message -----

From: **Charmaine Stavedahl** <stavedahlc@gmail.com>  
Date: Thu, Jan 25, 2018 at 11:17 AM  
Subject: Letter to all 9 planning commissioners  
To: jwilson@larimer.org

My name is Charmaine Stavedahl and I live at 3607 Woodridge Road in Terry Shores, Ft. Collins. I live within a few hundred yards of Douglas Road. The route Thornton has decided is the best route for their pipeline corridor, a ridiculous 500 feet wide. The current ROW in the US and Canada is 120 feet. Effectively taking out all trees, fences and buildings whether it be house or garage, all along Douglas and bringing in the issue of Eminent Domain and potential lawsuits. This has been planned, apparently, on the sly for 2-3 years with Larimer County and NISP, who also wants to run a pipeline along Douglas. In addition, this proposed route runs through protected wetlands with an island in Terry Lake that is a sanctuary with water birds including a pair of nesting Bald Eagles. It is the highest density route of the 10 routes supposedly considered. There are 7 neighborhoods affected, Thornton contacted 3 of them, the most expensive ones. They met with one, Eagle Lake. They claim they contacted every neighborhood but I know for a fact they didn't contact Terry Shores. "We want to continue to be a good community neighbor and collaborate with stakeholders early in the process?!" Thornton Water Project Website.

For all it's length, the 1041 proposal of 900+ pages is an incomplete document, sorely lacking, and fails to address in even a superficial way many key issues that are supposed to be part of it's mandate. For example, wetlands permits are quite extensive but those are not referred to anywhere. Wetlands are highly regulated, the rules are quite specific and strict. We are expected to trust that Thornton will address and protect our wetlands through proper mitigation? How did trust that Thornton will do the right thing work for the cities of Ault and Pierce?

"The specific location of the pipeline has not been determined for the majority of the corridor." Thornton Water Project website. The county needs to know exactly where that pipeline will be, anything less is sloppy and evasive.

Thornton says they will need a pump station of 2 stories sitting on 2 acres of land surrounded by fencing and intense lighting and powered by a diesel generator. On a dead end dirt road with families and children. Fearful of noise, pollution, safety issues from trucks going in and out, and vibrations from the station affecting their foundations. Where is this in the 1041? Not to be found I can assure you.

Thornton says they need to build the pipeline before the water enters Ft. Collins as it is cleaner than after it runs through the city. That argument is refuted by Tim O'Hara, lead fundraiser for the planned recreational Poudre Whitewater Park. "I was told that as water is taken above College Avenue and released below Linden it is going to have to be filtered before it can return to the river. I was told that the water coming out of the Poudre upstream of Fort Collins does not meet state water quality standards, therefore needs to be filtered/reclaimed...the City of Thornton is citing filtration plant costs below Fort Collins as a key reason they want to build their proposed pipeline...no matter where it comes out it will have to be filtered anyway. The dewatering is scheduled for mid-September through early January. So in essence the water being returned below the project will be cleaner than the water coming in."

The Land Use Code states " the purpose of the Land Use Code is To PROTECT LANDOWNER RIGHTS WHILE ALSO LOOKING OUT FOR THE OVERALL COMMUNITY."

Let me mention noise and air pollution from construction, emissions from huge machines, extreme loss of property values and corresponding lowering of property taxes, income for Larimer county. How is this in the best interest of our landowners? How are these things being addressed in this proposal?

How will Larimer county residents ever be able to trust their governing bodies?

This can all be solved by letting the water run through the Poudre river and taken out at a point of diversion in Windsor where Thornton can build a pipeline to their new state of the art filtration plant scheduled to open 2018-19.

We have a massive destructive project being forced on residents along the corridor, a project that will destroy wetlands and imposes a 2 story pump station, a project that has no defined ending point on Thornton's timeline, a project who's main argument for it's existence is better water taken out above Ft. Collins which is questionable, and a project being looked at as a conflict of interest between Larimer County, Thornton and NISP. I ask you to say NO to Thornton's pipeline proposal, and let the water run through Ft. Collins and we will all benefit. Except maybe Thornton, but that really isn't our problem, is it?

**THORNTON WATER PROJECT 1041**

**472**



January 17, 2018

Dear Mr. Jensen,

Addressed  
to PC  
members

RECEIVED

JAN 23 2018

I write to you today in strong opposition to the Thornton Water Project 1041 permit application. I am a resident of the Braidwood HOA, at the intersection of Shields St. and Douglas Rd. We purchased our home 18 months ago after moving from Southern California. I am a family practice doctor in Fort Collins and my husband runs a plumbing and heating business locally. We moved to this beautiful, semi-rural community to raise our children and live a peaceful life remote from heavily trafficked roads close to nature. We moved here for a safe neighborhood for our children. We moved here to enjoy the peace and tranquility of this unique area of Larimer County.

I have read through the entire executive summary of the 1041 application, and as it reads, there are multiple items of great concern.

Thornton owns water rights, but they *do not* own land or easements to build this pipeline. There was no dialogue between the potentially affected residents and Thornton prior to submission of the application. There was no discussion about how or where this pipeline might be constructed that would not impact residents so severely. As residents of this area, we anticipate a significant drop in property values should this pipeline be constructed. An anticipated 10,000 square foot pump house with security lighting and fencing and a back-up diesel generator would be in the line of sight from our home, and in an area where our children play. And then there are the easements to service the pumphouse and pipeline. And a 500 feet – ¼ mile-wide corridor extending to I-25? This is a future of protracted construction and maintenance, with Thornton employees utilizing Starlite Dr., Douglas Rd. and remaining proposed pipeline route indefinitely. We also know that residents along Douglas Rd. face potential eminent domain of their homes. Their homes! This is where people live and raise their families, where we grow and leave our legacy. 5-6 years or more of construction? Both of my children will be teenagers by this time. We have already experienced the hardship of living with protracted construction of Hwy 287 since we moved here. The impacts to our quality of life, property values and degradation of surrounding natural environment would be significant.

But there is a much larger issue at hand. Progress and development and growth are natural processes in any community, and I support that. However, we know that this pipeline coincides conveniently with the anticipated Douglas Rd improvements that may not have taken place for many years to come. We know that money is a driving force in these plans and that Larimer County and the City of Thornton are hand-in-hand with both projects occurring simultaneously. However, both Larimer County and the City of Thornton have left out one critical element in the plan... the people of this community.

We the people elect officials to support our vision of development and progress. We the people elect officials to protect our rights, our homes, our quality of life and our future. As tax-paying constituents of this community, we rely on your support and protection from this potential devastation. Where is Larimer County's support and protection of the residents, their land and the natural environment? The City of Thornton has no concern for the potential degradation of quality of life, depletion of property values and derangement of the natural environment. It's Larimer County's obligation to care, and to do all in its power to prevent something as invasive as this. It's Larimer

County's obligation to stand up for what is right, and what is in the best interests of your constituents. From the Larimer County Land Use Code, this project does not:

*"Maintain and enhance property values by stabilizing expectations, fostering predictability in land development and establishing a process that efficiently and equitably applies this code to individual sites while respecting property owner rights and the interests of Larimer County citizens. This requires balancing economic development with community values and individual property rights."*

Please consider the long-term effects that this enormous project would have on your constituents. Consider the loss in quality of life, the loss in property value, the loss of nature, and the loss of faith in our elected officials. Do the right thing and please oppose the Thornton Water Project 1041 application.

Sincerely,



Scarlet Sparkuhl Delia D.O.

Resident, Braidwood HOA

Larimer County Planning Dept.,

January 21<sup>st</sup> 2018

Mr. R Helmick,

PO Box 1190

Fort Collins CO 80522

RECEIVED  
JAN 23 2018

Dear Sirs,

Thornton Pipeline and Douglas Road

You will be aware that there is considerable anxiety over the proposed route that Thornton have proposed which includes Douglas Road. Those immediately affected (including myself) are concerned that you should take the following matters into consideration before you advise the County Commissioners:

- Thornton's original proposal was to take the line north and east through Eagle Lakes. They had a number of meetings and discussions with the Eagle Lake Owners and dropped that proposal which would have disrupted far fewer Owners. Why?
- Thornton has seemingly not looked at other ideas despite the fact that they maintain they have looked at "several" – they are unable to name a single one. Why?
- It was reported in the local media that FC Roads dept. were "excited" about the Douglas Road proposal. Why?
- Thornton has deliberately omitted the proposed pump station from the 1041. This is probably because they wildly misled Owners of Starlight and Braidwood about the size of this building and showed pictures of rather pretty barn like structures. A 10,000 sq ft 2 storey building surrounded by security fencing and lighting is not what they described.
- Thornton have been insincere in their dealings in the past (taking over ranches in Pearce and Ault for their water by using devious means to hide their true purpose).
- The easements required by Thornton in the present 1041 indicate that they have no idea where their final route will be and whose property will be directly affected. Sorry to say this BUT if this was Weld County they would have to do proper planning before issuing a 1041.

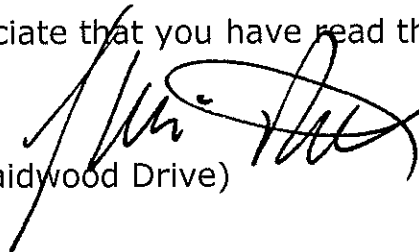
- In what circumstance does Douglas Road change from a low priority project to an immediate project – is Thornton saying they will pay for ALL the disruption, reinstatement and loss of value to Owners? Are they going to pay for loss of tax revenue when 300 odd homes ask for a Property Tax deduction? The present uncertainty has already caused a loss of property value as disclosure during sales is required in all matters of outstanding planning applications.
- In what circumstances will the Glade reservoir pipeline also be positioned on Douglas Road? Does this happen at the same time or is the road going to suffer twice?

I do not expect you to answer my questions but I would appreciate my thoughts being taken into account. I would also ask you to please keep in mind the **Larimer County Land Use Code** during your deliberations. *I believe that we, as Owners and tax payers within Larimer County, deserve greater consideration than future Owners of property in a Denver suburb.*

I hope you will ask Thornton to reconsider their options and maybe even reconsider whether Douglas Road turn and bicycle lanes are a priority for Fort Collins at this time.

Thank you - I appreciate that you have read thus far.

Chris Reid (3740 Braidwood Drive)

A handwritten signature in black ink, appearing to read "Chris Reid", written over the typed name.



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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## Thornton Pipe Line and Pump Station

1 message

Sean Shelley &lt;spshelley@aol.com&gt;

Tue, Feb 6, 2018 at 2:24 PM

To: rhelmick@larimer.org

February 6, 2018

To Robert Helmick and the Board of Larimer County Commissioners:

Sean and I have been involved in the Thornton Pipeline issue since it was made known to the Eagle Lake Subdivision. We have followed the decision-making process, asked questions, brought up concerns and tried to be involved in order that the pipeline would not damage people's property and way of life. We all, in most every neighborhood, moved to this area of Larimer County because of the views, reservoirs, and the opportunity to be closer to the natural environment. The open spaces have been shaped in beautiful ways because of these reservoirs, which have become defining and important features of our communities.

Sean and I still support Douglas Road as the best alternative for the Thornton Pipeline and we believe the original plan of building the pipeline on the south end of Reservoir 4 is the best plan for all the neighborhoods involved. We appreciate that the Larimer County Commissioners and Thornton have agreed on taking the time to decide the exact route where the pipeline would be laid and that it should be under the right of way on Douglas Road with as little use of our neighbors' land as possible. The more exact Thornton can be by providing detailed renderings (specifically for this area that show both the location and design of the pipeline and the pump station) the more it will help everyone know and see that this project is not just about Thornton's needs but it is also about Thornton respecting our neighborhoods and what we all worked hard to build and enjoy as property owners.

Sean and I believe that showing renderings of the pump station and plans to keep the Thornton road to the pump station far away from Starlight Drive is vital to all concerned. We were told early on that the pump station would be 10,000 square feet with most of the noise factors being underground. We were told that light, pollution, and noise would be minimal (examples would be helpful). We were also told that it would be pleasant in design, and that the landscaping would be designed to provide all those within viewing and hearing distance very little if no difference in what they experience at the present time.

I appreciate that the Larimer Country board of commissioners and planners and the city of Thornton are listening and working to make this pipeline one that will be something none of us asked for, but all of us can live with.

Sincerely,  
Rebecca and Sean Shelley  
4641 Eagle Lake South  
Fort Collins, Colorado  
80524



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Citizen Comment on Thornton Water Pipeline 1041 Permit; Support for South 2 Route

1 message

Tracy Heiden &lt;tracy.heiden@gmail.com&gt;

Wed, Apr 25, 2018 at 12:45 PM

To: rhelmick@larimer.org

Dear Senior Planner Rob Helmick,

I am writing to support the proposed "South 2" route down Douglas road for the Thornton pipeline project, as I believe it is the best route available. I live at 4420 Eagle Lake Drive near Douglas road and I am very sensitive to the impact this project will have on my residence and neighbors.

I strongly feel this route is an efficient and conscientious use of public resources that preserves the property values and environmental aesthetic of our communities. I am happy to see this route maximizes the areas owned by the City of Thornton and keeps the physical pipe off private property to the mutual benefit of all property owners.

Additionally, I feel the project coordination opportunity between Larimer county, City of Thornton, and Northern Integrated Supply Project (NISP) is a unique confluence of favorable circumstances for all parties. The change to Douglas road detailed in the county's master transportation plan is very much needed and will make it safer for children, pedestrians, cyclists, and motor vehicles. I applaud your office for seeking this partnership as every project has limited funding, and sharing the cost of improving Douglas road with the City of Thornton and NISP is a smart and fiscally responsible approach by Larimer county officials that will benefit taxpayers.

Sincerely,

Tracy Heiden

**Tracy Heiden**

e: tracy.heiden@gmail.com

c: (970) 988-1903



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Thornton Pipeline

1 message

Mark Heiden <mheiden@eaglelakefchoa.com>  
To: Rob Helmick <rhelmick@larimer.org>

Wed, Apr 25, 2018 at 10:30 AM

Rob Helmick

April 25, 2018

Senior Planner – Development Review

Community Development Division

Larimer County

Dear Rob,

I am writing this both as an individual Larimer County homeowner and as President of the Eagle Lake HOA off of Douglas Road. I, and the association, are in favor of the Douglas Road route for the Thornton Water pipeline project as presented in their 1041 permit application and feel Larimer County should vote to approve this route.

My reasons are many and varied, but I will try to succinctly summarize them here:

1) The Thornton project team has worked diligently to find positive solutions to this project. We met with Mark Koleber early in the planning stage and voiced concerns about the original route running directly through Eagle Lake. His team then worked on alternate routes that did not run across private land and utilizes City of Thornton owned land where possible and Larimer County public right of ways under Douglas Road. They worked to allay the fears of the anti-pipeline group by conducting utility locates under and around Douglas Road to prove that no additional easements on private land would be needed to construct the pipeline down Douglas Road and no trees, fences or other landowner property features will be destroyed or taken in the process. They have met the concerns and addressed the fears of Douglas Road residents and other private property owners with a solution that solves many problems from the other, original routes.

2) Judging the pipeline construction project as an inconvenience vs. a disaster.

Much rhetoric has been thrown around about what a disaster this project will be for residents on Douglas Road. It certainly is going to be a big inconvenience during construction as all road projects are throughout the region. The disaster they claim is unfounded – as soon as the work is completed and the road is repaved, no one will even know the pipeline is under the road. This is a public right of way for just such a use, not someone's private drive. Use the road for what it was intended – public transport and right of ways. People ignore the fact that over half of our 80+ households use Douglas Road to access their properties – we will all be inconvenienced in the short term.

3) Dealing with the inevitable vs. the avoidable.

Given the County's research and data on traffic and growth patterns in North Larimer County and specifically the growing pressure on all routes north of Fort Collins, the improvement of Douglas Road is inevitable. Wishing it away will not change that. Confronting it and dealing with it sooner rather than later becomes a safety and fiscal issue. This is a good opportunity for the county to face growth issues and get ahead of them vs. chasing solutions once the growth has already happened.

4) Passing judgement on something you want vs. something you don't want.

Would it matter if this was a project that was bringing high speed internet to Northern communities, or say a natural gas line to service homes where there might only be expensive propane service? Communities support each other and allow projects to occur in their areas because they know they may need the reciprocal support themselves some day. We already have many water and gas pipelines passing through Larimer County that don't service the local community. Are we going to draw a line with Thornton because their water doesn't serve Larimer County?

I sincerely hope that County Planning will recommend approval for this 1041 permit to the County Commissioners. No other route makes sense for the pipeline and concerns from all citizens in the area of construction about passing through private land have been addressed. There is no reason not to give Thornton Water the go ahead.

Respectfully,

Mark Heiden, President

Eagle Lake HOA

Mark Heiden, President

Eagle Lake Board of Directors

Hm 970-416-8432

Cell 970-988-8433





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

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**Douglas Road**

1 message

**'Jean Korfanta' via Douglas Road** <douglasroad@co.larimer.co.us>

Wed, May 2, 2018 at 11:15 AM

Reply-To: Jean Korfanta &lt;jeankorfanta@aol.com&gt;

To: douglasroad@larimer.org

We are adamantly opposed to widening Douglas Road either in conjunction with the Thornton Water Project as a current or future pipeline corridor or to invite additional heavy truck traffic. We have noted a dramatic increase in heavy truck traffic and would petition that the weight limit be lowered. We are opposed to the Thornton Water Project and its ensuing disruption and construction. Douglas Road should not be seen as a pipeline corridor or a connecting corridor across Larimer County. Please consider the residents who live along and adjacent to Douglas Road who have lived here for years and/or worked hard to be able to live in an area that has a peaceful country feel. We didn't buy in this area to see it become a semi-interstate.

Respectfully,

Jean & Garth Korfanta  
5004 Patricia Drive  
Fort Collins 80524



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

**1041 Application Thornton Pipeline - LC Planning Commission**

1 message

Greeno, Lindsay &lt;LGreeno@floodpeterson.com&gt;

To: "helmicrp@co.larimer.co.us" &lt;helmicrp@co.larimer.co.us&gt;, "pcboard@co.larimer.co.us" &lt;pcboard@co.larimer.co.us&gt;

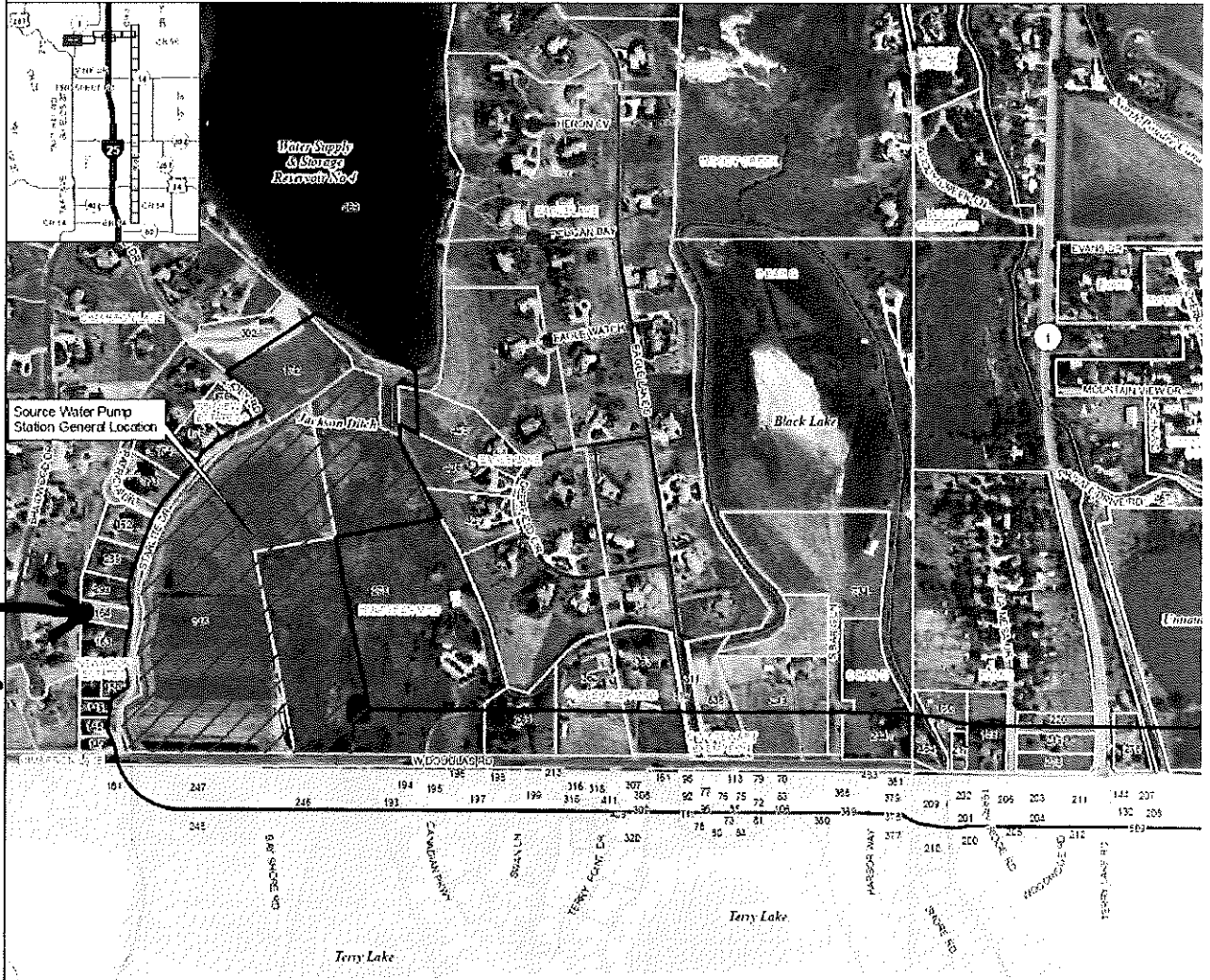
To All it Concerns:

I live on Starlite Drive just off of Douglas Road. Please see attached map from the 1041 Application below. Starlite Drive is also the private road that Thornton proposes to take from Reservoir #4 into their precious pipeline. I moved to my peaceful and tranquil street with my 7 year old daughter to get away from the hustle and bustle of the city. I can't imagine this all being taken away with the sounds of semi-truck's breaking, a massive construction project, not to mention the vibrations and dirt pumping of the water alone will disrupt the very foundations that our homes sit on. I am in tears thinking that our once quiet and private dirt road will be a construction zone. The peace that I so sought after will be ripped out from under me and my daughter. I won't feel safe allowing her to ride her bike on our private road. In addition, there are several other huge factors in rejecting this preposterous way of getting water to Thornton.

Thornton's proposed pipeline means tearing up the road, devaluing my property, and disrupting my life and that of my neighbors who live in the 300+ homes with direct, short commutes to town. What will happen when an emergency vehicle needs to get into my single-entry neighborhood? I am concerned about: 1) Noise – both from construction and truck traffic, as well as from increased road vibrations. 2) Increased air pollution from increased traffic. 3) Safety for myself crossing the street and schoolkids catching the bus. Federal guidelines call for selecting a route that would affect the fewest amount of people. This selected route affects the most of those proposed. I urge the Larimer County Board to choose a different route, preferably doing some good by leaving the water in the Poudre through town. Visit NoPipeDream.com for more.

You have the power to do what is in the best interest of the people you serve. Don't destroy the lifestyles, peace, tranquility and beauty so many of us have worked our whole lives to create.

### Thornton Water Project



I live here

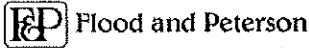
<p><b>CITY OF THORNTON</b> COLORADO 1345B WASHINGTON ST THORNTON, CO 80241-2405</p>	<p>0 300 600</p>	TWP Corridor In Unincorporated Larimer County	Subdivision	GMA Boundary Fort Collins	
		TWP Corridor outside Unincorporated Larimer County	Railroad	River/Stream/Canal/Ditch	Source Water Pump Station
		County Boundary			





**Lindsay Greeno, PHR, SHRM-CP**

Director of Employee Engagement  
Direct: 970.506.3225  
LGreeno@FloodPeterson.com



**Lindsay Greeno, PHR, SHRM-CP**

Director of Employee Engagement  
Direct: 970.506.3225  
LGreeno@FloodPeterson.com



\*\*\* Insurance coverage cannot be bound or altered via email. Employee coverage cannot be obtained or altered via voicemail. Please contact your authorized Flood and Peterson representative with any questions. \*\*\* The contents of this message



Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Thornton Pipeline Project

Matthew Lafferty <laffermn@co.larimer.co.us>  
To: "Helmick, Rob" <rhelmick@larimer.org>

Mon, Apr 30, 2018 at 8:18 AM

FYI

----- Forwarded message -----

From: **Linda Hoffmann** <hoffmalc@co.larimer.co.us>  
Date: Mon, Apr 9, 2018 at 11:09 AM  
Subject: Fwd: Thornton Pipeline Project  
To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>  
Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>, "Lafferty, Matthew" <laffermn@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Charmaine Stavedahl** <stavedahlc@gmail.com>  
Date: Sun, Apr 8, 2018 at 10:49 AM  
Subject: Thornton Pipeline Project  
To: Bocc@larimer.org  
Cc: cityleaders@fcgov.com, wtroxell@fcgov.com

My name is Charmaine Stavedahl and I live at 3607 Woodridge Road in Terry Shores, Ft. Collins. I live within a thousand feet of Douglas Road, the road that Thornton has decided, out of 10 possible routes, is the best route for their 48 in. 70 mile pipeline to bring water they own to their city. This has been planned, apparently, behind closed doors for 2-3 years with Larimer County and NISP, who also wants to run a 72 in. pipeline along Douglas Road. Current ROW is 120 ft. Thornton has said they can fit the pipeline within ROW or under the road. Given all the lines for utilities, water, internet etc. already in the ROW, and the required distance needed between them and a pipeline, I find this plan hard to believe. Instead, Thornton will have to acquire (despite the claim that they will not need to take anyone's land, they already have contacted a farmer wanting 1-3 acres of his land on W. Douglas to build their pump station, threatening him with Eminent Domain if he refuses) property all along Douglas Road through Eminent Domain, taking trees, fencing, landscaping, and structures in the process.

This proposed route runs through wetlands, with nesting Bald Eagles. It has the highest population density of all the routes. There are 7 neighborhoods just on West Douglas affected, and more on East Douglas, the majority of them with only 1 access point in and out of their neighborhoods.

The Land Use Code states that residents should be protected by their government, specifically the County Commissioners. As a resident and voter, I do not feel this has been the case in the Thornton pipeline project.

An alternative is to let the water run through the Poudre River and take it out at a point of diversion in Windsor, and build a pipeline from there to take the water to Thornton. This ensures a healthy river, not a low flowing one, that everyone can enjoy. This is critical to Ft. Collins' planned water park, scheduled to open in 2019. Thornton says the quality of the water is too compromised if taken out east of Fort Collins, rather than their point of diversion in the west. We still have not seen data to back up that assertion.

We have a massive destructive project being forced on residents along the proposed corridor, a project that will destroy wetlands, construct a pump house(es) with diesel powered generators, wire fencing, intrusive lighting, noise and pollution near a quiet dead end dirt road. A project with no definite ending point on Thornton's timeline, a project who's main argument for it's existence is better quality of water taken out above Ft. Collins, with no hard data to support that that anyone's yet seen.

I ask you to say No to Thornton's 1041 and pipeline proposal and Yes to using the natural pipeline of the Poudre River and having Thornton take the water at a point of diversion in Windsor or elsewhere. Thornton has several points of diversion.

Thornton has legal rights to their water, but they are not owed the quality or a designated route to get the water to them from Larimer County or the City of Ft. Collins.

Respectfully,  
Charmaine Stavedahl



Virus-free. [www.avast.com](http://www.avast.com)



**Matthew Lafferty, AICP**  
Principal Planner

Community Development Department  
Advanced Planning  
200 W Oak Street, Suite 3100  
Fort Collins, Co 80521  
W: 970.498.7721  
[mlafferty@larimer.org](mailto:mlafferty@larimer.org) | [www.larimer.org](http://www.larimer.org)



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Fwd: April 21st - snow, blossoms, and the Cache la Poudre River

1 message

Linda Hoffmann &lt;hoffmalc@co.larimer.co.us&gt;

Sun, Apr 22, 2018 at 12:03 PM

To: Lew Gaiter &lt;gaiterl@co.larimer.co.us&gt;, Steve Johnson &lt;johnsosw@co.larimer.co.us&gt;, Tom Donnelly &lt;donnell@co.larimer.co.us&gt;

Cc: "Helmick, Rob" &lt;helmicrp@co.larimer.co.us&gt;

Commissioners -- I received this as a bcc so I can't tell if it came directly to you or not. I forwarding it on the assumption that you were intended to be recipients.

Rob -- Since this message is going to the Commissioners, it needs to be included in the public record for the application. Perhaps you were already a recipient as well.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **DAVID ROY** <david.roy@comcast.net>

Date: Sat, Apr 21, 2018 at 9:00 AM

Subject: April 21st - snow, blossoms, and the Cache la Poudre River

To:

<https://nopipedream.com/> - link to the No Pipe Dream Web Page

<https://photos.app.goo.gl/ds9AKIZIWFf88f4E3> - link to some photos I took this morning

Good morning; a light snow drizzles quietly, wetting the apple blossoms, etching white lines on the greening landscape. I love the apple blossoms, amazed, always, at their tenacity, at how they survive the cold, get buffeted by fierce winds, and stand up against the late snows of Spring.

My reason for sending this e-mail isn't for the chance to share the beauty I see in apple blossoms - I am writing because something fundamental to the essence of the City of Fort Collins is highly threatened - our Cache la Poudre river.

Growth, scarce water sources, and our Cache la Poudre have come together - and the outcome is being determined right now. The first political body that has the ability to make a positive difference is the Larimer County Board of County Commissioners [bocc@larimer.org](mailto:bocc@larimer.org). The issue in front of them is the Thornton Pipeline - Thornton owns water rights, and is acting like they own the 3 Larimer County Commissioners.

A hard working group of citizens have come together as NPD, and have been asking the 3 Larimer County Commissioners to keep the Thornton water in the Poudre through Fort Collins. This simple outcome would not only help to preserve and protect the Cache la Poudre, it will also protect citizens and neighborhoods in Larimer County from a massive underground pipeline project.

You probably use the Cache la Poudre for recreation, for a respite; it is something that you probably take for granted. No Pipe Dream has created a platform to help to protect and preserve the Cache la Poudre river as it flows through Fort Collins - I'm asking that you step up, and join this effort, if you haven't already done so.

The 2nd political body that can make a difference is the Fort Collins City Council - [ccsl@fcgov.com](mailto:ccsl@fcgov.com) Thus far, they have been quiet on this issue, the chance to better realize their visioning for how the river, as an environmental asset, can support and strengthen numerous City goals and projects, is being met with silence. The City needs to step up on this issue - water law isn't immutable when a political solution is possible.

No Pipe Dream is asking that the City of Thornton let water run flow further down the river - not a far fetched concept. What seems far fetched are three political bodies figuring out how to come together and create a solution where Thornton gets water for its future growth and the citizens of Larimer County and the City of Fort Collins have a healthier Cache la Poudre River.

Please look at the No Pipe Dream link - please send money to NPD - please put May 5th on your calendar.

The apple blossoms survive the Spring, bringing their fruit. For our Cache la Poudre to survive, it will need help.

Your help. Sign up, contribute; pass this message on if the river is important to you.

Enjoy the gray, the wet, the changing of the seasons - we need the moisture, as they say.

Best,

David





Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: The Thornton pipeline

2 messages

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Mon, Apr 9, 2018 at 11:10 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>, "Lafferty, Matthew" <laffermn@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Planet Samson** <bikewoodstock@gmail.com>

Date: Sun, Apr 8, 2018 at 1:59 PM

Subject: The Thornton pipeline

To: BOCC@larimer.org

Dear Larimer County Commissioners,

I am writing to urge you to not allow the City of Thornton to implement a pipeline that would extract water from the Poudre river.

Yes, the City of Thornton bought the water, but they did NOT buy the quality of water, or a designated route to get it to them.

We need to preserve our Poudre river now and for future generations.  
Thank you very much for your time and consideration.

Respectfully,  
Planet Glassberg

604 Sycamore  
Fort Collins 80521

970-221-1135

Matthew Lafferty <laffermn@co.larimer.co.us>

Mon, Apr 9, 2018 at 12:40 PM

To: "Helmick, Rob" <rhelmick@larimer.org>

FYI

Matt

[Quoted text hidden]

--





Rob Helmick <helmicrp@co.larimer.co.us>

## Fwd: Poudre River and Thornton

1 message

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Mon, Apr 9, 2018 at 9:02 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnell@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration. I've cc'ed Rob Helmick so the message will be included in the public record. Most of this message is about matters associated with probate court, which is not a County function. The Public Administrator is appointed by the Chief Judge in Judicial District 8. Would you like for me to pass along this message to either the Public Administrator or to the Chief Judge?

Mr. Helmick -- Please include this message in the public record for the Thornton Pipeline application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Karen Kalavity** <integradesign1@yahoo.com>

Date: Thu, Apr 5, 2018 at 10:56 AM

Subject: Poudre River and Thornton

To: "BOCC@larimer.org" <BOCC@larimer.org>

April 5, 2018

Concerned Citizens and County Officials,

I am grateful to know you are responding to news with regard to the Poudre River/Thornton Pipeline situation. I believe it is very important. After all, the Poudre River is a very important natural resource in northern Colorado. Its water supports humans in the form of drinking water, agricultural water, a water supply for some of the local breweries, and recreational use (the new whitewater rafting facilities are just an example). The Poudre River also supports wildlife and their habitat. This is all in danger of being reduced or negated altogether by the Thornton water plan.

My interest in this situation is both large scale and then it is also personal.

You see, our family had/has a 15 acre agriculturally zoned property in unincorporated Adams County, just to the north of Thornton's City limits. When my Father died, without a will, we were forced to deal with the consequences. At the time of our Dad's death, we had no idea what those consequences would be, but we were soon to find out.

**THORNTON WATER PROJECT 1041**

**491**

I am telling you this because I believe our own family's situation is but a microcosm of what Thornton has planned in its large-scale "mission" for the Colorado landscape, including its plans for the piping of water from the Poudre River to facilitate the delivery of its "purchased" water 70 miles to the south. I will be telling this story in the form of our family's testimony:

**Testimony of Fraud from the Kalavity Family with Regard to the City of Thornton, Joe Findley, the Personal Representative for the Kalavity Estate (who is also a Public Administrator for Larimer County), et al:**

Our Father Jerry Kalavity owned the property at 14031 N. Washington Street in unincorporated Adams County for over 50 years, spending the last 15 or so years actually living on the premises. This was one of two properties that he intended to pass along to the heirs after he died.

Unfortunately, at the age of 90, Jerry Kalavity had to be taken to Ft. Collins for medical care where my sister Trish Babbitt lives and where Jerry, our Father, eventually died. It was in Ft. Collins where we learned of the services of Joe Findley, who is a Public Administrator for Larimer County. Joe Findley also serves as a Personal Representative for others within and outside of Larimer County. Since my Father had died fairly suddenly after being taken for care in Ft. Collins, and since he had no will...it was suggested to our family, that we obtain the Personal Representative services of Mr. Findley of the Law Firm Kaufman and Findley...which we did.

The responsibility of a Personal Representative is foremost: to honor the known wishes of the deceased, pay off any debts of the deceased, and to do what is in the best interest of the estate and its heirs. Mr. Findley did not perform **ANY** of these responsibilities in a responsible or ethical manner.

**Background:**

While my Dad was alive, he was approached for over ten years with several different requests from the City of Thornton to annex his property at 14031 N. Washington Street, which was an unincorporated Adams County and an agriculturally zoned residential property...which by the way, is similar in context to all the homes and large acreages on the east side of North Washington Street to this day. He consistently told Thornton "NO", he did not want to annex.

For the 3 or so years before my Dad died, he was approached by Tyler Carlson of the Evergreen Development Group. Tyler Carlson approached my Dad on numerous occasions about selling his property. Though there were wetlands on the property, it also had over 1700 lineal feet of frontage along N. Washington Street, which was necessary for some of the real estate projects that Tyler and his group were working on. The main real estate deal that depended on emergency access to N. Washington Street, at the time, was the Lennar Homes apartment project that had been on hold for a few years, while Tyler Carlson courted my Dad about the possibility of selling his necessary property along with the frontage. My Dad continued to tell him "No", especially with an offer of \$600,000. Our family had had the property officially appraised in 2009 for \$2.3 million in 2009 by the reputable firm of Westerra Appraisers who do top-notch appraisal work for many municipalities and others who want to be sure that they are legally protected with proper land values. Actually, the appraisal was initiated by the City of Westminster, but with the understanding and blessing of the City of Thornton, since the City of Thornton would be affected as well. Both Thornton and Westminster (where I, Karen Kalavity, live) are within the boundaries of Adams County. The appraisal was done with the concern for proper valuation of the drainage easement to the south part of the 14031 N. Washington property which is a shared drainage easement with the City of Thornton and the City of Westminster for drainage of the McKay Lake project, and which, by the way, is still, officially "owned" by the property owners of 14031 N. Washington Street and the

property to the south, which owns the other "half" of the easement. At the time, my Dad was paid approximately \$60,000 to give up certain rights to the drainage easement portion of his property. This was the pro-rated amount for this portion of a \$2.3 million entire property's valuation in 2009.

Shortly after my Dad died on April 26<sup>th</sup>, 2014, and a couple of months after Joe Findley was hired to represent my Dad's estate, our family started noticing some irregularities in Joe Findley's handling of the estate, specifically, Mr. Findley had the property appraised and shared with the family, the "official appraisal" value of \$600,000 by the CBRE professional land development group. This was in sharp contrast to what we had assumed its value to be from the professional valuation in 2009 of \$2.3 million. But considering there had been a downturn in the economy in the years between 2009 and 2014, and especially since my sister and I wanted to keep it in the family -which we specifically told Joe Findley, our Personal Representative about, and which is a totally legal approach - we thought the \$600,000 valuation would make it easier to refinance and buy back the property. That is when all hell broke loose.

When Joe Findley realized that my sister and I were cleaning up the property, in earnest, and getting it ready for refinancing, so that we could keep the property in the family, he took us to court for **Injunctive Relief from Independent Administration of the Estate**. We interpreted this as: Mr. Findley was willing to do anything to make sure that we did not keep the property in the family. We started suspecting other motivations for this. Specifically, we learned that Tyler Carlson of the Evergreen Development Group was conversing with and influencing Joe Findley's handling of the estate for his own interests and for the interest of Thornton as a city. Tyler Carlson of the Evergreen Development Group also works hand in hand with such firms as Norris Design, who in turn, works hand in hand with developers such as Lennar Homes and Shea Homes as well as such real estate firms as ReMax, Coldwell Banker and CBRE.

My sister, Trish Babbitt, and I, Karen Kalavity, were taken to court on October 16<sup>th</sup> 2014 to make sure that we could no longer have any input into our family's estate of over 50 years. The "appraisal" of \$600,000 by CBRE was presented as legitimate. It was "backed up" by a Market Analysis of \$675,000 by both ReMax and Coldwell Banker- who coincidentally made commissions on a sale of a property that we had intended to keep in the family and NOT sell off, in the first place. It was also a couple of weeks prior to my sister and I being summoned to court, that we learned the Lennar Homes project had just been approved. This was not a coincidence...it seemed to be a planned affair by our Personal Representative, Joe Findley and by the City of Thornton. This was the real reason that Joe Findley was not representing the family correctly, because he was working hand-in-hand with the Evergreen Development Group and Tyler Carlson, and indirectly with the City of Thornton. **This is all illegal in probate law.**

My sister and I had had to get separate legal help in the form of a lawyer named Wayne Stewart and Michael Graetz, who were aware of elder care law, but were not prepared for the degree of deceit and aggravated malice that the real estate component brought to this whole case. Because the judge believed the faulty claims and perjured witness accounts of the property situation, he ordered the sale of the property in less than 6 months, when a time frame of 1 year is the legal standard to resolve and make public any debts owed on a property. Furthermore, upon the "trusted advice" of our "Personal Representative", he ordered the sale of the property at \$600,000. We, as a family, were floored.

We have been fighting it ever since.

One concession that our other lawyers were able to get, was that the property could not be sold directly to an adjoining property owner, without legal consent from the family. Since we started to understand that this whole deal, and our being taken to court, was about getting access for the Lennar Homes project, we said "no" it could not be sold to Lennar Homes. That is when Thorncreek Church came into the picture. We had already been legally "ordered" to sell the

property, and we believed that the church would at least be a better steward of the property. After all, they talked about growing crops for the community on the agricultural property in their "Food for Hope" program and indicated an interest in helping the community. So, after visiting the church and talking with Pastor Ruben, we felt that this sale would at least protect the land in some ways. But at this point in time, and after the death of our Dad, we were still confused about the whole probate procedure and what had just happened to an estate and legacy that had been in the family for over 50 years.

We started hearing stories from other people who had been "taken" in the whole probate fraud and abuse scams and we are currently working with a group called "F.A.C.E.U.S" Families against Court Embezzlement and Unethical Standards who represent over 38 families in Colorado, alone, who have had over \$50 million in assets taken from them through illegal probate cases. This does not include the approximately \$6-\$7 million in court costs they have had to invoke in trying to resolve these cases.

Any way...

On our first visits to the church and viewing the "drawings" of their new facilities, we noticed that Lennar Homes to the west was still showing access through the property onto N. Washington. We considered this troubling, but we were not sure what to do about it, though we remained vigilant in paying attention to the church's podcasts and internet communication. I also want to point out, that to this day, their architectural drawings are not oriented to true north, nor are they oriented towards Washington Street, as would be normal. We have learned that the survey that Thorncreek Church is using for its architectural drawings was first commissioned by the Lennar Homes group to the west because it became obvious that Lennar Homes believed it would be the purchaser of the property. When we made sure that Lennar Homes did not purchase the property, Thorncreek Church "inherited" those base surveys which now look very strange within their own context.

With our present attorney, who is not a land use attorney, but who does have a nose for smelling funny business and its illegal activities, we decided to file claims of Fraud, since this is exactly what had occurred. We are not alleging that Thorncreek Church committed the fraud - only that it indirectly benefitted from the fraud. We also became aware that Heidi Williams, **the Mayor of Thornton** and her husband were both members of Thorncreek Church and that Heidi Williams had a hand in getting the Cabelas store at the Thornton location. It was Heidi Williams who was partly responsible along with the Evergreen Development Group and others for development in that part of Thornton. It seemed more than a little coincidental that the Thorncreek Church became the number one second choice for a buyer of the property after we told Lennar Homes "no". At the same time, our property was to have been passed down to us as heirs, not to be sold to other entities at a very low price to accomplish auxiliary goals for the City of Thornton and its developers. We have rights! We also know, now that Fraud has a Statute of Limitations of three years. We filed our first legal complaint on October 16<sup>th</sup>, 2016, two years to the day that my sister and I were taken to court fraudulently on October 16<sup>th</sup> 2014.

As well as having a claim against our Personal Representative, Joe Findley, we also have a claim against CBRE for their official "appraisal" which set this whole mess into motion, Coldwell, Banker and ReMax, who both, as companies, benefitted from the direct commissions on the sale of the property and who network with other real estate professionals and entities to make good money off of big projects like the construction projects happening in Thornton and other municipalities. This legal complaint has yet to be heard by the judge. Our lawyers have mentioned that our judge's time frame **NOT TO** make a decision, is the longest they have ever heard of...yet, she has a right to determine whether she wants to hear the case or not. At this point, our judge has not made the decision to hear the case, yet she has also declined to dismiss the case which all 4 defendants (Joe Findley of Kaufman and Findley, ReMAX, Coldwell Banker, and CBRE) asked for. Let me also remind you that our Formal Legal Complaint was not filed mindlessly, we had to talk with several

lawyers and the Law firm of Randy Corporon, P.C. only filed once they believed they had sold grounds to do so.

I also want to note, that by zoning and construction restrictions, Lennar Homes should have had a secondary emergency access for their completed project of over 490 apartment homes they built just west of my Father's property. For quite a while, a portion of the finished apartment development was gated off in response to the fact that they cannot legally have that many units without a compensating secondary access for emergency vehicles. This is what our Father's property would have allowed them. We believe that Lennar Homes got tired of waiting for what they had been promised by Tyler Carlson and which was not going to happen because, we, as sisters had filed the legal complaint in October of 2016. As well, we had done a lot of preliminary legal work before ever having filed the legal complaint that Joe Findley and the other named defendants were made aware of.

One of our later amendments in the filing of the case noted that at one point in time, Thorncreek Church of the Nazarene was offered \$2.3 million for a 3-acre portion of the site. Wow, \$2.3 million on 3 acres, when we had only been offered \$700,000 for 15 acres? It was all becoming more and more suspicious and shady.

As time has gone by and while we have been patiently watching, and responding when we can... we've watched Thorncreek Church's site plan change. Where there was once space for growing crops, there is now only room for some –not so beautiful- buildings and parking. Where there was once access for Lennar Homes, the new access point onto Washington Street is now at the south side of the drainage easement on a separate site altogether. This still presents a problem. As a site planner and professional Landscape Architect for over 25 years, I still see a deficiency in emergency access that Lennar Homes has been allowed to exhibit. Theoretically, the City of Thornton would now have to build a suspension bridge, or something, in order to traverse the 30 to 40 foot drop in elevation at this point. An access point along Grant Street shows up in the drawing that cannot realistically be achieved for another couple of years for construction of that bridge. Technically, I believe that Lennar Homes is operating without adequate emergency access, which the City of Thornton could be held responsible for. There is more funny business than just our property at stake here. We do not intend to be cheated out of our legacy and out of over \$2+ million, and pretend that nothing happened and it is all OK. It is not OK and there were legal irregularities by the City of Thornton that have not been named – at this point, before discovery, that we know we will easily find that gives even more credence to our claim of fraud with regard to this property.

As to the idea, that I am merely a sentimental person who cannot get over her father's death...it is true that I miss him, but I also miss the property that was once filled with prairie dogs, rabbits, coyotes, a pair of nesting Golden Eagles, on and on, and which was to have been passed onto the heirs. I have an intimate view and understanding of the property because I have been involved with it for over 50 years and know what has been going on, politically, for much of that time as well as environmentally. I do not intend to forsake this beautiful piece of property and see it destroyed to make room for more commercial junk along this stretch of Washington Street. Thornton has enough derelict sites that need to be addressed before taking an environmentally –sensitive site like 14031 N. Washington Street and turning it into another giant parking lot with box-like buildings. We are prepared to see this court case through and it will show that Thornton has been and is still intimately involved with this particular case in an adverse way.

It is not the Kalavity family's responsibility to accommodate unscrupulous land developers which seems to be one of the main reasons that this particular form of probate/real estate fraud and abuse is prevalent.

Sincerely,

**THORNTON WATER PROJECT 1041**

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Karen Kalavity

This is the testimony that I had presented to the Thornton City Council on October 24<sup>th</sup>, 2017, as they were planning to vote for annexation of the 14031 N. Washington Street property which had once belonged to our family, and now is in litigation. This is also the testimony that I have presented to my Adams County Commissioners: Eva Henry, Steve O'Dorisio, Charles (Chaz) Tedesco, Erik Hansen, and Mary Hodge. They have all been silent on the matter. But by filing the Formal Legal Complaint, my sister and I have at least put the construction of the church and any disruption of the property on hold.

I am writing to you, so that you might note how these scenarios are similar. Our property had been in Thornton's crosshairs for several years before my Dad died. The city of Thornton used our Father, Jerry Kalavity's death, as the opportunity to annex the property, and take it over for their commercial uses and Master Plan "vision". I see the same strategy being used in Ft. Collins. Thornton is asking for a strange and circuitous route to pipe its "purchased" water. Instead of leaving the water in the Poudre for miles and then extracting it at the south end of the route, it is choosing to take water out at the north end and pipe it though miles and miles of Douglas Road, etc. Thornton claims this will be cheaper for them. Even if it were cheaper for Thornton, that does not give them the right to do things this way. But my argument is that the only reason this circuitous route may be cheaper for Thornton is because they plan to cheat all the property owners along the way. When Thornton tells us all that it will cost around \$400 million for this piping route, I am convinced that if Thornton were to pay all the affected property owners correctly, then it would actually be closer to a \$1 billion. After all, our Dad's property was really worth \$1.9 to \$2.3 million at the time of his death, while all the appraisers and market analysis "experts" brought the total value of the property to be at \$600,000 to \$675,000. I have the supporting documents showing that CBRE appraised it at \$600,000, while ReMax and Coldwell Banker appraised it at \$675,000. I also have the document from Westerra Appraisal which shows its true value on or around the time of my Dad's death (April 26<sup>th</sup>, 2014:the legal time frame) to be between \$1.9 and \$2.3 million dollars.

I also want to add that besides the financial fraud that was committed against our family, the site that had once been home to over a hundred prairie dogs, assorted rabbits, squirrels, birds, coyotes, and a pair of nesting golden eagles has been poisoned so as to destroy many of these native animals. It is truly heartbreaking and sickening to see. Thornton seems to be in awe of man-made junky structures as their highest and best use of our majestic landscapes. Just

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because Thornton has decided to make low-class, out-of-control growth at any expense their main goal in life does not mean that it is everybody's responsibility to follow suit.

Also, water and land use law, in itself, deserves more than Thornton presenting its own version of what it sees as environmentally responsible. There are numerous professionals in Ft. Collins, including professors of natural resources and water engineering who can tell you that Thornton's plan only makes sense for Thornton, but does not make sense for anyone else, including Ft. Collins, its inhabitants or its wildlife.

I know that you and your constituents care about the importance of the Poudre River and the tangential issues around water and land, including:

### **Tangential Issues with regard to Water and Land Use:**

**Watershed Depletion:** When water is taken out for agricultural irrigation, as is the historical case with the water Thornton has "purchased", much of that water still remains in the area as overflow and comes back to the original watershed. Once water is piped, that is no longer the case. Douglas County, which has depleted its own underground water supply, has now built a water plant that recycles and re-uses its own water rather than taking it from other sources. Thornton would be wise to set up something like this instead of its proposed "water plan".

**Taking of Water:** This has become a major issue in many municipalities. I personally receive regular email alerts about the company Nestle, which bottles Arrowhead water. Nestle has been stealing water from the California forests for years to get its cheap drinking water. Along with climate change in general, is it any wonder we saw so many wildfires in California last year?

**Piping Resources or "Easements" Through People's Private Property:** The uproar over the Dakota Pipeline showcases the anger and resentment that people (rightly) have about the route by which "purchased" resources are brought from and to the sources they are supposed to serve. This is a very controversial issue which involves private property rights and environmental disruption.

**Storm Water Management:** It makes a difference how storm water is managed. In our instance, our Dad's property is in a low-lying area where there are wetlands and a flood plan. In Thornton's view of the world, you simply take out the wetlands, put in curb and gutter, thereby creating small 6" dams which divert water in a whole new way than how nature had distributed it before. Many of the flooding problems in Houston the last year were due to uncontrolled "growth" and massive expenditures in inanimate material such as asphalt, cement and curb and gutter. Even when areas are developed, there is a push to use a more natural road crown and swale system that keeps the water available for wildlife, and plants, rather than piping it underground and routing it to artificial storm water facilities.

**Probate Fraud and Abuse:** Probate Fraud and abuse not only deals with estates of deceased people, it also deals with estates of living people whose interests are in dispute. This means that dead people who left no will find their estates in probate court, but also, older people, very young people or people deemed "mentally" or "physically" "unfit" will also see their estates wind up in probate court. This is especially true if these people's estates are worth a few hundred thousand or several million dollars. These estates are commonly made up of houses or real estate assets. Transactions and alternative ownership on these assets is changing the real estate "landscape" to a great extent. Whereas property used to be passed on from generation to the next generation, as in Europe, real estate in the U.S. is being usurped by other entities, making such firms as REMAX wealthy and powerful while leaving everyday people at risk of having their land "stolen" for inappropriate and often environmentally-damaging uses.





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Request for Public Clarifications

1 message

Susan Marshall <marshall.susan@comcast.net>  
To: douglasroad@larimer.org

Wed, Mar 21, 2018 at 11:48 AM

To: Larimer County (LC) Planning and Review Staff for Douglas Road and the LC Master Transportation Plan

(A separate copy of this letter is also being sent to contacts for the Thornton Water Project.)

From: Susan and Dave Marshall, 3221 Cinnamon Ct., Fort Collins CO 80524, marshall.susan@comcast.net, 970-481-2703

### Request for Public Clarifications re: Outreach, the 1041, and Permit/Project Criteria

We are writing to you as long-time residents of the Hearthfire HOA near Douglas Road, with requests below for areas of clarification that we feel are urgently needed by the public. We also tried e-mailing Rob Helmick and Mark Peterson on two different occasions and never received replies, so questions related to those e-mails are also included below. Thank you in advance for efforts you can make toward addressing these issues.

**When providing notice of any new public hearings scheduled for the TWP 1041, please include the citizen comment deadlines for hearing review packets (deadlines that were left out of the previous hearing notices). Also remind citizens that they can choose to write directly to commission members involved with the hearings by the deadlines given and that correspondence does not have to go through Rob Helmick only.** No Pipe Dream gave packet deadlines and encouraged direct correspondence with commission members. All LC citizens deserve official reminders of these points from LC and the TWP as well so they can be as informed as possible about choices for commenting.

**When providing public notice of meetings separate from the TWP 1041 issue (such as the one held on 1/25/18 for "upgrades" to Douglas Road), please clarify in the notice whether extended discussion of the TWP issue will also be welcomed (as ended up happening on 1/25).** Knowing ahead of time that this was going to be allowed and encouraged might have caused even more people to attend and engage with the meeting.

**Please work to more publicly clarify the 1041's purpose and value for LC citizens, and to what extent citizen outreach is--or isn't--considered vital to the 1041 process and why. Please also work to more publicly acknowledge and apologize for inconsistent and incomplete outreach efforts perceived by LC residents re: the TWP 1041 that have contributed to frustrations and confusion.**

For example, at no time prior to a TWP 1041 Public Hearing Notice dated January 16, 2018 did we receive any notifications or outreach at our residence re: the TWP. Comments voiced at meetings, shared through e-mails and opinion pieces, and documented in the 1041 itself provide evidence of additional residents excluded from outreach while other area residents were directly invited to give input during 1041 development. The January 2018 copy of the TWP 1041 available online states that "Public outreach is not required by Larimer County's 1041 permit application process," yet we have heard various current or former LC staff members say that LC's 1041 process exists in large part to help protect local interests and quality of life for LC citizens. These types of inconsistencies have undermined public understanding and trust.

**An official, detailed public response is urgently needed from LC regarding accusations of conflict of interest that continue to circulate regarding the TWP 1041 application and emphasis on Douglas Road as a route. This should include explanation as to why Douglas Road has not been eliminated from route consideration due, in part, to factors involved that would seem to impede a more objective permit evaluation process for the Douglas option.** For example, claims have repeatedly been made that plans for "upgrade" to Douglas Road have been pushed ahead at a faster pace in order to accommodate a TWP pipeline proposal that could financially benefit LC with a collaboration on road work, and that this indicates a bias virtually inseparable from the permit application review process. Claims have also been made that publicly undisclosed meetings have occurred between LC, the TWP, and Northern Water that also involve plans for a NISP-related pipeline along Douglas, causing citizens to further perceive hidden agendas and lack of transparency. Also adding to these perceptions—the fact that public hearings were scheduled for the TWP 1041 in the first place when so much information was questionable with the application and is only now being requested for clarification after more citizen pushback. Citizens are also wondering whether this process, involving years of application guidance from LC and

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opportunities for major revision, is to be expected for every LC 1041 applicant. **On a related note, why has Douglas Road not been eliminated as a route contender due, in part, to upcoming residential developments starting near Douglas that will involve increased construction traffic, road work and closures near to Douglas, and reduction of access in and out of neighborhoods such as Hearthfire (Douglas as the single daily access point during work on Waters Edge). More public comment period and clarification of LC's motivations and work estimates for "upgrades"/widening to Douglas Road is still needed, and as separate from any TWP connection, including how these residential development plans are envisioned in relation.**

**More detailed and official public explanation from LC and the TWP is also urgently needed as to why Douglas Road continues to be emphasized vs. other route options that could better mitigate a range of disturbances and help with stewardship—including a river option such as the one being supported by major grassroots efforts like No Pipe Dream and Save the Poudre and by residents all along Douglas Road who have posted protest signs. It is the role of LC and the TWP to better clarify their analysis as they also expect the public to comment on the issue.** For example, if a river option is not being considered primarily due to Thornton's resistance to clean water requirements then how has this been fairly analyzed and weighed against all points in protest, including claims of structural risks with roadway pipelines?

**Please do more to combat potentially misleading statements shared in news features that can undermine the complexity of the issues involved.** For example, a recent *Coloradoan* article stated that the "proposed water pipeline in Larimer County won't require taking over anyone's property along the proposed route" and that, per Mark Koleber, the TWP's "intent all along was to work within the Douglas Road right of way." A better sense of the complex history and remaining unknowns related to project estimates is needed by readers of news articles like these. The TWP has made some efforts to provide "factual information" updates at their site (unfortunately not referenced in the article), but residents remain understandably concerned that the current TWP 1041 document itself estimates "the majority of the pipeline will be located on private property" and that the project will potentially involve years of construction and staging sites; a large degree of disturbance; some outright losses and destruction; possible land divisions; and numerous county crossovers, easements, permits, and negotiations with property owners needed relating to miles of pipeline as well as a large pumping station in LC and storage facilities and appurtenances affecting landscapes and residential areas across multiple counties.



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## TWP 1041 Application

7 messages

Mark Abshire &lt;mabshire333@gmail.com&gt;

Wed, Jan 10, 2018 at 2:08 PM

To: rhelmick@larimer.org, Thornton Water Project &lt;info@thorntonwaterproject.com&gt;

Hi Rob and Mark,

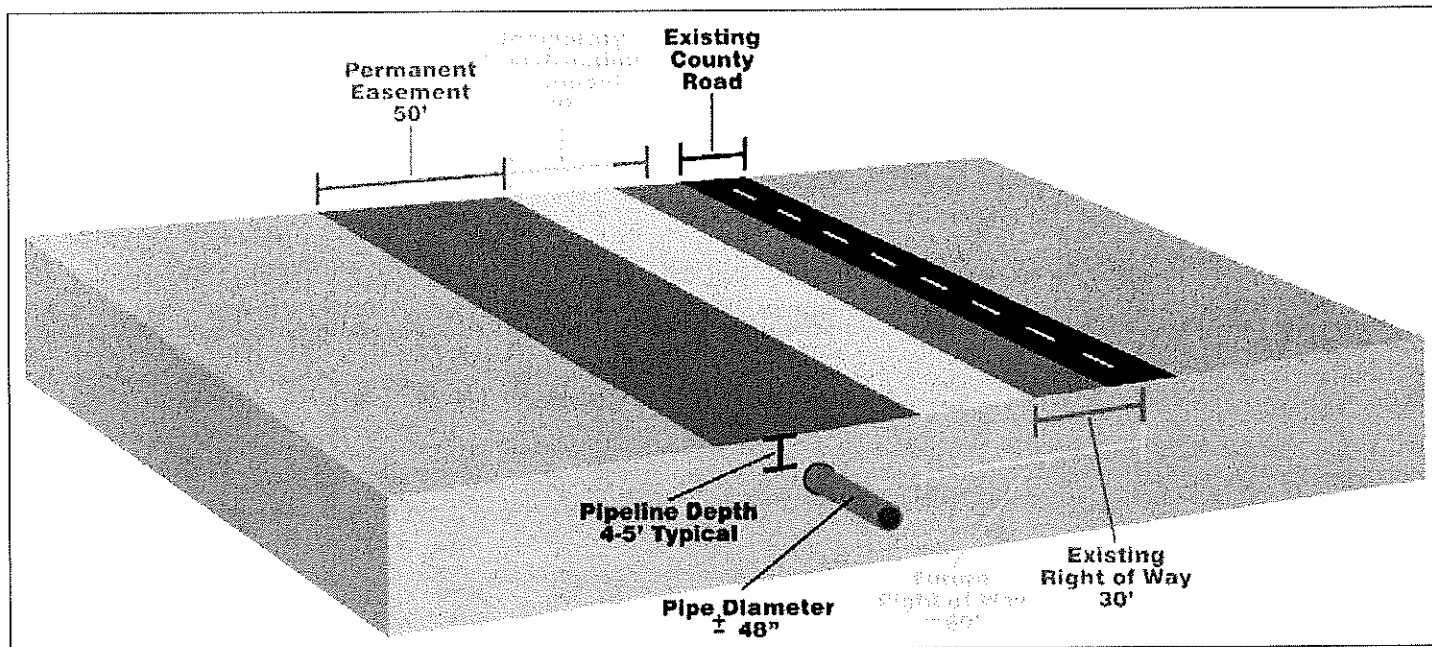
I am a property owner with a single access driveway to Douglas Road. I have briefly reviewed the TWP's 1041 application, and have a question I hope you can help me with relating to ROWs and easement acquisition.

I noted the following project design criteria from Section 2 of the application:

- 1.) On Page 2-8, under *Final Water Pipeline Alignment Design Criteria*, TWP states in the first bullet that "Where the corridor parallels Douglas Road and County Road 56, the water pipeline is proposed to be located in Larimer County ROW where feasible and as approved by Larimer County."
- 2.) Further, on Page 2-9 under *Land Acquisition*, TWP states that "The typical permanent easement width is anticipated to be 50-feet wide, and the typical temporary construction easement is anticipated to be an additional 40-feet in width as shown on Figure 2.a-5," shown again below.

Douglas Road presently has a ROW of 30 feet each side of the centerline, as shown below. There is also a "20' Reserved County Road ROW" beyond that on both sides, bringing the total available ROW for Douglas Road to 100 feet. Figure 2.a-5 shows 2 conditions that are not consistent with design criterion 1.) above. Namely, they are:

- A. It indicates a future ROW easement of 120 feet (60 feet each side). However, the current max future Douglas Road ROW is 100 feet (30' + 20' each side).
- B. It indicates that the 50-foot permanent easement for the TWP is not located within the Douglas Road ROW as discussed in 1.) above, but rather on private property 30 feet from the Douglas Road ROW.



My questions related to this issue are:

- Q1. Is Figure 2.a-5 a standard boilerplate detail, that inaccurately conveys the current project in that it doesn't show the permanent TWP easement within the Douglas Road ROW as stated in design criterion 1) above?
- Q2. Does Figure 2.a-5 indicate that TWP expects the pipeline alignment to be outside of the Douglas Road ROW for the majority of the alignment?
- Q3. If TWP requires a construction easement of 90 feet, and the Douglas Road ROW is only 100 feet, does TWP's 90-foot construction easement include a temporary lane for local traffic?
- Q4. Could the TWP's 50-foot permanent easement be fully located within Douglas Road's 100-foot ROW, with temporary construction easements extending into adjacent private land with the intent of full post-construction restoration and/or improvement?

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2/9/2018

co.larimer.co.us Mail - TWP 1041 Application

Q5. I was unable to find in the Larimer County Transportation Master Plan (adopted August 16, 2017) plans to widen Douglas Road, although TWP plans indicate widening Douglas Road to 3 lanes. With the existing 100-foot ROW, Douglas Road could still easily accommodate three 12-foot lanes with 8-foot shoulders. Has there been any discussion related to Larimer County widening the ROW to accommodate the TWP?

Thank you in advance for your time.

Mark Abshire  
3829 Twilight Lane  
692-4265

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**Mark Abshire** <mabshire@enganalytics.com>  
To: "rhelmick@larimer.org" <rhelmick@larimer.org>, Thornton Water Project <info@thorntonwaterproject.com>

Fri, Jan 26, 2018 at 8:14 AM

Rob and Mark,

I know you have a lot on your plate, but I'm reviewing the 1041 so I can make comments to the planning commission before next month's hearing. Any word on this, please?

Mark

**From:** Mark Abshire [mailto:mabshire333@gmail.com]  
**Sent:** Wednesday, January 10, 2018 2:08 PM  
**To:** rhelmick@larimer.org; 'Thornton Water Project' <info@thorntonwaterproject.com>  
**Subject:** TWP 1041 Application

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**Rob Helmick** <helmicrp@co.larimer.co.us>  
To: Mark Abshire <mabshire@enganalytics.com>

Fri, Jan 26, 2018 at 10:25 AM

Mark,

Q1. Is Figure 2.a-5 a standard boilerplate detail, that inaccurately conveys the current project in that it doesn't show the permanent TWP easement within the Douglas Road ROW as stated in design criterion 1) above? *Yes that is correct*  
Q2. Does Figure 2.a-5 indicate that TWP expects the pipeline alignment to be outside of the Douglas Road ROW for the majority of the alignment? *No for the reach from Shields to Turnberry the anticipation is that the entire easement and disturbed are will be within the ROW*  
Q3. If TWP requires a construction easement of 90 feet, and the Douglas Road ROW is only 100 feet, does TWP's 90-foot construction easement include a temporary lane for local traffic? *Local traffic will always be accommodated irrespective of the easements*  
Q4. Could the TWP's 50-foot permanent easement be fully located within Douglas Road's 100-foot ROW, with temporary construction easements extending into adjacent private land with the intent of full post-construction restoration and/or improvement? *Yes*  
Q5. I was unable to find in the Larimer County Transportation Master Plan (adopted August 16, 2017) plans to widen Douglas Road, although TWP plans indicate widening Douglas Road to 3 lanes. With the existing 100-foot ROW, Douglas Road could still easily accommodate three 12-foot lanes with 8-foot shoulders. Has there been any discussion related to Larimer County widening the ROW to accommodate the TWP? *No any widening of the ROW would be for Roadway improvements. Thornton is commencing survey work to determine if there are areas the the pipeline cannot be accommodated in the existing and or future ROW.*

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Robert Helmick, AICP  
Larimer County Community Development Division  
Development Planning  
PO Box 1190  
Fort Collins CO 80524  
rhelmick@larimer.org  
970-498-7682

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**Mark Abshire** <mabshire@enganalytics.com>  
To: Rob Helmick <helmicrp@co.larimer.co.us>

Fri, Jan 26, 2018 at 10:32 AM

Thanks, Rob.

**THORNTON WATER PROJECT 1041**

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Mark

**From:** Rob Helmick [mailto:helmicrp@co.larimer.co.us]  
**Sent:** Friday, January 26, 2018 10:26 AM  
**To:** Mark Abshire <mabshire@enganalytics.com>  
**Subject:** Re: TWP 1041 Application

[Quoted text hidden]

**Mark Koleber** <info@thorntonwaterproject.com>  
 To: mabshire@enganalytics.com  
 Cc: rhelmick@larimer.org

Fri, Jan 26, 2018 at 4:29 PM

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Mark,

Thanks for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you on your original email. With regard to your questions:

Q1. Is Figure 2.a-5 a standard boilerplate detail, that inaccurately conveys the current project in that it doesn't show the permanent TWP easement within the Douglas Road ROW as stated in design criterion 1) above? Answer: This diagram illustrates the location of the proposed water pipeline easement in undeveloped areas, which constitute a large part of the proposed project corridor. It does not reflect the proposal for the section of the project that would be constructed along Douglas Road.

Q2. Does Figure 2.a-5 indicate that TWP expects the pipeline alignment to be outside of the Douglas Road ROW for the majority of the alignment? Answer: Thornton's intent is to stay within the public right-of-way on Douglas Road where feasible. Thornton is conducting investigations to determine if and where constructing the water pipeline in the public right-of-way would be feasible, and will propose to narrow the "corridor" for construction in those areas where it is feasible to stay within the public right-of-way on Douglas Road.

Q3. If TWP requires a construction easement of 90 feet, and the Douglas Road ROW is only 100 feet, does TWP's 90-foot construction easement include a temporary lane for local traffic? Answer: Where Thornton is constructing the water pipeline within the public right-of-way of Douglas Road, a traffic control plan will be established to provide for local traffic and access.

Q4. Could the TWP's 50-foot permanent easement be fully located within Douglas Road's 100-foot ROW, with temporary construction easements extending into adjacent private land with the intent of full post-construction restoration and/or improvement? Answer: The manner or mechanism in which Larimer County permits Thornton to occupy the right-of-way for construction and operation of the water pipeline has yet to be determined. If temporary construction easements are needed outside the right-of-way on private property, the property owner would be compensated for that use, the area would be restored or improved to the extent practicable.

Q5. I was unable to find in the Larimer County Transportation Master Plan (adopted August 16, 2017) plans to widen Douglas Road, although TWP plans indicate widening Douglas Road to 3 lanes. With the existing 100-foot ROW, Douglas Road could still easily accommodate three 12-foot lanes with 8-foot shoulders. Has there been any discussion related to Larimer County widening the ROW to accommodate the TWP? Answer: Thornton's intent is to stay within the public right-of-way on Douglas Road, either in its current configuration, or in an expanded 3-lane configuration, where it is feasible. Larimer County's Douglas Road improvement project and the Thornton Water Project are independent projects that could be coordinated to reduce impacts to area residents, but expanding Douglas Road specifically to accommodate the Thornton Water Project has not been proposed or discussed.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700

**THORNTON WATER PROJECT 1041**

**503**

2/9/2018

co.larimer.co.us Mail - TWP 1041 Application  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Abshire** <mabshire333@gmail.com>  
To: rhelmick@larimer.org, Thornton Water Project <info@thorntonwaterproject.com>  
Cc: Douglasroad@larimer.org, mpeterson@larimer.org, Tjuergens@larimer.org

Fri, Jan 26, 2018 at 5:53 PM

Mark and Rob,

Please refer to the first attached figure, which is Figure 3-3 of TWP's 1041 application with my review comments redlined over it. This sketch includes a 1/2-mile section of Douglas Road from Turnberry Road to the west, which is owned by the City of Fort Collins and not Larimer County. As shown on the sketch, if this is TWP's plan it will directly impact 8 properties and 25 single family homes with direct access to Douglas Road. Ten (10) of these residences are located directly within TWP's proposed permit corridor.




I have been in contact with the City of Fort Collins Engineering Department and confirmed that they have not received so much as a courtesy notification of TWP's plans for this stretch of Douglas Road (they are aware of TWP's 1041 application only because Larimer County provided them a set for review). Nor have the City Engineering or Utilities departments received any notification of an intent to locate utilities on this stretch, as I understand from last night's public information meeting is being expeditiously done for the rest of Douglas Road.

I am curious why Thornton hasn't contacted the City of Fort Collins to request that the pipeline remain in the road for this 1/2-mile stretch, as was clearly presented as the preferred alternative, South 2 (slides attached), at TWP's September public meeting. I did not see in my review of the 1041 explicit mention of this condition and TWP's plan for it, other than it showing up subtly on various figures. A condition of this significance should have been addressed with the City and included in TWP's 1041 application prior to requesting the County's approval of TWP's 1041 permit application.

This condition is of great concern to me and will be for my neighbors as well. Please confirm if it is indeed TWP's plan to not place the pipeline within the ROW of this stretch of Douglas Road.

Mark Abshire  
3829 Twilight Lane  
Fort Collins, CO  
970-602-4265

**3 attachments**

-  **TWP 1041\_Figure 3-3 Markup\_East End.pdf**  
369K
-  **TWP Presentation Larimer County Routing Study V2 20170829-2\_Slide 26.pdf**  
757K
-  **TWP Presentation Larimer County Routing Study V2 20170829-2\_Slide 27.pdf**  
259K

**Mark Abshire** <mabshire333@gmail.com>  
To: rhelmick@larimer.org, Thornton Water Project <info@thorntonwaterproject.com>  
Cc: Douglasroad@larimer.org, mpeterson@larimer.org, Tjuergens@larimer.org

Fri, Feb 9, 2018 at 10:54 AM

Rob and Mark,

I want to extend my appreciation and thanks to you for acknowledging the concerns of the residents who will be impacted by the proposed TWP. I believe the actions you are taking to more clearly identify the actual alignment of the pipeline will help to mitigate the concerns we have been expressing.

Sincerely,

**THORNTON WATER PROJECT 1041**

**504**





Rob Helmick <helmicrp@co.larimer.co.us>

## RE: Thornton Water Project - Larimer County 1041 Permit Update

3 messages

Mark Koleber <info@thorntonwaterproject.com>

Fri, Feb 9, 2018 at 3:20 PM

To: drl@rootsarbor.com

Cc: rhelmick@larimer.org

Having trouble viewing this email? [Click here](#)



Daniel,

Thank you for contacting us regarding the Thornton Water Project. We will add your comments to our records, and provide them to Larimer County, as well.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
 info@thorntonwaterproject.com  
 www.thorntonwaterproject.com

**From:** Daniel R. LaValley [mailto:danielrlavalley@gmail.com]  
**Sent:** Wednesday, January 31, 2018 3:04 PM  
**To:** Thornton Water Project <info@thorntonwaterproject.com>  
**Cc:** nopipedreamftc@gmail.com  
**Subject:** Re: Thornton Water Project - Larimer County 1041 Permit Update

Mark,

Thornton's continued assumption that their plans to tear up Douglas Road is a good thing for anyone except the City of Thornton is absurd. Douglas Road is not in the City of Thornton and statements like these are not taken lightly. We do not appreciate these threats against our home. Your plans to tear up our home need to change immediately.

By the way Mark, is it ok with you if I dig in front of your driveway for the next half a dozen years, back up beepers and all? I've been planning to do it for a while and even if you don't want me to I'm still going to do it anyway.

- DRL

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 Unsubscribe  
 Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>  
 To: spshelley@aol.com  
 Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 3:27 PM

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Rebecca and Sean,

Thanks for your continued engagement with us on the Thornton Water Project. Along with more information related to the use of Douglas Road, we will be providing supplemental information to Larimer County regarding the pump station as well. The final location and configuration of the pump station will be subject to a Site Plan Review process with Larimer County, and it is our intent to involve the area residents in the development of our plans.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
 info@thorntonwaterproject.com  
 www.thorntonwaterproject.com

**From:** Sean Shelley [mailto:spshelley@aol.com]  
**Sent:** Wednesday, January 31, 2018 7:58 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** Re: Thornton Water Project - Larimer County 1041 Permit Update

Dear Mark,

We appreciate the extra effort to define where the pipe line will be located within the right of way of Douglas Road.

We do believe it is the best over-all route for all neighborhoods in North Fort Collins and the county. Sean and I have heard people's concerns over the location and size of the pump station.

Showing a more definite location for the pump station, graphic sketches of the proposed design for this location, and where the road would be located to maintain the pump station would help alleviate concerns.

However, we recognize the location of the pipeline must be determined first.

Thank you for the information and your consideration for all of us in this area.

**THORNTON WATER PROJECT 1041**

**506**

Sincerely,

Rebecca and Sean Shelley

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>  
To: warrenlemerich@gmail.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 3:30 PM

Having trouble viewing this email? [Click here](#)



Warren,

Thank you for contacting us regarding the Thornton Water Project. We will add our comments to our records, and provide them to Larimer County as well.



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** R Warren Lemerich [mailto:warrenlemerich@gmail.com]  
**Sent:** Thursday, February 01, 2018 2:07 PM  
**To:** Thornton Water Project <info@thorntonwaterproject.com>  
**Subject:** Re: Thornton Water Project - Larimer County 1041 Permit Update

Mark,

With all due respect...we don't want your pipeline running down Douglas. Do the RIGHT thing and take your water from south of Fort Collins. Anything else will likely be met with endless battles.

Douglas road resident

2/12/2018

co.larimer.co.us Mail - RE: Thornton Water Project - Larimer County 1041 Permit Update

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Terry Acers concerns about changes to Douglas Road

1 message

Bill Spencer &lt;billspencer03@gmail.com&gt;

Tue, Feb 13, 2018 at 8:37 AM

To: douglasroad@larimer.org

Cc: Tom French <frenchlawfirm@me.com>, Sandra Lundt <slundt31@gmail.com>, Rick Lundt <lundtrk@aol.com>, Kara Houck <Houckkc@gmail.com>, Jim Houck <jvhouck@gmail.com>, Elizabeth Donovan <lizsdonovan@gmail.com>, Christie French <christycasefrench@gmail.com>, Bill Spencer <bspencer@frii.com>, Elaine Spencer <espencer@frii.com>, Jack Lundt <jlundt52@gmail.com>, rhelmick@larimer.org

Terry Acres HOA Statement on Douglas Road

2/13/2018

Terry Acres, where we live, is a Larimer County subdivision which borders Douglas Road (CR54) and is being considered for improvements. Douglas Road is our main--and only--entrance to this subdivision. Any changes to Douglas Road are of high concern to our members, which include families with small children who go to local schools and catch the bus at the entrance of Bay Shore Road and Douglas Road.

This email is to express the unanimous opinions and suggestions from our Homeowners Association members and through this email it is expected to be entered in the Larimer County records concerning any hearings for changes to Douglas Road. These suggestions and opinions are concerning Douglas Road proposed changes and do not express any issues caused by the proposed Thornton pipeline. We consider the pipeline a separate issue and we will address that issue if the pipeline goes forward. Our HOA is supportive of the upgrading of the surface and safety features of Douglas Road.

I will summarize our consolidated concerns and suggestions in no particular order of importance—they are all important:

- Bike lanes should be added to any new road design. When Bike lanes are installed bike on Douglas, they should include them on North Shields, too - it's about connectivity and safety.
- The width of the road should only be 60 feet.
- There should be NO third lane added.
- Signage should include, "no Jake brakes", "local truck traffic only", "school bus stop" at Bay Shore Road (our only entrance to Douglas Road) and additional speed signs for "35 mph", which needs more rigorous enforcement.
- A stoplight needs be added to the intersection of Highway 1 and Douglas Road with no additional turn lane. Two of our members have been in serious accidents at this intersection that was not their fault. We have had several close calls as well.
- There needs to be public transportation included in the County's planning. Simply saying that is "the province of the City" is unacceptable, especially if we are in the City's GMA.

Please feel free to contact me at the information below should you wish to discuss this matter further.

Please confirm receipt of this email. Than you.

William P. Spencer,  
President Terry Acres HOA  
3605 Bay Shore Road  
Fort Collins, Colorado 80523-1172  
Home 970 498-9027  
Cell: 970 988-0720  
Email: bspencer@frii.com



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Douglas Road doesn't need widening

2 messages

Lynn U Nichols &lt;lynn.healthwrite@gmail.com&gt;

Sun, Feb 11, 2018 at 12:08 PM

To: douglasroad@larimer.org, todd.blomstrom@larimer.org

Cc: cityleaders@fcgov.com, boccc@larimer.org, pcboard@larimer.org

Hello Todd,

First, let me say I appreciate you holding the road meeting on Douglas Road and being up front about the planned expansion rather than trying to simply slip it through as it seems was the original plan with the Thornton pipeline. Your listening to citizen concerns was admirable.

It likely came clear to you at the meeting that the majority of attendees did not want Douglas widened. The reason for the sudden desire to widen Douglas to the extreme is obviously concocted to support Thornton's pipeline, something that most people see right through. You can put up growth charts all you want, the truth is quite different. The main use on Douglas is commuter traffic to west Fort Collins, mostly Poudre High School. Once Turnberry is brought through and a new high school is built NE to accommodate growth East and in Wellington, Douglas will not be under such demand. I believe you know this. I also believe you know that the call to widen it right now--and putting it in the master transportation plan--is a sham.

We've been told from the horse's mouth in Eagle Lake that through his 3 lawyers and lots of pressure, that neighborhood successfully SUGGESTED Douglas road as the alternate route for the pipeline and the county and Thornton agreed--without of course asking the residents most affected--the many who live on or backing to Douglas Road, which you got an earful of at the Jan 25 meeting.

Let's be frank. There is no way that Thornton can fit a 4 foot pipeline under the current Douglas road, that's why it has to be widened. Even at 84 feet, it will likely be impossible to NOT take property or put easements on private property. This I think Larimer County and Thornton know as well, but no one is admitting it. If this doesn't seem convincing, let's consider player number 2 - Northern Water. I just wrote them last week to inquire about the size of their pipeline and where they plan to place it and was told 48 inches to 54 inches - and you guessed it, Douglas Road. You tell me how even at a ridiculous 84 feet Douglas Road is going to hold two large pipelines, along with utilities and required easements and NOT take private property? You know as I do and many of No Pipe Dream members know, it's simply not possible.

You also gave unrealistic numbers of how wide Douglas road is currently, under the guise of a typical county road. Currently, it is 30 feet of pavement. With your plan, it will be 52 feet of pavement, plus ROW. With a garage between Shields and Hwy 1 currently within 12 feet of the current pavement, and houses that close on the intersection, how could property NOT be taken? It will, and I do believe you all know it.

What I ask of you is to be an advocate for your citizens and to take a long, hard, honest look at this situation. There are alternatives. Thornton owns a good share of land north, and they could run their pipeline on its North 3 proposed route, which would disturb just two properties--the very back of two homes in Eagle Lake with large acreage. Or, it could go down the Poudre and enhance our River District downtown and take our river from a grade C to a grade A as it moves through town. The fact that water has been diverted for 100 years is no excuse to keep doing it that way.

As a part of No Pipe Dream, we hope that all entities, including LC, can rise above this madness and do the right thing--find a workable solution for all players and enhance our city's main waterway in the meantime. There are alternatives. To go ahead with the Douglas Road plan which was cooked up late in the game by wealthy neighbors in Eagle Lake as a NIMBY effort is not the way to make such major decisions. Let's be proactive, not reactive. Let's think bigger. I hope you will agree and support our 500+ voices on this matter.

Sincerely,

Lynn Utzman-Nichols, NPD member

--  
Lynn U Nichols, MA  
Healthwrite Communications  
970-218-8514

---

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>

Mon, Feb 12, 2018 at 8:32 AM

To: Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>, Tom Donnelly <donnelt@co.larimer.co.us>

Cc: "Helmick, Rob" <helmicrp@co.larimer.co.us>, Terry Gilbert <gilberrt@co.larimer.co.us>

Commissioners -- Forwarded for your information and consideration.

Staff -- Please add this message to the public record.



**Linda Hoffmann**  
County Manager

---

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

[Quoted text hidden]



Commissioners' Office  
 200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
 W: (970) 498-7004  
 lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Maranda Shively** <shively.ms@gmail.com>  
 Date: Wed, Feb 21, 2018 at 6:56 AM  
 Subject: Please stand up and speak out to protect the Poudre River  
 To: cityleaders@fcgov.com  
 Cc: bocc@larimer.org

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

Standing back and letting these projects move forward is unacceptable. I need you to bring together stakeholders and find a path forward that does not continue to drain the river or increase the amount of water drained out of the river through Fort Collins. Currently, 65% of the river is drained out by the time the river reaches downtown Fort Collins. These proposed projects will make that problem even worse, especially the Northern Integrated Supply Project.

Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
 Maranda Shively  
 shively.ms@gmail.com  
 3941 Roper Trail  
 Severance Co 80524

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>  
 To: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Wed, Feb 21, 2018 at 3:31 PM

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
 County Manager

Commissioners' Office  
 200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
 W: (970) 498-7004  
 lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Gerry Horak** <ghorak@fcgov.com>  
 Date: Wed, Feb 21, 2018 at 8:41 AM  
 Subject: Re: Please stand up and speak out to protect the Poudre River  
 To: Jason Dlouhy <dlohyjl@gmail.com>, City Leaders <CityLeaders@fcgov.com>  
 Cc: "bocc@larimer.org" <bocc@larimer.org>

Jason

Thanks for your email, perspectives and recommendations. I and the City of Fort Collins have been standing up for the Cache La Poudre River for 40 years. I was instrumental in convincing the Fort Collins City Council to support Wild and Scenic Designation and working on that to its' successful designation. Fort Collins has and is a leader in working to maintain flows in the Poudre River. I testified before the Colorado Parks and Wildlife Commission that the Fort Collins City Council cannot support the Northern Integrated Supply Project in its current form due to the projected significantly reduced the flows in the Poudre River through Fort Collins. Recently the Mayor, City Manager and I met with representatives of Thornton to encourage them to keep water in the Poudre River through Fort Collins. They are interested in putting some of their water in the Poudre and not diverting all that they have the rights to.

We will continue to stand up for the Cache La Poudre River.

I am available to meet and discuss.

Sincerely

Gerry

**Gerry Horak**  
Mayor Pro Tem  
Councilmember  
District 6  
ghorak@fcgov.com  
217-2993  
123 North Mack Street  
Fort Collins, CO 80521

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**From:** Jason Dlouhy <dlohyjl@gmail.com>  
**Sent:** Wednesday, February 21, 2018 7:51:58 AM  
**To:** City Leaders  
**Cc:** boccc@larimer.org  
**Subject:** Please stand up and speak out to protect the Poudre River

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

Standing back and letting these projects move forward is unacceptable. I need you to bring together stakeholders and find a path forward that does not continue to drain the river or increase the amount of water drained out of the river through Fort Collins. Currently, 65% of the river is drained out by the time the

**THORNTON WATER PROJECT 1041**

**514**

river reaches downtown Fort Collins. These proposed projects will make that problem even worse, especially the Northern Integrated Supply Project.

Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
Jason Dlouhy  
dlouhyjl@gmail.com  
3005 Regatta Lane #3  
Fort Collins CO 80525

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>  
To: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Wed, Feb 21, 2018 at 3:32 PM

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Gerry Horak** <ghorak@fcgov.com>  
Date: Wed, Feb 21, 2018 at 8:42 AM  
Subject: Re: Please stand up and speak out to protect the Poudre River  
To: Michael Wyman <mwyman99@hotmail.com>, City Leaders <CityLeaders@fcgov.com>  
Cc: "bocc@larimer.org" <bocc@larimer.org>

Michael

Thanks for your email, perspectives and recommendations. I and the City of Fort Collins have been standing up for the Cache La Poudre River for 40 years. I was instrumental in convincing the Fort Collins City Council to support Wild and Scenic Designation and working on that to its' successful designation. Fort Collins has and is a leader in working to maintain flows in the Poudre River. I testified before the Colorado Parks and Wildlife Commission that the Fort Collins City Council cannot support the Northern Integrated Supply Project in its current form due to the projected significantly reduced the flows in the Poudre River through Fort Collins. Recently the Mayor, City Manager and I met with representatives of Thornton to encourage them to keep water in the Poudre River through Fort Collins. They are interested in putting some of their water in the Poudre and not diverting all that they have the rights to.

We will continue to stand up for the Cache La Poudre River.

I am available to meet and discuss.

Sincerely

Gerry

**Gerry Horak**  
Mayor Pro Tem  
Councilmember  
District 6  
ghorak@fcgov.com  
217-2993  
123 North Mack Street  
Fort Collins, CO 80521

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**From:** Michael Wyman <mwyman99@hotmail.com>  
**Sent:** Wednesday, February 21, 2018 6:49:42 AM  
**To:** City Leaders  
**Cc:** bocc@larimer.org  
**Subject:** Please stand up and speak out to protect the Poudre River

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

Standing back and letting these projects move forward is unacceptable. I need you to bring together stakeholders and find a path forward that does not continue to drain the river or increase the amount of water drained out of the river through Fort Collins. Currently, 65% of the river is drained out by the time the river reaches downtown Fort Collins. These proposed projects will make that problem even worse, especially the Northern Integrated Supply Project.

Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
Michael Wyman  
mwyman99@hotmail.com



Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Fwd: Please stand up and speak out to protect the Poudre River

5 messages

Linda Hoffmann &lt;hoffmalc@co.larimer.co.us&gt;

Wed, Feb 21, 2018 at 3:30 PM

To: Lew Gaiter &lt;gaiterl@co.larimer.co.us&gt;, Steve Johnson &lt;johnsosw@co.larimer.co.us&gt;, Tom Donnelly &lt;donnelt@co.larimer.co.us&gt;

Cc: Terry Gilbert &lt;gilbertt@co.larimer.co.us&gt;, "Helmick, Rob" &lt;helmicrp@co.larimer.co.us&gt;

Commissioners -- This message is forwarded for your information and consideration. A number of messages identical to this one are coming in from citizens. I think approximately 30 have been received so far. Fort Collins Council member Horak has been sending identical responses to them. Rather than forwarding the identical messages individually to the three of you, I plan to send them directly to Community Development to incorporate into the public record for the application. Please let me know if you prefer that I handle the messages differently.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Abbey Felici** <abbey242623@gmail.com>

Date: Wed, Feb 21, 2018 at 8:08 AM

Subject: Please stand up and speak out to protect the Poudre River

To: cityleaders@fcgov.com

Cc: bocc@larimer.org

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

Standing back and letting these projects move forward is unacceptable. I need you to bring together stakeholders and find a path forward that does not continue to drain the river or increase the amount of water drained out of the river through Fort Collins. Currently, 65% of the river is drained out by the time the river reaches downtown Fort Collins. These proposed projects will make that problem even worse, especially the Northern Integrated Supply Project.

Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
Abbey Felici  
abbey242623@gmail.com  
709 Ponderosa Dr  
Fort Collins Colorado 80251

**THORNTON WATER PROJECT 1041**

**517**

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Wed, Feb 21, 2018 at 3:30 PM

To: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **ANDY WEISS** <andrew.weiss@hotmail.com>

Date: Wed, Feb 21, 2018 at 7:50 AM

Subject: Please stand up and speak out to protect the Poudre River

To: cityleaders@fcgov.com

Cc: boccc@larimer.org

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

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Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
**ANDY WEISS**  
andrew.weiss@hotmail.com  
728 oxford lane  
fort collins co 80525

Linda Hoffmann <hoffmalc@co.larimer.co.us>

Wed, Feb 21, 2018 at 3:30 PM

To: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

**THORNTON WATER PROJECT 1041**

**518**

Commissioners' Office  
 200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
 W: (970) 498-7004  
 lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Maranda Shively** <shively.ms@gmail.com>  
 Date: Wed, Feb 21, 2018 at 6:56 AM  
 Subject: Please stand up and speak out to protect the Poudre River  
 To: cityleaders@fcgov.com  
 Cc: bocc@larimer.org

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

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Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
 Maranda Shively  
 shively.ms@gmail.com  
 3941 Roper Trail  
 Severance Co 80524

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>  
 To: Terry Gilbert <gilberrt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Wed, Feb 21, 2018 at 3:31 PM

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
 County Manager

Commissioners' Office  
 200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
 W: (970) 498-7004  
 lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Gerry Horak** <ghorak@fcgov.com>  
 Date: Wed, Feb 21, 2018 at 8:41 AM  
 Subject: Re: Please stand up and speak out to protect the Poudre River  
 To: Jason Dlouhy <dlohyjl@gmail.com>, City Leaders <CityLeaders@fcgov.com>  
 Cc: "bocc@larimer.org" <bocc@larimer.org>

Jason

Thanks for your email, perspectives and recommendations. I and the City of Fort Collins have been standing up for the Cache La Poudre River for 40 years. I was instrumental in convincing the Fort Collins City Council to support Wild and Scenic Designation and working on that to its' successful designation. Fort Collins has and is a leader in working to maintain flows in the Poudre River. I testified before the Colorado Parks and Wildlife Commission that the Fort Collins City Council cannot support the Northern Integrated Supply Project in its current form due to the projected significantly reduced the flows in the Poudre River through Fort Collins. Recently the Mayor, City Manager and I met with representatives of Thornton to encourage them to keep water in the Poudre River through Fort Collins. They are interested in putting some of their water in the Poudre and not diverting all that they have the rights to.

We will continue to stand up for the Cache La Poudre River.

I am available to meet and discuss.

Sincerely

Gerry

**Gerry Horak**  
**Mayor Pro Tem**  
**Councilmember**  
**District 6**  
ghorak@fcgov.com  
**217-2993**  
123 North Mack Street  
Fort Collins, CO 80521

*With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can't guarantee that any email to or from Council will remain private under CORA.*

**From:** Jason Dlouhy <dlouhyjl@gmail.com>  
**Sent:** Wednesday, February 21, 2018 7:51:58 AM  
**To:** City Leaders  
**Cc:** boccc@larimer.org  
**Subject:** Please stand up and speak out to protect the Poudre River

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

Standing back and letting these projects move forward is unacceptable. I need you to bring together stakeholders and find a path forward that does not continue to drain the river or increase the amount of water drained out of the river through Fort Collins. Currently, 65% of the river is drained out by the time it

**THORNTON WATER PROJECT 1041 520**



river reaches downtown Fort Collins. These proposed projects will make that problem even worse, especially the Northern Integrated Supply Project.

Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
Jason Dlouhy  
dlouhyjl@gmail.com  
3005 Regatta Lane #3  
Fort Collins CO 80525

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>  
To: Terry Gilbert <gilberrt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Wed, Feb 21, 2018 at 3:32 PM

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Gerry Horak** <ghorak@fcgov.com>  
Date: Wed, Feb 21, 2018 at 8:42 AM  
Subject: Re: Please stand up and speak out to protect the Poudre River  
To: Michael Wyman <mwyman99@hotmail.com>, City Leaders <CityLeaders@fcgov.com>  
Cc: "bocc@larimer.org" <bocc@larimer.org>

Michael

Thanks for your email, perspectives and recommendations. I and the City of Fort Collins have been standing up for the Cache La Poudre River for 40 years. I was instrumental in convincing the Fort Collins City Council to support Wild and Scenic Designation and working on that to its' successful designation. Fort Collins has and is a leader in working to maintain flows in the Poudre River. I testified before the Colorado Parks and Wildlife Commission that the Fort Collins City Council cannot support the Northern Integrated Supply Project in its current form due to the projected significantly reduced the flows in the Poudre River through Fort Collins. Recently the Mayor, City Manager and I met with representatives of Thornton to encourage them to keep water in the Poudre River through Fort Collins. They are interested in putting some of their water in the Poudre and not diverting all that they have the rights to.

We will continue to stand up for the Cache La Poudre River.

I am available to meet and discuss.

Sincerely

**THORNTON WATER PROJECT 1041**

**521**

Gerry

**Gerry Horak**  
Mayor Pro Tem  
Councilmember  
District 6  
ghorak@fcgov.com  
217-2993  
123 North Mack Street  
Fort Collins, CO 80521

*With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can't guarantee that any email to or from Council will remain private under CORA.*

---

**From:** Michael Wyman <mwyman99@hotmail.com>  
**Sent:** Wednesday, February 21, 2018 6:49:42 AM  
**To:** City Leaders  
**Cc:** bocc@larimer.org  
**Subject:** Please stand up and speak out to protect the Poudre River

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

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Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
Michael Wyman  
mwyman99@hotmail.com



Rob Helmick <helmicrp@co.larimer.co.us>

## RE: New submission from Contact Us

13 messages

Mark Koleber <info@thorntonwaterproject.com>

Fri, Feb 9, 2018 at 10:18 AM

To: dmsavitske@gmail.com

Cc: rhelmick@larimer.org

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Mr. Savitske,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you. State statutes allow water rights owners to change the use of their water rights through the Water Court, and sets requirements for those seeking to change their water rights to another use. Thornton's change of its water rights from irrigation use to municipal use was completed in compliance with these requirements, and was extensively reviewed by dozens of other engineers and attorneys to ensure other water rights holders were protected.

Putting Thornton's water back in the river would significantly degrade the quality of the water. Multiple wastewater plant and industrial discharges, as well as runoff from the urbanized area, enter the river between the historical point of diversion and Weld County. These discharges would impact Thornton's ability to provide safe, clean drinking water to its residents.

You are correct that storage is an important aspect of water management in Colorado, and Thornton needs the storage in the Water Supply and Storage Company reservoirs to manage its water supplies.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

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[Unsubscribe](#)  
 Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

Mark Koleber <info@thorntonwaterproject.com>

Fri, Feb 9, 2018 at 10:32 AM

To: edvojensky@gmail.com

**THORNTON WATER PROJECT 1041**

**523**

Cc: rhelmick@larimer.org

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Mr. Vojensky,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you.

Thornton's intention is to not have to remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that the water pipeline construction can be completed without the removal of any homes. Thornton's intent is to stay within the public right-of-way on Douglas Road where possible, and only go outside the Douglas Road right-of-way if construction in the right-of-way isn't feasible. Where construction outside the right-of-way is required, Thornton will work with those property owners on Douglas Road to acquire an easement across their property for construction.

The details of construction are not yet known, and we cannot yet provide set dates for possible construction on Douglas Road. Thornton will work with the design and construction contractors to plan an efficient project, so as to minimize impacts to residents and travelers along Douglas Road.

One of the advantages of constructing the water pipeline in Douglas Road is that the construction can be completed in publicly owned right-of-way instead of across private property. Though construction across private property will be required in some areas, area residents expressed a preference for Thornton to use public right-of-way where possible and Douglas Road provides that opportunity to minimize the use of private property.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Ed Vojensky [<mailto:info@thorntonwaterproject.com>]  
**Sent:** Saturday, January 06, 2018 5:55 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

**Name**

Ed Vojensky

**Phone**

(970) 218-9130

**Email**

edvojensky@gmail.com

**Comments**

I have lived off Douglas Road in Fort Collins for 32 years. Putting a 48 inch pipeline will not only take people's homes away but change the quality of life for the residents on this roadway for the next 6 years. Wouldn't it make more sense to take the pipeline through rural areas and away from homeowners so as not to disrupt their lives?

If you no longer wish to receive our emails, click the link below:  
Unsubscribe  
Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>  
To: david.roy@comcast.net  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 1:50 PM

Having trouble viewing this email? [Click here](#)



Mr. Roy,

Thank you for contacting us regarding the Thornton Water Project. We will add your comments to our records, and provide them to Larimer County, as well.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** David Roy [mailto:info@thorntonwaterproject.com]  
**Sent:** Tuesday, January 09, 2018 5:06 PM  
**To:** info@thorntonwaterproject.com;  
**Subject:** New submission from Contact Us

**THORNTON WATER PROJECT 1041**

**525**

**Name**

David Roy

**Phone****Email**

david.roy@comcast.net

**Comments**

An open letter to elected representatives of Thornton, and to the citizens they serve;

years ago, the City of Thornton purchased water rights in Northern Colorado. You are now poised to build an expensive, disruptive, and damaging pipeline line from Larimer County to your community to convey the water from those rights to Thornton.

The water is yours - you bought and paid for it legitimately.

The legacy of this project is yet to be written. The water you purchased is pulled from the Cache la Poudre River, an iconic waterway on the Front Range. The water you purchased doesn't course down the Poudre River. It is siphoned off, helping meet other water needs.

By all accounts, your community is willing to spend at least \$100 million dollars, if not more, on this pipeline.

\$100 million dollars - and that doesn't include the costs of living with neighborhoods chewed up, right away given up, bought, or condemned and a contrived, multi-government fix for a roadway.

Building the pipeline is also a lost opportunity cause.

The City of Thornton should work with Larimer County, the Town of LaPorte, the city of Fort Collins, along with Timnath and Windsor, and create a plan that conveys your water down the Cache la Poudre river, honors both the investment and trust of the taxpayers you made with the purchase of this water, and provides you, the citizens of Thornton, clean and safe drinking water.

Learn about the pipeline and the threats that loom for the Cache la Poudre river. The City of Thornton can extract water from the Poudre, while sustaining historic communities and their environmental assets.

With enough money, anyone can build a pipeline - not everyone gets the chance to protect neighborhoods and help make a threatened river in Colorado healthier. That is a legacy.

If you no longer wish to receive our emails, click the link below:  
Unsubscribe  
Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>

To: ymtbwi@aol.com

Cc: rhelmick@larimer.org

**THORNTON WATER PROJECT 1041**

Fri, Feb 9, 2018 at 2:08 PM

**526**

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Yvonne and Kenneth,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you. Thornton's intention is to not remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that water pipeline construction can be completed without the removal of any homes. As you may be aware, Thornton has initiated a survey of the Douglas Road right-of-way from Starlite Drive to Turnberry Road to aid in identifying a suitable water pipeline alignment within Douglas Road. This survey will provide information that has the potential to eliminate most, if not all, portions of the corridor outside of the Douglas Road right-of-way, including the corridor currently shown across your property. If construction of the water pipeline in the Douglas Road right-of-way isn't feasible, there might be sections of the water pipeline that will need to be located outside the right-of-way, on private property. If so, property owners would be fairly compensated for the easement needed on their property.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Yvonne Wittreich [mailto:[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)]  
**Sent:** Thursday, January 11, 2018 12:56 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

**Name**

Yvonne Wittreich

**Phone**

**Email**

[ymtbwi@aol.com](mailto:ymtbwi@aol.com)

**Comments**

Mark K. We are at XXXX east Douglas Rd. It looks like we will lose 250 ft which will be our entire home. We are on the south

**THORNTON WATER PROJECT 1041**

**527**

side of road.

We are not happy about this. Please respond so we know exactly what you are trying to do to us.

Is this correct? Please get back to us!

Kenneth or Yvonne Wittreich

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

Mark Koleber <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>

To: [glennabrissey@hotmail.com](mailto:glennabrissey@hotmail.com)

Cc: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Fri, Feb 9, 2018 at 2:23 PM

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Glenna,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you.

Because the design for the source water pump station is dependent upon the water pipeline route and configuration, which is subject to Larimer County's 1041 process, detailed engineering for the source water pump station has not been completed. Based on guidance from Larimer County staff during the pre-application conference, the source water pump station can be approved under the Site Plan Review process after engineering details have been developed. However, Thornton is developing supplemental pump station-related information that will be included in the 1041 application, and Thornton will seek input and comment from the community around the proposed source water pump station as part of the pump station design process.

As you may be aware, Thornton has initiated a survey of the Douglas Road right-of-way from Starlite Drive to Turnberry Road to aid in identifying a suitable water pipeline alignment within Douglas Road. This survey will provide information that has the potential to eliminate most, if not all, portions of the corridor outside of the Douglas Road right-of-way, including the corridor currently shown across your property. If construction of the water pipeline in the Douglas Road right-of-way isn't feasible, there might be sections of the water pipeline that will need to be located outside the right-of-way, on private property. If so, property owners would be fairly compensated for the easement needed on their property.

Thornton's intention is to not remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that water pipeline construction can be completed without the removal of any homes.

Thornton has existing water treatment plants, and water from the Thornton Water Project will be delivered to those plants. Thornton does not need an additional water treatment plant at this time.

Thornton is not proposing a road improvement project. If Thornton is permitted to construct the Thornton Water Project within Douglas Road, Larimer County requires that the roadway be restored to as good or better condition than pre-construction conditions.

**THORNTON WATER PROJECT 1041**

**528**



Thanks,



Mark Koleber  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Glenna Brissey [mailto:info@thorntonwaterproject.com]  
**Sent:** Wednesday, January 17, 2018 6:25 AM  
**To:** info@thorntonwaterproject.com;  
**Subject:** New submission from Contact Us

**Name**

Glenna Brissey

**Phone**

**Email**

glennabrissey@hotmail.com

**Comments**

Why isn't the pump house station at Res 4 in your 1041 proposal to Larimer Co.???  
Why do you need a 500 ft easement on Douglas Road? Do you realize the private homes that will have to been torn down?  
How much would a water purification plant cost - many of us would like to see your calculations and proposal for a water purification plant. Why isn't this one of your proposals?  
Could you please tell me the advantages to our area that you are proposing besides a 'one time' road improvement project?

If you no longer wish to receive our emails, click the link below:  
Unsubscribe  
Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

Mark Koleber <info@thorntonwaterproject.com>  
To: enelson@enganalytics.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:31 PM

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Erik,

Thank you for your emails, and for your support of our proposal. We've worked extensively to gather community input, and we believe we've put forth a proposal that best balances all of the concerns we've heard. As the process moves forward to the public hearing stage, I hope you and your neighbors will share your perspective with the Planning Commission and Board of County Commissioners. It will be important for the County to hear that perspective. Likewise, input from you and your neighbors will be important to us in our planning as we move forward with design and construction. If you haven't already heard, Larimer County has delayed the public hearings pending Thornton's development and submission of supplemental information about Douglas Road and the source water pump station. We'll post information on our website about the rescheduled hearing dates when we have more information.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Erik Nelson [mailto:[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)]  
**Sent:** Tuesday, January 30, 2018 12:41 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

**Name**

Erik Nelson

**Phone**

**Email**

[enelson@enganalytics.com](mailto:enelson@enganalytics.com)

**Comments**

My name is Erik Nelson. My wife Elizabeth and I live at XXXX Braidwood Drive, which is located at the northeast corner of CR17 and Douglas. Our home is also located on the west side of Irrigation and Storage Lake No. 4. Which is the lake that Thornton is proposing to take the water out of to put into the pipeline. As an engineer who deals with water rights I understand all of issues related to water rights, and water use in Colorado. I understand that

**THORNTON WATER PROJECT 1041**

**530**

Thornton owns the water and that has the right to use that water, it is your water after all. However, we all have some say in where they take it out of the river. From what I can tell the use of our lake as a takeout point for the pipeline could actually be beneficial for our lake. Our neighborhood is very active at this lake. It is a source of pride for our neighborhood to have a nice lake and it provides significant recreational and property value benefits to our neighborhood. From what I have been able to find about the Thornton project, its implementation could actually increase the condition of our lake by providing greater throughput of water and maintaining more consistent water levels in our lake. This would be good for the water quality and the fishery that it supports. Our lake also provides a significant ecological benefit to the area by providing improved habitat for wildlife in our area. Improving the water quality in the lake will have a benefit on this as well.

The recent push by the Save the Poudre and keep the water in the Poudre folks really ignores this whole issue. Furthermore, they ignore the fact that if the water stays in the river it doesn't make it to our lake which would have a serious detrimental effect on all of the items I listed above. Please don't fall for their claims that keeping the water in the Poudre is going to help the river in town. This water has been withdrawn from the river for over 100 years and most of it comes out at peak flow when it will not be noticed. Keeping this water in the river might have a very minor impact on increasing water levels through town but it will have a very serious detrimental effect on our lake and the other lakes above Lake 4 that rely on this water.

As to the routing of the pipeline to carry this water, Douglas Rd. makes the most sense of all the proposals put out there. All the other proposed routes have to cross a lot of private land which will have a serious impact on those property owners, potentially my own property. Douglas road is already a designated utility corridor and co-locating the utilities with the roadway makes a lot of sense. The route down Douglas would have the least impact on neighborhoods and private property of any of the other routes I have seen.

Please note you have my support for your current proposal to route the pipeline down Douglas Road.

Erik Nelson

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

---

**Mark Koleber** <info@thorntonwaterproject.com>  
To: ken@kenstutzman.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:39 PM

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Ken,

**THORNTON WATER PROJECT 1041**

**531**

Thank you for contacting us regarding the Thornton Water Project. There are some residents of Larimer County or north Fort Collins that are requesting Thornton put its water back in the Poudre River upstream of Fort Collins, and take the water back out in the Windsor area. Doing so would require a new pump station in the Windsor area, but the tank you mention wouldn't be required.

The public hearing process in Larimer County includes a Planning Commission hearing and a Board of County Commissioners hearing. Larimer County has recently requested additional information about our Project, and the public hearings will be scheduled after that information is submitted to the County. Information on Thornton's 1041 Permit application and the public hearings in Larimer County can be found at [https://onlineportal.larimer.org/EnerGov\\_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305](https://onlineportal.larimer.org/EnerGov_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305). Thornton has not yet filed an application with Weld County, so comment sessions in Weld County have not been scheduled.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Ken Stutzman [<mailto:info@thorntonwaterproject.com>]  
**Sent:** Tuesday, January 23, 2018 9:40 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

#### Name

Ken Stutzman

#### Phone

#### Email

[ken@kenstutzman.com](mailto:ken@kenstutzman.com)

#### Comments

Dear sir/madam, I just heard that Fort Collins is proposing moving the TWP 1 million gallon tank and source pump location near highway 392 and CR-13 in Windsor. Will there be a comment session we can attend as neighbors for this? We understand the importance of the new water source for the metro area, but would like to see the original plan remain "as is" with only the pipeline installation through our subdivision.

Sincerely,

Ken Stutzman  
Windsor, CO

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**THORNTON WATER PROJECT 1041**

**532**

**Mark Koleber** <info@thorntonwaterproject.com>  
To: nichahn@gmail.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:49 PM

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Nicole,

As the City of Thornton needs water supply, the farmland is transitioned from irrigated to non-irrigated agriculture. Currently, over 53% of the Thornton-owned acreage is still in irrigated agricultural production. These irrigated farms, along with a sufficient water supply, are leased to local producers to farm the ground. When water is removed from a farm, the ground is converted to another use that doesn't require supplemental irrigation water, as required by the city's Water Court decree. For the most part, the farm ground will be converted to self-sustaining dryland grasses.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Nicole Hahn [mailto:info@thorntonwaterproject.com]  
**Sent:** Friday, January 26, 2018 3:22 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Nicole Hahn

**Phone**

**Email**

nichahn@gmail.com

**Comments**

I was curious what will happen with the farm land that was purchased for water rights?

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**Mark Koleber** <info@thorntonwaterproject.com>  
To: webennetts@msn.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:56 PM

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John,

Thank you for contacting us regarding the Thornton Water Project. The city evaluated alternative routes for the pipeline, including an alternative that routed the pipeline through the area you reference in your email. The evaluation considered a number of criteria, including impact to property owners, the environment, and traffic, and resulted in the identification of construction within the Douglas Road right-of-way as the preferred alternative. Additional information on the alternatives analysis can be found in our 1041 Permit application on the Larimer County website.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** John Bennett [mailto:info@thorntonwaterproject.com]  
**Sent:** Wednesday, January 31, 2018 12:21 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

Name

**THORNTON WATER PROJECT 1041**

**534**

John Bennett

**Phone**

**Email**

webennetts@msn.com

**Comments**

Hello from Ft Collins. There is an easier/better way. Lot's of land just 1 1/2 mile NORTH of Douglas Road (NORTH of Eagle Lake subdivision).  
 It offers you: \* Far FEWER UTILITIES to deal with  
 \* Far fewer property owners to deal with  
 \* Far LESS DISRUPTIVE and CONTROVERSIAL - perhaps more likely to be approved  
 Please "Change The Address" on your 1041 Permit!!  
 Thank you!

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 Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>  
 To: nichahn@gmail.com  
 Cc: rhelmick@larimer.org

Mon, Feb 12, 2018 at 11:04 AM

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Yes, development is one of the non-irrigated uses allowed by our Water Court decree.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director

**THORNTON WATER PROJECT 1041**

**535**

Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Nicole Hahn [mailto:nichahn@gmail.com]  
**Sent:** Friday, February 09, 2018 3:03 PM  
**To:** Mark Koleber <info@thorntonwaterproject.com>  
**Subject:** Re: New submission from Contact Us

Thank you so much Mark. Can that land be developed?

Sent from my iPhone

On Feb 9, 2018, at 2:49 PM, Mark Koleber <info@thorntonwaterproject.com> wrote:

Nicole,

As the City of Thornton needs water supply, the farmland is transitioned from irrigated to non-irrigated agriculture. Currently, over 53% of the Thornton-owned acreage is still in irrigated agricultural production. These irrigated farms, along with a sufficient water supply, are leased to local producers to farm the ground. When water is removed from a farm, the ground is converted to another use that doesn't require supplemental irrigation water, as required by the city's Water Court decree. For the most part, the farm ground will be converted to self-sustaining dryland grasses.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Nicole Hahn [mailto:info@thorntonwaterproject.com]  
**Sent:** Friday, January 26, 2018 3:22 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Nicole Hahn

**Phone**

**Email**

nichahn@gmail.com

**Comments**



I was curious what will happen with the farm land that was purchased for water rights?

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---

**Mark Koleber** <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>

To: [nichahn@gmail.com](mailto:nichahn@gmail.com)

Cc: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Mon, Feb 12, 2018 at 11:04 AM

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Nicole,

[Quoted text hidden]

[Quoted text hidden]

**From:** Nicole Hahn [<mailto:info@thorntonwaterproject.com>]

**Sent:** Friday, January 26, 2018 3:22 PM

**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)

**Subject:** New submission from Contact Us

**Name**

Nicole Hahn

**Phone**

**Email**

nichahn@gmail.com

**Comments**

I was curious what will happen with the farm land that was purchased for water rights?

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**Mark Koleber** <info@thorntonwaterproject.com>  
To: marcy@claytoncolorado.com  
Cc: rhelmick@larimer.org

Thu, Feb 15, 2018 at 8:17 AM

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Marcy,

Thanks for contacting us regarding the Thornton Water Project. We received your voicemail, as well. Our Project website: [www.thorntonwaterproject.com](http://www.thorntonwaterproject.com) includes a map of our preferred corridor for locating the Thornton Water Project. That map can be used in conjunction with the Larimer and Weld County assessors records to identify the properties and property owners within that corridor where we might construct the Project.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Martia (Marcy) Kontak [mailto:info@thorntonwaterproject.com]  
**Sent:** Wednesday, February 14, 2018 12:23 PM  
**To:** info@thorntonwaterproject.com;  
**Subject:** New submission from Contact Us

**Name**

Martia (Marcy) Kontak

**Phone**

**Email**

marcy@claytoncolorado.com

**Comments**

I apologize if I'm submitting this form for the second time - not sure if it went through previously.

I'm with Clayton and Company, a real estate appraisal firm. Do you have a list of the property owners and/or parcels that have been identified as being impacted by the water project? If so, can you send or can I come to your office to pick up? Thanks so much.

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**Mark Koleber** <info@thorntonwaterproject.com>  
To: emily.curnes@outlook.com  
Cc: rhelmick@larimer.org

Wed, Feb 21, 2018 at 11:14 AM

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Emily,

Thanks for contacting us regarding the Thornton Water Project. Your comment will be added to our records, and will be provided to Larimer County.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700

**THORNTON WATER PROJECT 1041**

**539**

info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Emily Curnes [mailto:info@thorntonwaterproject.com]  
**Sent:** Tuesday, February 20, 2018 3:00 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Emily Curnes

**Phone**

**Email**

emily.curnes@outlook.com

**Comments**

please keep the water in the Poudre, regardless of resources

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States



Rob Helmick <helmicrp@co.larimer.co.us>

**RE: New submission from Contact Us**

11 messages

**Mark Koleber** <info@thorntonwaterproject.com>

Fri, Feb 9, 2018 at 10:18 AM

To: dmsavitske@gmail.com

Cc: rhelmick@larimer.org

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Mr. Savitske,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you. State statutes allow water rights owners to change the use of their water rights through the Water Court, and sets requirements for those seeking to change their water rights to another use. Thornton's change of its water rights from irrigation use to municipal use was completed in compliance with these requirements, and was extensively reviewed by dozens of other engineers and attorneys to ensure other water rights holders were protected.

Putting Thornton's water back in the river would significantly degrade the quality of the water. Multiple wastewater plant and industrial discharges, as well as runoff from the urbanized area, enter the river between the historical point of diversion and Weld County. These discharges would impact Thornton's ability to provide safe, clean drinking water to its residents.

You are correct that storage is an important aspect of water management in Colorado, and Thornton needs the storage in the Water Supply and Storage Company reservoirs to manage its water supplies.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

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**Mark Koleber** <info@thorntonwaterproject.com>

Fri, Feb 9, 2018 at 10:32 AM

To: edvojensky@gmail.com

**THORNTON WATER PROJECT 1041**

**541**

Cc: rhelmick@larimer.org

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Mr. Vojensky,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you.

Thornton's intention is to not have to remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that the water pipeline construction can be completed without the removal of any homes. Thornton's intent is to stay within the public right-of-way on Douglas Road where possible, and only go outside the Douglas Road right-of-way if construction in the right-of-way isn't feasible. Where construction outside the right-of-way is required, Thornton will work with those property owners on Douglas Road to acquire an easement across their property for construction.

The details of construction are not yet known, and we cannot yet provide set dates for possible construction on Douglas Road. Thornton will work with the design and construction contractors to plan an efficient project, so as to minimize impacts to residents and travelers along Douglas Road.

One of the advantages of constructing the water pipeline in Douglas Road is that the construction can be completed in publicly owned right-of-way instead of across private property. Though construction across private property will be required in some areas, area residents expressed a preference for Thornton to use public right-of-way where possible and Douglas Road provides that opportunity to minimize the use of private property.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Ed Vojensky [<mailto:info@thorntonwaterproject.com>]  
**Sent:** Saturday, January 06, 2018 5:55 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

**Name**

Ed Vojensky

**Phone**

**THORNTON WATER PROJECT 1041**

**542**

(970) 218-9130

**Email**

edvojensky@gmail.com

**Comments**

I have lived off Douglas Road in Fort Collins for 32 years. Putting a 48 inch pipeline will not only take people's homes away but change the quality of life for the residents on this roadway for the next 6 years. Wouldn't it make more sense to take the pipeline through rural areas and away from homeowners so as not to disrupt their lives?

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**Mark Koleber** <info@thorntonwaterproject.com>  
To: david.roy@comcast.net  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 1:50 PM

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Mr. Roy,

Thank you for contacting us regarding the Thornton Water Project. We will add your comments to our records, and provide them to Larimer County, as well.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** David Roy [mailto:info@thorntonwaterproject.com]  
**Sent:** Tuesday, January 09, 2018 5:06 PM  
**To:** info@thorntonwaterproject.com;  
**Subject:** New submission from Contact Us

**THORNTON WATER PROJECT 1041**

**543**

**Name**

David Roy

**Phone****Email**

david.roy@comcast.net

**Comments**

An open letter to elected representatives of Thornton, and to the citizens they serve;

years ago, the City of Thornton purchased water rights in Northern Colorado. You are now poised to build an expensive, disruptive, and damaging pipeline line from Larimer County to your community to convey the water from those rights to Thornton.

The water is yours - you bought and paid for it legitimately.

The legacy of this project is yet to be written. The water you purchased is pulled from the Cache la Poudre River, an iconic waterway on the Front Range. The water you purchased doesn't course down the Poudre River. It is siphoned off, helping meet other water needs.

By all accounts, your community is willing to spend at least \$100 million dollars, if not more, on this pipeline.

\$100 million dollars - and that doesn't include the costs of living with neighborhoods chewed up, right away given up, bought, or condemned and a contrived, multi-government fix for a roadway.

Building the pipeline is also a lost opportunity cause.

The City of Thornton should work with Larimer County, the Town of LaPorte, the city of Fort Collins, along with Timnath and Windsor, and create a plan that conveys your water down the Cache la Poudre river, honors both the investment and trust of the taxpayers you made with the purchase of this water, and provides you, the citizens of Thornton, clean and safe drinking water.

Learn about the pipeline and the threats that loom for the Cache la Poudre river. The City of Thornton can extract water from the Poudre, while sustaining historic communities and their environmental assets.

With enough money, anyone can build a pipeline - not everyone gets the chance to protect neighborhoods and help make a threatened river in Colorado healthier. That is a legacy.

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---

**Mark Koleber** <info@thorntonwaterproject.com>

To: ymtbwi@aol.com

Cc: rhelmick@larimer.org

**THORNTON WATER PROJECT 1041**

Fri, Feb 9, 2018 at 2:08 PM

**544**



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Yvonne and Kenneth,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you. Thornton's intention is to not remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that water pipeline construction can be completed without the removal of any homes. As you may be aware, Thornton has initiated a survey of the Douglas Road right-of-way from Starlite Drive to Turnberry Road to aid in identifying a suitable water pipeline alignment within Douglas Road. This survey will provide information that has the potential to eliminate most, if not all, portions of the corridor outside of the Douglas Road right-of-way, including the corridor currently shown across your property. If construction of the water pipeline in the Douglas Road right-of-way isn't feasible, there might be sections of the water pipeline that will need to be located outside the right-of-way, on private property. If so, property owners would be fairly compensated for the easement needed on their property.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Yvonne Wittreich [<mailto:info@thorntonwaterproject.com>]  
**Sent:** Thursday, January 11, 2018 12:56 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

**Name**

Yvonne Wittreich

**Phone**

**Email**

[ymtbwi@aol.com](mailto:ymtbwi@aol.com)

**Comments**

Mark K. We are at XXXX east Douglas Road, looking ill, we will lose 250 ft which will be our entire home. We are on the south

**THORNTON WATER PROJECT 1041**

**545**

side of road.

We are not happy about this. Please respond so we know exactly what you are trying to do to us.

Is this correct? Please get back to us!

Kenneth or Yvonne Wittreich

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---

**Mark Koleber** <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>

To: [glennabrissey@hotmail.com](mailto:glennabrissey@hotmail.com)

Cc: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Fri, Feb 9, 2018 at 2:23 PM

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Glenna,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you.

Because the design for the source water pump station is dependent upon the water pipeline route and configuration, which is subject to Larimer County's 1041 process, detailed engineering for the source water pump station has not been completed. Based on guidance from Larimer County staff during the pre-application conference, the source water pump station can be approved under the Site Plan Review process after engineering details have been developed. However, Thornton is developing supplemental pump station-related information that will be included in the 1041 application, and Thornton will seek input and comment from the community around the proposed source water pump station as part of the pump station design process.

As you may be aware, Thornton has initiated a survey of the Douglas Road right-of-way from Starlite Drive to Turnberry Road to aid in identifying a suitable water pipeline alignment within Douglas Road. This survey will provide information that has the potential to eliminate most, if not all, portions of the corridor outside of the Douglas Road right-of-way, including the corridor currently shown across your property. If construction of the water pipeline in the Douglas Road right-of-way isn't feasible, there might be sections of the water pipeline that will need to be located outside the right-of-way, on private property. If so, property owners would be fairly compensated for the easement needed on their property.

Thornton's intention is to not remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that water pipeline construction can be completed without the removal of any homes.

Thornton has existing water treatment plants, and water from the Thornton Water Project will be delivered to those plants. Thornton does not need an additional water treatment plant at this time.

Thornton is not proposing a road improvement project. If Thornton is permitted to construct the Thornton Water Project within Douglas Road, Larimer County requires that the roadway be restored to as good or better condition than pre-construction conditions.

**THORNTON WATER PROJECT 1041**

**546**

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Glenna Brissey [mailto:info@thorntonwaterproject.com]  
**Sent:** Wednesday, January 17, 2018 6:25 AM  
**To:** info@thorntonwaterproject.com;  
**Subject:** New submission from Contact Us

**Name**

Glenna Brissey

**Phone**

**Email**

glennabrissey@hotmail.com

**Comments**

Why isn't the pump house station at Res 4 in your 1041 proposal to Larimer Co.???  
Why do you need a 500 ft easement on Douglas Road? Do you realize the private homes that will have to been torn down?  
How much would a water purification plant cost - many of us would like to see your calculations and proposal for a water purification plant. Why isn't this one of your proposals?  
Could you please tell me the advantages to our area that you are proposing besides a 'one time' road improvement project?

If you no longer wish to receive our emails, click the link below:  
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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>  
To: enelson@enganalytics.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:31 PM

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Erik,

Thank you for your emails, and for your support of our proposal. We've worked extensively to gather community input, and we believe we've put forth a proposal that best balances all of the concerns we've heard. As the process moves forward to the public hearing stage, I hope you and your neighbors will share your perspective with the Planning Commission and Board of County Commissioners. It will be important for the County to hear that perspective. Likewise, input from you and your neighbors will be important to us in our planning as we move forward with design and construction. If you haven't already heard, Larimer County has delayed the public hearings pending Thornton's development and submission of supplemental information about Douglas Road and the source water pump station. We'll post information on our website about the rescheduled hearing dates when we have more information.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Erik Nelson [mailto:info@thorntonwaterproject.com]  
**Sent:** Tuesday, January 30, 2018 12:41 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Erik Nelson

**Phone**

**Email**

enelson@enganalytics.com

**Comments**

My name is Erik Nelson. My wife Elizabeth and I live at XXXX Braidwood Drive, which is located at the northeast corner of CR17 and Douglas. Our home is also located on the west side of Irrigation and Storage Lake No. 4. Which is the lake that Thornton is proposing to take the water out of to put into the pipeline. As an engineer who deals with water rights I understand all of issues related to water rights, and water use in Colorado. I understand that

**THORNTON WATER PROJECT 1041**

**548**

Thornton owns the water and that has the right to use that water, it is your water after all. However, we all have some say in where they take it out of the river. From what I can tell the use of our lake as a takeout point for the pipeline could actually be beneficial for our lake. Our neighborhood is very active at this lake. It is a source of pride for our neighborhood to have a nice lake and it provides significant recreational and property value benefits to our neighborhood. From what I have been able to find about the Thornton project, its implementation could actually increase the condition of our lake by providing greater throughput of water and maintaining more consistent water levels in our lake. This would be good for the water quality and the fishery that it supports. Our lake also provides a significant ecological benefit to the area by providing improved habitat for wildlife in our area. Improving the water quality in the lake will have a benefit on this as well.

The recent push by the Save the Poudre and keep the water in the Poudre folks really ignores this whole issue. Furthermore, they ignore the fact that if the water stays in the river it doesn't make it to our lake which would have a serious detrimental effect on all of the items I listed above. Please don't fall for their claims that keeping the water in the Poudre is going to help the river in town. This water has been withdrawn from the river for over 100 years and most of it comes out at peak flow when it will not be noticed. Keeping this water in the river might have a very minor impact on increasing water levels through town but it will have a very serious detrimental effect on our lake and the other lakes above Lake 4 that rely on this water.

As to the routing of the pipeline to carry this water. Douglas Rd. makes the most sense of all the proposals put out there. All the other proposed routes have to cross a lot of private land which will have a serious impact on those property owners, potentially my own property. Douglas road is already a designated utility corridor and co-locating the utilities with the roadway makes a lot of sense. The route down Douglas would have the least impact on neighborhoods and private property of any of the other routes I have seen.

Please note you have my support for your current proposal to route the pipeline down Douglas Road.

Erik Nelson

If you no longer wish to receive our emails, click the link below:  
Unsubscribe  
Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

---

**Mark Koleber** <info@thorntonwaterproject.com>  
To: ken@kenstutzman.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:39 PM

Having trouble viewing this email? [Click here](#)



Ken,

**THORNTON WATER PROJECT 1041**

**549**

Thank you for contacting us regarding the Thornton Water Project. There are some residents of Larimer County or north Fort Collins that are requesting Thornton put its water back in the Poudre River upstream of Fort Collins, and take the water back out in the Windsor area. Doing so would require a new pump station in the Windsor area, but the tank you mention wouldn't be required.

The public hearing process in Larimer County includes a Planning Commission hearing and a Board of County Commissioners hearing. Larimer County has recently requested additional information about our Project, and the public hearings will be scheduled after that information is submitted to the County. Information on Thornton's 1041 Permit application and the public hearings in Larimer County can be found at [https://onlineportal.larimer.org/EnerGov\\_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305](https://onlineportal.larimer.org/EnerGov_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305). Thornton has not yet filed an application with Weld County, so comment sessions in Weld County have not been scheduled.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Ken Stutzman [<mailto:info@thorntonwaterproject.com>]  
**Sent:** Tuesday, January 23, 2018 9:40 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

#### Name

Ken Stutzman

#### Phone

#### Email

[ken@kenstutzman.com](mailto:ken@kenstutzman.com)

#### Comments

Dear sir/madam, I just heard that Fort Collins is proposing moving the TWP 1 million gallon tank and source pump location near highway 392 and CR-13 in Windsor. Will there be a comment session we can attend as neighbors for this? We understand the importance of the new water source for the metro area, but would like to see the original plan remain "as is" with only the pipeline installation through our subdivision.

Sincerely,

Ken Stutzman  
Windsor, CO

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Thornton Water Project, 12450 Washington St., Thornton, Colorado, 80241 United States

**THORNTON WATER PROJECT 1041**

**550**

**Mark Koleber** <info@thorntonwaterproject.com>  
To: nichahn@gmail.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:49 PM

Having trouble viewing this email? [Click here](#)



Nicole,

As the City of Thornton needs water supply, the farmland is transitioned from irrigated to non-irrigated agriculture. Currently, over 53% of the Thornton-owned acreage is still in irrigated agricultural production. These irrigated farms, along with a sufficient water supply, are leased to local producers to farm the ground. When water is removed from a farm, the ground is converted to another use that doesn't require supplemental irrigation water, as required by the city's Water Court decree. For the most part, the farm ground will be converted to self-sustaining dryland grasses.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Nicole Hahn [mailto:info@thorntonwaterproject.com]  
**Sent:** Friday, January 26, 2018 3:22 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Nicole Hahn

**Phone**

**Email**

nichahn@gmail.com

**THORNTON WATER PROJECT 1041**

**551**

**Comments**

I was curious what will happen with the farm land that was purchased for water rights?

If you no longer wish to receive our emails, click the link below:

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

---

**Mark Koleber** <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>

To: [webennetts@msn.com](mailto:webennetts@msn.com)

Cc: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Fri, Feb 9, 2018 at 2:56 PM

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John,

Thank you for contacting us regarding the Thornton Water Project. The city evaluated alternative routes for the pipeline, including an alternative that routed the pipeline through the area you reference in your email. The evaluation considered a number of criteria, including impact to property owners, the environment, and traffic, and resulted in the identification of construction within the Douglas Road right-of-way as the preferred alternative. Additional information on the alternatives analysis can be found in our 1041 Permit application on the Larimer County website.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** John Bennett [<mailto:info@thorntonwaterproject.com>]

**Sent:** Wednesday, January 31, 2018 12:21 PM

**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)

**Subject:** New submission from Contact Us

Name

**THORNTON WATER PROJECT 1041**

**552**



John Bennett

**Phone**

**Email**

webennetts@msn.com

**Comments**

Hello from Ft Collins. There is an easier/better way. Lot's of land just 1 1/2 mile NORTH of Douglas Road (NORTH of Eagle Lake subdivision).  
 It offers you: \* Far FEWER UTILITIES to deal with  
 \* Far fewer property owners to deal with  
 \* Far LESS DISRUPTIVE and CONTROVERSIAL - perhaps more likely to be approved  
 Please "Change The Address" on your 1041 Permit!!  
 Thank you!

If you no longer wish to receive our emails, click the link below:  
 Unsubscribe  
 Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>  
 To: nichahn@gmail.com  
 Cc: rhelmick@larimer.org

Mon, Feb 12, 2018 at 11:04 AM

Having trouble viewing this email? [Click here](#)



Yes, development is one of the non-irrigated uses allowed by our Water Court decree.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director

**THORNTON WATER PROJECT 1041**

**553**

Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Nicole Hahn [mailto:nichahn@gmail.com]  
**Sent:** Friday, February 09, 2018 3:03 PM  
**To:** Mark Koleber <info@thorntonwaterproject.com>  
**Subject:** Re: New submission from Contact Us

Thank you so much Mark. Can that land be developed?

Sent from my iPhone

On Feb 9, 2018, at 2:49 PM, Mark Koleber <info@thorntonwaterproject.com> wrote:

Nicole,

As the City of Thornton needs water supply, the farmland is transitioned from irrigated to non-irrigated agriculture. Currently, over 53% of the Thornton-owned acreage is still in irrigated agricultural production. These irrigated farms, along with a sufficient water supply, are leased to local producers to farm the ground. When water is removed from a farm, the ground is converted to another use that doesn't require supplemental irrigation water, as required by the city's Water Court decree. For the most part, the farm ground will be converted to self-sustaining dryland grasses.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Nicole Hahn [mailto:info@thorntonwaterproject.com]  
**Sent:** Friday, January 26, 2018 3:22 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Nicole Hahn

**Phone**

**Email**

nichahn@gmail.com

**Comments**

I was curious what will happen with the farm land that was purchased for water rights?

If you no longer wish to receive our emails, click the link below:

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

---

**Mark Koleber** <info@thorntonwaterproject.com>

Mon, Feb 12, 2018 at 11:04 AM

To: nichahn@gmail.com

Cc: rhelmick@larimer.org

Having trouble viewing this email? [Click here](#)



Nicole,

[Quoted text hidden]

[Quoted text hidden]

**From:** Nicole Hahn [mailto:info@thorntonwaterproject.com]

**Sent:** Friday, January 26, 2018 3:22 PM

**To:** info@thorntonwaterproject.com

**Subject:** New submission from Contact Us

**Name**

Nicole Hahn

**Phone**

**Email**

nichahn@gmail.com

**Comments**

I was curious what will happen with the farm land that was purchased for water rights?

If you no longer wish to receive our emails, click the link below:

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Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Fwd: Please stand up and speak out to protect the Poudre River

5 messages

Linda Hoffmann &lt;hoffmalc@co.larimer.co.us&gt;

Wed, Feb 21, 2018 at 3:30 PM

To: Lew Gaiter &lt;gaiterl@co.larimer.co.us&gt;, Steve Johnson &lt;johnsosw@co.larimer.co.us&gt;, Tom Donnelly &lt;donnell@co.larimer.co.us&gt;

Cc: Terry Gilbert &lt;gilbertt@co.larimer.co.us&gt;, "Helmick, Rob" &lt;helmicrp@co.larimer.co.us&gt;

Commissioners -- This message is forwarded for your information and consideration. A number of messages identical to this one are coming in from citizens. I think approximately 30 have been received so far. Fort Collins Council member Horak has been sending identical responses to them. Rather than forwarding the identical messages individually to the three of you, I plan to send them directly to Community Development to incorporate into the public record for the application. Please let me know if you prefer that I handle the messages differently.

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **Abbey Felici** <abbey242623@gmail.com>

Date: Wed, Feb 21, 2018 at 8:08 AM

Subject: Please stand up and speak out to protect the Poudre River

To: cityleaders@fcgov.com

Cc: bocc@larimer.org

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

Standing back and letting these projects move forward is unacceptable. I need you to bring together stakeholders and find a path forward that does not continue to drain the river or increase the amount of water drained out of the river through Fort Collins. Currently, 65% of the river is drained out by the time the river reaches downtown Fort Collins. These proposed projects will make that problem even worse, especially the Northern Integrated Supply Project.

Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
Abbey Felici  
abbey242623@gmail.com  
709 Ponderosa Dr  
Fort Collins Colorado 80251

**THORNTON WATER PROJECT 1041**

**557**

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>

Wed, Feb 21, 2018 at 3:30 PM

To: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

Commissioners' Office  
200 W Oak St, Fort Collins, CO 80521 | 2nd Floor  
W: (970) 498-7004  
lhoffmann@larimer.org | www.larimer.org

----- Forwarded message -----

From: **ANDY WEISS** <andrew.weiss@hotmail.com>

Date: Wed, Feb 21, 2018 at 7:50 AM

Subject: Please stand up and speak out to protect the Poudre River

To: cityleaders@fcgov.com

Cc: bocc@larimer.org

Dear Council and Commissioners,

The Cache la Poudre River of Northern Colorado is one of the most beautiful little rivers in America, and it is also the heart and soul of Fort Collins.

Over the next year, several new dam, diversion, and pipeline projects are going through permitting processes that need your immediate attention. In fact, the City of Fort Collins, City of Greeley, Northern Water, and City of Thornton are all involved in dam/diversion/pipeline projects that will cumulatively continue to drain the Poudre River and/or increase the amount of water drained out of the river through Fort Collins.

Standing back and letting these projects move forward is unacceptable. I need you to bring together stakeholders and find a path forward that does not continue to drain the river or increase the amount of water drained out of the river through Fort Collins. Currently, 65% of the river is drained out by the time the river reaches downtown Fort Collins. These proposed projects will make that problem even worse, especially the Northern Integrated Supply Project.

Once the water is drained out, it won't ever come back. You have a once-in-a-lifetime opportunity right now to stand up and lead to protect the Poudre River. Please speak up and take action.

Thank you for your positive consideration of my request, and for the work you do for the City of Fort Collins and all of Larimer County.

Sincerely,  
ANDY WEISS  
andrew.weiss@hotmail.com  
728 oxford lane  
fort collins co 80525

**Linda Hoffmann** <hoffmalc@co.larimer.co.us>

Wed, Feb 21, 2018 at 3:30 PM

To: Terry Gilbert <gilbertt@co.larimer.co.us>, "Helmick, Rob" <helmicrp@co.larimer.co.us>

Staff -- Please see to it that this message is included in the public record for the application.



**Linda Hoffmann**  
County Manager

**THORNTON WATER PROJECT 1041**

**558**



Rob Helmick <helmicrp@co.larimer.co.us>

## RE: New submission from Contact Us

9 messages

Mark Koleber <info@thorntonwaterproject.com>

Fri, Feb 9, 2018 at 10:18 AM

To: dmsavitske@gmail.com

Cc: rhelmick@larimer.org

Having trouble viewing this email? [Click here](#)



Mr. Savitske,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you. State statutes allow water rights owners to change the use of their water rights through the Water Court, and sets requirements for those seeking to change their water rights to another use. Thornton's change of its water rights from irrigation use to municipal use was completed in compliance with these requirements, and was extensively reviewed by dozens of other engineers and attorneys to ensure other water rights holders were protected.

Putting Thornton's water back in the river would significantly degrade the quality of the water. Multiple wastewater plant and industrial discharges, as well as runoff from the urbanized area, enter the river between the historical point of diversion and Weld County. These discharges would impact Thornton's ability to provide safe, clean drinking water to its residents.

You are correct that storage is an important aspect of water management in Colorado, and Thornton needs the storage in the Water Supply and Storage Company reservoirs to manage its water supplies.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

Mark Koleber <info@thorntonwaterproject.com>

Fri, Feb 9, 2018 at 10:32 AM

To: edvojensky@gmail.com

**THORNTON WATER PROJECT 1041**

**559**

Cc: rhelmick@larimer.org

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Mr. Vojensky,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you.

Thornton's intention is to not have to remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that the water pipeline construction can be completed without the removal of any homes. Thornton's intent is to stay within the public right-of-way on Douglas Road where possible, and only go outside the Douglas Road right-of-way if construction in the right-of-way isn't feasible. Where construction outside the right-of-way is required, Thornton will work with those property owners on Douglas Road to acquire an easement across their property for construction.

The details of construction are not yet known, and we cannot yet provide set dates for possible construction on Douglas Road. Thornton will work with the design and construction contractors to plan an efficient project, so as to minimize impacts to residents and travelers along Douglas Road.

One of the advantages of constructing the water pipeline in Douglas Road is that the construction can be completed in publicly owned right-of-way instead of across private property. Though construction across private property will be required in some areas, area residents expressed a preference for Thornton to use public right-of-way where possible and Douglas Road provides that opportunity to minimize the use of private property.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Ed Vojensky [<mailto:info@thorntonwaterproject.com>]  
**Sent:** Saturday, January 06, 2018 5:55 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

**Name**

Ed Vojensky

**Phone**

**THORNTON WATER PROJECT 1041**

**560**



(970) 218-9130

**Email**

edvojensky@gmail.com

**Comments**

I have lived off Douglas Road in Fort Collins for 32 years. Putting a 48 inch pipeline will not only take people's homes away but change the quality of life for the residents on this roadway for the next 6 years. Wouldn't it make more sense to take the pipeline through rural areas and away from homeowners so as not to disrupt their lives?

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>  
To: david.roy@comcast.net  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 1:50 PM

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Mr. Roy,

Thank you for contacting us regarding the Thornton Water Project. We will add your comments to our records, and provide them to Larimer County, as well.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** David Roy [mailto:info@thorntonwaterproject.com]  
**Sent:** Tuesday, January 09, 2018 5:06 PM  
**To:** info@thorntonwaterproject.com;  
**Subject:** New submission from Contact Us

**THORNTON WATER PROJECT 1041**

**561**

**Name**

David Roy

**Phone****Email**

david.roy@comcast.net

**Comments**

An open letter to elected representatives of Thornton, and to the citizens they serve;

years ago, the City of Thornton purchased water rights in Northern Colorado. You are now poised to build an expensive, disruptive, and damaging pipeline line from Larimer County to your community to convey the water from those rights to Thornton.

The water is yours - you bought and paid for it legitimately.

The legacy of this project is yet to be written. The water you purchased is pulled from the Cache la Poudre River, an iconic waterway on the Front Range. The water you purchased doesn't course down the Poudre River. It is siphoned off, helping meet other water needs.

By all accounts, your community is willing to spend at least \$100 million dollars, if not more, on this pipeline.

\$100 million dollars - and that doesn't include the costs of living with neighborhoods chewed up, right away given up, bought, or condemned and a contrived, multi-government fix for a roadway.

Building the pipeline is also a lost opportunity cause.

The City of Thornton should work with Larimer County, the Town of LaPorte, the city of Fort Collins, along with Timnath and Windsor, and create a plan that conveys your water down the Cache la Poudre river, honors both the investment and trust of the taxpayers you made with the purchase of this water, and provides you, the citizens of Thornton, clean and safe drinking water.

Learn about the pipeline and the threats that loom for the Cache la Poudre river. The City of Thornton can extract water from the Poudre, while sustaining historic communities and their environmental assets.

With enough money, anyone can build a pipeline - not everyone gets the chance to protect neighborhoods and help make a threatened river in Colorado healthier. That is a legacy.

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

---

Mark Koleber <info@thorntonwaterproject.com>

To: ymtbwi@aol.com

Cc: rhelmick@larimer.org

**THORNTON WATER PROJECT 1041**

Fri, Feb 9, 2018 at 2:08 PM

**562**

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Yvonne and Kenneth,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you. Thornton's intention is to not remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that water pipeline construction can be completed without the removal of any homes. As you may be aware, Thornton has initiated a survey of the Douglas Road right-of-way from Starlite Drive to Turnberry Road to aid in identifying a suitable water pipeline alignment within Douglas Road. This survey will provide information that has the potential to eliminate most, if not all, portions of the corridor outside of the Douglas Road right-of-way, including the corridor currently shown across your property. If construction of the water pipeline in the Douglas Road right-of-way isn't feasible, there might be sections of the water pipeline that will need to be located outside the right-of-way, on private property. If so, property owners would be fairly compensated for the easement needed on their property.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
 info@thorntonwaterproject.com  
 www.thorntonwaterproject.com

**From:** Yvonne Wiltreich [mailto:info@thorntonwaterproject.com]  
**Sent:** Thursday, January 11, 2018 12:56 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Yvonne Wiltreich

**Phone**

**Email**

ymtbwi@aol.com

**Comments**

Mark K. We are at XXXX east Douglas Rd. It looks like we will lose 250 ft which will be our entire home. We are on the south

**THORNTON WATER PROJECT 1041**

**563**

side of road.

We are not happy about this. Please respond so we know exactly what you are trying to do to us.

Is this correct? Please get back to us!

Kenneth or Yvonne Wittreich

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[Unsubscribe](#)

Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

---

**Mark Koleber** <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>

To: [glennabrissey@hotmail.com](mailto:glennabrissey@hotmail.com)

Cc: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Fri, Feb 9, 2018 at 2:23 PM

Having trouble viewing this email? [Click here](#)



Glenna,

Thank you for contacting us regarding the Thornton Water Project, and sorry for the delay in getting back to you.

Because the design for the source water pump station is dependent upon the water pipeline route and configuration, which is subject to Larimer County's 1041 process, detailed engineering for the source water pump station has not been completed. Based on guidance from Larimer County staff during the pre-application conference, the source water pump station can be approved under the Site Plan Review process after engineering details have been developed. However, Thornton is developing supplemental pump station-related information that will be included in the 1041 application, and Thornton will seek input and comment from the community around the proposed source water pump station as part of the pump station design process.

As you may be aware, Thornton has initiated a survey of the Douglas Road right-of-way from Starlite Drive to Turnberry Road to aid in identifying a suitable water pipeline alignment within Douglas Road. This survey will provide information that has the potential to eliminate most, if not all, portions of the corridor outside of the Douglas Road right-of-way, including the corridor currently shown across your property. If construction of the water pipeline in the Douglas Road right-of-way isn't feasible, there might be sections of the water pipeline that will need to be located outside the right-of-way, on private property. If so, property owners would be fairly compensated for the easement needed on their property.

Thornton's intention is to not remove any homes, and although detailed designs for the water pipeline have not been completed, Thornton believes that water pipeline construction can be completed without the removal of any homes.

Thornton has existing water treatment plants, and water from the Thornton Water Project will be delivered to those plants. Thornton does not need an additional water treatment plant at this time.

Thornton is not proposing a road improvement project. If Thornton is permitted to construct the Thornton Water Project within Douglas Road, Larimer County requires that the roadway be restored to as good or better condition than pre-construction conditions.

**THORNTON WATER PROJECT 1041**

**564**

Thanks,



Mark Koleber  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Glenna Brissey [mailto:info@thorntonwaterproject.com]  
**Sent:** Wednesday, January 17, 2018 6:25 AM  
**To:** info@thorntonwaterproject.com;  
**Subject:** New submission from Contact Us

**Name**

Glenna Brissey

**Phone**

**Email**

glennabrissey@hotmail.com

**Comments**

Why isn't the pump house station at Res 4 in your 1041 proposal to Larimer Co.???  
Why do you need a 500 ft easement on Douglas Road? Do you realize the private homes that will have to be torn down?  
How much would a water purification plant cost - many of us would like to see your calculations and proposal for a water purification plant. Why isn't this one of your proposals?  
Could you please tell me the advantages to our area that you are proposing besides a 'one time' road improvement project?

If you no longer wish to receive our emails, click the link below:  
Unsubscribe  
Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

Mark Koleber <info@thorntonwaterproject.com>  
To: enelson@enganalytics.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:31 PM

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Erik,

Thank you for your emails, and for your support of our proposal. We've worked extensively to gather community input, and we believe we've put forth a proposal that best balances all of the concerns we've heard. As the process moves forward to the public hearing stage, I hope you and your neighbors will share your perspective with the Planning Commission and Board of County Commissioners. It will be important for the County to hear that perspective. Likewise, input from you and your neighbors will be important to us in our planning as we move forward with design and construction. If you haven't already heard, Larimer County has delayed the public hearings pending Thornton's development and submission of supplemental information about Douglas Road and the source water pump station. We'll post information on our website about the rescheduled hearing dates when we have more information.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Erik Nelson [mailto:info@thorntonwaterproject.com]  
**Sent:** Tuesday, January 30, 2018 12:41 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Erik Nelson

**Phone**

**Email**

enelson@enganalytics.com

**Comments**

My name is Erik Nelson. My wife Elizabeth and I live at XXXX Braidwood Drive, which is located at the northeast corner of CR17 and Douglas. Our home is also located on the west side of Irrigation and Storage Lake No. 4. Which is the lake that Thornton is proposing to take the water out of to put into the pipeline. As an engineer who deals with water rights I understand all of issues related to water rights, and water use in Colorado. I understand that

**THORNTON WATER PROJECT 1041**

**566**

Thornton owns the water and that has the right to use that water, it is your water after all. However, we all have some say in where they take it out of the river. From what I can tell the use of our lake as a takeout point for the pipeline could actually be beneficial for our lake. Our neighborhood is very active at this lake. It is a source of pride for our neighborhood to have a nice lake and it provides significant recreational and property value benefits to our neighborhood. From what I have been able to find about the Thornton project, its implementation could actually increase the condition of our lake by providing greater throughput of water and maintaining more consistent water levels in our lake. This would be good for the water quality and the fishery that it supports. Our lake also provides a significant ecological benefit to the area by providing improved habitat for wildlife in our area. Improving the water quality in the lake will have a benefit on this as well.

The recent push by the Save the Poudre and keep the water in the Poudre folks really ignores this whole issue. Furthermore, they ignore the fact that if the water stays in the river it doesn't make it to our lake which would have a serious detrimental effect on all of the items I listed above. Please don't fall for their claims that keeping the water in the Poudre is going to help the river in town. This water has been withdrawn from the river for over 100 years and most of it comes out at peak flow when it will not be noticed. Keeping this water in the river might have a very minor impact on increasing water levels through town but it will have a very serious detrimental effect on our lake and the other lakes above Lake 4 that rely on this water.

As to the routing of the pipeline to carry this water, Douglas Rd. makes the most sense of all the proposals put out there. All the other proposed routes have to cross a lot of private land which will have a serious impact on those property owners, potentially my own property. Douglas road is already a designated utility corridor and co-locating the utilities with the roadway makes a lot of sense. The route down Douglas would have the least impact on neighborhoods and private property of any of the other routes I have seen.

Please note you have my support for your current proposal to route the pipeline down Douglas Road.

Erik Nelson

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

---

**Mark Koleber** <info@thorntonwaterproject.com>  
To: ken@kenstutzman.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:39 PM

Having trouble viewing this email? [Click here](#)



Ken,

**THORNTON WATER PROJECT 1041**

**567**

Thank you for contacting us regarding the Thornton Water Project. There are some residents of Larimer County or north Fort Collins that are requesting Thornton put its water back in the Poudre River upstream of Fort Collins, and take the water back out in the Windsor area. Doing so would require a new pump station in the Windsor area, but the tank you mention wouldn't be required.

The public hearing process in Larimer County includes a Planning Commission hearing and a Board of County Commissioners hearing. Larimer County has recently requested additional information about our Project, and the public hearings will be scheduled after that information is submitted to the County. Information on Thornton's 1041 Permit application and the public hearings in Larimer County can be found at [https://onlineportal.larimer.org/EnerGov\\_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305](https://onlineportal.larimer.org/EnerGov_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305). Thornton has not yet filed an application with Weld County, so comment sessions in Weld County have not been scheduled.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Ken Stutzman [<mailto:info@thorntonwaterproject.com>]  
**Sent:** Tuesday, January 23, 2018 9:40 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** New submission from Contact Us

#### Name

Ken Stutzman

#### Phone

#### Email

[ken@kenstutzman.com](mailto:ken@kenstutzman.com)

#### Comments

Dear sir/madam, I just heard that Fort Collins is proposing moving the TWP 1 million gallon tank and source pump location near highway 392 and CR-13 in Windsor. Will there be a comment session we can attend as neighbors for this? We understand the importance of the new water source for the metro area, but would like to see the original plan remain "as is" with only the pipeline installation through our subdivision.

Sincerely,

Ken Stutzman  
Windsor, CO

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**THORNTON WATER PROJECT 1041**

**568**



**Mark Koleber** <info@thorntonwaterproject.com>  
To: nichahn@gmail.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 2:49 PM

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Nicole,

As the City of Thornton needs water supply, the farmland is transitioned from irrigated to non-irrigated agriculture. Currently, over 53% of the Thornton-owned acreage is still in irrigated agricultural production. These irrigated farms, along with a sufficient water supply, are leased to local producers to farm the ground. When water is removed from a farm, the ground is converted to another use that doesn't require supplemental irrigation water, as required by the city's Water Court decree. For the most part, the farm ground will be converted to self-sustaining dryland grasses.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Nicole Hahn [mailto:info@thorntonwaterproject.com]  
**Sent:** Friday, January 26, 2018 3:22 PM  
**To:** info@thorntonwaterproject.com  
**Subject:** New submission from Contact Us

**Name**

Nicole Hahn

**Phone**

**Email**

nichahn@gmail.com

**THORNTON WATER PROJECT 1041**

**569**

**Comments**

I was curious what will happen with the farm land that was purchased for water rights?

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

---

**Mark Koleber** <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>

To: [webennetts@msn.com](mailto:webennetts@msn.com)

Cc: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Fri, Feb 9, 2018 at 2:56 PM

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John,

Thank you for contacting us regarding the Thornton Water Project. The city evaluated alternative routes for the pipeline, including an alternative that routed the pipeline through the area you reference in your email. The evaluation considered a number of criteria, including impact to property owners, the environment, and traffic, and resulted in the identification of construction within the Douglas Road right-of-way as the preferred alternative. Additional information on the alternatives analysis can be found in our 1041 Permit application on the Larimer County website.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** John Bennett [<mailto:info@thorntonwaterproject.com>]

**Sent:** Wednesday, January 31, 2018 12:21 PM

**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)

**Subject:** New submission from Contact Us

Name

**THORNTON WATER PROJECT 1041**

**570**

John Bennett

**Phone**

**Email**

webennetts@msn.com

**Comments**

Hello from Ft Collins. There is an easier/better way. Lot's of land just 1 1/2 mile NORTH of Douglas Road (NORTH of Eagle Lake subdivision).  
It offers you: \* Far FEWER UTILITIES to deal with  
\* Far fewer property owners to deal with  
\* Far LESS DISRUPTIVE and CONTROVERSIAL - perhaps more likely to be approved  
Please "Change The Address" on your 1041 Permit!!  
Thank you!

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States



Rob Helmick <helmicrp@co.larimer.co.us>

**RE: Thornton Water Project - Larimer County 1041 Permit Update**

4 messages

**Mark Koleber** <info@thorntonwaterproject.com>

Fri, Feb 9, 2018 at 3:20 PM

To: drl@rootsarbor.com

Cc: rhelmick@larimer.org

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Daniel,

Thank you for contacting us regarding the Thornton Water Project. We will add your comments to our records, and provide them to Larimer County, as well.

Thanks,



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** Daniel R. LaValley [mailto:danielrlavalley@gmail.com]  
**Sent:** Wednesday, January 31, 2018 3:04 PM  
**To:** Thornton Water Project <info@thorntonwaterproject.com>  
**Cc:** nopipedreamftc@gmail.com  
**Subject:** Re: Thornton Water Project - Larimer County 1041 Permit Update

Mark,

Thornton's continued assumption that their plans to tear up Douglas Road is a good thing for anyone except the City of Thornton is absurd. Douglas Road is not in the City of Thornton and statements like these are not taken lightly. We do not appreciate these threats against our home. Your plans to tear up our home need to change immediately.

By the way Mark, is it ok with you if I dig in front of your driveway for the next half a dozen years, back up beepers and all? I've been planning to do it for a while and even if you don't want me to I'm still going to do it anyway.

- DRL

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**Mark Koleber** <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>  
 To: [spshelley@aol.com](mailto:spshelley@aol.com)  
 Cc: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Fri, Feb 9, 2018 at 3:27 PM

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Rebecca and Sean,

Thanks for your continued engagement with us on the Thornton Water Project. Along with more information related to the use of Douglas Road, we will be providing supplemental information to Larimer County regarding the pump station as well. The final location and configuration of the pump station will be subject to a Site Plan Review process with Larimer County, and it is our intent to involve the area residents in the development of our plans.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)

**From:** Sean Shelley [<mailto:spshelley@aol.com>]  
**Sent:** Wednesday, January 31, 2018 7:58 PM  
**To:** [info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
**Subject:** Re: Thornton Water Project - Larimer County 1041 Permit Update

Dear Mark,

We appreciate the extra effort to define where the pipe line will be located within the right of way of Douglas Road.

We do believe it is the best over-all route for all neighborhoods in North Fort Collins and the county. Sean and I have heard people's concerns over the location and size of the pump station.

Showing a more definite location for the pump station, graphic sketches of the proposed design for this location, and where the road would be located to maintain the pump station would help alleviate concerns.

However, we recognize the location of the pipeline must be determined first.

Thank you for the information and consideration for this area.

**THORNTON WATER PROJECT 1041**

**573**

Sincerely,  
Rebecca and Sean Shelley

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <info@thorntonwaterproject.com>  
To: warrenlemerich@gmail.com  
Cc: rhelmick@larimer.org

Fri, Feb 9, 2018 at 3:30 PM

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Warren,

Thank you for contacting us regarding the Thornton Water Project. We will add our comments to our records, and provide them to Larimer County as well.



**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
info@thorntonwaterproject.com  
www.thorntonwaterproject.com

**From:** R Warren Lemerich [mailto:warrenlemerich@gmail.com]  
**Sent:** Thursday, February 01, 2018 2:07 PM  
**To:** Thornton Water Project <info@thorntonwaterproject.com>  
**Subject:** Re: Thornton Water Project - Larimer County 1041 Permit Update

Mark,

With all due respect...we don't want your pipeline running down Douglas. Do the RIGHT thing and take your water from south of Fort Collins. Anything else will likely be met with endless battles.

Douglas road resident

2/12/2018

co.larimer.co.us Mail - RE: Thornton Water Project - Larimer County 1041 Permit Update

If you no longer wish to receive our emails, click the link below:

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Thornton Water Project, 12450 Washington St., Thornton, Colorado 80241 United States

**Mark Koleber** <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>  
To: [drl@rootsarbor.com](mailto:drl@rootsarbor.com)  
Cc: [rhelmick@larimer.org](mailto:rhelmick@larimer.org)

Mon, Feb 12, 2018 at 10:28 AM

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Daniel,

Thank you for contacting us regarding the Thornton Water Project. We will add your comments to our records, and provide them to Larimer County, as well.

Thanks,

**Mark Koleber**  
Thornton Water Project Director  
City of Thornton  
Work: (720) 977-6700  
[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)  
[www.thorntonwaterproject.com](http://www.thorntonwaterproject.com)



From: Daniel R. LaValley [<mailto:drl@rootsarbor.com>]  
Sent: Friday, February 09, 2018 9:07 PM  
To: Mark Koleber <[info@thorntonwaterproject.com](mailto:info@thorntonwaterproject.com)>  
Subject: Re: Thornton Water Project - Larimer County 1041 Permit Update

Thank you Mark. Please make it clear to anyone that wants to know we will take it very personally if someone wants to make plans on our road as I'm sure you would if anyone did the same at your home.

We are fans of progress as much as the next but these plans you have been making for us without our help for the last several years doesn't work for us. Please take your plans to another county or your own. You don't have to live here while the work gets delayed and reduces property values or outright eliminates the ability to sell for a reasonable price altogether.

Please kindly plan for enough water for your municipality's water supply before you allow development that outgrows your current supply to the point of having to tear through many other counties to bring your water.

**THORNTON WATER PROJECT 1041**

**575**

Daniel R. LaValley, BCMA, CTSP

Roots Arboriculture and Nursery, Owner  
 ISA Board Certified Master Arborist® and  
 ISA Certified Arborist Tree Worker Climber Specialist® #RM-7517BUTM  
 TCIA® Certified Treecare Safety Professional #1398

1950 E Douglas Rd Fort Collins Colorado USA  
 Roots@RootsArbor.com  
 DRL@RootsArbor.com  
 main - (970) 682-0314  
 mobile - (970) 682-4785

On Feb 9, 2018, at 3:20 PM, Mark Koleber <info@thorntonwaterproject.com> wrote:

Daniel,

Thank you for contacting us regarding the Thornton Water Project. We will add your comments to our records, and provide them to Larimer County, as well.

Thanks,



**Mark Koleber**  
 Thornton Water Project Director  
 City of Thornton  
 Work: (720) 977-6700  
 info@thorntonwaterproject.com  
 www.thorntonwaterproject.com

**From:** Daniel R. LaValley [mailto:danielrlavalley@gmail.com]  
**Sent:** Wednesday, January 31, 2018 3:04 PM  
**To:** Thornton Water Project <info@thorntonwaterproject.com>  
**Cc:** nopipedreamftc@gmail.com  
**Subject:** Re: Thornton Water Project - Larimer County 1041 Permit Update

Mark,

Thornton's continued assumption that their plans to tear up Douglas Road is a good thing for anyone except the City of Thornton is absurd. Douglas Road is not in the City of Thornton and statements like these are not taken lightly. We do not appreciate these threats against our home. Your plans to tear up our home need to change immediately.

By the way Mark, is it ok with you if I dig in front of your driveway for the next half a dozen years, back up beepers and all? I've been planning to do it for a while and even if you don't want me to I'm still going to do it anyway.

- DRL

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RECEIVED

JAN 16 2018

1-16-18

Terry Gilbert:  
Comm. Dev. Director

Please find the attached materials hand delivered to the Commissioners today at Administrative Matters meeting. It relates to the 1041 application for a pipeline project submitted by the City of Thornton. Please add it to the public record.

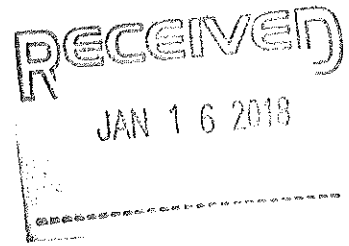
- Linda Hoffmann  
Co. Mgr

January 16, 2018

To: Larimer County Planning Commission, Larimer County Commissioners

From: No Pipe Dream citizen group

Re: City of Thornton's 1041 Proposal for Water Pipeline Route



Dear County Planners and Commissioners,

Attached you will find separate petitions from neighborhood groups along Douglas Road. After the September meeting held by Thornton at the courthouse, groups spontaneously formed to protest the use of Douglas Road as a pipeline route by Thornton. On October 17 they converged at the BOCC meeting ready to voice their opinion but were told to stay silent.

Today, these independent neighborhood groups have joined together—along with several of other citizens and groups—to form No Pipe Dream, a large, grassroots group working to stop the Thornton pipeline along Douglas Road, and advocating to keep the water in the Poudre through town. This larger, much more active group has an established presence, complete with a website, signage, fundraising arm, research component, and more. As you likely know, we are holding a meeting at the courthouse on January 16, 2018 in the hearing room. Please visit our website at [Nopipedream.com](http://Nopipedream.com).

Thank you in advance for taking these petitions, and the nearly 425 original signatures, seriously. The largest petition generated over 375 signatures from Larimer County citizens who live in the area. Each petition holds individual value in its own right.

We request this packet be considered heavily when reviewing Thornton's 1041 application, and that you continually keep in mind the rights and wishes of your citizens during this process.

Sincerely,

No Pipe Dream organizers

Originals  
376 total

## NOT OUR PIPELINE!

### Citizen petition against the Thornton Water Pipeline Project down Douglas Road

We, the undersigned, strongly protest Douglas Road as the “preferred route” presented to the public by the Thornton Water Project on September 12, 2017 (routes South 1, 2, 3 or 4). We are a large constituent of residents who primarily live on the south side of Douglas Road who were not included in Thornton’s outreach to neighbors and HOAs (which was limited to Eagle Lake and Woody Creek neighborhoods). *We own property in Larimer County, pay taxes in Larimer County, vote in Larimer County and we demand our voices be counted by our County Commissioners and planners.*

This pipeline solely benefits Thornton. As such, it should be constructed in an area that disrupts the fewest number of Larimer County citizens as possible, and the cost to Thornton should not be a determining factor. We understand county planners favor Douglas Road for cost saving measures on future improvements to Douglas Road. We believe this decision is shortsighted, and ignores major issues as outlined below.

As a united front, we demand further consideration of the numerous alternative routes presented (specifically North 2 or North 3 which run closest to the storage reservoirs and through sparsely populated property, or leaving the water in the Poudre River through town). These routes disturb the fewest amount of people.

#### **MAIN REASON Douglas Road is the wrong choice: VIOLATES FEDERAL GUIDELINES FOR PIPELINES**

The route is in direct opposition to federal guidelines for water pipeline route selection, according to criteria published by 1) Northern Integrated Supply Project’s *FAQS: NISP Pipeline Overview* document, the 2) *Pipeline Route Selection for Rural and Cross-Country Pipelines* guidelines published by the American Society of Civil Engineers (ASCE) (No. 46), and 3) *Right of Way Land Acquisition Process* document by Jim Struble, SR/WA, Northern Water, which state:

##### **1. Select a site that impacts the lowest number of occupied residences in close proximity to the pipeline. (NISP)**

Of the 10 proposed routes, Douglas Road impacts the *highest* number of residents. Between Shields and Turnberry, at least **311 households have to** use Douglas Road as their sole access. **Ten neighborhoods/streets, all single entrance/exit**, feed off of Douglas on this stretch—Starlight Dr., Bay Shore Dr., Terry Point neighborhood, Point Townhomes, Terry Cove Mobile Home Park, Terry Cove neighborhood, Le Mesa St., Highland St., Kenyon St., the trailer park on East Douglas not included in the numbers, and several single homes.

##### **2. Select a site with the least “percent of route not along major corridors.” (NISP)**

Douglas Road is a major corridor, accommodating thousands of vehicles a day. Its use will continue to rapidly increase considering the growth of Wellington and the proposed large housing projects at Turnberry and Douglas Road, and those near Anheuser Busch. Since this route is being called a “pipeline corridor” the disruption will not be limited to ONE TIME, but will occur again and again with future pipeline projects, causing ongoing hassle and inconvenience to residents and commuters.

**3. The shortest route is preferred “from an environmental, engineering and economic perspective (ASCE)” and should impact the “lowest total linear footage of route.” (NISP)**

The most direct route for the pipeline would be to take water out of the Poudre River at a pump station below Fort Collins. Thornton states the water is cleaner to the North. The cost of additional filtration would likely be less than paying for a longer pipeline.

**4. It should also have the least effect on “endangered species.” (NISP)**

The preferred pump station location is near an established nesting habitat on Terry Lake for a large variety of migratory water birds protected by the Federal Migrating Bird Act, and less than a mile from a pair of federally-protected nesting Bald Eagles. It would disturb wetlands that provide nesting and hunting habitat for these and other species. **We request that you follow the Army Core of Engineer’s 1041 process and complete a thorough environmental impact study of this route.**

**5. Construction of a traffic arterial that would exceed the permissible loading on the pipe (Northern Water)**

Vibrations from road traffic may cause the sealant on pipes to crack and allow pipes to leak, causing possible liability to area home and property owners. This could affect the low-lying Terry Cove trailer park and homes near the shores of Terry Lake. Considering the recent increase in weight limits on Douglas Road by the county, this problem will only be magnified in the future.

**OTHER IMPORTANT REASONS we oppose this route:**

- *The pipeline is along a route that varies in elevation, requiring an above-ground pump station that would not only be an eyesore and create noise pollution, it could likely cause vibrations that disrupt the foundations of area homes, especially those on nearby Starlight Road.*
- *We believe that the pipeline installation will cause several years of disruption for our 100% single entry neighborhoods. It defies belief that this section will be finished in 6 months, as stated. Coordinating multi-governmental agencies and moving all existing utilities will likely be a logistical nightmare. As an example, we note the paving project on N. College which has affected us for 2 years and counting. The utility service disruptions have been especially egregious as they occur unannounced.*
- *The corridor aspect of this pipeline route would make this disturbance continual and ongoing for area residents and those that rely on Douglas Road as a commuter route.*
- *The pipeline project will affect our property values. Local realtors have stated that it will be nearly impossible to sell our properties during the long construction phase, and will very likely lower prices.*
- *The pipeline will remove trees within 120 feet of the pipe, damaging the natural beauty of the roadway which contains several majestic, old trees. It would also cause homeowners to remove permanent fencing and not allow the building of noise barriers (Northern Water).*

We strongly implore you to **choose an alternative route** for this project, and vow to continue to voice our disapproval in as many outlets as we can on this issue, as citizens of Larimer County.

**Signed by Concerned Neighbors of Douglas Road**

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

369 Signatures  
originals

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Donald A. Blanchard	3527 Harbor Way Ft Collins, CO 80524	DA Blanchard
2	Patricia A. Blanchard	3527 Harbor Way Ft Collins, CO 80524	Patricia A. Blanchard
3	Debra Horensky	3657 Harbor Way Fort Collins, CO 80524	Debra Horensky
4	JAC NICKOLOFF	3657 Harbor Way Ft Collins 80524	Jac Nickoloff
5	JOHN B STEVENS	3665 Harbor Way FT COLLINS CO 80524	John B Stevens
6	Susan Olds	3650 Harbor Way FC	Susan Olds
7	Samuel O. BLEDSOE	3650 Harbor Way F.C.	Samuel O. Bledsoe
8	Barbara Wilson	3533 Harbor Way FC 80524	Barbara Wilson
9	John Pezoc	3912 Harbor Way FC CO 80524	John Pezoc
10	Leslie Dyer	3412 Harbor Way 80524	Leslie Dyer
11	Ali Gessler	3404 Harbor Way FC 80524	Ali Gessler
12	Dan Gessler	3404 Harbor Way FC 80524	Dan Gessler
13	Bob Rowell	3649 HARBORWAY 80524	Bob Rowell
14	Angela Jachowski	3620 Shore Rd FT COLLINS, CO	Angela Jachowski
15	Tom Jachowski	3620 Shore Rd Ft Collins Co	Tom Jachowski
16	Don Ho Ho	3542 HARBOR WAY Fort Collins, CO	Don Ho Ho
17	Nancy Coy	3526 Harbor way	Nancy Coy
18	Ed GANE	"	Ed GANE
19	Jan Seaton	3524 HARBORWAY	Jan Seaton
20	Tony SEATON	3534 Harbor Way	Tony Seaton

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017



	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	M. MARTI G. MEYER	3505 SHORE ROAD FC CO 80524	M. Marti G. Meyer
2	Adam Blocker	507.5 S. Loomis Ave.	
3	P.K. VEDANTHAN	3405, SHORE RD. FT. CO 80524	P.K. Vedanthan
4	KAMALA VEDANTHAN	3405, SHORE RD FT CO 80524	Kamala Vedanthan
5	RANJANI VEDANTHAN	3405, Shore Rd. Ft Collins CO 80524	Ranjani Vedanthan
6	Jim Sprout	3305 Shore Rd Ft Collins 80524	Jim Sprout
7	Sonya Sprout	3305 Shore Rd Ft Collins 80524	Sonya M. Sprout
8	Evelyn Hoeven	3109 Shore Rd	Evelyn Hoeven
9	Roy Arterburn	3109 Shore Rd	Roy Arterburn
10	Kasumi Collins	3007 Shore Road	
11	Laura Ecton	3525 Terry Ridge Rd FC 80524	Laura Ecton
12	Kayl Ecton	3525 Terry ridge rd	Kayla Ecton
13	JULIANA FARRELL	943 Laporte Ave	
14	Dayna Larson	700 W. Mountain Ave	
15	SHEEHAN MEAGHER	3630 CAPITOL DR Fort Collins CO 80526	
16	Monique Larson	700 W. Mountain Ave Fort Collins, CO 80526	
17	<del>Tyann Kuehnast</del>	3424 Terry Ridge Rd Ft. Collins, CO 80524	<del>Tyann Kuehnast</del>
18	Al Kuehnast	3424 Terry Ridge Rd Ft. Collins, CO 80524	Al Kuehnast
19	<del>Jennifer Gessner</del>	3109 Shore Rd Ft Collins CO 80524	<del>Jennifer Gessner</del>
20	Matt Hoeven	3109 Shore Rd 80524	

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017



	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	CARL CICERO	3515 Terry Ridge Road	Carl Cicero
2	Lynne Soraci	3412 Terryridge Rd	Lynne Soraci
3	Danielle Buel	3405 Terryridge	Danielle Buel
4	Casey Buel	3405 Terryridge	Casey Buel
5	Margaret Fauschuld	3425 Terryridge	Margaret Fauschuld
6	Mel J. W	3425 Terryridge Rd	Mel J. W
7	Janice Oldemeyer	3409 Terryridge Rd	Janice Oldemeyer
8	Craig Powell	3616 Terryridge Rd.	Craig Powell
9	Connyn Powell	3616 Terryridge Rd.	Connyn Powell
10	JOHN PRATT	3625 Terry Ridge	John Pratt
11	Alan Jones	3400 Terry Ridge	Alan Jones
12	Janice Jones	3400 Terry Ridge	Janice Jones
13	Margaret Nicol	3526 Woodridge Rd	Margaret Nicol
14	<del>Jan Somers</del>	<del>3630 Terry Ridge</del>	<del>Jan Somers</del>
15	Karen Somers	3630 Terry Ridge	Karen Somers
16	Laura Arledge	3430 Terryridge Rd	Laura Arledge
17	Scott Arledge	3430 Terryridge Rd	Scott Arledge
18	Virginia Vaughan	3600 Woodridge Ad	Virginia Vaughan
19	Will Johnson	1919 Leicester Way FC	Will Johnson
20	STEFFEN P MEYER	3505 SHORE ROAD FC CO 80524	Steffen P Meyer


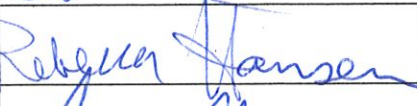

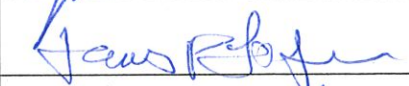
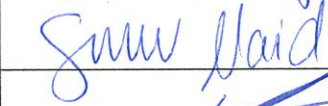



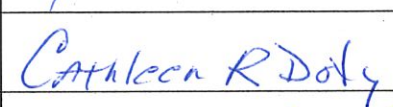

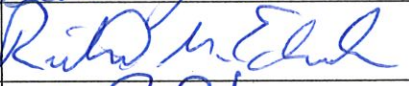


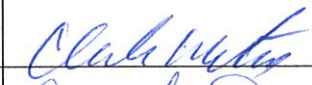


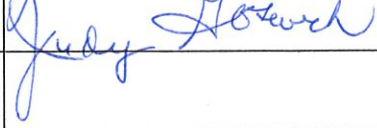
Jan Somers  
Karen Somers

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Charmaine Stavedahl	3607 WOODRIDGE RD.	
2	SCOTT SCHMER	208 E DOUGLAS RD	
3	Amy Schmer	208 E Douglas Rd	
4	Brad Jancin	3607 Woodridge Rd	
5	Jim Zapert	3635 Terryridge Rd	
6	DON DEMMY	3605 TERRY RIDGE	
7	LEAH POTER	3605 TERRY RIDGE	
8	L.W. ANDERSON	3606 WOODRIDGE RD	
9	Patricia K. Korb	3630 Woodridge Rd. <small>FT. COLLINS 80524</small>	
10	MARK L. KORB	3630 Woodridge Rd	
11	Mawreen Byrt	3617 Terry Ridge Rd	
12	Todd Byrt	3617 Terry Ridge Rd	
13	PAUL LOUGHAN	3600 TERRY RIDGE RD	
14	LILIANE FRANCOUZ	3600 TERRY RIDGE RD.	
15	Jean M Wrightman	3520 Terryridge Rd	
16	David Redgrave	3520 Terryridge Rd	
17	RONALD WARREN	3500 Terryridge Rd.	
18	Laurie Warren	3500 Terry Ridge Rd	
19	ANN RYAN	3503 Terry Ridge Rd	
20	Don P. Macallister	3629 Woodridge Rd	

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017



	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Danielle Mianzo	3521 Heathfire Dr.	
2	Rebecca Hanson	3503 Heathfire Dr	
3	JASON MORRIS	3512 KENYON Dr	
4	JAMES LAZIER	3517 KENYON DR.	
5	Summer Naid	3604 Kenyon Dr	
6	Javier Echaverria	3604 Kenyon Dr	
7	Kathy Westcott	3609 Kenyon Dr	
8	John C Brown	3608 Kenyon DR	
9	Cathleen R Doty	201 East Douglas Rd	
10	Gloria Edwards	3612 Kenyon Dr.	
11	Richard M. Edwards	3612 Kenyon Dr.	
12	WENDELL STANFORD	504 CANADIAN PKWY	
13	Elias Mastinez	3515 Highland Dr.	
14	CHARLES MONTAYA	3609 Highland DR	
15	Carol Stroh	3520 Highland Dr	
16	John H. Goswick	3616 Highland DR.	
17	Judy Goswick	3616 Highland DR	
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NOT OUR PIPELINE!			
	NAME	ADDRESS	SIGNATURE
1	Celena Meece	3308 Shore Rd.	Celena Meece
2	JAY MESEC	3308 SHORE RD.	Jay Meece
3	Jim Sprunt	3305 Shore Rd	Jim Sprunt
4	Sonya Sprunt	3305 Shore Rd	Sonya Sprunt
5	PHYLLIS ROESTENBERG	3212 SHORE RD	
6	Doug MCDONALD	3212 SHORE RD	Doug McDonald
7	JOHN ARFMAN	3200 SHORE RD.	John Arfman
8	Dorothy Adel	3104 Shore Rd.	Dorothy Adel
9	M. Sharkoffmadrid	3301 Shore Rd	M. Sharkoffmadrid
10	I. McMahon	3313 Shore Rd	I. McMahon
11	PATRICK McMAHON	3313 Shore Road	Patrick McMahon
12	TRICIA Ruble	3404 SHORE ROAD	Tricia Ruble
13	John Ruble	3404 Shore Road	John Ruble
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Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	John BORMAN	3013 Shore Rd	<i>John Borman</i>
2	Stephen CAMERON	2917 Shore Rd	<i>SM Cam</i>
3	David Jackson	3217 Sh. Rd	<i>David Jackson</i>
4	Jim Van Gorder	3508 Shore Rd.	<i>Jim Van Gorder</i>
5	Rosemary Van Gorder	3508 Shore Rd.	<i>Rosemary Van Gorder</i>
6	<sup>MARGARET</sup> Margaret Ho	3542 Harbor Way	<i>Margaret Ho</i>
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Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Eugen Collins	3007 Shore Road	<i>Eugen Collins</i>
2	Nick HANLEY	1325 Birch St. Unit B	<i>Nick Hanley</i>
3	Nick Portinella	310 victorin	<i>Nick Portinella</i>
4	Colten White	Port Collins, W	<i>Colten White</i>
5	Charlotte Conway	<del>1803</del> 1803 Dayton Dr	<i>Charlotte Conway</i>
6	George Collins	3007 Shore Road	<i>George Collins</i>
7	Sayuri Collins	3007 Shore Rd.	<i>Sayuri Collins</i>
8	Emily Jensen	3007 Shore Rd.	<i>Emily Jensen</i>
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Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017



	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Elaine Spencer	3605 Bay Shore	Elaine H Spencer
2	Greg Hassler	3511 Highland Dr 80524 Ft. Collins, CO 80524	Greg Hassler
3	Eric Rupp	3511 Highland Dr 80524	Eric Rupp
4	James Arvin	3613 Kenyon	James Arvin
5	CLEONEM. VAIL	3521 KENYON DR,	Cleonem. Vail
6	Kristen Eggerd	835 ED DOUGLAS Rd	Kristen Eggerd
7	Mike Schirber	1340 E Douglas Rd	Mike Schirber
8	Alesia Schirber	1340 E. Douglas Rd	Alesia Schirber
9	Ashley Labrosse Anderson	801 W Douglas Rd	Ashley Labrosse Anderson
10	Craig Anderson	801 W. Douglas Rd	Craig Anderson
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Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

NOT OUR PIPELINE!			
	NAME	ADDRESS	SIGNATURE
1	Lynn Utzman-Nichols	505 Canadian Pkwy Ft. Collins, CO 80524	<i>Lynn Utzman-Nichols</i>
2	BETSEY COX	504 CANADIAN PKWY FORT COLLINS CO 80524	<i>Betsy Cox</i>
3	Dolly Bennett	3504 Canadian Pkwy	<i>Dolly Bennett</i>
4	KARIN BOGREN	500 Canadian Pkwy FORT COLLINS, CO 80524	<i>Karin Bogren</i>
5	Sue Zaloudek	3617 CANADIAN PKWY FORT COLLINS, CO 80524	<i>Sue Zaloudek</i>
6	FRANK ZALOUDEK	3617 CANADIAN PKWY FORT COLLINS CO 80524	<i>Frank Zaloudek</i>
7	Judith Whinston	3613 Canadian Pkwy Ft Collins 80524	<i>Judith Whinston</i>
8	<i>J. Whiston</i>	3613 Canadian Pkwy	<i>J. Whiston</i>
9	Sharon Lee	3604 Canadian Pkwy	<i>Sharon Lee</i>
10	Philip Teeter	3521 Canadian Pkwy	<i>Philip Teeter</i>
11	Ann Spberg	3521 Canadian Pkwy	<i>Ann Spberg</i>
12	Jim Camban	3517 CANADIAN PKWY	<i>Jim Camban</i>
13	Nancy Miller	3412 Canadian Pkwy	<i>Nancy Miller</i>
14	Robert Miller	3412 Canadian Pkwy	<i>Robert Miller</i>
15	Patricia A. Sherwood	3408 Canadian Pkwy	<i>Patricia A. Sherwood</i>
16	Grant P. Sherwood	3408 Canadian Pkwy	<i>Grant P. Sherwood</i>
17	Kurt R. Strobel	3404 Canadian Parkway	<i>Kurt R. Strobel</i>
18	Mariann Strobel	3404 Canadian Parkway	<i>Mariann Strobel</i>
19	Terry Anderson	3400 CANADIAN PK	<i>Terry Anderson</i>
20	Leslie Van Dyne	3401 Canadian Pkwy Fort Collins, CO 80524	<i>Leslie Van Dyne</i>

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017



	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	JOSEPH BUKETT	3405 Canadian Pkwy J.C. 80524	Joseph Bukett
2	Sally Miller	3325 Canadian Pkwy FT. COLLINS, 80524	Sally Miller
3	Janel Struck	3320 Canadian Pkwy FT. COLLINS CO	Janel Struck
4	Stacey Hopwood	3321 Canadian Pkwy 80524	Stacey Hopwood
5	Sidney Callahan	3321 Canadian Pkwy	Sidney Callahan
6	Marilyn G. Person	3301 Canadian Pkwy	Marilyn G. Person
7	Mike D Melville	3301 Canadian Pkwy	M. D. Melville
8	Pierre Husler	3416 Canadian Pkwy	Pierre Husler
9	Melinda Frye	3316 Terry Pt Dr	Melinda Frye
10	Theresa Glaston	3504 Terry Pt Dr	Theresa Glaston
11	PAUL DUDZINSKI	3309 Canadian Pkwy	Paul Dudzinski
12	Katherine W. Dudzinski	3309 Canadian Pkwy	Katherine W. Dudzinski
13	E. Janet Hawk	413 Captains Ct	E. Janet Hawk
14	KERN BOWSER	11	Kern Bowser
15	Stere Hyland	3400 Terry Point Dr	Stere Hyland
16	Barb Hyland	3400 Terry Pt. Dr.	Barb Hyland
17	Martha Conant	508 Canadian Pkwy	Martha Conant
18	Nancy Cambon	3517 Canadian Pkwy	Nancy Cambon
19	Sarah Glutfelder	3504 Swan Ln	Sarah Glutfelder
20	Zuk Danielson	3504 Swan Ln	Zuk Danielson

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Susan Hoyt	3600 Terry Lake Rd	Susan Hoyt
2	JOHN HOYT	3600 TERRY LK RD	John Hoyt
3	Michael Towbin	351 Captains Ct. 80524	Michael Towbin
4	Mia Towbin	351 Captains Ct 80524	Mia Towbin
5	Jane Cox	512 Canadian Pkwy <sup>80524</sup>	Jane Cox
6	Carol Cox	512 Canadian Pkwy	Carol Cox
7	James K. Detling	3535 Terry Pt. Dr.	James K. Detling
8	Linda Detling	3535 Terry Point Dr.	Linda Detling
9	Kevin Keilly	3417 Terry Pointe	Kevin Keilly
10	MARK GUADAGUOLI	346 TERRY POINT	Mark Guadagnoli
11	Rob Hallam	393 CAPTAINS CT	Rob Hallam
12	Linda Greenman	359 Captains Ct	Linda Greenman
13	Anna Dee Hallam	393 CAPTAINS CT	Anna Dee Hallam
14	ROBERT MOHR	749 W. Douglas Rd	Robert Mohr
15	TERESA KREW	749 W. DOUGLAS RD	Teresa Krew
16	David Utzman-Nichols	505 Canadian Pkwy <sup>F.C. 80524</sup>	David Utzman-Nichols
17	Ree Cott	3504 Terry Pt	Ree Cott
18	Jennifer Schube Kayhond	3601 Swan Lane	Jennifer Schube Kayhond
19			
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NOT OUR PIPELINE!			
	NAME	ADDRESS	SIGNATURE
1	Lucille D. Laugesen	3615 TERRY POINT DR FT COLLINS, CO 80524	Lucille D Laugesen
2	Nancy Clegern	3611 Terry Pt. Dr. Ft. Collins, CO 80524	Nancy Clegern
3	Peggy Bent	3619 Terry Point Drive F.C., CO 80524	Peggy Bent
4	Lois Jensen	3623 Terry Pt. DR.	Lois Jensen
5	BYRON L JENSEN	3623 TERRY PT. DR	Byron L Jensen
6	SARA MOOK	419 Captains Ct	Sara Mook
7	Beth Lundgren	411 Captains Ct.	Beth Lundgren
8	Deetta Long	407 Captains Ct.	Deetta Long
9	RICK STEADMAN	389 Captains CT	Rick Steadman
10	JAN FROEMKE	3669 Point Dr	Jan Froemke
11	Erna Hauck	3678 Point Dr.	Erna Hauck
12	Peggy Lowery	3650 Point Dr.	Peggy Lowery
13	Julie Jones	3650 Point Dr.	Julie Jones
14	Lillys Price	3523 Terry Point Dr	Lillys M. Price
15	Hugh Price	3523 Terry Point Dr	Hugh P Price
16	Fisher Roberts	3527 Terry Point Dr	Fisher Roberts
17	Beverley Roberts	3527 Terry Point Dr	Beverley Roberts
18	Jo Waldo	5000 Boardwalk Dr <sup>29</sup>	Joann Waldo
19	David Cooper	3531 Terry Point Drive	David Cooper
20	MICHAEL HOUBNON	3510 TERRY LAKE RD.	Michael Houbnon

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

21 BRIAN GRAVE

415 CAPTAINS CT, FE

Brian W



Not Over Pipeline!

	NAME	ADDRESS	SIGNATURE
1	Bob Hartsby	3666 Point Dr	Bob Hartsby
2	Dail Wagie	3662 Point Dr	Dail Wagie
3	Susan Wagie	3662 Point Dr	Susan M Wagie
4	Sue Armstead	3604 Terry Point Dr	Sue Armstead
5	Joset Housnon	3520 Terry Point Dr	Joset Housnon
6	Doris Younger	3618 Terry Point Dr	Doris Younger
7	JIM SMITH	3612 Terry Pt Dr.	Jim Smith
8	PAT FORLENZA	3620 TERRY POINT DR	Pat Forlenza
9	Rachel Tombin	381 Captains Ct	Rachel Tombin
10	Craig B. Campbell	411 Captains Ct.	Craig B. Campbell
11	Elizabeth Nicol	3654 Point Dr.	Elizabeth Nicol
12	Sue Armstead	3604 Terry Point	Sue Armstead
13	Jessie Clement	3519 Terry Point	Jessie Clement
14	Olivia Peterson	3605 Terry Pt Dr	Olivia Peterson
15	GW PETERSON	"	GW Peterson
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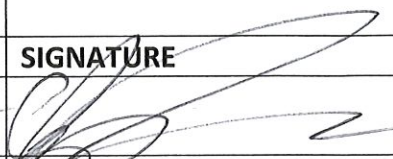
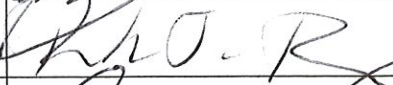


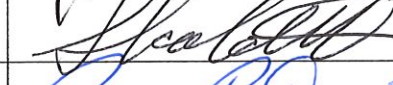
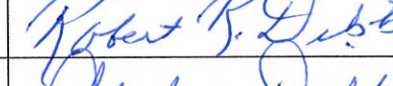



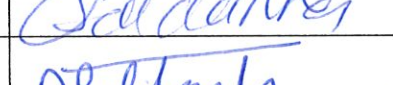



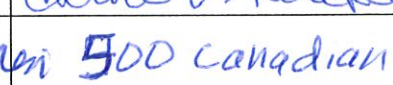

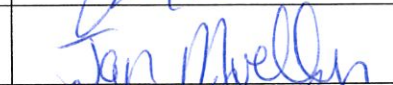
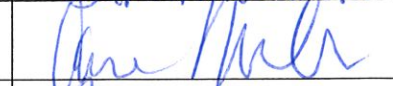


	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	David L. Kitamiller	221 W. Douglas Rd #7	David L. Kitamiller
2	WILLIAM CONKLIN	221 W DOUGLAS #15	William Conklin
3	Keith CROSS	2221 W. Douglas Rd #12	Keith Cross
4	Marty Sumell	221 W Douglas Rd #11	Marty Sumell
5	David HASSE	221 W. Douglas Rd #20	David Hasse
6	Tim Kirchgessner	221 W Douglas Rd #21	Tim Kirchgessner
7	Juli Kirchgessner	11	Juli Kirchgessner
8	Willard De Jong	221 W. Douglas #23	Willard De Jong
9	Kenneth Frye	221 W Douglas Rd #4	Kenneth Frye
10	Amy Adams	221 W Douglas #3	Amy Adams
11	Scott Adams	221 W. Douglas #3	Scott Adams
12	Jeff Mamy	221 W. Douglas Rd #4	Jeff Mamy
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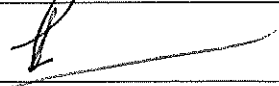
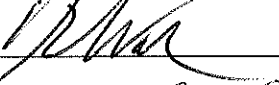

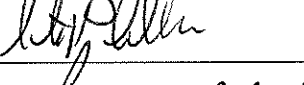


	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Vergy Baca-Devens	3833 La Mesa Dr.	Vergy Baca-Devens
2	SHARON A. JOHNSON	3901 LA MESA DR.	Sharon A. Johnson
3	James J. Johnson	3901 La Mesa Dr.	James J. Johnson
4	Jackie Bruggers	3909 La Mesa Dr.	Jackie Bruggers
5	ANTHONY MAGANA	3916 LA MESA DR.	Anthony Magana
6	Marylou Magana	3916 La Mesa Dr.	Marylou Magana
7	Journey Hemburger	3900 La Mesa Dr.	Journey Hemburger
8	Roger Hoffmann	3908 La Mesa Dr.	Roger Hoffmann
9	Lucinda R. Smith	3908 La Mesa Dr.	Lucinda R. Smith
10	Karen Lucas	3800 La Mesa Dr.	Karen M. Lucas
11	Perry Zynda	3732 La Mesa Dr.	Perry Zynda
12	Leslie Zynda	3732 La Mesa Dr.	Leslie Zynda
13	Kate Zynda	3732 La Mesa Dr.	Kate Zynda
14	Susan Garcia	3724 La Mesa Dr.	Susan Garcia
15	Jim Henry	3352 Harborway.	Jim Henry
16	Bobie Urban	3352 Harborway	Bobie Urban
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Citizen petition against the use of Douglas Road as a trucking route, now and in the future



	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Chapman Rose	3512 Swan Lane	
2	Paul J. Rose	3512 Swan Lane	
3	Charles H.V. May	3305 CANADIAN PKWY	
4	Penny J. Hlman-May	3305 Canadian Pkwy	
5	Steve Constant	3508 Swan Ln	
6	Robert R. Dubble	3520 Canadian Pkwy	
7	Andrey Dittle	3520 Canadian Pkwy	
8	Adrienne Killogg-Ridner	3520 Canadian Pkwy	
9	Ryan D. Dubble	3520 Canadian Pkwy	
10	TINA SALDANHA	3402 TERRY DR.	
11	DANIELLE SALDANHA	3402 TERRY PT DR.	
12	TODD KAYWOOD	3601 Swan Ln	
13	Robert P. Kitchell	412 Terry Point Drive Ft Collins, CO 80524	
14	Carole Kitchell	412 Terry Pt. Dr. Ft. Collins 80524	
15	Thomas Eric Delaplane	Thomas Eric Delaplane	500 Canadian
16	Ingrid Burnham	3608 Swan Lane	
17	Jan Mueller	3500 Terry Pt	
18	Aaron Mueller	3500 Terry Pt Dr	
19	John Mueller	3500 Terry Pt Dr	
20	Wald Mesghin	3401 Terry Pt. Dr.	

NOT OUR PIPELINE!			
	NAME	ADDRESS	SIGNATURE
1	KEVIN SATOAWHA	3202 Terry Pt DR	
2	Caroline McLuskey	3673 Point DR	C. McLuskey
3	Patrick McLuskey	3673 Point DR	Pat McLuskey
4	Myra Kelley	2047 S. View Cir	Myra Kelley
5	Kenny J Shands	3508 Terry Pt Drive	Kenny J Shands
6	Catherine M Shands	3508 Terry Pt Drive	Catherine M Shands
7	Craig Ramsey	3920 Terry Pt. Dr.	Craig A. Ramsey
8	Richard D. Miller	3325 Canadian Hwy Ft. Collins	Richard D. Miller
9	ALVIN WOODEN	3500 CANADIAN PKWY	Alvin Wooden
10	KEVIN WALKER	3600 CANADIAN PKWY	
11	Mary Ann Walker	3600 Canadian Parkway	Mary Ann Walker
12	John Bennett	3504 Canadian Pkwy	J. Bennett
13	Gina Wooden	3500 Canadian Pkwy	Gina Wooden
14	Rene Eies	3417 Canadian PKY	Rene Eies
15	Kat Haster	3416 Canadian Pkwy	Kat Haster
16	Cheryl Nacos	3513 Canadian Pkwy	
17	Steve Chaffee	3604 Swan Lane	
18	Susan Chaffee	3604 Swan Lane	Susan Chaffee
19	Burns Sabey	3505 Canadian Pky	Burns Sabey
20	Elaine Sabey	3505 Canadian Pky	Elaine Sabey

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017



	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Alexa Bennett	3504 Canadian Pkwy	Alexa Bennett
2	Shelly Jamison	3509 Swan lane	Shelly Jamison
3	David Jamison	3509 Swan lane	David Jamison
4	Sharon Kelly	3917 Terry Pt Dr	Sharon Kelly
5	Jana Wehner	3416 Terry Pt. Dr	Jana Wehner
6	Charles Cox	3198 Shore Rd.	Charles Cox
7	Anna L Hughes	3409 Terry Pt Dr	Anna L Hughes
8	Harrison G. Hughes	3409 Terry Pt. Dr.	Harrison G. Hughes
9	Ken Kappeler	3312 Terry Point Dr.	Ken Kappeler
10	Krystal Kappeler	3312 Terry Point Dr.	Krystal Kappeler
11	SUSAN KAPPELER	3312 TERRY POINT DR	Susan Kappeler
12	WMM	3516 Canadian Parkway	Matt Vogel
13	Todd D. Marwitz	3309 Terry Pt. Dr.	Todd D. Marwitz
14	Karen Marwitz	3309 Terry Pt Dr.	Karen Marwitz
15	John Marwitz	3309 Terry Pt Dr	John Marwitz
16	Glenn Eakinley	3317 Canadian Pkwy	Glenn Eakinley
17	Joyce Anderson	3316 Canadian Pkwy	Joyce Anderson
18	Harold Fredson	3316 Canadian Pkwy	Harold Fredson
19	Bob Grant	508 Canadian Pkwy	Bob Grant
20	Brian Ferrans	408 Terry Point Dr.	B. Ferrans

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	William Weiner	3416 Terry Pt Dr	William Weiner
2	Bonny Gainley	3317 Canadian Pkwy	Bonny Gainley
3	Ann Burkett	3405 Canadian Pkwy	Ann Burkett
4	Brittany Ferrans	408 Terry Point Drive	Brittany Ferrans
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Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

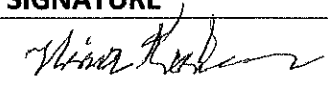
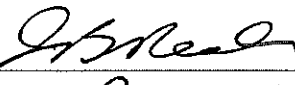
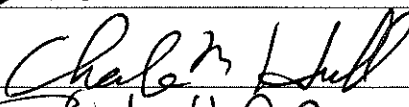
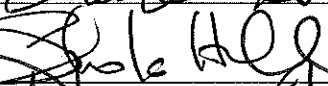
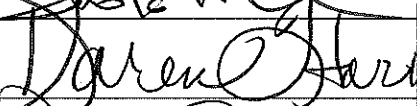
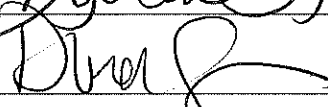
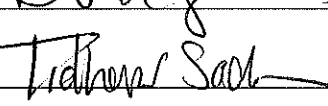
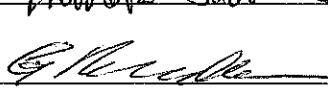


	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Annika Buck Ahmed	3709 Starlite Dr <sup>Fort Collins, CO 80524</sup>	Annika Buck Ahmed
2	Michael P. Willard	3705 Starlite Dr. <sup>Fort Collins CO 80524</sup>	Michael P. Willard
3	EVERETT D. CARRICO	3713 STARLITE DR. <sup>FT. COLLINS, CO 80524</sup>	Everett D. Carrico
4	R WARREN LEMERICH	3709 STARLITE DR. <sup>80524 FT. CO</sup>	R Warren Lemerich
5	Tom Schell	709 Joey Rd F.C. 80524	Tom Schell
6	Sherrin Schell	709 Joey Rd. <sup>FC</sup> 80524	Sherrin Schell
7	Eva J. Hess WILLIAM HESS	3825 Starlite Drive Fort Collins, CO 80524	Eva J. Hess William Hess
8	RL LAZARD	3701 Starlite Dr	RL Lazard
9	Candyn Hewitt	3701 Starlite Dr	Candyn Hewitt
10	David G. Dobberstine	3805 Starlite Dr.	David G. Dobberstine
11	Bonnie L. Dobberstine	3805 Starlite Dr.	Bonnie L. Dobberstine
12	David G. Dobberstine Jr.	3805 Starlite Dr Ft. Collins CO 80524	David G. Dobberstine Jr.
13	Sandee Dobberstine	3825 Starlite Dr. Ft. Collins CO 80524	Sandee Dobberstine
14	LINDSAY GREENO	3809 STARLITE DR. FT COLLINS CO 80524	Lindsay Greeno
15	Keith L. Scavia	3838 Patricia DR. FT. COLLINS CO 80524	Keith L. Scavia
16	Judy M Lewis	3813 Starlite Drive Ft. Collins, Co. 80524	Judy M. Lewis
17	Ron Lewis	3813 Starlite Dr Ft Collins CO 80524	Ron Lewis
18	Gordon Lewis	3821 Starlite Dr Ft Collins CO 80524	Gordon Lewis R1 POA
19	Tunedonna Lewis	<del>3821</del> Ft Collins CO 80524 3821 Starlite Dr.	Tunedonna Lewis R1 POA
20	Jodi Kinder	817 Nancy Ave Fort Collins CO	Jodi Kinder

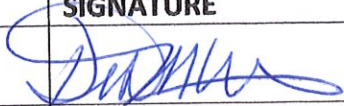
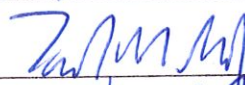
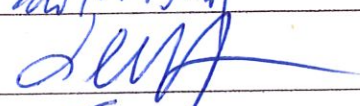
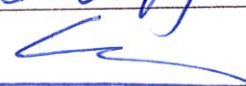
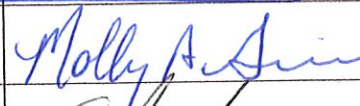

Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

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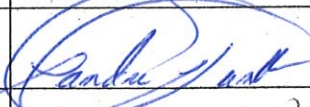
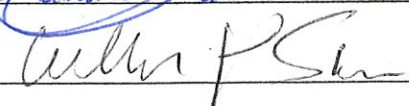
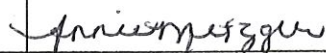
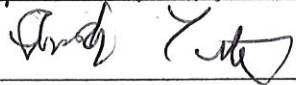


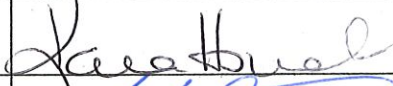
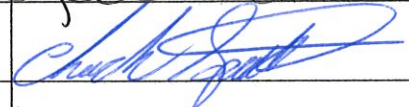
<u>Name</u>	<u>Address</u>	<u>Signature</u>
Donna Willard	3705 Starlite Dr	Donna Willard
Carol Moxey	4009 Starlite Dr.	Carol Moxey
Jean Korfanta	5004 Patricia Dr.	Jean Korfanta
HAROLD GARTH KORFANTA	5004 Patricia Dr	H. G. Korfanta

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	NINA MALMANN	3514 Terry Point Dr, Fort Collins CO	
2	JEROME WENL	3516 Terry Point Dr Fort Collins CO	
3	<sup>Charles Hull</sup> Chas Hull	3602 Terry Point Dr Fort Collins CO 80524	
4	Shoko Hull	"	
5	Karen Hoxey	3666 Point Dr Fort Collins CO 80524	
6	Dierdre Sadler	1300 Lindenwood FtE 80524	
7	Tidher Sadler	1300 Lindenwood FORT COLLINS CO 80524	
8	Greg Burnham	3608 Swan Lake Ft. Collins 80524	
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	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	DEB WESTCOTT	3658 Point De.	
2	PAUL SHERICK	3524 TERRY POINT DR	
3	Lynda Menard	3616 Terry Point Dr	
4	Daniel Menard	3616 Terry Point DR	
5	Molly Giere	3509 Terry Point Dr.	
6	Ed Vojensky	3352 Harbor Way	
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Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	SANDRA L LUNDT	3505 BAYSHORE Rd	
2	WILLIAM SPENCER	3605 BAYSHORE Rd	
3	JACK LUNDT	3505 BAYSHORE Rd	Jack Lundt
4	ANNIE METZGER	3509 BAYSHORE RD	
5	RICHARD LUNDT	3509 BAYSHORE RD	
6	CHRISTINE FRENCH	3601 BAYSHORE RD	
7	THOMAS FRENCH	" " "	
8	KARA HUCK	3501 Bay Shore Rd	
9	chuck SPRETT	357 DUFFERIELD CIRDE	
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	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	Jeanette Daly	3510 Terry Point Pt	Jeanette Daly
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Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

	NOT OUR PIPELINE!		
	NAME	ADDRESS	SIGNATURE
1	ROBIN BELL	3535 TERRYRIDGE	Rd. Bell
2	ROYCE BELL	709 STONINGTON LN.	ROYCE
3	Callan Jordin	1725 W. Stuart	<del>Callan Jordin</del>
4	Alex Murphy	1920 BOWSPRIT DR. 80524	Alex Murphy
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Citizen petition against the Thornton Water Pipeline Project down Douglas Road, Oct-Nov 2017

Petition From: Residents of Fort Collins and of Douglas Road/adjoining roads

To: Larimer County Commissioners

Date: October 2017

Regarding: Opposition to Thornton Water Project

We, the residents of Fort Collins, Douglas Road and adjacent roads, are respectively requesting that an alternative route for the Thornton Water Project be utilized for the following reasons. We are strongly suggesting that you run the pipeline further north of Douglas Road, or use one of the other alternative routes that does not involve Douglas Road. Running the Thornton water down the Poudre River is a viable alternative, too. The "Save the Poudre Association" also favors running the water down the Poudre River. The impaction to structures and homes would be less on this route.

This project will destroy Douglas Road for many years and residents and others will be asked to cooperate for 5 years or more.

1. Douglas Road will be blasted and destroyed to allow for a 48 inch pipeline to be layed
- ✕ 2. The construction and noise will be very disturbing and destroy our way of life: Our Land will be taken on both sides of the road
3. Residents will have no alternative route as many driveways go directly into Douglas Rd.; bus routes, regular traffic, etc. will also be affected
4. The Project will destroy homes, seasoned trees, landscape, solar gates, fences and other structures; leakage and vibration and noise could be a factor, too
5. There is the possibility of creating a "sink hole" along the route as the ground will be disturbed and settling will occur, resulting in uneven and unsafe pavement. Our road was just repaved. The project will have a huge impact on the wildlife that live in our area; herds of deer, many mammals and Canadian geese find homes in our neighborhoods.
6. The project will put traffic dangerously close to our homes; a safety issue/factor
7. Bicycle routes will be right in our front yards

8. Our yards and landscaping will be forever interrupted
9. There is the danger of leakage/vibration which could destroy home foundations and flood basements.
10. This is the SECOND PIPELINE in two months that has been projected to run under Douglas Rd. The Northern Integrated Supply Project (NISA) is the other; is this equity for county residents? Are we being singled out? Saving funds at our expense is not appropriate, and the projected savings on the Douglas Road Expansion is not sufficient to outweigh the impact to residents of Douglas Road/related roads.
11. The residents of Douglas Road are emotionally and physically drained, now. We are asking for equitable treatment as we are tax payers, too. Saving funds at our expense is not appropriate.

***Please put this project on hold, and allow some group sharing sessions to occur with Douglas Road residents Please look at alternative routes.***

We ask you to oppose this route, and put the pipeline further north or use one of the other alternative routes that does not involve Douglas Road. The pipeline will affect so many homes including: Terry Lake Area, Douglas Rd. Residents, adjacent road to Douglas, and Hearth Fire Residents. You can pave County Road 56 or others, and utilize Thornton funds to save the county dollars. We realize that other HOA'S in the area, may have had influence on this change of location of the pipe. Why did the Douglas Road Residents not have a chance for input? That is called fair treatment of residents by the Government. A group meeting where they tell us where the pipeline will be put is not adequate discussion with Douglas Road citizens.

Thank you for your most serious consideration to delay this project for further review. We were shocked at the meeting on Tuesday, September 12, 2017, when one presenter said we want to run the pipeline under Douglas Road. There were other viable choices!!!



Respectively submitted:

NAME ADDRESS E-MAIL

Kennell Wittreich 1001 E Douglas Rd Kenwit@aol.com  
 Ground Wittreich 1001 E Douglas Rd ymtbwi@aol.com  
 Britta Kieton 1000 E Douglas Rd  
 Darius McAlpine 928 E DOUGLAS RD mcalpine@g.com  
 Jeff McAlpine 928 E DOUGLAS RD mcalpine@g.com  
 Debbie Sheaman 400 E Douglas Rd Debbie.SHEAMAN@co.state.or.us  
 Kerry Sheaman 400 E Douglas Rd Kerry.Sheaman@co.state.or.us  
 Rick Adams 3701 Starlite Dr  
 Gary Adams 3701 Starlite Dr  
 Kay Annema 3828 Twilight Lane  
 Ed Annema 3828 TWILIGHT LANE RKLONN@comcast.NET

MT Miller 1340 E Douglas Rd  
 Lisa Schuler 1340 E Douglas Rd  
 La Cur 421 E Douglas Rd  
 Tracy 421 E Douglas Rd  
 Ana Diodow 417 E Douglas Rd  
 Ann Diodow 417 E DOUGLAS RD  
 Tony Hall 112 W. Douglas Rd  
 Susie Dahlgren 419 E Douglas Rd  
 Mike O'Connell 108 E Douglas Rd  
 Kim Meyer Tee 216 W Douglas Rd  
 Ralph Tee 216 W Douglas Rd  
 Alan Galt 725 E Douglas Rd  
 Patricia Warrick 5004 Patricia Dr  
 EVERETT CARRICO 3713 STARLITE DR.  
 BILL & JEANENE HESS 3825 STARLITE DR.  
 Robert Havis 3217 West Cir 52E, La Porte  
 David Nance 400 W. Douglas Rd Foco  
 Jodi Nance 400 W. Douglas Rd Foco  
 Bruce & Shava 3711 Trouble Trail Foco  
 Sharon Nance 3711 Trouble Trail Fort Collins  
 Steve Sanderson 3818 Troubles Trail Fort Collins  
 Ed Jewett 1900 E Douglas Rd Ft. Collins





Rob Helmick <helmicrp@co.larimer.co.us>

**Response to April 17, 2018 letter**

1 message

**Rob Helmick** <helmicrp@co.larimer.co.us>

Fri, Apr 27, 2018 at 3:54 PM

To: Lynn Nichols <lynn.healthwrite@gmail.com>

Cc: Todd Blomstrom <tblomstrom@larimer.org>, "Hoffmann, Linda" <hoffmalc@co.larimer.co.us>, Matthew Lafferty <laffermn@co.larimer.co.us>, Mark Koleber <Mark.Koleber@cityofthornton.net>

Please see the attached letter

--



**Robert Helmick**  
Senior Planner

Community Development Department  
200 West Oak Street, Suite 3100  
PO Box 1190  
Fort Collins, CO 80521  
970-498-7682  
rhelmick@larimer.org  
<https://www.larimer.org/planning>



**letter to no pipe dream letterhead.docx**

61K

April 23, 2018

Ms. Lynn Utzman-Nichols  
No Pipe Dream  
505 Canadian Parkway  
Fort Collins CO 80524

Dear Ms. Utzman-Nichols :

The Larimer County Community Development Division has reviewed your letter of April 17, 2018.

The following information is provided by the Larimer County Community Development Department in response to six questions outlined within the letter titled "Keep the water in the Poudre!", dated April 17, 2018.

- 1. Does the Thornton Water Project remain a three-phase project? If so, what are the three phases, what pipelines and/or conveyances are associated with each phase, and what is the schedule for the construction of each phase?*

The scope of the proposed Thornton Water Project included in the Larimer County 1041 application is specified within the application materials, available at the following location:

[https://onlineportal.larimer.org/EnerGov\\_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305](https://onlineportal.larimer.org/EnerGov_Prod/CitizenAccess/Site/Plan/View/ByPlanNumber/18-ZONE2305). The 1041 permit application does not include multiple phases of additional pipelines as described in your letter.

- 2. Is the 48" water pipeline that is the subject of Thornton's current 1041 permit the only raw water delivery pipeline associated with the project? Or will the Project involve a future parallel 48" water pipeline as described as Phase II in the 1996 Supreme Court decision?*

The City of Thornton submitted a 1041 permit application for a water pipeline as described in the application materials. The application materials do not include a proposal to install a second parallel 48-inch diameter pipeline in the future. If the City of Thornton pursues future infrastructure improvements not included in the current 1041







application, such as a second parallel pipeline, the City would be required to begin a new 1041 permit application process at the time the additional infrastructure is proposed.

- 3. If the Project still includes additional conveyances (pipelines, return flows, ditch exchanges, or otherwise) not included in the current 1041 application, what is the schedule for Thornton to apply for a 1041 permit with Larimer County for the remaining conveyances?*

The City of Thornton has outlined the scope of the proposed project within the 1041 permit application. Thornton has not provided Larimer County with a schedule for construction of potential additional facilities in the future, beyond the facilities described in the current permit application.

- 4. If Thornton does not plan to seek a 1041 permit from Larimer County for all conveyances and/or pipelines, please explain why the County is not requiring the City to submit a comprehensive 1041 permit application for all phases of the Project?*

Larimer County reviews and acts upon complete applications submitted to the County for consideration. If the City of Thornton pursues future infrastructure improvements not included in the current 1041 application, such as a second parallel pipeline, the City would be required to begin a new 1041 permit application process at the time the additional infrastructure is proposed. The City of Thornton has not informed Larimer County that they intend to pursue future parallel pipelines so only the infrastructure considered in this application will be approved, conditionally approved or denied with the current application.

- 5. Which private properties within Larimer County will be impacted by the construction of each of the pipelines/water conveyances that are not currently included in Thornton's 1041 application?*

The City of Thornton has provided the proposed alignment for conveyance facilities included in the scope of the project included in the permit. The City has not requested 1041 approval of additional parallel facilities as outline in your letter and has not provided the County with proposed alignments for facilities not included in the current application.

- 6. If the County does not know which properties will be impacted by all phases of the Project, why is the County allowing the City to segment the Project by limiting its current 1041 application to a single 48" pipeline instead of requiring a single comprehensive 1041 application for all phases of the Project?*

Larimer County is reviewing the 1041 application in accordance with the standards established by Section 14 of the Larimer County Land Use Code. Again, the City of





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Thornton has not requested 1041 approval of additional future facilities beyond the improvements outlined in the current application materials.

In summary while we appreciate your interest in this application, the County has found that the application and supplemental materials submitted in consideration of the application are suitable for review and have accordingly scheduled the hearings for this matter before the Larimer County Planning Commission and the Board of County Commissioners.

Sincerely,

Robert Helmick, AICP  
Senior Planner, Development Review  
Community Development Division

XC: file  
County Attorney  
Board of County Commissioners





Rob Helmick &lt;helmicrp@co.larimer.co.us&gt;

## Letter to the Board of Commissioners & Planning Commission

1 message

K.A. Wagner &lt;kaswagner@me.com&gt;

Wed, Apr 25, 2018 at 4:50 PM

To: Steve Johnson <swjohnson@larimer.org>, Tom Donnelly <donnelt@co.larimer.co.us>, Lew Gaiter <lew@lewgaiter.com>, Rob Helmick <rhelmick@larimer.org>, Linda Hoffmann <hoffmalc@co.larimer.co.us>

Cc: pcboardmember1@larimer.org, pcboardmember2@larimer.org, pcboardmember3@larimer.org, pcboardmember4@larimer.org, pcboardmember5@larimer.org, pcboardmember6@larimer.org, pcboardmember7@larimer.org, pcboardmember8@larimer.org, pcboardmember9@larimer.org

Dear Larimer County Commissioners and Members of the Planning Commission,

Based on Thornton's own admissions in today's (4/25/18) Rocky Mountain Collegian article, the grassroots No Pipe Dream organization, Save the Poudre and the citizens of Larimer County call on the Larimer County Planning Department to inform the City of Thornton that its 1041 application is premature and should be withdrawn, until all present and future impacts of the city's water transfers on land uses in Larimer County can be satisfactorily demonstrated.

As stated in the Collegian article, Thornton officials admit that multiple pipelines could be needed in Larimer County in the future. However, Thornton's current 1041 application is limited to a single pipeline. In today's article, the city also stated that it was currently uncertain as to when the Denver suburb will need to deliver more water from the Cache la Poudre River through areas of Larimer County. Both statements are at odds with Thornton's most recent contentions that a single 48" pipeline will be sufficient to meet the city's needs until 2065 and that the 3-phase project doesn't include additional raw water or return flow pipelines.

No Pipe Dream, Save the Poudre and the citizens of Larimer County publicly call for the City of Thornton to withdraw its 1041 pipeline application for Phase 1 of the Thornton Northern Project, until such time that Thornton adequately lays out the full scope of the 3-phase project, provides a timeline and project description for Phase 2 and Phase 3 and discloses all present and future impacts to land uses in Larimer County as is required by the Land Use Code.

If Thornton declines to withdraw its current, Phase 1 application, we ask the Larimer County Planning Department, in consultation with the Larimer County Commissioners, to once again cancel the upcoming hearings based on a 1041 application that is premature, piecemeal, incomplete and fails to comply with the requirements of the Land Use Code.

As residents of Larimer County, we believe it would be a dereliction of duty for the Larimer County Planning Commission and the County Commissioners to consider or approve the current 1041 application without full disclosure of all present and future land use impacts of Thornton's water transfers and the Northern Water Project. If Thornton cannot evaluate all present and future impacts at this time, the City should withdraw its application and reapply when all of those impacts can be substantiated.

We request a timely, public response to the above request from the hundreds of Larimer County residents represented by our two organizations.

Regards,

Karen Wagner (kaswagner@me.com)  
on behalf of the No Pipe Dream Steering Committee

Gary Wockner (gary.wockner@savethepoudre.com)  
on behalf of Save The Poudre



# *Keep the water in the Poudre!*

nopipedream.com

**STOP** Thornton's Pipe Dream

April 17, 2018

Larimer County Commissioners  
Steve Johnson, Lew Gaiter, III, Tom Donnelly  
200 West Oak, Suite 2200  
Fort Collins, CO 80521

Planning Commissioners  
Ray Caraway, Jean Christman, Mina Cox, Jeff Jensen, Curtis Miller, Nancy Wallace,  
Sean M. Dougherty, Gary Gerrard and Steven Lucas  
200 West Oak  
Fort Collins, CO 80521

Larimer County Planning Department  
Matt Lafferty, Principal Planner  
Rob Helmick, Senior Planner

Dear Commissioners and Planners:

We are writing with significant concerns and questions regarding the scope of the City of Thornton's current 1041 application for the Thornton Water Project ("Project") that will convey drinking water from the Cache La Poudre to the City of Thornton ("City") via pipeline(s) for municipal use and associated conveyances.

By means of background, in the Colorado Supreme Court decision of City of Thornton v. Bijou Irrigation Co., 926 P.2d 1, 21 (1996) the court describes the Thornton Water Project as a three phase project as follows:

Phase I. In the year 2000, construction will begin on a pumping station at WSSC Reservoir No. 4, a 48 inch pipeline to carry water 56 miles to Thornton, and numerous related facilities. Initially, the Northern Project will deliver a minimum of approximately 1800 acre-feet during the year 2002, and will increase deliveries in annual increments of 500 to 1,300 acre-feet, matching Thornton's increasing need for water. Phase I deliveries will level off at an average of approximately 33,200 acre-feet per year in 2028. Water delivered to Thornton in Phase I will be derived primarily from the gradual





retirement of approximately 14,500 irrigated acres served by WSSC and owned by Thornton and from new (1986) appropriations of water by Thornton from the Poudre. Phase II. In 2026, to meet Thornton system demands over and above those satisfied by Phase I, construction will begin on a parallel 48 inch pipeline to Thornton from WSSC Reservoir No. 4, together with a variety of other facilities, including return pipelines from the Poudre and South Platte Rivers to the Larimer County Canal near Elder Reservoir and south of Cobb Lake. Deliveries of water to Thornton through Phase II facilities will begin in the year 2029 and combined deliveries from Phase I and Phase II facilities will average approximately 56,900 acre-feet per year. Additional water delivered to Thornton in Phase II will be derived primarily from a "ditch exchange" under which Thornton will withdraw water from the WSSC system and, in exchange, return an equivalent amount of water from other sources owned by Thornton. The return water, or "substitute supply," will be pumped to the Larimer County Canal from various locations along the Poudre and South Platte Rivers. Phase III. In 2034 construction will begin on a parallel 72 inch return pipeline to deliver water back to the Larimer County Canal, thereby increasing the yield of the "ditch exchange" with the WSSC system. Additional deliveries from these Phase III facilities will begin in the year 2036 and will increase each year to help meet Thornton's increasing need. New water delivered during Phase III will be derived from the use of Thornton's WSSC shares for irrigation under the WSSC system to allow a ditch exchange on nearly the entire flow of the WSSC system. The yield of the project at full development, utilizing Phase I, II and III facilities, will average approximately 67,000 acre-feet per year. MOD at 3-4 (quoting Ex. A-649, at pp. xii-xiii, Project Completion Study Report, Draft Report, Addendum, prepared by Rocky Mountain Consultants, Inc.). Thornton estimated that full development of the Northern Project will cost approximately \$427,000,000 and will meet Thornton's system demand through the year 2031.

This Supreme Court decision was followed by a 2004 Water Court decision ("City of Thornton 04CW079) which described the three phase Project as follows:

"Thornton's Northern Project is designed to operate in three phases in addition to the exchanges described in Case No. 96CW1116. (i) Phase I of the TNP includes a pipeline extending from the WSSC system to Thornton...(ii) Phase II of the TNP will implement the Ditch Exchange (86CW402). Phase II includes the delivery of raw water to Thornton derived from Phase I operations and the Ditch Exchange. Phase II also includes facilities and operations to return a substitute supply to the WSSC system to complete the Ditch Exchange. (iii) Phase III involves an expanded ditch exchange in contrast to the partial ditch exchange in Phase II."

The 2004 Water Court decision also found that the various Project phases "comprise interrelated and incremental components of a single system...[that would be] built in stages."

Attached is a map, included as Exhibit 1 to the 2004 Water Court ruling, displaying the various Project pipelines, conveyances, and return flows. This map was also recently provided to No Pipe Dream by Thornton in response to our request for the most current delineation of



the Project. As shown on the map, all three phases and associated pipelines and conveyances will be located within Larimer County.

The Thornton Water Project requires a 1041 Permit from Larimer County ("County"). To date, it appears that Thornton has not submitted a 1041 application for all three phases of the Project and all associated pipelines and conveyances to be located in Larimer County. Instead, Thornton has only submitted a 1041 application for a single 48" pipeline, pump station, and related appurtenances. In light of the above-cited Supreme Court and Water Court decisions, we have the following significant concerns and questions regarding the scope of the Project and the current 1041 application:

- 1) Does the Thornton Water Project remain a three-phase project? If so, what are the three phases, what pipelines and/or conveyances are associated with each phase, and what is the schedule for the construction of each phase?
- 2) Is the 48" water pipeline that is the subject of Thornton's current 1041 permit the only raw water delivery pipeline associated with the project? Or will the Project involve a future parallel 48" water pipeline as described as Phase II in the 1996 Supreme Court decision?
- 3) If the Project still includes additional conveyances (pipelines, return flows, ditch exchanges, or otherwise) not included in the current 1041 application, what is the schedule for Thornton to apply for a 1041 permit with Larimer County for the remaining conveyances?
- 4) If Thornton does not plan to seek a 1041 permit from Larimer County for all conveyances and/or pipelines, please explain why the County is not requiring the City to submit a comprehensive 1041 permit application for all phases of the Project?
- 5) Which private properties within Larimer County will be impacted by the construction of each of the pipelines/water conveyances that are not currently included in Thornton's 1041 application?
- 6) If the County does not know which properties will be impacted by all phases of the Project, why is the County allowing the City to segment the Project by limiting its current 1041 application to a single 48" pipeline instead of requiring a single comprehensive 1041 application for all phases of the Project?

In light of the apparent deficiencies in Thornton's 1041 application, we are writing to request that Larimer County immediately inform Thornton that its 1041 application appears to be incomplete and will not be processed by the County until a comprehensive 1041 application is submitted showing all phases of the Project, all pipelines and conveyances to be located in Larimer County, and all lands and waters within Larimer County that will be impacted by each phase of the Project. As such, we also ask that the Planning Commission and County Commissioner hearings currently scheduled for May 16, 2018 and July 9, 2018 be vacated. Finally, we request that the County provide a written response, by April 25, 2018, to each question contained in this letter and state whether the County will agree to both reject the current 1041 application as incomplete and vacate the currently scheduled hearings.



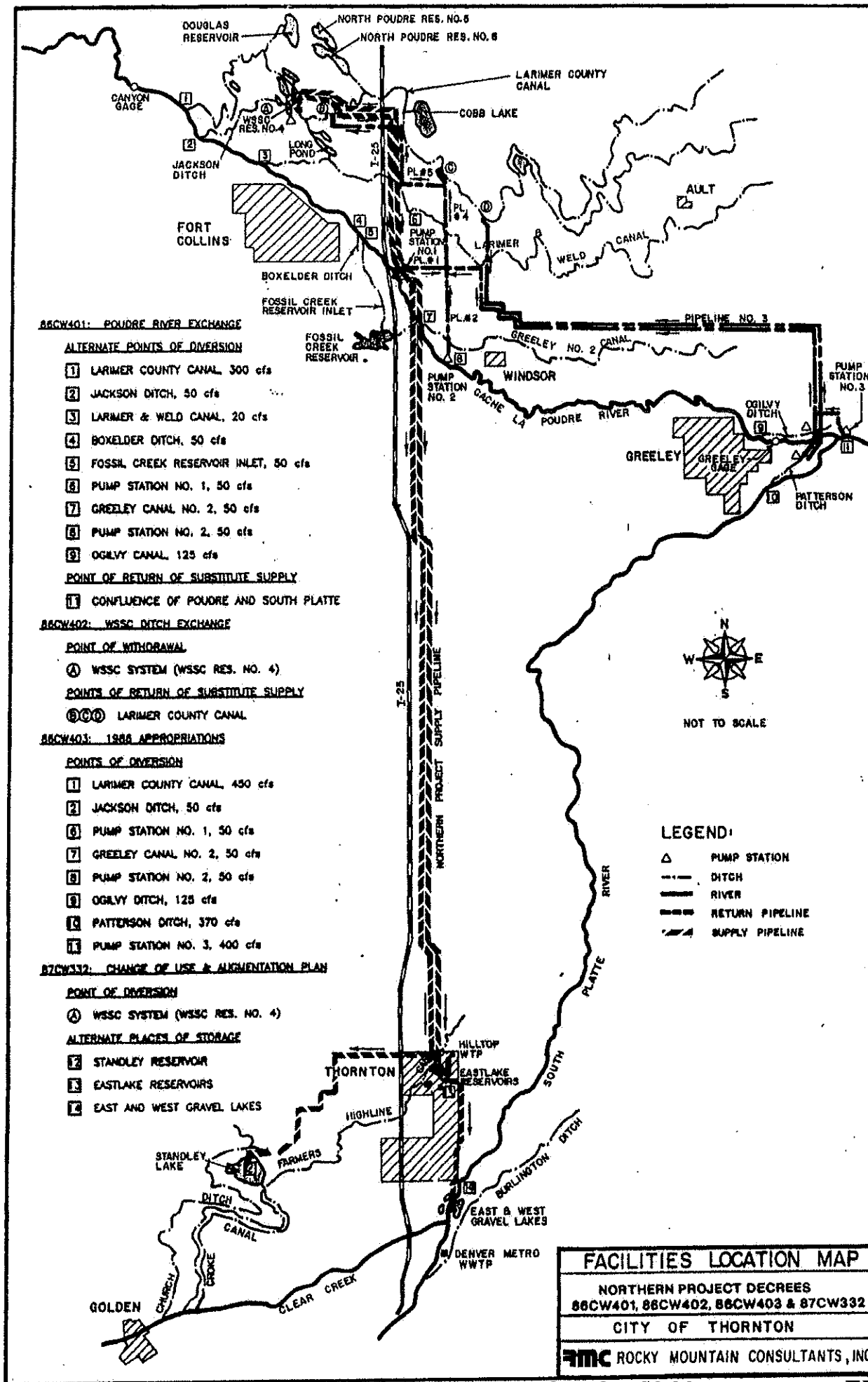
Thank you,

No Pipe Dream Steering Committee Members:

Lynn Utzman-Nichols	505 Canadian Pkwy, Fort Collins, CO 80524
Karen Wagner	1717 Linden Lake Road, Fort Collins, CO 80524
Charmaine Stavedahl	3607 Woodridge Road, Fort Collins, CO 80524
Robert P. Kitchell	412 Terry Point Drive, Fort Collins, CO 80524
R. Warren Lemerich	3709 Starlite Drive, Fort Collins, CO 80524
Betsy Cox	504 Canadian Pkwy, Fort Collins, CO 80524
Loretta Keeton	1000 E. Douglas Road, Fort Collins, CO 80524
Susan Marshall	3221 Cinnamon Court, Fort Collins, CO 80524
Yvonne Wittreich	1001 E. Douglas Road, Fort Collins, CO 80524
Ed Vojensky	3352 Harbor Way, Fort Collins, CO 80524
Martha Conant	508 Canadian Pkwy, Fort Collins, CO 80524
Gloria Edwards	3612 Kenyon Dr. Ft. Collins 80524

Please respond to Lynn at [lynn.healthwrite@gmail.com](mailto:lynn.healthwrite@gmail.com)





**86CW401: POUDRE RIVER EXCHANGE**

**ALTERNATE POINTS OF DIVERSION**

- 1 LARIMER COUNTY CANAL, 300 cfs
- 2 JACKSON DITCH, 50 cfs
- 3 LARIMER & WELD CANAL, 20 cfs
- 4 BOXELDER DITCH, 50 cfs
- 5 FOSSIL CREEK RESERVOIR INLET, 50 cfs
- 6 PUMP STATION NO. 1, 50 cfs
- 7 GREELEY CANAL NO. 2, 50 cfs
- 8 PUMP STATION NO. 2, 50 cfs
- 9 OGILVY CANAL, 125 cfs

**POINT OF RETURN OF SUBSTITUTE SUPPLY**

- 11 CONFLUENCE OF POUDRE AND SOUTH PLATTE

**86CW402: WSSC DITCH EXCHANGE**

**POINT OF WITHDRAWAL**

- 4 WSSC SYSTEM (WSSC RES. NO. 4)

**POINTS OF RETURN OF SUBSTITUTE SUPPLY**

- 6, 7, 8 LARIMER COUNTY CANAL

**86CW403: 1988 APPROPRIATIONS**

**POINTS OF DIVERSION**

- 1 LARIMER COUNTY CANAL, 450 cfs
- 2 JACKSON DITCH, 50 cfs
- 6 PUMP STATION NO. 1, 50 cfs
- 7 GREELEY CANAL NO. 2, 50 cfs
- 8 PUMP STATION NO. 2, 50 cfs
- 9 OGILVY DITCH, 125 cfs
- 10 PATTERSON DITCH, 370 cfs
- 11 PUMP STATION NO. 3, 400 cfs

**87CW332: CHANGE OF USE & AUGMENTATION PLAN**

**POINT OF DIVERSION**

- 4 WSSC SYSTEM (WSSC RES. NO. 4)

**ALTERNATE PLACES OF STORAGE**

- 2 STANDLEY RESERVOIR
- 3 EASTLAKE RESERVOIRS
- 4 EAST AND WEST GRAVEL LAKES

<b>FACILITIES LOCATION MAP</b>
NORTHERN PROJECT DECREES 86CW401, 86CW402, 86CW403 & 87CW332
CITY OF THORNTON
<b>RMC</b> ROCKY MOUNTAIN CONSULTANTS, INC.