



MEMORANDUM

To: Mr. Rob Helmick: Larimer County Development Planning
From: Carl Brouwer, Stephanie Cecil, Christie Coleman: Northern Water
Date: February 3, 2020
Subject: Northern Integrated Supply Project (NISP)
Research on 1041 Regulation Applicability to U.S. Highway 287

In this permit application, U.S. Highway 287 relocation is not included. The County regulations and applicable law do not provide for a 1041 Permit for U.S. Highway 287 relocation. An explanation is provided in the paragraphs below.

The County land use code regulates the construction of Glade Reservoir *and all appurtenant uses*, including appurtenant roads, however U.S. Highway 287 is not an appurtenant use of Glade Reservoir. The County's land use code does not define "appurtenant" or "appurtenant road," but "appurtenant" means "annexed to a more important thing" and an "appurtenance" is "something that belongs or is attached to something else." *See Black's Law Dictionary*. A use is the privilege or benefit of using something. *See Use, Webster's Online Dictionary*. Together, appurtenant and use refer to the secondary or tertiary benefits derived from the construction of Glade Reservoir. Appurtenant roads at Glade Reservoir will be the roads subordinated to and used for the benefit of Glade Reservoir and recreation at the reservoir. The relocation of U.S. Highway 287 is a one-time consequence of the reservoir's construction, not an ongoing benefit provided by it. Glade Reservoir will not be "used" to relocate U.S. Highway 287 - rather the highway is an impediment to Glade's development and must be realigned.

Further, U.S. Highway 287 is defined in the county land use code as a part of the regional road system. *See § 0.1.1, Larimer County Land Use Code*. The "regional road system" is all the roadways identified by participating local governments as "major inter-urban travel corridors or as major corridors that connect urban areas to the interstate highway system." This segment of U.S. Highway 287 is a U.S. Highway, has been in existence since 1935, is maintained by the Colorado Department of Transportation, and serves as a major north-south thoroughfare between Denver and Wyoming. Larimer County in its designation of areas and activities of state interest declined to regulate state highways.