The background is a light blue gradient with several realistic water droplets of various sizes scattered across the surface. The droplets have highlights and shadows, giving them a three-dimensional appearance.

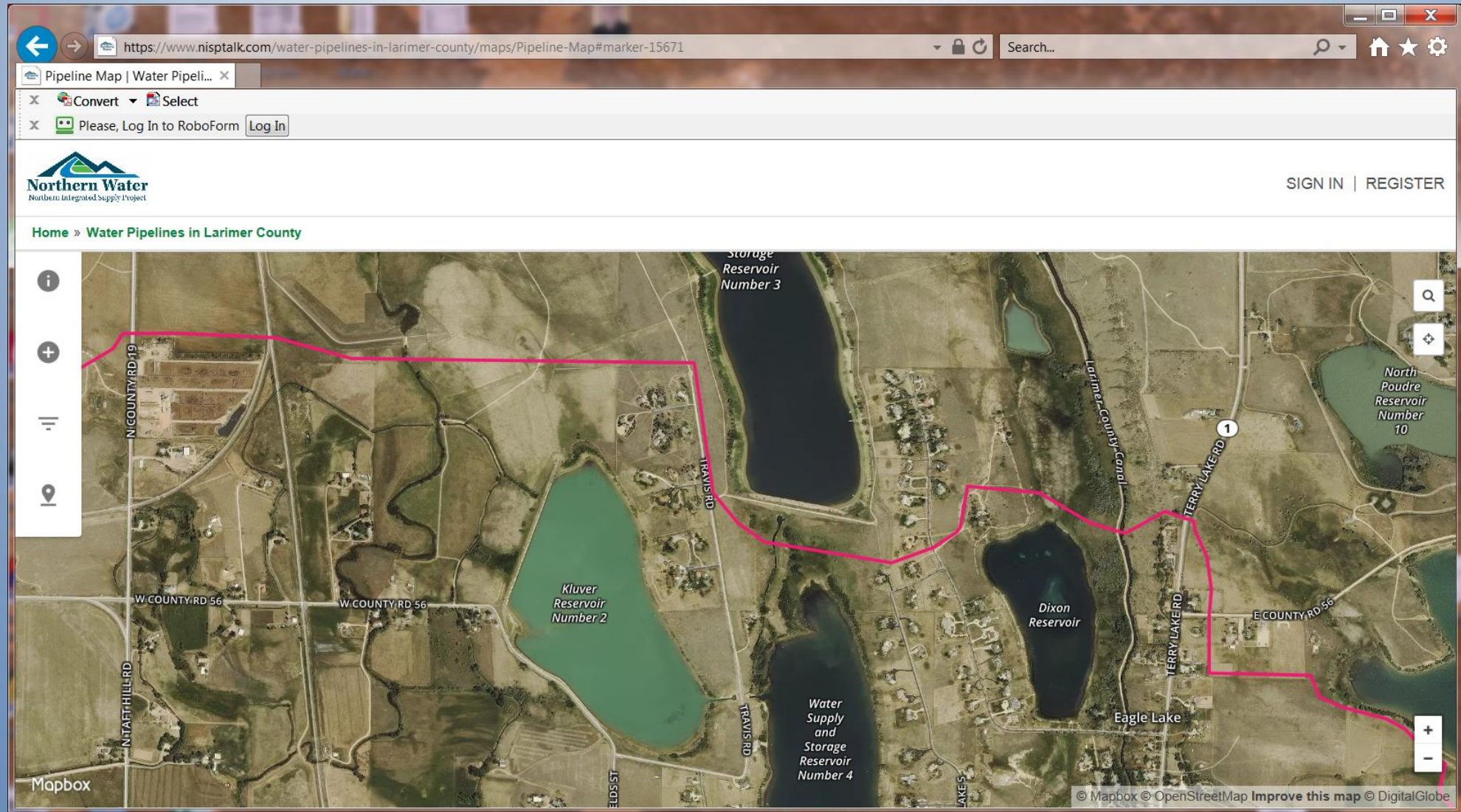
# **EQUAL APPLICATION OF PRINCIPLES OR A DOUBLE STANDARD**

PRESENTED TO THE LARIMER COUNTY PLANNING COMMISSION

JULY 8, 2020

BY THE EAGLE LAKE ASSOCIATION

# NISP Preferred Route Through Eagle Lake Neighborhood - No Public Right of Way - Just Eminent Domain





# 1041 BOCC FINDINGS AND RESOLUTION

## 3/25/19

- Iv. Standards of review and findings, 1.I

“The Master Plan identifies as one of it’s missions: ‘Larimer County is developing the partnership land use system to maintain and enhance our county’s quality of life and to be fundamentally fair to all our citizens and to respect their individual rights. The Master Plan has many themes and principles implicated by Thornton’s (*and NISP’s – my addition*) application, including:

C. Logical settlement patterns that reflect the existing character of Larimer County and **protect existing neighborhoods will be supported;**

D. The planning and development review process shall be fair, open and **predictable**, and meet the needs and interest of the community **without infringing on the rights of individuals.’**

“ Northern water leaders hope a "no surprises" approach can shake the shroud of distrust left behind by the contentious Thornton pipeline public review process, Brouwer said. They plan to talk to every resident in the pipeline path and "demystify the process" before county commissioners review the route. Their proposal will also include detailed plans for reducing impacts to wildlife and reclaiming the land disturbed by the pipeline. ”

Brouwer admitted construction can be “annoying” for residents in the pipeline’s path. But he said individual property owners will only see active construction near their homes for one or two months because of the “train of activity” that moves a few hundred feet a day.

Carl Brouwer, Project Manager, NISP

Comments in an interview with the Fort Collins Coloradoan

March 21, 2019

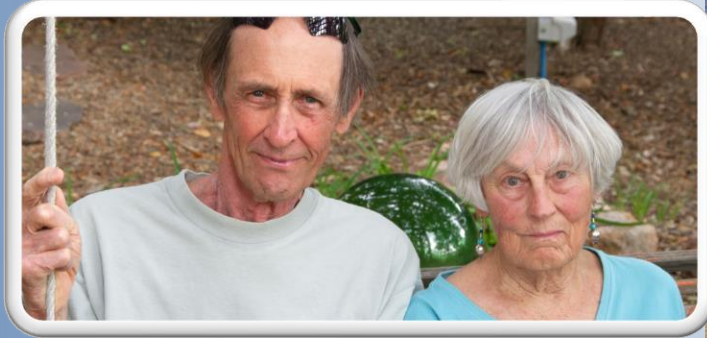
# FACT CHECKING “DEMYSTIFYING THE PROCESS”

## PEOPLE WHO SHOULD HAVE BEEN CONTACTED

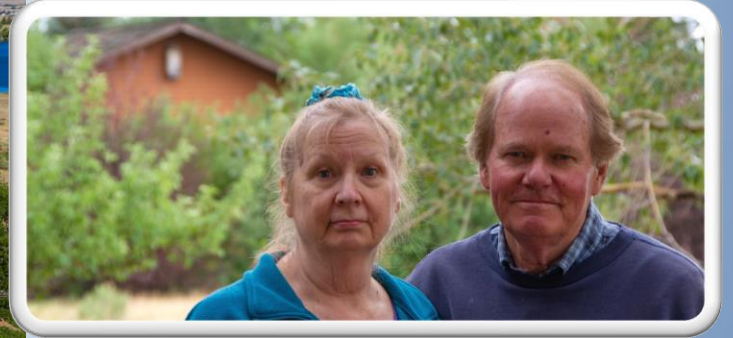
- The two homeowners in Eagle Lake whose property will be crossed: **Never.**
- The developer of the newly annexed parcels to Eagle Lake (Corey Tips) to cross his property and use his gravel road turnaround for construction staging: **Not in ‘years’.**
- The 4 homeowners in Eagle Lake whose properties are in close proximity and overlook the proposed pipeline construction and turnaround: **Never.**
- The 3 property owners of the dirt road next to the Larimer Canal (Hood Lane) for permission to use it as a hauling route for hauling materials and construction vehicle traffic: **Never.**
- The owner of the open land NISP proposes to cross north of Eagle Lake through wetlands there (Charlie Meserlian): **Not in ‘years’.**
- The Eagle Lake Homeowner’s Association about the proposed usage of the Association’s private roads for construction vehicle access throughout the “Construction Approach”: **Never.**
- The 29 homeowners on Eagle Lake Drive or private roads who will be impacted by the proposed construction vehicle traffic in front of their homes: **Never.**



# A GROSS INFRINGEMENT OF A RIGHT TO PEACEFUL EXISTENCE AND QUIET ENJOYMENT OF THEIR PRIVATE PROPERTY



JOHN AND BONNIE HELGESON



SERENA AND TERRY BIERITZ









# DITCH ROAD DISASTER

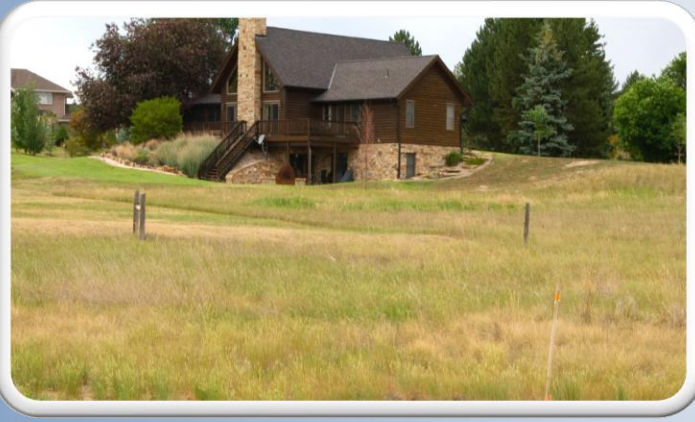


Does this look safe and passable for months by trucks and construction equipment?





# RESIDENCES BACKING TO TRUCK TURNAROUND



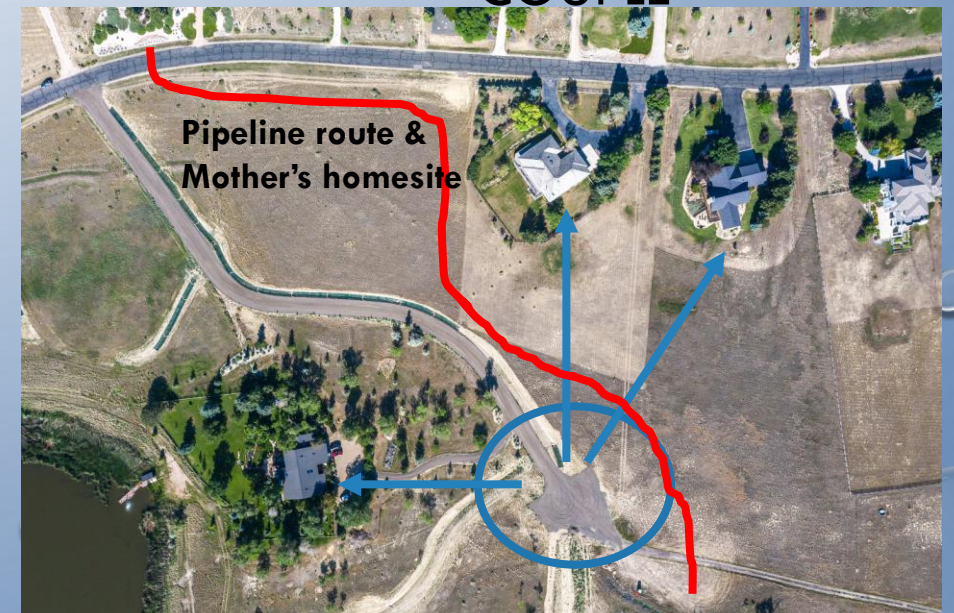
CHERYL LYNN AND KEN  
HERNANDEZ –  
RETIRED COUPLE



JEAN AND TOM GROVE –  
RETIRED COUPLE



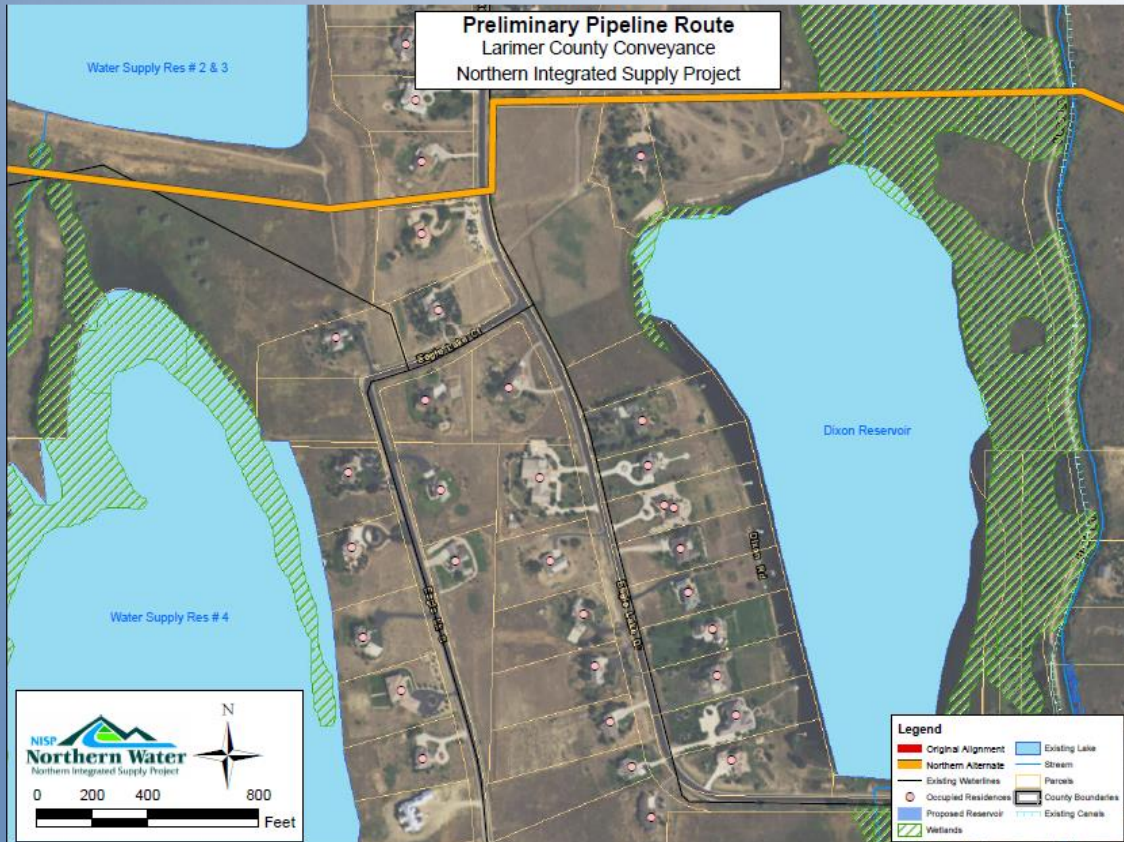
LESLIE VOGT AND GREG  
BELCHER – RETIRED  
COUPLE



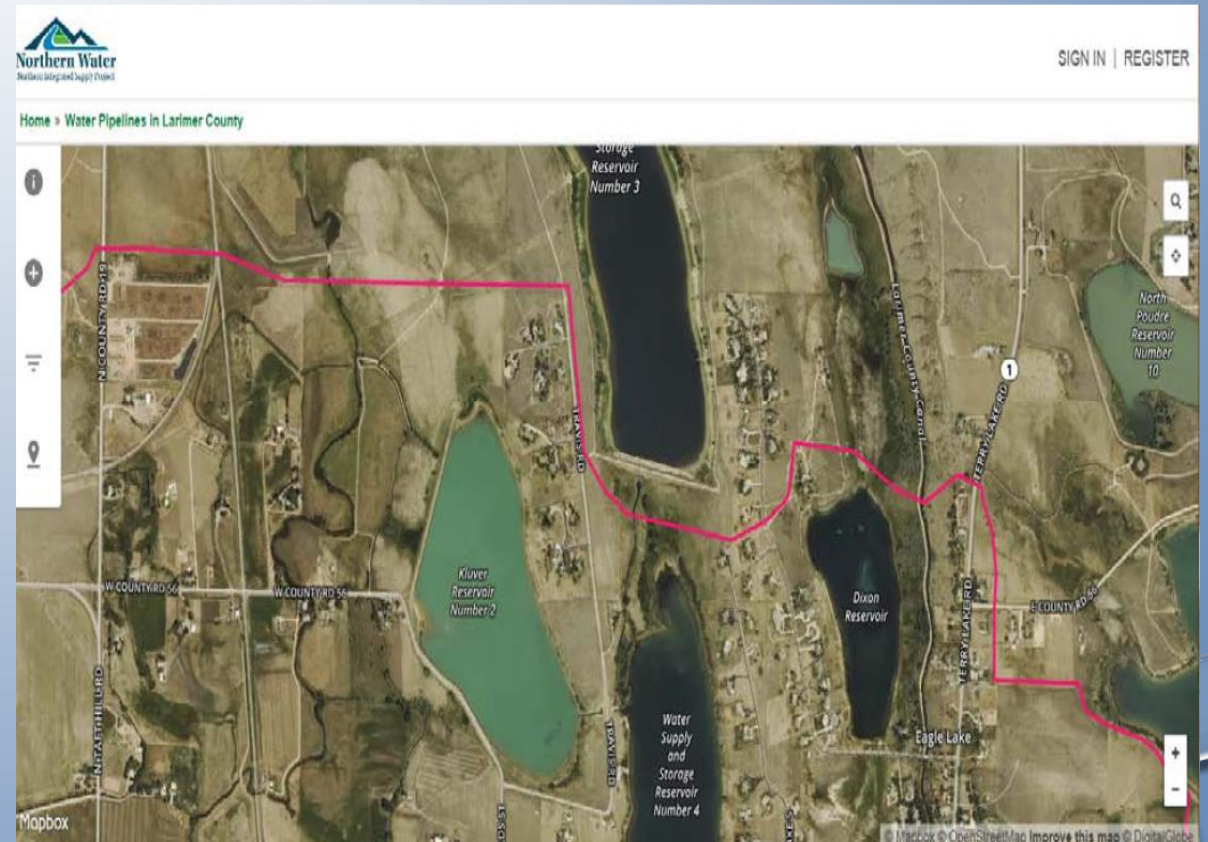


# ROUTING ALTERNATIVES BEFORE THERE WERE ROUTING ALTERNATIVES

Map from 2017 Meeting



Map from 2019 Website Screenshot





# ROUTING ALTERNATIVES NOW THAT THERE ARE ROUTING ALTERNATIVES

Map From NISP Northern Tier Preferred Route 2.1



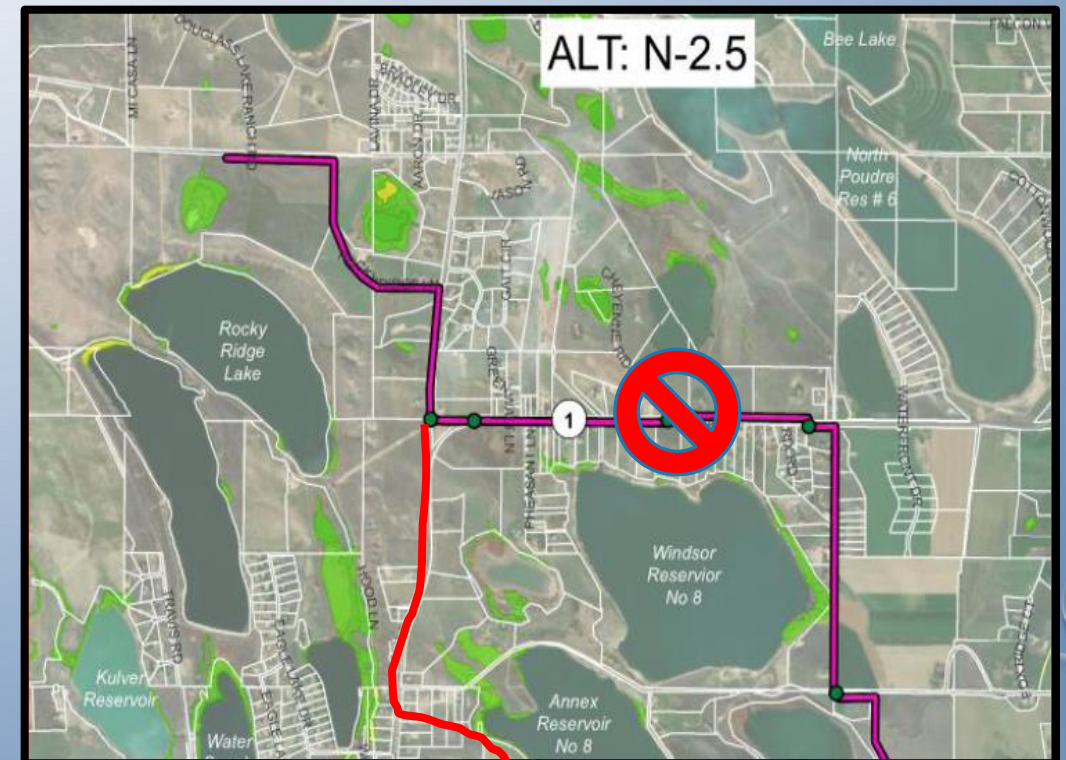


# NORTHERN ROUTE HUMAN MITIGATION OPTION ONE

Map From NISP Northern Tier  
Preferred Route 1.1 Modified



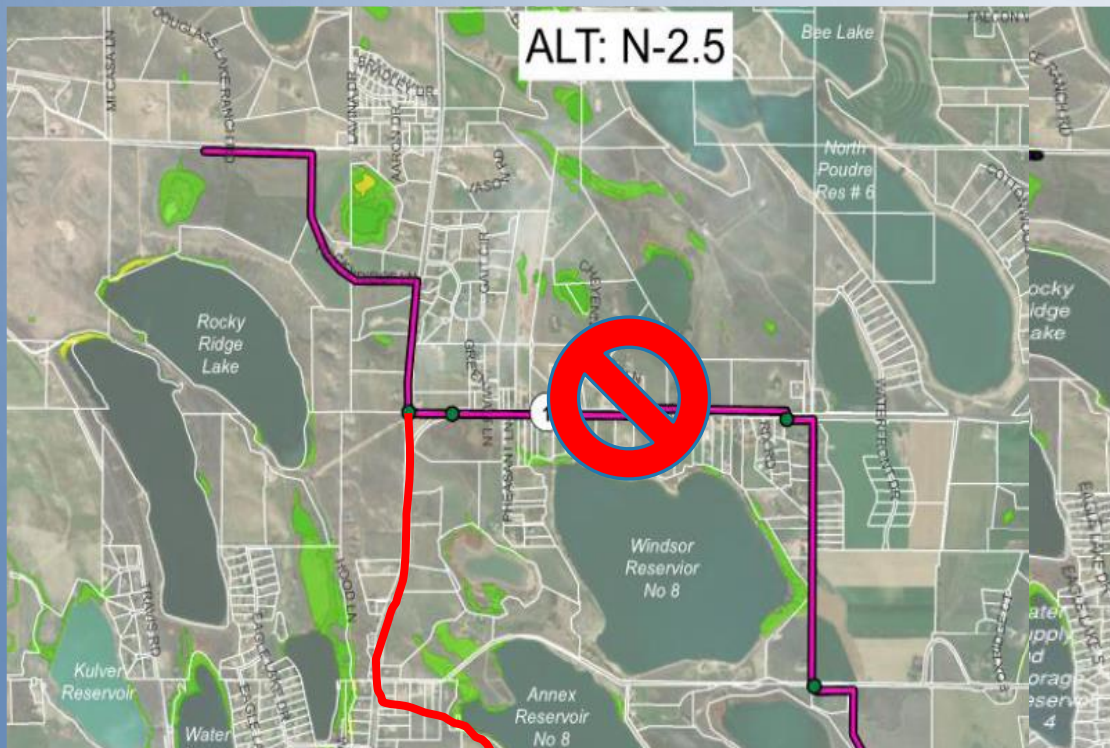
Combine with NISP Northern Tier  
Route 2.5 and Preferred Route 2.1





# NORTHERN ROUTE HUMAN MITIGATION OPTION ONE

Map From NISP Northern Tier  
Route 2.5 Modified



Combine with NISP Northern Tier  
Route 2.5 and Preferred Route 2.1





# NORTHERN ROUTE HUMAN MITIGATION OPTION TWO – LAKE TAP

From Larimer County's "Answer Brief 106 and Response to Rule 57 Motion"

6/1/20, pg. 26

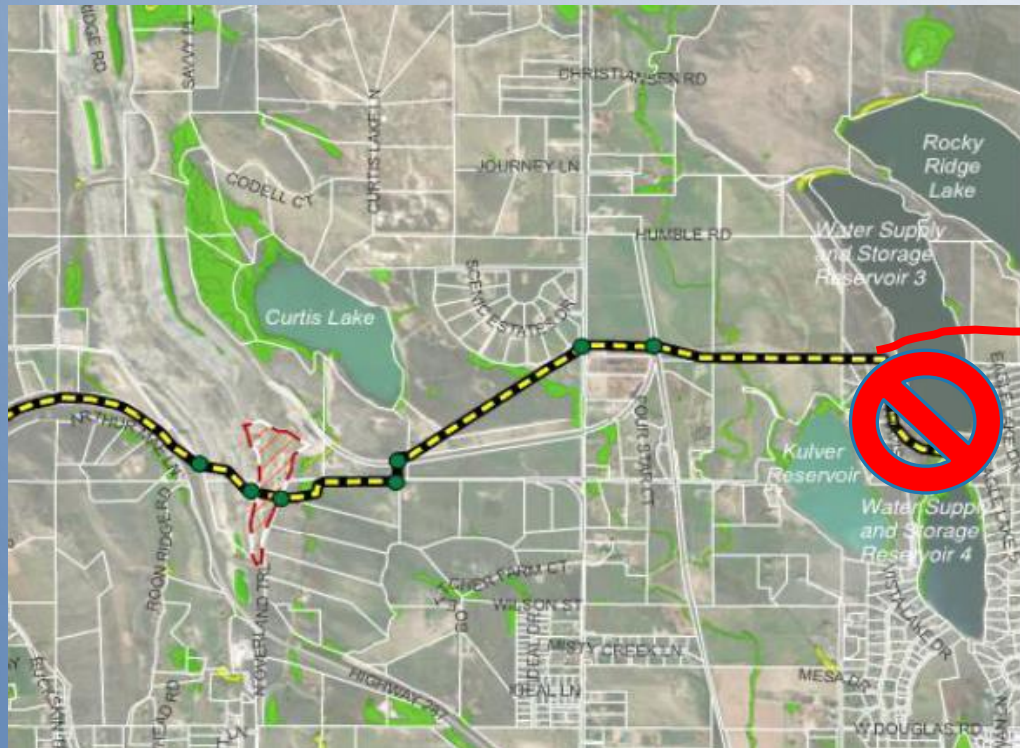
"Robin Dornfest, an engineer with over 18 years of experience ...with a focus on pipeline infrastructure, was hired by the County to evaluate the use of a lake tap as possible alternative to installing the pipe around the perimeter of the reservoirs...Reasons to consider a tunnel/lake tap rather than digging a trench, per Mr. Dornfest, are to minimize impacts to third parties and avoid impacts to infrastructure and environmentally sensitive areas.

The Board found the potential use of lake taps may mitigate significant impacts on established neighborhoods around reservoirs, such as the Braidwood and Eagle Lake neighborhoods. ...The Board agrees that more information about the reasonableness and viability of lake taps is needed."



# NORTHERN ROUTE HUMAN MITIGATION OPTION TWO – LAKE TAP

Map From NISP Preferred Northern  
Tier Route 1.1 Modified



Combine with NISP Preferred  
Northern Tier Route 2.1 modified





**“TONIGHT YOU SAID THE COST WOULD BE HIGHER. .  
THAT’S NOT IN MY CRITERIA.”**

Larimer County Commissioner Steve Johnson.

In response to the City of Thornton regarding higher costs associated to alternate routing,  
Larimer County Land Use Public Hearing August 1, 2018

Cost of Preferred Route

N 1.1 = \$18.7M

N 2.1 = \$13.5M

Estimated Cost of Option 1

Revised N1.1 = \$20.2M ?

Revised N2.1 = \$15.5M ?

**Difference = ~\$3.5M ?**

**“If the County forces us to go down Douglas Road with Thornton, we’ll do it. It will cost us more – in the neighborhood of a few million – but in a project of this size that’s approaching a billion dollars, that’s not significant.”**

Carl Brouwer – paraphrased from a meeting between Carl, Stephanie Cecil, Mark Heiden, President of Eagle Lake HOA and Jim Rios, Eagle Lake HOA Board member. December 1, 2017

**Difference in cost from Preferred Route N 2.1 (\$13.5M) and Route N 2.4 (Douglas Road - \$16.5M) = \$3 Million**



# COST OF HUMAN MITIGATION

## **Already committed by NISP to project:**

Wildlife and fish mitigation and enhancement projects - **\$53M**

Recreation facility at glade reservoir - **\$21.8m**

Recreation funding - **\$16M**

Relocation of highway 287 - **\$100+ M?**

Land purchase on west side of Glade Reservoir – 20M?

**MITIGATION AND ENHANCEMENT MEASURES FOR PROJECT IMPACTS FOR HUMANS IN THE  
PATH OF THE PIPELINE - \$3M**



# THE GORILLA IN THE ROOM: THORNTON AND CO-LOCATION

**“We do not view the Thornton and NISP pipeline projects as mutually exclusive. They both want the same routing through the area between Douglas road and the north end of the Eagle Lake subdivision. The conveyance path for both pipelines should be the same so as not to put all of us through this process within a couple of years of each other or the construction of two pipelines within a couple of years of each other.”**

**Mark Heiden, Eagle Lake Association President, in a written response to an inquiry during the Larimer Water Board process, October 2018**

**“Thornton deprives the board and public of the opportunity to consider cumulative impacts and the effectiveness of mitigation. A route that may be appropriate for a single pipeline may be inappropriate for additional pipelines. If this information is not considered now, future pipelines may not be able to co-locate which would result in the disorderly development of Thornton’s project and compound the impacts on Larimer County through multiple different pipelines in separate locations.”**

**Larimer County Findings and Resolution, Thornton Water Project 1041 Permit Denial, Page 10,  
3/25/19**



# PLANNING MALPRACTICE?

**“The purpose of this letter is to clarify the commitment and support by the Northern Integrated Supply Project (NISP) to work with the City of Thornton to co-locate conveyance pipelines on the respective projects from the vicinity of Water Supply and Storage Company Reservoir number 3 along Larimer County Road 56 to approximately the Turnberry intersection...**

**...By working cooperatively with the City of Thornton, NISP supports minimizing impact to citizens of Larimer County by co-locating the pipelines adjacent and/or overlapping easements in the corridor shown in the attached Exhibit A...”**

**Letter from Brad Wind, General Manager, NISP to Rob Helmick, Larimer County Planning,  
December 17, 2019**

**“As long as it doesn’t reopen our entire permit (with Larimer County) if Thornton comes back and we are told by the County, OK, you have a permit, that we want you to look at this in concert with them, I would say I would not be opposed to that. As long as it does not reopen permits, our County permits, I guess there would be an amendment to our County permit.”**

**Carl Bouwer, NISP Project Manager, in a meeting between Carl, Stephanie Cecil, NISP Project Engineer, and Mark Heiden, President, Eagle Lake Association, October 14, 2019.**



# PLANNING MALPRACTICE?

## From Wikipedia on Planning

“Planning predicts what the future should look like for multiple scenarios. Planning combines forecasting with preparation of scenarios and how to react to them. Planning is one of the most important project management and time management techniques. Planning is preparing a sequence of action steps to achieve some specific goal.”

## Recommended Conditions – Pipeline Coordination – From Developmental Services Team, Board of County Commissioners Land Use Meeting, February 11, 2019

11. If the County grants approval of both the Northern Pipeline project and approval of the Thornton Pipeline Project 1041 application, the following conditions apply;

a. Individual pipeline alignments within unincorporated Larimer County shall be coordinated between Northern Water and the City of Thornton to arrive at a final pipeline alignment with a maximum center pipeline separation of 25 feet within locations where the two pipelines are parallel...

b. Construction of the Northern Water and Thornton pipeline segments shall be constructed concurrently at the following locations: 1) starting where the alignments intersect south of Reservoir #3 continuing along the alignment to north of the Eagle Lake Subdivision, and 2) from southwest of North Poudre Reservoir #10 to CR 13.



# PLAN. WORK TOGETHER. REDUCE IMPACT. SOLVE PROBLEMS.

## Space Availability for Other Pipeline in Preferred Corridor.

NISP WAE has not identified a need for an additional pipe in this corridor for its conveyance needs. Should another entity petition the County for a permit to construct a pipeline in parallel to NISP WAE's pipeline, adequate space exists to accommodate that pipeline. NISP WAE will acquire 40 feet of permanent easement plus an additional 60 feet of temporary easement for this project. If another pipeline were to be approved by the County, its permanent easement could abut NISP WAE's easement and they could use NISP WAE's permanent easement as their temporary easement.

From Dewberry HDR Engineering (NISP) to Larimer County Planning Department, June 12, 2020



## SECTION A.2 OF THE LAND USE CODE SAYS THE CODE IS INTENDED TO:

“A. Provide for the physical development of the county in order to:

1. Preserve the character and quality of rural and urban areas;
2. Foster convenient, harmonious and workable relationships among land uses; and
3. Achieve the principles and strategies described in the Master Plan.”

**The Colorado Supreme Court** noted that the purpose of the 1041 statute is to allow state and local governments to “supervise land use which may have an impact on the people of this state beyond the immediate scope of the project.”

Colorado Land Use Commission v. Board of County Comm’rs of Larimer County, 604 P.2d 32, 34 (Colo. 1979).

# PRINCIPLES OR DOUBLE STANDARD?

**“If this information is not considered now, future pipelines may not be able to co-locate which would result in the disorderly development of Thornton’s (and NISP’s – my addition) project and compound the impacts on Larimer County (and Eagle Lake- my addition) through multiple different pipelines in separate locations.”**

**Larimer County Findings and Resolution, Thornton Water Project 1041 Permit Denial, Page 10, 3/25/19**



# DOCUMENT APPENDIX

- PLANNING COMMISSION SPEECH TRANSCRIPT
- OBJECTION LETTER TO ROB HELMICK FROM MARK HEIDEN, EAGLE LAKE ASSOCIATION PRESIDENT
- LETTER FROM BRAD WIND (NISP) TO ROB HELMICK, LARIMER COUNTY PLANNING
- ENGINEERING STUDY, TURNING RADIUS ONTO HOOD LANE