

RESOLUTION 2020-075
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ENDORING CITY STAFF'S MAY 13, 2020 WRITTEN COMMENTS REGARDING THE
APPLICATION OF THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT
TO LARIMER COUNTY UNDER CHAPTER 14 OF THE LARIMER COUNTY LAND USE
CODE FOR A "1041" PERMIT FOR THE NORTHERN INTEGRATED SUPPLY PROJECT

WHEREAS, the Northern Colorado Water Conservancy District ("Northern Water") is pursuing the Northern Integrated Supply Project ("NISP"), a water storage and supply project that would divert significant amounts of water from the Cache la Poudre River upstream of Fort Collins; and

WHEREAS, NISP would require the construction and operation of various infrastructure in Larimer County, including infrastructure in the Fort Collins Grown Management Area and Fort Collins municipal boundaries; and

WHEREAS, the planned NISP infrastructure currently includes a water diversion structure in the Cache la Poudre River on the City's Homestead Natural Area, as well as pipelines in and along other City-owned natural areas, including Kingfisher Point Natural Area, Riverbend Ponds Natural Area, and Williams Natural Area; and

WHEREAS, Northern Water filed an application with Larimer County under Chapter 14 of the Larimer County Land Use Code seeking a "1041" permit ("1041 Application"), which Larimer County deemed complete on March 18, 2020; and

WHEREAS, Larimer County subsequently contacted the City as a referral agency, seeking the City's comments on the 1041 Application; and

WHEREAS, City staff from various service areas of the City collaborated under short deadlines to prepare detailed written comments on the 1041 Application, which were dated May 13, 2020, a copy of which are attached as Exhibit "A" ("City Staff 1041 Comments"); and

WHEREAS, NISP also has been involved in other permitting processes that have resulted in previous actions by City Council, including in Resolution 2008-082, Resolution 2015-082, Resolution 2017-024, Resolution 2017-073, Resolution 2018-053, and Resolution 2018-093; and

WHEREAS, pursuant to Resolution 2008-082, the City timely submitted comments to the draft environmental impact statement ("DEIS"), which Resolution states, among other things, that "the City Council opposes NISP as it is described and proposed in the DEIS and also opposes any variant of NISP that does not address the City's fundamental concerns about the quality of its water supply and the effects on the Cache la Poudre River through the City, which are critical to the City's quality of life, health, and economic development and environment"; and

WHEREAS, pursuant to Resolution 2015-082, the City timely submitted comments to the supplemental draft environmental impact statement ("SDEIS"), which Resolution states, among other things, that "the City Council cannot support NISP as it is currently described and proposed

in the SDEIS, with the understanding that City Council may reach a different conclusion with respect to a future variant of NISP, such as the proposed Modified Alternative Number 4 as described in the City's comments, if such variant addresses the City's fundamental concerns expressed in the City's comments to the DEIS and comments to the SDEIS"; and

WHEREAS, pursuant to Resolution 2017-073, the City submitted comments and provided testimony in a State process under Section 37-60-122.2 of the Colorado Revised Statutes, by which Northern Water sought and subsequently received State approval of a plan to mitigate NISP's impacts on fish and wildlife resources ("State Fish and Wildlife Mitigation and Enhancement Plan"); and

WHEREAS, pursuant to Resolution 2018-093 the City timely submitted comments to the final environmental impact statement ("FEIS"), which Resolution states, among other things, that "the City Council cannot support NISP as it is currently described and proposed in the FEIS, with the understanding that the City Council may reach a different conclusion with respect to a future variant of NISP and its mitigation plan, if such variant and associated mitigation address the City's fundamental concerns, including but not limited to those expressed in the City's comments to the DEIS, SDEIS, State Fish and Wildlife Mitigation and Enhancement Plan, and FEIS through improved mitigation or other means"; and

WHEREAS, the City Council wishes to express its support for other communities, including participants in NISP, in their quest to acquire reliable water supplies without significantly adversely affecting other communities and the environment; and

WHEREAS, as set forth in the City Staff 1041 Comments, NISP continues to raise various concerns for the City, including regarding impacts to City-owned natural areas; and

WHEREAS, City staff has concluded that NISP will be harmful to Fort Collins and to the City, based on a thorough review of the 1041 Application as well as the impacts that staff expects from the project; and

WHEREAS, in view of the significance of the impacts that NISP would have on the City and the Fort Collins community, it is in the City's best interest to comment on the 1041 Application, to continue to participate in these proceedings, and to monitor the responses to the comments of the City and others.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council opposes NISP as it is currently described and proposed in the FEIS and 1041 Application, and further opposes those aspects of NISP that include the use of City-owned natural areas for NISP infrastructure, due to the City's fundamental concerns, including but not limited to those expressed in the City's comments to the DEIS, SDEIS, State Fish and Wildlife Mitigation and Enhancement Plan, FEIS, and 1041 Application.

Section 2. That the City Council hereby endorses the City Staff 1041 Comments and requests that the Larimer County Board of County Commissioners consider and meaningfully respond to the City Staff 1041 Comments.

Section 3. That the City Council hereby directs the City Manager or his designees to:

- a. Provide a copy of this Resolution to the County for consideration as part of the County's 1041 process;
- b. orally present a summary of this Resolution and the City Staff 1041 Comments to the Larimer County Board of County Commissioners at a public hearing on the 1041 Application; and
- c. continue diligent efforts to negotiate and work with Northern Water to address the City's concerns regarding NISP and its impacts, including potential impacts to City-owned natural areas and development of a sustainable, long-term approach to avoidance, minimization, management and mitigation of impacts.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 4th day of August, A.D. 2020.


Mayor

ATTEST:


City Clerk



**Utilities**

electric · stormwater · wastewater · water
 700 Wood Street
 PO Box 580
 Fort Collins, CO 80522

970.221.6700

utilities@fcgov.com
fcgov.com/utilities

M E M O R A N D U M

DATE: May 13, 2020

TO: Mayor and City Councilmembers

THRU: Darin Atteberry, City Manager
 Jeff Mihelich, Deputy City Manager
 Kevin R. Gertig, Utilities Executive Director

FROM: Carol Webb, Deputy Utilities Director

RE: Staff Comments on Northern Integrated Supply Project (“NISP”) 1041 Referral

Bottom Line

City staff has evaluated the Northern Colorado Water Conservancy District (“Northern Water”) Larimer County “1041” application and provided comment as a referral agency (see attachment). Comments have been primarily based upon the design and location of the NISP Poudre River intake structure and pipeline located within the Fort Collins Growth Management Area (“GMA”) and its compliance with the City Code and Land Use Code.

Overall, staff’s technical comments on the 1041 application describe concerns about the methodology employed in the pipeline siting alternatives analysis and potential pipeline impacts to natural habitat and features within the Poudre River corridor.

In addition to City Council, City staff has provided a copy of the technical comments to the Land Conservation and Stewardship Board, the Natural Resources Advisory Board, the Water Board, and City Council prior to the comments being submitted to Larimer County.

Larimer County’s NISP “1041” Process

NISP requires a “1041” permit from Larimer County under its Land Use Code.¹ Larimer County’s 1041 permit process is designed to ensure compliance with local master plans and environmental, public health, and safety standards while balancing costs and mitigation measures for development and activities of statewide interest as defined by Colorado statutes.

Larimer County has identified the City as a referral agency for the NISP 1041 permit and is requesting comments on the NISP 1041 permit application. Like other 1041 permit referrals received from Larimer County, the scope of the City’s review and comments is limited to the

development, construction, and impacts within the GMA. Specifically, the scope of the City's review includes;

- installation of a new diversion structure on the Cache la Poudre River just upstream of Mulberry Street;
- temporary impacts from the installation of underground pipelines across private property and several City-owned natural areas;
- installation of above ground infrastructure near the intersection of Lemay Avenue and Mulberry Street; and
- associated impacts to traffic, utilities, engineering, and stormwater.

While the scope of Larimer County's 1041 review also includes recreation on Glade Reservoir and a northern pipeline route and realignment of seven miles of Highway 287, these impacts fall outside of the GMA and is not within the scope of City staff's analysis.

The 1041 review process will eventually include public hearings before the Larimer County Planning Commission and the Larimer County Board of County Commissioners.

Comments from the City (in addition to the technical comments provided by City staff) may also be provided at the upcoming public hearings including at the tentatively scheduled July 8 Larimer County Planning Commission meetings and the August 17 meeting of the Larimer County Board of County Commissioners.

pc: Cameron Gloss, Manager, City Planning
Ryan Mounce, City Planner
John Stokes, Deputy Director, Community Services
Jennifer Shanahan, Sr. Specialist, Sciences
Eric Potyondy, Assistant City Attorney
Brad Yatabe, Assistant City Attorney