

RESOLUTION 2018-053
OF THE COUNCIL OF THE CITY OF FORT COLLINS
DIRECTING THE CITY MANAGER OR HIS DESIGNEES TO MEET
WITH THE NORTHERN COLORADO WATER CONSERVANCY
DISTRICT TO NEGOTIATE A POTENTIAL AGREEMENT REGARDING
THE NORTHERN INTEGRATED SUPPLY PROJECT

WHEREAS, since at least 2001, the Northern Colorado Water Conservancy District (“Northern Water”) has been pursuing various forms and iterations of 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, Northern Water requires various governmental permits and approvals to construct NISP, including: a permit under Section 404 of the federal Clean Water Act; a State water quality certification under Section 401 of the federal Clean Water Act and applicable State of Colorado (“State”) statutes and regulations; and a “1041” permit (or agreement in lieu thereof) under Chapter 14 of the Larimer County Land Use Code; and

WHEREAS, since NISP’s inception, the City has been concerned about the potentially significant impacts that NISP would have on the City and the Fort Collins community; and

WHEREAS, the City has historically participated in numerous and varied discussions with Northern Water related to NISP, both in the context of the various required governmental permits and approvals and otherwise; and

WHEREAS, the City submitted comments on two occasions in the federal permitting process for NISP, which is being managed by the U.S. Army Corps of Engineers as the permitting agency under the federal Clean Water Act and National Environmental Policy Act, first pursuant to Resolution 2008-082 and then pursuant to Resolution 2015-082, both as described below; and

WHEREAS, pursuant to Resolution 2008-082, the City submitted comments on the draft environmental impact statement (“DEIS”) for NISP, 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 submitted comments on the supplemental draft environmental impact statement (“SDEIS”) for NISP, 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 2017-024, City Council authorized and directed the City Manager or his designees “to meet on a regular basis with the Northern Water regarding NISP and to discuss and explore the City’s concerns and interests in order to ascertain whether those interests can be met, including through potential solutions to address the City’s goals and issues related to NISP”; 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; and

WHEREAS, the City’s discussions, meetings, and formal comments and participation in the permitting processes (as well as the participation of others) have resulted in some—but not all—of the City’s concerns regarding the significant impacts that NISP would have on the City and the Fort Collins community being addressed, including:

- the removal of a proposed pipeline from Glade Reservoir to Horsetooth Reservoir;
- the removal of exchanges through the Colorado-Big Thompson Project system;
- the “conveyance refinement” that will deliver NISP water in the Cache la Poudre River through a portion of Fort Collins;
- the inclusion of a multi-level outlet tower and the aeration of releases from Glade Reservoir;
- the addition of water quality monitoring; additional monitoring of the Trichloroethylene plume near the Glade Reservoir forebay;
- the Peak Flow Operations Plan; proposed wetland mitigation and improvements;
- the stream channel and habitat improvement plan;
- the proposed alterations to certain diversion structures in the Cache la Poudre River;
- the plan to conserve lands near Glade Reservoir for terrestrial wildlife and for fencing and underpass construction along Highway 287;
- certain best management practices to address some air pollution concerns; and
- the completion of various additional studies; and

WHEREAS, despite the above improvements to NISP, and other improvements that have been made to NISP over time, and following the City’s discussions, meetings, and formal comments and participation in the permitting processes, the City still has significant concerns regarding the impacts that NISP would have on the City and the Fort Collins community, including those related to base flows, peak flows (also known as “flushing flows”), ecological impacts, flooding impacts, the mitigation of impacts, mitigation funding, and other matters; and

WHEREAS, the various permitting processes are proceeding towards their conclusions and the City will have limited opportunities moving forward to influence NISP through formal participation in those processes; and

WHEREAS, the City and Northern Water have a multi-faceted relationship, including various roles with respect to the Colorado-Big Thompson Project and the Windy Gap Project; their roles as water users on the Cache la Poudre River that are concerned with matters of water quality

and quantity; and their mutual involvement in other water-related endeavors, matters, and projects;
and

WHEREAS, the City 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, it will be to the benefit of the City to have designated staff members meet with Northern Water to seek to engage in negotiations regarding NISP, and if Northern Water is so willing, to engage in negotiations regarding NISP; and

WHEREAS, nothing herein is intended to affect the City's position regarding NISP, as described in Resolution 2015-082, Resolution 2017-024, and Resolution 2017-073, and as may be modified in the future; and

WHEREAS, such meetings, discussions, and negotiations with Northern Water regarding NISP will not change the City's position regarding NISP, as described in Resolution 2015-082, Resolution 2017-024, and Resolution 2017-073, and will not bind the City without subsequent action from City Council.

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

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Manager is hereby authorized and directed to meet with Northern Water to seek to negotiate regarding NISP, and if Northern Water is so willing, to engage in negotiations regarding NISP. The City Manager in his discretion may designate certain qualified staff members for such discussions and negotiations.

Section 3. That in negotiating with Northern Water regarding NISP, the City Manager and his designees shall focus on the following key goals and issues, which are listed in no particular order:


- (a) A reduction of source water quality and other adverse impacts to the City's water supplies that are used by the City to meet treated and untreated water demands;
- (b) A reduction of water quality and other adverse impacts to the City's wastewater treatment facilities;
- (c) A reduction of adverse impacts to the river health and ecology of the Cache la Poudre River and associated biological resources, including riparian vegetation and wetlands, aquatic habitat and life, and terrestrial wildlife, from the point of diversion for NISP to the location where the river crosses Interstate 25;
- (d) A reduction of adverse impacts to the ability of the Cache la Poudre River to adequately convey storm and flood waters;

- (e) A reduction of NISP's diminishment of "peak flows" in the Cache la Poudre River from the point of diversion for NISP to the location where the river crosses Interstate 25.
- (f) A reduction of adverse impacts to the aesthetic, recreational, and socioeconomic attributes of the Cache la Poudre River from the point of diversion for NISP to the location where the river crosses Interstate 25; and
- (g) A reduction of adverse impacts to air quality.

Section 4. That in such negotiations, the City Manager and his designees shall be guided by the concerns that are more fully expressed in the comments provided pursuant to Resolution 2008-082, Resolution 2015-082, Resolution 2017-024, and Resolution 2017-073, in addition to such other information and investigations that are prudent and further the purposes of this Resolution.

Section 5. That the City Manager and his designees shall report back to City Council regarding such discussions at regular intervals.

Passed and adopted at a special meeting of the Council of the City of Fort Collins this 29th day of May, A.D. 2018.



Mayor

ATTEST:



City Clerk

