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As you are aware, the city of Thornton has decided not to file a petition with the Colorado Supreme Court regarding Larimer County's denial of the Thornton Water Project 1041 permit. Given the recent Colorado Court of Appeals ruling, we believe our time and energy are better spent working cooperatively with the Larimer County Commissioners and the community to find solutions that meet the interests of both communities.

Both the Larimer County District Court and the Colorado Court of Appeals cited the corridor approach to Thornton's pipeline alignment as the primary criteria that needed to be remedied, and Thornton believes this can be resolved when and if Thornton reappeals for a permit with the County. In addition, both courts also made it clear that Thornton cannot be required or expected to use the Cache la Poudre River as a conveyance for its water in lieu of a pipeline.

Court of Appeals Opinion: *City of Thornton v. BOCC*

"As for the Board's criticism of Thornton for failing to provide a 'Shields Street' siting alternative, the court concluded the request was outside the Board's power. Again, Thornton had reason to believe that this proposal would require it to degrade its water source by running it through Fort Collins vis-a-vis the Poudre River before collecting, cleaning, and transporting it to Thornton. In addition to the fact that this would require modification of the water decree, the court concluded that such a request was not part of the Board's power to regulate the 'siting and development' of domestic water pipelines. See Land Use Code § 14.4(J); § 24-65.1-204(1)(a), C.R.S. 2021. For these reasons, the Board could not justify its denial of Thornton's application on this aspect of the application — or require it to include such a route in future applications." **City of Thornton v. BOCC, 2022 COA 467, ¶ 42.**

Larimer County District Court Order: *City of Thornton v. BOCC*

"The court finds that denying Thornton's proposal based upon the failure to include a Poudre River alternative, or requiring the consideration of a non-pipeline alternative as part of Thornton's 1041 application, goes beyond the BOCC's authority to regulate and determine the appropriate siting and development of a 'pipeline' under C.R.S. §24-65.1-204 and the 1041 regulations adopted by Larimer County, included in the Larimer County Land Use Code, Chapter 14." **City of Thornton v. BOCC, 19CV30339, at 18** (citing CRS 24-65.1-106(1)(b), providing that "Nothing in this article shall be construed as: Modifying or amending existing laws or court decrees with respect to the determination and administration of water rights.").

We understand that the health and vibrancy of the Cache la Poudre River, its watershed, and the communities and industries that it supports are of great importance to the Larimer County community. As landowners and water rights owners in the Poudre River Basin, Thornton considers itself a member of these communities, a steward of these resources, and we share this sentiment. As such, in efforts independent from the Thornton Water Project, Thornton has been actively advancing flow restoration projects, supporting watershed health, and investing and participating in community-based planning efforts. Thornton participates in the Poudre Runs Through It Study / Action Work Group, and we have contributed to Cameron Peak fire restoration efforts. Most significantly, Thornton has been working with the Colorado Water Conservation Board (CWCB) and other partners to obtain a Water Court Decree for the Cache la Poudre River Instream Flow Augmentation Plan (<https://coloradowatertrust.org/project/isf-augmentation-plan-poudre>). The CWCB is the only entity in the state of Colorado that can own and protect water right for instream flow purposes. This project is a true community-based partnership that will add water to the Poudre and *protect* those flows under Colorado water law.

Just recently, both you and Larimer County have invited Thornton to work with the two of you to find a solution:

"We again invite Thornton to work with us to find a collaborative solution that helps restore the Poudre River and allows Thornton to get water." -- Gary Wockner, Save The Poudre

"I welcome potential opportunities to find a mutually beneficial and sustainable solution – one that benefits the residents of Larimer County, Fort Collins and Thornton, and the long-term ecology and health of the Cache la Poudre River, the life blood of our community." -- John Kefalas, Larimer County Commissioner District 1

We hear and agree with you. Thornton will continue to pursue its existing efforts that are adding positive value to the Poudre River and community. We welcome additional opportunities and collaborative solutions as well, and we are confident that we can achieve a holistic solution. However, Save the Poudre (STP) continues to be single-minded, demanding that the only solution is for Thornton, and others, to use the Poudre River as a conveyance instead of raw water pipelines. While this approach may add some water to the river, it is not a holistic approach or acceptable to Thornton. There are real environmental consequences to this, such as the immense power and chemical costs required to treat a degraded raw water source. In addition, there are human consequences – STP's insistence on degrading high-quality source water – even in the midst of PFAS concerns dominating recent headlines – demonstrates STP's disregard for the health and safety of the people living in Thornton.

In sum, Thornton stands ready to work with you on an acceptable reasonable solution. But, as noted above, multiple courts have made it clear that Thornton cannot be required or expected to put its drinking water down the Cache La Poudre River and Thornton is unwilling to revisit that proposed solution. We would be interested in understanding what other solutions Save The Poudre and No Pipe Dream are able to present for Thornton to consider when we engage with Larimer County in the future.

Regards,



Kevin Woods
City Manager
City of Thornton, Colorado

Cc: John Kefalas, Kristen Stephens, Jody Shadduck-McNally, Lorenda Volker