

CITY COUNCIL COMMUNICATION



MEETING DATE: August 27, 2024

ITEM NUMBER: 9.E

SECOND READING:

{{customfields.ResoOrdNumber}}

TYPE OF ITEM: Consent

PRESENTED BY:

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SUBJECT/AGENDA TITLE:

A Resolution Of The Longmont City Council Authorizing An Intergovernmental Agreement For A Water Rights Exchange Between The City Of Longmont And Boulder County

EXECUTIVE SUMMARY:

The City of Longmont ("City") and Boulder County ("County") each own shares in the Bonus Ditch Company and the Beckwith Ditch Company. The Bonus Ditch Company water rights were decreed absolute in Case No. CA-1337. The Beckwith Ditch Company water rights were decreed absolute in Case No. CA-1320. The City of Longmont is the sole owner of 34 shares in the Bonus Ditch Company represented by Stock Certificate No. 130 (the "City Bonus Shares"). The County is the sole owner of 1.66 shares of the Beckwith Ditch Company, represented by Stock Certificate No. 103 (the "County Beckwith Shares"). The City and County are interested in exchanging shares between the two ditch companies, which would entail the following acquisitions if approved by City Council:

- The City would acquire the full 1.66 shares from the County's Beckwith Shares and
- The County would acquire the full interest in 0.607 shares from the City's Bonus Shares.

Section 11.1 of the Longmont Municipal Charter authorizes the City to exchange water rights owned by the City for water rights owned by another. The City's Water Resources Division staff and the County's Open Space Division staff have performed an equivalency analysis of the proposed exchange of water rights and have concluded that the exchange is equitable and beneficial to both the City and the County and in the interest of each party. The City's Special Water Counsel concurs with this evaluation. This agreement would allow for the completion of this proposed exchange.

COUNCIL OPTIONS:

1. Approve the Resolution and Exchange Agreement as presented.
2. Approve the Resolution and Exchange Agreement with modifications.
3. Do not approve the Resolution and Exchange Agreement.

RECOMMENDED OPTIONS:

Water Board reviewed this agreement during its June 17, 2024 meeting and recommended Council approve the resolution and agreement in substantially the form presented. Staff concurs with that recommendation.

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

No monetary funds will be exchanged in this agreement. A small water rights transfer fee will be charged by each respective Ditch Company and those costs will be shared jointly by the City and the County. The City's portion will be covered by existing funding budgeted in the Water Resource Division's currently approved budget account.

BACKGROUND AND ISSUE ANALYSIS:**BECKWITH DITCH COMPANY:**

In 1987, Longmont filed an application, under Case Number 87CW215, for change of its ownership of 95.34 shares of the 217 total shares of the Beckwith Ditch Company. That change requested an alternate use of its shares in the Beckwith Ditch for direct flow and storage through one or more alternate points of diversion for municipal use. Currently, Longmont is the majority shareholder in the Beckwith Ditch Company, which includes the County.

In 2024, Longmont intends to apply to Water Court for a second change application which will include the change of all remaining shares in the Beckwith Ditch Company. The Beckwith Ditch Company has one decreed direct flow water right from St. Vrain Creek awarded in Civil Action No. 1320 on June 2, 1882, with an appropriation date of March 8, 1861, which is considered one of the most senior water rights in the St. Vrain Basin.

BONUS DITCH COMPANY:

In 2020, Longmont filed an application under Case Number 2020CW3179, for change of 57.6 shares of the 100 total shares in the Bonus Ditch Company. That change requested a change for direct use and storage for municipal, replacement, and augmentation uses, including by exchange. Currently, Longmont is the majority shareholder in the Bonus Ditch Company, which includes the County.

The Bonus Ditch has two decreed direct flow water rights from St. Vrain Creek that were awarded in Civil Action No. 1337 on June 2, 1882. The original direct flow water right has a diversion rate of 12.73 cfs and an appropriation date of March 30, 1861; the first enlargement has a diversion rate of 10.50 cfs and an appropriation date of May 30, 1865, for a total of 23.23 cfs.

WATER RIGHTS ANALYSIS:

The City and County have conducted an acre-foot analysis regarding this water rights exchange, which concluded that exchange of Longmont's 0.607 shares in the Bonus Ditch Company for the County's 1.66 shares in the Beckwith Ditch Company is equitable to both parties and beneficial to Longmont.

KEY ELEMENTS OF AGREEMENT:

- The City will receive 1.66 shares of Beckwith Ditch Company stock from the County.
- The County will receive 0.607 shares of Bonus Ditch Company stock from the City.
- Closing will occur prior to September 30, 2024.
- Longmont will pay its proportionate transfer ditch transfer fee.

WATER BOARD RECOMMENDATION:

Following staff presentation of the water rights analysis, staff considerations, and key elements appurtenant to the water rights exchange agreement between the City and the County, Water Board voted unanimously to recommend Council approve the resolution and exchange agreement in substantially the form presented.

ATTACHMENTS:

Att 1 – Proposed Resolution
Att 2 – Agreement