

CITY COUNCIL COMMUNICATION



MEETING DATE: December 7, 2021

ITEM NUMBER: 9.C

SECOND READING:

{{customfields.ResoOrdNumber}}

TYPE OF ITEM: Consent

PRESENTED BY:

Dale Rademacher, City Manager's Office, Dale.Rademacher@longmontcolorado.gov

David Bell, PWR Natural Resources, David.Bell@longmontcolorado.gov

Ken Huson, PWR Water Resources, Ken.Huson@longmontcolorado.gov

SUBJECT/AGENDA TITLE:

A Resolution Of The Longmont City Council Authorizing An Application For Conditional Surface And Storage Water Rights On The St. Vrain Creek, Left Hand Creek, And Dry Creek

EXECUTIVE SUMMARY:

Attached is a resolution authorizing staff to apply to Water Court for a new appropriation on the Saint Vrain Creek, Left Hand Creek, and Dry Creek. Also attached is the proposed application and filing map for this new water right. The purpose of this item is to ask City Council to pass the attached resolution authorizing staff to apply for this new appropriation. This appropriation will occur at various locations on the east side of Longmont and will primarily be for the purpose of meeting Longmont's downstream delivery obligations.

There are five proposed points of diversion (see attached filing location map):

1. The Saint Vrain Creek Diversion Structure #1, which diverts water from the Saint Vrain Creek between Main Street and Martin Street.
2. The Bonus Ditch Pump Station Diversion Structure, which diverts water from the Saint Vrain Creek just downstream of Martin Street.
3. The Bonus Ditch Diversion Structure on Left Hand Creek, which diverts water from Left Hand Creek just downstream of Ken Pratt Boulevard.
4. The Coffin Davis Ditch Diversion structure, which diverts water from Dry Creek just downstream of County Line Road.
5. The Saint Vrain Creek Diversion Structure #2, which diverts water from the Saint Vrain Creek downstream of Colorado Highway 119.

The purpose of this water right filing is to provide for demands downstream of Longmont that will exist in the future. We have significant downstream delivery obligations for exchange agreements, water supply agreements, and return flow obligations from ditch change cases. This filing will help Longmont meet these obligations without having to release as much water out of Union Reservoir or Ralph Price Reservoir. While Longmont has a robust supply of changed direct flow water supplies in the summer (generally when this filing will not be in



priority), this filing will more fully benefit Longmont in the winter period when these changed water rights are not available. As such, currently meeting these flow requirements normally requires releases from Union Reservoir, the wastewater treatment plant, or as a last resort, from Ralph Price Reservoir.

The Colorado Water Court requires an overt act of appropriation to initiate the water court filing process. In the case of a municipality, this is generally held to require an official public act by the governing body to initiate the appropriation process. The most commonly held and practiced methodology to do this is a resolution of the governing council of the municipality directing staff to file an application for a water right. This request is to ask Council to pass a resolution to do that.

Recommendation:

Water Board reviewed this application at its November 15, 2021 board meeting and unanimously recommended that City Council approve a resolution supporting the application. Staff concurs with that recommendation. Following are copies of minutes of that meeting:

8C. Application for New Water Rights Appropriation

*Staff Member Huson explained parameters for an application the City would like to submit for a new water right on Saint Vrain Creek, which includes the Water Court's requirement for a governing board to pass a resolution to apply for water rights appropriations requests. For the City of Longmont, that governing board is the City Council, and therefore, Staff was requesting a recommendation for that resolution from the Board. He further explained reasons that Staff wanted to apply for the water right that would be downstream of Longmont. If granted, it would allow the City to meet downstream obligations more easily, particularly in the winter months. He stated that the City hoped to negotiate with the State for instream measurement to avoid drying up a fish passage on the channel. **After further discussion, Board Member Gould moved, seconded by Board Member Duster, to approve a recommendation that City Council support the application for a new appropriation in substantially the same form as presented, with a request for consideration to enable instream measurements. The motion carried 4-0.***

COUNCIL OPTIONS:

1. Approve the resolution as presented.
2. Approve an amended resolution.
3. Deny the resolution.

RECOMMENDED OPTIONS: Option 1.



FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

There is not a direct fiscal impact concerning this application. Indirectly, there will be staff and special legal counsel costs of approximately \$25,000 to \$50,000, depending on the level of objector opposition to the water court filing. The source of this funding will be appropriated water funds from both the water operations fund and the water acquisition fund.

BACKGROUND AND ISSUE ANALYSIS:

N/A

ATTACHMENTS:

Att 1 – Resolution

Att 2 - Water right application

Att 3 – Map of proposed decreed points of diversion