

Northern Water, citing lawsuit, delays bonds for big dam tied to Windy Gap



Brent Gardner-Smith/Aspen Journalism

A view of the location of the proposed Chimney Hollow dam and reservoir site in the foothills between Loveland and Longmont. The 90,000 acre-foot reservoir would store water for nine Front Range cities, two water districts and a utility, and is being held up a lawsuit challenging federal environmental reviews.

BERTHOUD – The Front Range water district that wants to build the Chimney Hollow Reservoir and pull more water from the Colorado River is delaying construction bids and issuing revenue bonds, citing a lawsuit by Save the Colorado, the Sierra Club and other environmental groups challenging federal approvals for the project.

The Northern Colorado Water Conservancy District had hoped to have the project, now estimated at \$570 million, under construction by early 2019 and completed by 2023, but now it is uncertain when construction will begin because of the lawsuit filed in U.S. District Court in Denver late last year.

“Our original schedule was to be out to bid about right now and we would be selling bonds right now,” Jeff Drager, Northern’s director of engineering, said earlier this month.

Chimney Hollow Reservoir is at the core of what’s known as the Windy Gap Firming Project. [Northern](#), through its affiliated municipal subdistrict, plans to build the 90,000 acre-foot reservoir to provide a “firm annual yield” of 30,000 acre-feet of water from the Colorado River to nine Front Range cities, two water districts and a utility.

About 9,000 acre-feet a year of additional water is expected to be diverted from the headwaters of the Colorado River as a result of the project.

The 346-foot-tall dam, which would be the third tallest in Colorado, is located between Loveland and Longmont in Larimer County next to an existing reservoir, Carter Lake.

Drager said since the litigation was filed last year Northern has taken the opportunity to do more engineering and design work on the dam, including the upcoming [drilling of 40 holes](#) to further explore softer rock found at the location of the left abutment of the dam.

“We’re now scheduled to be at a point where we could go out to bid for construction and issue bonds probably in February or March,” he said.

But at that point Drager said Northern would have to see what progress has been made in the lawsuit.

“If I had to guess,” he said, “I’d say we’ll be slowed own.”

The parties in the [lawsuit](#) are waiting for the judge in the case to rule on if the voluminous administrative record in the case is complete, including on a [motion](#) to add a recent [report](#) commissioned by Save the Colorado on actual water use, and if motions to intervene in the case by [Northern](#), the [Colorado Department of Natural Resources](#) and the city of [Broomfield](#) will be accepted.

Gary Wockner, the executive director of [Save the Colorado](#) and Save the Poudre: Poudre Waterkeepers, said they want more than just buying a few months because of the lawsuit.

“We are not trying to delay the project, we’re trying to stop it,” Wockner said. “We believe the Bureau of Reclamation and the Army Corps broke the law when they issued the permit and our goal is stop the project and save the Colorado River.”

The lawsuit [contends](#) that a review of the proposed project by the Bureau of Reclamation and the Army Corps of Engineers under the National Environmental Policy Act was flawed and that the resulting approvals [should be](#) overturned.

The federal review of the project began 2003. Reclamation issued its approval in 2014 and the Corps issued its approval in May 2017.

Five nonprofit environmental groups filed a lawsuit in October, including Save the Colorado, Save the Poudre, Living Rivers, the Waterkeeper Alliance and WildEarth Guardians. The Colorado chapter of the Sierra Club joined the lawsuit in November.

“The Windy Gap Firming Project is an apt example of inadequate analysis and poor decision-making that will ultimately result in significant new diversions from the Colorado River to provide the Front Range with unneeded water supply,” the environmental groups told the court in a recent [brief](#).

The delay in issuing bonds means that the 12 entities paying for the project will have to contribute \$10 million in cash to allow Northern to keep the project moving forward, instead of using money expected to be available after selling municipal bonds. The 12 entities have put in \$34 million to date toward the project.

“We had hoped that our funding for 2019 was going to come from sale of the bonds and starting construction, but because of the litigation that we have, that’s delayed a little bit,” Drager told Northern’s board of directors at a meeting in Berthoud on August 9. “That \$10 million will be provided by the participants in early 2019 and that should carry us through, we hope, until we are ready to put the project out to bid and sell the bonds to pay the rest of the cost.”

Northern operates and maintains portions of the Colorado-Big Thompson Project, including Lake Granby, a reservoir that along with the Adams Tunnel sends over 200,000 acre-feet of water of Colorado River each year under Rocky Mountain National Park to the east slope.

The overall project is owned by the federal government and the Bureau of Reclamation oversees elements of it, including the Adams Tunnel and Green Mountain Reservoir.

Once the water is delivered from the federally owned facilities, Northern distributes the water to cities and agricultural users.

Windy Gap Reservoir is a relatively small 445-acre-foot reservoir, built in the early 1980s to serve as a pumping forebay on the Colorado River just below its confluence with the Fraser River in Grand County.

But Windy Gap is limited in how much water it can deliver because of its junior water rights and instream-flow obligations below the dam.

Northern says Chimney Hollow Reservoir will allow it to pump water from

Windy Gap in wetter years and store the water until needed in drier years by the 12 participating entities, which include Broomfield, Greeley, Longmont and Loveland.

But the environmental groups say the federal agencies reviewed the proposed project with an overly narrow focus on how to fix the Windy Gap project and not on other potential ways to meet Front Range water demands.

“Reclamation did not seriously consider reasonable alternatives to provide water to Windy Gap participants and allowed (Northern) to plow ahead with its original choice — the firming project — and double down on its busted bet,” the [lawsuit](#) states.

Reclamation and the Corps [told](#) the court in May that the agencies conducted “an independent evaluation” and concluded the project “is needed to meet a portion of the existing and future water needs of the growing east slope municipalities.”

Northern, on its [website](#), points out “the project has been approved by the U. S. Bureau of Reclamation, U.S. Army Corps of Engineers, Grand County, Colorado Parks and Wildlife and endorsed by Gov. John Hickenlooper. It also has support from several environmental groups such as Trout Unlimited.”

The support from some environmental organizations, including [Trout Unlimited](#), stems from the mitigation measures designed to reduce its impact on the Colorado River headwaters, including a new bypass, or connectivity, channel that will allow more of the river to flow past the Windy Gap Reservoir.

Lurline Underbrink Curran, the former county manager for Grand County, has also appealed to Robert Kennedy, Jr., of Waterkeeper Alliance, to drop the lawsuit.

“Any lawsuit that delays or stops this work is a detriment to the Colorado

River,” Currant [wrote](#) in Oct. 2017. “If the Windy Gap Project does not go forward, the hard-won concessions evaporate, and the Colorado River will continue to degrade.”

Editor’s note: Aspen Journalism is covering the Roaring Fork and Colorado River basins for The Aspen Times. The Times [published](#) this story on its website on Tuesday, Aug. 21, 2018, as [did](#) the Glenwood Springs Post Independent. The Greeley Tribune [published](#) an expanded version of the article on Aug. 25. This article has been clarified to better reflect the nuanced roles that Northern and the Bureau of Reclamation have in the C-BT Project.