

RESOLUTION NO. 15-__

**A RESOLUTION OF THE CITY OF COLORADO SPRINGS
CITY COUNCIL IN SUPPORT OF LEGISLATION
CONCERNING REGIONAL STORMWATER
MANAGEMENT AND POST-FIRE MITIGATION
ACTIVITIES**

WHEREAS, the management of stormwater and the mitigation of the impacts of wildland fire events is essential to preserve lives, protect public health and safety, avoid damage to private property and public infrastructure, and comply with state and federal law; and

WHEREAS, the City of Colorado Springs (“City”) has in the past, and will in the future, plan, construct, operate and maintain regional stormwater control facilities in order to protect water quality and maintain the health, safety and welfare of its citizens and downstream neighbors; and

WHEREAS, the City undertakes such actions as necessary to ensure compliance with its MS4 stormwater permit; and

WHEREAS, the office of the State Engineer issued a 2011 Memorandum entitled “Administrative Approach for Stormwater Management” which provides an exemption from water rights administration for the retention of storm flows for up to 72 hours by local, site-specific developments, but does not afford the same treatment to regional detention facilities or post-wildfire mitigation facilities; and

WHEREAS, the Division of Water Resources of the Colorado Department of Natural Resources has issued correspondence to the City of Colorado Springs and others indicating a need for such entities to take action by April 1, 2015 in association with alleged out-of-priority water depletions as a consequence of post-fire mitigation facilities constructed in response to the Waldo Canyon fire; and

WHEREAS, regional stormwater management facilities and post-fire mitigation facilities have not historically obtained water court decrees for plans for augmentation or administratively approved substitute water supply plans; and

WHEREAS, the process for obtaining administrative or judicial approval for such plans can be adversarial, time consuming and expensive, with no guarantee of success; and

WHEREAS, it is essential to manage stormwater flows and to mitigate the impacts of wildland fire events in order to meet the health, safety and welfare objectives referenced above; and

WHEREAS, the City, through Colorado Springs Utilities (“Utilities”), has assisted the Fountain Creek Watershed, Flood Control and Greenway District (“District”) in its ongoing efforts to advance a cooperative study amongst interested Arkansas River basin stakeholders in analyzing flood control alternatives on Fountain Creek and a related effort to identify water rights that may be adversely impacted by new flood control activities on Fountain Creek and evaluate options for the construction and operation of such facilities in a manner that appropriately mitigates such impacts; and

WHEREAS, it is also necessary to ensure that the owners of decreed water rights that may be affected by new flood control facilities on Fountain Creek are treated in a just and equitable manner relative to any potential impairment of such rights as a consequence of the construction and operation of such facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The City supports the passage of state legislation which establishes that stormwater management facilities and post-wildland fire mitigation facilities that are owned and operated by a governmental entity or are subject to governmental oversight, and meet such additional criteria established in the legislation, do not cause injury to vested water rights.

Section 2. Support for SB 15-212 notwithstanding, the City, including Utilities, will continue to work cooperatively with Arkansas River basin stakeholders in completing the technical analysis currently being performed under the auspices of the District in an effort to identify storm water and flood control implementation options which ensure the fair and equitable treatment of those within the basin who hold downstream direct flow and storage water rights.

Section 3. The City Council authorizes City and Utilities staff to undertake such actions as may be necessary to carry out the intent of the Council as described herein.

DATED at Colorado Springs, Colorado this ___ day of _____, 2015.

Keith King, Council President

ATTEST:

Sarah B. Johnson, City Clerk