

**TOWN OF NEDERLAND
Boulder County, Colorado**

RESOLUTION 2021 - 11

**A RESOLUTION OF THE BOARD OF TRUSTEES OF NEDERLAND IN SUPPORT OF
RECOGNIZING AND IMPLEMENTING THE INHERENT LEGAL RIGHTS OF BOULDER
CREEK AND THE BOULDER CREEK WATERSHED**

WHEREAS, the Town of Nederland is defined and distinguished by its bond with the natural world that encircles, permeates, and enlivens the Town; and

WHEREAS, Boulder Creek flows through the Town and serves as its physical, social, and cultural heart; and

WHEREAS, the Boulder Creek Watershed stretches from the continental divide to the St. Vrain River encompassing several climate zones and 448 square miles of forested mountains, valleys, and grasslands. The Creek and its tributaries are the lifeblood of this entire area. In its 34-mile course from the continental divide to the plains, the Creek sustains a huge diversity of species, ranging from black bears and bobcats to meadow mice and brown trout, and from giant towering firs and pines to Mountain Mahogany and milkweeds; and

WHEREAS, just as it sustains all of the living things in the Watershed, the Creek also sustains the Town and its people, binding the community together, supplying a hub for cultural activities and gatherings, providing Town residents with immediate access to the rejuvenating powers of Nature, and giving the Town a unique municipal parkway and waterway where they can hike, fish, bike and otherwise rejuvenate and recreate in Nature; and

WHEREAS, humans living by the Creek and within its Watershed have long understood that their own health and welfare are inextricably connected to the welfare of the Creek and Watershed. The Indigenous people respected and enjoyed the Creek and Watershed long before Nederland was founded; and

WHEREAS, today, federal law, the Colorado Constitution, state law and policy, and local laws afford some protection to the natural environment, including water quality, but those laws have proven to be very inadequate; and

WHEREAS, their inadequate results, in large measure, arise from the faulty underlying legal assumption that the natural world is mere human "property." As such, current law protects its use and exploitation by its owners—be they individuals, corporations, or other entities—for their own, sometimes private, short-term economic gain, generally with inadequate regard for the longer-term, sustainable health of all living things. The resulting environmental exploitation has led to the current multi-faceted environmental crisis which is so severe that it threatens to end all life on Earth as we know it; and

WHEREAS, to address this crisis, cities and countries around the world have recognized that Nature must be respected and protected by recognizing its rights and affording it a voice in our decision-making processes and legal systems; and

WHEREAS, among many other examples, the rights of Nature have been incorporated into the constitution of Ecuador and the statutes of Bolivia and Uganda. Likewise, three state constitutions in Mexico have been amended to recognize Nature's rights; and dozens of cities in the United States also incorporated recognition of Nature's rights into their laws; and

WHEREAS, many such enactments recognize the rights of waterways, lakes, and ecosystems. Tribal Nations were amongst the first to recognize the rights of waterways, with the Yurok and Nez Perce Tribes recognizing the rights of the Klamath and Snake River, respectively. Elsewhere in the United States, the people of Toledo adopted a local law recognizing the rights of Lake Erie, to protect it from industrial farm pollution, and the people of Orange County Florida adopted a law recognizing the rights of waterways and seeking to protect them from pollution; and

WHEREAS, courts have enforced these rights. A Colombian Constitution Court ruled that the Atrato River basins possesses rights to "protection, conservation, maintenance, and restoration." An Ecuadorian Provincial Court enforced the constitution rights of the Vilcabamba River, calling for its remediation and rehabilitation. The Bangladesh High Court Division of its Supreme Court ruled that all rivers in the country have legal rights; and

WHEREAS, in addition to recognizing Nature's rights, governments, communities, and organizations around the world are utilizing guardianships to effectuate them, particularly in regard to waterways. New Zealand adopted a treaty that both recognizes the Whanganui River (of "Ge Awa Tupua") as "an indivisible and living whole" and "a legal person" and establishes co-guardians for the River consisting of a Whanganui Iwi (Māori) representative and a nonindigenous representative. To protect the Atrato River, a Colombian court created a guardianship body, with representation from riverside communities and government, charged with the responsibility of enforcing the River's legal rights. The government of Western Australia established a River Guardianship program to protect the Swan and Canning Rivers. In all these cases, such guardians serve as the waterways' human voices; and

WHEREAS, the Town Board hereby determines that it may best protect the health, safety, and welfare of its residents, which are inseparable from the welfare of the Creek and the Watershed, and can best contribute to the global movement to respect and promote the rights of Nature, by recognizing and effectuating their rights.

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE TOWN OF NEDERLAND DOES RESOLVE AS FOLLOWS:

Section 1. *The Rights of Nature for the Creek and Watershed.* The Creek and its encompassing Watershed, and the living and other things existing naturally therein, exist and function as an integrated and interdependent system of natural communities and are therefore understood, respected, and recognized in this Resolution as a living entity, possessing fundamental and inalienable rights.

Section 2. *The Creek's Rights.* The Town recognizes that the Creek and all its tributaries possess, at minimum, the following fundamental and inalienable rights:

1. The right to maintain natural flow sufficient in quantity to maintain ecosystem health;
2. The right to support essential functions within its ecosystems, including by horizontal and longitudinal connectivity, recharging groundwater, moving and depositing sediment, providing adequate habitat for native plants and animals;

3. The right to feed and be fed by sustainable precipitation, glaciers, and aquifers;
4. The right to maintain native biodiversity;
5. The right to exist free of pollution;
6. The right to be restored to, and preserved in, a state of ecosystem health; and
7. The right to exist free of activities, practices, or obstructions, that interfere with or infringe upon these rights.

Section 3. *The Watershed's Rights.* The Watershed and its living and non-living natural components and communities -- including forests and wildlife -- possess, at minimum, fundamental and inalienable rights to exist, maintain integral health, regenerate, evolve, and be restored.

Section 4. *The Town's Support and Responsibilities.* The Board of Trustees intends to protect the Creek and the Watershed and effectuate the rights recognized in Sections 1, 2, and 3 by taking or requiring the following actions:

1. Include Rights of Nature as a primary consideration in all Town actions and decisions that concern the Creek and Watershed, including actions and decisions about water quality, water quantity, biodiversity, and ecosystem health, and other matters that impact them;
2. Develop, implement, and enforce laws, policies, programs, best practices, and other measures as are necessary to effectuate the rights of the Creek and Watershed enumerated in this Resolution to ensure that Nature and current and future generations of humans thrive together in harmony within the Town;
3. Oppose actions or activities that would clearly violate the rights of the Creek and Watershed, including by opposing all new dams and dam expansions located within the Town or over which the Town has ownership or control, unless such infrastructure has a compelling social and ecological purpose that cannot be met by other reasonable means;
4. Study, develop, and implement mechanisms through which the Creek and Watershed may meaningfully engage in public decision-making processes, such as by establishing a legal guardianship body that serves as the fiduciary of the Creek and Watershed, or through such other means as are determined effective and appropriate by the Town;
5. At least once every twelve (12) months, prepare a concise written report for the community on the health and state of the Creek and Watershed and the realization of the rights recognized in this Resolution. The report shall include recommendations for advancing and ensuring the welfare and sustainability of the Creek and Watershed. The report shall be provided to the Town Board, which shall conduct a public hearing on the report.

Section 6. *Call for State-Level Support for the Rights of Creeks and Watersheds.* In order to fully effectuate the purposes of this Resolution, the Town's residents call upon the State of Colorado to recognize the Rights of Nature and create a statewide commission to make recommendations on how to best integrate Rights of Nature and into those elements of Colorado law and governance that concern the health of Creeks and watersheds within the state, including consideration of new state policies, laws, or constitutional amendments that would enable full implementation the rights of Creeks and watersheds.

Section 7. *Effective Date of Resolution.* This resolution shall take effect immediately upon its passage.

RESOLVED, APPROVED and ADOPTED this 15th day of June 2021.

TOWN OF NEDERLAND

By: _____
Kristopher Larsen, Mayor

ATTEST:

Miranda Fisher, Town Clerk

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