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'Save the Poudre' sparks dispute

Northern Water's use of phrase on pro-Glade stickers upsets group

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"Save the Poudre, Store it in Glade."

That's the message on a bumper sticker Bo Shaffer pasted on his truck Thursday afternoon in Erie at a farmers rally supporting the proposed Glade Reservoir and the Northern Integrated Supply Project, or NISP, to be built north of Fort Collins.

Shaffer, a Longmont resident and member of the Left Hand Water District board of directors, said he thinks almost everyone in the region is in favor of Glade Reservoir "except for some environmentalists in Fort Collins."

Though it's unclear just how many people support the reservoir, one of those Fort Collins environmentalists is threatening bumper sticker creator and Glade Reservoir booster Northern Colorado Water Conservancy District with legal action for using the phrase "Save the Poudre" in its sticker.

"They have stolen our trade name, and they are using it against us," said Gary Wockner, director of Save the Poudre: Poudre Waterkeeper, which is staunchly opposed to the reservoir, adding that the group is investigating legal action against Northern Water for trademark and copyright theft.

"Any business would understand that this is a very serious legal and financial issue," he said. "We have a serious investment in our trade name."

Maybe so, but the water district has the First Amendment right to express its opinion, Northern Water spokesman Brian Werner said.

The district, he said, is playing on the idea of saving the Poudre River because "saving it means storing it, too."

"A lot of people, when they see 'Save the Poudre,' they've been led to believe that the only way to save the Poudre is to stop NISP," Werner said.

He said the bumper sticker is a "fun" way of getting across Northern Water's message that it's important to save Poudre River water for agriculture.

Wockner called that message a "lie."

"Damming and draining a river kills it, it doesn't save it," he said.

When asked why the group and its cause can't withstand any threat Northern Water's use of the phrase "Save the Poudre" or parody of the group's name might pose, Wockner said the group has been ripped off by a public agency misusing tax dollars.

Trademark and First Amendment lawyer Chris Beall said Northern Water's use of the phrase "Save the Poudre" may be fair and legal, so long as the water district can prove it's using the phrase in a noncommercial way and the public isn't confused whose message is on the bumper sticker.

Northern Water handed out the bumper sticker for free at its Erie rally Thursday.

Though Wockner's group has registered its name as a trade name with the Colorado Secretary of State, it hasn't registered the name with the U.S. Trademark and Patent Office. However, the way the group uses its name constitutes a trademark even though it isn't registered, Beall said.

Nonetheless, the group has to prove the phrase that forms its name is universally recognized in the area as belonging to that group.

If it can be proven that most people in the area believe that "Save the Poudre" has multiple meanings, the law may be on Northern Water's side, Beall said.

"But if when people see the phrase 'Save the Poudre' they regularly think that's this group of lefties that stand naked in the river, if that's the regular recollection people have when they see this phrase, then the organization is correct, their trademark is being infringed," Beall said.

But, he said, people must be confused about who Northern Water's message is actually coming from for there to be an infringement.

What's more, the bumper sticker might also be a parody and the phrase might be generic because saving the Poudre might mean different things to different people.

"Parody only works if the phrase is recognizable as a trademark," Beall said, comparing the bumper sticker with another using People for the Ethical Treatment of Animals' trademark on a sticker that says, "PETA: People Eating Tasty Animals."

"The reason why (the sticker parodying) PETA is funny is because you realize PETA is the name of that organization that fights for animal rights," Beall said.

The bottom line, he said, is Northern Water's bumper sticker is likely protected political speech.

"The short answer here is that they (Wockner's group) might have trademark rights, but they're unlikely able to show it's being infringed because it's generic, the phrase may not have strong secondary meaning in the area," Beall said.

Wockner said there's no mistaking what "Save the Poudre" means.

"There is only one Poudre River in the entire world and there is only one 'Save the Poudre' organization in the entire world, and we are it," he said.
