

# WATER & SEWER BOARD AGENDA

Wednesday, December 19, 2018  
2:00 p.m.

## **GREELEY CITY CENTER**

**1001 11<sup>TH</sup> Avenue  
Greeley, CO 80631**

1. Roll Call:                      \_\_\_\_\_ Chairman Harold Evans                      \_\_\_\_\_ Vice Chairman Mick Todd  
   \_\_\_\_\_ Mr. Bob Ruyle    \_\_\_\_\_ Mr. Fred Otis  
   \_\_\_\_\_ Mr. Joe Murphy    \_\_\_\_\_ Mr. Tony Miller  
   \_\_\_\_\_ Mr. Manuel Sisneros    \_\_\_\_\_ Mayor John Gates  
   \_\_\_\_\_ Mr. Roy Otto    \_\_\_\_\_ Mrs. Victoria Runkle
2. Approval of Minutes
3. Approval of and/or Additions to Agenda
4. Report: Multi-Family and Commercial Raw Water Dedication
5. Action: Approve the Proposed 2019 Water and Sewer Rate Adjustments
6. Action: Approve Proposed 2019 Board Meeting Schedule
7. Action: The Delegation of Authority to Close on Overland Pond 5 (Deines Parcel) of the Overland Pond Storage Facility
8. Action: Approve Big Thompson Bypass Agreement
9. Report: Review GLIC Dedication Resolutions
10. Report: Semi-Annual Legislative Update
11. Report: First Right of Refusal (Ditch Carriage Rights) in the Taylor and Gill
12. Executive Session
13. Legal Report
14. Director's Report
  - Wastewater Treatment and Reclamation Master Plan Update
  - Poudre Runs Through it Forum
15. Such Other Business That May Be Brought Before the Board and Added to This Agenda by Motion of the Board



*If, to effectively and fully participate in this meeting, you require an auxiliary aid or other assistance related to a disability, please contact Shannon Metcalf at 970-350-9818.*

City of Greeley  
Water and Sewer Board  
Minutes of October 17, 2018  
Regular Board Meeting

Chairman Harold Evans called the Water and Sewer Board meeting to order at 1:59 p.m. on Wednesday, November 28, 2018.

**1. Roll Call**

The Clerk called the roll and those present included:

Board Members:

Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Joe Murphy, Tony Miller, Manny Sisneros, Mayor Gates, Roy Otto, Victoria Runkle

Water and Sewer Department staff:

Water and Sewer Director Sean Chambers, Operations Manager Bob Neal, Senior Water Resources and Environmental Engineer Adam Jokerst, Business Manager Erik Dial, Water Resources Operations Manager Jennifer Petrzelka, Chief Engineer Adam Prior, Government Liaison Donna Brosemer, Civil Engineer Laura Prechel, Office Manager Shannon Metcalf and Senior Administrative Assistant Ettie Arnold

Legal Counsel:

Counsel to Water & Sewer Board Attorney Jim Noble, City Attorney Doug Marek, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer, Environmental and Water Resources Attorney Aaron Goldman

Guests:

Mary Gearhart and Beth Albright of Brown and Caldwell, Brad Wind and Kyle Whitaker of Northern Colorado Water Conservancy District

**2. Approval of Minutes**

It was noted to remove Jim Noble's name and add Carolyn Burr as acting outside legal counsel in attendance at the October meeting. Vice Chairman Todd made a motion, seconded by Mr. Ruyle, to approve the October 17, 2018 Water and Sewer Board meeting minutes with the noted change. The motion carried 6-0.

**3. Approval of and/or Additions to Agenda**

There were no changes made to the agenda.

**4. Action: Approve and Recommend to Council the 4<sup>th</sup> Amendment to the 5<sup>th</sup> Interim Agreement for Windy Gap**

Ms. Petrzelka explained that the Fifth Phase of the Project consists of engineering design, additional land acquisition, planning and implementation of required mitigation and enhanced measures and continuation of work to obtain local, state and federal permits and approvals required for the Project. The Fourth Amendment to the Fifth Interim Agreement is an intergovernmental agreement that requires approval of City Council.

The WGF Enterprise estimated that Greeley's pro rata share of the \$10,000,000 cost of the Fourth Amendment will be \$1,021,000.

Vice-Chairman Todd made motion, seconded by Mr. Miller to approve and recommend to City Council the Fourth Amendment to the Fifth Interim Agreement for the Windy Gap Firing Project. The motion carried 6-0.

**5. Report: Colorado River Water Resources – Northern Colorado Water Conservancy District**

Mr. Wind and Mr. Whitaker provided a presentation on water resources management on the Colorado River and efforts between the states that are parties to the Colorado River Compact to address drought management. They also spoke regarding the potential impacts of shortages under the compact on the water resources of the Colorado-Big Thompson Project and the Windy Gap Project.

**6. Action: Ratify Acquisition of Pond 5 (Deines Parcel) of the Overland Pond Storage Facility**

Ms. Petrzelka explained that on June 20, 2018, the Water and Sewer Board approved the Deines Purchase and Sale Agreement. Due diligence was conducted on the property and Under the Purchase Agreement, Greeley's Water and Sewer Board and the Board of Directors with respect to the Tri-districts, must ratify the Purchase Agreement within sixty days following the expiration of the due diligence period, which ran on October 10, 2018.

Mr. Miller made motion, seconded by Mr. Murphy to ratify the Acquisition of Pond 5 (Deines Parcel) of the Overland Pond Storage Facility. The motion carried 6-0.

**7. Action: Approve and recommend to City Council Water Resources Monitoring IGA**

Mr. Chambers explained that this Intergovernmental Agreement sets the terms and conditions by which the Colorado Division of Water Resources will provide data collection and associated water resources monitoring services for the CLAWASCO gaging station on the Cache la Poudre River owned by the City of Greeley. The IGA is a renewal of an agreement that was previously executed by Greeley and the Division of Water Resources in 2007 and 2012.

Vice-Chairman Todd Made motion, seconded by Mr. Otis to Approve and Recommend to City Council the Water Resources Monitoring IGA. The motion carried 6-0.

**8. Report: Water Supply Update**

Ms. Petrzelka presented the quarterly Water Supply Update. The Colorado SWSI report for June showed the South Platte Basin at normal supply levels (.02), 1.1 lower than the same time last year (2.3). The Climate Prediction Center Short-term forecasts are predicting above average precipitation and temperature conditions for the next three months. Staff rented out 28,800 acre-feet of water for agriculture in 2018 and target storage remains over 20,000 acre-feet going into Water Year 2019.

**9. Report: 3<sup>rd</sup> Quarter CIP Update**

Mr. Prior on the status of distribution, transmission, man-hole rehab and water treatment plant projects.

Mr. Marek joined the meeting at 3:24 p.m.

**10. Report: Overview of Milton Seaman Water Supply Project Status**

Mr. Jokerst provided an update on the status of the permitting process for the Milton Seaman Water Supply Project. The project is currently at the Alternatives Development and Baseline Studies stage.

Mayor Gates left the meeting at 3:38pm

**11. Executive Session:**

At 3:40 p.m. Chairman Evans made a motion to move into Executive Session to address the following matters:

1. Conferences with an attorney for the purposes of receiving legal advice on specific legal questions under C.R.S. § 24-6-402(4)(b) and Greeley Municipal Code 2.04.020(a)(2).

2. Determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, as authorized by C.R.S. § 24-6-402(4)(e)(I) and Greeley Municipal Code 2.04.020(a)(5).

Chairman Evans identified the following topics for discussion:

1. Matters Related to the Milton Seaman Water Supply Project
2. Status of Case No. 17CW3020 --Leprino

Mr. Miller seconded the motion. The motion carried 6-0.

Present during the executive session were:

Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Joe Murphy, Tony Miller, Manual Sisneros, Mayor John Gates, City Manager Roy Otto, Director of Finance Victoria Runkle, Director of Water and Sewer Sean Chambers, Operation Manager Bob Neal, Business Manager Erik Dial, Water Resources Manager Jennifer Petrzeka, Senior Water Resources and Environmental Engineer Adam Jokerst, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer, Environmental and Water Resources Attorney Aaron Goldman, Water and Sewer Board Counsel Jim Noble, MSWSP Project Manager Mary Gearhart and Beth Albright of Brown and Caldwell, Outside Counsel Zach Miller, Chief Engineer Adam Prior and Office Manager Shannon Metcalf

Portions of this executive session were unrecorded because the discussion constituted attorney-client privileged communication.

Mr. Prior left the meeting at 5:37 p.m.

Mr. Otis recused himself from the Leprino item for potential conflict of interest.

Vice-Chairman Todd left the meeting at 5:50 p.m.

The Executive Session ended at 5:55 p.m. and the regular meeting resumed.

## **12. Legal Report:**

Mr. Noble stated there were no new Statement of Oppositions filed this past month and no new applications either.

## **13. Director's Report**

Mr. Chambers gave a report on the following items:

- December Agenda Discussion

Chairman Evans adjourned the meeting at 6:00 p.m.

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Harold Evans, Chairman

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Shannon Metcalf, Office Manager

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE   X              NO ENCLOSURE       

ITEM NUMBER:                    4

TITLE:                                 REPORT: MULTI-FAMILY AND  
    COMMERCIAL RAW WATER DEDICATION

RECOMMENDATION:        INFORMATION ONLY

**ADDITIONAL INFORMATION:**

At the September and October Board meetings, staff discussed a proposal for modifying the raw water requirements for commercial and multi-family development. The non-residential raw water requirements were last modified in 1989 and are based on the tap size. The proposed policy would change raw water requirements to a volume of use based methodology. Staff has spent the last two months refining the usage requirements per category type, soliciting comments from development interests, and testing the potential impacts with BBC Research and Consulting.



## Proposed Raw Water Dedication Requirements

### 2019 Tap Fees for New and Modified Water/Sewer Taps

Tap fees are charged for all new water connections and may be charged for modifications to existing connections. There are four components to the tap fee.

1. Cash in Lieu of Raw Water
2. Water Plant Investment Fee
3. Sewer Plant Investment Fee
4. Water Meter

A separate tap is required for each single-family detached and attached unit and for each multi-family and non-residential building. Buildings with mixed residential and commercial uses require separate taps for the residential and non-residential components of the building. If the building and landscaping water requirements cannot be met by a single 1-1/2" tap or smaller, then a separate irrigation tap may be required (**This is an outstanding issue for consideration**). In all cases, the landscaping will be included in the raw water requirement calculation.

### Water Meter and Tap Sizing

- Residential single-family detached and attached houses normally have a 3/4" tap and water meter.
- Multi-family and non-residential water taps and meters are sized based on the water use, which is determined by fixture, appliances and other water demands.
- Taps, water meters, and services lines must be the same size unless approved by the City.
- Non single-family projects must complete the City's Plumbing Data Sheet for sizing. Multi-family units with four or less units do not need to complete the Plumbing Data Sheet.

### Cash in Lieu of Raw Water

- No Cash in Lieu fees are due if there is enough acceptable raw water dedicated to the City or if there is enough raw water credit associated with existing taps on the property being developed. Any raw water dedication must be approved by City staff.
- Cash in Lieu fees are based on the amount of water required for the project on an annual basis.
- Residential single-family detached and attached taps pay a standard fee based on the type of residential unit.
- Water demand for non-residential projects are calculated based on the type of business, the square footage of the business area, and the square footage and type of landscaping.
- Cash in Lieu fees are paid according to each user's service commitment. Each customer's service commitment represents its expected annual volume of water use.



- Because the establishment of landscaping may require extra watering, exceeding the service commitment during the first full calendar year of water service for the new commercial or multi-family customer will not be considered as an overage and no raw water surcharge payment will be due.
- **Two Options for Consideration by W&S Board:**
  - Option 1: If water use in a new commercial, mixed use, or multi-family building exceeds its service commitment in any calendar year, the owner will be required to pay a raw water surcharge for the volume of water exceeding the service commitment. If water use in a new commercial, mixed use, or multi-family building exceeds its service commitment in any two consecutive years, the owner will be required to purchase additional water through a Cash in Lieu payment.
    - The Cash in Lieu payment will be for the two-year average volume of water used above the service commitment. The payment will be reduced by the raw water surcharge payment made the first year the service commitment was exceeded.
  - Option 2: If water use in a new commercial, mixed use, or multi-family building exceeds its service commitment in any calendar year, the owner will be required to pay a raw water surcharge for the volume of water exceeding the service commitment. The water user will be given the option to apply their raw water surcharge payment to purchase additional raw water through a Cash in Lieu payment. Additional raw water purchases must be a minimum of 1/8 of an acre foot (41,000 gallons) of water.
- Service commitment pricing is based on the current Cash in Lieu of water prices for Greeley.

### **Water Plant Investment Fee**

- The water plant investment fee (PIF) is charged based on the size of the water tap.
- The fee recovers the cost related to the potential peak flow of water through a water tap.
- The City's treatment and distribution system must be sized for the combined peak flows of all the individual taps. Each tap must pay for its portion of the total system peak flow.

### **Water Meter Charge**

- The water meter charge is per each meter installed based on the size of the meter.
- Meters to be used are provided by the City.

### **Sewer Plant Investment Fee**

- The sewer plant investment fee is charged based on the size of the water tap

### **Payment Timing**

Building and irrigation tap fees are paid at the time of building permit issuance.

2019 Residential Tap Fee Schedule				
	Meter Charge	Water PIF	Cash in Lieu	Sewer PIF
Single-family per Unit	\$304	\$10,800	Lot Acreage x 3 AF/ac x CIL Price*	\$5,700
Multi-family per Unit if 4 Units or Less	Based on meter size	Based on meter size	Lot Acreage x 3 AF/ac x CIL Price*	\$2,850
*Three acre feet per acre is the standard raw water requirement for residential development. Developments with deed restrictions requiring low water use landscaping may qualify for a lower raw water requirement.				

### Tap Fee Example:

A 20,000 square foot office building requiring an estimated 1.5” water tap would be calculated as follows:

Referring to the 1.5” water tap on the Non Residential Tap Fee Schedule you add the tap size components:

Meter Charge	\$1,392
Water Plant Investment Fee	\$10,800
Sewer Plant Investment Fee	\$5,700
Total	\$17,892

The next step is to look up the Office business category in the 2019 Business Category and Water Use table. Multiply 14 gallons per square foot by 20,000 square feet for a total annual gallons requirement of 280,000 gallons. Divide that by 325,851 (gallons in an acre foot of water) to determine the water resource service commitment. Multiply that by the \$31,000 Cash in Lieu cost listed on the Non-Residential Tap Fee Schedule for the total Cash in Lieu cost of \$26,638. Add the two totals together for an estimated tap fee of \$44,530.

Category Name	Units	Unit Use (Gallons per unit per year)
Auto Service & Repair	sf	12
Car Wash	bay	1,350,000
Childcare	sf	47
Church	sf	6.5
Grocery Store	sf	20
Gas Station w/o Car Wash	sf	93
Hospital	sf	21
Hotel/Motel	room	30,300
Medical Office	sf	25
Multi-family (greater than 4 units)	unit	47,500
Office	sf	14

Recreation w/ pool	sf	122
Recreation w/o pool	sf	25
Restaurant	sf	188
Retail	sf	16
School	sf	11
Senior Housing	unit	36,500
Warehouse	sf	5
Industrial	Determined on a case by case basis	

Restaurant outdoor seating areas with partial or full seasonal coverings are counted at 50% for building square footage.

2019 Non-Residential Tap Fee Schedule				
Meter Size	Meter Charge	Water PIF	Cash in Lieu	Sewer PIF
5/8" and 3/4"	\$304	\$10,800	Calculated based on Water Resources allocated	\$5,700
1"	\$444	\$18,000		\$9,550
1-1/2"	\$1,392	\$36,000		\$19,100
2"	\$1,594	\$57,600		\$30,500
3"	\$7,175	\$126,000		\$66,850
4"	\$10,465	\$216,000		\$114,600
6"	\$13,404	\$450,000		\$238,700

### Irrigation Tap Fees

Irrigation tap fees are charged based on the irrigation area and the landscape type. The size of the tap determines the water plant investment fee and meter charge. The raw water requirement is determined based off the area and type of landscaping. Landscape plans with more than 75% high water use vegetation are assumed to be entirely high water using and calculated as such.

High Water Use (>14 gals/sf annual use)	$(CIL \text{ price} \times 3)/43,560 = \text{raw water charge/sf}$
Medium Water Use (10-14 gal/sf annual use)	$(CIL \text{ price} \times 2.3)/43,560 = \text{raw water charge/sf}$
Low Water Use (<10 gals/sf annual use)	$(CIL \text{ price} \times 1.6)/43,560 = \text{raw water charge/sf}$



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## MEMORANDUM

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**To:** Erik Dial, Greeley Water and Sewer Department  
**From:** Doug Jeavons  
**Re:** Evaluation of Proposed Cash-in-Lieu Requirements for Non-residential Development  
**Date:** December 3, 2018

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### Background and Current System

The Greeley Water and Sewer Department is proposing a substantial change in approach for assessing cash-in-lieu charges for non-residential development (meaning all new customers except single family homes). Traditionally, the water dedication requirements for non-residential development were assessed based on the size of their water meters. As Greeley transitions away from its historical water dedication system to a cash-in-lieu system, it is appropriate to more carefully examine amount of water required by new non-residential customers and their corresponding financial contribution for expanding Greeley's water system.

The current raw water dedication—and corresponding cash-in-lieu—requirements for non-residential development are shown in Table 1. These requirements differ for multifamily residential properties, which are currently charged in the same fashion as single-family residential development (3 acre feet of raw water requirements per acre of development area, or \$87,000 per acre at the current cash-in-lieu price).

**Table 1. Current Requirements for Non-residential Development Under Existing System**

Tap Size	Minimum Raw Water Required (AF)	Base Annual Allotment (Gallons)	Cash-in-Lieu Equivalent
3/4"	0.75	244,000	\$21,750
1"	2	652,000	\$58,000
1-1/2"	3	977,000	\$87,000
2"	8	2,607,000	\$232,000
3"	12	3,910,000	\$348,000
4"	24	7,820,000	\$696,000
6"	208	67,772,000	\$6,032,000

Source: City of Greeley. "What is Raw Water Dedication and How Much is Required for the City of Greeley."

As Greeley converts to a cash-based system for meeting new water development needs, the financial requirement for new non-residential water users would currently range from less than \$22,000 for new customers requiring a ¾" tap to over \$6 million for customers requiring a 6" tap.

## Reasons to Consider a Change in Approach

There are at least two reasons to consider a change from the approach of assessing raw water dedication requirements—which will now be cash-in-lieu requirements—for non-residential customers.

The first potential concern regarding the existing system is that meter sizing for new customers is traditionally based on their anticipated peak demand (e.g. maximum instantaneous flow requirement – including flows for fire protection), not their average demand. While peak demand is a useful metric in allocating certain types of water system costs – such as the costs for treatment plants and distribution pipelines – it is not the appropriate metric for allocating the costs of acquiring new water resources such as water rights and storage facilities. The requirements for the latter are much better allocated on the basis of average annual demand.

The second reason to consider a change in approach is the growing body of research that indicates that water use varies substantially among different types of businesses. Even when normalized for the different sizes of business establishments (for example by expressing water use in terms of gallons per square foot of building size) different types of business use water differently and with varying levels of intensity. Figure 1 depicts the results of prior research in Florida and in Phoenix Arizona regarding the normalized average water use of different types of businesses. While the absolute water intensity numbers by business type differ between these two prior studies, certain patterns are evident. For example, warehouses are consistently found to be relatively low water users, while the hospitality industry – and restaurants in particular – are intensive water users on a per square foot basis.

Figure 1. Prior Studies of Non-Residential Water Use Intensity by Type of Establishment

Comparable Sectors	Water Use Intensity (Daily Gals/KSF)	
	Phoenix 2012	Florida Study*
<b>Industrial</b>	71	50
Industrial	100	101
Warehouses	63	34
<b>Commercial</b>	131	130
Office	94	163
Retail	122	104
Hospitality	278	609
Hotels	127	} included above
Motels	263	
Restaurants/Bars	679	
Medical Center	161	156
<b>Government and Institutional</b>	153	78
Schools	141	68
Other Govt./Inst.**	133	105
<b>Total Traditional ICI</b>	<b>124</b>	<b>102</b>

Notes:

\*Morales, et. al., 2011.

\*\*Some publicly owned facilities are classified in the office, or other categories.

With these considerations in mind, Greeley is considering adopting a system of cash-in-lieu requirements based on the type, and size, of different kinds of new, non-residential developments. Greeley's proposed new system is modeled on the system that the City of Westminster has had in place for more than a decade. However, Greeley is proposing to change the specific water use factors for the different types of non-residential customers to better reflect actual water use by those kinds of customers in Greeley.

### Evaluation of Water Use Factors by Type of Non-Residential Customer

Greeley proposes to charge non-residential developments for their water requirements based on a combination of anticipated indoor and outdoor water needs. The latter would be based on the expected square footage of the customer's irrigated landscape, and the expected irrigation intensity for that landscape (low, medium or high). Indoor requirements would be based on the

type of business involved, and the scale of that business. Consequently, the indoor water use factors by type of business (e.g. gallons per square foot or gallons per residential unit) are an important aspect of the proposed new system.

As noted previously, Greeley's proposed new system is modeled on the approach used by the City of Westminster. Greeley has also previewed its proposed indoor water use factors at prior meetings with the Water and Sewer Board. To further examine those proposed indoor water use factors, Greeley provided BBC with historical monthly water use data—and scale metrics in terms of building square footage, number of units, or other appropriate metrics—for 166 customers. BBC and Greeley estimated the indoor water use for each customer based on seasonal usage patterns and determined their indoor water use per unit.

Table 2 provides the results of BBC's analysis. In sequence, the table shows Greeley's proposed indoor water use factor for each category of business, the factors used by Westminster, the median and average indoor use per unit for the customers in each category, and the median and indoor use factors inflated by 10 percent, which would approximately compensate for water losses during treatment and distribution.

**Table 2. Proposed Water Use Factors and Analysis of 166 Greeley Customers (Annual Gallons per Unit)**

Category Name	Units	Proposed Water Use Factor	Westminster Factors	Analysis of 166 Greeley Customers				Number of customers
				Median	Median +10%*	Average	Average +10%*	
Auto Service/Repair	Sq. feet	12	22	6	7	10	11	14
Car Wash	Bays	1,350,000	96,445	706,417	777,058	1,313,861	1,445,247	6
Childcare	Sq. feet	47	60	29	32	41	45	9
Church	Sq. feet	7	32	7	7	6	7	12
Gas Station w/o Car Wash	Sq. feet	93	242	66	72	84	93	11
Grocery	Sq. feet	27	39	17	19	18	20	9
Hospital	Sq. feet	34	60	19	21	19	21	2
Hotel/Motel	Rooms	30,300	23,566	27,431	30,174	27,338	30,071	7
Medical Office	Sq. feet	25	36	13	14	24	26	8
Multi-Family	Units	47,500		39,329	43,262	42,600	46,860	10
Office	Sq. feet	14	8	6	6	12	14	11
Recreation w/Pool	Sq. feet	122	149	55	61	108	119	6
Recreation w/out Pool	Sq. feet	25	55	22	24	22	24	6
Restaurant	Sq. feet	188	200	128	141	179	197	11
Retail	Sq. feet	16	29	6	7	16	17	13
School	Sq. feet	20	12	9	10	10	11	7
Senior Housing	Units	41,000	49,000	31,552	34,707	33,183	36,501	11
Warehouse	Sq. feet	5	7	4	5	6	6	13

Note: \*The median +15% and average +15% metrics reflect approximate water use factors including treatment and distribution losses.

During the statistical analysis of actual indoor water use intensity, it was apparent to both BBC and Greeley that there is considerable variation in the water use requirements per unit among the existing customers in each category. That finding was to be expected based on BBC's previous research regarding commercial water use in other locations. In light of this variability, it is not possible to determine the correct indoor water use factor for each category with great precision. Adding more customers to the sample would likely move the numbers, at least slightly, in one direction or the other.

Consequently, BBC's review of the proposed Greeley indoor water use factors focused on determining whether or not the proposed factor was within the range of metrics for each customer category based on the analysis of 166 actual customers. For the most part, the proposed water use factors for each customer category met this test, with the following exceptions:

- Grocery (proposed factor 27, range of metrics 17 to 20)
- Hospital (proposed factor 34, range of metrics 19 to 21)
- School (proposed factor 20, range of metrics 9 to 11)
- Senior Housing (proposed factor 41,000, range of metrics 31,500 to 36,500)

Based on our analysis, we would recommend that Greeley consider revising the proposed indoor water use factors for the customer categories identified above.

### **Comparison of Cash-in-Lieu Requirements Under Proposed System with Requirements Under the Existing System**

The second part of BBC's evaluation of the proposed change in approach to establishing non-residential cash-in-lieu requirements was to examine the effects of the proposed change for future customers. Completing that evaluation was a data intensive exercise, requiring not only the indoor water use and business scale information used in examining the indoor water use factors, but also information regarding the irrigated square footage for existing business customers and the number and sizes of their water meters. Consequently, the evaluation and comparison of the effects of the new and existing systems was based on a more limited sample of 28 customers across the various customer categories.

The first step in developing the comparison was to identify what the cash-in-lieu charge would have been for the sample of existing customers under the current system. As described earlier in this memorandum, the current charge is based on the number and size of the customers' meters. Table 3 shows the meters used by the average customer in each category based on the sample of 28 existing customers. Fractional meters simply indicate that some customers in that category had a meter of that size, but not all of them did. As shown in Table 3, the average cash-in-lieu charge under the existing system would range from about \$22,000 for an auto service/repair establishment to more than \$12 million for a new hospital.



**Table 3. Analysis of Prospective Cash-in-Lieu Charges Under Current System (28 Customers)**

Category Name	Average number of taps by size								Average charge
	5/8"	3/4"	1"	1-1/2"	2"	3"	4"	6"	
Auto Service/Repair	0.5	0.5							\$21,750
Church			0.5	1					\$116,000
Grocery				0.333333	0.333333	0.333333			\$222,333
Hospital								2	\$12,064,000
Hotel/Motel					1				\$232,000
Medical Office					1				\$232,000
Multi-Family	(Charged on basis of acreage, not meter size)								\$366,125
Office		0.5				0.5			\$184,875
Recreation w/Pool					1				\$232,000
Restaurant				1					\$87,000
Retail				1					\$87,000
Senior Housing			0.5			1			\$377,000
Warehouse	0.333333			0.333333	0.333333				\$113,583

Table 4 shows the prospective cash-in-lieu charge for the average new customer in each category under the proposed, revised system. As noted earlier, the proposed system would include separate cash-in-lieu charges for indoor and outdoor water requirements.

**Table 4. Prospective Cash-in-Lieu Charge Under Proposed System (28 Customers)**

Category Name	Units	Average units	Factor per unit	Annual indoor water req.	Cash-in-Lieu price	Avg. irrigated area	Avg. irrigation intensity	Raw water charge/sf	Outdoor charge	Total charge
Auto Service/Repair	Sq. feet	3,255	12	39,060	\$3,476	480	Low	1.06520	\$511	\$3,987
Church	Sq. feet	27,062	7	175,900	\$15,655	168,747	High	1.99725	\$337,028	\$352,683
Grocery	Sq. feet	73,439	27	1,982,853	\$176,469	95,021	Medium	1.53122	\$145,498	\$321,967
Hospital	Sq. feet	1,136,284	34	38,633,656	\$3,438,308	212,556	Low	1.06520	\$226,414	\$3,664,722
Hotel/Motel	Rooms	38	30,300	1,151,400	\$102,472	845	Low	1.06520	\$900	\$103,372
Medical Office	Sq. feet	19,579	25	489,475	\$43,562	19,995	Medium	1.53122	\$30,616	\$74,179
Multi-Family	Units	120	47,500	5,700,000	\$507,287	67,116	Medium	1.53122	\$102,769	\$610,057
Office	Sq. feet	9,695	14	135,723	\$12,079	1,775	Low	1.06520	\$1,891	\$13,970
Recreation w/Pool	Sq. feet	41,383	122	5,048,726	\$449,325	22,127	Medium	1.53122	\$33,881	\$483,206
Restaurant	Sq. feet	3,165	188	595,020	\$52,955	15,793	Medium	1.53122	\$24,183	\$77,138
Retail	Sq. feet	8,372	16	133,952	\$11,921	3,284	Low	1.06520	\$3,498	\$15,420
Senior Housing	Units	100	41,000	4,100,000	\$364,891	51,323	Medium	1.53122	\$78,586	\$443,477
Warehouse	Sq. feet	31,473	5	157,365	\$14,005	38,002	Medium	1.53122	\$58,190	\$72,195

Under the new system, the average cash-in-lieu requirement (based on the sample of 28 existing customers) would range from less than \$5,000 for auto service/repair establishments, to about \$3.7 million for a new hospital.

Table 5 provides a more detailed comparison of the prospective financial effects of the two systems. One obvious result from this comparison is that the projected cash-in-lieu requirements under the new system are generally lower than under the existing system. As shown in the three columns on the far right, the average cash-in-lieu charge across the customer categories would decline from \$250 per thousand gallons of actual use under the existing system to about \$109 per thousand gallons of actual use under the proposed system. The \$109 per thousand gallons of actual use under the proposed system aligns much more closely with Greeley's intent to charge approximately \$29,000 per acre-foot for cash-in-lieu.

**Table 5. Prospective Cash-in-Lieu Charge Under Proposed System (28 Customers)**

Category name	Average annual water use, 2015-2017 (in thousands of gallons)			Cash-in-Lieu charge			CIL charge per thousand gallons of annual water use		
	Indoor	Outdoor	Total	Today	Tomorrow	Change	Today	Tomorrow	Change
Auto Service	49	0	49	\$21,750	\$3,987	-\$17,763	\$448	\$82	-\$366
Church	135	608	743	\$116,000	\$352,683	\$236,683	\$156	\$475	\$319
Grocery	1,419	1,787	3,207	\$222,333	\$321,967	\$99,634	\$69	\$100	\$31
Hospital	28,869	10,303	39,171	\$12,064,000	\$3,664,722	-\$8,399,278	\$308	\$94	-\$214
Hotel/Motel	997	127	1,124	\$232,000	\$103,372	-\$128,628	\$206	\$92	-\$114
Medical Office	439	342	781	\$232,000	\$74,179	-\$157,821	\$297	\$95	-\$202
Multi-Family	3,939	883	4,822	\$366,125	\$610,057	\$243,932	\$76	\$127	\$51
Office	21	10	31	\$184,875	\$13,970	-\$170,905	\$5,932	\$448	-\$5,484
Recreation w/Pool	1,452	0	1,452	\$232,000	\$483,206	\$251,206	\$160	\$333	\$173
Restaurant	583	210	792	\$87,000	\$77,138	-\$9,862	\$110	\$97	-\$12
Retail	492	76	568	\$87,000	\$15,420	-\$71,580	\$153	\$27	-\$126
Senior Housing	2,395	1,134	3,529	\$377,000	\$443,477	\$66,477	\$107	\$126	\$19
Warehouse	236	764	1,000	\$113,583	\$72,195	-\$41,388	\$114	\$72	-\$41
<b>Averages:</b>	<b>3,156</b>	<b>1,249</b>	<b>4,405</b>	<b>\$1,102,744</b>	<b>\$479,721</b>	<b>-\$623,023</b>	<b>\$250</b>	<b>\$109</b>	<b>-\$141</b>
Standard deviation across categories							\$1,598	\$149	-\$1,449

The second important aspect of the comparison of the two systems shown in Table 5 is the standard deviation in the cash-in-lieu charge per thousand gallons of actual use across the customer categories. Ideally, the cash-in-lieu charge system would perfectly reflect the differences in water use intensity across the categories – which would imply that each category would pay the same amount per thousand gallons of actual use and the standard deviation across categories would be zero. While this ideal outcome is impossible to achieve given the variation in water use intensity within each customer category, the much lower standard deviation in the cash-in-lieu charge per thousand gallons of actual use under the new system indicates the system would be more equitable than the current approach.

Four customer categories are highlighted in yellow in Table 5. These categories – Church, Office, Recreation with Pool, and Retail—appear to be outliers based on their projected CIL charge per thousand gallons of actual use under the proposed new system. The project charge per thousand gallons for each of these categories is more than 50 percent greater, or more than 50 percent less, than the overall average.

BBC suspected that these outliers were largely the result of working with a small sample of just 28 customers in the comparison of the two systems. To test that hypothesis, we calculated the prospective indoor only cash-in-lieu charge for each customer category under the new system based on the larger sample used previously in evaluating the proposed indoor water use factors. (The outdoor cash-in-lieu charge for the additional customers could not be estimated because information was not available on their irrigated landscape areas).

Table 6 compares the projected cash-in-lieu charge by customer category under the new system for indoor use only based on the sample of 28 customers shown in Table 5 and based on the larger sample shown in Table 2. This comparison confirms that the outlying categories in the previous analysis of 28 customers (Table 5) results from the idiosyncrasies of a relatively small sample. When the larger sample is analyzed, the standard deviation in the cash-in-lieu charge per thousand gallons of indoor use across the customer categories drops from \$143 per

thousand gallons to only \$25 per thousand gallons, and the new system appears highly equitable across customer categories.

**Table 6. Examination of Outlier Categories Based on Larger Sample of 127 Customers\***

Category Name	Tomorrow Cash-in-Lieu charge (Indoor only)			Dollars charged per thousand gallons of annual actual indoor water use		
	Sample of 28 customers	Sample of 127 customers	Difference	Sample of 28 customers	Sample of 127 customers	Difference
Auto Service/Repair	\$3,476	\$6,399	-\$2,922	\$72	\$130	\$59
Church	\$15,655	\$10,244	\$5,411	\$116	\$121	\$5
Grocery	\$176,469	\$111,418	\$65,052	\$124	\$137	\$12
Hospital	\$3,438,308	\$1,802,547	\$1,635,761	\$119	\$122	\$3
Hotel/Motel	\$102,472	\$157,560	-\$55,088	\$103	\$97	-\$5
Medical Office	\$43,562	\$26,170	\$17,392	\$99	\$167	\$68
Multi-Family	\$507,287	\$260,830	\$246,457	\$137	\$109	-\$28
Office	\$12,079	\$12,030	\$49	\$573	\$167	-\$406
Recreation w/Pool	\$449,325	\$360,310	\$89,015	\$309	\$148	-\$161
Restaurant	\$52,955	\$64,429	-\$11,473	\$91	\$106	\$15
Retail	\$11,921	\$43,181	-\$31,260	\$24	\$94	\$70
Senior Housing	\$364,891	\$257,414	\$107,477	\$152	\$119	-\$34
Warehouse	\$14,005	\$10,560	\$3,445	\$59	\$99	\$40
Averages				\$152	\$124	-\$28
Standard deviation across categories				\$143	\$25	-\$118

Note: The larger sample of 127 customers used in Table 6 is smaller than the full sample of 166 customers shown in Table 1 because some customer categories were not represented in the comparison of the new and old systems in the preceding tables based on 28 customers.

## Summary

BBC was retained by the City of Greeley to help evaluate the proposed change in approach for establishing the cash-in-lieu requirements for new, non-residential developments. There were two fundamental components to BBC's evaluation:

- Examining Greeley's proposed indoor water use factors for each customer category
- Comparing the projected financial effects on future customers under the proposed new system with the financial effects under the existing system.

BBC's evaluation indicates that Greeley's proposed indoor water use factors are generally reasonable for each customer category, though we would suggest that Greeley consider minor changes in those factors for the following categories:

- Grocery (proposed factor 27, range of metrics 17 to 20)
- Hospital (proposed factor 34, range of metrics 19 to 21)
- School (proposed factor 20, range of metrics 9 to 11)
- Senior Housing (proposed factor 41,000, range of metrics 31,500 to 36,500)

The comparison of the prospective financial effects under the new system with those under the existing system led BBC to two primary conclusions:

- In general, the cash-in-lieu charges for new non-residential development would be lower under the proposed new system than under the current system. That reduction is appropriate given Greeley's objective of charging approximately \$29,000 per acre-foot of raw water requirements for new development.
- The proposed new system would be more equitable across the various types of non-residential development than the current system.



# **Raw Water Requirements for Commercial & Multi-Family Development**

December 19, 2018

# Overview

- Proposal review
- Updates
- BBC Research & Consulting review
- Developer comments
- Start code revisions?

# Conceptual Framework of Proposal

- Base raw water requirements on use for all developments except single family residential
  - Service commitment agreements required to ensure the City is not shorted raw water
- Multi-family to be treated like commercial and mixed use development
  - No longer uses 3 AF/acre standard
  - PIF calculation consistent with commercial/mixed use

# Conceptual Framework of Proposal, cont.

- PIF based on tap size which is determined through fixture unit counts and type of use
  - Plumbing data sheet
- Separate taps for each use
  - Example: Mixed use would have 3 taps: one for commercial, residential, and landscaping



# Updates to Program

- Updated the unit usage numbers per BBC's recommendations

# Raw Water Requirements

Category Name	Units	Unit Use (Gallons per unit per year)
Auto Service & Repair	sf	12
Car Wash	bay	1,350,000
Childcare	sf	47
Church	sf	6.5
Grocery Store	sf	20
Gas Station w/o Car Wash	sf	93
Hospital	sf	21
Hotel/Motel	room	30,300
Medical Office	sf	25
Multi-Family (greater than 4 units)	unit	47,500
Office	sf	14
Recreation w/ pool	sf	122
Recreation w/o pool	sf	25
Restaurant	sf	188
Retail	sf	16
School	sf	11
Senior Housing	unit	36,500
Warehouse	sf	5
Industrial	Determined on a case by case basis	

# Comparison of Average CIL Charge per Customer -- Current vs. Proposed System

Category name	Cash-in-Lieu charge			CIL charge per thousand gallons of annual water use (2015-17)		
	Today	Tomorrow	Change	Today	Tomorrow	Change
Auto Service	\$22,000	\$4,000	-\$18,000	\$454	\$82	-\$371
Church	\$116,000	\$353,000	\$237,000	\$156	\$475	\$319
Grocery	\$222,000	\$322,000	\$100,000	\$69	\$100	\$31
Hospital	\$12,064,000	\$3,665,000	-\$8,399,000	\$308	\$94	-\$214
Hotel/Motel	\$232,000	\$103,000	-\$129,000	\$206	\$92	-\$115
Medical Office	\$232,000	\$74,000	-\$158,000	\$297	\$95	-\$202
Multi-Family	\$366,000	\$610,000	\$244,000	\$76	\$127	\$51
Office	\$185,000	\$14,000	-\$171,000	\$5,936	\$449	-\$5,487
Recreation w/Pool	\$232,000	\$483,000	\$251,000	\$160	\$333	\$173
Restaurant	\$87,000	\$77,000	-\$10,000	\$110	\$97	-\$13
Retail	\$87,000	\$15,000	-\$72,000	\$153	\$26	-\$127
Senior Housing	\$377,000	\$443,000	\$66,000	\$107	\$126	\$19
Warehouse	\$114,000	\$72,000	-\$42,000	\$114	\$72	-\$42
<b>Averages:</b>	<b>\$1,103,000</b>	<b>\$480,000</b>	<b>-\$623,000</b>	<b>\$250</b>	<b>\$109</b>	<b>-\$141</b>
Standard deviation across categories				<b>\$1,599</b>	<b>\$149</b>	<b>-\$1,450</b>

# Developer Comments Summarized

- Type of use is too subjective and open to interpretation by City staff – current method is fine
- Proposal looks good and will promote development – two commenters
- Continuing the raw water surcharge seems fairer than collecting additional cash-in-lieu for usage overages
  - The usage could drop after additional cash-in-lieu paid
  - Surcharge is more flexible

# Developer Comments Summarized

- Questions received:
  - Multi-family trends reflect fewer bedrooms per unit. Can we base water usage calculations on bedrooms rather than multi-family units?
  - Newer multi-family water usage per unit is much lower than older multi-family sites. Shouldn't the unit usage be based on what the new multi-family buildings use versus older, less efficient multi-family buildings?



# Outstanding Issue – Multi-Family Requirement

- Newer multi-family units show lower water usage per unit than older units
- The raw water requirement in the proposal incorporates many multi-family complexes but has more older units
- Lower multi-family raw water requirements to reflect the trend of lower per multi-family unit usage in the newer complexes?

# Outstanding Issue – Landscape Taps

- Staff preference – Separate taps for landscaping
  - Issue: For those sites with limited landscaping, the extra PIF for the landscaping tap makes the proposed program unnecessarily more expensive

## Options:

- Separate taps will not be required for landscaping if a 1.5" tap or smaller can serve both domestic and irrigation water use
  - The raw water requirement would still apply for landscaping
- Reduced PIF for sites with limited and/or xeric landscaping

# Outstanding Issue – Raw Water Overages

## Options:

- Continue raw water surcharge program as structured
  - Be more deliberate about giving the option for purchasing additional cash-in-lieu
- Require cash-in-lieu payment after 2 years of overages
- Other variations?



# Path Forward

- Developer open house in January
- City Council work session
- Start code revisions?
- Implement spring 2019

# Questions/Comments?

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE   X              NO ENCLOSURE       

ITEM NUMBER:                    5

TITLE:                            ACTION: APPROVE THE PROPOSED 2019  
WATER AND SEWER RATE ADJUSTMENTS

RECOMMENDATION:            APPROVE THE PROPOSED 2019 WATER AND  
SEWER RATE ADJUSTMENTS

**ADDITIONAL INFORMATION:**

The 2019 Rate Resolution and Appendices are included for the Board's review. The water and sewer rates and fees were developed in response to the 2019/2020 budget that the Board recommended to the City Manager at the July 2018 meeting.

2019 will be the third year of the water budget rate structure for residential customers. Residential water rates are increasing 5.0%, and residential sewer rates are increasing approximately 2.5%. Greeley's combined water and sewer bill cost is in the bottom half for Front Range providers.

Plant investment fees are updated annually for water and sewer. The water plant investment fee is decreasing \$600 to \$10,800 for a ¾" tap while the sewer plant investment fee will remain unchanged at \$5,700 for a ¾" tap.

Using the pricing method approved by the Board at the July 2018 meeting, the 2019 cash-in-lieu of raw water fee will increase from \$29,000 to \$31,000. The new cash-in-lieu price will take effect on March 1, 2019.

**CITY OF GREELEY, COLORADO  
ACTING BY AND THROUGH ITS WATER AND SEWER BOARD**

**RESOLUTION \_\_\_\_\_, 2018**

**A RESOLUTION ADOPTING RATES, FEES, AND CHARGES FOR WATER AND SEWER  
SERVICES IN 2019**

WHEREAS, the City of Greeley (“City”) is a Colorado home rule municipality empowered pursuant to Sections 1 and 6 of Article XX of the Colorado Constitution to, *inter alia*, construct, purchase, acquire, lease, add to, maintain, conduct, and operate water works and everything required therefor, within or without its territorial limits, for use of the City; and

WHEREAS, Section 17-4 of the City Charter and Sections 14.04.080 and 14.04.110 of the Greeley Municipal Code authorize and require the Water and Sewer Board (“Board”) to, *inter alia*, annually establish minimum water and sewer rates by resolution, which must be sufficient to include expenditures for all operations and maintenance of the water and sewer system, all debt service, and additions to a reserve account in sufficient amounts to offset depreciation to the water and sewer system; and

WHEREAS, Section 17-4 of the City Charter authorizes and requires the Board to acquire, develop, convey, lease, and protect water and sewer assets, supplies, and facilities; and

WHEREAS, Section 14.04.090 of the Greeley Municipal Code requires the Board to adopt minimum rates, fees and charges the Board deems necessary to cover the costs of inspections, tap installations, operations, maintenance and extensions of the water and sanitary sewer systems; and

WHEREAS, Section 14.24.100 of the Greeley Municipal Code requires the Board to set the fair market value of water, upon which value the fee for cash-in-lieu of raw water (i.e., the cash equivalent of raw water required to be dedicated for development within the City) is based; and

WHEREAS, the Board has advised the City Council of its long-term capital improvement plans, pursuant to Section 17-7 of the City Charter; and

WHEREAS, the Board’s long-term capital improvement plan for water contains extensive new construction and rehabilitation within the next five years, including construction of filter plant upgrades; and

WHEREAS, the Board’s long-term water storage and water acquisition plans contemplate the acquisition of new water supplies, as well as the potential acquisition, construction, and expansion of water storage reservoirs;

WHEREAS, the Board recognizes that it is financially prudent to anticipate future capital expenditures with moderate rate increases over several years rather than incur unusually large bond issues at a later time, which would require a large rate increase to fund the debt service; and

WHEREAS, the Board's 10-year Financial Plan for funding operations, construction, water acquisition, and replacement programs calls for rate increases over the next several years to accomplish the programs anticipated;

**NOW THEREFORE, BE IT RESOLVED BY THE WATER AND SEWER BOARD OF THE CITY OF GREELEY, COLORADO, AS FOLLOWS.**

1. The water rates for 2019 shall be as shown in Appendix A to this resolution.
2. The sewer rates for 2019 shall be as shown in Appendix B to this resolution.
3. The water and sewer fees and charges for 2019 shall be as shown in Appendix C to this resolution.
4. Water and sewer rate increases shall be allocated among the various customer classes in accordance with their service demand as determined by the City's rate model shown in the attached rate appendices.
5. The 2019 cash-in-lieu of raw water fee shall be as shown in Appendix A of this resolution.
6. The 2019 plant investment fees for water shall be as shown in Appendix A of this resolution.
7. The 2019 plant investment fees for sewer shall be as shown in Appendix B of this resolution.
8. The new water and sewer rates shall take effect on January 1, 2019.
9. The new plant investment fees and cash-in-lieu of raw water fee shall take effect on March 1, 2019 to provide the public with at least 45 days' notice of the new fees.

**PASSED AND ADOPTED, SIGNED AND APPROVED THIS \_\_\_\_ DAY OF DECEMBER 2018.**

ATTEST

CITY OF GREELEY  
WATER AND SEWER BOARD

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Roy Otto  
Secretary to the Board

---

Harold Evans  
Chairman, Water and Sewer Board

## APPENDIX A

### **2019 WATER RATES AND FEES**

#### **A. WITHIN THE CITY OF GREELEY**

##### Customer Class

##### Rate per 1,000 Gallons

##### Inside the City Single-Family Residential Water Budget

Tier One ( $\leq 100\%$ of Water Budget)	\$4.35
Tier Two (101-130% of Water Budget)	\$5.32
Tier Three (131-150% of Water Budget)	\$7.25
Tier Four ( $> 150\%$ of Water Budget)	\$9.67

Inside the City Residential not on Water Budget \$4.62

Inside the City Commercial \$4.46

Inside the City Industrial \$3.21

In addition, the following service charges shall be billed regardless of the volume of water consumed.

##### Service Charges for Monthly Billed Period:

<u>Meter Size</u>	<u>Inside City</u>
5/8"	\$13.55
3/4"	\$13.55
1"	\$13.90
1½"	\$18.00
2"	\$19.65
3"	\$54.25
4"	\$63.15
6"	\$79.55
8"	\$101.10
10"	\$129.55
12"	\$167.00

## **B. OUTSIDE THE CITY OF GREELEY**

<u>Customer Class</u>	<u>Rate per 1,000 Gallons</u>
Outside the City Residential	\$10.95
Outside the City Commercial	\$10.86
Sharkstooth Pipeline Company (Contributed Water Rights)	\$3.95
Mountain View Meadows (Not Contributed Water Rights)	\$9.65
Agriculture Special Contract (Greeley-Loveland by Agreement)	\$4.62
Kodak Alaris	\$3.36
Town of Windsor	\$4.15
City of Evans	\$3.95
Town of Milliken	\$5.06

In addition, the following service charges shall be billed regardless of the volume of water consumed.

### Service Charges for Monthly Billed Period:

<u>Meter Size</u>	<u>Outside City</u>
5/8"	\$14.40
3/4"	\$14.40
1"	\$14.75
1½"	\$19.10
2"	\$20.85
3"	\$57.55
4"	\$66.95
6"	\$84.35
8"	\$107.20
10"	\$137.35
12"	\$177.05

## **C. RAW WATER PREREQUISITE**

Raw water dedication is a prerequisite to receiving water service pursuant to City of Greeley Municipal Code Section 14.24.100, regardless of whether the service requested is for treated or non-potable water.

## **D. RAW WATER SURCHARGE FOR CERTAIN TREATED WATER USERS**

All non-residential customers and residential customers subject to the large parcel exception who initiate or change the type of service after March 2, 1989, and/or who use more water in a calendar year (based upon billing records) than the annual allotment stated in Paragraph B, Section 14.24.100 and Paragraph C, Section 14.24.185 of the Greeley Municipal Code, shall be assessed a raw water surcharge of \$7.63 per 1,000 gallons on the volume of water used in excess of the annual allotment. This surcharge is based on Greeley's cash-in-lieu of raw water price.

## **E. RAW WATER SURCHARGE FOR NON-POTABLE USERS**

All non-potable customers, residential or commercial, who use more water in a calendar year than the amount of raw water contributed (based upon billing records) shall be assessed a raw water surcharge

of \$3.85 per 1,000 gallons on the excess usage. This surcharge is based on the market price for Greeley and Loveland Irrigation Company shares.

#### **F. NON-POTABLE SERVICE**

The non-potable water usage charge shall be \$3.23 per 1,000 gallons for the volume of water used. A monthly service charge of \$19.65 shall be assessed on every non-potable account during the period of its operation, regardless of the volume of water used. The City reserves the right to decide which customers will be allowed to receive non-potable water, depending on location, cost, and budgetary considerations.

#### **G. TURN-ON CHARGE**

The minimum turn-on charge is hereby established at \$45.00. This charge is applicable to all turn-ons, including, but not limited to:

1. Non-payment shut-off and turn-on;
2. Emergency and non-emergency repairs except in the case of a meter failure or meter repair;
3. Lawn taps, except in the case of multiple lawn taps on the same property, only one charge will be required per service call.

No charge will be assessed for the turn-on and turn-off of non-potable service.

#### **H. WATER SOLD FROM HYDRANTS**

Water sold from City fire hydrants shall be charged as follows:

1. \$18.58 per 1,000 gallons for customers who have not made raw water contributions.
2. \$10.95 per 1,000 gallons for customers who annually turn over CBT water equal to annual usage or for construction water used on sites which have contributed raw water.
3. Meter rentals will be \$15.00 per workday or \$75.00 per week.

#### **I. PLANT INVESTMENT FEE SCHEDULE FOR WATER**

1. **Minimum Plant Investment Fees Based on Tap Size:** The following are minimum plant investment fees for treated water service.

<u>Tap Size</u>	<u>Water Plant Investment Fee</u>
3/4"	\$10,800
1"	\$18,000
1½"	\$36,000
2"	\$57,500
3"	\$126,000
4"	\$216,000
6"	\$450,000



- 2. Limited Use/R.O.W. Improvement Tap (Commercial Customer Class):** Plant investment fees for ¾-inch taps for such purposes as fountains and irrigation of medians (areas up to 2,500 square feet) within the City of Greeley are \$5,400. If the annual usage of such a tap exceeds 60,000 gallons, the standard raw water surcharge in Paragraph D will apply to the excess usage. Should the annual usage exceed 60,000 gallons in any consecutive two-year period, then the tap will no longer be considered a limited use tap. The balance of the Plant Investment Fee for a standard ¾-inch tap will be due immediately, subject to the current fee schedule.

#### **J. PLANT INVESTMENT FEES FOR NON-POTABLE**

Plant investment fees for non-potable service shall be based on the cost of the system constructed to provide non-potable service. The plant investment fee will be the pro rata share of the non-potable system construction, based upon irrigated acreage, as determined by agreement. If the non-potable system has not yet been constructed and construction costs are not known, the Plant Investment Fee is set at \$10,800 per acre of irrigated turf.

#### **K. CASH-IN-LIEU OF RAW WATER**

The cash-in-lieu of raw water fee is a fair market value of water determination based on the cost of the water rights portfolio that Greeley has secured to date and the current cost of developing new water storage projects. The cash-in-lieu of raw water fee is \$31,000 per acre-foot of water.

## **APPENDIX B**

### **2019 SANITARY SEWER RATES AND FEES**

#### **A. RESIDENTIAL SANITARY SEWER RATES – WITHIN THE CITY OF GREELEY.**

1. a. **Single Family Metered Rate;** applicable to all residential users receiving metered water in which not more than one family unit is housed on the same lot or in the same building: \$11.55 per billing period plus \$2.07 per thousand gallons of water use per billing period, not to exceed winter billing period consumption.  
  
b. All new single family units which receive metered water will be assessed either the flat rate of \$23.10 per billing period or the metered rate of \$11.55 per billing period plus \$2.07 per thousand gallons of water use per billing period, whichever is less, until the end of their first complete winter billing period. At that time their rate will change to a fixed charge plus a volume rate equal to that being assessed all other single-family residences receiving metered water.  
  
c. All single-family units with metered consumption less than 1,000 gallons in their most recent winter billing period shall be billed for actual consumption in subsequent billing periods, not to exceed an amount equal to 3,000 gallons of consumption.
2. a. **Multi-Family Metered Rate;** applicable to all residential users receiving metered water in which two or more family units are housed on the same lot or in the same building: \$11.55 per sewer connection plus \$2.46 per thousand gallons of water use per billing period, not to exceed winter billing period consumption.  
  
b. All new multi-family units which receive metered water will be assessed either the flat rate of \$23.10 per family unit per billing period or the actual metered rate of \$11.55 per sewer connection per billing period plus \$2.46 per thousand gallons of water use per billing period, whichever is less, until the end of their first complete winter billing period. At that time their rate will change to a fixed charge plus a volume rate equal to that being assessed all other multi-family units receiving metered water.

#### **B. COMMERCIAL SANITARY SEWER RATES – WITHIN THE CITY OF GREELEY.**

1. **Class I Commercial Rate;** applicable to car washes, cleaners, laundromats, schools, colleges, churches, retail stores, offices, beauty shops, financial institutions, membership organizations without dining facilities, service stations (without repair), motels (without dining), and bed and breakfasts which provide a continental breakfast: \$11.55 per sewer connection per billing period plus \$2.43 per thousand gallons of water use per billing period.
2. **Class II Commercial Rate;** applicable to bars and taverns (without dining), service stations (with repair), animal clinics, hospital/convalescent homes, photo finishing, light manufacturing, retail stores (with dining), convenience stores, and bed and breakfasts which cook a daily breakfast: \$11.55 per sewer connection per billing period plus \$3.29 per thousand gallons of water use per billing period.

3. **Class III Commercial Rate;** applicable to restaurants, hotels (with dining), bars and taverns (with dining), membership organizations (with dining): \$11.55 per sewer connection per billing period plus \$4.14 per thousand gallons of water use per billing period.
4. **Class IV Commercial Rate;** applicable to food markets, butchers, bakers, and food manufacturing: \$11.55 per sewer connection per billing period plus \$4.93 per thousand gallons of water use per billing period.
5. **Class V Commercial Rate;** applicable to mortuaries and miscellaneous heavy commercial manufacturing: \$11.55 per sewer connection per billing period plus \$5.67 per thousand gallons of water user per billing period.
6. **Commercial Contract Rate;** applicable to commercial users which do not receive City water. The administrative authority, with the approval of the City Council, shall contract with such users for sanitary sewer service.
7. **Irrigation Exemption;** if a customer owns and waters a lawn 15,000 square feet or more in size, the charge to that customer shall be calculated using the water use of that customer for their immediately preceding winter billing period.

**C. RESIDENTIAL SANITARY SEWER RATES – OUTSIDE THE CITY OF GREELEY.**

1.
  - a. **Single Family Metered Rate;** applicable to all residential users receiving metered water in which not more than one family unit is housed on the same lot or in the same building: \$14.44 per billing period plus \$2.61 per thousand gallons of water use per billing period, not to exceed winter billing period consumption.
  - b. All new single family units which receive metered water will be assessed either the flat rate of \$28.88 per billing period or the metered rate of \$14.44 per billing period plus \$2.61 per thousand gallons of water use per billing period, whichever is less, until the end of their first complete winter billing period. At that time their rate will change to a fixed charge plus a volume rate equal to that being assessed all other single-family residences receiving metered water.
  - c. All single-family units with metered consumption less than 1,000 gallons in their most recent winter billing period shall be billed for actual consumption in subsequent billing periods, not to exceed an amount equal to 3,000 gallons of consumption.
2.
  - a. **Multi-Family Metered Rate;** applicable to all residential users receiving metered water in which two or more family units are housed on the same lot or in the same building: \$14.44 per sewer connection plus \$3.10 per thousand gallons of water use per billing period, not to exceed winter billing period consumption.
  - b. All new multi-family units which receive metered water will be assessed either the flat rate of \$28.88 per family unit per billing period or the actual metered rate of \$14.44 per sewer connection per billing period plus \$3.10 per thousand gallons of water use per billing period, whichever is less, until the end of their first complete winter billing period. At that time their rate will change to a fixed charge plus a volume rate equal to that being assessed all other multi-family units receiving metered water.

**D. COMMERCIAL SANITARY SEWER RATES – OUTSIDE THE CITY OF GREELEY.**

1. **Class I Commercial Rate;** applicable to car washes, cleaners, laundromats, schools, colleges, churches, retail stores, offices, beauty shops, financial institutions, membership organizations without dining facilities, service stations (without repair), motels (without dining), and bed and breakfasts which provide a continental breakfast: \$14.44 per sewer connection per billing period plus \$3.07 per thousand gallons of water use per billing period.
2. **Class II Commercial Rate;** applicable to bars and taverns (without dining), service stations (with repair), animal clinics, hospital/convalescent homes, photo finishing, light manufacturing, retail stores (with dining), convenience stores, and bed and breakfasts which cook a daily breakfast: \$14.44 per sewer connection per billing period plus \$4.16 per thousand gallons of water use per billing period.
3. **Class III Commercial Rate;** applicable to restaurants, hotels (with dining), bars and taverns (with dining), membership organizations (with dining): \$14.44 per sewer connection per billing period plus \$5.22 per thousand gallons of water use per billing period.
4. **Class IV Commercial Rate;** applicable to food markets, butchers, bakers, and food manufacturing: \$14.44 per sewer connection per billing period plus \$5.98 per thousand gallons of water use per billing period.
5. **Class V Commercial Rate;** applicable to mortuaries and miscellaneous heavy commercial manufacturing: \$14.44 per sewer connection per billing period plus \$6.75 per thousand gallons of water user per billing period.
6. **Commercial Contract Rate;** applicable to commercial users which do not receive City water. The administrative authority, with the approval of the City Council, shall contract with such users for sanitary sewer service.
7. **Irrigation Exemption;** if a customer owns and waters a lawn 15,000 square feet or more in size, the charge to that customer shall be calculated using the water use of that customer for their immediately preceding winter billing period.

**E. INDUSTRIAL SANITARY SEWER RATES.**

1. **SIC 2026 Rate;** applicable to dairy plants receiving metered water: \$11.55 per sewer connection per billing period plus \$16.92 per thousand gallons of water use per billing period.
2. **SIC 2013 Rate;** applicable to prepared food manufacturers receiving metered water: \$11.55 per sewer connection per billing period plus \$14.27 per thousand gallons of water use per billing period.
3. **SIC 7218 Rate;** applicable to industrial laundries receiving metered water: \$11.55 per sewer connection per billing period plus \$4.48 per thousand gallons of water use per billing period.

4. **SIC 2034 Rate;** applicable to dehydrated food producers receiving metered water: \$11.55 per sewer connection per billing period plus \$3.35 per thousand gallons of water use per billing period.
5. **SIC 3111 Rate;** applicable establishments engaged in brine preserving, tanning, curing, and finishing hides and skins into leather. This also includes leather converters, who buy hides and skins and have them processed into leather on a contract basis by others. \$11.55 per sewer connection per billing period, plus \$0.98 per thousand gallons of water used per billing period, plus \$0.35 per pound of BOD, plus \$0.31 per pound of TSS, and \$1.36 per pound of NH3.

Fees specific to the SIC 3111 customer include an annual irrigation replacement charge of \$25,575 which will be billed in monthly increments of \$2,131.26 if irrigation water is used. SIC 3111 shall also pay a temporary capacity charge in lieu of a plant investment fee. The capacity charge shall be \$211 monthly for every 1,000 gallons treated per day. SIC 3111 will pay for only the capacity used in any month.

6. **Industrial Contract Rate;** applicable to industrial users that do not receive City water. The administrative authority, with the approval of the City Council, shall contract with such users for sanitary sewer service.

The minimum charge and the flat rate charge stated above shall be prorated over the calendar year in equal amounts. The incremental rate per thousand gallons shall apply to measured consumption within billing periods regardless of the billing period duration.

#### **F. WASTEWATER PLANT INVESTMENT FEE.**

The following minimum plant investment fee schedule for sewer taps is hereby established.

<u>Water Tap Size</u>	<u>Wastewater Plant Investment Fee</u>
3/4"	\$5,700
1"	\$9,500
1½"	\$19,000
2"	\$30,300
3"	\$66,400
4"	\$113,700
6"	\$237,000

An individual structure that contains more than one living unit (whether apartment, townhouse, mobile home, or condominium) may be served by a single tap.

## **APPENDIX C**

### **2019 WATER AND SEWER DEPARTMENT MISCELLANEOUS FEES AND CHARGES**

#### **A. Water charges for meter failure or leak adjustments**

1. Varies – Water charge will be based on the average consumption for the same period in two prior years and billed at the 2019 rates.

#### **B. Water tap installation fees**

1.  $\frac{3}{4}$ " = \$205
2. 1" = \$225
3. 1  $\frac{1}{2}$ " = \$315
4. 2" = \$420
5. 4"-12" = \$540

#### **C. Sewer tap installation fees**

1. 4" = \$280
2. 6" = \$290
3. 4" to 6" on 15" or larger mains = \$425

#### **D. Wastewater acceptance fee (hailed wastewater)**

1. \$0.065/gallon

#### **E. Water and sewer line crossing permits**

1. Permit fee = \$50 per application
2. Inspection fee = \$100 per crossing

#### **F. Food service establishments discharge videos**

1. Best management practices video = \$20
2. Personalized video = \$30

#### **G. Construction cost recovery**

1. Cost recovery for water and sewer assets will vary according to the development or site

#### **H. Engineering design review fee**

1. Varies – Review fee will be based on the length of the review and the cost of the engineer

#### **I. Water Meter Fees**

1. Varies – The meter fees are a pass through cost. The customer will pay the cost the City of Greeley pays to purchase the meters.

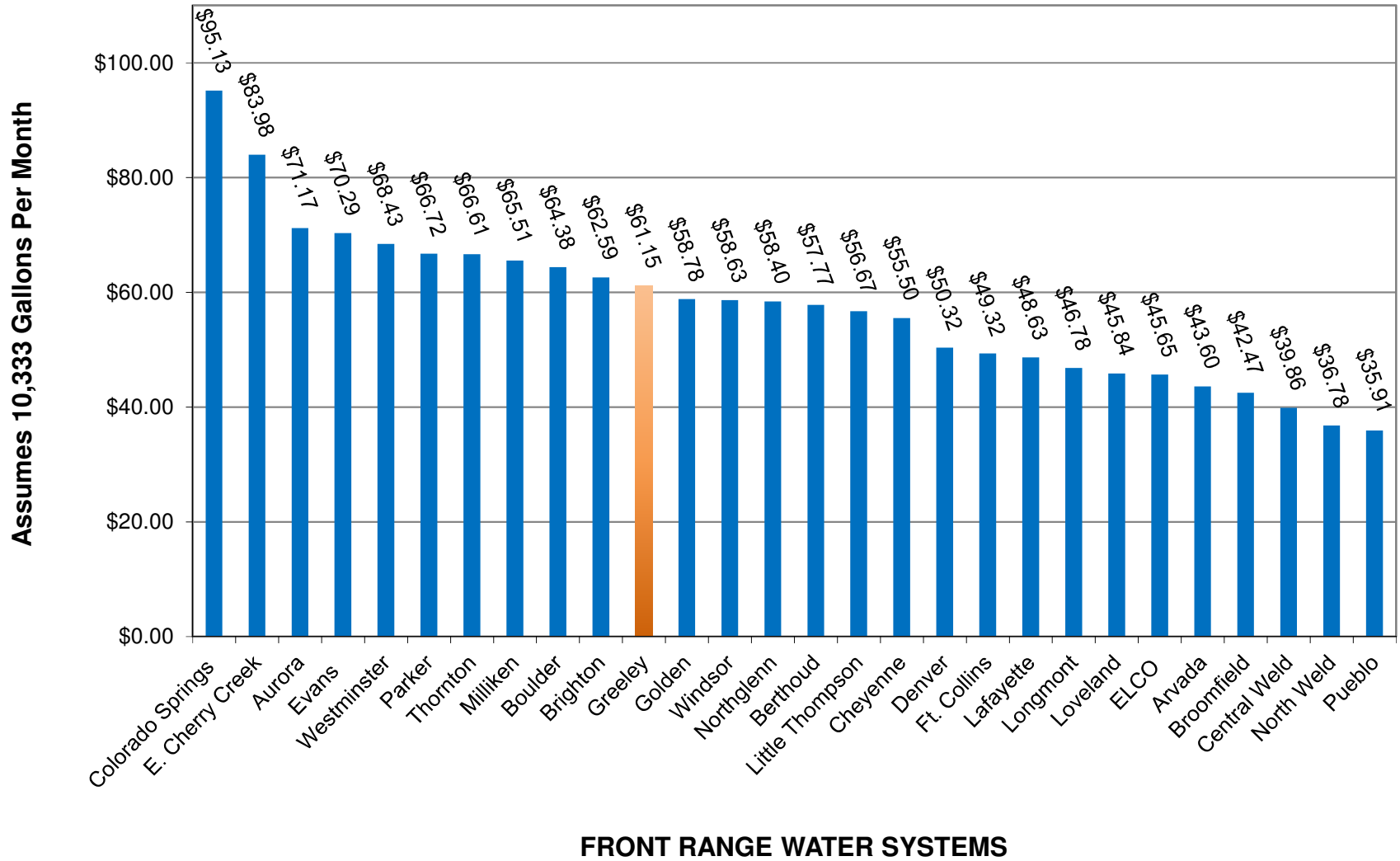
#### **J. Publications**

1. Printed - \$25
2. Electronic – Free

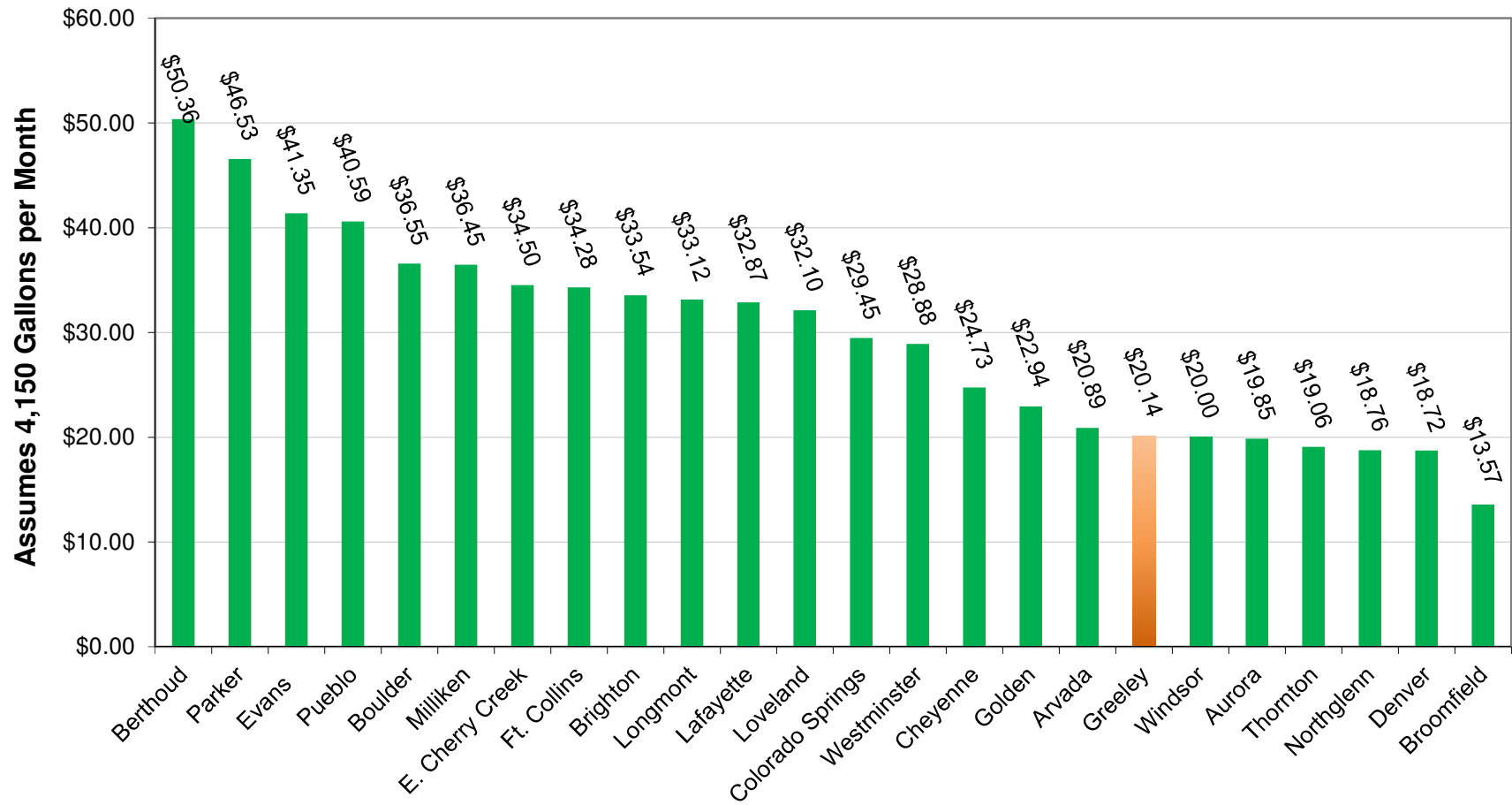
#### **K. Other fees and charges**

1. Fees charged for special circumstances outside the normal fee schedule may vary.

## 2019 Monthly Water Bill Single Family Residential



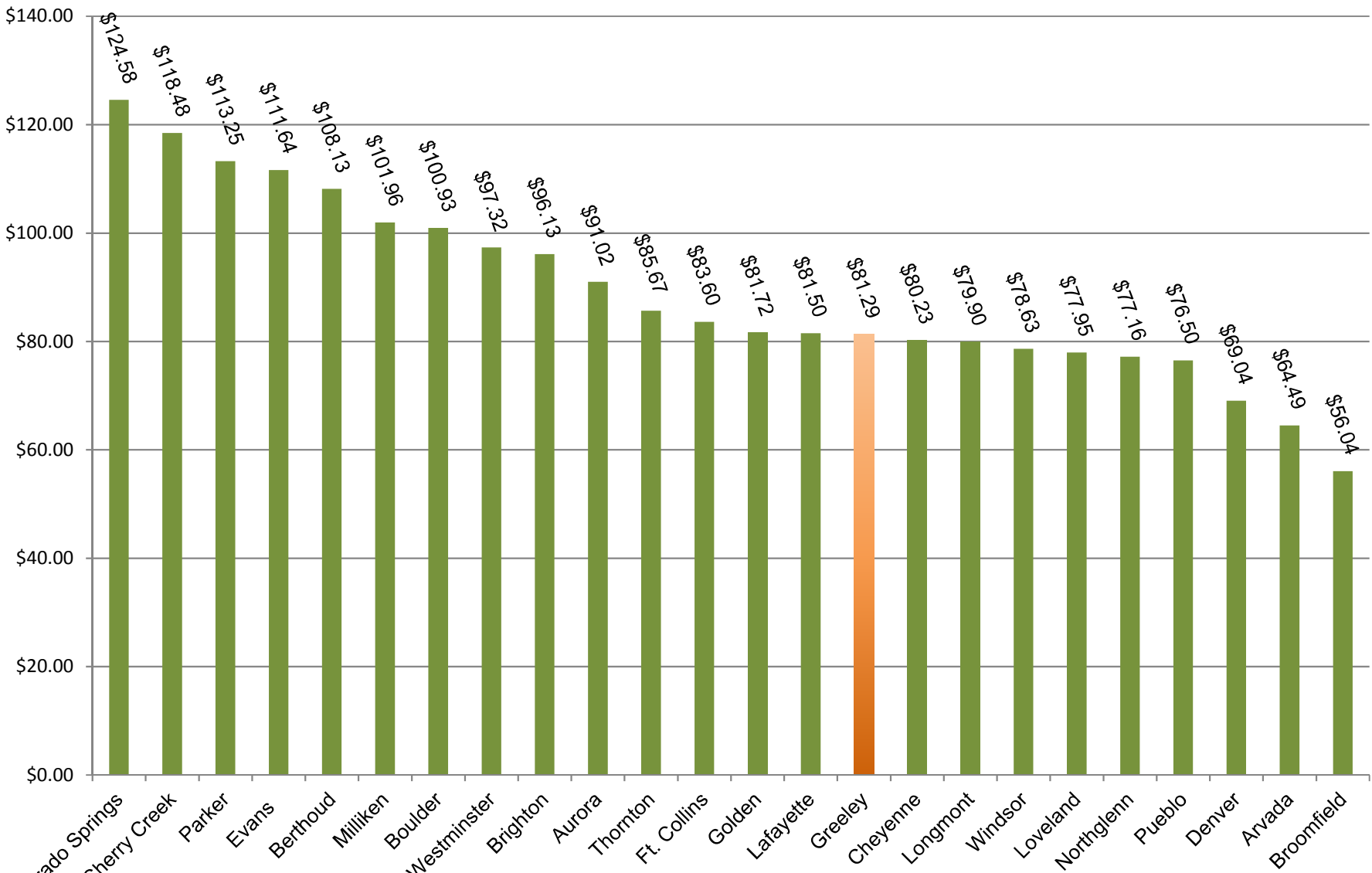
## 2019 Monthly Sewer Bill Single Family Residential



FRONT RANGE SEWER SYSTEMS



# 2019 Combined Water and Sewer Bill Single Family Residential



Assumes 10,333 gallons monthly water use and 4,150 gallons monthly sewer use

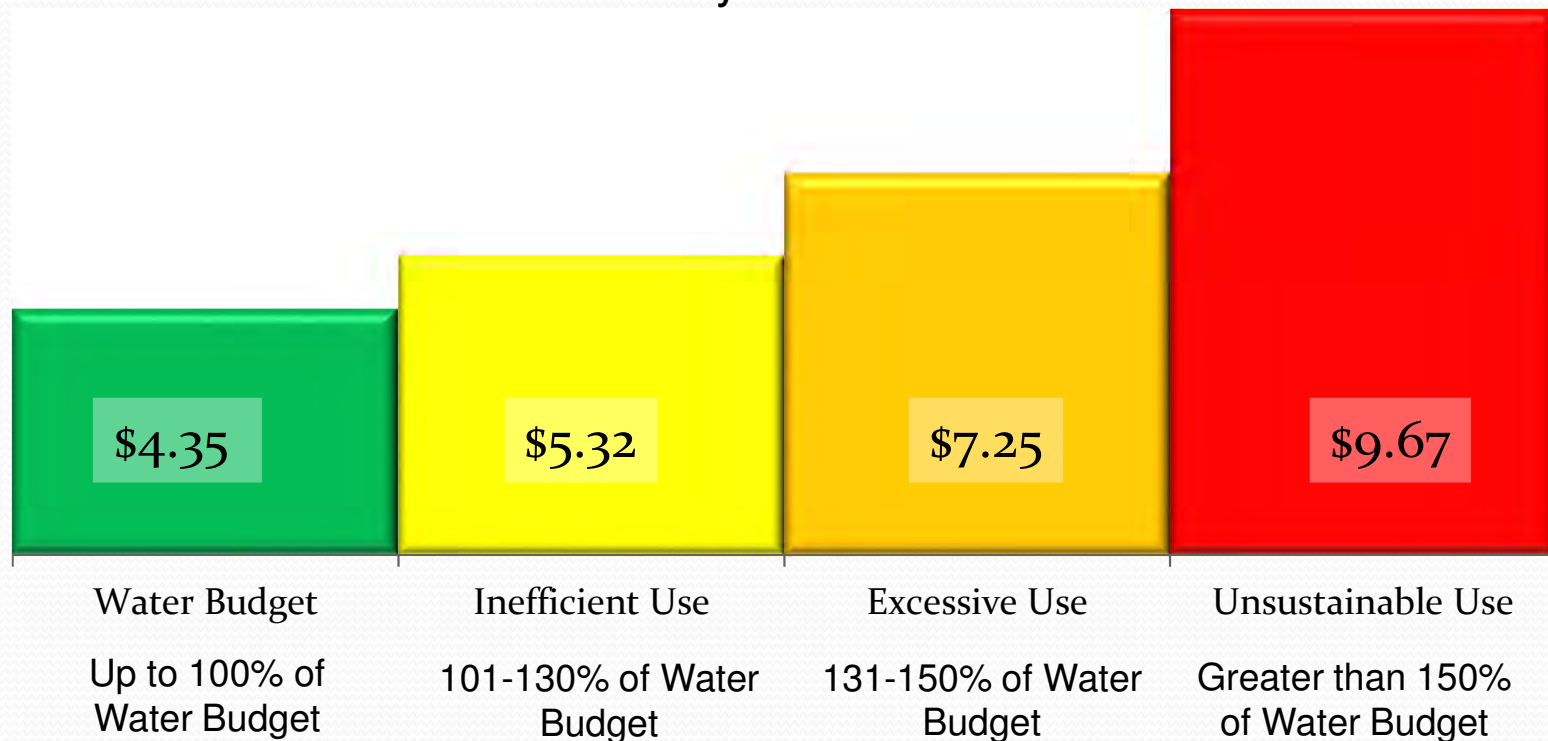


# 2019 Water and Sewer Rate Changes

December 19, 2018

# Residential Water Budget Rate Structure

Rate Structure for Greeley SFR customers in 2019



- Uniform rate would have been \$4.62
- Monthly service charge – no change (\$13.55)



# Proposed Water Rate Changes

Customer Class	% Rate Increase	Rates
Inside Residential	5.0%	Varies
Inside Commercial	5.0%	\$4.46
Inside Industrial	1.0%	\$3.21
Outside Residential	6.5%	\$10.95
Outside Commercial	7.5%	\$10.86
Outside Industrial	2.0%	\$3.36
City of Evans	10.0%	\$3.95
Town of Windsor	4.0%	\$4.15
Town of Milliken	4.5%	\$5.06



# Proposed Sewer Rate Changes

Customer Class	% Rate Increase	Rates
Single Family	2.5%	\$2.07
Multi-Family	6.0%	\$2.46
Commercial I	5.5%	\$2.43
Commercial II	5.0%	\$3.29
Commercial III	3.5%	\$4.14
Commercial IV	2.0%	\$4.93
Commercial V	1.0%	\$5.67

Avg monthly  
bill = \$20.14

- Monthly service charge remains \$11.55



# Proposed Sewer Rate Changes

Customer Class	% Rate Increase	Rates
Industrial SIC 2026	19.5%	\$16.92
Industrial SIC 2013	1.0%	\$14.27
Industrial SIC 7218	12.0%	\$4.48
Industrial SIC 2034	11.5%	\$3.35



## Proposed Sewer Rates – Outside City

Customer Class	Rates
Outside Single Family	\$2.61
Outside Multi-Family	\$3.10
Outside Commercial I	\$3.07
Outside Commercial II	\$4.16
Outside Commercial III	\$5.22
Outside Commercial IV	\$5.98
Outside Commercial V	\$6.75

- Monthly service charge is \$14.44



# Approximate Residential 2019 Bill

	Service Charge	Average Volume (kgal)	Volume Rate	Monthly Bill
Annual Avg Water	\$13.55	10.33	Varies by tier	\$61.15
Summer Water	\$13.55	22.0	Varies by tier	\$120.14
Winter Water	\$13.55	4.15	Varies by tier	\$31.60
Sewer	\$11.55	4.15	\$2.07	\$20.14

- No change from 2018 monthly service charges
  - Water: \$13.55
  - Sewer: \$11.55





# Approximate Residential 2019 Bill Comparison

Average Bill	2018	2019	Change
Water	\$58.76	\$61.15	\$2.39
Sewer	\$19.64	\$20.14	\$0.50
<b>Total</b>	<b>\$78.40</b>	<b>\$81.29</b>	<b>\$2.89</b>



# Plant Investment Fees

	<i>2017</i>	<i>2018</i>
Water	\$11,400	\$10,800
Sewer	\$5,700	\$5,700
<b>Total W&amp;S PIF</b>	<b>\$17,100</b>	<b>\$16,500</b>



# 2018 Cash-In-Lieu Fees

- 2018 revenue: \$116,000
- Taps paying cash-in-lieu = 3
- Volume of water sold: 3.5 acre feet





# 2019 Cash-In-Lieu Fees

**WATER  
PORTFOLIO**

**\$24,500**

**STORAGE**

**\$6,500**

**CIL PRICE**

**\$31,000**



# Questions?

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE   X              NO ENCLOSURE       

ITEM NUMBER:            6

TITLE:                    ACTION: APPROVE PROPOSED 2019 BOARD  
MEETING SCHEDULE

RECOMMENDATION:      APPROVE PROPOSED 2019 BOARD MEETING  
SCHEDULE

ADDITIONAL INFORMATION:  
Please see the attached memorandum for details.



## Water & Sewer Department MEMORANDUM

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TO: Sean Chambers, Director of Water and Sewer  
FROM: Shannon Metcalf, Office Manager *sm*  
DATE: 12/03/2018  
RE: Proposed 2019 Water and Sewer Board Schedule

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I would like to propose the following dates for the 2019 Water & Sewer Board schedule:

Wednesday, January 16<sup>th</sup>  
Wednesday, February 20<sup>th</sup>  
Wednesday, March 20<sup>th</sup>  
Wednesday, April 17<sup>th</sup>  
Wednesday, May 15<sup>th</sup>  
Wednesday, June 19<sup>th</sup>

Wednesday, July 17<sup>th</sup>  
Wednesday, August 21<sup>st</sup>  
Wednesday, September 18<sup>th</sup>  
Wednesday, October 16<sup>th</sup>  
Wednesday, November 20<sup>th</sup>  
Wednesday, December 18<sup>th</sup>

I would also suggest that we pre-select our dates for the 2019 Summer Board Tours. We will conduct two separate tours (one for the Board only and another for the citizens) again this year. Please consider the following dates for these tours:

Looking ahead at summer dates, avoiding Tuesdays for Council and Wednesdays for W&S Board meetings, please consider the following dates:

June 21<sup>st</sup> or 28<sup>th</sup>  
July 19<sup>th</sup> or 26<sup>th</sup>  
August 23<sup>rd</sup> or 30<sup>th</sup>

**WATER & SEWER BOARD AGENDA    DECEMBER 19, 2018**

ENCLOSURE      X                        NO ENCLOSURE          

ITEM NUMBER:                      7

TITLE:                                      ACTION: THE DELEGATION OF AUTHORITY  
TO CLOSE ON OVERLAND POND 5 (DEINES  
PARCEL) OF THE OVERLAND POND  
STORAGE FACILITY

RECOMMENDATION:              APPROVE THE DELEGATION OF AUTHORITY  
TO CLOSE ON OVERLAND POND 5 (DEINES  
PARCEL) OF THE OVERLAND POND  
STORAGE FACILITY

ADDITIONAL INFORMATION:

On June 20, 2018, the Water and Sewer Board approved the Purchase and Sale Agreement by and among Deines Trust and the City of Greeley (“Greeley”), as to an undivided Fifty Percent (50%) Interest; Fort Collins-Loveland Water District, as to an undivided Twenty-One Percent (21%) Interest; North Weld County Water District, as to an undivided Sixteen and Five/Tenths Percent (16.5%) Interest; and East Larimer County Water District, as to an undivided Twelve and Five/Tenths Percent (12.5%) Interest (“Purchase Contract”) to acquire property, including Lot 3, Deines Minor Land Division, File #15-S3353, recorded March 2, 2017 at Reception No. 20170013807, County of Larimer, State of Colorado, commonly known as Pond 5 of the Overland Ponds Project (“Property”). Staff has completed due diligence on the Property, and the Water and Sewer Board has since ratified the Purchase Contract. The closing is now scheduled for January 7, 2019.

In order to close on the Property, the City must provide the title company with documentation authorizing the Purchase Contract and identifying the individual authorized to execute various closing documents. This requirement has been typically satisfied by providing a copy of Section 17-4 of the Charter and the Water and Sewer Board Minutes from the month the purchase contract was approved. Upon review of the June 20, 2019 Board Minutes, however, delegation of authority to the Director of Water and Sewer to close on the Property was not reflected therein. Staff is requesting that the Water and Sewer Board delegate authority to the Director of Water and Sewer, or his designee, to close on the purchase of the Property.



**December 19, 2018, Agenda Item 7:**

**Action: The Delegation of Authority to Close on Overland Pond 5 (Deines Parcel) of  
the Overland Pond Storage Facility**

Proposed Motion Language:

*“I motion to approve the delegation of authority to the Director, or his designee, to close on the Property as identified in the Purchase and Sale Agreement, dated effective as of July 9, 2018, and to execute all documents necessary to accomplish the same.”*

Section 17-4. - Water and Sewer Board, Powers or Duties.

The Water and Sewer Board shall have the power and shall be required to:

- a. Annually establish minimum water rates, which need not be uniform for all classes of users; the minimum rates must be sufficient to include all expenditures for the following:
  1. All operation and maintenance of the water system;
  2. All debt service requirements;
  3. Additions to a reserve account in sufficient amounts to offset depreciation to the water system. Said reserve shall be based on accepted principles of accounting for a water system.
- b. Annually establish minimum sanitary sewer service rates, which need not be uniform for all classes of users; the minimum rates must be sufficient to include all expenditures for the following:
  1. All operation and maintenance of the sanitary sewer system;
  2. All debt service requirements;
  3. Additions to a reserve account in sufficient amounts, to offset depreciation to the sanitary sewer system. Said reserve shall be based on accepted principles of accounting for a sanitary sewer system.
- c. Acquire, develop, convey, lease and protect water and sewer assets, supplies and facilities. The Water and Sewer Board shall have power to lease water not needed by the City for immediate use, as herein provided. Any sale or exchange of water, water and sewer facilities or land shall be approved by the City Council. However, no rights shall become vested by franchise or lease or under a continued leasing or under a continuance of the conditions concerning any return flow arising therefrom, so as to defeat or impair the right to terminate the leases or franchises or change the place of use.

Note—Ord. No. 44-1993, § 4, 9-7-93.

**City of Greeley  
Water and Sewer Board  
Minutes of June 20, 2018  
Regular Board Meeting**

Chairman Harold Evans called the Water and Sewer Board meeting to order at 2:01 p.m. on Wednesday, June 20, 2018.

**1. Roll Call**

The Clerk called the roll and those present included:

Board Members:

Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Tony Miller, Joe Murphy, Bob Ruyle, Manny Sisneros, and Vic Runkle

Water and Sewer Department staff:

Water and Sewer Director Burt Knight, Deputy Director Sean Chambers, Water Rights Manager Jennifer Petrzela, Office Manager Shannon Metcalf, Senior Administrative Assistant Ettie Arnold and Public Relations Manager Donna Brosemer

Legal Counsel:

Counsel to Water & Sewer Board Attorneys James Noble and Carolyn Burr, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer and Environmental and Water Resources Attorney Aaron Goldman

Other Guests: Community Development Director Brad Mueller, Citizen Jack Snyder

**2. Approval of Minutes**

Mr. Otis made a motion, seconded by Mr. Todd, to approve the May 16, 2018 Water and Sewer Board meeting minutes as presented. The motion carried 7-0.

**3. Approval of and/or Additions to Agenda**

There were no changes to the agenda.



**4. Action: Approve Purchase and Sale Agreement (Pond 5 – Overland Ponds)**

Ms. Petrzelka explained that the Purchase and Sale Agreement is for the acquisition of Deines property, also known as the Overland Ponds Project - Pond 5, which is to include land that contains an excavated and lined gravel pit. She explained this is the fifth in a series of five parcels that have been mined by Martin Marietta for sand and gravel products and subsequently reclaimed as lined water storage. The storage volume of the fifth pit is estimated at 189 acre feet, but the total volume will be verified by a survey. The final purchase price will be based on the actual surveyed storage volume.

Mr. Ruyle made a motion, seconded by Mr. Miller, to approve Purchase and Sale agreement (Pond 5 – Overland Ponds). The motion carried 7-0.

**5. Action: Approve Annual Intergovernmental Agreement with Colorado Department of Public Health and Environment for Participation in the Milton Seaman Water Supply Project Environmental Impact Statement and Section 401 Water Quality Certification**

Mr. Knight presented the 2018 Billing Agreement with the CDPHE Water Quality Control Division. The Division has been asked to review the water quality data and modeling being used to ensure the information in the analyses can also be used in pursuit of a 401 Water Quality Certification. The Division must categorize projects into a tier ranging from one through four based on project complexity. Due to the high degree of complexity, the increased potential for water quality impacts, and the significant level of public participation regarding this project, the Division determined that the MSWSP 401 Certification review is a Tier 4 project. As such, the City of Greeley is required to provide funding for the actual review costs associated with the Division's participation in the MSWSP EIS and 401 Certification through the execution of a yearly Billing Agreement.

The Division estimated costs will not exceed \$40,000 for work including but not limited to the review of river and reservoir water quality models as outlined in the project schedule for the next year. The hourly rates for staff time will be provided on a case-by-case basis. Last year, the Division estimated costs would not exceed \$20,000.

Mr. Murphy made a motion, seconded by Mr. Otis, to Approve Annual Intergovernmental Agreement with Colorado Department of Public Health and Environment for Participation in the Milton Seaman Water Supply Project Environmental Impact Statement and Section 401 Water Quality Certification. The motion carried 7-0

**6. Report: Legislative Session Update**

Mr. Chambers introduced Ms. Brosemer. Donna provided a review of legislative issues and priorities for 2018, as well as an overview of her government and public relations responsibilities. Those include pursuing and maintaining relationships with policy makers



and agency staff, assisting with public outreach, evaluating public policy proposals for their impact on Greeley's water rights and water project development, and monitoring proposals and emerging issues facing Colorado water rights owners.

**7. Report: Legal Report**

James Noble recommended filing one statement of opposition to an application filed in the Division 1 Water Court:

- A. East Larimer County Water District (ELCO) (Case No. 18CW3076): ELCO has filed an application to change shares in the Water Supply and Storage Company for municipal uses and to permit alternate points of diversion, alternate places of storage, and exchange.

Mr. Todd made motion, seconded by Mr. Miller, to authorize the filing of a statement of opposition in Case No. 18CW3076, and for staff and legal counsel to seek resolution of issues raised by the case as consistent with Water and Sewer Board Resolution No. 3(2015). The motion carried 7-0.

Mr. Biwer informed the Board that the City recently obtained a final decree from the Division 1 Water Court in Case No. 15CW3162, its change of the conditional water rights associated with Rockwell Reservoir. The change allows Greeley to store 4,900 AF of water that was originally decreed to Rockwell Reservoir in Milton Seaman Reservoir. It also allows Greeley to exchange water from Barnes Meadow and Peterson Reservoirs down to Milton Seaman Reservoir.

**9. Executive Session**

There were no items for Executive Session.

**10. Director's Report**

- Tri-City & Districts Annual Board Meeting update
  - Mr. Knight commented the event was well attended and a huge success.

**11. Such Other Business That May Be Brought Before The Board and Added to This Agenda by Motion of the Board**

Chairman Evans adjourned the meeting at 3:18 p.m.

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Harold Evans, Chairman



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Ettie Arnold, Senior Administrative Specialist

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE   X              NO ENCLOSURE       

ITEM NUMBER:                    8

TITLE:                            ACTION: APPROVE BIG THOMPSON BYPASS  
AGREEMENT

RECOMMENDATION:            APPROVE BIG THOMPSON BYPASS  
AGREEMENT

ADDITIONAL INFORMATION:

Water Resources staff recommend that the Water and Sewer Board approve the enclosed Bypass Agreement with the Big Thompson and Platte River Ditch Company. The previous Bypass Agreement expires on December 31, 2018, and a new Agreement is needed. This Agreement allows Greeley to consistently deliver water from the Greeley Loveland Irrigation Company system to the South Platte River, which is necessary to meet return flow obligations and augmentation demand. This Bypass Agreement will expire on December 31, 2023.





## **AGREEMENT FOR USE OF BYPASS STRUCTURE**

This Agreement for Use of Bypass Structure ("Bypass Agreement") is entered into by and between the BIG THOMPSON AND PLATTE RIVER DITCH COMPANY, whose address is P.O. Box 181, Milliken, Colorado 80543, and the CITY OF GREELEY, whose address is 1001 11<sup>th</sup> Avenue, Greeley, Colorado 80631.

WHEREAS, the Big Thompson and Platte River Ditch Company ("the Company") is a non-profit ditch company organized and existing in the state of Colorado for the purpose of delivering direct flow irrigation and augmentation water to its various shareholders; and

WHEREAS, the City of Greeley ("the City") is a Colorado home rule municipality empowered pursuant to Sections 1 and 6 of Article XX of the Colorado Constitution to, *inter alia*, maintain, conduct, and operate water works and everything required therefor, within or without its territorial limits, for the use of the City; and

WHEREAS, the Company owns and controls that certain bypass structure located at the Big Thompson and Platte River Ditch headgate, which it utilizes to carry water past the headgate down the Big Thompson River ("Bypass Structure"); and

WHEREAS, the City owns or controls water attributable to certain water rights that it needs to deliver from upstream of the Big Thompson and Platte River Ditch headgate, down the Big Thompson River, to the South Platte River ("Greeley Water"). To accomplish this delivery while the Company is diverting water from the Big Thompson River, the City may need to deliver Greeley Water through the Bypass Structure; and

WHEREAS, the Company desires to facilitate the aforementioned deliveries of Greeley Water by allowing the City to utilize the Bypass Structure from time to time;

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Company and the City agree as follows.

### **Agreement**

1. Use of the Bypass Structure. Under the terms and conditions of this Bypass Agreement, the Company hereby agrees to allow the City to deliver Greeley Water through its Bypass Structure.

- a. The City shall notify the Company in advance of its need to deliver Greeley Water through the Bypass Structure.
- b. Deliveries of Greeley Water pursuant to this Bypass Agreement are subject to the availability and capacity of the Bypass Structure.
- c. The Company may deny the City's request to use the Bypass Structure pursuant to this Bypass Agreement if the Board of Directors of the Company makes a good

faith determination that the physical conditions at the time of requested use would make such use unsafe.

d. The City and the Company shall coordinate any use of the Bypass Structure pursuant to this Bypass Agreement with the Water Commissioner for District 4.

2. Term. This Bypass Agreement begins on the date of its execution, and unless terminated by the City or the Company in accordance with Paragraph 4 or 5 below, expires on December 31, 2023.

3. Payment. In exchange for its use of the Bypass Structure, the City shall pay to the Company an annual fee of \$500.00 ("Annual Assessment"). The Annual Assessment covers the first 33.33333 acre-feet of Greeley Water delivered through the Bypass Structure each year. The City shall pay to the Company a running charge of \$15.00 per acre-foot of Greeley Water delivered through the Bypass Structure in excess of the initial 33.33333 acre-feet ("Running Charge").

a. The City shall pay the Annual Assessment to the Company on or before April 1 and prior to its use of the Bypass Structure each year.

b. The City and the Company shall track and account for all Greeley Water delivered through the Bypass Structure.

c. No later than November 30 each year, the Company shall provide the City an invoice detailing the volume of Greeley Water delivered through the Bypass Structure and any Running Charge incurred in addition to the Annual Assessment. Upon receipt of this invoice, the City shall pay the Running Charge to the Company on or before December 31 of the calendar year in which it was incurred.

4. Default. If either the City or the Company fails to comply with a term or condition herein, such failure constitutes a default under this Bypass Agreement. The non-defaulting party may declare the default by providing written notice to the defaulting party in accordance with Paragraph 6 below. Upon receipt of this notice of default, the defaulting party will have 15 days within which to cure the default. If the default remains uncured after the aforementioned 15-day cure period, the non-defaulting party may declare the Bypass Agreement terminated by written notice in accordance with Paragraph 6 below. The failure of either party to declare a default does not establish a precedent or constitute an implied waiver of any continuing or subsequent default.

5. Termination. This Bypass Agreement may be terminated by the City or the Company by delivering written notice to the other party, in accordance with Paragraph 6 below, prior to April 1.

6. Notices and Payments. Any written notice required under this Agreement shall be delivered, return receipt requested, via the United States Postal Service at the following addresses.

The Company:

Big Thompson and Platte River Ditch Company  
P.O. Box 181  
Milliken, Colorado 80543

The City:

Greeley Water and Sewer Department  
Water Resources Division  
1001 11<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Greeley, Colorado 80631

With Copy To:  
Greeley City Attorney's Office  
Environmental and Water Resources Practice Group  
1100 10<sup>th</sup> Street, Suite 401  
Greeley, Colorado 80631

7. Governing Law and Venue. This Bypass Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Proper venue for any litigation arising out of this Bypass Agreement is the District Court for Weld County, Colorado.

8. Integration. This Bypass Agreement constitutes the entire agreement between the undersigned parties and supersedes all prior agreements with respect to the subject matter herein. No representations, negotiations, or warranties, express or implied, exist between the undersigned parties except as explicitly set forth in this Bypass Agreement. This Bypass Agreement may only be modified in a written form properly authorized and executed by the undersigned parties.

IN WITNESS WHEREOF, the Company and the City have executed this Bypass Agreement on the dates set forth below.

**BIG THOMPSON AND PLATTE RIVER  
DITCH COMPANY**

By: Gene Kammerzell

Gene Kammerzell  
President

Date: 11-20-18

**CITY OF GREELEY**  
A Colorado Municipal Corporation

By: \_\_\_\_\_

Sean Chambers  
Interim Director of Water and Sewer

Date: \_\_\_\_\_

AS TO LEGAL FORM:

By: \_\_\_\_\_

City Attorney's Office

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE   X              NO ENCLOSURE       

ITEM NUMBER:                    9

TITLE:                            REPORT: REVIEW GLIC DEDICATION  
RESOLUTIONS

RECOMMENDATION:       REVIEW GLIC DEDICATION RESOLUTIONS

ADDITIONAL INFORMATION:

Staff will present an overview on the 1995 Raw Water Dedication Policy which defines the process for new demand or new development to provide raw water supply to the City. Raw water dedication credits, average yields and firm yields for the Greeley-Loveland system will be discussed.



## What Is Raw Water Dedication And How Much Is Required For the City of Greeley?

Raw water dedication is the process for new demand or new development to provide raw water supply to the City that can be treated to back up the consumption added to the water system. If the water tap will use 244,000 gallons in a year, there needs to be 244,000 gallons transferred to the City to be treated and sent through the system to be used by that tap.

The raw water dedication requirements are split into two categories:

For **Residential** development the formula is 3 acre feet per acre of land, based on gross acres.

*Example: 10 acre development x 3 acre-feet/acre = 30 acre-feet due*

For **Non-Residential** (Commercial, Industrial, and Mixed-Use) development the amount due is based on the water tap size selected:

Tap Size	Minimum Raw Water Required (Acre Feet)	Base Annual Allotment (Gallons)
3/4"	0.75	244,000
1"	2	652,000
1-1/2"	3	977,000
2"	8	2,607,000
3"	12	3,910,000
4"	24	7,820,000
6"	208	67,772,000

The raw water required can be met by transferring certain waters to the city that historically irrigated the proposed development. They are listed below with the current credit given:

The Greeley-Loveland Irrigation Company  
The Loveland and Greeley Reservoir (Lake Loveland)  
The Seven Lakes Reservoir Company  
The Greeley Irrigation Company (Canal No.3)\*

### Current Yield Per Share:

20 Acre-feet/Share  
40 Acre-feet/Share  
20 Acre-feet/Share  
10.3 Acre-feet/Share

Other acceptable sources:

Colorado Big Thompson (C-BT) water  
Cash-In-Lieu of raw water

0.75 Acre-feet/Unit

Cash-in-lieu of raw water can be used when raw water is not available. This amount is evaluated and approved by the Water and Sewer Board once a year. The value is set from the average cost of all the water currently available for use by the City of Greeley plus storage cost. Cash-in-lieu payments do not have a limitation on the amount of acre-feet purchased. Cash-in-lieu payments occur at the time of building permit issuance, consistent with other development impact fees.

*Example: 0.75 AF of raw water required for a 3/4" non-residential water tap x \$29,000/AF CIL = \$21,750.00 due (Current cash-in-lieu price is \$29,000 as of 08/01/2018).*

\*Limitations may apply.

Water and Sewer Department • 1100 10th Street, Suite 300, Greeley, CO 80631 • (970) 350-9811 Fax (970) 350-9805

We promise to preserve and improve the quality of life for Greeley through timely, courteous and cost-effective service.



# GLIC Raw Water Dedication Resolution Discussion

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PRESENTED TO  
**Water and Sewer Board**

December 19, 2018

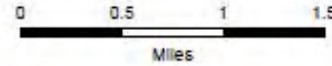
# GLIC Yield Values

	Shareholder Agreement (AF)	Current Resolution (Average Yield) (AF)	6 yr. drought Firm Yield (AF)
GL	33	20	8
LL	NA	40	20
7L	NA	20	8





## Irrigated Lands Available for Dedication with Dryup



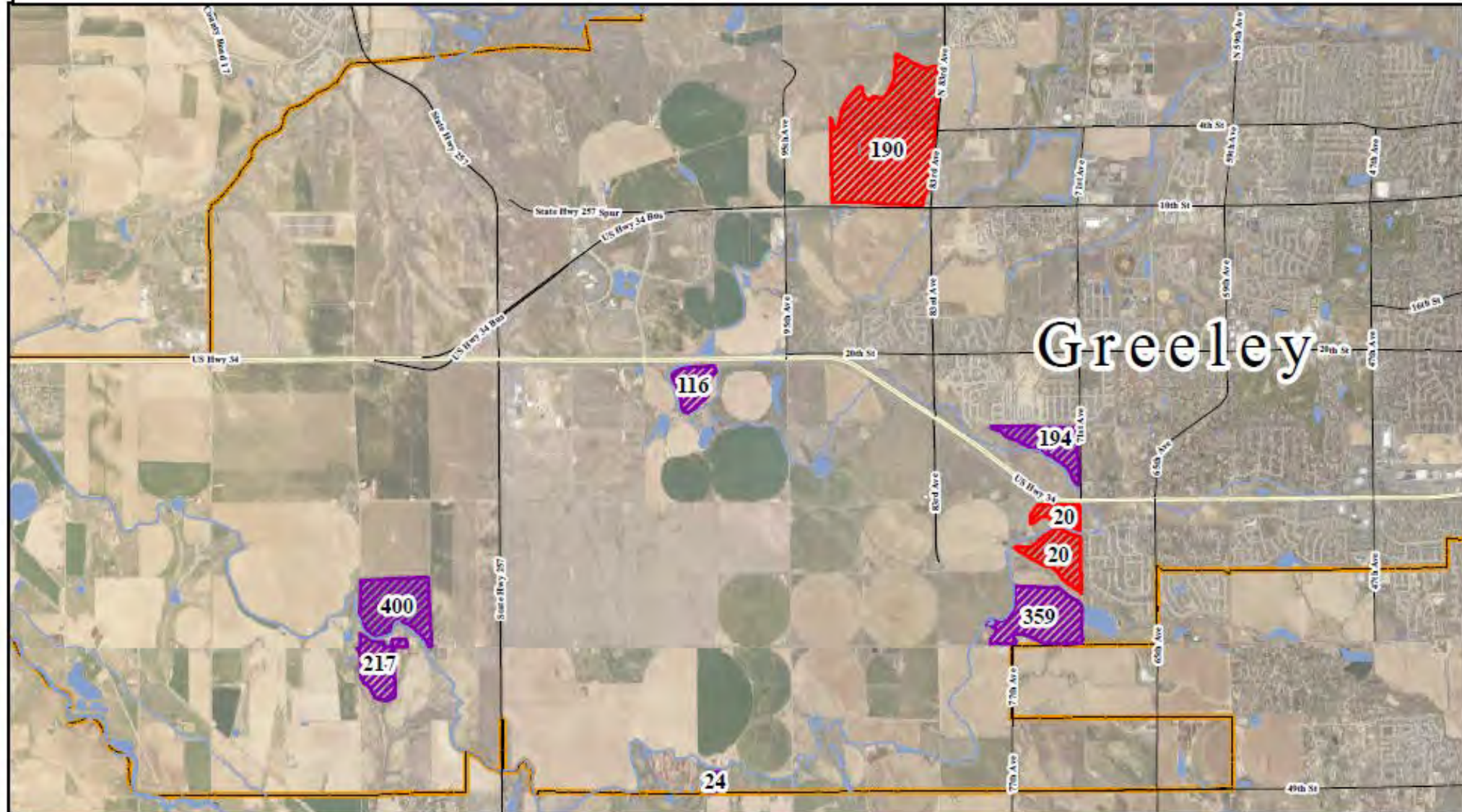
Municipal Growth Area  
surrounding City Limits  
Growth Boundaries from Larimer and Weld Counties.  
Note that overlap is common. The Greeley growth  
boundary (LREGA) is shown more prominently than  
any others.



Estimated Water Available



Known Water Available



1,516 AF water left (avg. year, all sources)

# Results

- Known Water (The Cache and Cobblestone potential developments)
  - 230 AF average year, 80 AF firm yield
  - Shortage of 150 AF
  - At \$31,000 / AF the cost is ~\$4,650,000
- Unknown Water
  - ~1,286 AF average year
  - In a drought, Greeley would only yield 40-50% of this value, therefore we would be subsidizing development ~600 AF
  - \$18,600,000 is approximate value of 600 AF

# GLIC Raw Water Dedication Resolution

## Recommendation

- Amend resolution to reflect firm yield values for Board consideration at January Board meeting

# Questions?

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE   X              NO ENCLOSURE       

ITEM NUMBER:            10

TITLE:                    REPORT: SEMI-ANNUAL LEGISLATIVE  
UPDATE

RECOMMENDATION:      INFORMATION ONLY

**ADDITIONAL INFORMATION:**

The elections of November 2018 represent a potential change in the State's approach to water. While water has historically been a non-partisan or bipartisan issue, it has become increasingly partisan as the urban left has moved more toward growth and demand management, and away from the strict prior Appropriations. The balance no longer exists of a Democratic House, Republican Senate, and a governor who understood and appreciated our water law structure, which had previously allowed us to amend or defeat inappropriate bills. We now expect many of those ideas to be reintroduced and likely difficult to defeat.

While the increased focus on conservation and watershed health are welcome, the details of any legislative mandates or changes in rule-making may require heightened vigilance to ensure that water rights are protected, and that mandates are not overly burdensome. We also want to ensure that new ideas for water sharing can be properly studied, administered, and that the burden of proof of injury does not shift to the injured party by eliminating Water Court review.

Greeley will be affected by the Colorado River Drought Contingency Planning negotiations. Considering the potential impact of those negotiations on our supply, and the potential for some of the concepts reflected in the demand management proposals to be introduced as state legislation, we need to remain engaged on those issues and protective of long-term access to our vested water rights.

Meanwhile, at the federal level, new Supreme Court rulings and pending cases, as well as agency rulemaking changes, may benefit Greeley. This year will no doubt include a wide variety of opportunities and challenges.

# **Legislative Update**

## **Election Results and Looking into 2019**

December 19, 2018



# State Executive Branch

- Previous administration was divided, with Democratic governor but Republican AG, Sec of State , and Treasurer
- Now all constitutional offices are held by Democrats.



# General Assembly

- Majority had been split, with Democratic House and Republican Senate.
- Now both chambers are controlled by Democrats who are much more philosophically liberal than in the past.

# Committee - Senate

- Senate Ag is 3-2
  - Sen. Kerry Donovan, chair
  - Sen. Jesse Danielson, vice chair
  - Sen. John Kefalas
    - Sen. Kefalas was elected to the Larimer County Commission. This seat will be filled by his replacement, expected to be Rep. Jeni Arndt.
  - Sen. Jerry Sonnenberg
  - Sen. Don Coram

# Committees - House

- No more House Ag
- D:R ratio is more heavily Dem (7-4)
- Water bills may be heard by
  - Rural Affairs (new)
  - Energy and Environment (new)
  - Local Government

# House Committees

- Rural Affairs

- Chair Dylan Roberts

- Eagle and Routt Counties
    - Appointed to replace Diane Mitch-Bush
    - Deputy District Attorney
    - Served on House Ag in 2017 and 2018

- Vice Chair Don Valdez

- 8 rural counties, incl Pueblo, Alamosa, Rio Grande
    - Farmer
    - Served on House Ag

# House Energy and Environment

- Dominique Jackson, Chair
  - Arapahoe County
  - Served on House Ag
- Edie Hooton, Vice Chair
  - Boulder
  - Social issues, education, criminal justice
  - Co-sponsored bills re climate change and greenhouse gas emission mandates

# House Transportation and Local Government

- Matt Gray, Chair
  - Boulder
  - Attorney
- Tony Exum, Vice Chair
  - El Paso
  - Also VC in 2018



# Shift in Governance Priorities and Potential Impacts

- New Governor's priorities are different from current administration and much is unknown
- Examples:
  - Gov. Polis had supported constitutional amendment (2014) for 2000 ft. O&G setbacks; Gov. Hickenlooper opposed
  - Land Use limiting ballot initiatives failed on two ballots but now could pass into law through the General Assembly
  - Limitations to Oil and Gas extraction will have significant effect on severance tax, which funds local governments and water projects



# Potential Shift in Perspective

- View toward water is more public trust than prior appropriation
- CWCB is increasingly assertive; exerting its authority regarding In Stream Flow water rights (Dolores and Upper Ark)
- Proposed legislation that could hurt senior water rights where we've previously been able to stop in committee are now more likely pass through
  - EX: New A.G. Phil Weiser has said he would withdraw CO from Waters of The US (WOTUS) lawsuit

# Likelihood of more legislative mandates on water issues

- Turf bill(s)
- Water loss audits
- Water banking
- Deficit irrigation
- Water conservation mandates on developers
- Water for fish ponds as beneficial use
- Require local governments to include water plan conservation policies in development approvals
- Require local governments to include water plan goals in master plans
- CORA requirements
- Measurable goals deadline re climate change

# Anticipated legislative priorities

- Forest and watershed health and management
- Conservation
- Water quality
- Growth management/developer regulations
- Energy issues

# State & Local Elections

- Sen. John Kefalas won Larimer County seat formerly held by Lew Gaiter
  - Philosophically very different leader
  - Can affect Greeley's interactions with Larimer County
  - The Kefalas Senate seat will likely be filled by either Rep. Jeni Arndt, or by Rep. Joann Ginal
  - Both from Larimer, but Rep. Arndt is more familiar with water issues

# Overall shift

- Increasing erosion of priority as fundamental
  - More CWC and GA members describe priority doctrine as “outdated” and push toward public trust
  - Colorado River negotiations more focused on proportion than priority
  - State increasingly moving toward water administration beyond WC decrees
  - More bills to avoid water court, give authority to SEO, shift burden of proof to injured party

# Federal Issues of Interest



# WOTUS – Waters of the US

- Waters of the US
  - Federalized virtually all bodies of water of any size as “navigable”
  - Multiple states sued to stop it, including CO
  - New administration is repealing WOTUS through the rule-making process



- Water Transfer Rule would prohibit surrender of water rights to federal agency
  - Proposal is stuck in lame duck session
- All Recovery program funding (CO River, Platte River, etc.) stuck but widely supported

# ESA and 404

- New SCOTUS ruling regarding agency designation of critical habitat and the reviewability of agency actions
- Revival of consideration regarding 404 permitting being taken over by State of Colorado

Questions?

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE   X              NO ENCLOSURE       

ITEM NUMBER:            11

TITLE:                    REPORT: FIRST RIGHT OF REFUSAL FOR  
                              DITCH CARRIAGE RIGHTS IN THE TAYLOR  
                              AND GILL DITCH

RECOMMENDATION:      INFORMATION ONLY

ADDITIONAL INFORMATION:

Staff will review the First Right of Refusal (Ditch Carriage Rights) in the Taylor and Gill Ditch.

**RIGHT OF FIRST REFUSAL AGREEMENT**  
**(Ditch Carriage Rights)**

THIS RIGHT OF FIRST REFUSAL AGREEMENT (the "Agreement") is made this 19<sup>th</sup> day of Dec. 2014, by and among TAYLOR & GILL DITCH COMPANY, a Colorado non-profit corporation, ("Ditch Company"), and THE CITY OF GREELEY, a Colorado municipal corporation, acting by and through its Water and Sewer Board ("Greeley").

**RECITALS**

A. The Ditch Company holds legal title to, manages and operates Taylor & Gill Ditch ("Ditch"), which is the structure used by the Ditch Company to deliver water pursuant to its decreed water rights to its shareholders. The Ditch is generally located in portions of the following quarter sections of land in Larimer County, Colorado (all in Township 8 North, Range 69 West, 6<sup>th</sup> P.M.):

Southwest quarter of Section 29  
Southeast quarter of Section 29  
Southwest quarter of Section 28  
Northwest quarter of Section 33  
Northeast quarter of Section 33

B. There may be, at times, excess capacity in the Ditch, which the Ditch Company is considering making available for use by others.

C. Greeley is investigating the acquisition and/or construction of additional water storage reservoirs generally adjacent to or near the Ditch.

D. Greeley desires to obtain a right to purchase excess capacity in the Ditch which may be available in order to divert water controlled by it and not attributable to the water rights decreed to the Ditch ("Foreign Water") through the Ditch for storage and subsequent beneficial uses.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the Ditch Company and Greeley hereby agree as follows:

1. Carriage Rights in Ditch. The water right originally decreed to the Ditch, which is delivered to the Company's shareholders (referred to herein as the "Existing Ditch Right"), is Ditch Priority No. 17, for 18.48 cubic feet per second ("cfs") with an adjudication date of April 11, 1882, and an appropriation date of April 15, 1866.

2. Excess Ditch Capacity. The Ditch Company's shareholders shall, at all times, have priority to use the Ditch for the delivery of water pursuant to their pro rata interest in the



Existing Ditch Right. Any capacity in the Ditch, which may currently exist or may in the future be created and which is not then required for delivery of water to the Ditch Company's shareholders under the Existing Ditch Right, shall be referred to herein as "Excess Capacity." The Ditch Company shall, at all times, have and retain the right to determine, in its sole and absolute discretion, when, if at all, any Excess Capacity may exist in the Ditch.

3. Right of First Refusal. For One Hundred Nineteen Thousand Dollars (\$119,000.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Ditch Company agrees that if, prior to January 1, 2035, Ditch Company shall receive a bona fide offer to purchase Excess Capacity that Ditch Company desires to accept, Ditch Company shall notify Greeley in writing of the bona fide offer, stating the amount and the terms of the offer and referring specifically to the right of first refusal contained in this Agreement. Greeley shall then have 40 days following the sending of the written notice within which to notify Ditch Company in writing as to whether Greeley desires to purchase Excess Capacity at the same price and on the same terms (except as to timing of the closing, as provided below) as contained in the bona fide offer received by Ditch Company. The failure on the part of Greeley to respond to Ditch Company's notice of the bona fide offer as provided herein shall be conclusively deemed to be an election not to purchase Excess Capacity, but in such event, at the request of Ditch Company, Greeley will confirm, in writing, that Greeley elected to not purchase Excess Capacity and that Ditch Company is free to sell and convey Excess Capacity for a price equal to or in excess of that contained in the bona fide offer and under no less onerous material terms and conditions.

4. Closing upon Exercise of Right of First Refusal. If any Excess Capacity exists in the Ditch and if Greeley elects to purchase Excess Capacity, Ditch Company shall convey Excess Capacity to Greeley for the price and on the terms contained in the bona fide offer; provided, however, that the closing of the purchase may occur up to 90 days after the Greeley's sending of notice of its intent to purchase Excess Capacity notwithstanding any earlier closing date contained in the bona fide offer received by Ditch Company. If any Excess Capacity exists in the Ditch and if Greeley elects to purchase Excess Capacity, the parties hereto agree to negotiate a carriage agreement in good faith. No Foreign Water may be carried in the Ditch until the parties have agreed upon and executed a carriage agreement.

5. Term. Unless sooner exercised (by Greeley purchasing Excess Capacity) or not exercised (by Greeley electing not to purchase Excess Capacity following receipt of the written notice from Ditch Company), the right of first refusal described in this Agreement expires on January 1, 2035.

6. Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by either party without the prior written consent of the other party.

7. Notices. Any notice or other communication given by any of the parties hereto to another relating to this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date and at the time of delivery if delivered personally to the party to whom



notice is given at the address specified below; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the party to whom notice is given at the address specified below; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed as specified below:

If to the Ditch Company:

Taylor & Gill Ditch Company  
Attention: President  
2305 N. Taft Hill Road  
Fort Collins, CO 80524

With a copy to:



If to Greeley:

City of Greeley Water and Sewer Department  
Attention: Director of Water and Sewer  
1100 10<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Greeley, CO 80631

With a copy to:

City of Greeley  
Attention: City Attorney  
1100 10<sup>th</sup> Street, Ste. 401  
Greeley, CO 80631

Notice of changes of address or other contact information for a party shall be provided in manner previously described.

8. Remedies. Remedies for enforcement of this Agreement shall include an action for specific performance, for damages, and/or for such additional relief as may be available under the law.

9. Complete Agreement. This document represents the complete agreement of the parties hereto and no oral modification shall be recognized. Any amendments or additions shall be made in writing and signed by the parties hereto.



10. Binding Effect/Recording. This Agreement is binding upon the parties hereto, their successors and permitted assigns. Greeley may record this Agreement in the records of the Larimer County Clerk and Recorder at its expense.

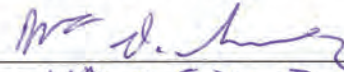
11. Governing Law. This Agreement and the legal relations between the parties hereto shall be governed by and construed in accordance with the laws of the State of Colorado.

12. No Third Party Beneficiaries. The terms and conditions of this Agreement, and all rights of action relating hereto, shall not give or allow any claim or right or cause of action by any person or entity not a party to this Agreement. Any person or entity, other than the parties hereto or their successors or assigns, otherwise receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

13. Counterparts. A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

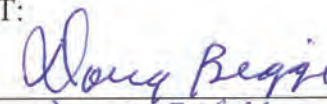
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set opposite their respective signatures below.

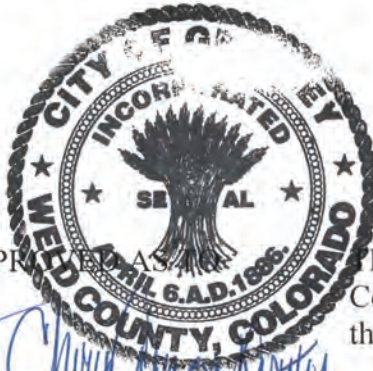
TAYLOR & GILL DITCH COMPANY, a  
Colorado non-profit corporation

By   
Name: W. D. SEAWORTH  
Title: Pres

Date: Dec. 19, 2014

ATTEST:

By   
Name: DOUG BIGGE  
Title: Secretary/Treasurer



ATTESTED AND APPROVED AS TO  
SUBSTANCE:

By [Signature]  
City Manager and Clerk to Board

THE CITY OF GREELEY, COLORADO, a  
Colorado municipal corporation, acting by and  
through its Water and Sewer Board

By Thomas E. Nether  
Mayor

APPROVED AS TO AVAILABILITY OF  
FUNDS:

By [Signature]  
Director of Finance

By Harold Evans  
Chairman, Water and Sewer Board

APPROVED AS TO LEGAL FORM:

By [Signature]  
Counsel to Board

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE \_\_\_\_\_

NO ENCLOSURE      X  

ITEM NUMBER:                      12

TITLE:                                EXECUTIVE SESSION

RECOMMENDATION:      INFORMATION ONLY

ADDITIONAL INFORMATION:

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE \_\_\_\_\_

NO ENCLOSURE      X  

ITEM NUMBER:                    13

TITLE:                                LEGAL REPORT

POSSIBLE ACTION:                STATEMENTS OF OPPOSITION, IF ANY

RECOMMENDATION:               INFORMATION ONLY

ADDITIONAL INFORMATION:

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE      X  

NO ENCLOSURE              

ITEM NUMBER:                    14

TITLE:                                DIRECTOR'S REPORT

RECOMMENDATION:        INFORMATIONAL ONLY

ADDITIONAL INFORMATION:

- Wastewater Treatment and Reclamation Master Plan Update
- Poudre Runs Through It Forum





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## Sixth Annual Poudre River Forum

February 1, 2019 | 8:00am - 5:00pm

Drake Centre, Ft. Collins



### “What is a Healthy Working River? Pieces of the Puzzle”

**Register NOW!**

Is it possible for a working river to be a healthy river? This year's Poudre River Forum will give us a chance to puzzle through that question. The [Poudre Runs Through It Study/Action Work Group](#) (PRTI) was formed in 2012 to bring together those who are most concerned about the Poudre as a working river—delivering urban and agricultural economic benefits—and those concerned about the river's health. Building relationships and finding common ground for action has lead to this annual Poudre River Forum.

**Register now** to join us. Registration includes the full day's program, as well as breakfast, lunch, and a closing celebration with opportunities to get to know other Poudre River enthusiasts.

**WATER & SEWER BOARD AGENDA**    DECEMBER 19, 2018

ENCLOSURE \_\_\_\_\_      NO ENCLOSURE      X  

ITEM NUMBER:                      15

TITLE:                                SUCH OTHER BUSINESS THAT MAY BE  
   BROUGHT BEFORE THE BOARD AND  
   ADDED TO THIS AGENDA BY MOTION OF  
   THE BOARD

RECOMMENDATION:      TO BE DETERMINED

ADDITIONAL INFORMATION: