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MEMORANDUM

Date: June 18, 2026

To: Water Commissioners

Through: Nicole Poncelet-Johnson, One Water Executive Director and Water Commission Staff Liaison NP

From: Jen Dial, Water Resources Manager JD

Subject: May 21st Water Commission Meeting Follow Up on the One Water Utility Long-term Water Rental Policy

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BOTTOM LINE

The purpose of this memo is to address questions and concerns raised during the May 21st Water Commission Meeting regarding the proposed One Water Utility's (Utility) Long-term Water Rental Policy.

DISCUSSION SUMMARY

At the May 21st Water Commission Meeting, staff presented on the proposed Utility's Long-term Water Rental Policy (Policy) that would provide guidance for the consideration, evaluation, and approval of long-term (greater than one-year) water rental agreements. Water Commissioners raised several questions and concerns and did not adopt the Policy. Below are responses to these questions and concerns:

1) ***Could the City move forward with a long-term water rental agreement without a policy in place?***

Yes, Council could still approve a long-term rental agreement without a policy in place. The benefit of having a Council adopted policy is to have agreed upon guidance in place for considering and responding to future requests consistently and in a timely manner. Additionally, the Policy intends to address any questions Council will likely have about considering long-term agreement.

2) ***How will this Policy impact the current one-year rental program, and should there be a volumetric cap for the amount of water that can be obligated to long-term water rentals to avoid impacting one-year rentals?***

Commissioners raised concerns about allocating water to long-term rentals to the extent that it affects the one-year rental program and if a cap should be considered to avoid impacting one-year rentals. To illustrate the magnitude of surplus supplies that has been made available to one-year rentals historically, see Figure 1 below. Between 2016 and 2025, the Utility has rented between 7,000 to 19,600 acre-feet of supplies.

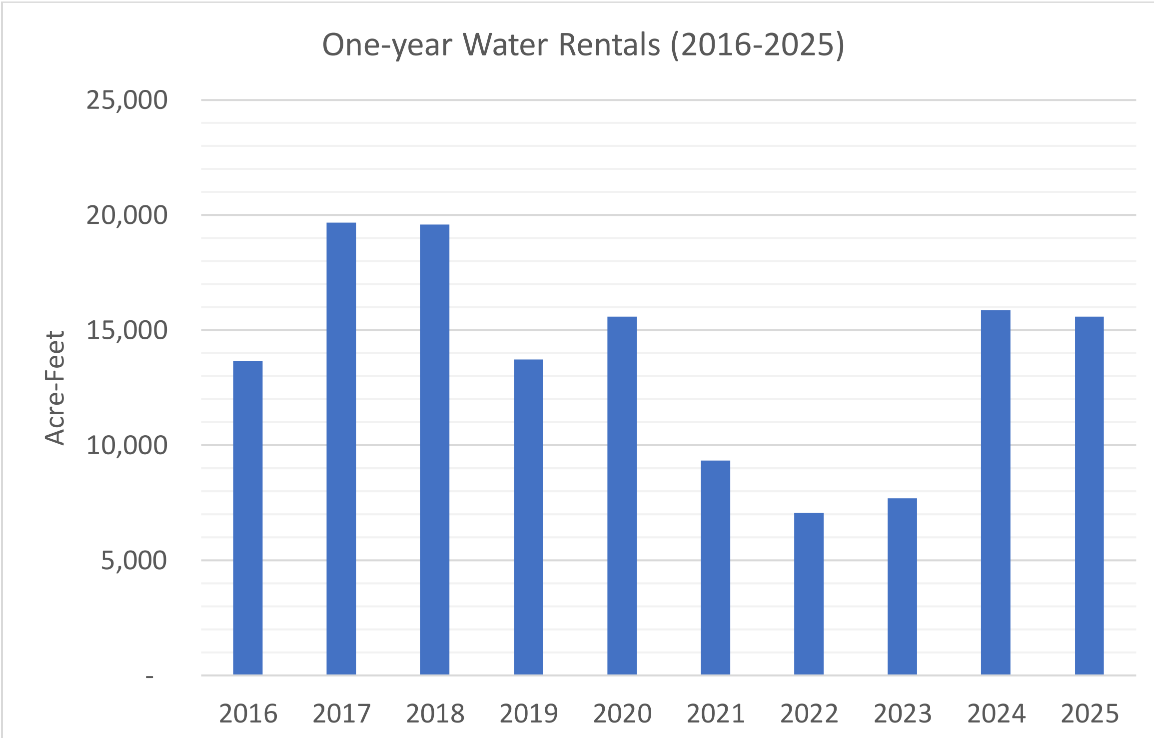

Figure 1 - This graph illustrates the volume of annual rentals of surplus water supplies from 2016 to 2025 including North Poudre Irrigation Company (NPIC) agricultural (ag) supplies, NPIC Colorado-Big Thompson (CBT) supplies, City-owned CBT, and Water Supply and Storage Company (WSSC) supplies.

While any water subject to a long-term water rental would no longer be available for one-year rentals for the term of the agreement, staff has evaluated optimistic and conservative scenarios and found that supplies are adequate to serve both rental programs in dry, average and wet years.

Figure 2 below illustrates the amount of surplus water typically available for rentals under dry, average, and wet hydrologic conditions. For illustrative purposes, the green hashed bar represents a hypothetical cap of 1,000 acre-feet reserved for long-term rentals. Even after dedicating a full 1,000 acre-feet to long-term rentals, there are still ***~5,500 to 16,500 acre-feet*** of supplies that are available for beneficial users or uses identified in the Policy (see Attachment 1, Table 2). Of these supplies, ***3,500 to 7,100 acre-feet*** of the NPIC Ag supplies are available and provided only for agricultural rentals.

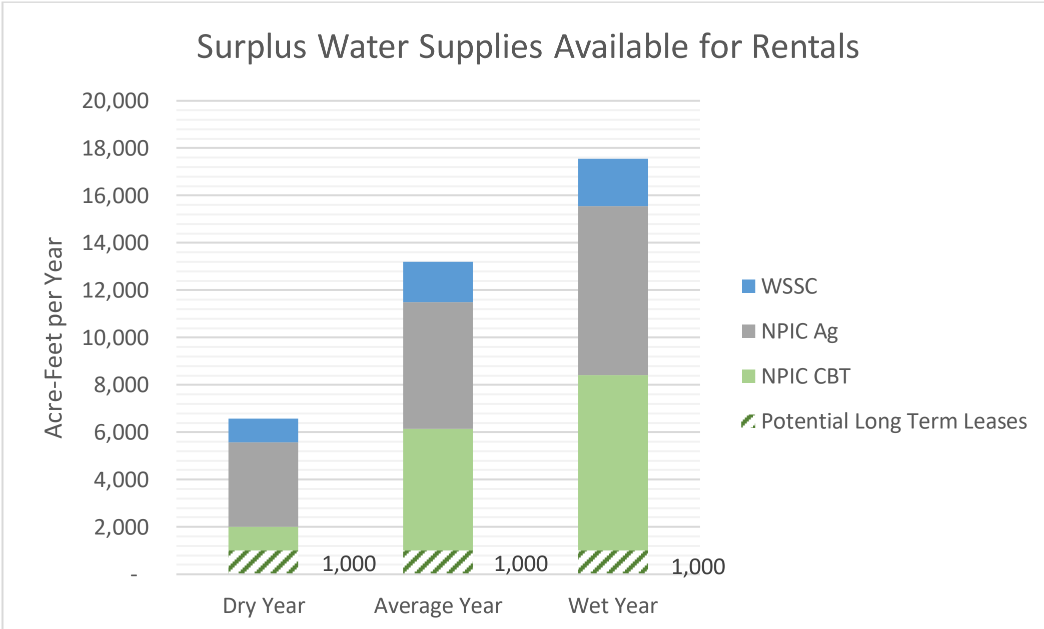

Figure 2 - This graph illustrates the amount of surplus water available for rentals under three supply scenarios: 1) ***Dry year*** *(NPIC allocation is 1AF/share for ag portion and 1.5 AF/share for CBT portion); 2)* ***Average year*** *(NPIC allocation is 1.5 AF/share for ag portion and 2.0 AF/share for CBT portion); 3)* ***Wet year*** *(NPIC allocation is 2 AF/share for ag portion and 2.5 AF/share for CBT portion).*

Because the amount of surplus supplies varies each year based on weather, snowpack, hydrology, the CBT quota, and the NPIC allocation, setting a fixed cap within the Policy itself creates an arbitrary limit that reduces flexibility to allocate surplus supplies and maximize long-term rental benefits to the City, Utility, and community, which is a key goal of the Policy. Furthermore, we do not know the magnitude and frequency of long-term rental requests we will receive, which makes setting a meaningful cap challenging at this time. Additionally, each time the Policy would need to be updated to adjust an annual cap, it would require subsequent Council approval.

Therefore, to ensure the ability to maximize beneficial use of surplus supplies through flexibility, staff has not included a cap in the Policy but has revised language to the following which emphasizes with each any long-term rental request, staff will consider its impact on the one-year water rental program (see Attachment 1, page 3, section 'Guidance for Long-term Rentals'):

> "Because the opportunities for long-term rentals vary in terms of the values and benefits to the City, Utility, and community, long-term rental requests will be evaluated on a case-by-case basis depending on the annual volume requested, long-term supply and demand projections, benefits to the City, Utility, and community and ***in an amount to not significantly impact the one-year rental program.***"

An additional revision was made to the Policy to clarify when requests could be submitted and when the rental water would become available. The Utility would allow long-term rental requests to be made at any time of the year, however, water would not become available, pursuant to an agreement being negotiated and executed, until *May 1st following the request*. This allows staff to more accurately determine the amount of surplus water available for one-year rentals each spring. (see Attachment 1, page 3, section 'Implementation').

3) *What happens to long-term rental agreements if the Utility declares a water shortage part way through the year?*

Staff determines the amount of surplus supplies available for one-year rentals in mid- April, based on the actual CBT quota, conservative yield projections of other water supplies, and high demands, including any obligations such as long-term rentals. It is unlikely conditions would change in ways that would cause a need for the Utility to declare a Water Shortage after rental water has been obligated in April/May. There is, however, the risk of rare or unforeseen circumstances, such as wildfire or infrastructure failure, that could impact water supplies and trigger a Water Shortage Action Level response. To address this concern, an additional term for *'Timing of payment and delivery or transfer of water'* has been added to the Policy and is described below (see Attachment 1, section 'Rental Terms and Conditions' Table 3, page 5):

- For long-term rental agreements of NPIC CBT or City-owned CBT supplies:
  - Payment and transfer of water will occur on a monthly basis.
  - The agreement will include a monthly schedule with the maximum amount of CBT the renter can request each month.
  - By the 15th of each month, Renter must notify the Utility of the amount of CBT needed for the coming month and provide payment.
  - The Utility will transfer the amount of CBT requested, subject to payment being received, to the Renter's Northern Water CBT account by the last day of that month.
  - If a Water Shortage Action level I-IV is declared, CBT will cease to be transferred until the Utility has discontinued the Water Shortage Action.
  - This term is not applicable to certain reusable supplies or NPIC Ag supplies because those supplies cannot be used to meet customer demand. This term does not apply to ditch or reservoir company shares that are committed to a long-term rental because the Utility has to provide an annual operating plan to each ditch and reservoir company that describes how many shares are being allocated for different uses that year. These plans are due by March or April each year and cannot be changed once submitted, therefore, there is not a mechanism to cease delivery of these supplies to a Renter.
- For rental agreements involving certain reusable supplies, NPIC Ag supplies, or rental-committed ditch and reservoir company supplies, a one-time payment will be made each year prior to receiving delivery of the water supplies. The date of this payment will depend on when the individual agreement is entered and water delivery is needed each year.

4) *Is setting the price using market conditions the best approach? Should the Utility be exploring greater revenue generating opportunities, such as using an auction approach?*

Commissioners raised questions about whether pricing the agreements based on market conditions or comparables is the best approach and if the Utility should consider other options that would provide a greater revenue benefit to the Utility.

As a follow up to this discussion, staff looked into how other water providers structure their pricing of long-term agreements. To staff's knowledge, there are currently no water providers in the northern Colorado region that have an official long-term water rental policy. The City and Greeley (Greeley) and City of Loveland (Loveland) both stated the decision to not enter into long-term rentals/leases is to prevent risk to supplies from uncertainty in future demand and supply. The Utility's current proposed Policy reduces this risk of uncertainty by limiting the term length to five years and not providing water if the Utility has declared a Water Shortage Action Level I-IV. Other water providers likely do not have enough surplus supplies to even consider long-term agreements. Despite having no formal policy, both Loveland and Greeley have entered into long-term leases under special circumstances. The pricing of recent agreements was based on a negotiated annual payment, in addition to a price per acre-foot of water delivered which was determined by the market value of annual water rental rates in the region at the time the agreement was entered.

Regarding the use of auctions, staff is only aware of Greeley's *one year* water rental program for *non-agricultural* rentals which implements an auction approach to set the pricing. Under this approach, the winning bidder is determined based on scoring criteria including the amount of the bid, available supply, regional economic benefits, and other factors.

While other pricing structures, such as auctioning, could provide greater financial benefit to the Utility, the primary goal of the long-term rental policy is to maximize use of the Utility's surplus supplies in ways that provide benefits to the Utility, City, and is aligned with community values, not necessarily for revenue generation alone. Furthermore, auctioning would award agreements to those entities with the most money which would limit the ability for some entities to receive an agreement that would otherwise provide benefit and value. Setting rental prices comparably to what other local entities are charging provides a fair approach and equal opportunity for entities looking for a long-term water rental from the Utility.

5) *Are there legal risks with not considering some entities or uses, such as oil and gas, for long-term rentals under this Policy?*

There are no anticipated legal risks to limiting who the Utility could consider for long-term water rental agreements.

NEXT STEPS

Staff will attend the June 18th Water Commission meeting to answer any further questions and will be requesting Water Commission's recommendation for Council to adopt the Policy at that time. The proposed changes to the Utility's Long-term Water Rental Policy as discussed above and reflected in Attachment 1, will be taken to the July 21st City Council Meeting for their consideration.

ATTACHMENTS

Attachment 1- One Water Utility Long-term Water Rental Policy

CC: Jill Oropeza, Senior Director, One Water Integrated Sciences and Planning

Michael Neale, Water Resources Engineer II