

Purpose

The Long-term Water Rental Policy of the City of Fort Collins, One Water Utility (Utility) provides a framework for how the Utility may allocate its surplus water supplies under long-term (more than one year) agreements. This policy aids the Utility in maximizing the beneficial use of its water supplies in alignment with the Utility's Water Supply and Demand Management Policy and the Water Shortage Action Plan.

Background

The Water Supply and Demand Management Policy (WSDMP)¹ guides the Utility's planning for an adequate, safe, and reliable water supply that meets customer water demands through a 1 in 50-year drought. This planning approach means that in periods of non-drought (most average or wet years), the Utility often has surplus supplies that can be put to beneficial use by non-customers without impacting service levels for customers (see Figure 1).

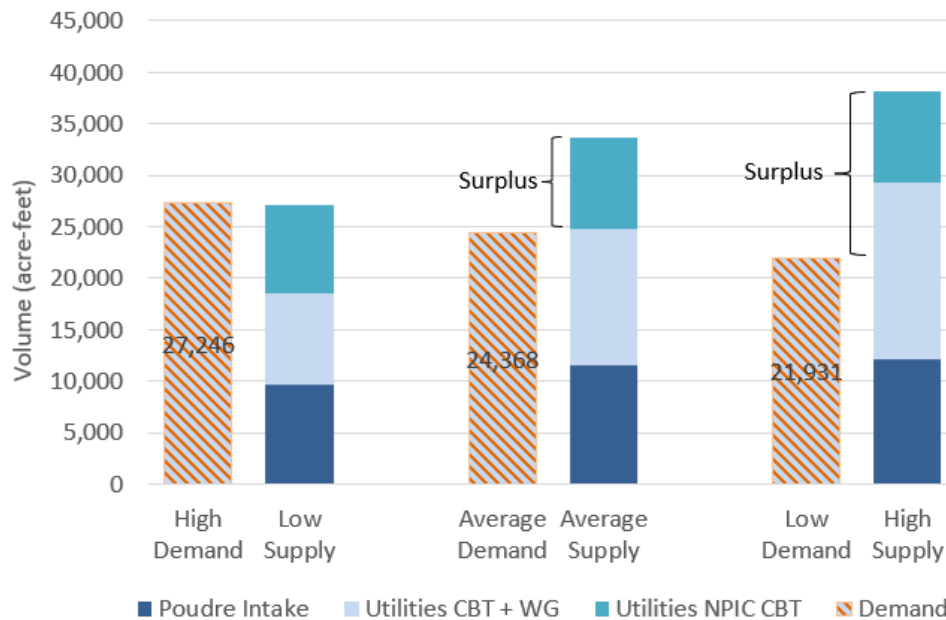


Figure 1: Range of potential supply conditions by source and a range of annual demand in acre-feet. Surplus amounts vary each year depending on available supplies and demand conditions.

Currently, the Utility follows the long-standing practice of executing one-year rental agreements through City Council authorization when there are excess supplies. This program began as early

¹ See Resolution 2012-099, Resolution of the Council of the City of Fort Collins Adopting a Water Supply and Demand Management Policy, dated November 20, 2012. See also Fort Collins Water Supply and Demand Management Policy Revision Report 2012 Update, prepared by AMEC Environment & Infrastructure.

as the late 1970s. The authorization for these rentals and the rates is currently set by Council every three years.²

The amount of projected surplus supplies available for rentals each year is based on the projected amount available from existing supplies³, snowpack conditions, projected water use demands, and other relevant factors.⁴ Historically, most water rentals have gone to agriculture and other City departments to support irrigation needs of City Parks and Natural Areas. Some rentals for other beneficial uses, like augmentation and instream flows, have also been granted.

The Utility owns various water supplies that can be rented, including water attributable to water rights decrees, shares in ditch and reservoir companies (“shares”), and contractual rights; however, the Utility has primarily rented water supplies pursuant to ownership in the North Poudre Irrigation Company (NPIC), Northern Water’s Colorado-Big Thompson Project (CBT), and the Water Supply and Storage Company (WSSC). These water supplies tend to have more flexibility in how they can be used, have greater yield, and are in higher demand than other Utility’s water supplies. Table 1 below provides a summary of the general characteristics and rental availability for each of these supplies.

Table 1 - Summary of rented supplies under the NPIC and CBT systems

Source	Characteristics	Average annual amount available (acre-feet (AF))
<i>NPIC agricultural (Ag)</i>	Limited to agricultural uses within the NPIC service area	- Depends on hydrologic conditions 3,500 to 7,100 AF
<i>NPIC CBT⁵</i>	- Limited to use within Northern Water’s boundaries - Decreed for various uses including municipal and agricultural uses, but not augmentation	- Depends on the annual CBT quota³, NPIC’s annual allocation, and amount needed to meet Utility customers’ water demands 2,000 to 7,400 AF
<i>Utility-owned CBT</i>	- Limited to use within Northern Water’s boundaries - Decreed for various uses including municipal and agricultural uses, but not augmentation	Depends on annual CBT quota, yield of City’s other water rights, and obligations under

² E.g., Ordinance 47, 2024 of the Council of the City of Fort Collins Establishing Rental Rates and Delivery Charges for Use of Water Available Under Fort Collins Utility’ Raw Water Interests for 2024 Through March 2027, dated April 12, 2024.

³ The City owns contractual units in CBT. Each year, Northern Water sets a CBT quota in April for how much water each unit is entitled to.

⁴ See City Charter, Article XII, Section 4.

⁵ Because NPIC owns CBT, the City is allocated a certain amount of CBT each year as part of the City’s ownership in the NPIC.

		agreements (e.g. City Parks Department) • 0 to 3,000 AF
WSSC	• Limited to use within the WSSC service area	• Depends on hydrologic conditions and uses to meet other obligations • 0 to 2,000 AF

Guidance for Long-Term Rentals

While the Utility has historically only entered into one-year water rental agreements, there is a desire to have the ability to provide long-term rental supplies for opportunities that benefit the City and the northern Colorado region.

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. For all requests, the Utility would benefit from rental payments. Additional benefits and values are identified below.

Entities or beneficial uses the Utility would consider for long-term rental requests

Table 2 - Entities/Uses considered for long-term rentals and the associated benefit and/or values provided

Entity/Use	Benefit/Value
<i>Agricultural Users/Uses</i>	• Support local food production and the agricultural economy • Encourage agricultural open space • Users in the Livermore Valley of the NPIC system could help meet flow requirements for the Halligan Water Supply Project through their return flows back to the river • Long-term use on a property can support a potential future change case to allow water to be used municipally
<i>Environmental Uses</i>	• Flows support the ecological function of the river • Improve recreation and aesthetics for the community • Improve water quality from increased flows

<i>Other water providers in northern CO region (inside and outside the GMA)</i>	• Support the region and water providers that are in a less resilient water supply position • Provide gap-supplies while water supply projects come online • Could minimize disparity in the GMA during water supply shortages (e.g. Utility may have surplus supplies that could be rented to other providers that may be in a water shortage situation to prevent some City residents from being on watering restrictions and some not) • Increase regional collaboration and good will
<i>Regional partners (e.g. Larimer County, local and state agencies, environmental groups, other non-governmental organizations, etc.)</i>	• These could vary in their extent but should provide joint benefits to the region • Provides greater resources to address/solve/support an issue (e.g. the instream flows augmentation plan decreed in Case No. 2021CW3056)
<i>Common goals that benefit City residents and the surrounding community</i>	• Develop new local food sources • Promote open space • Improve river flows • Support the local economy • Support agricultural research
<i>Other entities/uses</i>	• These could vary in their extent but should provide social, economic, or environmental benefits to the City and/or region (e.g. augmentation)

Rental Terms and Conditions

Table 3 - Rental terms and conditions

<i>Sources of water</i>	• Raw water, including CBT units and shares in ditch and reservoir companies • Reusable supplies (treated wastewater effluent, Rigden Reservoir)
<i>Length of term</i>	• Up to five years (with the exception of NPIC Ag supplies) • CBT agreements are subject to Northern Water's CBT subcontracting rules which do not permit greater than 2-year agreements without Board approval. Historically the Northern Water Board has approved up to 5-year agreements

	- NPIC Ag supplies could be rented for up to 20 years since the Utility cannot treat these supplies to meet customer demand - Exceptions with terms and conditions may be considered for unique circumstances, including legal considerations or project requirements
<i>Watering restrictions</i>	- Agreements for raw water sources will not provide water if a water shortage is declared triggering watering restrictions for Utility customers at Action Levels I-IV (see 'Water Shortage Action Plan' for details) - Rentals during voluntary restrictions may continue but if renting entity is a municipal water provider, they must also implement voluntary restrictions and align communications with the Utility on water shortage situations - This term does not apply to rental agreements for NPIC Ag or reusable water supplies since this water cannot be treated
<i>Amount</i>	This will be evaluated at time of request after considering the long-term water supply and demand outlook and other agreements or requests in place
<i>Pricing</i>	- This will be negotiated with the renter based on market conditions - At a minimum, the cost will recover any annual assessments and associated costs, such as administrative costs - Should include consideration for an annual payment to reserve the supply regardless of the water being used or not, plus a cost per acre-foot of water actually used each year
<i>Timing of payment and delivery or transfer of water</i>	- NPIC CBT or City-owned CBT supplies: - Payment and transfer of water will occur on a monthly basis - Will require a monthly schedule with the maximum amount of CBT requested - By the 15th of each month, Renter must notify the Utility of the amount of CBT needed for the coming month and provide payment - Upon receipt of payment, the Utility will transfer the amount of CBT requested 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 level ● For 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 executed and water delivery is needed each year.
<i>Other terms</i>	● Other terms may be needed to address specific limitations, legal constraints of the water source being rented, and unique circumstances

Implementation

A long-term rental request can 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.

When a request for a long-term rental is made, subject to other pending work, the Utility Water Resources Manager will evaluate the request pursuant to the guidance in this policy. Such an evaluation may include discussions with the requester and independent investigations related to the request.

If the Utility Water Resources Manager determines that the long-term rental request is not viable under the guidance of this policy, Utility Water Resources Manager will inform the requester.

If the Utility Water Resources Manager determines that the long-term rental request is viable under this policy, the Utility Water Resources Manager will work with the City Attorney's Office to draft and negotiate a proposed long-term rental agreement including all necessary and appropriate terms and conditions, including pricing recommendation. The Utility's Water Resources Manager will then bring any such proposed long-term rental agreement to Council for review and potential approval. All long-term rental agreements must be approved by Council prior to going into effect.