

LONGMONT WATER BOARD AGENDA

Monday, April 15, 2019

Service Center
1100 South Sherman Street
Longmont, CO 80501

3:00 p.m. – Water Conference Room

MEETING CALLED TO ORDER

1. ROLL CALL
2. APPROVAL OF PREVIOUS MONTH'S MINUTES
 - a. March 18, 2019 – Water Board Regular Meeting
3. WATER STATUS REPORT
4. PUBLIC INVITED TO BE HEARD AND SPECIAL PRESENTATIONS
5. AGENDA REVISIONS AND SUBMISSION OF DOCUMENTS
6. DEVELOPMENT ACTIVITY
 - a. Development Activity Requiring Water Board Action
 - i) None
 - b. Development Activity Submitted for Water Board Information Only
 - i) None
7. GENERAL BUSINESS
 - a. City of Longmont's 2019 Water Supply and Drought Management Plan
(Staff will present this plan and ask for a recommendation to City Council)
Staff Contact: Wes Lowrie (303) 651-8814, wes.lowrie@longmontcolorado.gov
8. ITEMS FROM STAFF
 - a. Monthly Legislative Report (Staff will provide the Board with an update on selected water related bills) Staff Contact: Ken Huson (303) 651-8340, ken.huson@longmontcolorado.gov

- b. Water Demand Evaluation Update (Staff will provide a verbal status update on this evaluation) Staff Contact: Ken Huson (303) 651-8340, ken.huson@longmontcolorado.gov

9. ITEMS FROM BOARD

- a. Review of Major Project Listing and Items Tentatively Scheduled for Future Board Meetings.

10. INFORMATIONAL ITEMS AND WATER BOARD CORRESPONDENCE

11. ITEMS TENTATIVELY SCHEDULED FOR FUTURE BOARD MEETINGS

- Cash-in-Lieu Review (March, June, September, December)

12. ADJOURN

If you need special assistance to participate in a Water Board meeting, please contact Heather McIntyre at (303) 651-8817 in advance of the meeting to make arrangements.

WATER BOARD MINUTES

March 18, 2019

**Service Center Conference Room
1100 S. Sherman Street
Longmont, CO 80501**

REGULAR MEETING

The March 18, 2019, meeting of the Longmont Water Board was called to order by Vice Chair Renee Davis at 2:59 p.m. at the Service Center Water Conference Room.

1. ROLL CALL

Board Members Present: Renee Davis, Kathy Peterson, and Roger Lange

Board Members Excused: Todd Williams and John Caldwell

City Staff Members Present: Wes Lowrie, Nelson Tipton, Kevin Boden, Francie Jaffe (Water Conservation & Sustainability Specialist), and Heather McIntyre

Public in Attendance: Phil Willis

2. APPROVAL OF PREVIOUS MONTH'S MINUTES

A motion was made by Board member Lange to approve Water Board's February 25, 2019 minutes as written; the motion was seconded by Board member Peterson. The motion passed 3-0.

3. WATER STATUS REPORT

Staff member Nelson Tipton gave the current water status report. The flow at the Lyons gage at 8:30 a.m. today was 22 cfs with an historical average of 20 cfs for this date. Ralph Price Reservoir at Button Rock Preserve is at 10,909 acre feet, down approx. 5,300 acre feet. Union Reservoir is at 10,460 acre feet, down approx. 2,300 acre feet. The call on the St. Vrain Creek is McCall Lake, with a priority date of 3/15/1909, and there was no call on the Main Stem of the South Platte River, which impacts District #5.

4. PUBLIC INVITED TO BE HEARD AND SPECIAL PRESENTATIONS

Staff member Tipton introduced Francie Jaffe, the City's new Water Conservation & Sustainability Specialist. Her time will be split equally between water conservation and sustainability. As part of her water conservation responsibilities, Francie will oversee the various water efficiency programs outlined in City of Longmont's Water Efficiency Master Plan.

5. AGENDA REVISIONS AND SUBMISSION OF DOCUMENTS

None.

6. DEVELOPMENT ACTIVITY

None.

7. GENERAL BUSINESS

A. Cash-in-Lieu Review

Staff member Wes Lowrie reminded the Board of City Council's approved Resolution R-2018-53 establishing the fee for cash-in-lieu of water right received at the current rate of \$15,324.00 per acre-foot.

The Board reviewed and discussed the current cash-in-lieu rate with no recommendation for change to the fee at this time.

B. Monthly Legislative Report

Staff member Tipton updated the Board with recent and current water related Legislation Bills that Longmont is tracking. A spreadsheet listing those bills was handed out. There were no bills at this time which required Water Board action.

8. ITEMS FROM STAFF

A. Monthly Water Supply Update

Staff member Lowrie reviewed Longmont's current and projected water supply with Water Board members, with information that was included in the Water Board packet. At the end of February, the reservoir storage is about 70%, slightly below the 7-year average, mostly due to Button Rock being down slightly.

The South Platte River Basin snowpack is above normal at 131% as of March 18, 2019, and the Upper Colorado River Basin snowpack is at 141%.

9. ITEMS FROM BOARD

A. Review of Major Project Listing

The Board reviewed the most recent Water Board project status report.

Board member Davis asked about when the supply and demand update will be available. Staff member Lowrie stated it will hopefully be part of next month's meeting.

10. INFORMATIONAL ITEMS AND WATER BOARD CORRESPONDENCE

Informational items and correspondence were included in the packet. Staff member Lowrie reminded the Board that the Spring Water Users Meeting will be held on April 9, and information was included in this month's packet.

11. ITEMS TENTATIVELY SCHEDULED FOR FUTURE BOARD MEETINGS

The next cash-in-lieu review is scheduled for June's meeting.

12. ADJOURN

There being no further business to come before Water Board, Chairman Williams adjourned the meeting at 3:44 p.m.

The next regular meeting of the Longmont Water Board will be held on April 15, 2019, at 3:00 p.m. at the Service Center, 1100 South Sherman Street, Longmont, CO 80501.

Renee Davis, Water Board Vice Chair

Date

Heather McIntyre, Recording Secretary

Date



WATER BOARD

LONGMONTCOLORADO.GOV

Meeting Date: April 15, 2019

Item Number: 6

Type of Item: Development Activity

From: Wes Lowrie, Water Resources Analyst, (303) 651-8814
wes.lowrie@longmontcolorado.gov

As the Board will recall, City Council approved Ordinance O-2012-73 on October 23, 2012, which requires Water Board action during annexation review and when further raw water deficit satisfaction is required pursuant to a particular development activity. Listed below are two development activity categories: Development Activity Requiring Water Board Action and Development Activity Submitted for Water Board Information Only.

- 6a Development Activity Requiring Water Board Action
 - i) None

- 6b Development Activity Submitted for Water Board Information Only
 - i) None



WATER BOARD

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Meeting Date: April 15, 2019

Item Number: 7a

Subject: **City of Longmont's 2019/2020 Water Supply & Drought Management Plan**

Type of Item: General Business

From: Wes Lowrie, Water Resources Analyst (303-651-8314)
wes.lowrie@longmontcolorado.gov
Ken Huson, Water Resources Manager (303-651-8340)
ken.huson@longmontcolorado.gov

Suggested Action: Recommend that City Council accepts the 2019/2020 Water Supply & Drought Management Plan and to remain at a Sustainable Conservation Level Drought Response.

Staff will review the attached May 14, 2019 Draft Council Communication, 2019/2020 Water Supply & Drought Management Plan, City's Guiding Water Principles, South Platte River Basin Snowpack Summary, and Colorado River Basin Snowpack Summary during Water Board's April 15, 2019 Regular meeting.

Staff will ask Water Board for a recommendation to City Council to accept the 2019/2020 Water Supply & Drought Management Plan.



City of Longmont

2019/2020 Water Supply & Drought Management Plan

Purpose:

The purpose of the City of Longmont's 2019/2020 Water Supply & Drought Management Plan is to manage the City's Water Supply and to anticipate, identify and respond to drought in the Saint Vrain Creek watershed area. This plan will evaluate the impact on raw water availability for the City of Longmont and recommend responses to the current water supply and demand forecast. This plan also formalizes the City's planning for future droughts.

Methodology and Responsibility:

The City of Longmont's Water Supply & Drought Management Plan will be managed by the Water Resources Divisions of the Public Works & Natural Resources Department, referred to as Division. Indicators of drought, as outlined in this plan will be monitored by personnel in the Division. The Division will recommend appropriate action, guided by the response plan as outlined in this plan, for response to differing levels of drought.

Ralph Price Reservoir January 29, 2019



Definition of Drought:

A drought is typically defined as single or multiple consecutive water years with below average stream flow. For the purposes of drought response planning, the droughts of interest would only include those droughts that, because of severity, directly impact and stress raw water availability for the City of Longmont.

Revision Date: April 12, 2019

City of Longmont 2019/2020 Water Supply & Drought Management Plan

"Conserving our Water to Preserve our Quality of Life"

I. City of Longmont's Drought Supply Policy:

The City of Longmont's raw water drought supply policy is outlined in the Raw Water Master Plan. This plan describes the City's policy of using the 1-in-100 year drought recurrence interval as the basis of planning for the City's raw water supply. This drought interval is based upon a drought of approximately 7 years in length with a total Saint Vrain Creek watershed deficit of 237,000 acre-feet. This plan also describes drought indicators and potential forecasting methodologies to be used to predict drought and determine its severity and impacts on the City's raw water supply.

The Saint Vrain Creek has historically experienced drought conditions and will continue to do so in the future. The annual average measured flow in the Saint Vrain Creek at the Lyons gaging station for the period 1896 to 1982 was 93,000 acre-feet. After the addition of diversions from the creek above the Lyons gaging station, the estimated virgin flow for this period is 124,000 acre-feet. A drought of seven years in length, with a total deficit of 237,000 acre-feet, would result in a deficit of approximately 34,000 acre-feet per year.

During 2018 the Saint Vrain River Basin experienced average streamflow conditions as a result of above average snowpack and average rainfall. Water Board recommended and City Council concurred in May of 2018 to remain at a Sustainable Conservation Level Drought Response for 2018. As a result of the average stream flows during 2018 Longmont finished the 2018 irrigation season (October 31, 2018) with average storage in its local reservoirs at 70% of capacity. Current projections are that by July 15, 2019 select reservoir storage will be 98% of full. During 2019 the Public Works & Natural Resources staff will continue to implement demand management strategies outlined in this plan. Water Resources staff will continue to pursue opportunities to exchange additional water to supplement the existing water supply.

Prior Water Data	2017	2018
Total Water Supply Available	23,797 acre-feet	23,816 acre-feet
Total Treated Water Demand	17,172 acre-feet	16,506 acre-feet

Snow Pack as of April 12, 2019	South Platte River Basin	Colorado River Basin
	118%	116%

For 2019 Longmont expects to continue to utilize native basin water rights, trans-mountain water rights, and local storage water rights.

Description of Indicators and Forecasting Methods:

- **Natural Resources Conservation Service's Monthly Streamflow Forecast**
Table A indicates how the Streamflow Forecast can be used to evaluate impacts upon Longmont's water rights on an average and dry basis. Based upon the streamflow forecast, the projected yield of direct flow and storage decrees will be used for calculation of raw water availability during drought conditions. This effort will focus on the April 1st and May 1st Streamflow forecasts as an indicator of drought in the upcoming irrigation season.
- **Natural Resources Conservation Service's Monthly Snowpack Survey**
The Snowpack Survey will be used in validating and/or adjusting the Streamflow Forecasts. These surveys also provide real-time measurement of snowpack to assist in reviewing projections in the time between monthly streamflow forecasts.
- **Saint Vrain Creek Basin Reservoir Storage Levels**
Total reservoir storage in the Saint Vrain Basin varies with the availability of water during the storage season (usually November through June). The total Saint Vrain Creek storage levels will be used in conjunction with target storage levels in Ralph Price Reservoir. When comparing storage levels in reservoirs with storage rights senior to Ralph Price Reservoir, water supply availability can be projected for the storage components of Longmont's water portfolio. An example of this information for Ralph Price Reservoir is shown in Table B.
- **Trans-Mountain Water Supply Availability**
Colorado-Big Thompson Project (C-BT) Quota Declaration and Longmont carry-over of C-BT allocation from the previous year will be utilized in establishing trans-mountain water supply availability for 2019 and projections for later years. This trans-mountain water availability includes C-BT quota declarations, Upper Baldwin Ditch Replacement water, Carry-over C-BT water, Exchanged C-BT water, and Windy Gap water supplies. On November 1, 2018 the NCWCD Board set the initial 2019 quota declaration for the C-BT system at 50%. On April 11, 2019 an additional 20% declaration was made which resulted in combination with the other trans-mountain water supplies, of a total trans-basin water supply yield of 15,756 AF.
- **Raw Water Availability for City of Longmont**
Raw water availability will be updated and revised by the Division staff to estimate Water Treatment Plant demands and projected raw water availability for Longmont. An example of 2019 raw water availability is included in Table A. Projected demand in this table is based upon a Sustainable Conservation Level drought response assumption.
- **City of Longmont Treated Water Demands Greater than Normal**
As drought conditions occur, water use often increases and raw water availability decreases. Treated water demand projections will be adjusted in accordance with this expected increase. Actual use as the drought progresses will be included in the evaluation of projected water demands.

- **City of Longmont Water Supply Projections for Multi-year Drought Projections**

As an additional tool in evaluating the current year drought response level, Division staff will complete a multiple year water supply evaluation. The current and next water year of that projection will be used to determine the drought response level for the City.

II. Description of Drought Supply Response Levels:

Division staff is responsible for monitoring drought indicators and forecasting raw water availability. The following guidelines will assist Division staff and Water Board in advising City Council in determining the appropriate course of action to undertake in varying degrees of drought intensity. These will serve as a guideline only, with the experience and year by year specific details also guiding the City's actions in any given drought scenario. The City Manager, with the advisement of Division staff, will have the power to declare a specific response level in the case of an emergency. Division staff will compare raw water supply with projected demand and monitor the storage levels in Ralph Price Reservoir and the Saint Vrain Creek Basin. If the combination of supply and available storage exceed projected demand by more than 135%, the City's water supply will not be considered in a drought scenario. The City will continue to take water conservation actions at all times, especially during years of below average streamflow. Percent of water savings goal referred to hereafter shall be with respect to last year's actual demand.

Sustainable Conservation Level:

At the sustainable conservation level the City will continue to implement Best Management Practices to conserve the water resources of the City.

Target Water Savings Goal: Sustainable demand management at all times to insure reasonable water conservation practices are followed utilizing best management practices and that the overall goal of a 10% water savings as outlined in the Raw Water Master Plan is realized.

This level will include a projection of the following indicators:

- Storage volumes in Ralph Price Reservoir greater than target levels for the Level One Drought Response in Table B; and
- Raw water supply availability projections for the current and next water year at a level greater than **135%** of projected water demand.

Level One Drought Response Targets:

At Level One, conditions will moderately impact the City's supply vs. demand.

Target Water Savings Goal: Sufficient demand management, up to 10%, to insure demand does not exceed raw water availability.

This level will include a projection of the following indicators:

- Storage volumes in Ralph Price Reservoir lower than target levels in Table B.

- Raw water supply availability at a level of **120% - 135%** of projected water demand.

Level Two Drought Response Targets:

At Level Two, conditions will severely impact the City's supply vs. demand.

Target Water Savings Goal: 10% to 25%

This level will include a projection of the following indicators:

- Storage volumes in Ralph Price Reservoir lower than target levels in Table B.
- Raw water supply availability at a level of **105% - 120%** of projected water demand.

Level Three Drought Response Levels:

At Level Three, conditions will critically impact the City's supply vs. demand.

Target Water Savings Goal: To be determined at time of level three drought, goal dependent upon drought severity and water savings needs.

This level will include a projection of the following indicators:

- Storage volumes in Ralph Price Reservoir lower than target levels in Table B.
- Raw water supply availability at a level less than **105%** of projected water demand.

III. Description of Drought Response Action Plans:

Sustainable Conservation Level:

Upon determining that actionable drought conditions do not exist for the City of Longmont, any or all of the following may be performed:

- Continue public information concerning impacts to the City of Longmont's water supply to encourage that best management practices (BMP's) are followed. The City will continually promote a public water conservation campaign. BMP's include but are not limited to:
 1. No water being wasted.
 2. Time of day watering restrictions, such as no unattended irrigation between the hours of 10:00 a.m. and 6:00 p.m., will be encouraged.
 3. Use soil amendments and mulch in conjunction with appropriate plant selections.
 4. Check and replace leaky faucets and toilets.
 5. Wash only full loads of cloths and dishes.
- Voluntary measures for raw water reduction in municipal and school use of water.
 1. Parks & Recreation will conserve water where possible and utilize BMP's.
 2. Golf courses will conserve water where possible and also utilize BMP's.
 3. School District will be encouraged to follow BMP's and conserve water where possible.

4. City owned facilities will strive to set the benchmark for water use practice.
 5. Encourage all customers served by Longmont Water Utilities to implement BMP's for total water use.
- Division staff will prepare for implementing Level One policies in the event this level occurs. The Division will monitor drought response effectiveness, recommend adjustments, and report to public regularly. The Division will also continue training and assigning staff to monitor outdoor water use to insure sustainable conservation efforts are followed and prepare in the event that a Level One drought is determined.

Level One Drought Projection:

Upon determining a Level One drought exists, Longmont may perform any or all of the following efforts, utilizing the actual previous year's water use as the base year for comparison purposes:

- Increase public information about the drought severity and review and enactment of appropriate conservation efforts. Conservation efforts are outlined in the City of Longmont's Water Conservation Master Plan. The City will promote a public water conservation campaign emphasizing moderately dry conditions existing at that time.
- Voluntary water conservation by service customers.
 1. Encourage all customers served by the Longmont Water Utilities to implement a ten percent (10%) reduction in water use from historical levels.
 2. Water users who normally use raw water, well water or other sources of water for irrigation will be requested to not increase use of water through the potable water system during drought emergencies.
 3. Irrigation class tap customers may be required to reduce demand by 10%.
 4. Community garden users, as well as private garden users, will be encouraged to implement a ten percent (10%) reduction in water use from historical levels.
- Mandatory measures for raw water reduction in municipal and school use of water.
 1. Parks & Recreation will conserve water where possible, resulting in a net 10% reduction of historical annual use. Voluntary reductions apply to municipally owned critical sports fields and parks.
 2. Golf courses will conserve water where possible, resulting in a net 10% reduction of historical annual use.
 3. School District irrigation water lease reduction as appropriate, resulting in a minimum of 10% reduction of historical annual use.
 4. Saint Vrain Creek Corridor water lease reduced (or eliminated) to the extent that water is unable to be recaptured for use at the Water Treatment Plants.

5. All other municipal water use will be reduced by 10% (Building use, Fire dept. etc.) of historical annual use.
- Raw water leases and bulk water sales.
 1. Surplus water rental reduced or eliminated.
 2. Historic lease back of raw water reduced or eliminated.
 3. No water leases are guaranteed during a Level One drought (except by existing contracts). If leases are approved the City may elect to increase the lease rate to recover investment costs and to discourage non-essential uses.
 4. Bulk water permits will be reviewed for use and total demand on system. Normal use of water through bulk permits will be allowed, but use of fire hydrants for irrigation will not be allowed.
 - In drought years, there are many uses of water that will change compared to use during average and above average water years. Following are some examples of these changes in that water usage:
 1. Use of water in Golden Ponds will gradually change from primarily piscatorial to supply. In a Level One drought, water levels in the west pond will be allowed to equalize with the middle pond, with use of that amount. In addition, if the level of Golden Ponds lowers, water will not normally be replaced in this facility until the drought ends.
 2. Union Reservoir water levels will be lower than normal, resulting in lowered ability to conduct late season recreational activities on the reservoir.
 - Division staff will develop plans for implementing Level Two policies in the event this level occurs. The Division will monitor drought response effectiveness, recommend adjustments, and report to public regularly. The Division will also continue training and assigning staff to monitor outdoor water use in the event that a Level Two drought is determined.
 - Time of day watering restrictions, such as no unattended irrigation between the hours of 10:00 a.m. and 6:00 p.m., will be evaluated for practicality of implementation.

Level Two Drought Projection:

Upon determining a Level Two drought exists, Longmont may perform any or all of the following:

- Continue public information about the drought severity and enactment of increasing conservation efforts. Conservation efforts are outlined in the City of Longmont's Water Conservation Master Plan. The City will promote a public water conservation campaign emphasizing severely dry conditions. As part of the conservation strategies, the City has developed a conservation rebate program, which will provide rebates for purchase of low volume toilets to replace high volume toilets.

- Mandatory water conservation by service customers.
 1. Require all customers served by Longmont Water Utilities, including community garden users, to implement a minimum ten percent (10%) reduction in water use.
 2. Implement a formal mandatory watering program to be followed by customers.
 3. No additional water use through the potable system to replace water normally used through raw water, well water or other water supply scenarios.
 4. Irrigation class tap customers will be required to reduce demand by a minimum of 20%.

- Mandatory measures for raw water reduction in municipal and school use of water.
 1. Parks & Recreation water reductions at a level between 20% and 90% depending upon severity of drought and overall response to demand reductions. To the extent possible, the identified critical sports fields, trees and non-turf landscaped areas will continue to be irrigated with a 10% reduction in application of water.
 2. Golf course watering will be reduced between 20% and 90% depending upon severity of drought and overall response to demand reductions.
 3. School District irrigation water lease reduction at a level between 20% and 90% depending upon severity of drought and overall response to demand reductions.
 4. Saint Vrain Creek Corridor water lease eliminated to the extent that water is unable to be recaptured for use at the Water Treatment Plants.
 5. All other municipal water use will be reduced to the maximum extent possible (Building use, Fire dept. etc.).

- Raw water leases and bulk water sales.
 1. Surplus water rental eliminated.
 2. Historic lease back of raw water reduced or eliminated.
 3. No water leases are guaranteed during a Level Two drought (except by existing contracts). If leases are approved, the City may elect to increase the lease rate to recover investment costs and to discourage non-essential uses.
 4. Bulk water permits will be reviewed for use and total demand on system. Normal use of water through bulk permits may be allowed, but use of fire hydrants for irrigation will not be allowed.

- Division staff shall develop plans for implementing Level Three policies, including mandatory water use reductions. The Division will monitor drought response effectiveness, recommend adjustments, and report to the public regularly.

- The Division will continue to train and assign staff in monitoring, issuing warnings and imposing penalties for water waste and violations of any permits and noncompliance with any water restrictions.

Level Three Drought Projection:

Upon determining a Level Three drought exists, Longmont may perform any or all of the following:

- Continue public information about the drought severity and enactment of mandatory conservation efforts. Conservation efforts are outlined in the City of Longmont's Water Conservation Master Plan. The City will promote a public water conservation campaign emphasizing critically dry conditions.
- Mandatory Water Conservation by Service Customers.
 1. Mandatory water use reduction equal to projected water supply availability deficit for all customers, including community gardens, served by the Longmont Water Utilities. Outdoor watering restrictions will be set based upon severity of drought. Restrictions will result in severely cutting back or completely eliminating watering based upon severity of the Level Three drought.
 2. Water rates to be adjusted to provide clear financial incentive to limit outside water use using the increasing block structure. Adjust water rates to maintain revenue during the drought as needed.
 3. Impose a moratorium on new water taps.
 4. No additional water use through the potable system to replace water normally used through raw water, well water or other water supply scenarios.
 5. Irrigation class tap customers will be required to reduce demand by a minimum of 90%, or possibly eliminated.
- Mandatory measures for raw water reduction in municipal and school use of water. All outdoor watering of public facilities may be eliminated depending upon the severity of the drought at this level.
 1. Parks & Recreation water reductions, resulting in a reduction of 90 % of use. Minimal watering of critical sports fields and parks will occur. The primary intent of Parks and Recreation watering will be to maintain economic investments in non-turf landscaping, trees and municipal facilities. Field use will be restricted or eliminated to protect facilities as needed.
 2. Golf course watering will be limited to greens and tees.
 3. School District irrigation water lease eliminated.
 4. Saint Vrain Creek Corridor water lease eliminated to the extent that water is unable to be recaptured for use at the Water Treatment Plants.
 5. All other municipal water use will be reduced to the maximum extent possible (Building use, Fire dept. etc.).
- Raw water leases and bulk water sales.
 1. Surplus water rental eliminated.
 2. Historic lease back of raw water eliminated.
 3. Bulk water permits and sale of water through fire hydrants will not be allowed. Hydrant use for irrigation will not be allowed.

- Division staff will continue to further develop plans for responding to the drought. The Division will monitor drought response effectiveness, recommend adjustments, and report to public regularly. Division staff will continue to monitor and enforce watering restrictions as necessary.

Website Links:

City of Longmont Public Works & Natural Resources Department:

<http://longmontcolorado.gov/departments/departments-n-z/water>

Snow Survey Data:

https://www.nrcs.usda.gov/wps/portal/nrcs/detail/co/snow/?cid=nrcs144p2_063182

Reviewed by:

Longmont Water Board on April 15, 2019

**TABLE A
CITY OF LONGMONT
WATER RIGHTS YIELDS
2019**

revision date 04/09/2019

WATER RIGHTS	2002 ACTUAL RAW WATER USE AC-FT	2017 ACTUAL RAW WATER USE AC-FT	2018 ACTUAL RAW WATER USE AC-FT	2019 PROJECTED RAW WATER AVAILABLE AC-FT	2020 PROJECTED RAW WATER AVAILABLE AC-FT	2021 PROJECTED RAW WATER AVAILABLE AC-FT
1. CBT QUOTA DECLARATION	70%	80%	80%	70%	50%	50%
2. DIRECT FLOW WATER RIGHT DECREES	3309	6752	6676	6947	7574	7574
3. 1929 TRANSFER DECREES	1108	0	0	1337	1337	1337
4. PIPELINE DECREES	904	416	0	1837	1837	1837
5. TRANSFERED RESERVOIR STORAGE DECREES	456	1163	1163	1163	1163	1163
6. RESERVOIR STORAGE AVAILABLE FOR RELEASE	7366	3533	3538	4222	4199	4199
7. TRANSBASIN WATER RIGHTS	8715	15586	15876	11710	12277	12277
8. LESS CBT CARRYOVER BETWEEN YEARS	(940)	(2825)	(2825)	(2825)	(2825)	(2825)
9. LESS WATER RENTAL AND LEASES	(1497)	(828)	(612)	(1000)	(1000)	(1000)
10. TOTALS	19421	23797	23816	23391	24562	24562
11. DEMANDS AT LEVEL 1 DROUGHT RESPONSE	17217					
12. PERCENT OF SUPPLY VS DEMAND AT LEVEL 1 RESPONSE	113%					
13. DEMANDS AT SUSTAINABLE CONSERVATION LEVEL *		17172	16505	16835	17340	17860
14. PERCENT OF SUPPLY VS DEMAND AT SUSTAINABLE CONSERVATION LEVEL		139%	144%	139%	142%	138%
B1. NOVEMBER 1ST PROJECTED STORAGE				32000		
B2. DROUGHT LEVEL INDICATED BY WATER IN STORAGE				S		
B3. TO DATE IN-BASIN LONGMONT STORAGE (AC-FT)				28758		
B4. NUMBER OF MONTHS AVAILABLE TO MEET AVERAGE DEMAND				21		

* Projected water demands reflect previous water demand usage and consider long range weather forecasts, water conservation efforts, changes in treated water demands, economic forecasts and community growth.

TABLE B
RALPH PRICE RESERVOIR STORAGE
2019

* DESIGN DROUGHT YEAR							
Calendar Year	1	2	3	4	5	6	7
Calendar Year	2019	2020	2021	2022	2023	2024	2025
Sustainable Conservation Level	>90%	>90%	>85%	>85%	>80%	>80%	>75%
Response Level One	75% - 90%	75% - 90%	70% - 85%	70% - 85%	65% - 80%	65% - 80%	60% - 75%
Response Level Two	60% - 75%	60% - 75%	55% - 70%	55% - 70%	50% - 65%	50% - 65%	50% - 60%
Response Level Three	< 60%	< 60%	< 55%	< 55%	< 50%	< 50%	< 50%
JULY 15, 2019 PROJECTED BUTTON ROCK STORAGE (AC-FT)			16197	100%			
APRIL 11, 2019 ACTUAL BUTTON ROCK STORAGE (AC-FT)			10943	68%			

CITY COUNCIL COMMUNICATION



MEETING DATE: May 14, 2019 **ITEM NUMBER:**
SECOND READING: N/A
TYPE OF ITEM: Study Session
PRESENTED BY: Dale Rademacher, PWR General Manager, 303-651-8355
Ken Huson, Water Resources Manager, 303-651-8340
Wes Lowrie, Water Resources Analyst, 303-651-8814

SUBJECT/AGENDA TITLE: Accept the City of Longmont's 2019/2020 Water Supply and Drought Management Plan

EXECUTIVE SUMMARY:

This Council item is transmitted for the purpose of requesting City Council's consideration of accepting the City of Longmont's 2019/2020 Water Supply and Drought Management Plan. Water Board and staff annually present an update on the City's water supply and present for City Council consideration a Water Supply and Drought Management Plan. Longmont's current water supply and drought management plan, adopted on May 15, 2018, calls for the City to operate under a sustainable conservation level at our current water supply ratio. Staff recommends that the City remain at the sustainable water conservation level. Currently staff is not recommending the rental of surplus water other than its continued lease of water to the Saint Vrain Valley School District. It is expected that Longmont will have sufficient potable municipal water supplies for 2019 and 2020 to meet the demands of its customers.

In consultation with Water Board, PW&NR staff has prepared the attached 2019/2020 Water Supply and Drought Management Plan for City Council's consideration.

Water Board voted unanimously to recommend City Council adopt the attached 2019/2020 Water Supply and Drought Management Plan. At its April 15th Water Board meeting, the Board reviewed the attached 2019/2020 Water Supply and Drought Management Plan, recommended acceptance of the 2019/2020 Water Supply and Drought Management Plan, and to remain at a Sustainable Water Conservation Level. Staff also recommends acceptance of the 2019/2020 Water Supply and Drought Management Plan and to remain at a Sustainable Water Conservation Level.

A number of metrics concerning water supply and drought management plans can be considered. Longmont's plan has been tailored to specifically represent the City's water supplies and demands. Staff has reviewed and evaluated other neighboring front range city's plans. Longmont's plan is consistent with the general methodology and approach used by these other plans.



COUNCIL OPTIONS:

1. Accept 2019/2020 Water Supply and Drought Management Plan as presented.
2. Accept a revised 2019/2020 Water Supply and Drought Management Plan.
3. Do not accept a plan at this time.

RECOMMENDED OPTIONS: Option #1**FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:** N/A**BACKGROUND**

In an ongoing effort to inform the citizens and City Council about Longmont's projected available water supply and demand, staff first began preparing a formalized Water Supply & Drought Management Plan during the drought of 2002. This plan has been annually reviewed and accepted by City Council since that time. Also, on a monthly basis staff reviews with the Longmont Water Board the City's current and projected water supply status.

Last year, Water Board recommended to City Council that the City remain at a Sustainable Conservation Level Drought Response. Council concurred with Water Board in May of 2018, and Longmont currently remains at that drought response level at this time.

The April 1st 2019 Natural Resources Conservation Service (NRCS) stream flow forecast for St. Vrain Creek at Lyons, for the period of April-September is average. The May 1st 2019 forecast is not yet available. Given the current weather conditions, staff is anticipating that the May 1st streamflow projection will be similar to the April 1st projection. If the NRCS information becomes available prior to Council's review of this item, staff will present that information during the May 14th meeting. Current St. Vrain Creek Basin area storage is at 69% of capacity. Average basin storage for this time of year is typically around 65% of capacity.

On April 11, 2019 Northern Colorado Water Conservancy District Board set the Colorado Big-Thompson project (CBT) quota for this year at 70%. With that quota, Longmont's 2019 transbasin water supply is 14,535 acre-feet of water. It is possible the Northern Water Board could declare an additional supplemental quota in which case the City's transbasin water supply for 2019 would increase. The City's total water supply for 2019, after historical leaseback is deducted, is projected to be a minimum of 23,391 acre-feet.

Attached to this communication, as part of the 2019/2020 Water Supply and Drought Management Plan, is an updated water supply forecast for 2019/2020. Tables A and B show the current projection for the City of Longmont's 2019 water supply to be 139% of demand, assuming a sustainable conservation level is maintained. In 2020, the City's water supply is projected to be at 142%, still at a sustainable conservation level. These percentages represent a conservative estimate of water rights available and assume the maximum amount of Colorado Big-Thompson Project water is available for carryover into the following years. These projection numbers are all within thresholds set for a sustainable conservation level.

Also during 2019, PW&NR staff will continue to implement demand management strategies outlined in the Water Supply & Drought Management Plan, as well as the Water Conservation Master Plan. The current water supply and projected demands indicate that it would be appropriate for the City to remain at a Sustainable Water Conservation level.

ATTACHMENTS:

Proposed 2019/2020 Water Supply & Drought Management Plan

Tables A & B for Drought Plan

City's Guiding Water Principles

South Platte & Upper Colorado River Basin Snowpack Summaries

City of Longmont Guiding Water Principles

	<i>Statement of Goal</i>	<i>Policy Statement</i>
Goal 1	The City will acquire and maintain a raw water supply sufficient to meet the water demands of the City at full build-out of the Longmont Planning Area during a drought with a 1 in 100 year recurrence interval.	The City will maintain diligence on conditional water supply projects. The City will continue to meet its Raw Water Quality of Life Benchmark. The City will continue to pursue efforts to maintain and improve the yields of its water rights and interests in regional water projects.
Goal 2	The City will maintain and enforce a Raw Water Requirement Policy that is consistent with other policies adopted by the city, and that support the attainment of the other goals stated in this document.	The City will continue to consistently apply the Raw Water Requirement Policy to all new development in the City. The City will continue to revise the Raw Water Policy as necessary to meet the water supply needs of the City.
Goal 3	The City will acquire, develop, and beneficially use a water supply that consists of water rights in the South Platte and Colorado River basins.	The City's water supply will continue to be composed approximately one-third from the Colorado Big Thompson and Windy Gap projects with the balance from St. Vrain and Left Hand basin water rights.
Goal 4	The City will pursue policies that develop and maintain a high quality raw water supply for delivery to treatment facilities either directly or by exchange.	The City will place highest priority on development and maintenance of water originating in high mountain watersheds, and the storage of that water in mountain reservoirs. The City will integrate other sources of supply, giving highest priority to exchanges. The integration of such supplies into the treatment system will take place as demand requires and when technology of treatment evolves to allow for high quality potable water at reasonable treatment costs.
Goal 5	The City will pursue policies that promote the retention and preservation of water supplies that originate in the St Vrain Basin for use within the St. Vrain Valley.	The City will work cooperatively with the St. Vrain and Left Hand Water Conservancy District and local irrigation companies and water districts to develop and implement strategies that result in the preservation, retention, and use of native water supplies.
Goal 6	The City will pursue policies that will protect and improve the quality of the water supplies in the St. Vrain Creek watershed.	The City will continue to develop and implement watershed protection programs, actively participate in implementing projects and programs that improve the water quality of storm water discharges, and discharges from the Wastewater Treatment Plant that are within the Total Maximum Daily Loading of the St. Vrain Creek.

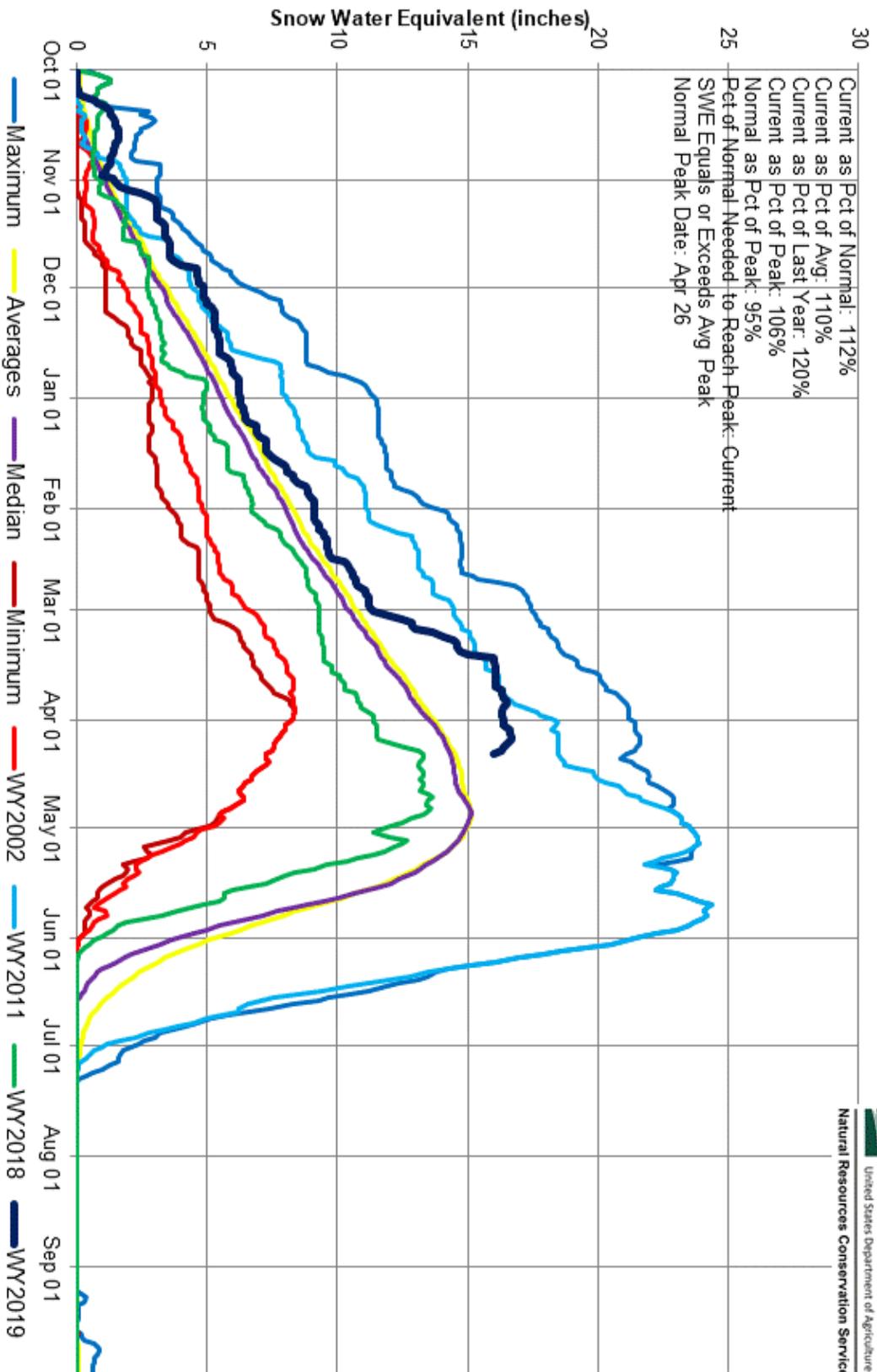
	<i>Statement of Goal</i>	<i>Policy Statement</i>
Goal 7	The City will develop and implement a water conservation policy that strives to achieve a sustainable use of its water resources.	The City will strive to achieve water conservation that results in water demands at build out of the Longmont Planning Area that are 10 percent lower than current projections. The City will pursue water development that does not rely on the dry up of agricultural lands.
Goal 8	The City will pursue water policies and operations that minimize adverse environmental impacts.	The City will independently and in partnership with other agencies and organizations evaluate the environmental impacts of water development projects and operate the City's water resource facilities to minimize adverse environmental impacts while not unreasonably diminishing the yield of the City's water supplies.
Goal 9	The City will pursue water policies and operations that promote multiple uses of water.	The City will manage its water resources with the primary goal of meeting the domestic water needs of its customers while also striving to provide for other water uses such as recreational, agricultural, and environmental.
Goal 10	The City will develop a strategy of flexibility in raw water supply that will enable it to respond to changes in supply and demand conditions.	The City will continue to acquire, develop and operate its water supply to provide for the necessary redundancy, flexibility and capacities to address potential changes in climate, system and operational failures, and changes in water demands while maintaining a reliable water supply.
Goal 11	The City will consider regional supply and treatment partnerships and agreements that complement and support other regional goals of the City and clearly benefit the citizens of Longmont.	The Longmont Municipal Charter, Section 11.1, allows the City to provide extraterritorial water service provided the agreements or contracts clearly benefit the inhabitants of the City.
Goal 12	The City will develop strategies to meet the above goals in the most economically beneficially manner for the citizens of Longmont.	The City will continue to evaluate the costs and benefits of all water development strategies and seek to meet the water needs of the community using favorable financing options, encouraging water conservation, efficient project designs, and partnering in regional water projects were appropriate.

South Platte River Basin High/Low Snowpack Summary

Based on Provisional SNOTEL data as of Apr 10, 2019

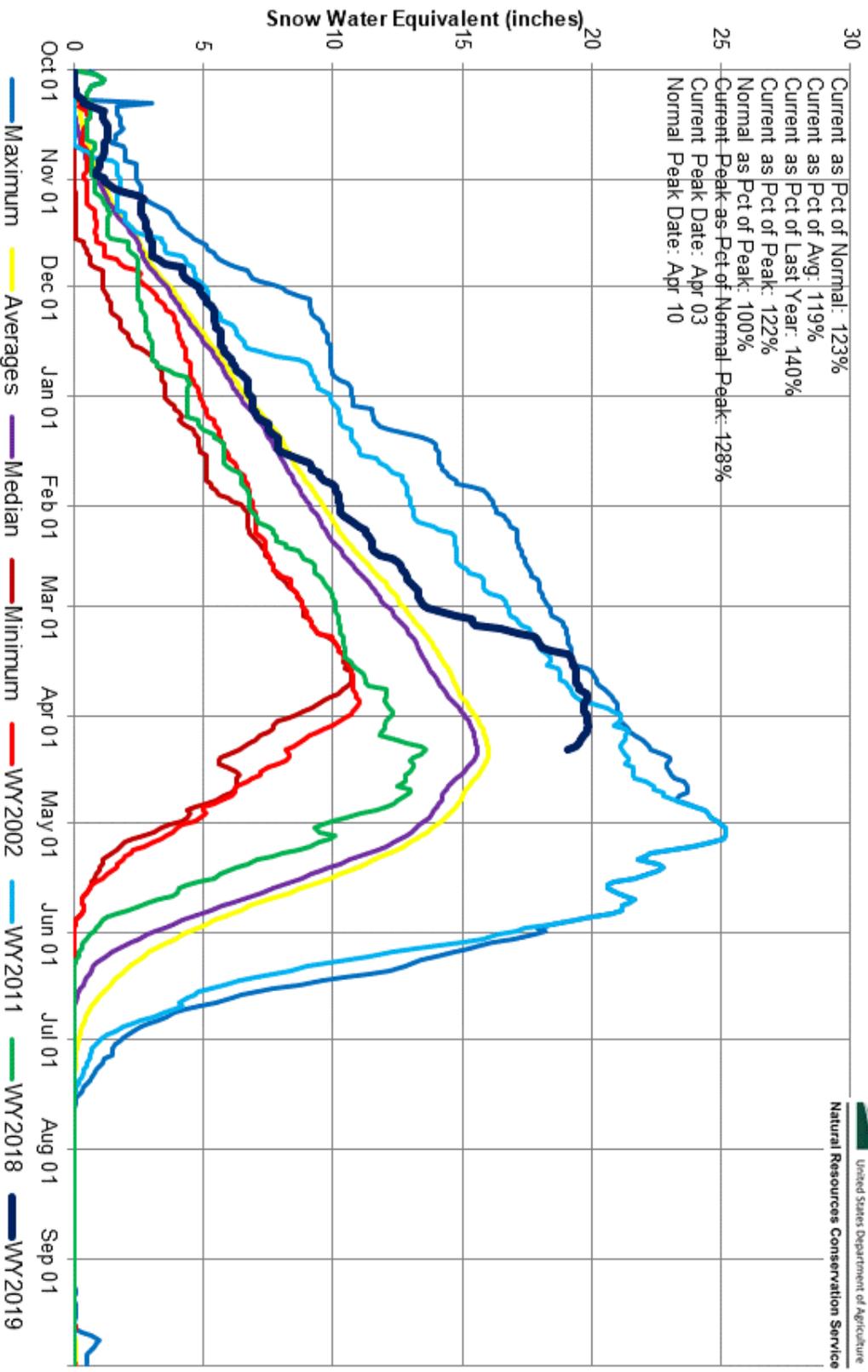


Natural Resources Conservation Service



Upper Colorado River Basin High/Low Snowpack Summary

Based on Provisional SNOTEL data as of Apr 10, 2019





WATER BOARD

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Meeting Date: April 15, 2019

Item Number: 8a

Subject: Update on 2019 Water Legislation

Type of Item: General Business

From: Ken Huson, Water Resources Manager, 303-651-8340
ken.huson@longmontcolorado.gov

Suggested Action: Staff will ask Water Board for comments on water related legislative bills.

The Second Regular Session of the Seventy-second Colorado General Assembly convened on January 4, 2019, and is scheduled to adjourn on May 3, 2019. Each month during the 2019 Legislative Session, staff will provide Water Board with the current water related Legislation Bills Longmont is tracking. Status on these bills will be discussed with Water Board at its April 15, 2019 regular meeting.

For additional Legislative information visit Water Board's web page located at <http://longmontcolorado.gov/departments/boards-committees-and-commissions/directory-of-boards-committees-and-commissions/water-board>. From this page the Board can access the Prior Water Board Legislative Communications, City Managers' Legislative Affairs web page, Legislative Guiding Water Principles and a link to the Colorado General Assembly home page.

Attachments:

2019 Water Board Legislation Tracking Sheet

Bill Number	Description	Position	Bill Status
HB19-1015	Recreation of the colorado water institute concerning the recreation of the colorado water institute.	Support	Governor Signed on 02-20-2019
HB19-1029	Republican river water conservation district concerning the republican river water conservation district, and, in connection therewith, expanding the boundaries of the district and adjusting the meeting schedule of the district's board of directors.	Monitor	House Consideration of First Conference Committee Report result was to Adopt Committee Report - Repass on 04-01-2019
HB19-1050	Encourage use of xeriscape in common areas concerning the promotion of water-efficient landscaping on property subject to management by local supervisory entities.	Monitor	Governor Signed on 03-07-2019
HB19-1071	Colorado department of public health and environment water quality control concerning the repeal of obsolete provisions regarding water quality control, and, in connection therewith, eliminating the requirement that the state board of health approve a municipality's entrance into a joint operating agreement with an industrial enterprise for work relating to sewerage facilities and clarifying that the board of directors of a water conservancy district must comply with the rules of the water quality control commission concerning the manner in which watercourses of the district are used for waste disposal.	Monitor	Governor Signed on 03-07-2019
HB19-1082	Water rights easements concerning the rights of a water rights easement holder.	Support	Governor Signed on 03-28-2019
HB19-1113	Protect water quality adverse mining impacts concerning the protection of water quality from adverse impacts caused by mineral mining.	Monitor	Governor Signed on 04-04-2019
HB19-1218	Loaned water for instream flows to improve environment concerning the colorado water conservation board's authority to use water that a water right owner voluntarily loans to the board for instream flow purposes.	Monitor	Introduced In Senate - Assigned to Agriculture & Natural Resources on 04-02-2019
HB19-1231	New appliance energy and water efficiency standards concerning efficiency standards for equipment sold in colorado, and, in connection therewith, requiring certain appliances, plumbing fixtures, and other products sold for residential or commercial use to meet energy efficiency and water efficiency standards.	Support	Introduced In Senate - Assigned to Transportation & Energy on 04-05-2019
HB19-1271	Augmentation of instream flows concerning a clarification of the authority of the colorado water conservation board to augment stream flows with acquired water rights that have been previously decreed for augmentation use.	Support	Introduced In House - Assigned to Rural Affairs & Agriculture on 03-25-2019

HJR19-1005	Water projects eligibility lists concerning water projects eligibility lists.	Support	Governor Signed on 02-20-2019
SB19-020	Wildland fire airspace patrol system concerning development of a system to patrol the airspace above wildland fires.	Support	Senate Committee on State, Veterans, & Military Affairs Refer Unamended to Appropriations on 01-14-2019
SB19-184	Authority colorado water institute study blockchain technology concerning a grant of authority to the colorado water institute to study potential uses of blockchain technology.	Monitor	Senate Committee on Agriculture & Natural Resources Postpone Indefinitely on 03-21-2019
SB19-186	Expand agricultural chemical management program protect surface water concerning the expansion of agricultural chemical management plans to protect surface water.	Monitor	Senate Committee on Agriculture & Natural Resources Refer Unamended to Finance on 04-04-2019
SB19-212	Appropriation general fund implement state water plan concerning general fund support to implement the state water plan, and, in connection therewith, making an appropriation.	Monitor	House Third Reading Passed - No Amendments on 04-05-2019
SB19-221	Co water conservation board construction fund project concerning the funding of colorado water conservation board projects, and, in connection therewith, making an appropriation.	Support	Senate Committee on Agriculture & Natural Resources Refer Amended to Appropriations on 04-04-2019
SJR19-002	Corps of engineers to dredge lower arkansas river concerning memorializing the united states congress to enact legislation directing the united states army corps of engineers, in conjunction and cooperation with the lower arkansas valley water conservancy district, to dredge a portion of the arkansas river.	Monitor	Signed by the Speaker of the House on 02-14-2019



WATER BOARD
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Item Number: 9a

Subject: Review of Major Projects Listing and Items Tentatively Scheduled for Future Board Meetings

Type of Item: Informational

From: Water Board

Suggested Action: N/A

Attached is a copy of the most recent Water Board project status report. Please note the report now includes expected future review date information for each item.

WATER BOARD PROJECT STATUS REPORT

<u>ITEM</u>	<u>MOST RECENT WATER BOARD REVIEW DATE</u>	<u>PROJECTED NEXT WATER BOARD REVIEW DATE</u>	<u>MOST RECENT ACTION TAKEN AND/OR PROPOSED FUTURE ACTION</u>
1 Union Reservoir Enlargement Land Acquisition Program	February 25, 2019	February 24, 2020	Annual update was presented to Water Board February 25, 2019.
2 Water Supply and Drought Management Plan	April 16, 2018	April 15, 2019	2018 Plan presented to Water Board in April 2018 with recommendation to City Council to remain at a Sustainable Conservation Level.
3 Windy Gap Firing Project	March 18, 2019	April 15, 2019	Review of Longmont's 5th Interim Agreement.
4 Water Legislation & Guiding Water Principles	March 18, 2019	April 15, 2019	Review of current legislation.
5 Cash-In-Lieu Review	March 18, 2019	June 17, 2019	Currently at \$15,324 per Acre-Foot. Resolution R-2018-53.
6 Button Rock Preserve & Forest Stewardship	January 28, 2019	January 27, 2020	Review the Button Rock Preserve visitation policy.
7 Longmont Water System Yield	February 25, 2019	April 15, 2019	Ongoing discussion of future water projects and projected future water yields.

Tentative Future Event Schedule	
Event	Date
Water Board Monthly Meeting	May 20, 2019
Water Board Monthly Meeting	June 17, 2019
Water Board Monthly Meeting	July 15, 2019

Water Board Member Terms

Renee Davis - 2019
 John Caldwell - 2020
 Kathy Peterson - 2021
 Todd Williams - 2022
 Roger Lange - 2023

Updated: April 2019



WATER BOARD
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Meeting Date: April 15, 2019

Item Number: 10

Type of Item: Informational Items & Water Board Correspondence

Attached are information items and Water Board correspondence.

Heather McIntyre

From: Heather McIntyre
Sent: Friday, March 29, 2019 3:53 PM
To: Heather McIntyre
Subject: FW: Spring Water Users Meeting - April 9
Attachments: 2019-04-09_Spring Water Users Agenda - Loveland.pdf

Hi Water Board members,

Here's the agenda and address information for the Spring Water Users meeting on April 9.

Please let me know if there's anything else I can help you with in regards to this meeting.

Happy Friday!

Heather McIntyre | *Administrative Assistant*
[City of Longmont](#) | (303) 651-8817

From: Registration at Northern Water <Registration@northernwater.org>
Sent: Friday, March 29, 2019 3:49 PM
Subject: [External] Spring Water Users Meeting - April 9

Hello,

We look forward to seeing you at the April 9 Spring Water Users Meeting at The Ranch in Loveland. An agenda with an address link is attached for your reference. If your plans have changed and you are not able to attend, please reply to this email or leave a message at 970-622-2220.

Thank you for your interest!

--Veronica



Registration at Northern Water | Events Planning Coordinator
220 Water Ave | Berthoud, CO 80513
Direct 970-622-2220 | Main 800-369-RAIN (7246)
registration@ncwcd.org | www.northernwater.org



Spring Water Users Meeting
Tuesday, April 9, 2019
First National Bank Building, The Ranch
5270 Arena Circle, Loveland, Colorado
Agenda

- 7:30 a.m. Registration Coffee/Pastries
- 8 a.m. Welcome and Comments **Mike Applegate**
President, Northern Water Board of Directors
- 8:15 a.m. General Manager Comments..... **Brad Wind**
General Manager, Northern Water
- 8:30 a.m. Water Year Outlook
- Division Engineer Report **Corey Deangelis**
Division 1 Engineer, Colorado Division of Water Resources
- Water Supply Update 2019 **Luke Shawcross**
Water Resources Department Manager, Northern Water
- 9:15 a.m. C-BT Quota Discussion and Input..... **Brad Wind**
General Manager, Northern Water
- 9:30 a.m. Bureau of Reclamation Update..... **Signe Snortland**
Area Manager, Eastern Colorado Area Office
- 9:45 a.m. *Break*
- 10:15 a.m. Project Updates
- Northern Integrated Supply Project **Carl Brouwer**
Project Management Department Manager, Northern Water
- Water Secure **Greg Dewey**
Project Manager, Water Secure, Northern Water
- Watson Lake Fish Passage Project **Christie Coleman**
Project Manager, Northern Water
- Windy Gap Firming Project **Jeff Drager**
Director of Engineering, Northern Water
Joe Donnelly
Project Manager, Chimney Hollow Project, Northern Water
- Southern Water Supply Project **Stephanie Cecil**
Water Resources Project Engineer, Northern Water

Agenda continued on back

Spring Water Users Meeting Agenda continued

- 11:15 a.m. Northern Water Financial Update: Reserve Funds..... **Jerry Gibbens**
Director of Operations, Northern Water
- 11:30 a.m. C-BT Return Flows **Jim Hall**
Project Manager, Northern Water
- 11:45 a.m. Colorado River Drought Contingency Plan **Kyle Whitaker**
Senior Water Resources Engineer/Colorado River Program Manager
Bennett Raley
Attorney, Trout Raley
- Noon *Lunch*
- 12:45 p.m. Special Recognition - John Stulp..... **Brad Wind**
General Manager, Northern Water
Eric Wilkinson
Former General Manager, Northern Water
- 12:50 p.m. Luncheon Speaker **Dan Gibbs**
Executive Director, Colorado Department of Natural Resources
- 1:30 p.m. Adjourn

Heather McIntyre

From: Ken Huson
Sent: Wednesday, April 03, 2019 2:39 PM
To: Heather McIntyre
Cc: Wes Lowrie
Subject: Windy Gap Firming Project
Attachments: 7 17cv2563 Order Denying Mtn to Supplement Admin Record.pdf

Board Members,

Attached is a copy of a recent decision by the US District Court in the Windy Gap Firming Project case. This decision denies the Plaintiffs motion to supplement the record with new and or additional data.

This decision is very good news for the project, and will hopefully now allow the case to move forward. These types of preliminary motions (including the previous motions for additional case intervenors) needed to be disposed of so that the case can move forward. Staff can further discuss this at the Water Boar meeting if the board has any additional questions.

Thanks, Ken

Ken Huson | *Water Resources Manager*

City of Longmont | Public Works & Natural Resources
1100 South Sherman Street, Longmont, CO 80501

(303) 651-8340 | ken.huson@longmontcolorado.gov

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 17-cv-2563-REB

SAVE THE COLORADO, et al.,

Petitioners,

v.

UNITED STATES BUREAU OF RECLAMATION, et al.

Respondents, and

MUNICIPAL SUBDISTRICT, NORTHERN COLORADO WATER CONSERVANCY
DISTRICT, et al.,

Respondent-Intervenors.

ORDER DENYING MOTION TO SUPPLEMENT ADMINISTRATIVE RECORD

Blackburn, J.

This matter is before me on the **Petitioners' Motion To Supplement the Administrative Records** [#33]¹ filed May 3, 2018. The respondents filed a response [#38], and the petitioners filed a reply [#42]. I deny the motion.

I. BACKGROUND

Two federal agencies, the Bureau of Reclamation and the Army Corps of Engineers, are responsible for decisions approving the Windy Gap Firming Project (Firming Project). The Firming Project is intended to produce reliable annual water supplies from the existing Windy Gap Project, which is owned and operated by the

¹ “[#33]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court’s case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

Municipal Subdistrict of the Northern Colorado Water Conservancy District. After an independent evaluation, the federal agencies concluded the Firming Project is needed to meet a portion of the existing and future water needs of municipalities within the subdistrict and the other project beneficiaries, including west slope water users. The main feature of the Firming Project will be Chimney Hollow Reservoir. The Firming Project involves a major federal action subject to the National Environmental Policy Act (NEPA).

According to the petitioners, during the 14 year review process for the Firming Project, Reclamation and the Corps of Engineers relied on water demand projections which were prepared at the beginning of the review process in 2005, and failed to consider available water use data for subsequent years. In their second claim for relief, the petitioners contend Reclamation violated the requirements of NEPA when it approved the Firming Project. In their seventh claim for relief, the petitioners contend the Corps of Engineers violated the requirements of the Clean Water Act when it approved the Firming Project. Reclamation and the Corps of Engineers initially assessed the need for the Firming Project based on 2005 projections of water needs of project beneficiaries. Reclamation completed its Final Environmental Impact Statement (FEIS) in December of 2011 and issued its Record of Decision in 2014. The 2011 FEIS retained the 2005 projections of water needs rather than considering available water use data for years since 2005. The Corps of Engineers issued its Record of Decision in 2017. The 2017 Record of Decision retained the 2005 projections of water needs rather than considering available water use data for years since 2005.

In essence, the petitioners contend the failure to consider available water use data for years since 2005 is a violation of NEPA and the Clean Water Act. According to

the petitioners:

Reclamation did not independently consider if the Subdistrict's underlying need for 30,000 AF of water actually exists, despite commenters questioning the need. Instead, Reclamation relied upon the data supplied by the project's prime beneficiary, the Subdistrict. Specifically, multiple commenters submitted data based on water conservation and analysis demand projections, that suggested a lower water demand exists. Reclamation simply responded that the suggested data was faulty and did not explain why the Subdistrict's data that it relied on was better. Reclamation's failure to independently verify the existence of the need for the project, especially after receiving comments suggesting that the need might not exist, violates NEPA and was arbitrary, capricious, and an abuse of discretion under 5 U.S.C. § 706.

First Amended Petition for Review of Agency Action [#8], ¶¶ 184 - 187 (paraphrasing in original omitted). The petitioners allege the Corps of Engineers accepted, without independent verification, the water supply need assessment of Reclamation. *First Amended Petition for Review of Agency Action* [#8], ¶ 217. According to the petitioners, the failure of the Corps of Engineers to independently define the underlying need, and its resulting failure to consider reasonable alternatives, violated the Clean Water Act and was arbitrary, capricious, and an abuse of discretion under 5 U.S.C. § 706.

The administrative records from both Reclamation and the Corps of Engineers have been filed in this case. The petitioners now seek to supplement the two administrative records with additional information. The petitioners seek to supplement the record with a report by Lisa Buchanan titled *Comparison of Actual Water Use with Windy Gap Firming Project and Recent Revisions to Project Water Demands* (Buchanan Report) [#33-1]. The Buchanan Report contains an alleged compilation of actual water use data for Windy Gap Firming Project participants and a comparison of that data with the 2005 water demand projections used by Reclamation and the Corps

of Engineers when evaluating the Windy Gap Firming Project. According to the Executive Summary of the Buchanan Report:

(T)he compilation of actual use data in this Report illustrates that the Firming Project's 2005 water demand projections overestimate Firming Project participants' water demand, despite the fact that this actual use data was available to both Reclamation and the Corps before each agency made its decision. This Report shows that Reclamation and the Corps could have updated their demand projections with actual use data that was available for the years 2005 to 2015, instead of relying on outdated projections that commenters suggested were overinflated.

Buchanan Report [#33-1], CM/ECF p. 3.

II. STANDARD OF REVIEW

The petitioners seek review of the decisions of Reclamation and the Corps of Engineers under the judicial review provisions of the Administrative Procedure Act (APA), 5 U.S.C. §§ 701-706. The APA requires a reviewing court to affirm an agency decision unless it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). “An agency action is arbitrary and capricious if the agency ... entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or [if the decision] is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” ***Utah Environmental Congress v. Richmond***, 483 F.3d 1127 (10th Cir.2007) (internal quotations omitted). Under this standard, the scope of judicial review is narrow and deferential. ***See Citizens to Preserve Overton Park, Inc. v. Volpe***, 401 U.S. 402, 416 (1971), ***abrogated on other grounds, Califano v. Sanders***, 430 U.S. 99 (1977). Generally, “the focal point for judicial review should be the administrative record already in existence, not some new record made initially in the reviewing court.” ***Camp v. Pitts***, 411 U.S. 138, 142 (1973).

Under this record rule, “(j)udicial review of agency action is normally restricted to the administrative record.” ***Citizens for Alts. to Radioactive Dumping v. U.S Dept. of Energy***, 485 F.3d 1091, 1096 (10th Cir. 2007) (citation omitted).

A reviewing court may supplement the record with material not seen by the agency only in “extremely limited circumstances, such as where the agency ignored relevant factors it should have considered or considered factors left out of the formal record.” ***Lee v. U.S. Air Force***, 354 F.3d 1229, 1242 (10th Cir. 2004) (internal punctuation and citation omitted). Generally, NEPA imposes procedural rather than substantive requirements. ***Lee***, 354 F.3d at 1237. The role of the courts in reviewing NEPA compliance “is simply to ensure that the agency has adequately considered and disclosed the environmental impact of its actions and that its decision is not arbitrary and capricious.” ***Id.*** at 1237 (internal quotation omitted). In the NEPA context, when faced with the technical or scientific analysis of an agency, “an initial examination of the extra-record evidence in question may aid . . . in determining whether these circumstances are present.” ***Id.*** at 1242. Such an initial review may illuminate whether an agency “has neglected to mention a serious environmental consequence, failed adequately to discuss some reasonable alternative, or otherwise swept stubborn problems or serious criticism . . . under the rug.” ***Id.*** (internal quotation and citations omitted).

III. ANALYSIS

The respondents contend the petitioners waived their opportunity to rely on the Buchanan Report. This is true, the respondents assert, because the petitioners never suggested that actual demand data undercut the water demand projections used by Reclamation and the Corps of Engineers. In response, the petitioners cite comments

made to the respondents in the EIS process which assert, in essence, that the 2005 water demand projections are, to a significant degree, inconsistent with actual use data. This inconsistency was raised in the administrative process. Thus, I find that the petitioners did not waive their ability to raise this issue in this case.

In their second claim for relief, a NEPA claim against Reclamation, the petitioners claim the failure of Reclamation to independently verify the existence of the need for the project, especially after receiving comments suggesting that the need may not exist or may be smaller than initially perceived, violates NEPA and was arbitrary, capricious, and an abuse of discretion. This claim is based, at least in part, in the alleged failure of Reclamation to consider updated data showing actual water use when assessing the need for the project.

Under the standard summarized above, I find that the Buchanan Report does not fall within the “extremely limited circumstances” in which supplementation of the record is appropriate. *Lee*, 354 F.3d at 1242. The allegations in the petition indicate that multiple commenters submitted data based on water conservation and demand analysis projections which suggested that a lower water demand exists. *First Amended Petition for Review of Agency Action* [#8], ¶¶ 184 - 187. Reclamation did not ignore this data. Rather, Reclamation responded that it considered the suggested data to be faulty. This response does not indicate that reclamation “ignored relevant factors it should have considered or considered factors left out of the formal record.” *Lee*, 354 F.3d at 1242. Rather, the record and the allegations in the petition indicate that Reclamation assessed the submitted data and determined it was not sufficiently reliable. Such a decision is well within the discretion of an administrative agency. The petitioners have not circumstantiated the extremely limited circumstances which merit a supplementation of

the administrative record.

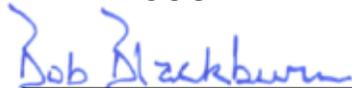
IV. CONCLUSION & ORDERS

Having considered the applicable law and the record in this case, I find and conclude that the petitioners have not shown the circumstances necessary to justify a supplementation of the administrative records in this case. Thus, the motion of the petitioners will be denied.

THEREFORE, IT IS ORDERED the **Petitioners' Motion To Supplement the Administrative Records** [#33] is denied.

Dated March 29, 2019, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge