

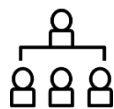
# Water and Sewer Board

Regular Meeting

City Council Chambers – City Center South

1001 11<sup>th</sup> Avenue – Greeley, Colorado

April 20, 2022 at 2:00 p.m.



Regular meetings of the Water and Sewer Board are held **in person** on the 3rd Wednesday of each month in the City Council Chambers, 1001 11<sup>th</sup> Avenue, Greeley, Colorado.



Members of the public may attend and provide comment during public hearings.



Written comments may be submitted by US mail or dropped off at the Water and Sewer office located at 1001 11<sup>th</sup> Avenue, 2nd Floor, Greeley, CO 80631 or emailed to [wsadmin@greeleygov.com](mailto:wsadmin@greeleygov.com). All written



comments must be received by 10:00 a.m. on the date of the meeting.

Meeting agendas and minutes are available on the City's meeting portal at [Greeley-co.municodemeetings.com/](https://greeley-co.municodemeetings.com/)

## IMPORTANT – PLEASE NOTE

This meeting is scheduled as an **in-person session only**. If COVID, weather, or other conditions beyond the control of the City dictate, the meeting will be conducted virtually and notice will be posted on the City's MuniCode meeting portal by 10:00 a.m. on the date of the meeting (<https://greeley-co.municodemeetings.com/>).

In the event it becomes necessary for a meeting to be held virtually, use the link below to join the meeting. Virtual meetings are also livestreamed on YouTube at <https://www.youtube.com/CityofGreeley>.

For more information about this meeting or to request reasonable accommodations, contact the administrative team at 970-350-9801 or by email at [wsadmin@greeleygov.com](mailto:wsadmin@greeleygov.com)





# Water & Sewer Board Meeting

**May 18, 2022 at 2:00 PM**

**1001 11th Avenue, City Center South, Greeley, CO 80631**

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## Agenda

1. Roll Call:      \_\_\_\_\_ Chairman Harold Evans      \_\_\_\_\_ Vice Chairman Mick Todd  
                         \_\_\_\_\_ Ms. Cheri Witt-Brown      \_\_\_\_\_ Mr. Fred Otis  
                         \_\_\_\_\_ Mr. Joe Murphy      \_\_\_\_\_ Mr. Tony Miller  
                         \_\_\_\_\_ Mr. Manuel Sisneros      \_\_\_\_\_ Mayor John Gates  
                         \_\_\_\_\_ Mr. Raymond Lee      \_\_\_\_\_ Mr. John Karner
- [2.](#) Approval of Minutes
- [3.](#) Welcome New Employees and Promotions
- [4.](#) Tri Annual Water Court Update
- [5.](#) Approve Resolution Authorize Conveyance of Easements
- [6.](#) Executive Session
  - a. Update on litigation regarding Taylor & Gill Ditch carriage agreement
- [7.](#) Approval of Excess Capacity Carriage Agreement with Taylor & Gill Ditch Company and Stipulation and Settlement Agreement with The Taylor & Gill Ditch Company, William and Paulette Seaworth, and HF2M, Inc.
- [8.](#) Legal Report
- [9.](#) Director's Report
10. Such Other Business That May Be Brought Before the Board Added to This Agenda by Motion of the Board.
11. Adjournment



*If, to effectively and fully participate in this meeting, you require an auxiliary aid or other assistance related to a disability, please contact the Water and Sewer Department administrative staff at 970-350-9801 or [wsadmin@greeleygov.com](mailto:wsadmin@greeleygov.com)*

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**City of Greeley  
Water and Sewer Board**

**Minutes of April 20, 2022  
Regular Board Meeting**

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Chairman Harold Evans called the Water and Sewer Board meeting to order at 2:00 p.m. on Wednesday, April 20, 2022.

**1. Roll Call**

The Clerk called the roll and those present included:

Board Members:

Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Cheri Witt-Brown, Tony Miller, Manuel Sisneros, Joseph Murphy, Mayor John Gates, Raymond Lee City Manager, and Finance Director John Karner

Water and Sewer Department staff:

Director Sean Chambers, Deputy Director Adam Jokerst, Utility Finance Manager Erik Dial, Deputy Director Operations Nina Cudahy, Chief Engineer Adam Prior, Water Resources Administrator II Alex Tennant, Water Resources Administrator III Cole Gustafson, Water Resource Administrator I Megan Kramer, Civil Engineer II Michael Castillo, Senior Administrative Assistant Crystal Sanchez, Interim Office Manager Gigi Allen, Water Conservation Administrator Ruth Quade, Water Resource Planning Manager Kelen Dowdy, Assistant City Clerk Casey Rogers, Water Conservationist Specialist I Rita Jokerst, Water Resource Operations Manager Jennifer Petrzalka-Dial, Water Conservation Manager Dena Egenhoff and Federal Permit Coordinator Engineer Mary Gearhart

Legal Counsel:

Environmental and Water Resources Attorney II Dan Biwer and Counsel to Water & Sewer Board Attorney Carolyn Burr

Guests:

Emeritus Board Member Robert Ruyle, Lindsey Rogers, Western Resource Advocates, Amy Weinfurter, WaterNow Alliance, Neil Stewart, Stantec

**2. Approval of Minutes**

Mr. Miller made a motion, seconded by Mr. Todd, to approve the April 20, 2022 Water and Sewer Board meeting minutes. The motion carried 7-0.

**3. Welcome New Employees and Promotions**

Mr. Chambers provided an introduction of new Water and Sewer Department employees starting this month.

#### **4. Review Water Conservation Program Performance**

The Board determined a need to hear item number 5 prior to item number 4.

Ms. Egenhoff, Ms. Rogers, consultant from Western Resource Advocates and Ms. Weinfurter, consultant from WaterNow Alliance presented on Greeley's Water Conservation Program. Greeley's Water Conservation program was selected for a WaterNow Alliance's Project Accelerator program in 2020. The WaterNow Accelerator program is a vehicle to jumpstart sustainable water projects by providing professional hands-on support and technical assistance. Greeley's project focused on optimizing its existing conservation program through performance analysis and an equity-focused analysis of metrics such as socioeconomic status of participants, age and geographic distribution, and the value of each program to the City's residents.

The key findings within this project allows the Water Conservation team to:

- Execute data-based program decisions driven by innovation and technology.
- Ensure a return on investment
- Fulfill future customer needs and changing values.

Adam Prior joined the meeting at 2:12 p.m.

#### **5. Review Updated W&S Criteria, Drawing and Specs**

Mr. Prior discussed how the City of Greeley Water and Sewer Department is updating the current design criteria from 2008 with new standards to accommodate new technologies, techniques, and materials. The City of Greeley is growing, and updating the design standards will assist in development and ensure quality utility infrastructure into the future. These updates will also facilitate recent non-potable system requirements adopted by City Council in February of 2022, incorporate the Non-Potable Water, Sanitary Sewer, Transmission & Distributions Master Plans that were completed in 2021, and align with the updated development code completed in 2021. These updates will help provide long term infrastructure needs to better prepare and accommodate growth.

The updated design criteria for the potable water distribution, sanitary sewer collection, non-potable irrigation system, and landscape & irrigation will guide developers and engineers in expanding and connecting to the City's utilities. The larger changes include added lift station criteria, changes to the non-potable system criteria, updated criteria to incorporate the new development code changes, compliance with Subsurface Utility

Engineering (SUE) law requirements, and the addition of landscape & irrigation design criteria along with many other smaller changes.

The Water and Sewer Department has worked diligently to coordinate with other departments and engineering development review staff for consistency. A presentation and discussion with the Builders, Realtors, & Developer group was held in July of 2021; there was review and input from the Planning Commission in March of 2022, and staff is currently working to receive comments and questions from engineers, developers, and designers throughout Greeley.

Ruth Quade left the meeting at 2:38 p.m.

#### **6. 2022 State Legislative Update**

Ms. Gearhart presented about how the 73<sup>rd</sup> Colorado General Assembly convened on Jan. 12<sup>th</sup> and is scheduled to adjourn on May 11, 2022. Greeley has remained active on water legislation through the Colorado Water Congress State Affairs Committee, communication with our legislators and in coordination with peer organizations and their lobbyists on important matters.

#### **7. Integrated Water Resource Plan Update**

Ms. Dowdy and Mr. Stewart, consultant from Stantec, went over how the current Greeley Water Supply Master Plan is more than 17 years old. Since the creation of the last water master plan in 2003, Greeley's strategies to continue to provide a robust, resilient water supply have evolved and the water market has transformed. Likewise, widely accepted strategies used to plan for water development have progressed. Consequently, the Water Resources team has been developing a new water master plan, through an Integrated Water Resource Plan (IWRP). The IWRP process will evaluate Greeley's long-term water supply sustainability, develop a road map to buildout and identify near-term CIP components. As part of the process, the IWRP evaluates a suite of future conditions, called "planning scenarios," that are used to plan for a number of potential future conditions. These scenarios define key components of future conditions such as the state of Greeley's water supply system, demands, climate and other system risks. Staff will be providing a briefing on the initially selected planning scenarios as well as an update on project status.

Mayor Gates left the meeting at 3:20 p.m.

#### **8. Water Supply Update and Approve of Water Sufficient**

Ms. Petrzalka-Dial provided an overview of Greeley's 2022 water supplies and an update on Greeley's current storage levels. In April, the Board makes a declaration

concerning the adequacy of the Water Year. Based on projected storage, staff recommended that the Board declare an “Adequate Water Year” with normal watering restrictions and that the Board authorize staff to rent out available excess water supply, so long as the target storage volume of 21,300 acre-feet is maintained.

Mr. Todd moved that the that the Board declare the City’s water supply adequate, recommend that City Council leave in effect the associated watering restrictions prescribed by the Greeley Municipal Code, and authorize City staff to rent out available excess water supplies so long as the City’s target storage volume is maintained, in accordance with the Drought Emergency Plan. Mr. Miller seconded the motion. The motion carried 7-0.

**9. Ratify Participating Agreement with the U.S. Forest Service for Cameron Peak Fire Mitigation and Watershed Recovery**

Ms. Petrzalka-Dial provided an overview of the Agreement with the U.S Forest Service for Cameron Peak fire mitigation and watershed recovery. The 2020 Cameron Peak Fire burned over 200,000 acres in the watersheds of the Cache la Poudre and Big Thompson River basins where Greeley obtains more than 50% of its water supplies. The major wildfire is the state’s largest on record and severely burned areas include both public and private properties. This fire significantly affected hundreds of thousands of acres of watersheds that are of critical importance for the domestic, agricultural, and municipal water supplies for over one million people and tens of thousands of acres of productive irrigated agriculture. The damage to these watersheds continues to pose immediate and future threats to public infrastructure serving communities across Larimer and Weld Counties, including but not limited to water supply diversions and storage infrastructure. The purpose of this agreement is to document the cooperation between the parties to implement watershed recovery and restoration in and adjacent to lands affected by the Cameron Peak Fire and includes an initial reimbursement from the U.S. Forest Service of \$6,000,000 to Greeley for this mitigation work. This intergovernmental agreement was approved by City Council on April 19, 2022.

Mr. Miller moved that the Board ratify the Participating Agreement between the City of Greeley and the U.S. Forest Service for Cameron Peak Fire Mitigation Work in the form enclosed, and delegate authority to City staff and legal counsel to make minor revisions to the agreement before execution, provided that the material substance of the agreement remains unchanged. Mr. Sisneros seconded the motion. The motion carried 7-0.

**10. Approve and Recommend to Council Divestment of the Balmer Farm**

Mr. Gustafson provided an overview to the Board of the proposed divestment of the Balmer Farm. In 2016, the City of Greeley purchased a 139 +/- acre farm in Weld County, known internally as the “Balmer Farm”. The land was part of the Danielson Farms acquisition, which included two other farms totaling 332 acres along with three shares of the stock in the Water Supply and Storage Company (“WSSC Water Rights”). Only two of the three shares historically irrigated the Balmer Farm. Since 2016, the City has leased the Balmer

Farm, along with the WSSC Water Rights, to a tenant farmer in order to maintain the use of the WSSC Water Rights on the historically irrigated land. In 2022, City staff negotiated an offer of \$850,000 to purchase the Balmer Farm. A dry-up covenant, revegetation covenant, and leaseback of the two shares of WSSC Water Rights to the buyer are part of the agreement. Staff recommends the divestment of the Balmer Farm to the potential buyer.

Mr. Otis recused himself from participating in the vote due to a potential conflict of interest.

Mr. Todd moved that the Board make a finding that the Balmer Farm is not currently being used or held for a governmental purpose, authorize the proposed divestment of real property, approve the Contract to Buy and Sell Real Estate and exhibits in the forms enclosed, delegate authority to the Director of Water and Sewer or his designee (i) to make minor amendments to the documents, including, but not limited to, corrections to property descriptions and contract extensions, and (ii) to undertake all necessary and appropriate action to close on the divestment, and recommend that City Council authorize the same. Mr. Sisneros seconded the motion. The motion carried 6-0.

Ms. Petrzelka-Dial left the meeting at 4:03 p.m.

## 11. Legal Report

Carolyn Burr of Welborn, Sullivan, Meck & Tooley recommended the Board file statements of opposition in the following cases:

- a. Case Number: **22CW3022**: Central Colorado Water Conservancy District and the Ground Water Management Subdistrict application to change 6.5 shares of the Greeley Canal No. 3 and Fossil Creek Reservoir. Central is proposing to change the shares based on the Poudre Prairie decree methodology. However, the allocation of shares to particular use categories is complex. It was recommended that Greeley file a statement of opposition to ensure that the change of GIC shares is consistent with other GIC change decrees, that appropriate dry up is ensured and that there is no injury to Greeley's GIC share interests.
- b. Case Number: **22CW3024**: Application by Central and GMS for diligence and to make partially absolute the Geisert Reservoir water rights located on the Poudre. Central is claiming just over 19 cfs of the 55 cfs decreed fill rate absolute, and they are claiming that 1,957 AF of the 2200 AF initial fill have been made absolute. It was recommended that Greeley file a statement of opposition to ensure that the amounts claimed by Central as absolute are accurate. Greeley has an ongoing interest in the Geisert Reservoir in that it leases augmentation water to Weld County for Weld County's interest in Geisert.



Mr. Miller moved that the Board authorize the filing of statements of opposition in Case Nos. 22CW3022 and 22CW3024, and for staff and legal counsel to seek resolution of issues raised by these cases consistent with Water and Sewer Board Resolution No. 3, 2015." Mr. Todd seconded the motion. The motion carried 7-0.

## **12. Director's Report**

Mr. Chambers provided a summary overview of several items of Board interest:

- Recognition and appreciation for Windy Gap Firing, Chimney Hollow Tour
- Water Treatment Facilities construction activity update
- Cameron Peak Fire burn area stabilization and watershed recovery funding
  - 2022 work plan, financial resources, permits and coordination
  - 2023 funding opportunities and federal appropriations request
- Water Meter Replacement Project Update
- IIJA (Infrastructure Bill) grant opportunities and application strategy
- Water Education Colorado (WECO) South Platte Basin Tour
  - South Platte Basin Education Video: <https://vimeo.com/654954080/1691291801>

## **13. Such Other Business That May Be Brought Before the Board Added to This Agenda by Motion of the Board**

There were no additional items brought before the Board and added to the agenda.

## **14. Adjournment**

Chairman Evans adjourned the meeting at 4:12 p.m.

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Harold Evans, Chairman

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Raymond Lee, Board Secretary

# Water & Sewer Agenda Summary

Date: May 18, 2022

Key Staff Contact: Sean Chambers

**Title:** Welcome new Water and Sewer employees and recognize department promotions

**Summary:**

New Hires

Sean Flores – Distribution – Maintenance Technician I

Steve Alvarado – I&C – Instrument and Electrical Lead

William Caudill – I&C – Water instrument Technician

Promotions

Casey Villars – WTP – Water Plant Operator D – Part-time to Full-time

Resignations

Adam Jokerst – Deputy Director of Water Resources

Jennifer Dial – Water Resources Operations Manager

**Recommended Action:** Information only

**Attachments:** None

# Water & Sewer Agenda Summary

Date: May 18, 2022

Key Staff Contact: Leah Hubbard

**Title:** 2022 1<sup>st</sup> Tri-Annual Water Court Update

**Summary:** The City of Greeley Water and Sewer Department is active in numerous Water Court matters to develop additional water supply and to protect existing water rights. In the 1<sup>st</sup> trimester of 2022, Greeley was active in a total of 40 Water Court cases, 37 of which were in the role of opposition. Expenses in Trimester 1 totaled \$202,778 as of May 3, 2022. The attached memorandum and presentation summarize significant activities over the past trimester.

**Recommended Action:** Informational Only

**Attachments:** 1<sup>st</sup> Tri-Annual Water Court Update Memo

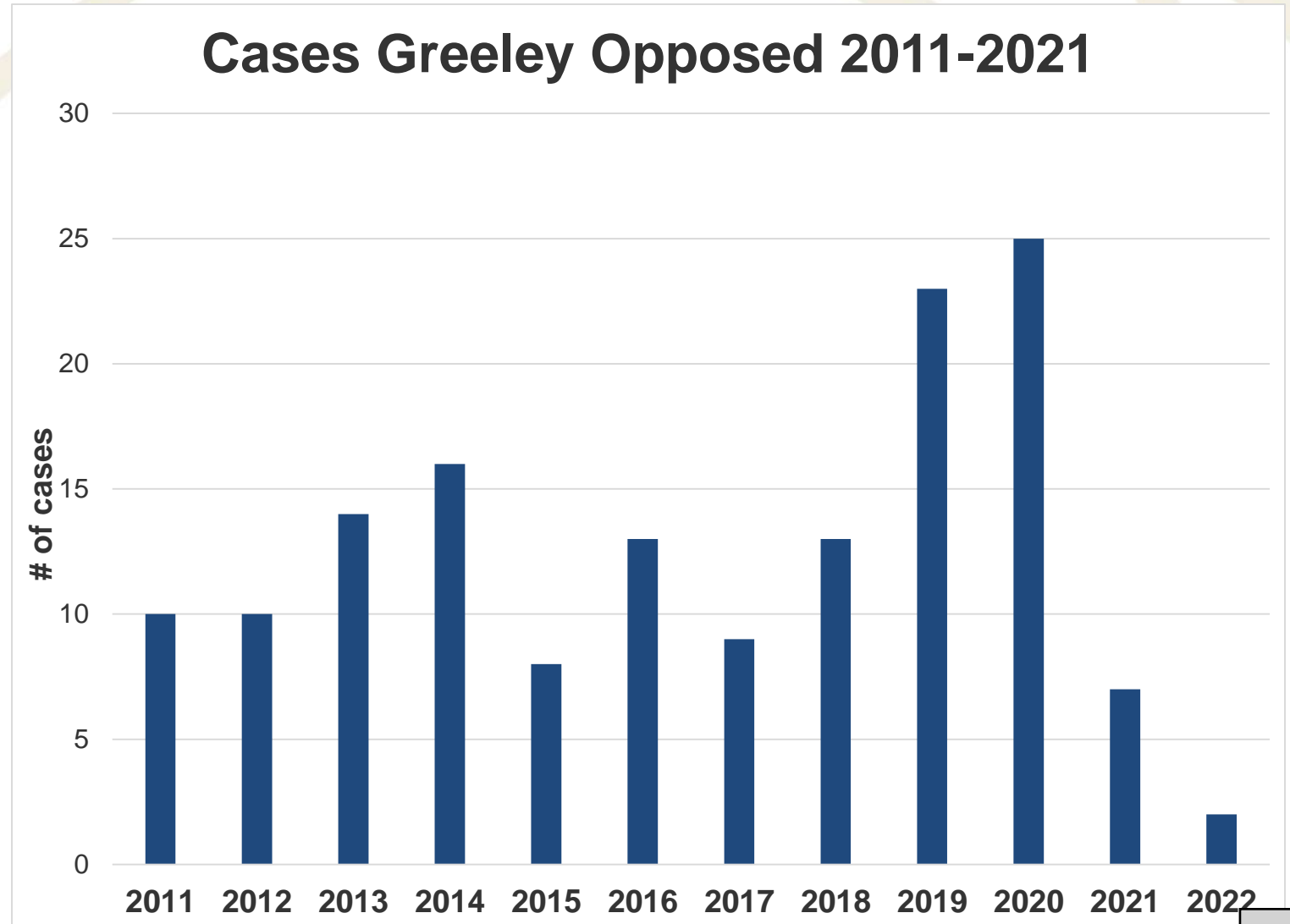
# **1<sup>st</sup> Trimester Water Court Update**

Leah Hubbard, Water Resources Administrator III

May 18<sup>th</sup>, 2022

# Statements of Opposition

- T1 2022: 4 statements of opposition filed and 4 stipulations reached
- Number of cases Greeley is *currently* an opposer: **30**
- Total number of active cases in 2022: **39**



# Greeley as Applicant

## GLIC Diligence Case No.'s 99CW235 & 95CW235

- Diligence for exchanges of GLIC return flows
- Similar cases
- 30 cfs exchange; not yet operated
- **Final decrees were entered March 10, 2022 and April 20, 2022**



# Greeley as Applicant

## Poudre Instream Flows Aug. Plan 21CW3056



- Preserve and improve Poudre River instream flows
- Co-Applicants with CWCB, Fort Collins, and Thornton
- Greeley using GIC rights
- 20 statements of opposition filed
- A status conference has been scheduled for September 20, 2022



# Greeley as Applicant

## Greeley Change of WSSC

- Changing 23.917 shares
- Municipal, augmentation, and other uses
- Includes plan for augmentation for return flows
- Conditional direct flow water right for return flows
- Application filed March 31<sup>st</sup>. Statements of Opposition due May 31<sup>st</sup>.



# Legal & Engineering Expenses

## 2022 Costs to date

Legal	\$ 125,915
Engineering	\$ 76,863
<b>Total</b>	<b>\$ 202,778</b>

This is 31.5% of the \$643,149 spent in 2021



# Questions?



# Water & Sewer Department MEMORANDUM

TO: Greeley Water & Sewer Board  
FROM: Leah Hubbard, Water Resources Administrator III  
DATE: May 18, 2022  
RE: 2022 1<sup>st</sup> Trimester Water Court Cases Update

This memorandum is a review of the Water and Sewer Department's legal activities from January through April of 2022. The review includes an update on Greeley's current Water Court cases and a summary of the Water Resources Division's legal expenses.

## **STATEMENTS OF OPPOSITION**

Since the last update in January, Greeley has filed four statements of opposition and stipulated in four cases. Therefore, the current number of pending Water Court cases in which Greeley is an opposer is 30.

Statements of Opposition filed:

Case	Applicant
21CW3225	Parker Water and Sanitation District
21CW3229	ELCO change of WSSC
22CW3022	Central change of GIC
22CW3024	Weld County/Central Geisert Reservoir

Stipulations filed:

Case	Applicant
20CW3093	Raindance Metropolitan District
20CW3159	2534 Master Association
19CW3088	Central
18CW3228	Front Range Oil & Gas

SERVING OUR COMMUNITY • IT'S A TRADITION

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

## **GREELEY AS APPLICANT**

A summary of pending Water Court cases and cases that were resolved since the last update in which Greeley is the applicant is as follows:

### **20CW3149 (GLIC Diligence, Case No. 99CW235)**

On October 26<sup>th</sup>, 2020 Greeley filed this application for a finding of reasonable diligence for a conditional exchange originally decreed in Case No. 99CW235. The exchange provides for the use of return flows from certain water rights in Case 99CW235 as a substitute supply for diversions at the headgates of the Greeley-Loveland Irrigation Company. No absolute claim was made in this application, and the right will remain conditional. One statement of opposition was filed in this case by the Thompson Water Users Association. The final decree was filed March 10, 2022.

### **21CW3003 (GLIC Exchange Diligence, Case No. 95CW42)**

On January 27<sup>th</sup>, 2021, Greeley filed its application for a finding of reasonable diligence for the conditional appropriative right of exchange originally decreed in Case No. 95CW42. Under this exchange, Greeley may divert excess municipal return flows from GLIC, Seven Lakes, and Lake Loveland water rights changed in Case No. 95CW42 released from Greeley's WTRF and the Lone Tree wastewater treatment plant by exchange to the headgates of the ditch companies. Three parties filed statements of opposition; Cache La Poudre Water Users Association, Ogilvy Irrigation and Land Company, and Thompson Water Users Association. The final decree was filed April 20, 2022.

### **21CW3056 (City of Greeley, et al., Poudre River Instream Flows Augmentation Plan)**

On April 29, 2021, the City of Greeley filed a joint application with the Colorado Water Conservation Board, Colorado Water Trust, City of Fort Collins, City of Thornton, Northern Water, and the Cache la Poudre Water Users Association for approval of a plan of augmentation for instream flows in the Cache la Poudre River. The purpose of the augmentation plan is to preserve and improve the natural environment to a reasonable degree at various locations in the Poudre River from the Cache la Poudre at Canyon Mouth near Fort Collins gage to the confluence of the South Platte River. Greeley has proposed to include certain of its changed Greeley Irrigation Company shares in the plan. Twenty statements of opposition have been filed. The joint applicants are currently preparing responses to the first round of opposers' comments. A status conference has been scheduled for September 20, 2022.

### **22CW3042 (City of Greeley Chance of WSSC)**

On March 31, 2022, the City of Greeley filed its application for the change of 23.917 shares in the Water Supply and Storage Company ("WSSC"). Greeley is changing the shares from irrigation to municipal, augmentation, and other uses. Greeley also seeks a plan for augmentation and water exchange project for the replacement of return flows from the native portion of the Subject Shares and an appropriation of such return flows. Greeley also seeks a conditional direct

flow water right for replacement of return flows. Statements of opposition are due at the end of May, and a status conference before the water referee will be scheduled shortly thereafter.

**LEGAL & ENGINEERING EXPENSES:**

The Water Resource Division's outside legal and engineering expenses from January through April 2022 totaled \$202,778, which is 31.5% of the total \$643,149 spent in 2021.

*2022 Water Resources Legal and Engineering Costs*

<u>1st trimester</u>	
Legal	\$125,915
Engineering	\$76,863.17
<i>Total</i>	\$202,778
 <u>2nd trimester</u>	
Legal	
Engineering	
<i>Total</i>	
 <u>3rd trimester</u>	
Legal	
Engineering	
<i>Total</i>	
 <u>Annual Totals</u>	
Legal	\$125,915
Engineering	\$76,863.17
<b>Total</b>	<b>\$202,778</b>

# Water & Sewer Agenda Summary

Date: May 18, 2022

Key Staff Contact: Sean Chambers

## Title:

Board Resolution Authorizing the Conveyance of Easements on City Property at Boyd Lake Water Treatment Plant

## Summary:

This Board Resolution and the associated City Council ordinance authorizes the conveyance of two (2) recreational trail easements across a portion of the Boyd Lake Water Treatment Plant property to allow the City of Loveland to construct their proposed Centerra Trail Project.

The City of Greeley's ("Greeley") Boyd Lake Treatment Plant, located along the south side of Boyd Lake in Loveland, provides for the seasonal and back up treatment of water resources for drinking water for Greeley water customers. Treatment functions at the Boyd Lake facility supplements the Bellvue Water Treatment Plant by providing additional water in times of high demand or backup for disruptions to Bellvue WTP.

The City of Loveland ("Loveland") has planned a trail expansion project to construct a hard-surface trail between Denver Avenue and Boyd Lake Avenue along the south short of Boyd Lake, just west of Centerra. A portion of the trail is designed to cross the northern boundary of the property owned by Greeley as shown in Attachment 1.

Site meetings have been held with Greeley Water & Sewer staff to review the proposed trail location and request adjustments, as needed. Water & Sewer staff have reviewed and approved a final alignment of the trail, ensuring that the planned location does not interfere with current or future property needs by Greeley.

In order to construct the trail, Loveland needs to acquire two (2) permanent recreational trail easements on Greeley's property. An appraisal has been completed for the value of the easements and Loveland will compensate Greeley \$131,800 for the easement interests.

Department Staff have been in coordination with Loveland staff and consultants and set certain requirements for signage, safety and security.

## Recommended Action:

Staff recommend W&S Board action of approval of the Resolution and Recommend to Council

Recommended motion:

"I move that the Board adopt a resolution authorizing the conveyance of two recreational trail easements to the City of Loveland in the form enclosed, recommend that City Council authorize the same by adoption of an ordinance in the form enclosed, and authorize City staff to make minor revisions to the easements before their execution, provided that the material substance of the easements remains unchanged."

## Attachments:

1. Resolution
2. Draft Ordinance and Exhibits A and B
3. Informational Presentation





# Recreation Trail & Bikeways Map



Boyd Lake

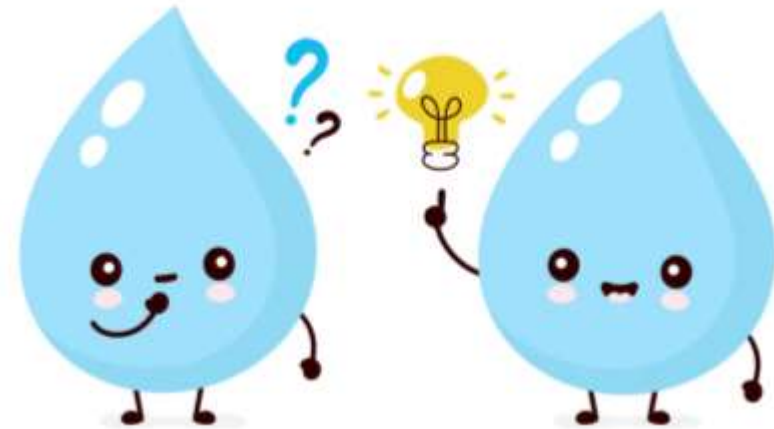
Centerra Trail  
Location

City of Greeley  
Property





# Questions, Comments



**THE CITY OF GREELEY, COLORADO**

**ORDINANCE NO. \_\_\_\_, 2022**

**AN ORDINANCE AUTHORIZING THE CONVEYANCE OF TWO RECREATIONAL TRAIL EASEMENTSON CITY PROPERTY KNOWN AS THE BOYD LAKE WATER TREATMENT PLANT**

**WHEREAS,** the City of Greeley (“City”) owns parcels of land known as the Boyd Lake Water Treatment Plant, identified as Larimer County parcel numbers 85080-00-914 and 85084-16-901 (the “Property”); and,

**WHEREAS,** the Property contains a water treatment facility (“City Facility”) that provides seasonal drinking water to Greeley water customers as a supplement to the City’s Bellvue Water Treatment Plant; and

**WHEREAS,** the City of Loveland (“Loveland”) has planned a recreational trail project to construct a trail across the north boundary of the City’s Property (“Project”); and

**WHEREAS,** Loveland has requested to acquire from the City two (2) permanent recreational trail easements (“Easements”) to facilitate the construction of the Project on the Property; and

**WHEREAS,** the City has determined that the conveyance of the Easements will not interfere with the City’s current or future purposes of the Property and City Facility.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREELEY, COLORADO:**

Section 1. The Greeley City Council hereby finds and determines that the property described above is not a public park and has never been a public park, nor is it being held or used for governmental purposes.

Section 2. The Greeley City Council authorizes the conveyance of the easements, and authorizes the Mayor to execute the same pursuant to Greeley Municipal Charter 2.07.020(b).

Section 3. The Greeley City Council hereby ratifies all actions heretofore taken (not inconsistent with the provisions of this ordinance) by the officers, agents and employees of the City in connection with the actions described above.

Section 4. This ordinance shall take effect five (5) days after its final publication as provided by the City’s Charter, Section 3-16.

PASSED AND ADOPTED, SIGNED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

THE CITY OF GREELEY, COLORADO

\_\_\_\_\_

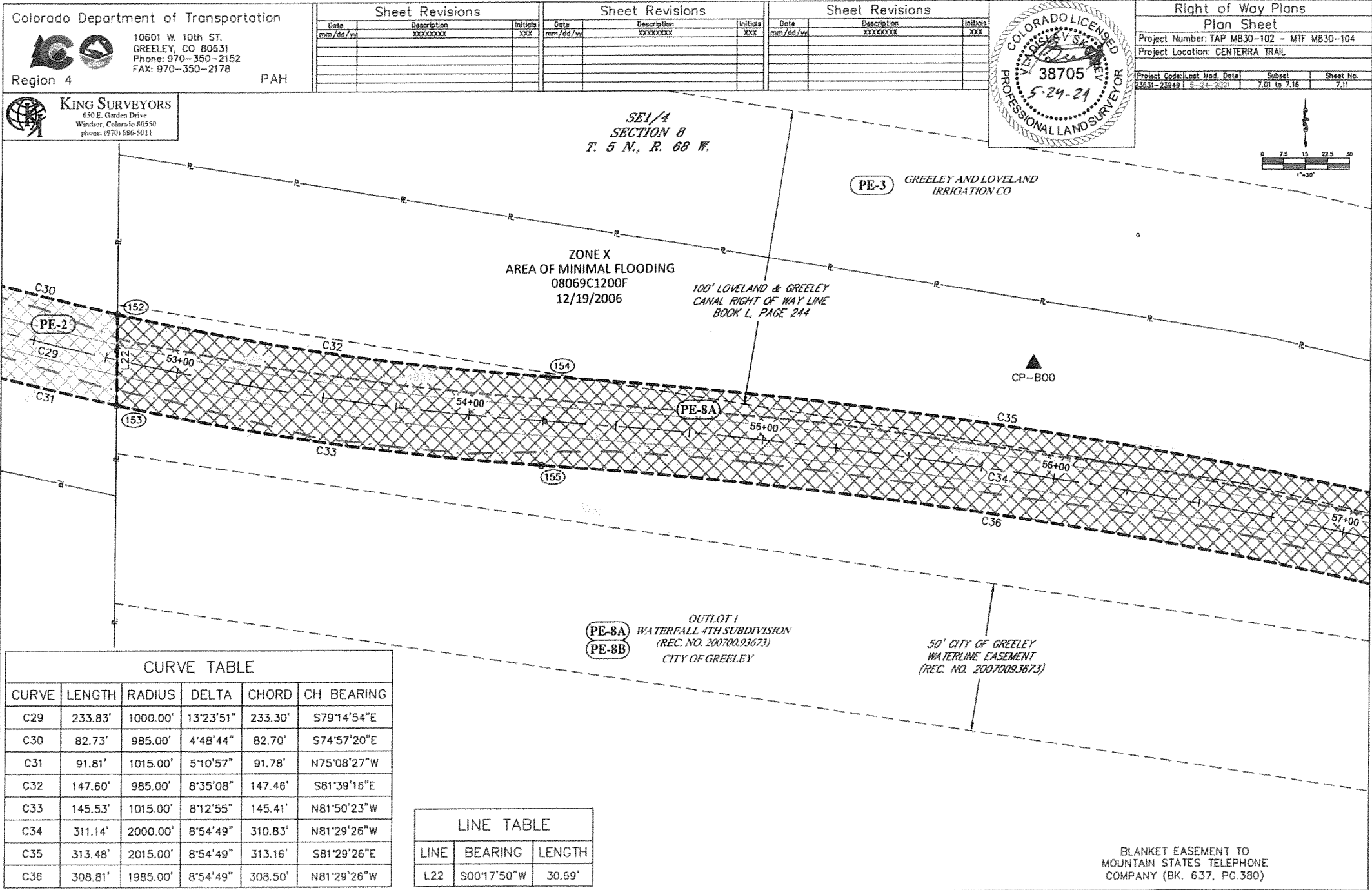
\_\_\_\_\_

City Clerk

Mayor

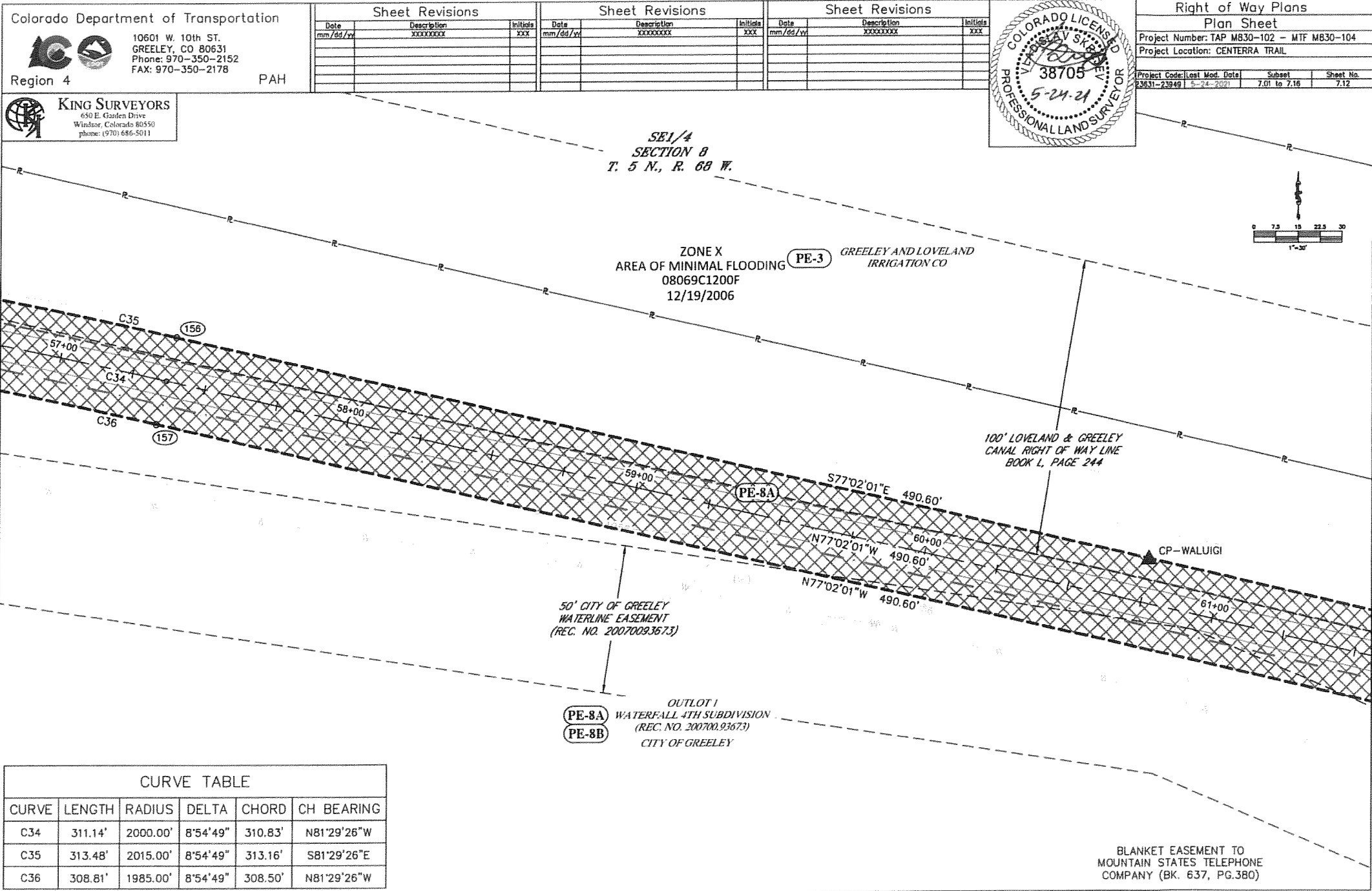
Attachment:   Exhibit A – Loveland Centerra Trail Easements Legal Description  
                  Exhibit B – Loveland Centerra Trail Project Plan

EXHIBIT A TO PARCEL 8A AND 8B (CITY OF GREELEY) - 1 PAGE



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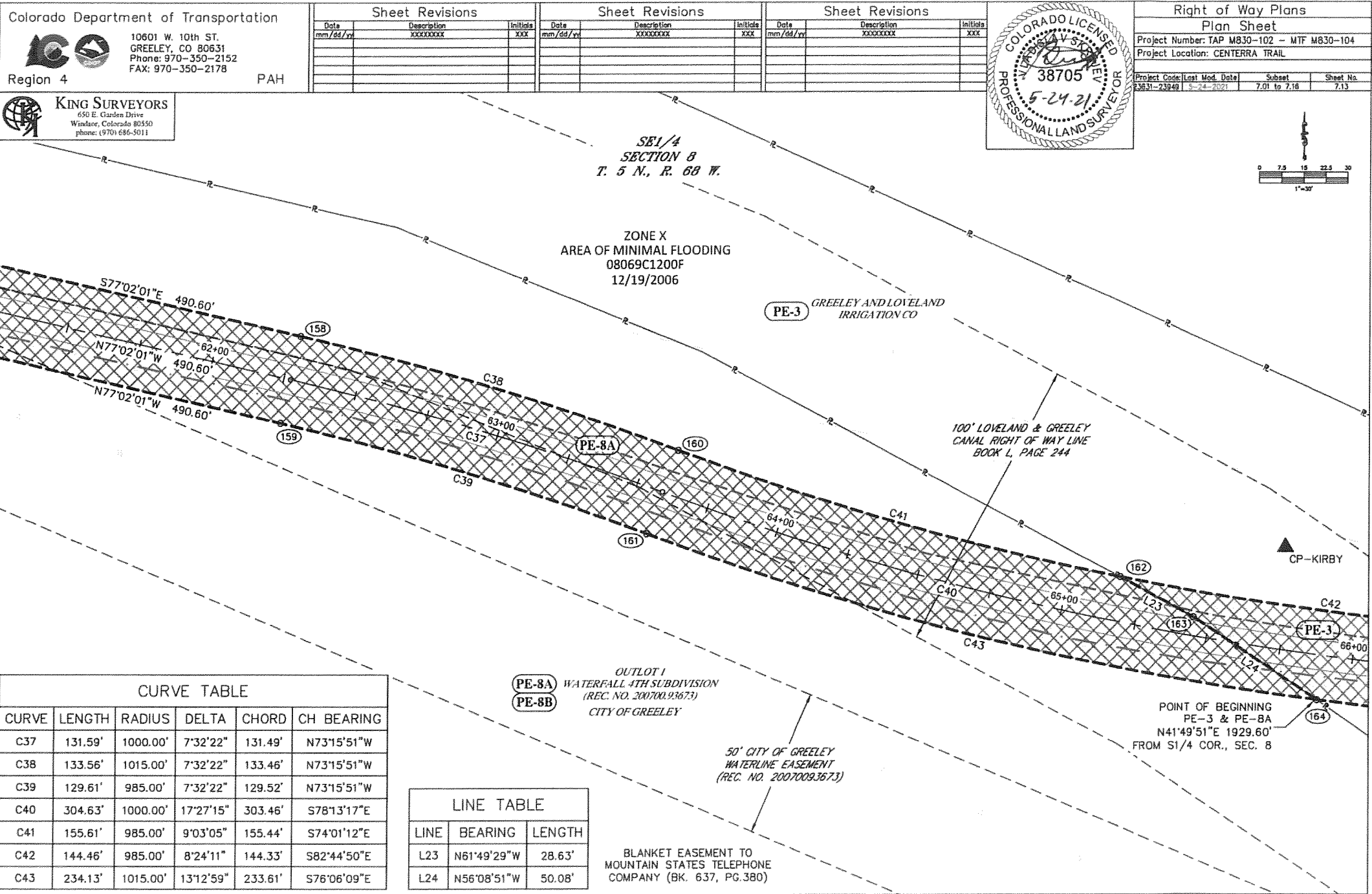


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EXHIBIT 8A AND 8B (CITY OF GREELEY) PAGE 3

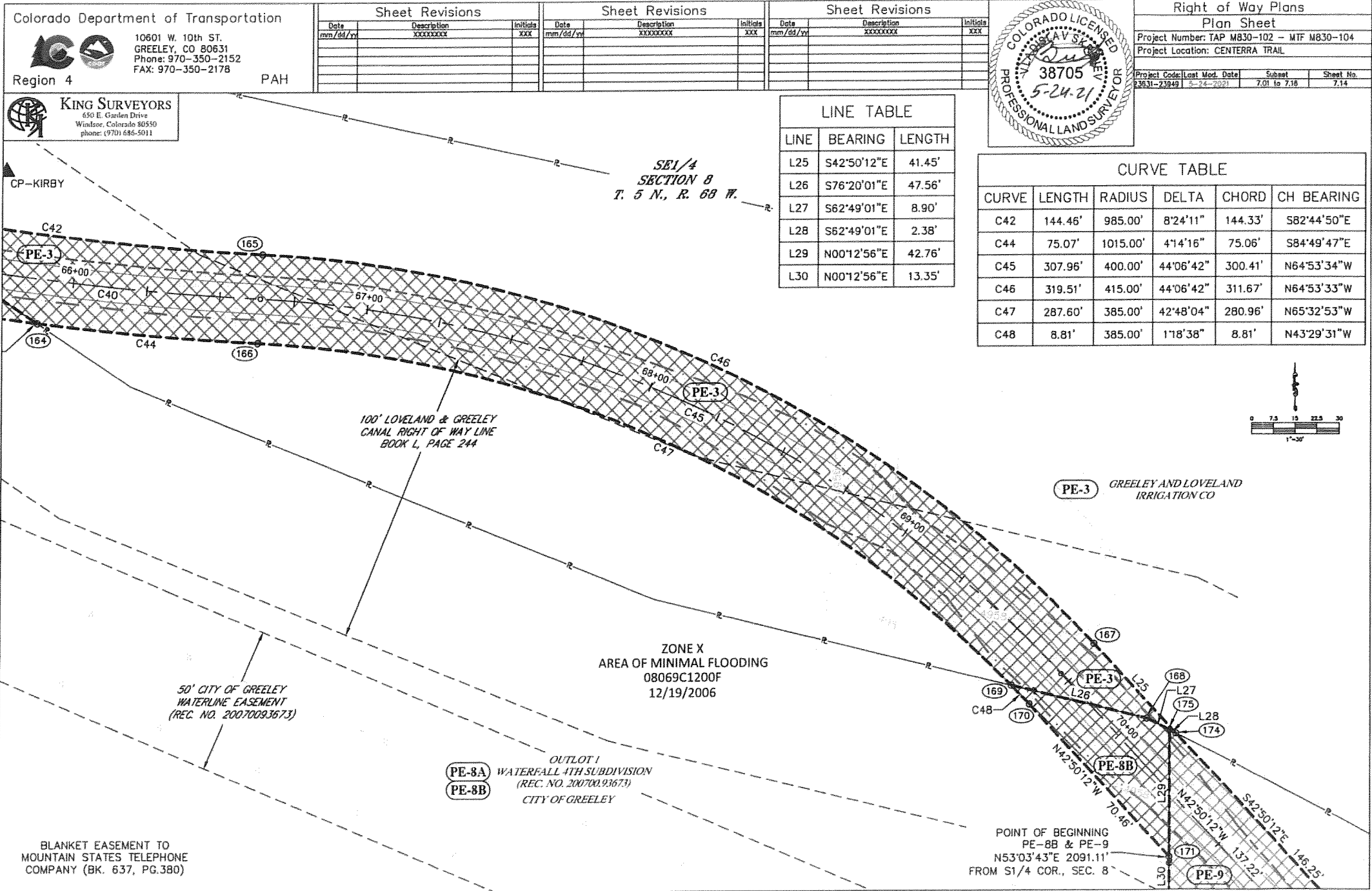


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EXHIBIT A TO PARCEL PE-8B (CITY OF GREELEY) PAGE 4



King Surveyors LLC, Job No. 20200389

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BLANKET EASEMENT TO  
MOUNTAIN STATES TELEPHONE  
COMPANY (BK. 637, PG.380)

# Water & Sewer Agenda Summary

Date: May 18, 2022

Key Staff Contact: Adam Jokerst

**Title:** Approve Excess Capacity Carriage Agreement and Stipulation and Settlement Agreement with the Taylor & Gill Ditch Company

**Summary:** In 2014, Greeley purchased from the Taylor & Gill Ditch Company (“Company”) a right of first refusal (“ROFR”) for “excess capacity” in the Taylor & Gill Ditch Ditch (“Ditch”). Excess capacity is defined as the unused physical capacity of the ditch. In December 2018, the Company entered into a contract with William and Paulette Seaworth for use of excess capacity in the ditch, contrary to the terms of Greeley’s ROFR agreement. Greeley subsequently filed a complaint with the Larimer County District Court in 2021. That lawsuit culminated in the enclosed Stipulation and Settlement Agreement (“Settlement Agreement”). The Settlement Agreement provides Greeley rights to make use of the ditch’s excess capacity, as documented in the enclosed Excess Capacity Carriage Agreement (“Carriage Agreement”), in exchange for withdrawing from the lawsuit.

Key terms Carriage Agreement are:

- Greeley has senior rights to excess capacity in the ditch, up to 13.81 cfs.
- The term of the agreement is 30 years but may be extended another 20 years past when Greeley begins using excess capacity. The agreement may be extended another 20-years and such extension shall not unreasonably be withheld.
- Greeley pays an upfront consideration of \$12,000.
- Greeley pays a “running charge” of \$13.50 for every acre-foot of water delivered under the agreement. The running charge escalates 3% per year, compounded annually.

**Recommended Action:** 1) Approve the Excess Capacity Carriage Agreement with the Taylor & Gill Ditch Company and 2) approve the Stipulation and Settlement Agreement with the Taylor & Gill Ditch Company, William and Paulette Seaworth, and HF2M, Inc.

**Attachments:**

# Water & Sewer Agenda Summary

Date: May 18, 2022

Key Staff Contact: Adam Jokerst

**Title:** Approve Excess Capacity Carriage Agreement with Taylor & Gill Ditch Company and Stipulation and Settlement Agreement with the Taylor & Gill Ditch Company, William and Paulette Seaworth, and HF2M, Inc.

**Summary:** In 2014, Greeley purchased from the Taylor & Gill Ditch Company (“Company”) a right of first refusal (“ROFR”) for “excess capacity” in the Taylor & Gill Ditch Ditch (“Ditch”). Excess capacity is defined as the unused physical space within the ditch. In December 2018, the Company entered into a contract with William and Paulette Seaworth for use of excess capacity in the ditch, contrary to the terms of Greeley’s ROFR agreement. Greeley subsequently filed a complaint with the Larimer County District Court in 2021. That lawsuit culminated in the enclosed Stipulation and Settlement Agreement (“Settlement Agreement”). The Settlement Agreement provides Greeley rights to make use of the ditch’s excess capacity, as documented in the enclosed Excess Capacity Carriage Agreement (“Carriage Agreement”), in exchange for withdrawing from the lawsuit.

Key terms Carriage Agreement are:

- Greeley has senior rights to excess capacity in the ditch, up to 13.8 cfs.
- The term of the agreement is 30 years but may be extended another 20 years past when Greeley begins using excess capacity. The agreement may be extended another 20-years and such extension shall not unreasonably be withheld.
- Greeley pays an upfront consideration of \$12,000.
- Greeley pays a “running charge” of \$13.50 for every acre-foot of water delivered under the agreement. The running charge escalates 3% per year, compounded annually.

**Recommended Action:** 1) Approve the Excess Capacity Carriage Agreement with the Taylor & Gill Ditch Company and 2) approve the Stipulation and Settlement Agreement with the Taylor & Gill Ditch Company, William and Paulette Seaworth, and HF2M, Inc.

Recommended motion:

“I move that the Board approve the Excess Capacity Carriage Agreement with The Taylor & Gill Ditch Company and the Stipulation and Settlement Agreement with The Taylor & Gill Ditch Company, William and Paulette Seaworth, and HF2M, Inc. in the forms enclosed, and delegate authority to the Director of Water and Sewer to approve minor revisions to the agreements before their execution, provided that the material substance of the agreements remains unchanged.”

**Attachments:** Presentation, Settlement Agreement, and Carriage Agreement

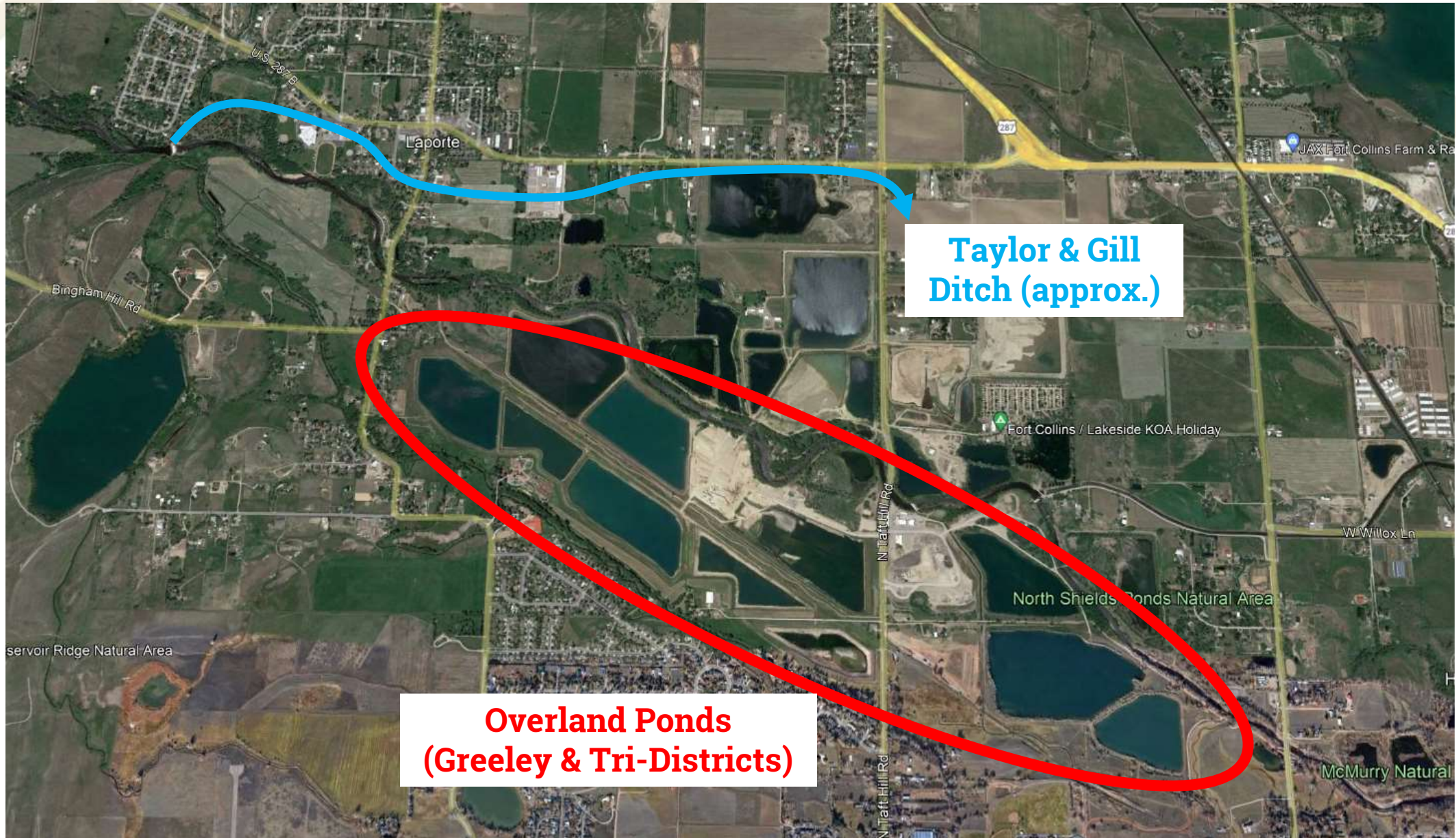
# Taylor & Gill Ditch Company Excess Capacity Carriage Agreement

**Presented to  
Greeley Water & Sewer Board**

**May 18<sup>th</sup>, 2022**



# Taylor & Gill Ditch



# Background

- **2014: Greeley purchases right of first refusal (ROFR) for “excess capacity”**
  - **Excess capacity = unused physical space in ditch**
- **2018: Company notifies Greeley of excess capacity offer**
  - **Ambiguous cost terms that Greeley could not accept**
  - **Unbeknownst to Greeley, Company had *already granted* excess capacity to 3<sup>rd</sup> party (Seaworths) prior to notifying Greeley, contrary to ROFR**
- **2019: Greeley and Company negotiate cost terms carriage agreement**
- **2020: Seaworths assign excess capacity to HF2M, Inc.**
- **2021: Greeley learns of Seaworths agreement and files court complaint**
- **2022: Settlement negotiations lead to new carriage contract**

# Carriage Agreement

- **Senior rights to excess capacity in ditch**
- **Up to 13.8 cfs**
- **\$12,000 one-time payment**
- **\$13.50 per acre-foot “running charge”**
- **30-year term, which may be extended 20 years past when excess capacity is first used**
- **Term may be extended**
- **Use subject to separate agreement with Little Cache La Poudre Irrigation Company and Division of Water Resources consent**
- **Greeley agrees to stipulate lawsuit in exchange for carriage contract**



# Recommendations

- 1. Approve Stipulation and Settlement Agreement**
- 2. Approve Excess Capacity Carriage Agreement**



## STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement (this “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by the CITY OF GREELEY, COLORADO (“Greeley”), THE TAYLOR & GILL DITCH COMPANY, a Colorado corporation (the “Company”), WILLIAM O. SEAWORTH, an individual, PAULETTE M. SEAWORTH, an individual, and HF2M, INC., a Texas corporation. All of the foregoing parties are referred to individually as a “Party” and collectively as the “Parties.”

### Recitals

A. Greeley commenced Case No. 21CV30881 (Dist. Ct., Larimer County, Colorado) (the “Litigation”) alleging various claims related to that certain Right of First Refusal Agreement dated December 9, 2014 between Greeley and the Company (the “ROFR”), that certain Excess Capacity Carriage Agreement between the Company and the Seaworths dated December 4, 2018 (the “2018 Excess Capacity Carriage Agreement”), and that certain Augmentation Water Agreement and Deeded Easement and Agreement, both dated December 29, 2020, by which Seaworths assigned to HF2M an interest in their 2018 Excess Capacity Carriage Agreement (the “Seaworths-HF2M Agreements”).

B. The Parties desire to enter into this Agreement to fully resolve the Litigation.

### Agreement

NOW THEREFORE, in consideration of the foregoing recitals, the covenants, obligations and agreement set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Settlement Consideration. Concurrent with execution of this Agreement, the Company and Greeley shall execute the Excess Capacity Carriage Agreement attached as **Exhibit A**, and the Company, the Seaworths, and HF2M shall execute the Excess Capacity Carriage Agreement attached as **Exhibit B**. Full execution of this Agreement and the Carriage Agreements shall be a condition concurrent to the effectiveness of each of the other agreements. The Parties expressly recognize the validity of HF2M’s interest to share in Seaworth’s use of excess carriage capacity pursuant to the new Excess Capacity Carriage Agreement. Further, Greeley agrees it shall not object to HF2M’s and Seaworths’ rights to rely upon that excess carriage capacity in HF2M’s pending Case No. 20CW3208, Water Division No. 1.

2. Dismissal of Litigation. Upon full execution of this Agreement and the Carriage Agreements attached as Exhibits A and B, the Parties, through counsel, shall file a stipulation of dismissal of the Litigation, with prejudice, in a form substantially the same as **Exhibit C** hereto.

3. Costs and Attorney Fees. The Parties shall pay their own costs and attorney’s fees related to or arising from the Litigation, including the drafting of this Agreement and any related negotiations.

4. General Release. Each Party, for itself, and for its managers, trustees, members, agents,

attorneys, successors, and assigns, completely, unconditionally and forever releases, acquits and discharges each other Party and such other Party's current and former agents, attorneys, successors, and assigns of and from any and all actions, causes of action, claims, counterclaims, cross claims, debts, demands, liabilities, losses and damages, whether known or unknown, which arise out of or relate to the allegations in the Complaint filed in the Litigation, the ROFR, the 2018 Excess Capacity Carriage Agreement, or the Seaworths-HF2M Agreements. Notwithstanding the foregoing, nothing contained in this paragraph 4 shall release any Party from complying with the terms and conditions of this Agreement. The Parties agree that the individuals and entities released by this paragraph are intended beneficiaries of this Agreement.

5. No Admission of Liability. The Parties' agreement to the terms and conditions set forth herein shall in no manner be deemed an admission, express or implied, of: (a) liability by any Party to any other person or entity; (b) any fact, other than the facts set forth in this Agreement; or (c) the merits of the position taken by any Party with respect to any matter other than those expressly set forth herein.

6. No Assignment of Claims. Each of the Parties represents and warrants to the other that it has not heretofore assigned or transferred, or purported to assign or transfer to any person or entity any claims that it might have against any other Party.

7. Complete Agreement; Modification; and Waiver. This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous agreements, representations, warranties, and understandings of the Parties regarding the same. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all Parties. No waiver of any of the provisions of this Agreement shall be deemed or constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

8. Review; Investigation; Etc. Each Party acknowledges and represents that:

a. The Party has fully and carefully read and considered this Agreement prior to its execution and has discussed its contents and legal effect with counsel of its choosing;

b. The Party has had the opportunity to make whatever investigation or inquiry the Party deems necessary or appropriate in connection with the subject matter of this Agreement;

c. The Party is executing this Agreement voluntarily and free from any undue influence, coercion, duress or fraud of any kind; and

d. The Party is knowingly and voluntarily waiving and releasing all claims against the other Parties to the full extent provided in this Agreement.

9. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and the Parties' respective representatives, agents, successors, and assigns.

10. No Third Party Beneficiaries. This Agreement is not intended to benefit, and does not

benefit, any person or entity who is not specifically identified or referenced herein as a Party to, or intended beneficiary of, this Agreement.

11. Specific Enforcement. The Agreement shall be specifically enforceable. In order to enable a court to grant specific enforcement or other equitable relief in connection with this Agreement, each Party to this Agreement waives any contention that there is an adequate remedy at law or any like doctrine that might otherwise preclude injunctive relief to enforce this Agreement. The remedy of specific enforcement shall be cumulative to, and not in lieu of, any other remedy available to the Parties at law or in equity.

12. Attorneys' Fees in Enforcement Action. If any Party brings any action to enforce this Agreement, the prevailing Party shall be entitled to recover all reasonable attorneys' fees and costs from the non-prevailing Party or Parties.

13. Interpretation. The Section headings used in this Agreement are for purposes of identification only and shall not be considered in construing this Agreement. Furthermore, this Agreement shall be deemed to have been prepared with the full and equal participation of each Party, and shall not be construed by any Party against any other Party.

14. Choice of Law; Jurisdiction; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, and the Parties agree that the state courts located in Larimer County, Colorado, and the District Court, Water Division 1, shall have exclusive jurisdiction over, and shall be the exclusive venue for, any action arising out of, or related to, this Agreement.

15. Further Assurances. Each Party will cooperate with the other and execute such further instruments and documents as the other Party shall reasonably request to carry out the transactions contemplated by this Agreement.

16. Non-Severability. Each paragraph of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties. If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to either party or as to both parties, the parties will immediately negotiate valid alternative portion(s) that as near as possible give effect to any stricken portion(s).

17. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document.

18. Authority to Sign. Each person signing the Agreement represents and warrants that s/he has been authorized and empowered to sign this Agreement on behalf of the Party the person purports to represent and that this Agreement is lawful and binding upon the Party on whose behalf the person is signing.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

[Signatures appear on the following page.]

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Vice-President for The Taylor & Gill  
Ditch Company

ATTEST: \_\_\_\_\_  
Name: \_\_\_\_\_  
Secretary for The Taylor & Gill  
Ditch Company

William O. Seaworth and Paulette M. Seaworth

\_\_\_\_\_  
By: \_\_\_\_\_  
William O. Seaworth

By: \_\_\_\_\_  
Paulette M. Seaworth

HF2M, Inc., a Texas corporation

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

THE CITY OF GREELEY  
Acting by and through its Water & Sewer  
Board

APPROVED AS TO AVAILABILITY OF  
FUNDS:

By: \_\_\_\_\_  
Harold Evans  
Chairman, Greeley Water & Sewer Board

By: \_\_\_\_\_  
John Karner  
Finance Director

APPROVED AS TO SUBSTANCE:

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_  
Raymond C. Lee, III  
City Manager  
[Or designee]

By: \_\_\_\_\_  
Douglas Marek  
City Attorney

## **AGREEMENT**

This Excess Capacity Carriage Agreement (“Agreement”), made this \_\_\_\_ of \_\_\_\_\_, 2022, between The Taylor & Gill Ditch Company, a Colorado nonprofit mutual ditch company (“Company”), and the City of Greeley (“Greeley”). Greeley and the Company each individually a “Party,” and collectively may be referred to as the “Parties.”

## **RECITALS**

- A. Whereas, the Company owns and manages The Taylor & Gill Ditch (the “Ditch”); and
- B. Whereas, the Company operates the Ditch to deliver water to its shareholders pursuant to water rights owned by the Company (“Share Water”); and
- C. Whereas, Greeley desires to use any excess capacity in the ditch to transport other sources of water owned by Greeley through the Ditch (“Greeley Water”); and
- D. Whereas, in addition to Share Water, there is capacity in the Ditch to divert and carry other sources of water at a flow rate of up to 13.81 cfs, including but not limited to the Greeley Water (“Excess Capacity”); and
- E. Whereas, the Company is willing to grant Greeley the right to use a portion of the Excess Capacity in the Ditch for diversion and conveyance of the Greeley Water;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

## **AGREEMENT**

1. The Company agrees that Greeley shall have the right to use up to 13.81 cfs of the Excess Capacity (“Greeley Excess Capacity”) for delivery of Greeley Water through the Ditch. Greeley’s right to divert and carry Greeley Water is subordinate to the Company’s use of the Ditch for diversion and carriage of Share Water. The Parties understand that 13.81 cfs is the approximate maximum capacity of certain segments of the Ditch. Greeley acknowledges that there are segments of the Ditch with a capacity of less than 13.81 cfs, and Greeley shall have no right to make any modifications to the Ditch to increase its capacity without prior written consent of the Company.

2. In addition to the subordination in ¶ 1, the Greeley Excess Capacity shall be junior to any right to use Excess Capacity that was in existence as of December 3, 2018, if any, as evidenced by a written agreement with the Company (“Senior Excess Capacity”). If owners of Senior Excess Capacity are not diverting and carrying water in the Excess Capacity, then Greeley may divert Greeley Water in the Excess Capacity. If owners of Senior Excess Capacity are diverting and carrying water in the Excess

Capacity but there is still remaining Excess Capacity ("Additional Excess Capacity"), then Greeley may divert Greeley Water in the Excess Capacity up to the Additional Excess Capacity.

3. Greeley Excess Capacity shall be senior to any right to use Excess Capacity that arises after any agreements for Senior Excess Capacity, if any, as evidenced by a written agreement with the Company ("Junior Excess Capacity"). Specifically, and without admission of the validity of such, Greeley Excess Capacity shall be senior to that purported agreement for excess capacity between the Company and William and Paulette Seaworth dated December 4, 2018. If the owners of Excess Capacity described in ¶ 2 are either not diverting or are fully satisfied and there is still Additional Excess Capacity, then an owner of Junior Excess Capacity may divert water in the Excess Capacity up to the Additional Excess Capacity, as provided in any separate agreements.

4. If the owners of Excess Capacity described in ¶¶ 2 and 3 are either not diverting or are fully satisfied and there is still Additional Excess Capacity, others may use Additional Excess Capacity pursuant to written or verbal agreements with the Company.

5. The Company reserves the right to lease, transfer, or otherwise utilize the Additional Excess Capacity not used by Greeley pursuant to this Agreement at its discretion.

6. Greeley may run the Greeley Water to turnouts on the Ditch. The Company makes no representation regarding Greeley's rights or ability to utilize infrastructure behind such turnouts, which shall be the sole responsibility of Greeley.

7. In partial consideration of this Agreement, Greeley shall pay the Company twelve thousand dollars (\$12,000) upon execution of this Agreement which shall be due within forty-five (45) days of the Company approving this Agreement.

8. In partial consideration of this Agreement, Greeley shall pay the Company the amount of \$13.50 for every acre-foot of Greeley Water delivered to Greeley through the Ditch ("Running Charge") during the Water Year. For purposes of this Agreement, the Water Year shall be from April 1 through March 31. Beginning on April 1, 2027, and each succeeding five-year anniversary thereafter, the amount of the Running Charge shall be adjusted by a rate of three percent (3%), compounded annually (15.93% over five years).

9. After the end of each water year, the Running Charges for the previous year shall be payable annually within thirty (30) days of the Company delivering its bill for same to Greeley at the following address:

City of Greeley Department of Water and Sewer  
1001 11<sup>th</sup> Avenue, 2<sup>nd</sup> Floor

Greeley, Colorado 80631  
ATTN: Deputy Director, Water Resources

10. In the event of a storm, sudden flooding of the Ditch, or any other emergency circumstance that prevents the Company from delivering water through the Ditch, the Company shall have the right to shut off any or all of the Greeley Water. In such instances, the Company shall not be liable for the failure to deliver Greeley Water to Greeley.

11. Greeley will have the right to begin using Excess Capacity at any time within thirty (30) years from the date of this Agreement ("Start Date"), and its right to continue using Excess Capacity will extend for twenty (20) years from the Start Date. If Greeley desires to renew this Agreement beyond the expiration of this twenty-year period, it will give the Company written notice of its intent no later than 180 days prior to expiration of the twenty-year term. The Parties shall have the option to extend the term of this Agreement for another twenty-year term at that time, and at the end of each succeeding twenty (20) year period. Consent to such renewal shall not be unreasonably withheld by the Company. However, nothing in this paragraph obligates the Parties to renew this Agreement.

12. The Company shall be responsible for the day-to-day operation of the Ditch. Greeley shall notify the Company's superintendent at least forty-eight (48) hours in advance of their intent to begin running Greeley Water.

13. Greeley shall only be entitled to assign its rights in this Agreement to the successors in ownership of all or part of Greeley's water rights. No other assignment of the rights granted herein shall be authorized. Greeley, and any assignee of Greeley, shall not assign its rights under this Agreement to more than one assignee. Any assignment in violation of this Agreement is void.

14. Conditions: Use of the Excess Capacity by Greeley is conditioned upon:
- a. Greeley entering into any separate agreements necessary for delivery of Greeley Water into the Ditch;
  - b. Acknowledgment by the District 3 Water Commissioner that Greeley may exercise its carriage rights described herein; and
  - c. Full compliance with this Agreement by the Greeley at the time it desires to use the Excess Capacity.

15. Governmental Immunity. This Agreement is not intended, and shall not be construed, as a waiver of the limitations on damages or any of the privileges, immunities, or defenses provided to, or enjoyed by, the Parties, and their past and present directors, officers, employees and volunteers, under federal or state constitutional, statutory or common law, including but not limited to the Colorado Governmental Immunity Act, Section 24-10-101, C.R.S., *et seq.*, as may be amended.

16. This Agreement is binding upon the Parties, and their respective successors and assigns.

17. This document represents the complete agreement between the Parties hereto. No verbal modifications shall be recognized. Any amendments or additions shall be made in writing and signed by the Parties.

18. The Company affirms that the undersigned, Vice President to the Company, has authorization to bind the Company to the terms set forth herein. Greeley affirms that upon execution of this Agreement by the undersigned, the Agreement will constitute a valid and binding Agreement upon Greeley.

19. Following execution of this Agreement, Greeley will record this document in the official Property Records of Larimer County, State of Colorado.

DATED the date and year first written above.

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

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Vice-President for The Taylor & Gill  
Ditch Company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Secretary for The Taylor & Gill  
Ditch Company

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, Vice-President, and \_\_\_\_\_, Secretary, for The Taylor & Gill Ditch Company.

Witness my hand and seal.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_



**THE CITY OF GREELEY**  
**Acting by and through its Water & Sewer Board**

By: \_\_\_\_\_  
Harold Evans  
Chairman, Greeley Water & Sewer Board

APPROVED AS TO SUBSTANCE:

By: \_\_\_\_\_  
Raymond C. Lee, III  
City Manager  
[Or designee]

APPROVED AS TO AVAILABILITY OF FUNDS:

By: \_\_\_\_\_  
John Karner  
Finance Director

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_  
Douglas Marek  
City Attorney

# Water & Sewer Agenda Summary

Date: May 18, 2022

Key Staff Contact: Leah Hubbard, Water Resources Admin III

**Title:** Outside Water Council Legal Report

**Summary:** The Attached Report has been provided by Mr. Jim Noble, Esq. with Welborn Sullivan Meck & Tooley, P.C.

The legal report for this month covers only a single water court case, 22CW3039. The Dept. Water Resources staff attempted to reach the applicants professional engineer and could not obtain additional information that would ensure Greeley that its water rights would not be impacted by the application.

**Recommended Action:**

Staff recommends entry into the water court case 22CW3039.

Proposed Motion:

"I move that the Board authorize the filing of a statement of opposition in Case No. 22CW3039, and for staff and legal counsel to seek resolution of issues raised by this case consistent with Water and Sewer Board Resolution No. 3-15."

**Attachments:**

1. Legal Report for May 18, 2022

- I. Statement of Opposition:** Based on a review of the March 2022 Water Court Resume, staff and water counsel recommend that the Board file statements of opposition in the following case:
- a. Case Number: **22CW3039:** Application of Arapahoe County Water and Wastewater Authority (“ACWWA”) for reasonable diligence and to make a conditional storage water right partially absolute for Milliken Reservoir. Although this reservoir is located off of the main stem of the South Platte River, it is used as a source of substitute supply for exchanges on the Cache la Poudre River. We recommend that Greeley file a statement of opposition to ensure that the terms and conditions of the controlling decrees have been followed and that the claim to make the water right partially absolute is justified.
- II. Proposed Motion Language:** “I move that the Board authorize the filing of a statement of opposition in Case No. 22CW3039, and for staff and legal counsel to seek resolution of issues raised by this case consistent with Water and Sewer Board Resolution No. 3-15.”

# Water & Sewer Agenda Summary

Date: May 18, 2022

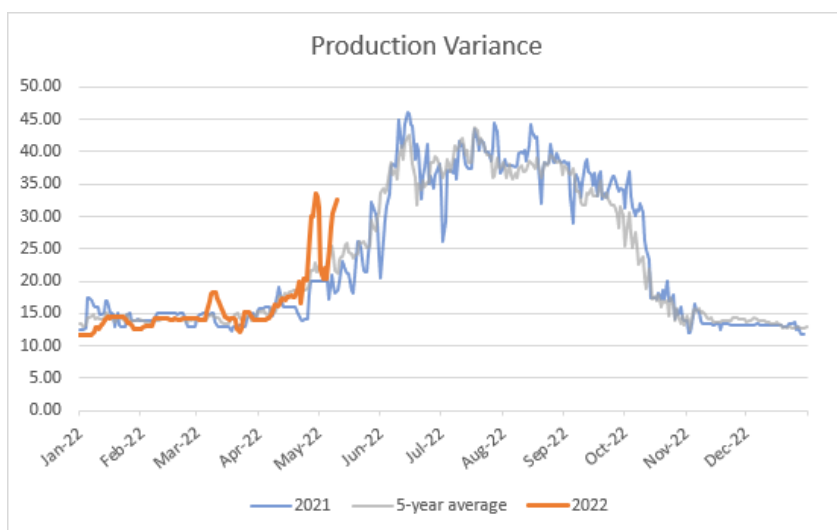
Key Staff Contact: Sean Chambers

**Title:** Director's Report

**Summary:**

The Director will provide a summary or update on additional items of Board interest:

- Water Treatment Facilities operations update
  - Bellvue North Filter Plant back online and operating after maintenance, valve replacement and sampling.
  - Boyd WTP running at low end of its output capacity ~ 8 MGD
  - Treated water production variance plot through 5/10/22



- TB Concrete Repair Phase 1 Work Complete
- Request for Council authorization to initiate legal action to project the city and its Water Enterprise from the damages arising from TB-1 Concrete

2. Colorado River workshop with NCWCD staff – Date TBD

**Recommended Action:** Information Only

**Attachments:**

1. Colorado River Basin – Dept. of Interior Letter



**Colorado River Basin States Representatives of  
Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming**

April 22, 2022

The Honorable Tanya Trujillo  
Assistant Secretary, Water & Science  
U. S. Department of the Interior  
Washington, DC 20240

Dear Assistant Secretary Trujillo:

The Governors' representatives of the seven Colorado River Basin States write in response to your letter dated April 8, 2022, regarding coordinated operations of Glen Canyon Dam and Hoover Dam. As you know, pursuant to applicable law, the Governors' representatives have worked cooperatively over the past 50 years with the Secretary of the Interior regarding adoption and implementation of the Long-Range Operating Criteria for Colorado River Reservoirs and other related instruments, including the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (73 FR 19873), and the 2019 Drought Contingency Plan.

Most recently we have taken important proactive actions pursuant to the 2019 Drought Contingency Plan in both the Upper and Lower Basins, with the proposed 2022 Drought Response Operations Plan, the "500+ Plan" signed in December 2021, and in our cooperative efforts with the Republic of Mexico. Basin Tribes, water users, and Non-Governmental Organizations have been instrumental in the implementation of these efforts. Continuing these efforts is imperative as we address long-term supply and demand imbalances, including our efforts to support development of post-2026 operating guidelines.

Our collective efforts notwithstanding, record low runoff, particularly over the past two years, has contributed to historically-low storage in Colorado River reservoirs. We appreciate your continuing efforts to work closely with each of the Governor's representatives as we face extraordinary circumstances on the Colorado River as a result of historic drought, low-runoff conditions, and depleted storage over the past two decades.

Today, water storage in Colorado River reservoirs is at a historic low, with Lake Powell levels representing just 25 percent of remaining live storage. Of particular concern to the Basin States is the potential for Lake Powell to drop below elevation 3525' for extended periods of time, and threatening further decline below elevation 3490'. As your letter indicated: *"[i]n such circumstances, Glen Canyon Dam facilities face unprecedented operational reliability challenges, water users in the Basin face increased uncertainty,*

*downstream resources could be impacted, the western electrical grid would experience uncertain risk and instability, and water and power supplies to the West and Southwestern United States would be subject to increased operational uncertainty.”* We recognize the urgency created by current conditions in the Basin; in fact, hydrologic conditions in the Basin have continued to decline since your April 8, 2022, letter to the Governors’ representatives.

It is our collective judgment that additional cooperative actions should be taken this spring to reduce the risk of Lake Powell declining below critical elevations. Important ongoing efforts to implement the proposed 2022 Drought Response Operations Plan are underway pursuant to the Upper Division States’ April 21, 2022, recommendation to release 500,000 acre-feet of water from Flaming Gorge reservoir, and we share your optimism that final decisions pursuant to this process can be completed within the next few weeks. In addition to these important ongoing efforts, we support the proposal in your April 8, 2022, letter that Reclamation implement the 480,000 acre-foot reduction to the 2022 water year release from Glen Canyon Dam to reduce the risks we all face. We acknowledge that such temporary adjustments would be implemented within the provisions of Sections 6 and 7.D. of the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (73 FR 19873). Additionally, given the increased probabilities that Glen Canyon Dam and Lake Powell will be operating in low reservoir conditions, we urge Reclamation to implement the timely evaluation of any needed maintenance or feasible modifications to water delivery or hydropower generation infrastructure at the facility.

We request that such temporary reductions in releases from Glen Canyon Dam be implemented in a manner that is operationally neutral for tier and release determinations made pursuant to the 2007 Interim Guidelines, the 2019 Drought Contingency Plan and Minute 323. Operational determinations should be made as if the 480,000 acre-feet had been released from Glen Canyon Dam in 2022 water year. Also, water year 2023 releases should be carefully monitored and be the subject of consultation with the Basin States to preserve the benefits to Glen Canyon Dam facilities and operations from both the proposed 2022 Drought Response Operations Plan and the proposed temporary reductions in releases from Glen Canyon Dam.

We further request your commitment to work closely with the Governors’ representatives to preserve flexibility to address changing conditions, including:

- to ensure that the 2022 release modifications can be tracked in future years;
- to evaluate continuing risks of Lake Powell and Lake Mead reaching critical elevations and developing strategies to mitigate such risks; and
- to address releases in the future in an appropriate manner, at an appropriate time, of the temporary release reductions, with support from the Basin States, given all relevant operational considerations for Glen Canyon and Hoover Dams.

Furthermore, beyond the expected short-term benefits of this proposed action it is important to also acknowledge that there will be attendant consequences associated with the reduction in releases from Glen Canyon Dam. One such consequence will be the negative financial impacts to power contractors related to hydroelectric energy generation.

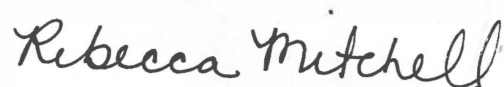
This recommendation and any subsequent actions to implement this recommendation shall not prejudice any positions within either the upper or lower basin.

We are committed to work closely with you and your staff as you consider these recommendations. We would hope that these temporary operational adjustments can be promptly implemented, in conjunction with the proposed 2022 Drought Response Operations Plan, to ensure the maximum reduction in operational risk and uncertainty in 2022. We also believe that by recommending that Reclamation undertake these temporary measures this year, each of the states is demonstrating its firm commitment to turn greater focus to the near-term steps necessary to stabilize the system and help prevent the reservoirs from declining to critical elevations.

Respectfully,



Thomas Buschatzke  
Governor's Representative  
State of Arizona



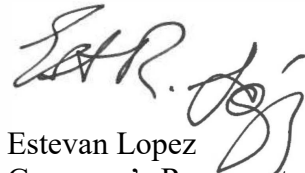
Rebecca Mitchell  
Governor's Representative  
State of Colorado



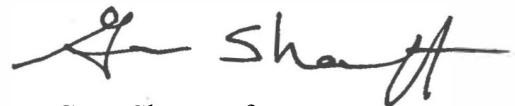
Peter Nelson  
Governor's Representative  
State of California



John J. Entsminger  
Governor's Representative  
State of Nevada



Estevan Lopez  
Governor's Representative  
State of New Mexico



Gene Shawcroft  
Governor's Representative  
State of Utah



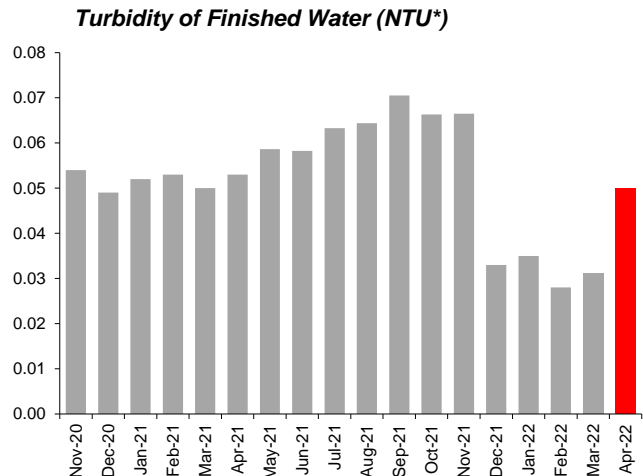
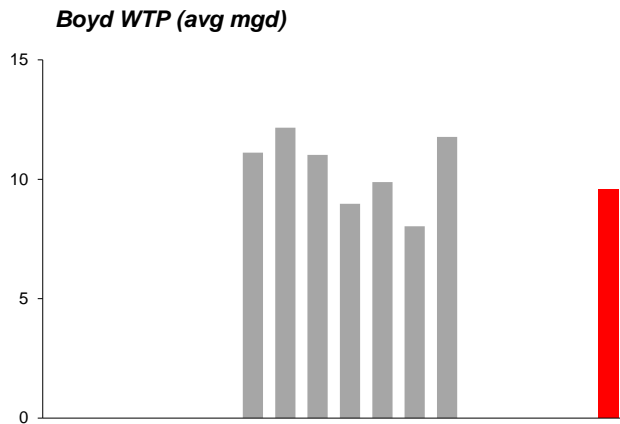
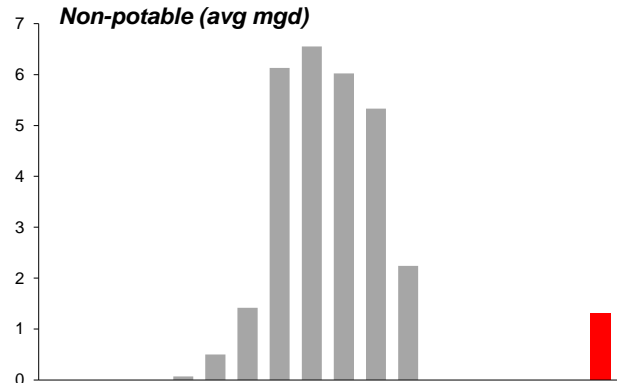
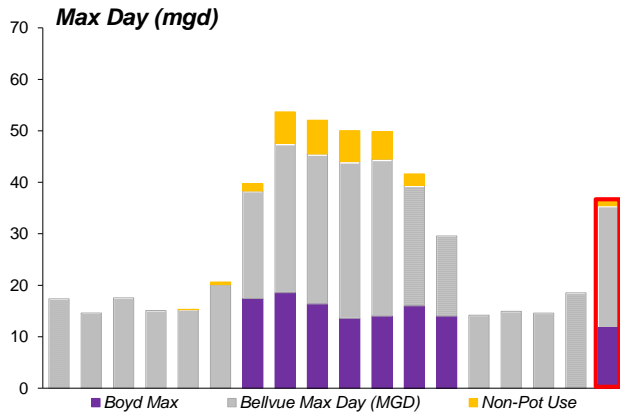
Patrick T. Tyrrell  
Governor's Representative  
State of Wyoming

## Water Treatment

Bellvue Water Treatment Plant operates year-round with a transmission capacity of 29.1 million gallons per day (mgd) (plant capacity is 32 to 35 mgd). Water sources include Poudre River direct flows, Colorado-Big Thompson (C-BT), Windy Gap, High Mountain Reservoirs, Laramie-Poudre Tunnel, and Water Supply and Storage. Average volume is 19,000 acre-feet a year (2000-2011). The plant was built in 1907, with its last treatment upgrade in 2009. Solar panels were added in 2014.

Boyd Water Treatment Plant operates normally from April to October with a plant capacity of 38 mgd (transmission capacity is 40 mgd). Water sources include Greeley-Loveland Irrigation Company, C-BT, and Windy Gap. Average Volume is 8,200 acre-feet (2000-2011). The current plant was built in 1974, with its last treatment upgrade in 1999. Solar panels were added at Boyd in 2014. In 2016, tube settlers and plate settlers were replaced in the sedimentation basins. In 2018, all old existing chemical lines were replaced with new lines and the piping was up-sized to carry more chemical. A PLC upgrade was done on the SCADA system. Sludge pumps were replaced and hooked into the Trac Vac system that pulls sludge out of the sedimentation basins.

Combined, Bellvue and Boyd can treat a maximum of 70-73 million gallons per day.



Starting May 2016 Bellvue turbidity measurements will use a new method resulting in more accurate readings.

\*Turbidity limit: 95% of samples must be below 0.3 NTU.

Turbidity is the measure of relative clarity of a liquid. Clarity is important when producing drinking water for human consumption and in many manufacturing uses. Turbidity is measured in Nephelometric Turbidity Units (NTU).



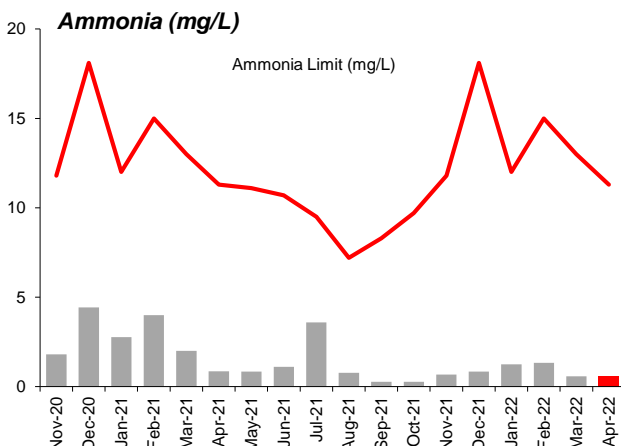
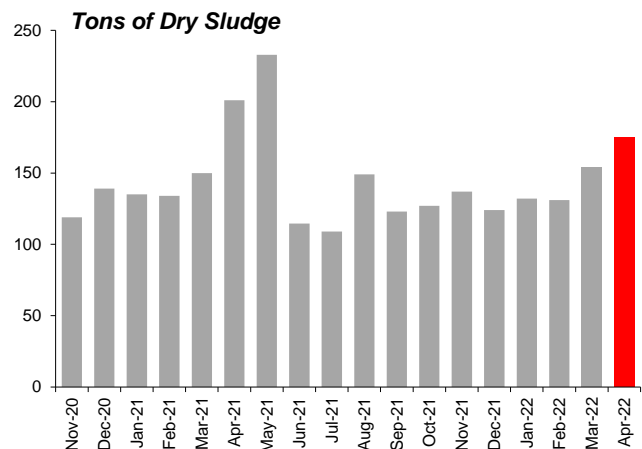
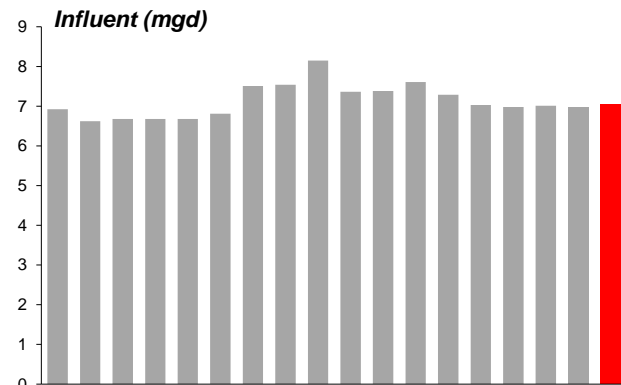
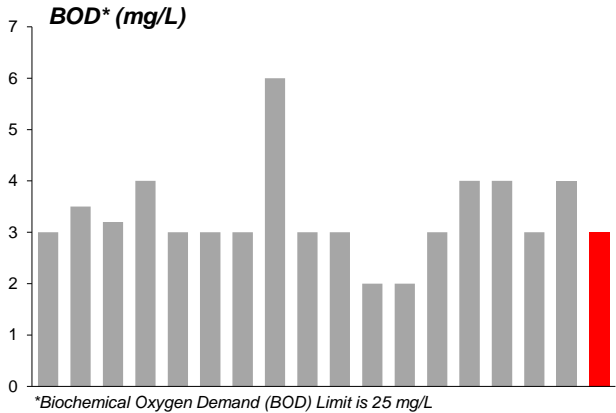
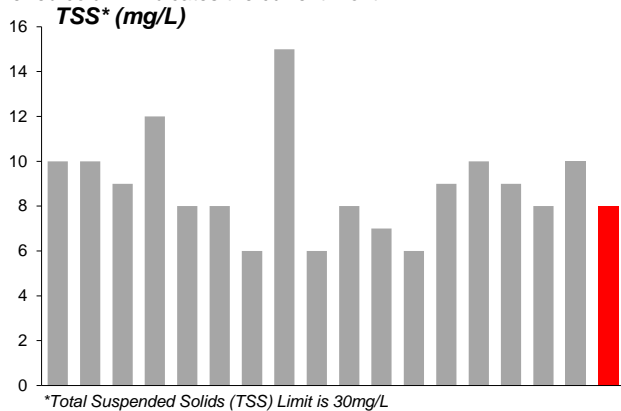


## Wastewater Treatment

The Water Pollution Control Facility (WPCF) staff are dedicated environmental professionals who provide quality, safe and cost-effective wastewater treatment services for the citizens of Greeley. The WPCF treats wastewater to meet or exceed Environmental Protection Agency (EPA) and Colorado Department of Public Health & Environment requirements.

In 2011, the WPCF received an Xcel Energy Custom Efficiency Achievement Award for saving 2.78 million kWh and reducing CO2 emissions by 1,584 tons. In 2012, the WPCF received the Rocky Mountain Water Environment Association's (RMWEA) Sustainability Award for Colorado demonstrating excellence in programs that enhanced the principles of sustainability. A Certificate of Achievement from the Colorado Industrial Energy Challenge program managed through the Colorado Energy Office was received in the same year. In 2013, the plant received the City of Greeley's Environmental Stewardship Award for outstanding efforts to reduce energy (watts), conserve energy and water, reduce air and water pollution, and educate and encourage others to be environmental stewards. Also, in 2013, the plant was the recipient of a Bronze Award from the Colorado Environmental Leadership Program. In 2015, after having 5 years without a plant violation, the plant received the 2015 National Association of Clean Water Agencies (NACWA) Platinum Peak Performance award for the City of Greeley Water and Sewer Department.

Note: the red column indicates the current month.



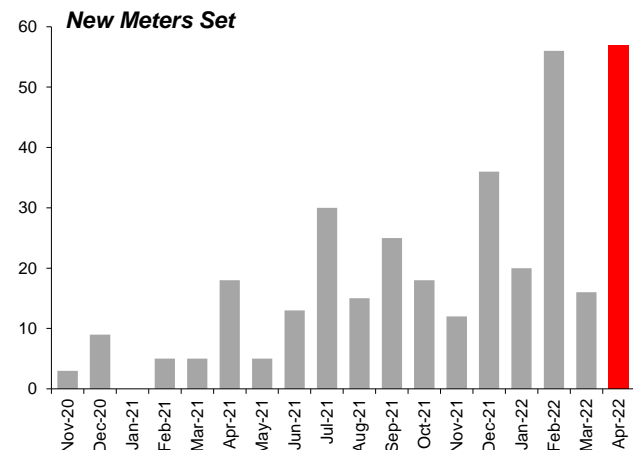
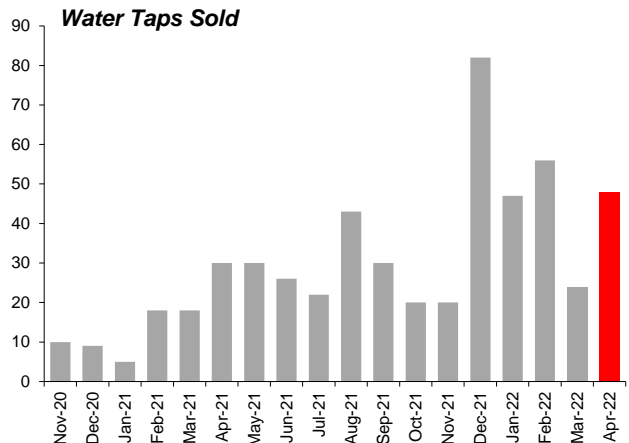
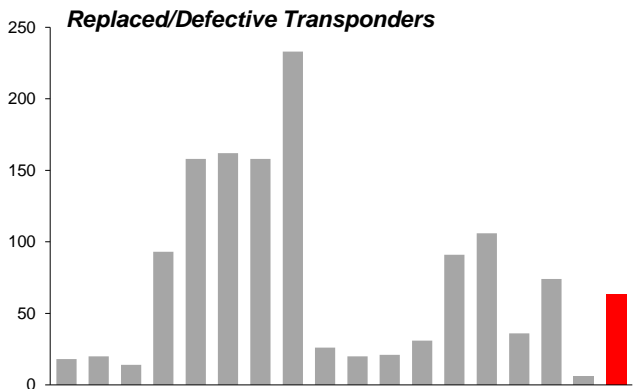
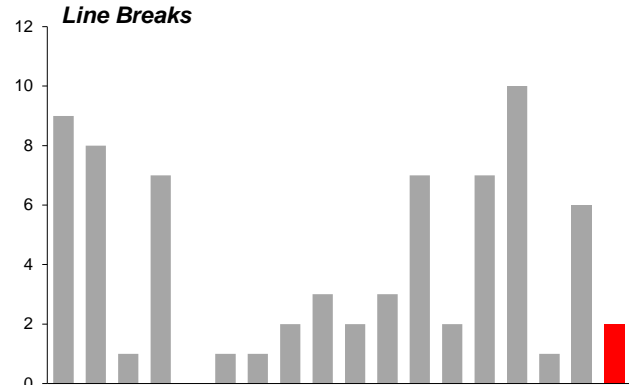
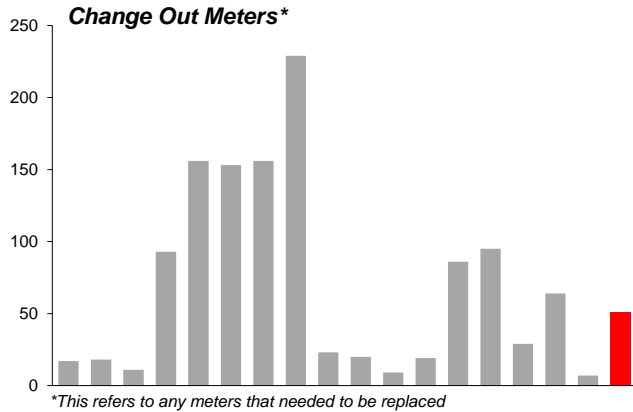
## Water Distribution

The Greeley water distribution system consists of various sizes of pipes that generally follow the streets within the City. The distribution system serves residences and businesses in Greeley, Evans and Garden City, and the system is divided into four pressure zones.

There are 69.75 million gallons of potable water storage in Greeley. The water is stored within three covered reservoirs and one elevated tank; 23rd Avenue - 37.5 million gallons, Mosier Hill - 15 million gallons, and Gold Hill - 15 million gallons. The system also has 476 miles of pipeline, 24,233 water meters and 3,378 fire hydrants.

The water pipes in the distribution system vary in size from 4" to 36". Pipe material is steel, ductile iron, cast iron, or polyvinyl chloride. The age of the pipes varies from the 1890's to new installations.

Note: the red column indicates the current month.



## Wastewater Collection

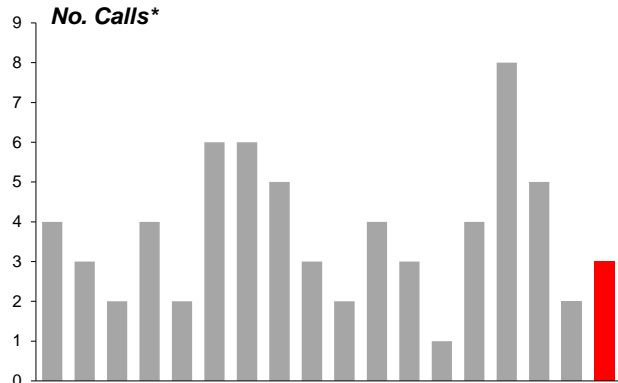
The mission of the Wastewater Collection Division of the Water and Sewer Department is to protect community health by transporting wastewater away from homes and businesses. This includes respecting property values and public safety by reducing the frequency of blockages in the sanitary sewer lines.

A wide variety of work is performed including routine cleaning of sewer lines, inspection of sewer lines, maintenance of the sewage pumping stations, rehabilitation of the system and responding to emergencies.

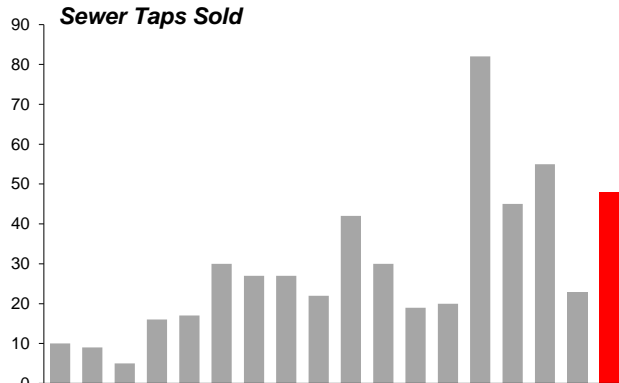
The wastewater collection system dates back to 1889. At the end of 2017, the system had a total of 364.8 miles of line and 10 sewage pumping stations. The sewer service area is approximately 51 square miles. Over the last 10 years, the system has grown by 17 miles.

Note: the red column indicates the current month.

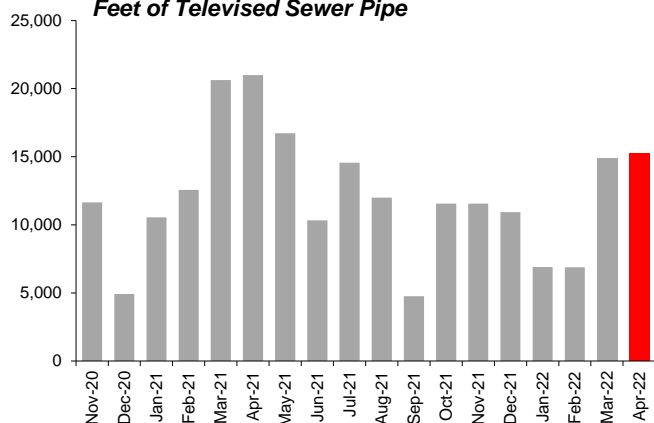
**No. Calls\***



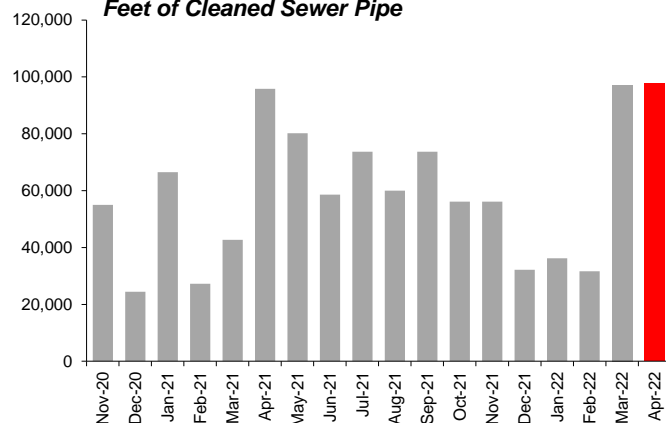
**Sewer Taps Sold**



**Feet of Televised Sewer Pipe**



**Feet of Cleaned Sewer Pipe**

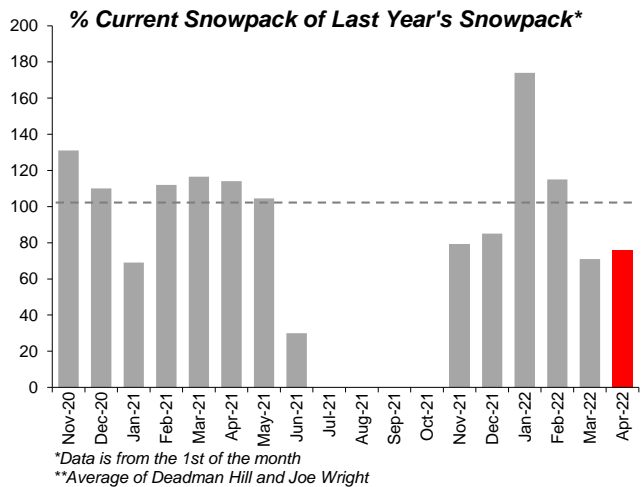
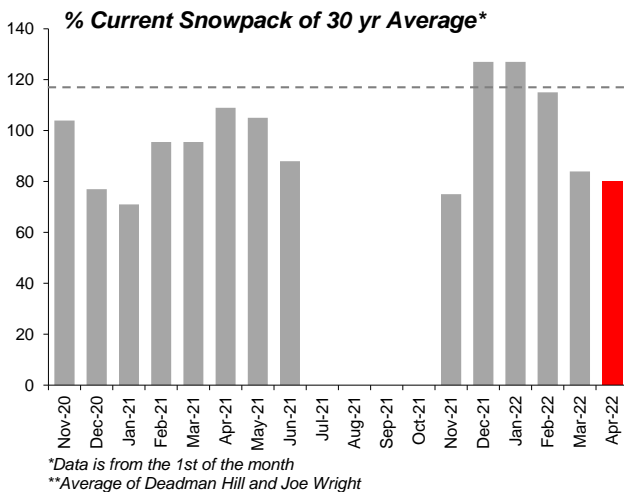
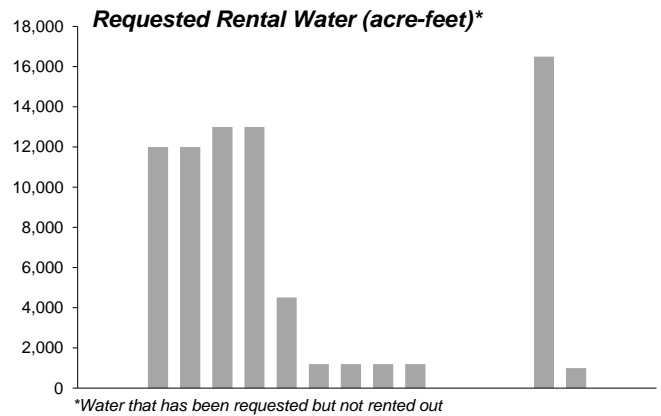
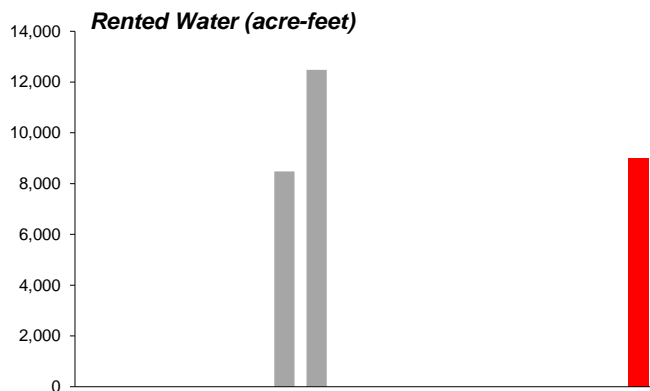
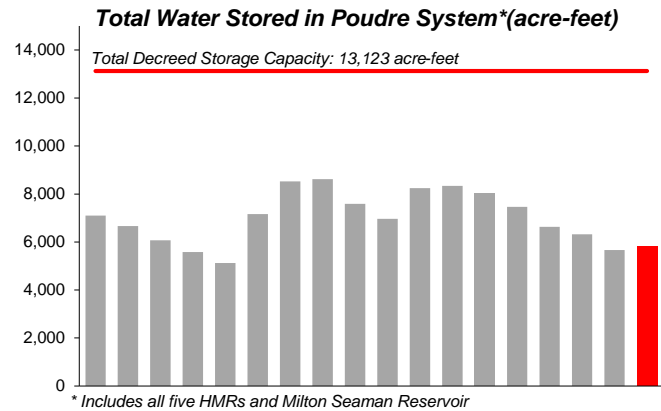
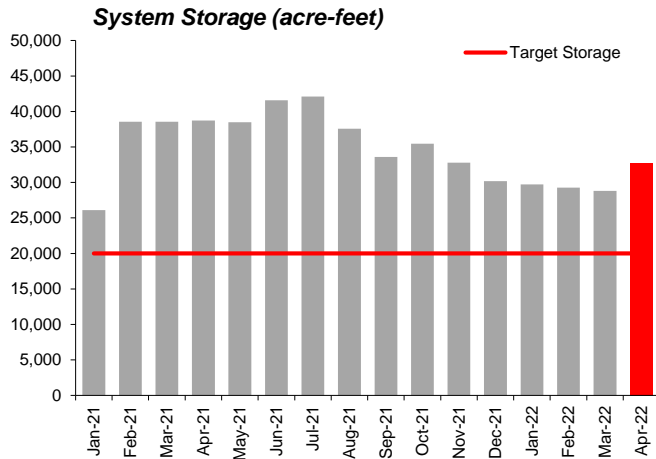


## Water Resources

Greeley has numerous water rights in four river basins; the Upper Colorado River, Cache La Poudre, Big Thompson and Laramie River. The Water Resource staff must account for all of this water and comply with the rules of the Colorado Water Court and the State Engineer's Office which is in charge of allocating all of Colorado's water resources. Approximately one-third of the City's water supply comes from agricultural water rights. These water rights must be formally changed to municipal use by a special legal process through the Water Court. In this court, Water Resource staff and attorneys also defend the City's water rights against adverse claims from other parties.

Greeley's goal is to have enough water in carry-over storage to sustain Greeley through a 50-year critical drought. Water in excess of this carry-over drought supply can be leased to agriculture, both for revenue and to support our local agricultural community. Modeling has shown that, given existing population and demand factors, Greeley will have sufficient water for citizens, if at the beginning of the 6-year long, 50-year critical drought, there is 20,000 acre-feet in storage on April 1st of the following year.

Note: the red column indicates the current month.



## Treated Water and Weather Data

January 2022 average temperature was 24.38°F, approximately 2.8°F cooler than average. February also brought colder temperatures averaging 25.23°F. In March the average temperature was 38.94°F, slightly cooler than the historical average. Temperatures began to rise in April, bringing the average temperature to 49°F, which is slightly higher than the historical average temperature of 47°F.

Greeley precipitation was 0.79 inches in January, which is slightly above average (0.43 inches). February had high precipitation at 0.93 inches. March brought 1.07 in of precipitation, setting Greeley 1.23 inches over the historical cumulative precipitation for March. Greeley has a very dry April with only 0.13 inches of precipitation bringing the cumulative precipitation 0.63 inches below average.

