

# STATE OF COLORADO

## Colorado Water Conservation Board

### Department of Natural Resources

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TO: Colorado Water Conservation Board Members

John W. Hickenlooper  
Governor

FROM: Linda Bassi and Kaylea White *KW*  
Stream and Lake Protection Section

Mike King  
DNR Executive Director

DATE: November 6, 2013

James Eklund  
CWCB Director

RE: **Agenda Item No. 15, November 19-20, 2013 Board Meeting--  
Request for Authorization to Proceed to Trial  
Case No. 1-11CW294, Application of Aggregate Industries – WCR, Inc.**

This case is set for a five-day trial beginning on January 6, 2014. The parties are discussing settlement options and preparing for trial on a parallel track. Staff and the Attorney General's Office intend to discuss litigation strategy and settlement options with the Board in executive session.

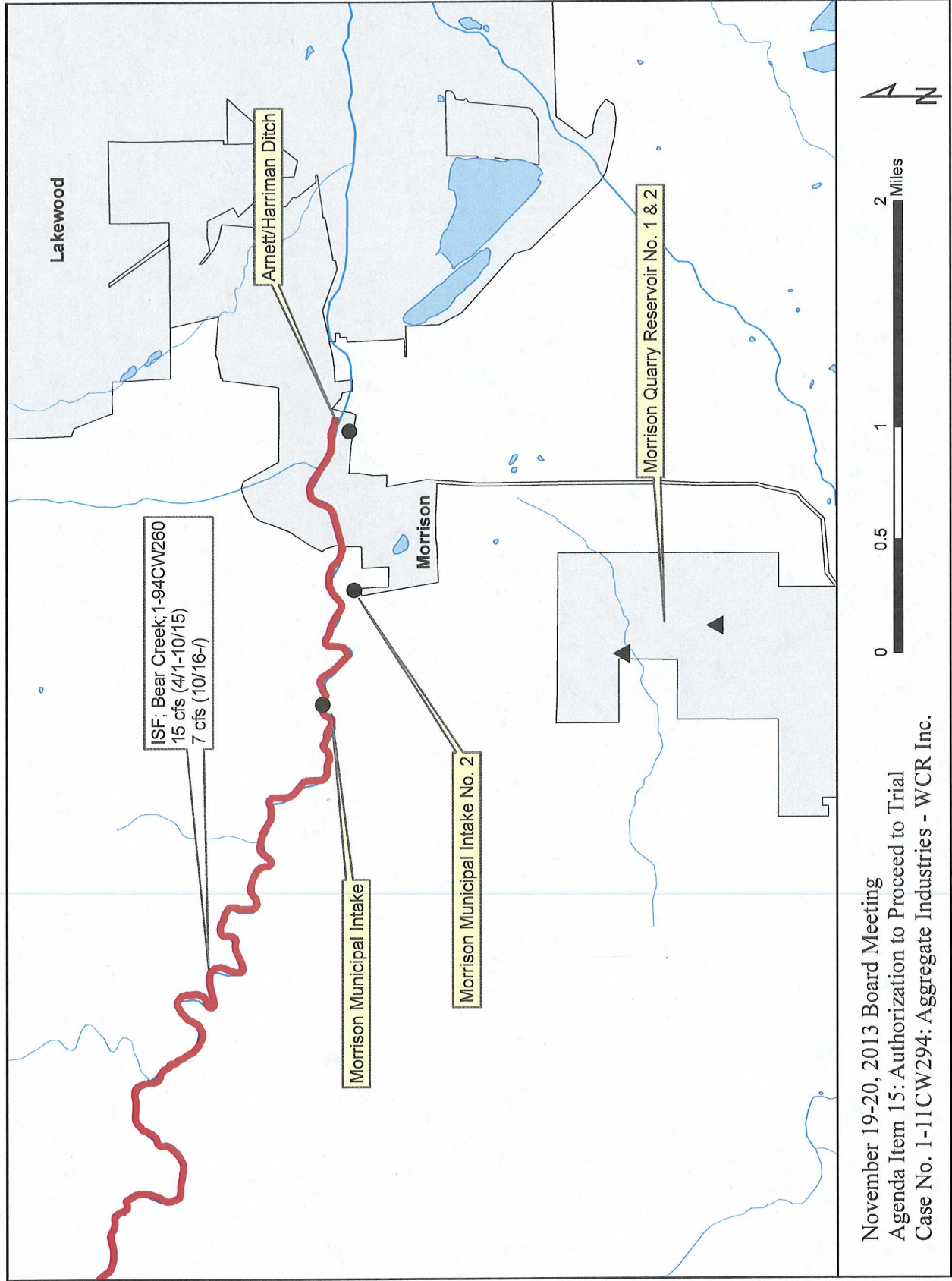
### **Recommendation**

Pursuant to ISF Rule 8j., Staff recommends that the Board authorize Staff to proceed to trial to protect its instream flow water rights in the event that Staff and the Attorney General's Office are unable to reach a settlement with the Applicant.

### **Background**

In this case, Applicant seeks a change of water right from irrigation to commercial uses, an additional pace of storage, and two additional points of diversion. This application could result in an injury due to new upstream diversions of senior water rights and could result in an injurious expansion of use.

The CWCB filed a Statement of Opposition in February 2012 to protect its ISF water rights on Bear Creek.



November 19-20, 2013 Board Meeting  
Agenda Item 15: Authorization to Proceed to Trial  
Case No. 1-11CW294: Aggregate Industries - WCR Inc.