

Summary of Water Court Application

Applicant seeks absolute water rights for three large diversions from the Wind River and the Big Thompson River for hydropower. Some of the appropriation dates pre-date the instream flows and some post-date instream flows. While the diversions claimed are non-consumptive, they each fully deplete the stream from the diversion point to the point of return to the river.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition in this case to protect CWCB's instream flow water rights. A Statement of Opposition was filed on behalf of the Board in February 2017.

CWCB Instream Flow Water Rights

The CWCB holds the following instream flow water rights in Water Division 1 in the Big Thompson River Watershed that could be injured by this application as follows:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
89CW0200	Big Thompson River	confl Dry Gulch	confl NF Big Thompson River	15 (11/1 - 4/30) 40 (5/1 - 10/31)	11/14/1989
89CW0205	Big Thompson River	confl NF Big Thompson River	hdgt Idylwild Pipeline diversion	20 (11/1 - 4/30) 50 (5/1 - 10/31)	11/14/1989
89CW0206	Big Thompson River	Loveland Powerplant Outfall	hdgt Dille Tunnel diversion	20 (11/1 - 4/30) 50 (5/1 - 10/31)	11/14/1989

Potential for Injury

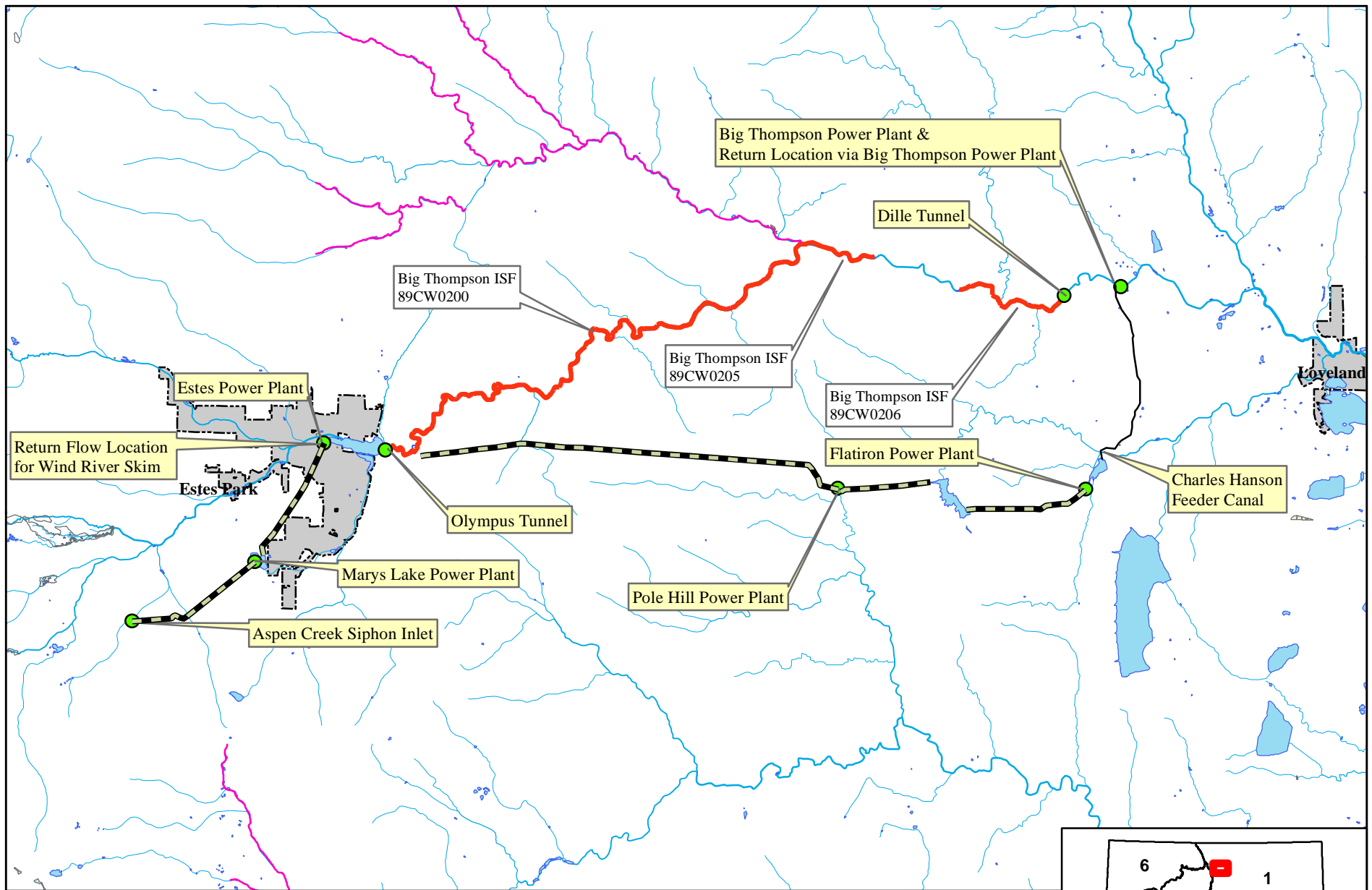
- Some of the water rights are claimed with appropriation dates senior to the instream flow water rights. The instream flow water rights might be subject to these water rights under section 37-92-102(3)(b), C.R.S. (2016), if the claimed uses and amounts are sufficiently documented and verified.
- The proposed non-consumptive hydropower rights could injure the CWCB's instream flow water right because the proposed rights are fully depletive to segments of the decreed instream flow rights between the diversion points and return points.

Other Objectors

Statements of Opposition were also filed by the City of Loveland, Mid-West Electric Consumers Association, Northern Colorado Water Conservancy District, Thompson Water Users Association, Town of Erie, and Tri-State Generation and Transmission Association, Inc.

Attorney Representing CWCB

Ema I.G. Schultz, Assistant Attorney General, is assigned to this case and can be contacted at ema.schultz@coag.gov, or 720-508-6307.



March 22-23, 2017 CWC Board Meeting
 Consent Agenda Item 1.a: Statement of Opposition
 Case No. 16CW3193 (Water Division 1)
 USA - Bureau of Reclamation

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