



**COLORADO**  
**Colorado Water  
Conservation Board**  
Department of Natural Resources

1313 Sherman Street, Room 718  
Denver, CO 80203

P (303) 866-3441  
F (303) 866-4474

Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

**TO:** Colorado Water Conservation Board Members

**FROM:** Linda Bassi, Section Chief and  
Kaylea White, Senior Water Resource Specialist  
Stream and Lake Protection Section

**DATE:** March 11-12, 2020

**AGENDA ITEM:** 22. Request for Authorization to Proceed to Trial, Case No. 16CW3160,  
(Water Division 1) - Application of The City of Boulder and CWCB

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#### **Staff Recommendation:**

Pursuant to ISF Rule 8j., Staff recommends that the Board authorize Staff to proceed to trial to protect its interest in this case in the event that Boulder and CWCB Staff are unable to reach a settlement with the one remaining opposing party before trial.

#### **Background:**

This case is set for a 5-day trial beginning on 04/13/2020. CWCB was added as a co-applicant for its interest in releases of water for instream flow ("ISF") use to be made under this decree. One opposing party has not yet stipulated in the case. 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.

The CWCB originally filed a Statement of Opposition in this case. However, because of the ISF acquisition, the CWCB and City of Boulder agreed to change the CWCB's party status from opposer to co-applicant for the purpose of obtaining a decreed right to use the water storage right claimed when released for ISF use under a Water Delivery Agreement between the City of Boulder and the CWCB. On July 12, 2019, the Court granted the unopposed Motion to remove CWCB as an opposer, and to add CWCB as a co-applicant for the limited purpose of obtaining a decreed right to use water released from the Gross Environmental Pool for ISF purposes in accordance with the Agreement between the City and the CWCB. CWCB will continue to work with co-applicant City of Boulder to resolve the issues raised by the one remaining opposing party.





Exhibit A: South Boulder Creek Subject Reach

- Subject Reach
- Boulder Creek
- Main Roads
- Creeks
- Reservoirs and Ponds
- City Limits

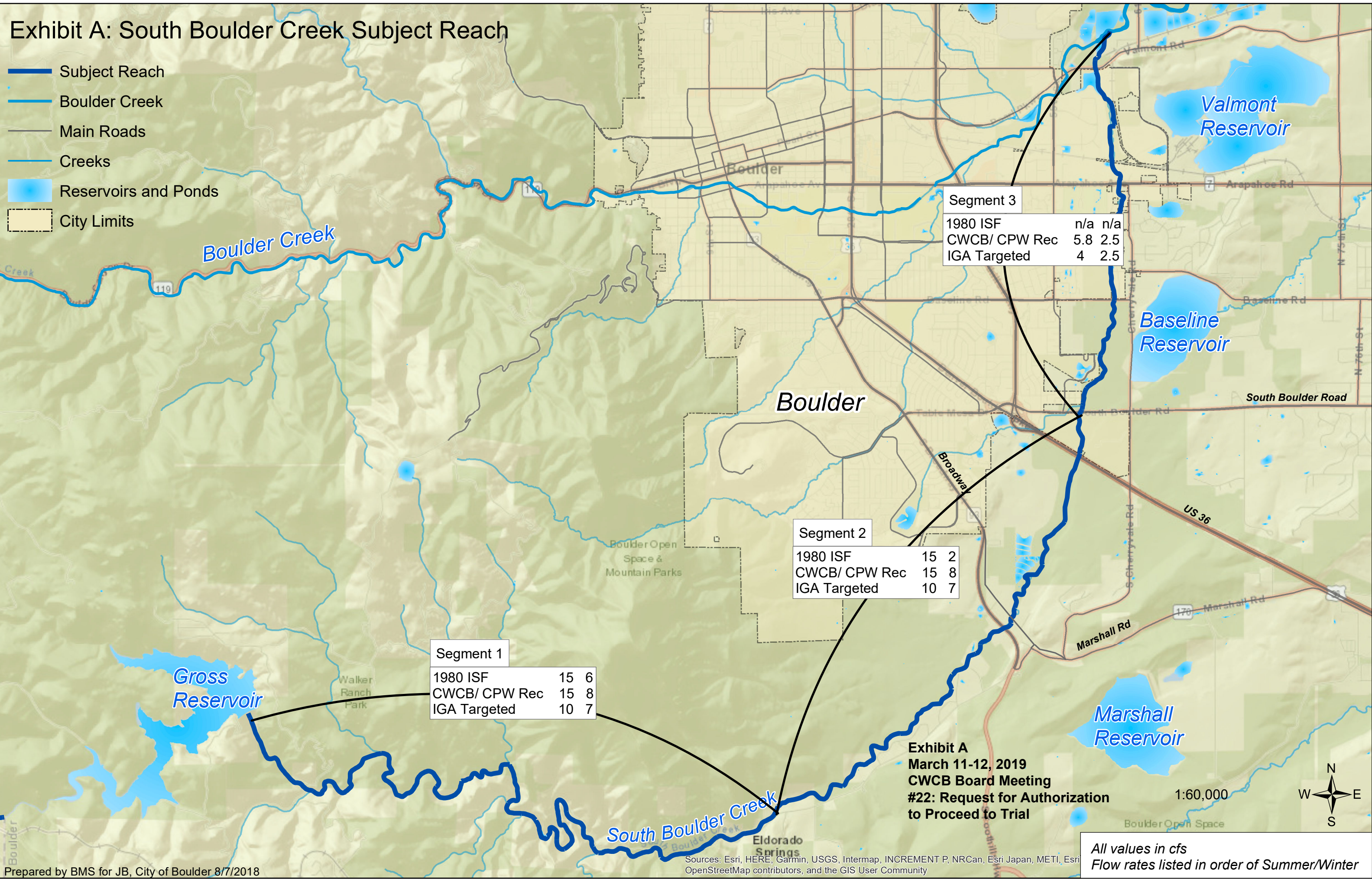


Exhibit A  
March 11-12, 2019  
CWCB Board Meeting  
#22: Request for Authorization  
to Proceed to Trial

All values in cfs  
Flow rates listed in order of Summer/Winter