



**COLORADO**

**Colorado Water  
Conservation Board**

Department of Natural Resources

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Jared Polis, Governor

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**TO:** Colorado Water Conservation Board Members

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

**DATE:** January 25-26, 2021 Board Meeting

**AGENDA ITEM:** # 16. Request for Authorization to Proceed to Trial in Case No.  
17CW3212 (Water Division 1) (Application of City of Lafayette, City of  
Boulder, and Colorado Water Conservation Board)

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This case is set for a 5-day trial beginning on March 1, 2021. The parties are discussing settlement options and preparing for trial on a parallel track. Staff and Attorney General's Office intend to discuss litigation strategy and settlement options with the Board in Executive Session.

#### **Background:**

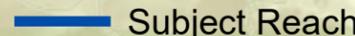
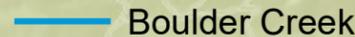
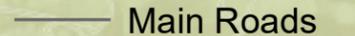
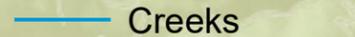
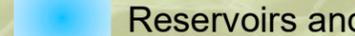
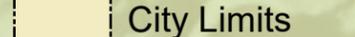
In this case, CWCB originally filed a Statement of Opposition. However, because the CWCB acquired an interest in water from the City of Boulder which is part of this case, the parties agreed to realign the CWCB's party status from opposer to co-applicant for the purpose of obtaining a decreed right to use releases of the water storage right claimed in this case for instream flow purposes under the Water Delivery Agreement between the City of Boulder and the CWCB. On July 15, 2019, the Court granted the unopposed Motion to remove CWCB as an opposer in this case, 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 instream flow purposes in accordance with the Agreement between Boulder and the CWCB.

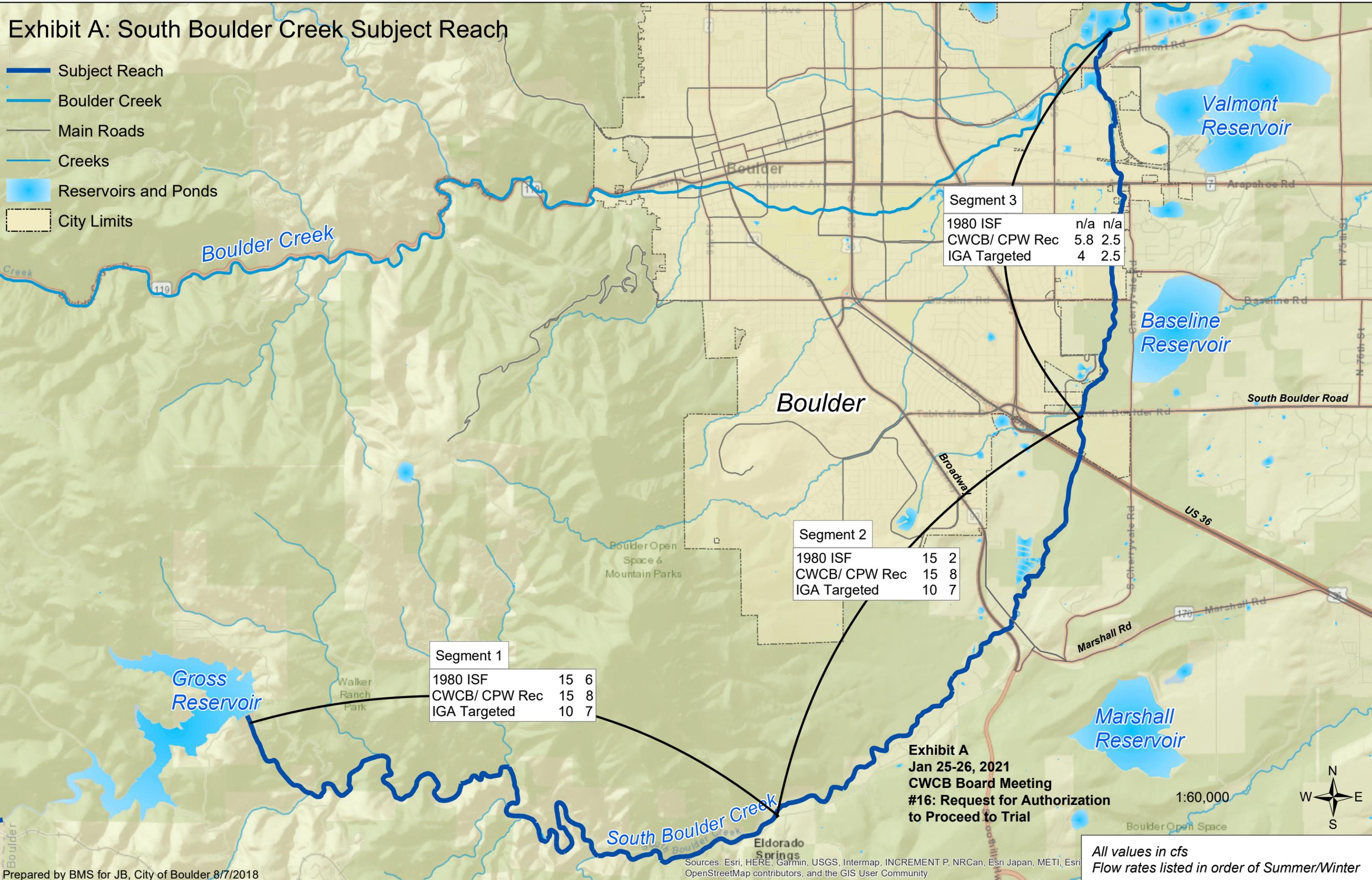
#### **Staff Recommendation:**

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



# Exhibit A: South Boulder Creek Subject Reach

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



**Segment 1**

1980 ISF	15	6
CWCB/ CPW Rec	15	8
IGA Targeted	10	7

**Segment 2**

1980 ISF	15	2
CWCB/ CPW Rec	15	8
IGA Targeted	10	7

**Segment 3**

1980 ISF	n/a	n/a
CWCB/ CPW Rec	5.8	2.5
IGA Targeted	4	2.5

**Exhibit A**  
**Jan 25-26, 2021**  
**CWCB Board Meeting**  
**#16: Request for Authorization**  
**to Proceed to Trial**

1:60,000



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