



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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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: November 21, 2019

AGENDA ITEM: # 24. Request for Authorization to Proceed to Trial in Case No.
16CW3193 (Water Division 1) (Application of United States of America,
Bureau of Reclamation)

This case is set for a 3-day trial beginning on January 21, 2020. 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. The CWCB filed a Statement of Opposition on 02/28/2017 to protect its instream flow (ISF) water rights on the Big Thompson River.

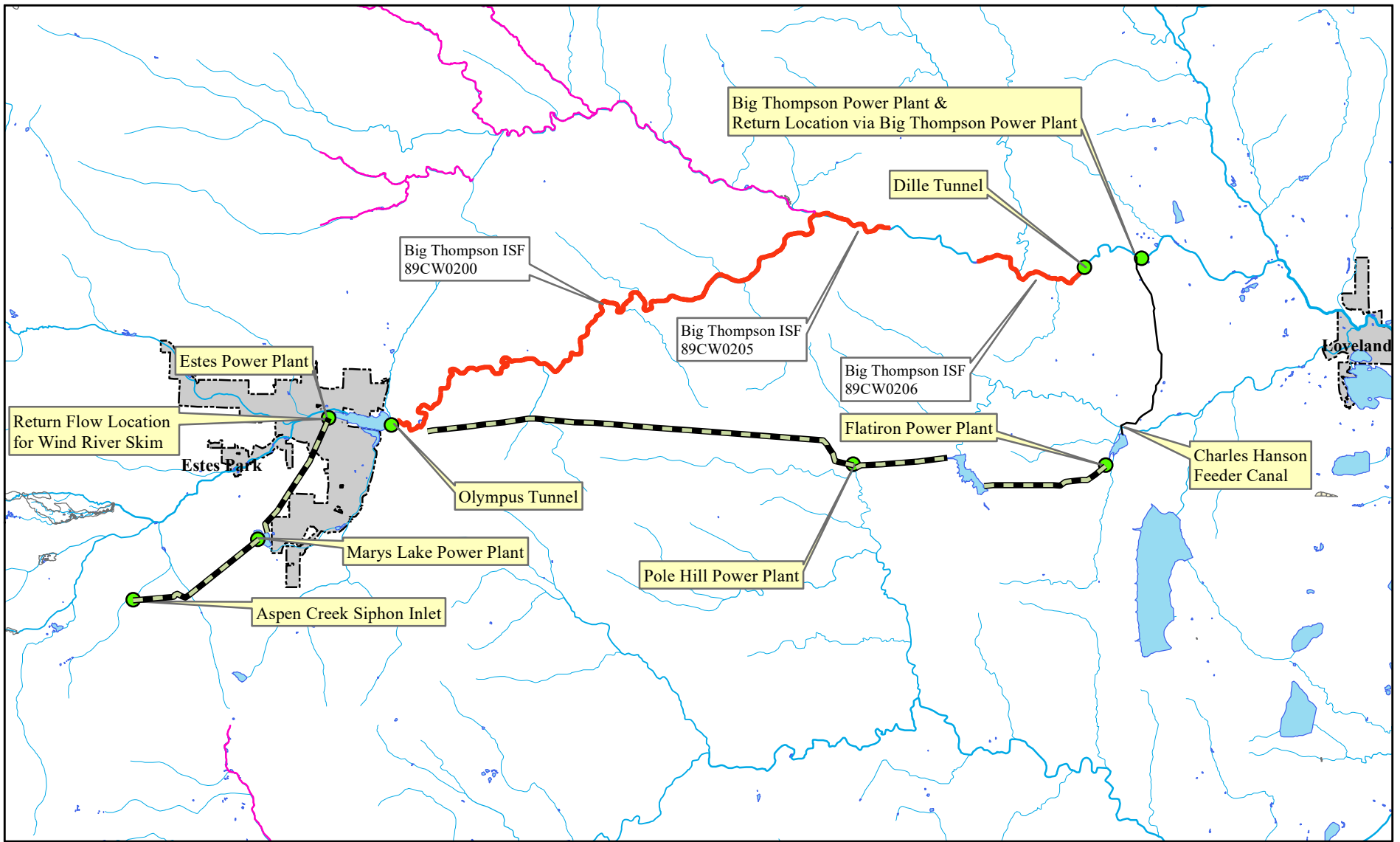
Background:

In this case, Applicant, United States Bureau of Reclamation (USBR), requests new absolute water rights for hydroelectric power using native flows in the Big Thompson Basin with senior appropriation dates. Certain ISF water rights could be administered subject to the existing practices under C.R.S. 37-92-102(3)(b), so long as the existing practices are identified in the decree. CWCB staff and USBR have been working together to collect information in order to document the existing practices at the time of the ISF appropriations in 1989.

Staff 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 Applicant before trial.





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November 20-21, 2019 CWCB Board Meeting
 Agenda Item #24: Request for Authorization to Proceed to Trial
 Case No. 16CW3193 (Water Division 1)
 USA - Bureau of Reclamation

