

**Consent Agenda Item 1.a**

May 19-20, 2021 Board Meeting

Case No. 21CW3018 (Water Division 1); St. Vrain & Left Hand Water Conservancy District

**Summary of Water Court Application**

Application for amendment to augmentation plan.

**Staff Recommendation**

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in April 2021 to protect CWCB's instream flow water rights.

**CWCB Instream Flow Water Rights**

The CWCB holds water rights, including the following instream flow water rights in Water Division 1 in the St. Vrain Creek Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-9361 (1978)	Middle St. Vrain Creek	confl Coney Creek	Forest Service boundary	12 (1/1 - 12/31)	7/11/1978
W-9362 (1978)	South St. Vrain Creek	outlet Long Lake	confl Middle St. Vrain Creek	8 (1/1 - 12/31)	7/11/1978
W-9363 (1978)	North St. Vrain Creek	National Park boundary	confl Button Rock Res	14 (1/1 - 12/31)	7/11/1978
W-9377 (1978)	Coney Creek	outlet Coney Lake	confl Middle St. Vrain Creek	3 (1/1 - 12/31)	7/11/1978
W-9378 (1978)	Beaver Creek	headwaters	confl Beaver Res	3 (1/1 - 12/31)	7/11/1978
W-9379 (1978)	James Creek	west boundary S34,T2N,R72W	confl Left Hand Creek	4 (1/1 - 12/31)	7/11/1978
79CW01	Cabin Creek	confl Tahosa Creek	confl North St. Vrain Creek	5 (1/1 - 12/31)	9/19/1978
79CW02	Tahosa Creek	headwaters	confl Cabin Creek	2 (1/1 - 12/31)	9/19/1978
79CW199	Cabin Creek	headwaters	confl Tahosa Creek	2 (1/1 - 12/31)	3/14/1979
86CW301	Left Hand Creek	confl unnamed tributary	confl Spring Gulch	1 (1/1 - 12/31)	9/5/1986
86CW342	Left Hand Creek	confl James Creek	hdgt Lake Ditch div	14 (5/1 - 7/31) 7 (8/1 - 9/30) 3 (10/1 - 3/31) 7 (4/1 - 4/30)	9/5/1986
87CW278	South St. Vrain Creek	confl Middle St Vrain Creek	hdgt Longmont div	12 (10/1 - 11/30) 7 (12/1 - 3/31) 20 (4/1 - 9/30)	12/11/1987

87CW280	Roaring Fork Creek	National Park boundary	confl Cabin Creek	0.5 (11/1 - 4/30) 1 (5/1 - 10/31)	12/11/1987
87CW281	Middle St. Vrain Creek	Forest Service boundary	confl South St. Vrain Creek	5 (11/1 - 3/31) 8 (4/1 - 10/31)	12/11/1987
87CW282	North St. Vrain Creek	unnamed trib d/s of Buttonrock Dam	confl South St. Vrain Creek	3 (1/1 - 3/31) 8 (4/1 - 4/30) 21 (5/1 - 7/31) 14 (8/1 - 8/31) 8 (9/1 - 10/14) 6 (10/15 - 10/24) 4 (10/25 - 10/31) 3 (11/1 - 12/31)	12/11/1987
87CW283	South St. Vrain Creek	hdgt Longmont div	confl North St. Vrain Creek	12 (10/1 - 11/30) 4 (12/1 - 3/31) 20 (4/1 - 9/30)	12/11/1987
87CW288	Mitchell Creek	outlet Mitchell Lake	inlet Brainard Lake	1.5 (11/1 - 4/30) 3 (5/1 - 10/31)	12/11/1987
87CW289	Beaver Creek	outlet Beaver Res	confl South St. Vrain Creek	1.5 (1/1 - 12/31)	12/11/1987
87CW293	Horse Creek	National Park boundary	confl North St. Vrain Creek	0.75 (1/1 - 12/31)	12/11/1987
95CW261	South St. Vrain Creek	outlet Lake Isabelle	inlet Long Lake	2 (4/1 - 4/30) 5 (5/1 - 8/31) 2 (9/1 - 9/30) 1 (10/1 - 3/31)	7/24/1995
95CW262	Hunters Creek	outlet Kiplinger Lake	confl North St. Vrain Creek	1.5 (4/1 - 4/30) 3.5 (5/1 - 9/15) 1.5 (9/16 - 11/15) 0.75 (11/16 - 3/31)	7/24/1995

### Potential for Injury

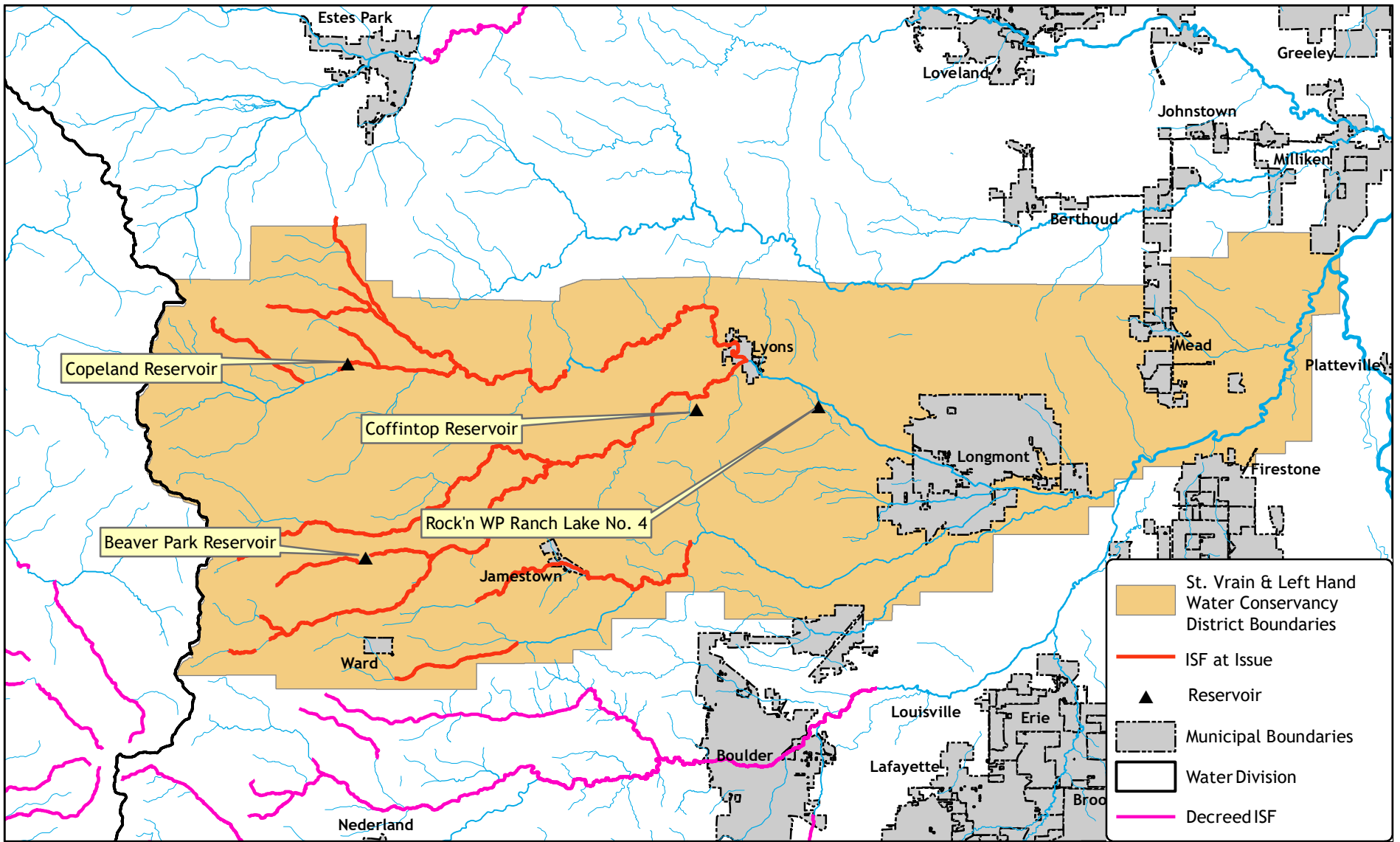
- The CWCB was a party in Case No. 02CW334, which decreed the augmentation plan, including exchanges, sought to be amended in the immediate case. Terms are included in the decree entered in Case No. 02CW334 to protect the CWCB's instream flow water rights.
- The proposed amendment to the plan for augmentation may not replace depletions in the proper time, place, and amount, which could injure the CWCB's instream flow water rights.
- Terms and conditions should be included in the decree to ensure that the amended augmentation plan, including exchanges, will not injure the CWCB's instream flow water rights.

**Other Objectors**

Statements of Opposition were also filed by Central Colorado Water Conservancy District, the Ground Water Management Subdistrict of the Central Colorado Water Conservancy District and the Well Augmentation Subdistrict of the Central Colorado Water Conservancy District; County of Boulder; and Public Service Company of Colorado.

**Attorney Representing CWCB**

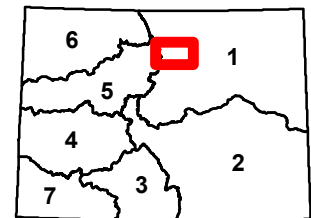
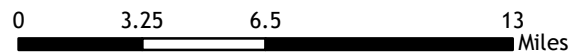
Andrew B. Nicewicz, Assistant Attorney General, is assigned to this case and can be contacted at [andy.nicewicz@coag.gov](mailto:andy.nicewicz@coag.gov), or 720-508-6259.



**COLORADO**  
**Colorado Water Conservancy Board**

Department of Natural Resources

May 19-20, 2021 CWCB Board Meeting  
 Consent Agenda Item 1.a Statement of Opposition  
 Case No. 21CW3018 (Water Division 1)  
 Application of St. Vrain & Left Hand Water Conservancy District



**DISTRICT COURT, WATER DIVISION 1, COLORADO  
FEBRUARY 2021 WATER RESUME PUBLICATION**

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TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN WATER DIV. 1

Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right applications and certain amendments filed in the Office of the Water Clerk during the month of **FEBRUARY 2021** for each County affected.

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**21CW3018 (02CW334) ST. VRAIN & LEFT HAND WATER CONSERVANCY DISTRICT (“DISTRICT”),** c/o Sean T. Cronin, Executive Director, 9595 Nelson Road, Box C, Suite 203, Longmont, CO 80501, (303) 772-4060, [sean.cronin@svlhwcd.org](mailto:sean.cronin@svlhwcd.org). Please serve all pleadings on: Scott E. Holwick, Kara N. Godbehere, Anthony J. Basile, Lyons Gaddis Kahn Hall Jeffers Dworak & Grant, PC, P.O. Box 978, Longmont, CO 80502-0978, (303) 776-9900. **APPLICATION FOR AMENDMENT TO AUGMENTATION PLAN in BOULDER AND LARIMER COUNTIES.**

**2. Augmentation Plan to be Amended:** The decree adjudicating the District’s augmentation plan (“Augmentation Plan”) was entered on December 19, 2007 in Case No. 02CW334, Water Division No. 1 (“02CW334 Decree”). A copy of the decree is included with this application as **Appendix A.**

**3. Proposed Amendment to Add Procedures to Allow Other Water Rights to be Used for Augmentation:** The District requests an amendment to the 02CW334 Decree to include procedures by which to allow the District to use additional or alternative sources of augmentation and replacement water pursuant to §37-92-305(8), C.R.S., including but not limited to other water rights owned or acquired by the District or leased by the District in the future, which are decreed for use as augmentation or replacement water.

**4. Statement of Amended Plan for Augmentation:** The District augments all out-of-priority depletions from diversions included in the Augmentation Plan as described in Section 7 of the 02CW334 Decree. All depletions covered by the Augmentation Plan occur within the District’s boundaries which are identified on the map included with this application as **Appendix B.** At present, the District delivers augmentation water comprised from most of the eight (8) augmentation sources claimed in Section 6 of the 02CW334 Decree. One such source, Lake No. 4, a lined reservoir, was substantially damaged during the 2013 flood-event in Boulder County. The District’s inability to use Lake No. 4 as an augmentation source during its lengthy repair required the District to request temporary substitute water supply plans for multiple years to ensure continued operation of the Augmentation Plan.

The requested amendment to the 02CW334 Decree to include procedures by which to allow additional or alternative sources of augmentation and replacement water to the Augmentation Plan will provide the District with a potential safety factor of available supply as well as operational flexibility to ensure future operation of the Augmentation Plan. The proposed additional or alternative sources of augmentation and replacement water will be water rights separately decreed for such uses. The District shall be responsible for accounting for the additional or alternative sources of augmentation and replacement water in the Augmentation Plan’s accounting. Except for amending the 02CW334 Decree to add procedures by which to allow the District to use additional or alternative sources of augmentation and replacement water, this application to amend the 02CW334 Decree shall not otherwise modify, amend, or supersede the 02CW334 Decree or the operation of the District’s augmentation plan thereunder in any way.

**5. Name(s) and address(es) of owner(s) of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored:** None. DATED: March 11, 2021.

Application is 2 pages with 2 exhibits.

**Attachment  
Consent Agenda Item 1.a  
May 19-20, 2021**

WATER RIGHTS CLAIMED OR HERETOFORE ADJUDICATED THE WATER RIGHTS CLAIMED BY THESE APPLICATIONS MAY AFFECT IN PRIORITY ANY WITHIN THIS DIVISION AND OWNERS OF AFFECTED RIGHTS MUST APPEAR TO OBJECT WITHIN THE TIME PROVIDED BY STATUTE OR BE FOREVER BARRED.

YOU ARE HEREBY NOTIFIED that any party who wishes to oppose an application, or an amended application, may file with the Water Clerk, P. O. Box 2038, Greeley, CO 80632, a verified Statement of Opposition, setting forth facts as to why the application should not be granted, or why it should be granted only in part or on certain conditions. Such Statement of Opposition must be filed by the last day of **APRIL 2021** (forms available on [www.courts.state.co.us](http://www.courts.state.co.us) or in the Clerk's office) and must be filed as an Original and include **\$192.00** filing fee. A copy of each Statement of Opposition must also be served upon the Applicant or Applicant's Attorney and an affidavit or certificate of such service of mailing shall be filed with the Water Clerk.