



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Kaylea White, Senior Water Resource Specialist
Pete Conovitz, Water Resource Specialist
Stream and Lake Protection Section

DATE: March 15-16, 2022 Board Meeting

AGENDA ITEM: 11. Cache la Poudre Stream Flow Augmentation Plan, Case No. 21CW3056 (Water Division 1)

Staff Recommendation

Staff recommends that the Board:

- A. Correct a clerical error in the Board's determination during the January 25-26, 2021 Board meeting. The correction is to the maximum winter instream flow improve rate for Segment D from 35 cfs to 40 cfs for the Poudre Stream Flow Augmentation Plan, as shown on Table 2 below, and
- B. Direct Staff to correct the flow rate as necessary on documents related to the acquired water to be used in the plan, court documents, and any other related documents that might require correction.

Introduction

The Board previously made determinations regarding the appropriate flow rates to preserve and improve the natural environment to a reasonable degree for six stream segments on the Cache la Poudre River. The Board's determinations were made during the January 2021 Board meeting after a public comment period and a board workshop. The documents included in the board packet and presentations, including the documents related to CPW's recommendation as well as the engineering report and presentation documents, contained the correct flow recommendation maximum rate of 40 cfs as the winter improve rate for segment D. However, an oversight in the Board memos summarizing the recommended flow rates inadvertently included a maximum rate of 35 cfs for the Segment D winter improve rate.

The location map attached to the January 2021 Board memo contained the correct recommendation rate of 40 cfs for Segment D, see attached **Exhibit 1**. The two tables included in the previous board memos are shown below. Table 1 includes a description of the six stream segments, and Table 2 contains the recommended flow rates with the requested correction shown in redline.



**Table 1
 Segment Upper and Lower Termini**

Segment	Upper Terminus	Lower Terminus
A	Canyon Gage	Larimer and Weld Canal Diversion
B	Larimer and Weld Canal Diversion	Spring Creek Confluence
C	Spring Creek Confluence	New Cache la Poudre Ditch Diversion
D	New Cache la Poudre Ditch Diversion	County Road 17 Crossing
E	County Road 17 Crossing	59 th Avenue Bridge
F	59 th Avenue Bridge	South Platte River Confluence

**Table 2
 CPW Flow Quantification Seasonal Recommendations**

Segment	Winter (Nov - March) Preserve (cfs)	Winter (Nov - March) Improve (cfs)	Summer (Apr - Oct) Preserve (cfs)	Summer (Apr - Oct) Improve (cfs)
A	Up to 80	80 - 150	Up to 114	114 - 260
B	Up to 80	80 - 150	Up to 114	114 - 260
C	Up to 30	30 - 54	Up to 40	40 - 54
D	Up to 10	10 - 40 35	Up to 10	10 - 40
E	Up to 15	15 - 30	Up to 15	15 - 30
F	Up to 15	15 - 30	Up to 15	15 - 30

Table 2 in the board memos had the incorrect number (35 cfs), however the attachments to the memos and the Board presentations had the correct number (40 cfs). The related board agenda items include: items 23, 23a, 23b, and 23c from November 2020; and items 18, 18a, 18b, and 18c from January 2021. The January Board meeting minutes for agenda item 18 refer to the table in general. See minutes attached as **Exhibit 2**.

Exhibits

Exhibit 1: Location Map (Previously Exhibit 1, Agenda Item 18, January 25-26, 2021)

Exhibit 2: January 25-26, 2021 Board Minutes, Item 18

R 70 W

R 69 W

R 68 W

Augmented Segments and Preserve/Improve Flow Rates (cfs)

Segment	Description	Winter (Nov 1 - Mar 31)		Summer (Apr 1 - Oct 31)	
		Preserve	Improve	Preserve	Improve
A	Canyon Gage to Larimer and Weld Canal Diversion	Up to 80	80 - 150	Up to 114	114 - 260
B	Larimer and Weld Canal Diversion to Spring Creek Confluence	Up to 80	80 - 150	Up to 114	114 - 260
C	Spring Creek Confluence to New Cache la Poudre Ditch Diversion	Up to 30	30 - 54	Up to 40	40 - 54
D	New Cache la Poudre Ditch Diversion to County Road 17 Crossing	Up to 10	10 - 40	Up to 10	10 - 40
E	County Road 17 Crossing to 59th Avenue Bridge	Up to 15	15 - 30	Up to 15	15 - 30
F	59th Avenue Bridge to South Platte River Confluence	Up to 15	15 - 30	Up to 15	15 - 30

Source: Colorado Parks and Wildlife. 2020. Flow Quantification Report for the Cache la Poudre River in Larimer and Weld Counties.

Note: Seed water reaches represent the reach between the uppermost point of introduction and lowermost point of withdrawal/use (not including potential leases of water further downstream).

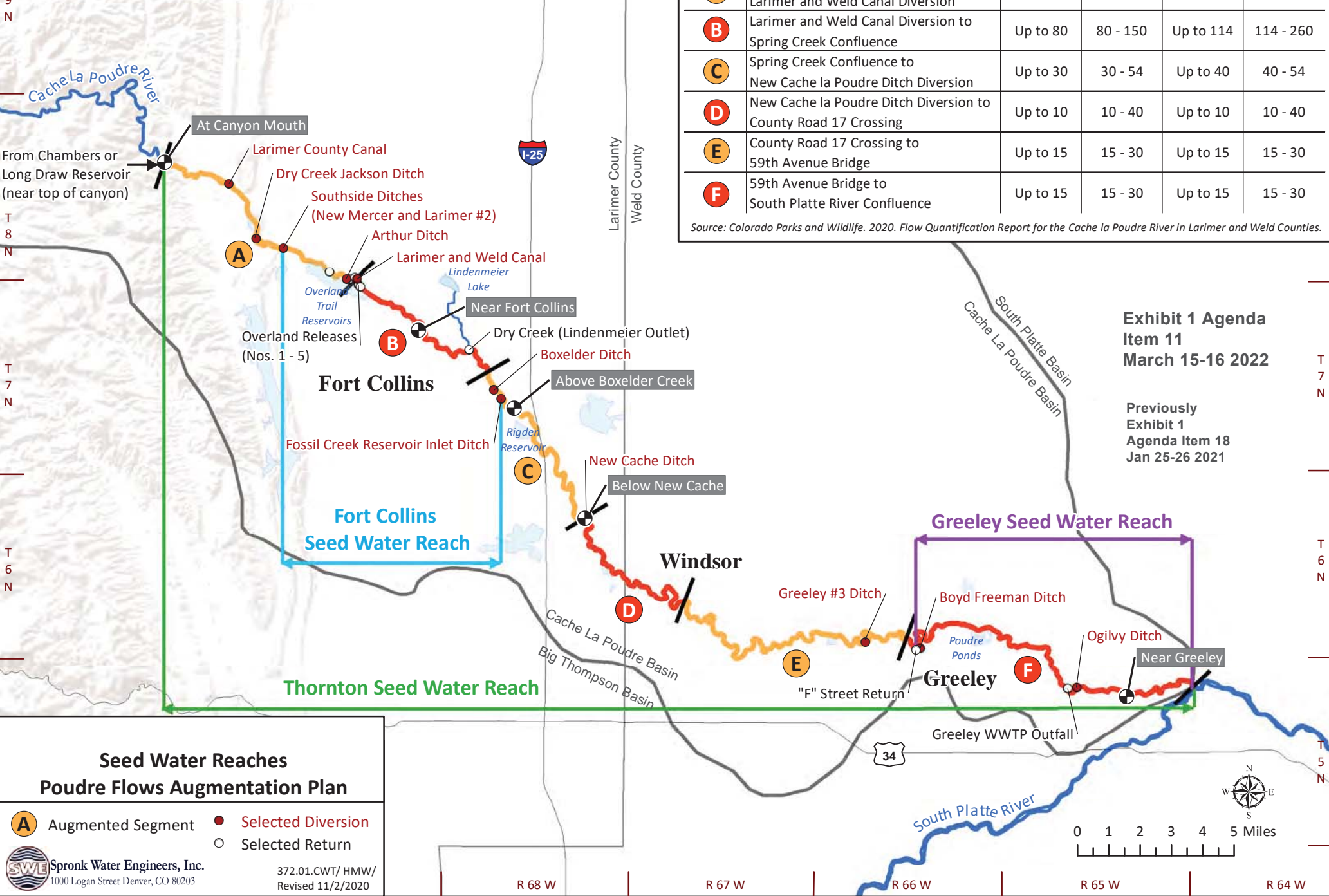


Exhibit 1 Agenda Item 11
March 15-16 2022

Previously Exhibit 1
Agenda Item 18
Jan 25-26 2021

Seed Water Reaches Poudre Flows Augmentation Plan

- A** Augmented Segment
- Selected Diversion
- Selected Return

Spromk Water Engineers, Inc.
1000 Logan Street Denver, CO 80203

372.01.CWT/ HMW/
Revised 11/2/2020



R 68 W

R 67 W

R 66 W

R 65 W

R 64 W

T 8 N

T 7 N

T 6 N

T 7 N

T 6 N

T 5 N



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FINAL
Summary Minutes and Record of Decisions
January 25 & 26, 2021 Board Meeting

A regular meeting of the Colorado Water Conservation Board (CWCB) convened virtually. The meeting was called to order by Chair Celene Hawkins. Nine voting members were present at the call to order, so a quorum was present (at least 6 required). Voting members present were: Jim Yahn, Greg Felt, Heather Dutton, Celene Hawkins, Steven Anderson, Jaclyn Brown, Gail Schwartz, Jessica Brody, and Curran Trick, and ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources. Non-voting ex officio members present or represented were: Phil Weiser, Attorney General; Dan Prenzlou, Colorado Parks and Wildlife; Kate Greenberg, Department of Agriculture Commissioner; Kevin Rein, State Engineer; Russell George, Director of Compact Negotiations; and Rebecca Mitchell, Colorado Water Conservation Board Director. Counsel to the Board, Deputy Attorney General Amy Beatie, was also in attendance.

On the second day, the meeting was called to order by Vice Chair Jessica Brody. Eight voting members were present at the call to order, so a quorum was present (at least 6 required). The voting members present were: Jaclyn Brown, Gail Schwartz, Jessica Brody, Steven Anderson, Curran Trick, Jim Yahn, Greg Felt, and Heather Dutton; Celene Hawkins joined the meeting after the Instream Flow Hearing. Ex-officio voting member Dan Gibbs, Executive Director of the Department of Natural Resources was not present. Non-voting ex officio members present or represented were: Robert Harris, Colorado Parks and Wildlife; Kevin Rein, State Engineer; Russell George, Director of Compact Negotiations; and Rebecca Mitchell, Colorado Water Conservation Board Director. Counsel to the Board, Deputy Attorney General Amy Beatie, was also in attendance.

Exhibit 2
Agenda Item 11
March 15-16, 2022



Div	Stream	Watershed	County	Length (miles)	Upper Terminus	Lower Terminus	Flow Rate, cfs/Timing
1	Dry Gulch	Clear Creek	Clear Creek	2.83	headwaters	confluence Clear Creek	0.67 (01/01 - 04/30) 5.4 (05/01 - 07/31) 2 (08/01 - 09/30) 0.85 (10/01 - 12/31)
1	North Fork Little Thompson River	Big Thompson	Larimer	3.77	confluence Hell Canyon Creek	confluence Little Thompson River	5 (04/25 - 06/10) 2 (06/11 - 06/30)
1	Redstone Creek	Big Thompson	Larimer	16.3	headwaters	confluence Buckhorn Creek	6.2 (05/01 - 06/15)
4	Elk Creek	East-Taylor	Gunnison	2.66	headwaters	confluence Coal Creek	0.2 (08/16 - 04/30) 1.5 (05/01 - 07/10) 0.65 (07/11 - 08/15)
7	Rincon La Vaca Creek	Upper San Juan	Hinsdale	4.47	headwaters	confluence Los Pinos River	1.2 (11/01 - 04/30) 2.8 (05/01 - 10/31)

18 Plan for Augmentation to Augment Stream Flows on the Cache la Poudre River (Water Division 1)

Stream and Lake Protection Section

Action: Report by CWCB staff members Linda Bassi and Kaylea White. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

Staff Recommendation: Determine that the flow rates recommended by CPW and set forth in Table 2 in this memo, which will be included in the water court application are appropriate to preserve and improve the natural environment to a reasonable degree within the Subject Reach of the Cache la Poudre River as set forth in Table 2; and • Direct Staff to work with the Attorney General's Office and the Co-Applicants to file a water court application for “approval of a plan for augmentation to augment stream flows” in accordance with 37-92-102(4.5), the new statute governing the CWCB’s water court applications for plans for augmentation to augment stream flows.

18a. Proposed Acquisition of Contractual Interest in City of Fort Collins “Seed Water Rights” for Use in Plan for Augmentation to Augment Stream Flows on the Cache la Poudre River

Action: Report by CWCB staff member Kaylea White. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Jackie Brown. The motion was approved unanimously (9-0).

Staff Recommendation: Conclude that use of the water under the proposed Fort Collins seed water rights acquisition is appropriate to preserve and improve the natural environment of the Cache la Poudre River to a reasonable degree up to the flow rates recommended by Colorado Parks and Wildlife set forth in Table 1 herein, and would be best utilized by

protecting the water through the specified segments of the Subject Reach, consistent with the terms and conditions in the underlying decrees, and consistent with terms and conditions in the ultimate augmentation plan decree; • Accept the interests in water and authorize the CWCB Director to execute the seed water “Water Delivery Agreement” in a form substantially similar to the drafts attached to the board memos; and • Direct Staff to work with the Attorney General's Office and the Co Applicants to include this seed water right in the water court application for “approval of a plan for augmentation to augment stream flows” in accordance with 37-92-102(4.5), the new statute governing the CWCB’s water court applications for plans for augmentation to augment stream flows.

18b. Proposed Acquisition of Contractual Interest in City of Greeley “Seed Water Rights” for Use in Plan for Augmentation to Augment Stream Flows on the Cache la Poudre River

Action: Report by CWCB staff member Kaylea White. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Gail Schwarz. The motion was approved unanimously (9-0).

Staff Recommendation: Conclude that use of the water under the proposed Greeley seed water rights acquisition is appropriate to preserve and improve the natural environment of the Cache la Poudre River to a reasonable degree up to the flow rates recommended by Colorado Parks and Wildlife set forth in Table 1 herein, and would be best utilized by protecting the water through the specified segments of the Subject Reach, consistent with the terms and conditions in the underlying decrees, and consistent with terms and conditions in the ultimate augmentation plan decree; • Accept the interests in water and authorize the CWCB Director to execute the seed water “Water Delivery Agreement” in a form substantially similar to the drafts attached to the board memos; and • Direct Staff to work with the Attorney General's Office and the Co-Applicants to include this seed water right in the water court application for “approval of a plan for augmentation to augment stream flows” in accordance with 37-92-102(4.5), the new statute governing the CWCB’s water court applications for plans for augmentation to augment stream flows.

18c. Proposed Acquisition of Contractual Interest in City of Thornton “Seed Water Rights” for Use in Plan for Augmentation to Augment Stream Flows on the Cache la Poudre River

Action: Report by CWCB staff member Kaylea White. A motion to approve the staff recommendation was made by Jim Yahn, which was seconded by Heather Dutton. The motion was approved unanimously (9-0).

Staff Recommendation: Conclude that use of the water under the proposed Thornton seed water rights acquisition is appropriate to preserve and improve the natural environment of the Cache la Poudre River to a reasonable degree up to the flow rates recommended by Colorado Parks and Wildlife set forth in Table 1 herein, and would be best utilized by protecting the water through the specified segments of the Subject Reach, consistent with the terms and conditions in the underlying decrees, and consistent with terms and conditions in the ultimate augmentation plan decree; • Accept the interests in water and authorize the CWCB Director to execute the seed water “Water Delivery Agreement” in a form substantially similar to the drafts attached to the board memos; and • Direct Staff to work with the Attorney General's Office and the Co-Applicants to include this seed water right in the water court application for “approval of a plan for augmentation to augment stream flows” in accordance with 37-92-102(4.5), the new statute governing the CWCB’s water court applications for plans for augmentation to augment stream flows.