



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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PUBLIC NOTICE

TO: Subscribers,
Div. 1 Instream Flow Subscription Mailing List (*via email*)
Div. 1 State Engineer's Substitute Water Supply Plan Notification List for Water
Division 1 (*via email*)

DATE: November 10, 2020

RE: Plan for Augmentation to Augment Stream Flows on the Cache la Poudre River and
Proposed Acquisitions of Contractual Interests in Water Rights (Water Div. 1) from the
Cities of Fort Collins, Greeley, and Thornton, in Larimer and Weld Counties.

At its [November 18-19, 2020 meeting \(virtual meeting\)](#), the Colorado Water Conservation Board ("CWCB" or "Board") will evaluate a proposal for a plan for augmentation to augment stream flows through a section of the Cache la Poudre River from the canyon mouth to its confluence with the South Platte River, a distance of approximately 55 miles ("Poudre Flows Plan"). This proposal, developed by water users on the Cache la Poudre River in partnership with CWCB staff and the Colorado Water Trust, provides a mechanism to dedicate water rights to preserve and improve the natural environment along a reach of the Cache La Poudre River. The Board also will consider offers from three area municipalities of contractual interests in "Seed Water Rights" as initial sources of augmentation water to be included in the Poudre Flows Plan. The Board will not take formal action on this proposal at this Board meeting.

Consideration of this proposal initiates the 120-day period for Board review pursuant to Rule 6b. of the Board's Rules Concerning the Colorado Instream Flow and Natural Lake Level Program ("ISF Rules"), which became effective on March 2, 2009. ISF Rule 6m(4) provides that any person may request the Board to hold a hearing on the proposed acquisition, and that such request must be filed within twenty days after the Board meeting in which it was presented.

Information concerning the Instream Flow Rules and water acquisitions in general can be found at:

<https://cwcb.colorado.gov/focus-areas/ecosystem-health/instream-flow-program>

The following information concerning the proposed water acquisition is provided pursuant to ISF Rule 6m.(1):

Summary of Proposed Poudre Flows Plan

House Bill 20-1037, codified at 37-92-102(4.5) and 37-92-305(8)(c), C.R.S. (2020), provided direction under which CWCB and co-applicants may file a water court application for a plan for augmentation to augment stream flows. The Poudre Flows Plan, if approved by the Board, would be the first application to be filed under section 37-92-102(4.5) C.R.S. The purpose of the Plan and the Board's acquisition of contractual interests in the Seed Water Rights is to increase and maintain healthy stream flows in the Cache la Poudre River without injury to other water rights, which will improve connectivity and reduce fragmentation of habitat in the River that results from seasonal diversions and natural low flow conditions.

Pursuant to section 37-92-102(4.5), and under the Phase II MOA, the CWCB and its partners would file a joint application in water court to request approval of the Poudre Flows Plan to be captioned "Application for Approval of a Plan for Augmentation to Augment Stream Flows Pursuant to section 37-92-102(4.5) on the Cache la Poudre River." The water court application would include a detailed description of the plan, and a description of each of the offered Seed Water Rights. The water court application would include a process to add augmentation supplies into the Poudre Flows Plan after the decree is entered, pursuant to section 37-92-305(8)(c).

As required by the new augmentation statute, section 37-92-102(4.5), the water rights to be used in the Poudre Flows Plan must have already been changed to augmentation use and the historical consumptive use must have been quantified in water court. Once approved by the Board and after entering into Water Delivery Agreements, water users would make water available to the CWCB for use in the Subject Reach up to the rates as specified by the Board. The CWCB would request administration as necessary to protect the flows from diversion by others in the reach of stream extending from the point of delivery within the subject reach to the end of the reach, or to the point of re-diversion or re-use, whichever is higher on the system. The water right owner may then bring about the beneficial use of the water downstream of the augmented portion of the Cache la Poudre River. This subsequent use of the delivered water would be authorized by the Poudre Flows Plan water court decree or the underlying decrees for the augmentation supplies. The stream reach to be augmented is segmented into six segments (A-F) representing different biological and hydrological conditions, as shown below.

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

The Board would use the augmentation water to preserve and improve the natural environment to a reasonable degree in the Cache la Poudre River between mouth of the Cache la Poudre canyon through the cities of Fort Collins and Greeley to the confluence with the South Platte River, a distance of approximately 55 miles. Based on the CPW Flow Quantification Report, the CWCB would use water provided under the Poudre Flows Plan to augment stream flow to preserve and improve the natural environment to a reasonable degree by maintaining flows up to the rates specified in the following Table 2.

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 - 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

Seed Water Rights

Augmentation supplies to help fulfill the stream flow needs in the Cache La Poudre River have been offered by three of the Poudre Flows municipal partners: Fort Collins, Thornton, and Greeley. The water rights offered will constitute "Seed Water Rights," as the first water rights to be used in the stream augmentation plan. The Seed Water Rights are described below:

Fort Collins Seed Water Rights:

Fort Collins has offered to CWCB use of its previously changed and quantified water rights for use in the Poudre Flows Plan ("Subject Water Rights"). The Subject Water Rights are represented by shares in three ditch companies, the Arthur Irrigation Company, the Larimer County Canal No. 2 Irrigating Company, and the New Mercer Ditch Company (together with the Warren Lake Reservoir Company collectively known in the Fort Collins area as the "Southside Ditches" companies; however, Warren Lake Reservoir Company shares are not included in the offered water rights). The Subject Water Rights divert water from the Poudre River upstream of Fort Collins. Water conveyed through the Southside Ditches historically provided irrigation water for farms in the Fort Collins area south of the Poudre River. As the population increased and the lands formerly irrigated by these ditches were developed, Fort Collins began acquiring shares in these companies. Fort Collins changed the use of the Subject Water Rights in Case No. 2005CW323 to augmentation and other uses. The water rights represented by other shares in the Southside Ditches companies were previously changed in other cases, including Case No. 1992CW129.

The term of the Water Delivery Agreement is 20 years from the effective date, with an automatic renewal for another 20 years unless terminated.

Subject Water Rights:

SOUTHSIDE DITCHES, including Arthur Irrigation Company, Larimer County Canal No. 2 Irrigating Company, and the New Mercer Ditch Company ditches.

Source: Cache la Poudre River.

Decree: 05CW0323, Water Division 1.

Appropriation Date: Arthur Irrigation Company (1861-1873); Larimer County Canal No. 2 Irrigating Company (1873), and the New Mercer Ditch Company (1869-1880).

Adjudication Date: Original adjudication Case No. 320 entered on April 11, 1882; Change case 05CW323 was filed on Dec 29, 2005 and entered on April 23, 2015.

Decree Uses: Original uses were irrigation and domestic; changed uses are for various uses including municipal and augmentation.

Decree Amount: Arthur Irrigation Company (11.87 cfs); Larimer County Canal No. 2 Irrigating Company (28.11 cfs), and the New Mercer Ditch Company (14.13 cfs).

Greeley Seed Water Rights:

Greeley has offered to CWCB use of its previously changed and quantified water rights for use in the Poudre Flows Plan ("Subject Water Rights"). The Subject Water Rights consist of Greeley's shares in the Greeley Irrigation Company ("GIC") water rights originally appropriated in the 1870's and adjudicated in 1882, and ultimately changed in Case Nos. 1999CW232 and 2015CW3163. The historical consumptive use of shares in the GIC had been previously quantified on a ditch-wide basis in Case No. 1996CW658. In accordance with that ditch-wide quantification, Greeley changed the type, manner, and use of certain of its GIC shares in Case Nos. 1999CW232 and 2015CW3163. More specifically, Greeley changed these GIC shares to include alternate points of re-diversion and places of storage, and to include a number of additional uses beyond irrigation, including augmentation

The term of the Water Delivery Agreement is 15 years.

Subject Water Rights:

GREELEY IRRIGATION COMPANY

Source: Cache la Poudre River.

Decree: 99CW0232 and 15CW3163, Water Division 1.

Appropriation Date: Original April 1, 1870, First-Third Enlargements 1871-1873.

Adjudication Date: Original adjudication Case No. 320 entered on April 11, 1882; Change case 99CW0232 was filed on Dec 30, 1999 and entered on June 29, 2004; 15CW3163 was filed in 2015.

Decree Uses: Original uses were irrigation and domestic; changed uses are for various uses including municipal and augmentation.

Decreed Amount offered to CWCB: approximately 2,368 acre-feet, up to an average rate of 8.87 cfs and a maximum daily rate of 16.17 cfs.

Thornton Seed Water Rights:

Thornton has offered to CWCB use of its previously changed and quantified water rights for use in the Poudre Flows Plan ("Subject Water Rights"). The Subject Water Rights are represented by some of Thornton's water rights changed in Consolidated Cases No. 86CW401, 86CW402, 86CW403, and 87CW332 ("TNP Decree"). The specific water rights are shares in the Water Supply and Storage Company (WSSC Water Rights) and Jackson Ditch Company (JDC Water Rights) which were changed and quantified in the TNP Decree. All of the Subject Water Rights have been changed to municipal and augmentation use, but not all of the water rights have been converted from the original irrigation use to the new uses under the decrees. Once the water rights are converted under the decrees, then average annual

deliveries to various locations of the Poudre River potentially available for the Poudre ISF Augmentation Plan total 2,268 acre-feet at rates up to 9.52 cfs, as further described in Thornton's Seed Water Letter Report.

The term of the Water Delivery Agreement is perpetual unless terminated as provided for in the Agreement.

Subject Water Rights:

WATER SUPPLY AND STORAGE COMPANY (WSSC) and JACKSON DITCH COMPANY (JDC)

Source: Cache la Poudre River, its tributaries, and transbasin.

Decree: 87CW0332, Water Division 1 (consolidated with 86CW0401, 86CW0402, 86CW0403).

Appropriation Date: Varies from 1862-1982.

Adjudication Date: Original adjudication Case No. 320 entered on April 11, 1882; Change case 87CW0332, was filed in 1987 and consolidated decree was entered after remand from the Colorado Supreme Court on March 9, 1998.

Decree Uses: Original use was irrigation; changed uses are for various uses including municipal and augmentation.

Decrees Amount offered to CWCB: approximately 2,268 acre-feet at rates up to approximately 10 cfs.

Supporting Data:

Available information concerning the purpose of the acquisition and the degree of preservation and improvement of the natural environment, and available scientific data can be found at:

[Agenda Item 23](#)

[Agenda Item 23a](#)

[Agenda Item 23b](#)

[Agenda Item 23c](#)

If you have any questions or comments regarding this proposed water acquisition to preserve and improve the natural environment to a reasonable degree, please contact Linda Bassi or Kaylea White.

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