City of Fort Collins

Fort Collins Natural Areas Department's Poudre River Augmentation Plan (2014CW3176)

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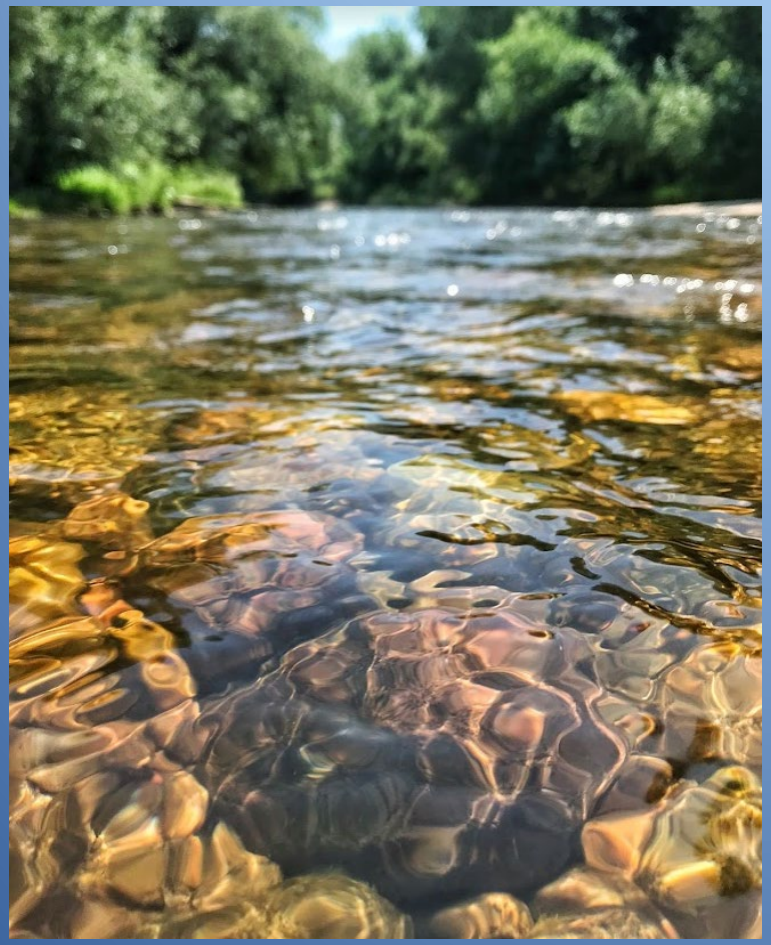
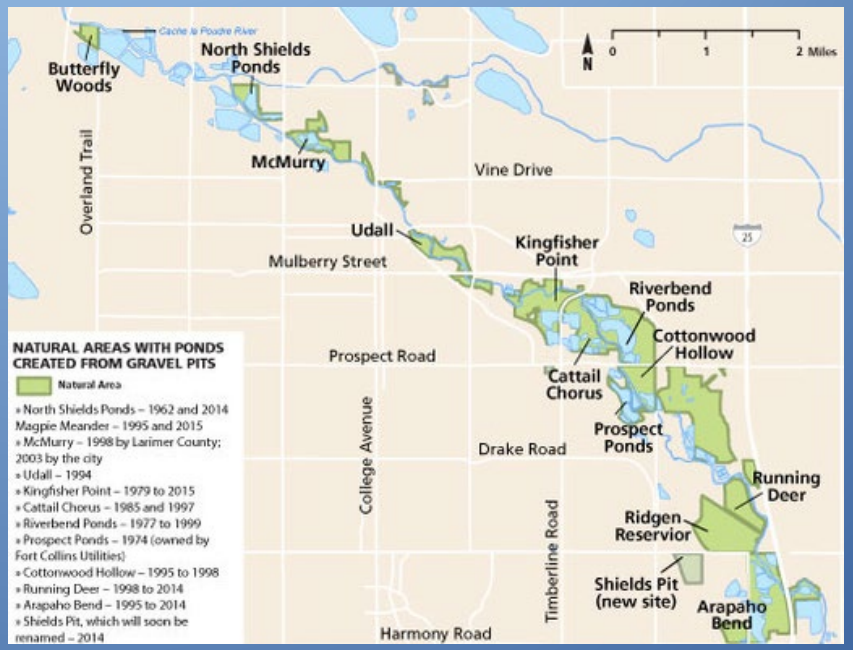
Fort Collins Poudre River Corridor

Poudre River flows through Fort Collins.

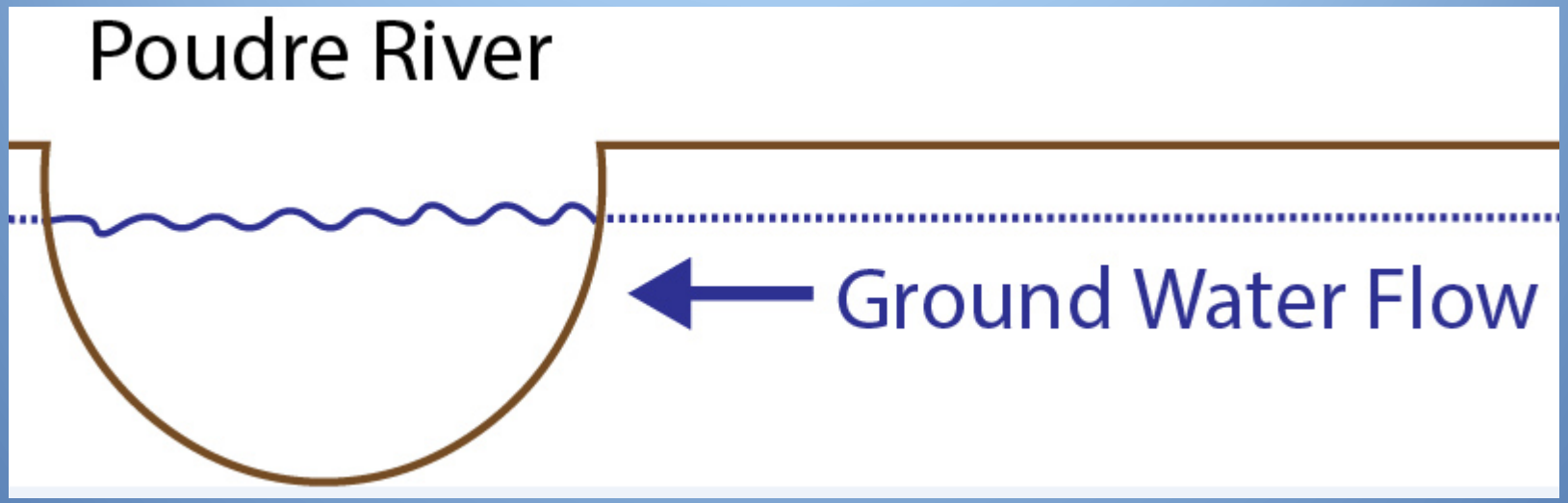


- Fort Collins has acquired numerous parcels along the Poudre River.
- Many parcels were mined; and thus have ponds dug into the alluvium.

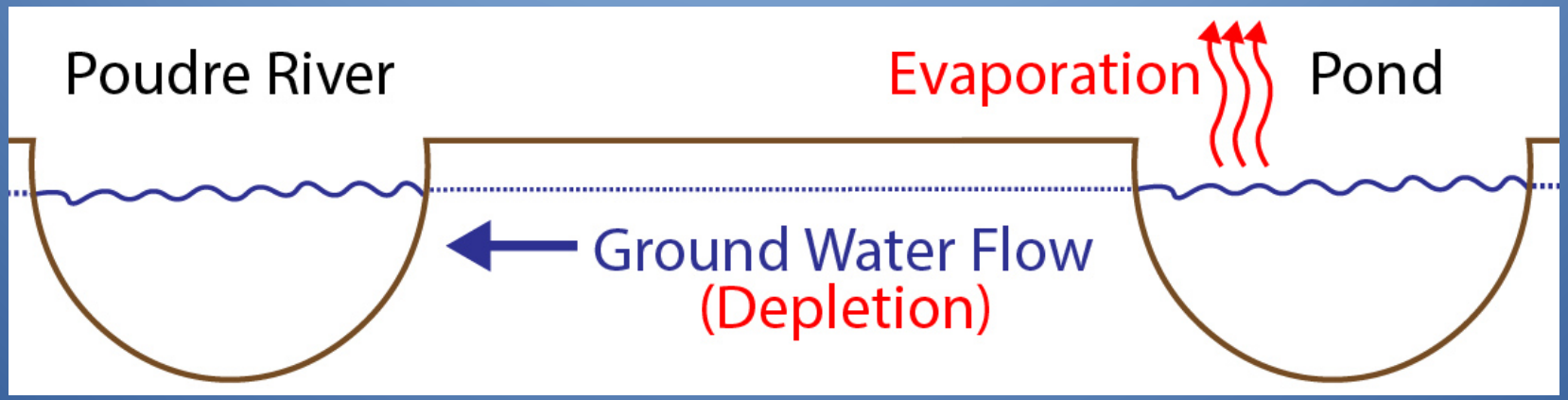


Depletions From Ponds Dug Into the Alluvium

- Alluvial ground water supports stream flows



- Ponds dug into the alluvium consume water



Ponds Dug Into the Alluvium Must Comply With Colorado Water Law

- Use of water from the natural stream is governed by the Prior Appropriation Doctrine.
  - Junior water rights must be curtailed for seniors.
- Ponds dug into the alluvium are “wells” and their evaporative consumption of water is a beneficial use.
  - *Three Bells Ranch Assocs. v. Cache La Poudre Water Users Ass'n*, 758 P.2d 164 (Colo.1988), and *Zigan Sand & Gravel, Inc. v. Cache La Poudre Water Users Ass'n*, 758 P.2d 175 (Colo.1988).
- Ponds either have no water rights, or water rights that are junior to others on the stream.
  - Evaporative consumption of water cannot be curtailed like other water diversions.
  - Depletions to the stream are delayed.

Ways to Have Ponds Comply With Colorado Water Law

- Approved plan to prevent injury to other water rights.
  - Water Court-approved augmentation plan.
  - State Engineer-approved substitute water supply plan (for certain circumstances).
- Senate Bill 120 (1989)
  - Evaporative depletions from gravel pit mining before January 1, 1981 may continue without an approved plan.
  - Constitutional. *Central Colo. Water Conservancy Dist. v. Simpson*, 877 P.2d 335 (Colo. 1994)

Typical Pond Plans to Prevent Injury

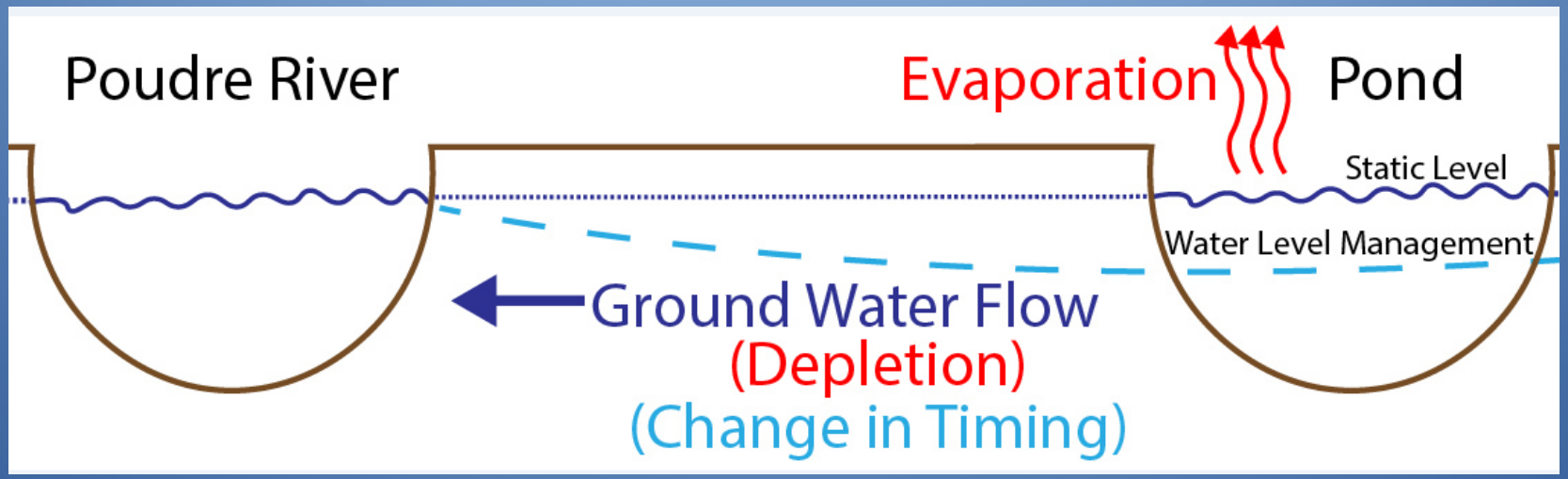
- Depletions are quantified in time, location, and amount.
  - Evaporation from ponds are calculated.
  - Lagged to a point on the stream (Glover method).
  - Daily time step now standard.
- Depletions are replaced with other sources of water.
  - Replacement made to point of depletion.
  - No replacement required if no call (i.e., unsatisfied downstream water right senior to pond's right).
  - Daily replacement typical; some aggregation of replacements may be allowed.
- No purposeful manipulations of water levels in Ponds.
  - Limited ability to manage for wildlife.

Fort Collins' Water Court Case No. 2014CW3176 Overview

- In 2014, Fort Collins filed an application in Water Court:
  - Augmentation plan for 8 Ponds along Poudre River
  - Change of senior irrigation water rights for new use to replace depletions from Ponds.
  - Other, related claims (new water rights, exchanges)
- 18 entities filed "statements of opposition."
  - Opposition varied by entity.
- In October 2017, Fort Collins settled with all entities and the Water Court entered the final decree.
- State Engineer is reviewing proposed accounting forms.

Not Your Typical Augmentation Plan Claim

- Fort Collins Natural Areas Staff wanted to manipulate water levels in up to 6 of the ponds ("Managed Ponds").
  - Moist-Soil Management.
- How to conceptualize and quantify the change in the depletive impact from such manipulations.
  - Amount of additional depletions easy to measure.
  - Change in timing of depletions was a challenge.



2014CW3176 Decree Augmentation Plan

- Evaporative depletions from all ponds quantified, lagged, and replaced on a daily basis; daily data.
- Annual projection of coming year's operations.
- Managed Ponds:
  - No requirement to manipulate water levels.
  - Water pumped out of Managed Ponds to river.
    - Measured and claimed to offset other obligations.
    - Measured discharge is used to determine amount of additional depletions from water level management, and is lagged to the Poudre River.
  - Monitoring of Managed Ponds required.
    - Evapotranspiration of plants in Managed Ponds creates a depletion that is quantified, lagged, and replaced.
- Accounting is required.

Questions?