



Environmental Water in Colorado

Instream Flow Rights and Streamflow Restoration Tools



**COLORADO
WATER TRUST**

COLORADO WATER TRUST

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WATER LITERATE LEADERS

MARCH 2024



WHO WE ARE...

- 💧 Non-profit organization and we work statewide to restore flows to COLORADO'S rivers
- 💧 Formed in 2001 to partner with Colorado's Instream Flow Program and amplify its work
- 💧 Work with water users to put together voluntary transactions to benefit the environment
- 💧 Transactions are tailored for each water right and each water system
- 💧 Work within the prior appropriation system and compensates water rights owners at fair market value



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PART 1 - INSTREAM FLOWS



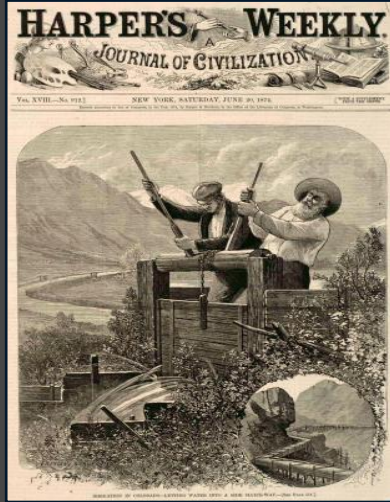
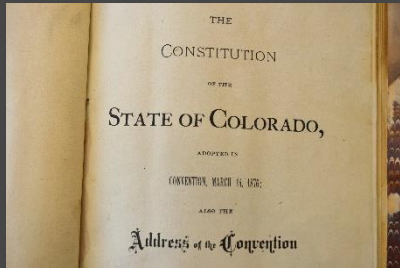
ISF and Minimum Lake Levels
since 1973

COLORADO INSTREAM FLOW PROGRAM

- 💧 Strict prior appropriation, no public trust
- 💧 The Colorado Water Conservation Board (CWCB) has exclusive authority to beneficial use of instream flow
- 💧 CWCB may **APPROPRIATE** water rights to preserve the environment to a reasonable degree
- 💧 CWCB may **ACQUIRE** water rights to preserve or improve the natural environment to a reasonable degree



History is Preamble



1876

1878

Cache La Poudre Conflict

1903

...70 years...

1973

Colorado Water Conservation Board

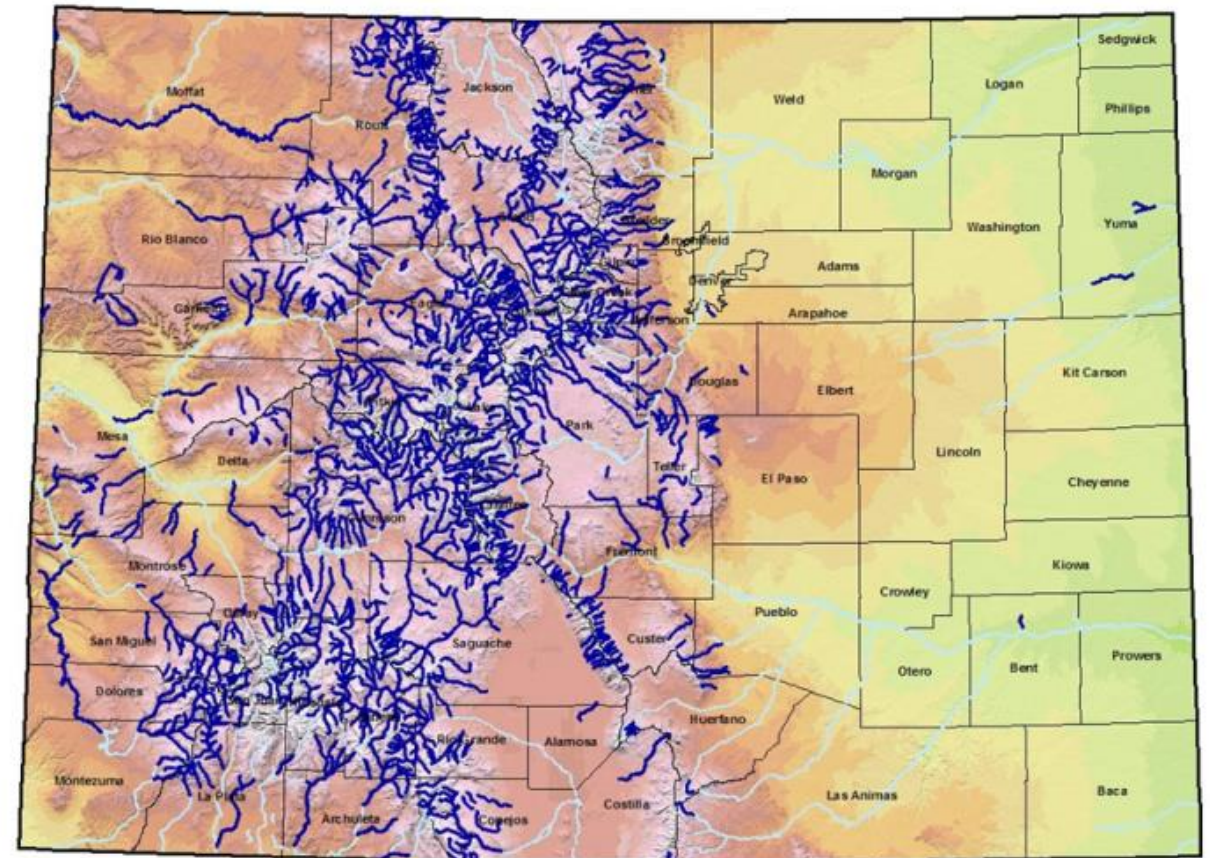
CWCB is the state agency with exclusive authority to obtain instream flow water rights and minimum lake level rights.

There are administrative and judicial processes to go through to establish an ISF.

CWCB gains ISF water rights in 2 ways:

1. **Appropriation**: only via water court; NEW junior water right; Preserve rates only; 2,000+
2. **Acquisition**: Existing (senior) rights changed and used for ISF; temporary or permanent; judicial and/or administrative approval; Preserve and improve rates; <50

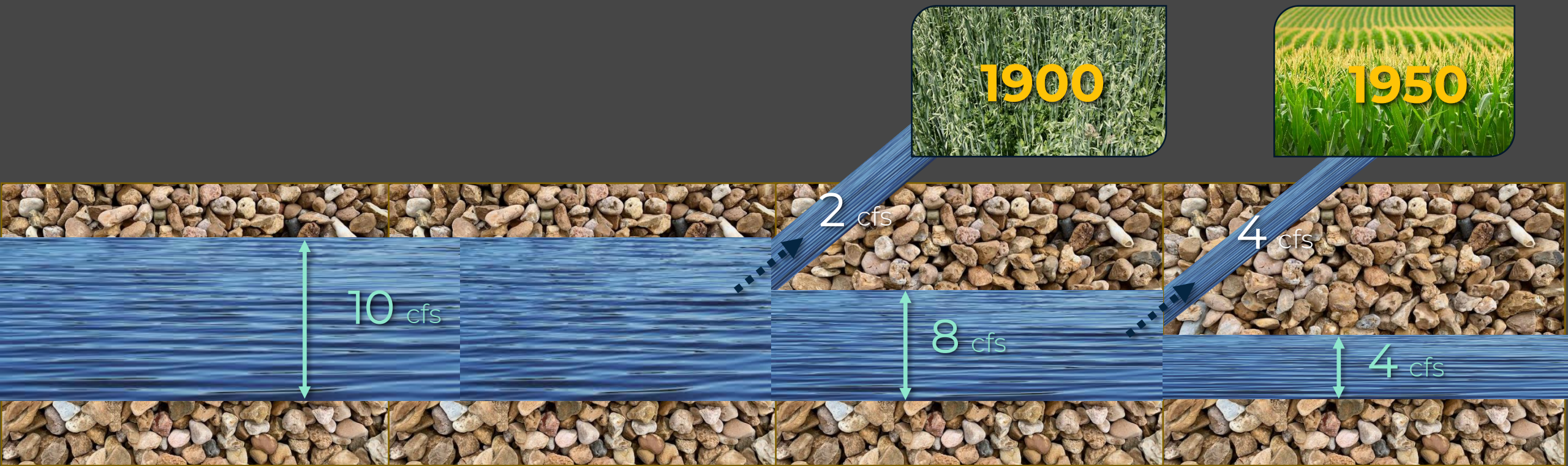
Streams Included in Colorado's Instream Flow Program



The CWCB: a Staff and Board

- CWCB makes a quasi-legislative decision to appropriate or acquire;
- Water Trust, CWCB staff, and CPW staff collaborate on the project
- Colorado Parks and Wildlife models **preserve and/or improve** flow rates;

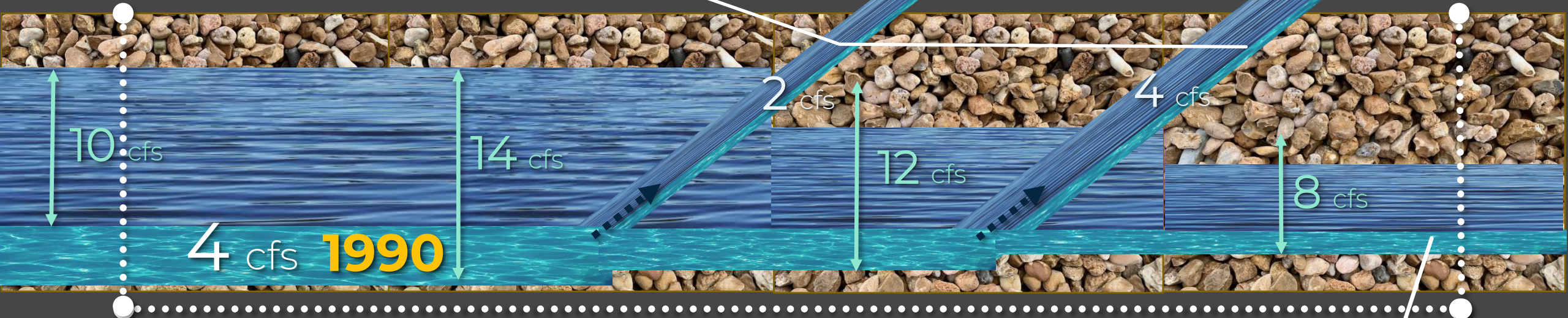




Basic Example



Senior rights can divert junior ISF right



ISF Reach

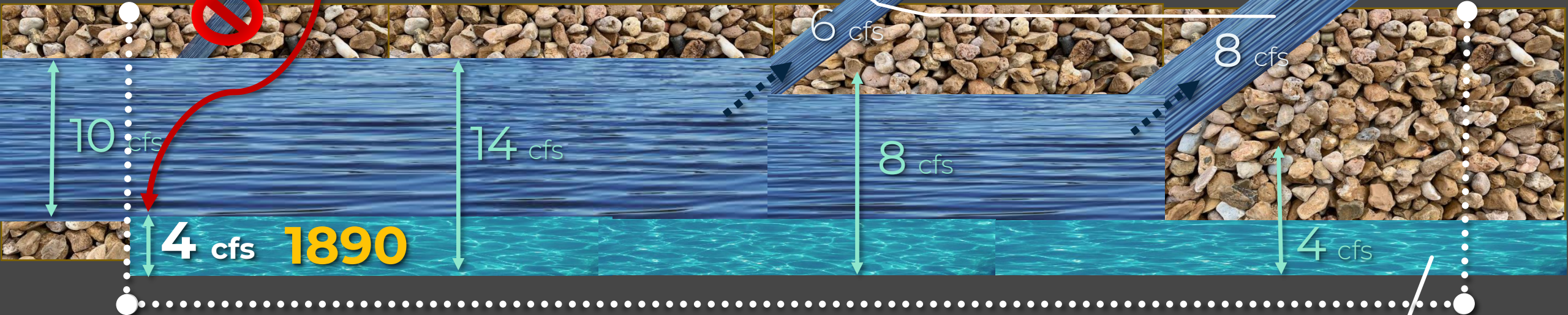
~2.3 cfs ISF left @ end of reach due to senior diversions

ISF Appropriation



Changed for ISF

ISF right senior to other diversions



ISF Reach

All **4 cfs** of ISF still instream

ISF Acquisition





PART 2 - COLORADO WATER TRUST'S WORK AND STREAMFLOW RESTORATION TOOLS

CWT PROJECTS

Successfully completed
25 projects,
adding nearly **74,000**
acre-feet of water to over
600 miles of rivers and
streams in Colorado.



PARTNERSHIP

The CWCB has statutory **fund of \$1 million per year** for acquisitions. But senior water rights can cost way more than that.

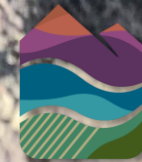
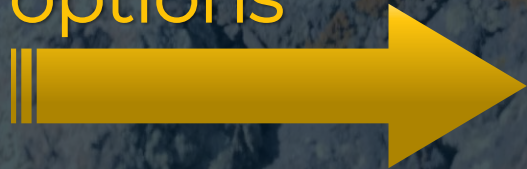
The Water Trust **fundraises**, from private donors. Conveyed to CWCB for ISF use.



Both CWCB and The Water Trust use creativity and many different tools to get the biggest environmental bang for the buck

INITIAL REVIEW

- 💧 Request for Water
- 💧 Confidential review of water rights offered by Colorado Water Trust staff
- 💧 Assessment of potential streamflow benefits
- 💧 Identification of transaction options



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What is the best transaction option?

Permanent?

Change of use to
instream flow?

Change of use/
point of
diversion/place of
use?

Strategic
abandonment?

If the water right at issue can help
the stream in time/place, figure out
if there is a legal tool that will work.

Flexible?

Strategic reservoir
releases?

Streamflow
augmentation plan?

Downstream
decreed
beneficial use?

Agricultural
water protection
water right?

Temporary?

5/10 temporary loan
to instream flow?

Non-diversion
agreement?

Interruptible water
supply plan?

Substitute
water supply
plan?

Water
conservation
program?

SCAN ME



The ISF Acquisition Toolkit

5 in 10 Temporary Loans, 37-83-105(2)(b):

- Used to preserve on an existing ISF reach for 5 years out of a 10 year period
- ISF use cannot occur in more than 3 years consecutively
- Preserve or improve, but only on reaches with an underlying ISF water right
- Water protected in priority for the length of ISF stream reach
- Administratively approved by State Engineer
- Safeguards owner's HCU allocation
- Nonrenewable

Water Conservation Program, 37-92-305(3)(c):

- Used with or without an ISF stream reach for 5 years out of a 10 year period
- Water is not protected; available for diversion by any water user
- Administratively approved by a water district or state agency
- Safeguards owner's HCU allocation
- Nonrenewable
- Not allowed in Water Division 7 (southwest Colorado)

Permanent Acquisitions or Long-Term Loans, 37-92-102(3):

- No conditional water rights
- Preserve or improve
- Water protected in priority for the length of ISF stream reach
- Permanent change of water right approved in water court

ISF Plan for Augmentation, 37-992-102(4.5)

- Plan to make water available for out-of-priority uses approved in water court
- Preserve or improve
- Permanent plan where additional augmentation water can be added post-decree

Getting Creative:

- Alone or in combination with the tools above
- Integrating storage and exchanges
- Delivering water to downstream decreed uses
- Sharing water for split season of deficit irrigation

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ACQUISITION AND WATER RIGHT CHANGE PROJECT EXAMPLES

Little Cimarron: Permanent acquisition; split-season irrigation; CWT owns water right subject to grants of irrigation and environmental flow uses; soil health & productivity study

Coats Bros Ditch: Temporary Instream flow lease; split-season irrigation; Tomichi Creek

Vail Ditch: Water Conservation Program; senior rights that are stored and released to extend season of flow in the upper Fraser



15-Mile Reach Project (Reservoir release)

Grand Valley Power Plant

DOWNSTREAM BENEFICIAL USE

Hydropower @ Grand Valley Power Plant & fish recovery

Available for diversion below reach

Endangered Fish Reach

RESERVOIR RELEASE

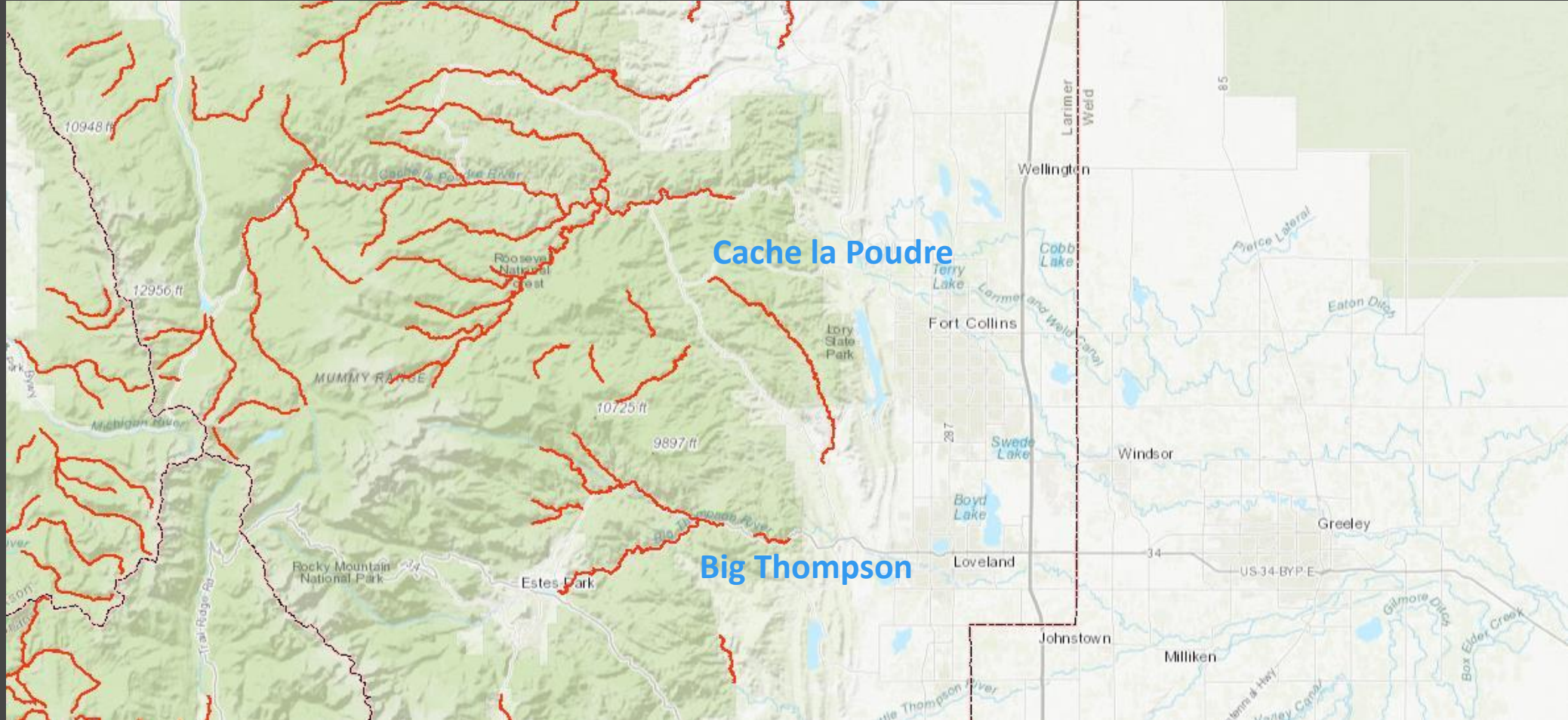
Ruedi Reservoir
Up to 5,000 af/y



Year	Amount Delivered
2019	328 af
2020	1,000 af
2021	4,500 af

Ruedi Reservoir

Poudre Flows Augmentation Plan







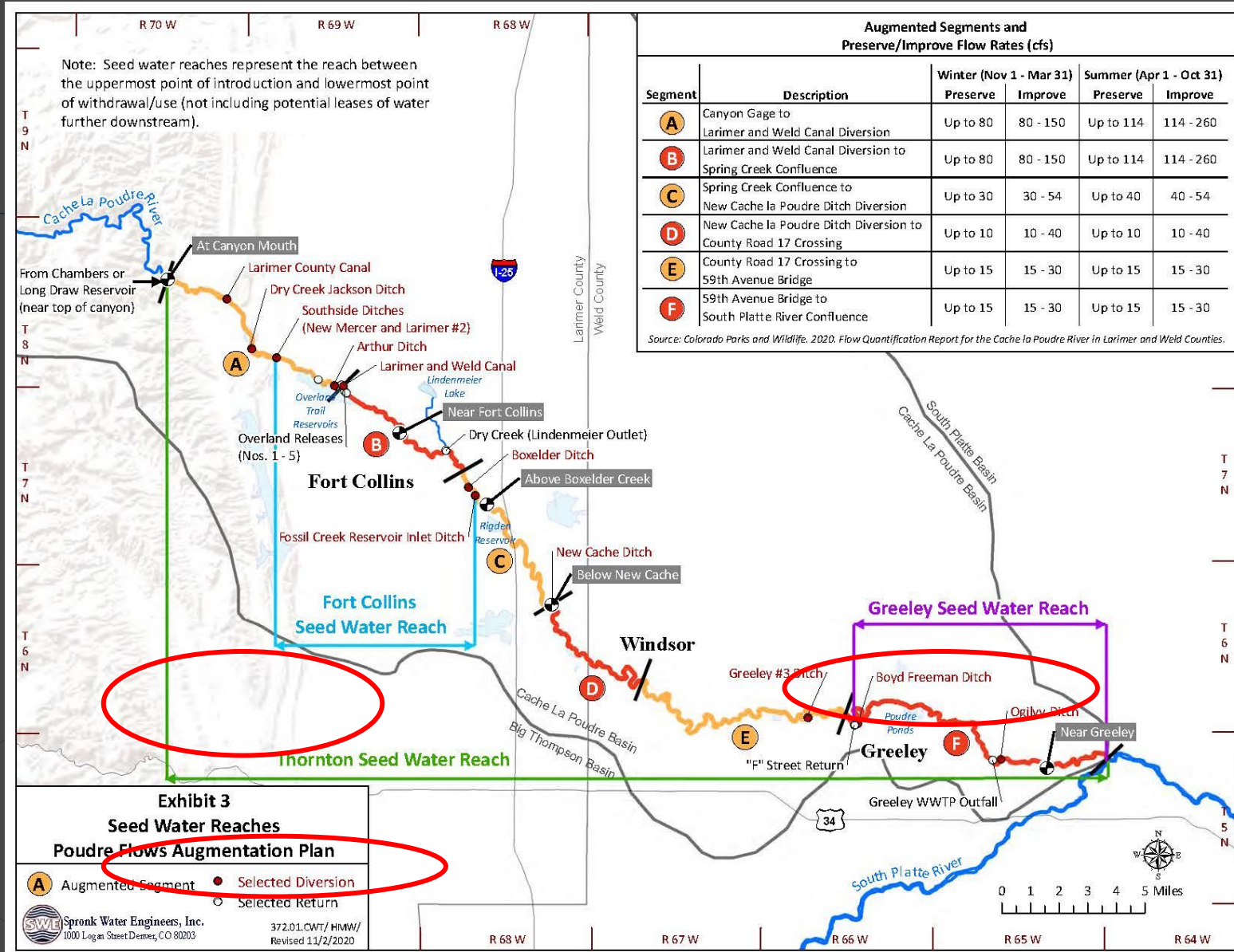
The Poudre Flows Instream Flow Augmentation Plan:

Dry-up points;

57 Miles of River;

Partnering with ag and municipal;

Post-decree supplies



Recreational In-Channel Diversions



- Approved by CWCB
- Decreed in Water Court
- Junior Priority – legislated in 2001
- Use by local government only
- Control structure required
- Amount is the minimum required for reasonable recreation experience
- Legislative efforts to expand led by American Whitewater



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Questions?



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More info:

<https://tinyurl.com/yka79hff>

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