

# Implications for state programs in light of County of Maui, the Navigable Waters Protection Rule and Section 401 revisions

August 4, 2020

Nicole Rowan, Clean Water Program Manager  
Colorado Department of Public Health and Environment



# Navigable Waters Protection Rule

How many streams are intermittent or ephemeral in Colorado?

- USGS flowlines (while underestimates\*) are the best option for broad scale estimates.
- The USGS National Hydrography Dataset (“NHD”) estimates that 44% of Colorado’s streams are intermittent and 24% are ephemeral, meaning that at least 68% of Colorado’s waters are temporary in nature
- \*“USGS flowlines underestimate stream channel length by 64.6%.” Heine, R.A., C.L. Lant, and R.R. Sengupta 2004)

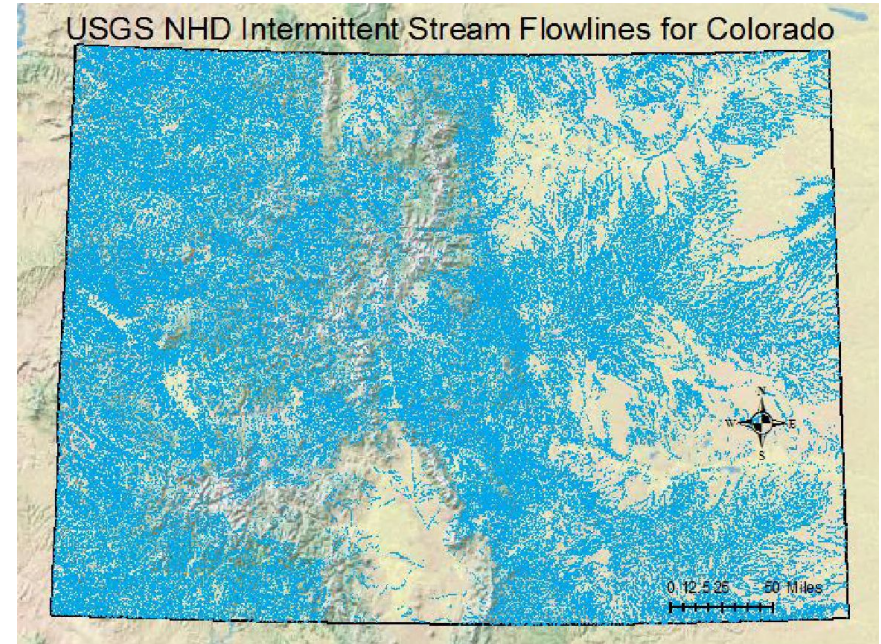
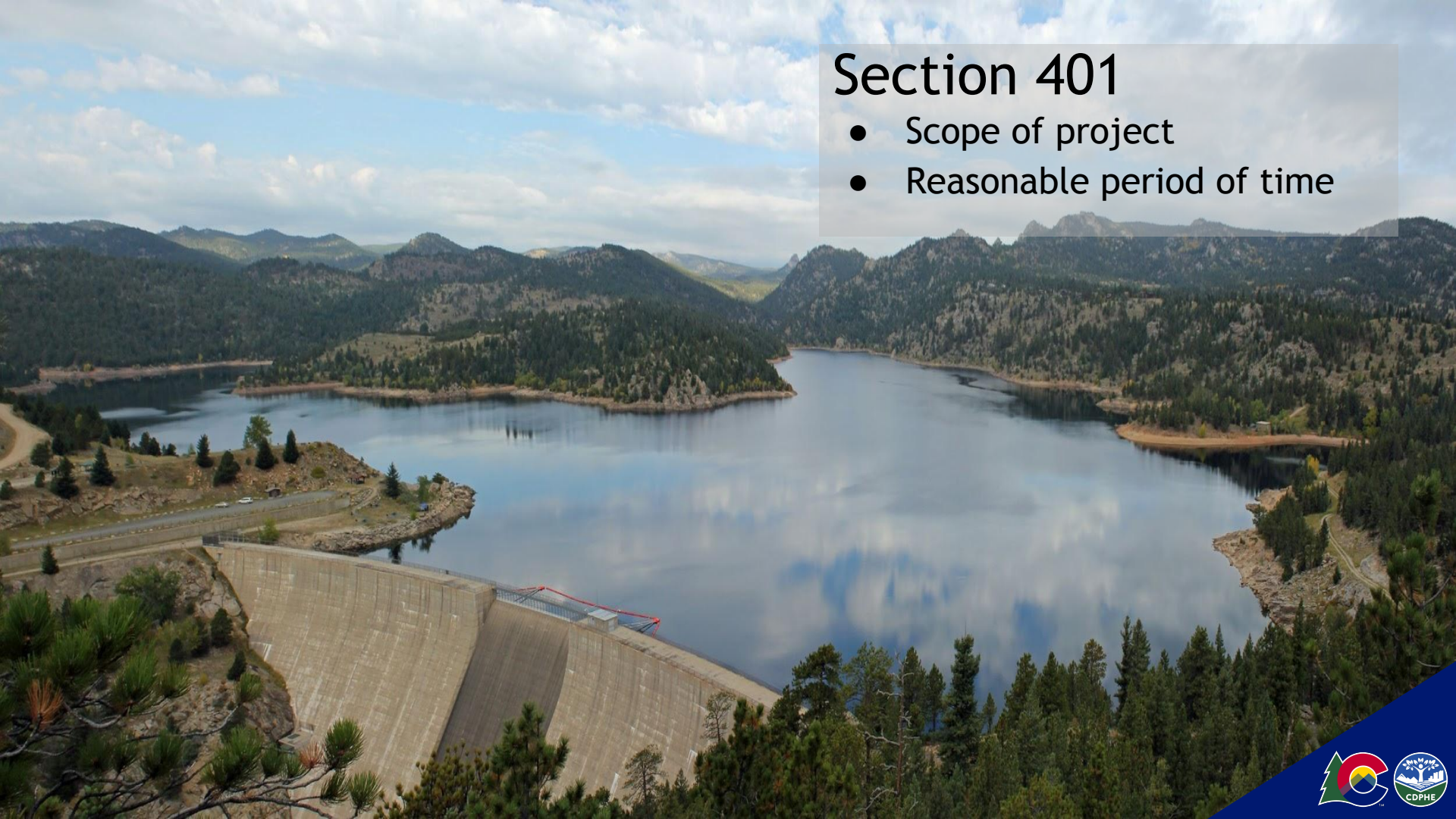


Figure 1. Intermittent streams in Colorado based on USGS National Hydrography Dataset. Note, this map does not include ephemeral drainages.

# Section 401

- Scope of project
- Reasonable period of time

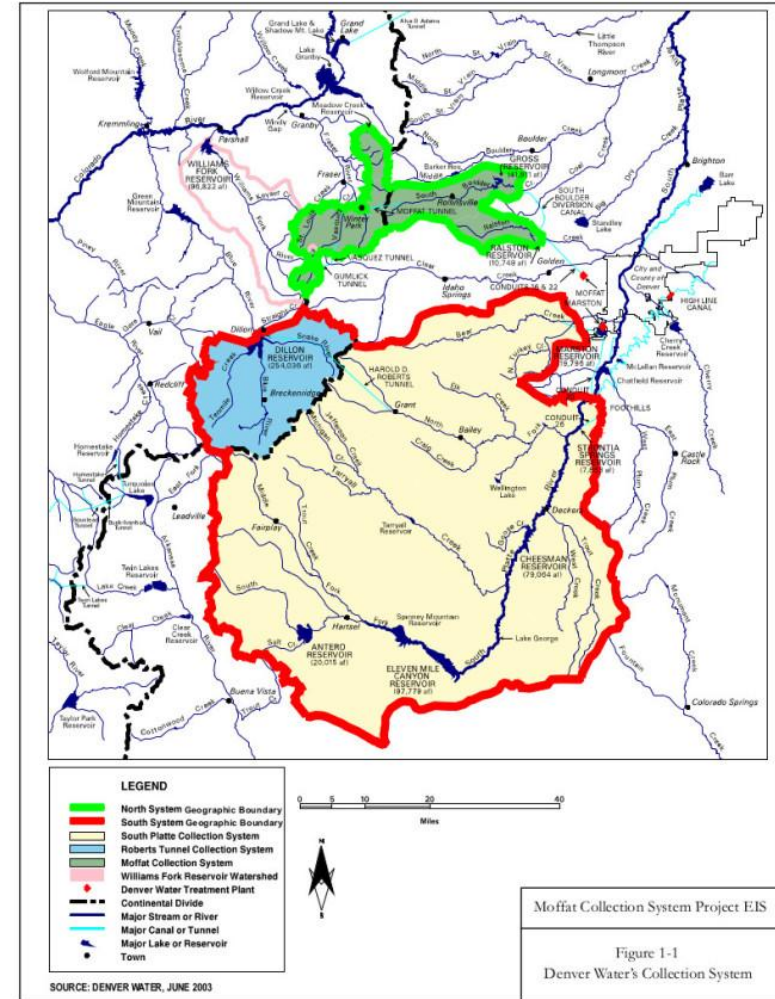




# Section 401

## Colorado Water Supply Projects

- Transbasin diversions
- Geographic scale of potential impact on water quality



# County of Maui

- Supreme Court ruling consistent with past practice in Colorado
- EPA Guidance?

