

Consent Agenda Item 1.b

March 22-23, 2017 Board Meeting

Case No. 16CW3076 (Water Division 2): Southeastern Colorado Water Conservancy District

Summary of Water Court Application

Applicant seeks changes of Fryingpan-Arkansas project conditional water rights. Some of the water would be stored in Pueblo Reservoir and Clear Creek Reservoir. Applicant also filed a diligence Application for Fryingpan-Arkansas water as Case No. 16CW3079. (See Consent Agenda Item 1.c).

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition in this case to protect CWCB's instream flow water rights and to protect CWCB's exclusive authority to hold instream flow water rights. A Statement of Opposition was filed on behalf of the Board in January 2017.

The CWCB holds the following instream flow water rights in Water Division 2 in the Arkansas Headwaters Watershed that could be injured by this application as follows:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
75W4271	Lake Creek	Twin Lakes Res outlet	confl Arkansas River	15 (1/1 - 12/31)	05/01/1975
77W4654	Lake Fork	outlet Turquoise Res	confl Willow Creek	15 (1/1 - 12/31)	01/19/1977
77W4655	Lake Fork	confl Willow Creek	confl Arkansas River	20 (1/1 - 12/31)	01/19/1977

Potential for Injury

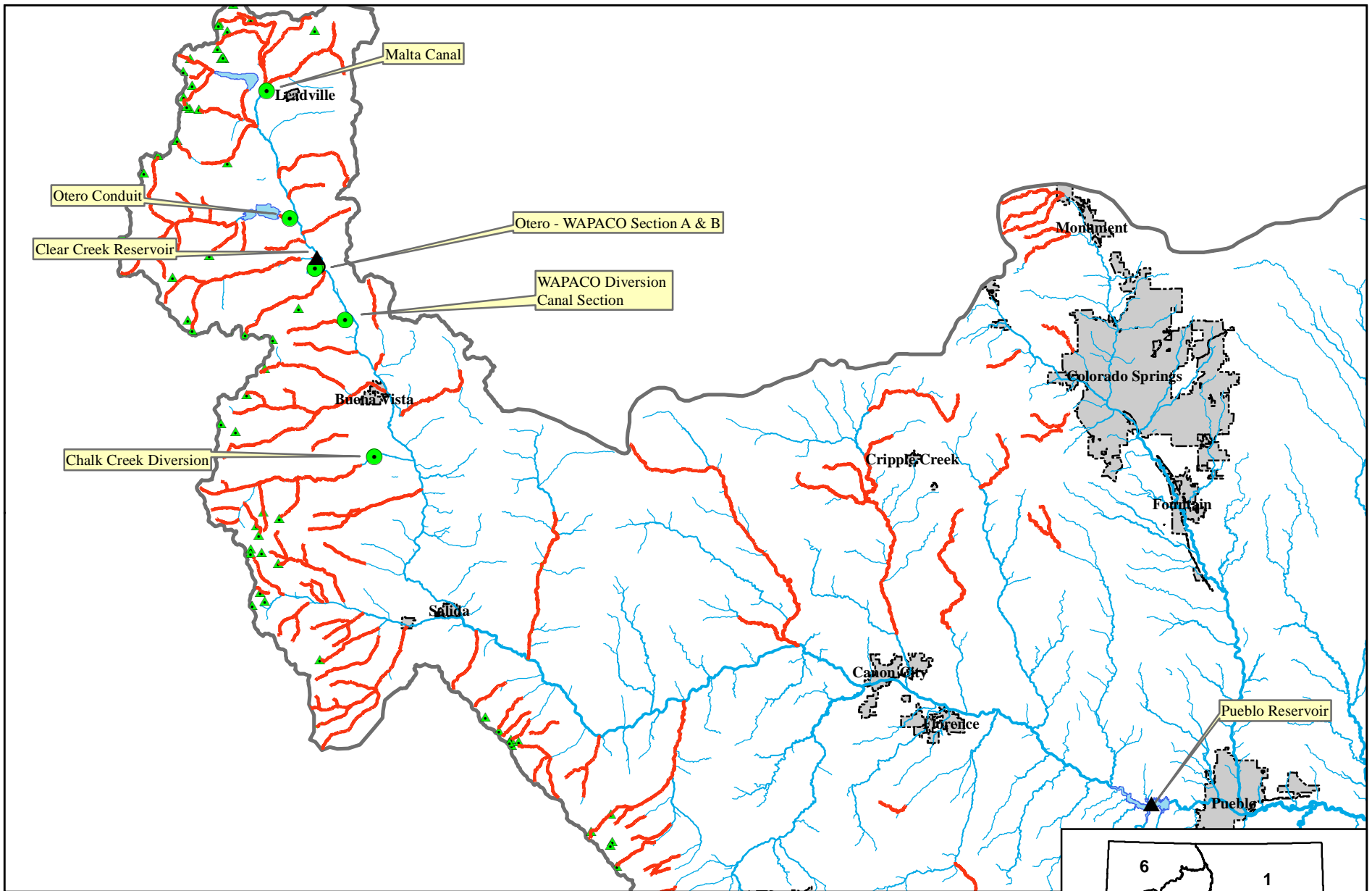
- The proposed change of water rights could cause an expansion of use and could alter the time, place and amount of the contemplated draft, which could injure the CWCB's instream flow water rights.
- CWCB has exclusive authority to hold instream flow water rights. Applicant has not requested a contract or other devise from CWCB for instream flow use of the water.
- Applicant's claim for "conservation and development of fish and wildlife as the water is delivered from the originally decreed locations to Pueblo Reservoir" might conflict with the recent ruling in *St. Jude's Co. v. Roaring Fork Club, L.L.C.*, 2015C051, 351 P.3d 442 (Colo. 2015), absent an agreement with CWCB.

Other Objectors

Statements of Opposition were also filed by the Board of Water Works of Pueblo Colorado, City of Aurora, Keesee Ditch, Buffalo Mutual Irrigation Company, X Y and Graham Canals, Manvel Canal and Irrigation Company, the Hyde Mutual Ditch Company, District 67 Irrigation Canals Association, Penrose Water District, Public Service Company of Colorado, Pueblo West Metropolitan District, the Amity Mutual Irrigation Company, the Fort Bent Canal and Irrigation Company, the Lamar Canal Company, and Tri-State Generation and Transmission Association, Inc.

Attorney Representing CWCB

Ema I.G. Schultz, Assistant Attorney General, is assigned to this case and can be contacted at ema.schultz@coag.gov, or 720-508-6307.



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