

Summary of Water Court Application

Applicant requests approval of a plan for augmentation and appropriative rights of exchange.

Staff Recommendation

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

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water rights in Water Division 7 in the Upper San Juan Watershed that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
84CW0283	Los Pinos River	confl Lake Creek	confl Vallecito Res	32 (1/1 - 12/31)	07/13/1984
07CW0089^	Los Pinos River	outlet Vallecito Res	Hwy 160 bridge confl Dry Creek	136 (5/10 - 9/30) 50 (10/1 - 5/9)	07/26/2006

^ Donated/Acquired Water Right

Potential for Injury

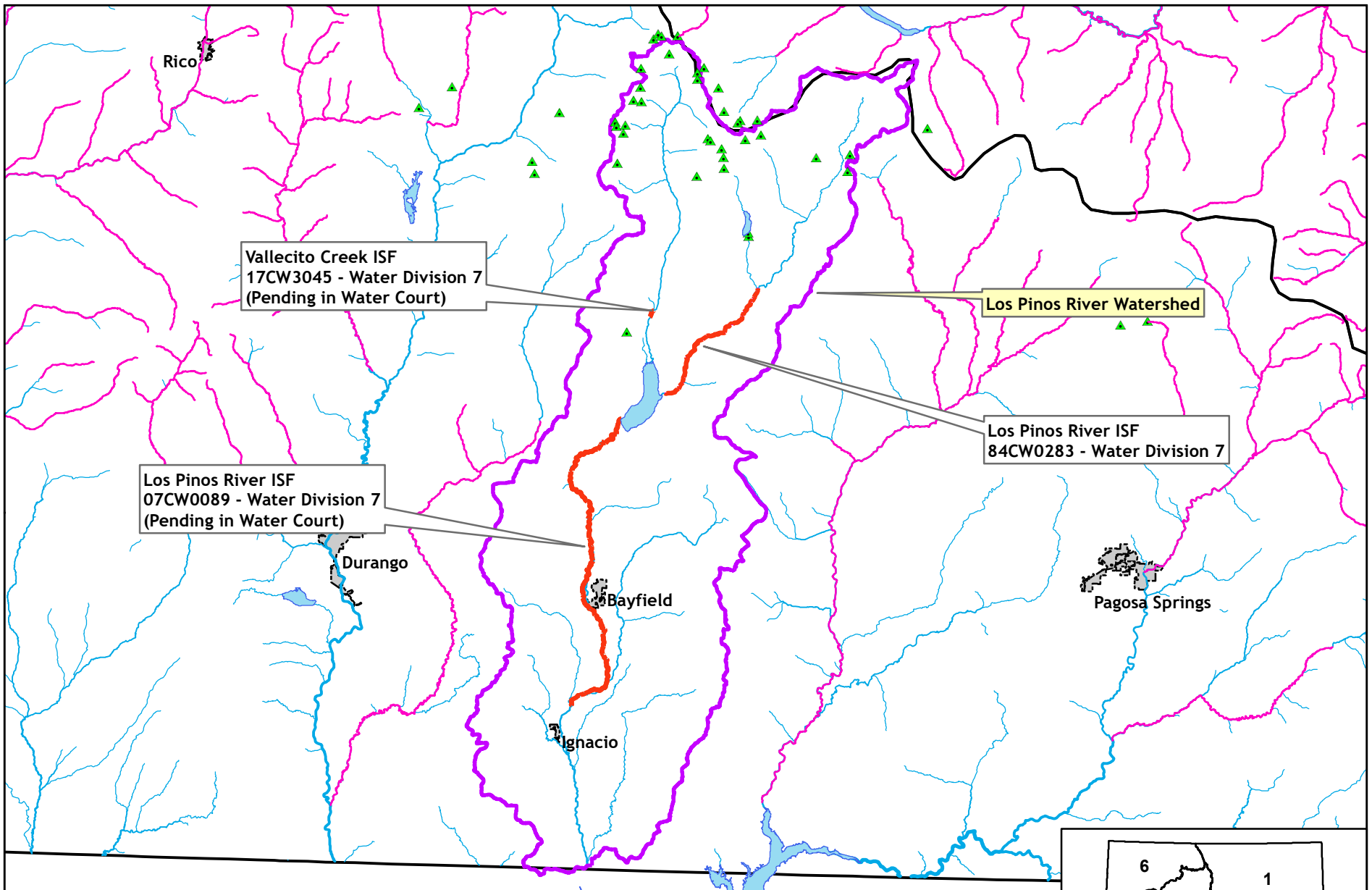
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.
- The CWCB and Applicant entered into a Donation Agreement in 2011 by which Applicant agreed to donate a portion of its 5/6 interest in the Refill Water Storage Right pending in Case No. 07CW89 to the CWCB for instream flow use in the Pine River below Vallecito Reservoir. The Southern Ute Indian Tribe also is a party to the Donation Agreement pertaining to the Tribe's 1/6 interest in the Refill Water Storage Right. The CWCB, Tribe, and Applicant are co-applicants in Case No. 07CW089 in part to implement the Donation Agreement. The decree entered for this application should include protective terms and conditions to ensure that the proposed plan for augmentation and exchange will not: (1) impair the ability of the Applicant or the Tribe to provide donated water to the CWCB for instream flow use or to meet the terms of the Donation Agreement; and (2) injure the CWCB's right to use the donated water.

Other Objectors

Statements of Opposition were also filed by the Board of County Commissioners, La Plata County, BP America Production Company, Los Pinos Ditch Company, Schroder Irrigating Ditch Company, Southern Ute Indian Tribe, State Engineers Office, Town of Bayfield, and XTO Energy 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.



January 22-23, 2018 CWCB Board Meeting
Consent Agenda Item 1f: Statement of Opposition
Case No. 17CW3036 (Water Division 7)
Pine River Irrigation District

0 3.75 7.5 15 Miles

