

Consent Agenda Item 1.v

March 20-21, 2019 Board Meeting
Case No. 18CW3054 (Water Division 7); Troy R. Hall

Summary of Water Court Application

This is an Application for a conditional surface water right and conditional underground water rights, and approval of a plan for augmentation.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 2019 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

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

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
77W1763	Florida River	outlet Lemon Res	confl Salt Creek	14 (10/15 - 6/30) 7 (7/1 - 10/14)	01/19/1977
77W1764	Florida River	confl Salt Creek	confl Animas River	20 (10/15 - 6/30) 12 (7/1 - 10/14)	01/19/1977

Potential for Injury

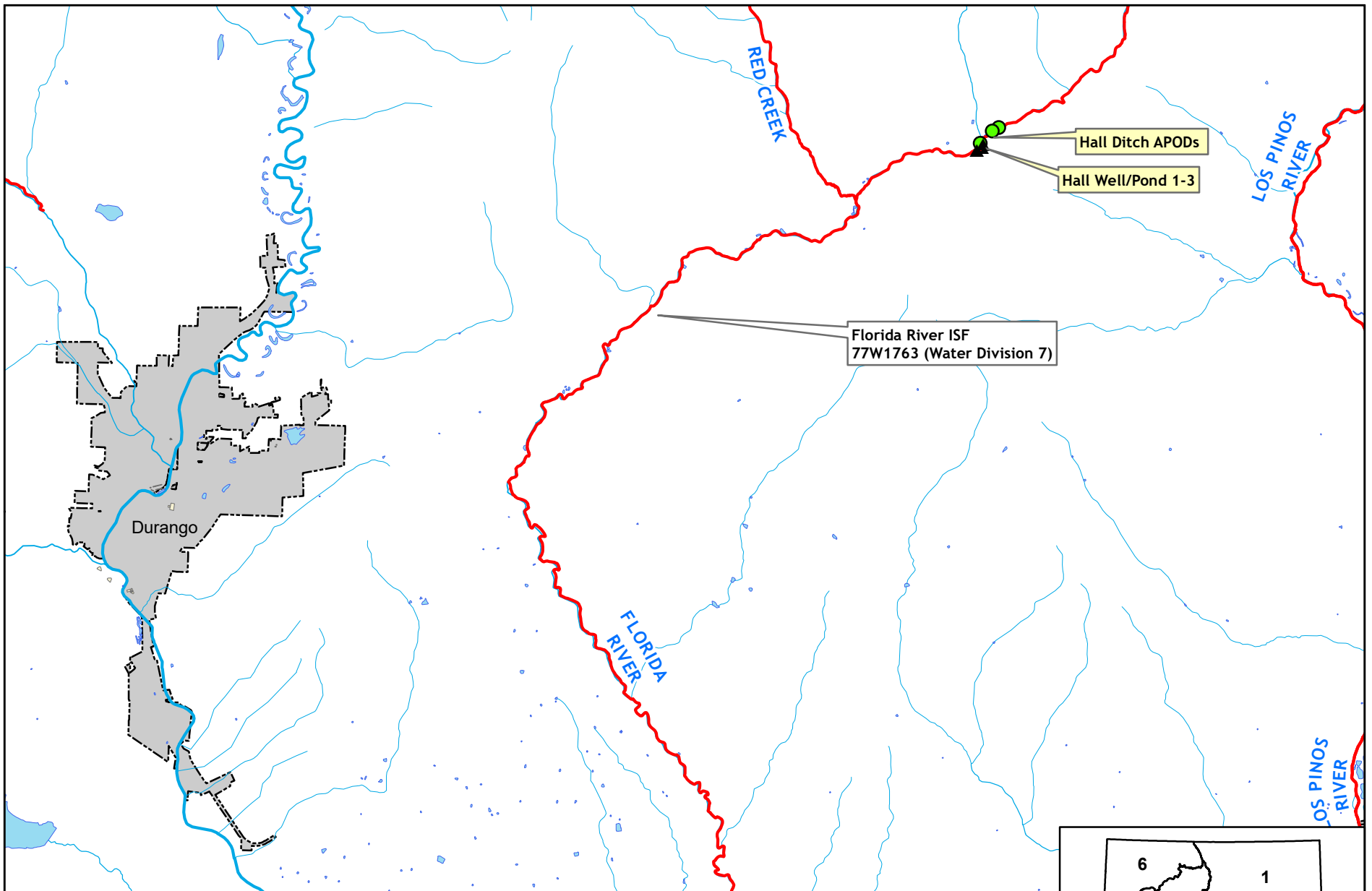
- The proposed plan for augmentation may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.
- It is unclear whether the claimed diversion could be operated as a flow through water right through the ponds, which could injure the CWCB's instream flow water rights because it would be fully depletive to a segment of the intervening instream flow.
- The surface water claim includes the ability to impound the water. This is a storage right that requires a volumetric component, which was not claimed here.

Other Objectors

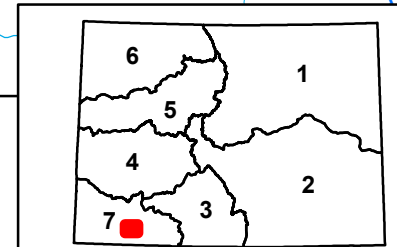
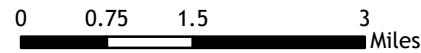
A Statement of Opposition was also filed by the City of Durango.

Attorney Representing CWCB

Jennifer L. Mele, First Assistant Attorney General, is assigned to this case and can be contacted at jennifer.mele@coag.gov, or 720-508-6282.



March 20-21, 2019 CWCB Board Meeting
 Consent Agenda Item 1.v: Statement of Opposition
 Case No. 18CW3054 (Water Division 7)
 Troy R. Hall



DISTRICT COURT, WATER DIVISION 7, COLORADO
AMENDED WATER RESUME

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 7
Pursuant to C.R.S. 37-92-302, you are notified that the following is a resume of all water right
applications filed in the Office of the Water Clerk during the month of December, 2018, for each county
affected.

**18CW3054 APPLICATION FOR A CONDITIONAL WATER RIGHT (SURFACE) and
CONDITIONAL UNDERGROUND WATER RIGHTS, AND FOR APPROVAL OF A PLAN FOR
AUGMENTATION, Florida River and its tributaries, La Plata County.** Applicant: Troy Hall, 12194
CR 240, Durango, CO 81301 (602) 380-3817. Direct all correspondence to Amy N. Huff, Colorado
Water & Land Law, LLC, 679 E. 2nd Ave, Unit 11B, Durango, CO 81301 (970) 403-1770,
amy@waterland-law.com. **WATER RIGHTS:** (1) **Structure Name:** HALL DITCH (a) **Alt Point of
Diversions A:** NW ¼ NE ¼ S36, T36N, R8W, NMPM, at a point 1074' from the N Section line and 1944'
from the E Section line, UTM 261437E, 4136964N; **Alt Point of Diversions B:** SW ¼ NE ¼ S36, T36N,
R8W, NMPM, at a point 1386' from N Section line and 2403' from E Section line, UTM 261298E,
4136889N; **Alt Point of Diversions C:** SE ¼ NW ¼ S36, T36N, R8W, NMPM, at a point 2218' from N
Section line and 2281' from W Section line, UTM 261065E, 4136670N (b) **Source:** Florida River and its
tributaries (c) **App Date:** 5-15-14 (d) **Amt:** 1 cfs, Conditional, combined total from all three alternate
points of diversion (e) **Uses:** Irrigation, firefighting, fishery, and the impoundment of water for the
aforementioned uses. (2) **Structure Name:** HALL WELL/POND I (a) **Legal:** SE ¼, NW ¼ S36, T36N,
R8W, NMPM, at a point 2312' from N Section line and 2482' from W Section line, UTM 261126E,
4136631N (b) **Source:** Groundwater tributary to Florida River (c) **App Date:** 5-15-14 (d) **Amt:** 15 gpm,
Conditional (e) **Uses:** Irrigation, firefighting, fishery, and the impoundment of water for the foregoing
uses. (3) **Structure Name:** HALL WELL/POND II (a) **Location:** SE ¼ NW ¼ S36, T36N, R8W,
NMPM, at a point 2515' from N Section line and 2383' from W Section line, UTM 261093E, 4136575N
(b) **Source:** Groundwater tributary to Florida River (c) **App Date:** 5-15-14 (d) **Amt:** 15gpm, Conditional
(e) **Uses:** Irrigation, firefighting, fishery, and the impoundment of water for the foregoing uses (4)
Structure Name: HALL WELL/POND III (a) **Location:** NE ¼ SW ¼ S36, T36N, R8W, NMPM, at a
point 2326' from S Section line and 2045' from W Section line, UTM 260992E, 4136522N (b) **Source:**
Groundwater tributary to Florida River (c) **App Date:** 5-15-14 (d) **Amt:** 15 gpm, Conditional (e) **Uses:**
Irrigation, firefighting, fishery, and the impoundment of water for the foregoing uses. **PLAN FOR
AUGMENTATION: A. Structures Augmented:** HALL DITCH, HALL WELL/POND I, HALL
WELL/POND II, HALL WELL/POND III, described above. **B. Water Rights Used for Augmentation:**
Water rights decreed to the Florida Water Conservancy District in Case Nos. W-1689-77 through W-
1695-77, as amended in 1994 for use of 114 acre feet of storage water to be used for augmentation. The
axis of the dam is located in Sections 17 and 20, T36N, R78W, NMPM, beginning at a point on the right
abutment, from whence the SW corner of Section 17, T46N, R7W, NMPM, bears South 84 34' West, a
distance of 1,699.6 feet, thence South 63 22' East a distance of 1,320 feet to a point on the end of the axis
of the dam and rock fill structure. **C. Statement of Plan For Augmentation:** The water rights sought
herein will be subject to curtailment due to their junior priority. In order to continue his water uses when

the Florida River is on call, Applicant seeks approval of a plan of augmentation for the following uses associated with the Hall Ditch, Hall Well/Pond I, Hall Well/Pond II, and Hall Well/Pond III: evaporation from well/ponds with a total surface area of 0.3 acres; irrigation of no more than 2.55 acres; and livestock watering for no more than 5 horses (15 gallons per day, per horse). Applicant's engineer has determined the demands, return flows, and augmentation requirements for the foregoing water uses. Table 1 attached to the Application contains the engineering calculations that support this plan of augmentation. The uses subject to this plan of augmentation have a total demand of 6.41 AF and will result in 5.34 AF of lagged depletions. The total lagged depletions, which are calculated monthly on Table 1, assume the well/ponds are full year-round, no icing, and there is a year-round call by irrigation water rights and decreed CWCB instream flow water rights. Applicant proposes to lease 5.5 AF from the Florida Water Conservancy District for a replacement water supply. The replacement water supply will be released from Lemon Reservoir, which is 3.46 miles from Applicant's property. With transit losses of 0.625 percent per mile, the proposed augmentation releases, less transit loss, equals 5.46 AF. Thus, by leasing a total 5.5 AF from the Florida Water Conservancy District, Applicant can sufficiently replace the out-of-priority depletions in time, amount, and location. Applicant intends to enter into a Water Reservation Agreement with the Florida Water Conservancy District for 5.5 AF of augmentation water and to enter into a long-term Third Party Agreement with the Florida Water Conservancy District, as approved by the United States, for 5.5 AF of augmentation water annually to replace the out-of-priority depletions caused by the enumerated uses, associated with the Hall Ditch, Hall Well/Pond I, Hall Well/Pond II, and Hall Well/Pond III, described in this plan. REMARKS: The augmentation plan proposed herein seeks to replace out-of-priority depletions from the limited uses described in Paragraph C i – iii of the Application, not all the full uses claimed for said water rights in the Application. The irrigation of 2.55 acres may occur on various areas of Applicant's real property, as shown on Exhibit A to the Application. (11 pages)