

SEP 19 2018

DURANGO COLORADO

DATE FILED: September 19, 2018 9:25 AM
CASE NUMBER: 2017CW3045

DISTRICT COURT, WATER DIVISION 7
LA PLATA COMBINED COURTS
1060 E. SECOND AVE. #106
DURANGO, CO 81301

**CONCERNING THE APPLICATION FOR
WATER RIGHTS OF:**

**COLORADO WATER CONSERVATION BOARD,
IN VALLECITO CREEK, A NATURAL STREAM,
IN THE UPPER SAN JUAN WATERSHED,
IN LA PLATA COUNTY, COLORADO.**

**▲ COURT USE
ONLY ▲**

Case No.: 2017CW3045

Div. 7

**FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE
REFEREE, AND JUDGMENT AND DECREE OF THE WATER COURT**

THIS MATTER comes before the Water Referee by Application of the Colorado Water Conservation Board ("CWCB") for a water right to preserve the natural environment to a reasonable degree. The Application was filed on December 7, 2017.

The Referee, having made such investigations as are necessary to determine whether or not the statements in the Application are true, having consulted with the Division Engineer for Water Division 7, and being fully advised in the premises, does hereby make the following Findings of Fact, Conclusions of Law, and Ruling of the Referee in this matter:

FINDINGS OF FACT

1. The statements in the Application are true.
2. Name & Address of Applicant:
Colorado Water Conservation Board ("CWCB")
1313 Sherman Street, Suite 718
Denver, CO 80203
3. Notice and Jurisdiction: All notices of this matter required by law have been fulfilled and the Court has jurisdiction over the Application and all parties affected thereby, whether or not they have chosen to appear.
4. Statements of Opposition. The Pine River Irrigation District filed a Statement of Opposition on February 27, 2018. The Court approved a stipulation between the CWCB and the Pine River Irrigation District on September 4, 2018. No other Statements of Opposition were filed. The time for filing statements of opposition has expired.
5. Summary of Consultation: The Division Engineer filed a Summary of Consultation pursuant to section 37-92-302(4), C.R.S. (2017), on March 28, 2018. The Referee has given the Summary of Consultation due consideration.
6. Name of water rights: Vallecito Creek Instream Flow Water Right.
7. Legal Description: The Vallecito Creek Instream Flow Water Right is located in the natural stream channel of Vallecito Creek from the Weminuche Wilderness Boundary to the U.S. Forest Service (USFS) Property Boundary, a distance of approximately 0.51 miles. A map depicting the approximate location of the Vallecito Creek Instream Flow Water Right reach is attached as **Exhibit 1**.
 - A. Upstream Terminus: Weminuche Wilderness Boundary:
 1. UTM: Northing: 4150869.72; Easting: 275046.50 (NAD 1983 Zone 13 North)
 2. Lat/Long: latitude 37° 28' 38.50"N and longitude 107° 32' 38.47"W
 - B. Downstream Terminus: USFS Property Boundary:

1. UTM: Northing: 4150223.84 Easting: 274708.66 (NAD 1983 Zone 13 North)
2. Lat/Long: latitude 37° 28' 17.27"N and longitude 107° 32' 51.51"W
- C. The Universal Transverse Mercator (UTM) of the upstream and downstream termini will be used as the legal description for the decree in this matter. The Lat/Long coordinates are provided as cross-reference locations only. The UTM and Lat/Long locations for the upstream and downstream termini were derived from CWCB GIS using the National Hydrography Dataset (NHD).
8. Source: Vallecito Creek, tributary to Los Pinos River.
9. A. Date of initiation of appropriation: March 23, 2017.
B. How appropriation was initiated: Appropriation and beneficial use occurred on March 23, 2017, by the action of the CWCB pursuant to sections 37-92-102(3) and (4) and 37-92-103(3), (4) and (10), C.R.S. (2017).
C. Date applied to beneficial use: March 23, 2017.
10. Amount of water claimed: Instream flow of 20 cfs (01/01 - 03/15), 33 cfs (03/16 - 04/15), 92 cfs (04/16 - 08/31), 70 cfs (09/01 - 10/31), 45 cfs (11/01 - 11/15), 31 cfs (11/16 - 12/14), and 25 cfs (12/15 - 12/31), absolute.
11. Use of the Water: Instream flow to preserve the natural environment to a reasonable degree.

CONCLUSIONS OF LAW

12. Incorporation: The foregoing Findings of Fact are incorporated herein to the extent they constitute conclusions of law.
13. Notice and Jurisdiction: The Water Court for Division 7 has jurisdiction over the subject matter of these proceedings and over all persons, owners of property and water rights that may be affected hereby, whether or not they have chosen to appear. The Application in this matter and the resume publication of the Application placed such persons on notice of the relief requested by the Application and granted by this decree. §§ 37-92-203 and 302, C.R.S. (2017).

14. Legal Requirements: The CWCB has fulfilled all legal requirements for a decree for water rights including sections 37-92-302, 304 and 305, C.R.S. (2017).
15. Burden of Proof: The CWCB has complied with all requirements and has met its burden of proof to adjudicate the water rights required in the Application and is therefore entitled to a decree approving the requested water rights.

RULING OF REFEREE

16. The foregoing Findings of Fact and Conclusions of Law are hereby approved and incorporated as the Ruling of Referee by this reference.
17. The application is granted and a decree in the amount of 20 cfs (01/01 - 03/15), 33 cfs (03/16 - 04/15), 92 cfs (04/16 - 08/31), 70 cfs (09/01 - 10/31), 45 cfs (11/01 - 11/15), 31 cfs (11/16 - 12/14), and 25 cfs (12/15 - 12/31), absolute, is hereby entered to preserve the natural environment to a reasonable degree in the natural stream channel of Vallecito Creek from the Weminuche Wilderness Boundary to the U.S. Forest Service (USFS) Property Boundary, described in paragraph 7 above. The appropriation date for this water right is March 23, 2017.
18. The priority herein confirmed was filed in the water court in the year of 2017 and shall be junior to all priorities filed in previous years. As between all rights filed in the same calendar year, priorities shall be determined by historical date of appropriation and not affected by the date of entry of ruling.
19. The CWCB shall install and maintain such measuring devices and keep such records as the Division Engineer may require for administration of this right.

IT IS ACCORDINGLY ORDERED that this Ruling shall be filed with the water clerk subject to judicial review.

IT IS FURTHER ORDERED that a copy of this Ruling shall be filed with the Division Engineer for Water Division 7 and the State Engineer.

DATED this day of , 2018.

BY THE REFEREE:

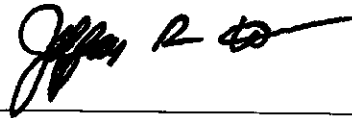
~~Jeffrey R. Wilson~~
~~Water Referee/Water Judge~~
~~Water Division 7, State of Colorado~~

JUDGMENT AND DECREE OF THE WATER COURT

No protest was filed in this matter. The foregoing Ruling is confirmed and approved and is made the Judgment and Decree of this Court.

DATED this 19th day of September, 2018.

BY THE COURT:




Jeffrey R. Wilson
Water Referee/Water Judge
Water Division 7, State of Colorado


APPROVED AS TO FORM:

ATTORNEYS FOR THE COLORADO
WATER CONSERVATION BOARD:

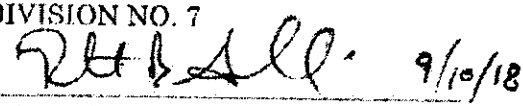
ATTORNEY FOR PINE RIVER
IRRIGATION DISTRICT:

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General

 9/11/18
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 9/11/18
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Durango, CO 81301
Telephone: (970) 403-1770
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CHECKED FORM AND IF
ADMINISTRABLE:
DIVISION ENGINEER
DIVISION NO. 7

 9/10/18
Robert Genualdi, Division Engineer
Colorado Division of Water Resources
160 Rockpoint Dr., Suite E
Durango, CO 81301
Telephone: (970) 247-1845
Fax: (970) 259-0944

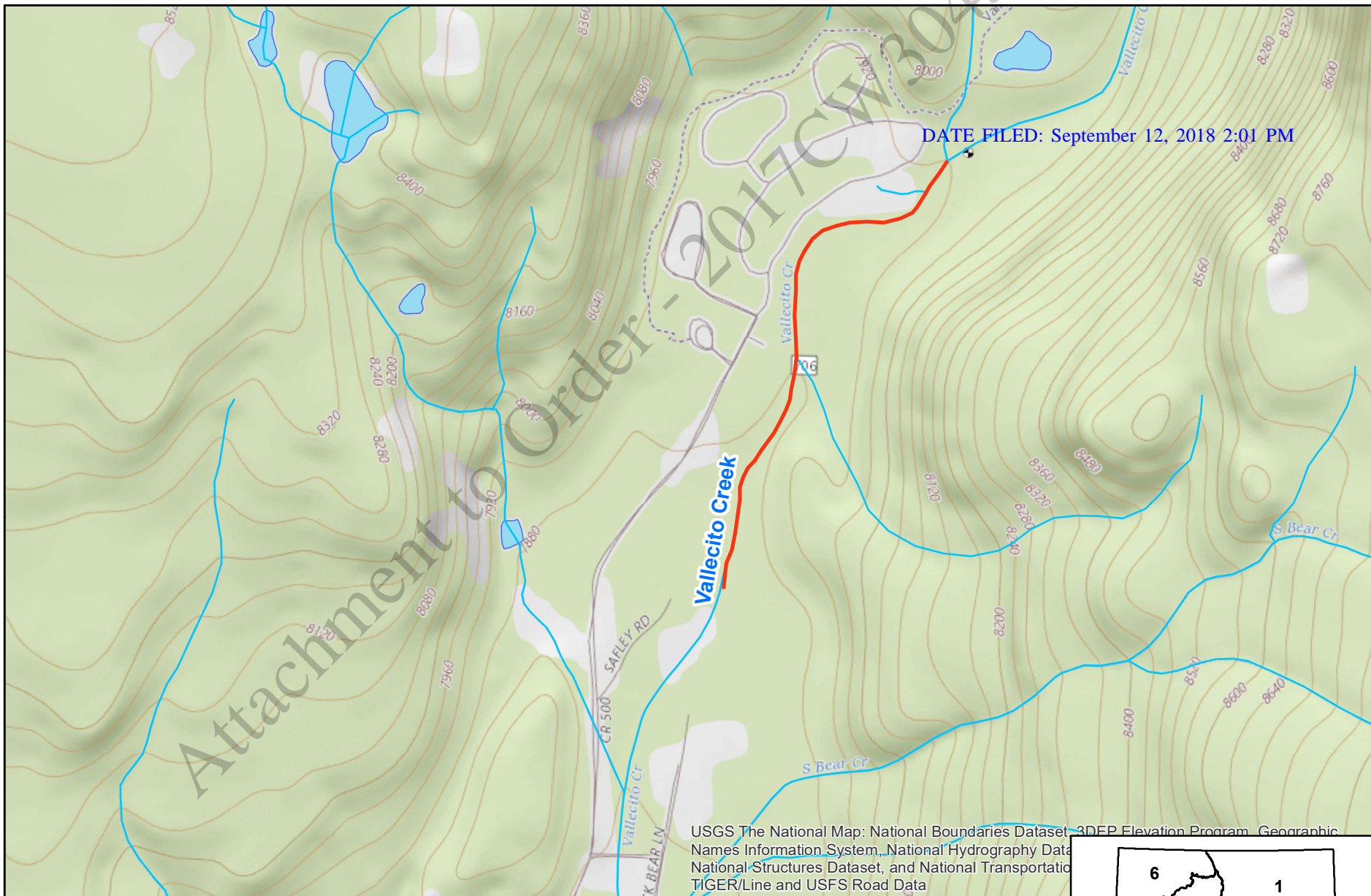


Exhibit 1
Vallecito Creek - Instream Flow Reach
Water Division 7

0 0.075 0.15 0.3
 Miles

