

## **SECOND ADDITIONAL WRITTEN REPORT OUTLINING OUTSTANDING CONCERNS**

August 1, 2019

Division 6 Water Court Case No. 14CW3043, Rio Blanco Water Conservancy District

This written report is being submitted in response to the Rio Blanco Water Conservancy District (District) May 16, 2019 reply to the State Engineer and Division Engineer's (Engineers) Additional Written Report dated October 4, 2018 (referred to herein as "Reply") and a meeting between Rio Blanco Water Conservancy District and me on July 16, 2019. Though in their Reply the District addressed several concerns, some were not adequately addressed and other new concerns arose.

As to the concerns addressed, the District has withdrawn their claim for irrigation, industrial, and all other beneficial uses. Additionally, the District has withdrawn their surface water right claim to fill Wolf Creek Off-Channel Dam and Reservoir at a rate of 400 cfs and has added language to the Proposed Ruling provided to the Engineers on July 11, 2019 clearly indicating that they are not requesting two water storage rights totalling 180,000 acre-feet but rather one water right for 90,000 acre-feet that may be stored at either Wolf Creek Off-Channel Dam and Reservoir or Wolf Creek Mainstem Dam and Reservoir. (This single right is referred to herein as Wolf Creek Reservoir.)

Below is an outline of the concerns still remaining and any new concerns that the Engineers have as a result of the District's Reply. Also, attached is a redline of the Proposed Ruling dated July 11, 2019 wherein language has been added to address other concerns of the Engineers.

- 1) As provided in the Engineers' Additional Written Report Outlining Outstanding Concerns dated October 4, 2018 (referred to herein as "Additional Written Report"), the District is limited to leasing and delivering water within its boundaries. We have suggested language in the attached redlined Proposed Ruling providing that the uses are limited to within the District's boundaries now or as they may be amended in the future.
- 2) As a result of dropping the claimed irrigation and industrial uses, the District modified the claimed uses to arrive at the originally claimed amount of 90,000 acre-feet for both reservoir sites. Though there appears to be some inconsistencies between the numbers presented in Exhibit A - White River Storage Feasibility Study Phase 2A Report and the Reply, it appears the claimed uses are now:



| Proposed Use  | Off-Channel Reservoir (AF) | On-Channel Reservoir (AF) |
|---|----------------------------|---------------------------|
| Municipal and Industrial for the Town of Rangely    | 7,000                      | 7,000                     |
| Environmental for Threatened and Endangered Species | 42,000                     | 42,000                    |
| Recreation  | 15,000                     | 24,000                    |
| Sediment Pool                                       | 3,000                      | 24,000                    |
| Insurance Pool                                      | 22,000                     | 0                         |
| TOTAL   | 89,000                     | 97,000                    |

- a) Municipal and Industrial use for the Town of Rangely - The M&I demand has increased from that originally claimed (3,150 acre-feet) to 7,000 acre-feet. This increase is based on projected demands out to 2070 equal to 3,500 acre-feet and a desire to carry over-storage for use in times of drought. The District has not provided a clear plan for how the claimed water right will be delivered to the Town of Rangely. Additionally, the District has not shown how much of the Town of Rangely's future demands will be met with their existing water supply and whether they need an additional supply of water. As we discussed in our meeting, the District must provide documentation from the Town of Rangely, such as a letter, indicating that the town intends to rely on Wolf Creek Reservoir to fulfill needs for their future water supply. The letter should describe if water from the reservoir would supplement existing sources to meet future demand or how this source would be relied upon to provide redundancy to their current supplies.
- b) Recreation - It appears the size of the recreation pool is based on several reservoir characteristics identified by Harvey Economics. Please provide a copy of the evaluation Harvey Economics conducted to determine the necessary surface area and depth of the reservoir.
- c) Sediment Pool - We have concerns about a sediment pool increasing the volume of the claimed water right. Sediment or sediment capture is not considered a beneficial use, and no such use is claimed in the decree. Please provide if the



District plans to store water for beneficial use in the sediment pool for the time before that pool fills with sediment. If so, please explain.

As listed in Paragraph 12 Dam and Reservoir Information of the Proposed Ruling for the mainstem location, the total capacity is 90,000 acre-feet, the Active Capacity is 90,000 and the Dead Storage is 15,750 acre-feet. Normally, active capacity and dead storage are added to reach a combined total capacity. Please clarify the volumes of the different reservoir capacities and if the dead storage size (currently 15,750 acre-feet) is tied to the sediment volume.

It is noted that the rate at which Kenney Reservoir has filled with sediment is about 315 acre-feet annually. Projecting this rate of fill out to 2070 (over a 50-year time period), the amount of sediment would be 15,750 acre-feet - the claimed Dead Storage for the mainstem location.

- d) Insurance Pool - Insurance is not a beneficial use and is not listed in the draft decree as a beneficial use. It is unclear what demands the District intends to insure will be met when and if the pumping station used to fill the off-channel reservoir goes down or is in need of repair. The municipal and environmental pools would presumably be filled first and those pools are sized to fulfill municipal and environmental demands for extended periods of time. After a one month outage, the drawdown on those pools can be refilled relatively quickly without restricting those uses. Further, the recreation pool could be drawn upon for urgent needs. The District must explain what beneficial uses this insurance pool will meet or reduce the volume claimed for this pool.
- e) Augmentation - The District has requested the Court award the use of augmentation; however, no estimate of the amount of water needed for augmentation has been provided. The District should provide a plan to reasonably use water stored in the Wolf Creek Reservoir for augmentation as well as provide an estimate of the expected volume of water needed for this use, or delete this claimed beneficial use.
- f) Recovery Program - In a letter to the District dated May 17, 2019, the Recovery Program provided that they do not know whether, or how much water is needed in a storage project in the White River basin in order to offset future depletions. The draft schedule dated July 5, 2019 for completing the White River Management Plan and Programmatic Biological Opinion is June 2021. Understanding that the District will not know how much water, if any, is needed for the claimed "Environmental for Threatened and Endangered Species" use until the Programmatic Biological Opinion is complete, the District



agreed to language being added to the Proposed Ruling providing that at the conclusion of the first diligence cycle, the District would drop any claim for this use for which the Recovery Program has not committed to. Such language has been added to the July 11, 2019 Proposed Ruling.

- 3) Since, the Additional Written Report was filed, the District has acquired three water rights from the Colorado River Water Conservation District. Below is a list of these water rights:

| Name  | Amount (AF) | Uses   |
|---|-------------|--|
| Strawberry Creek Reservoir  | 75,957      | Irrigation, industrial, municipal, domestic and recreational                       |
| Wray Gulch Reservoir  | 29,374      | Irrigation, industrial, municipal, domestic and recreational                       |
| Rio Blanco Reservoir as Alternate Point at Strawberry Creek Reservoir | 75,957      | Irrigation, domestic, municipal, stock, piscatorial, and other beneficial purposes |
| Rio Blanco Reservoir as Alternate Point at Wray Gulch Reservoir       | 29,374      | Irrigation, domestic, municipal, stock, piscatorial, and other beneficial purposes |

Additionally, the District owns the water rights decreed to Taylor Draw Reservoir (aka Kenney Reservoir), which they claim could be transferred to Wolf Creek Reservoir. Though it is true that the District owns these rights, the first fill right has been made absolute for the entire volume (13,800 acre-feet) for hydropower generation and only the other decreed uses (not volume) remain conditional leaving no volume of water available to be transferred to a new reservoir unless they intend to transfer the volume that has filled in with sediment.

The District has agreed to language being included in the Proposed Ruling indicating that if the District files for and is successful in changing the location of any of these rights to one of the Wolf Creek Reservoir sites, that they would file a motion with the Court to cancel any amount and duplicative uses decreed to Wolf Creek Reservoir in the subject case. Such language has been added to the July 11, 2019 Proposed Ruling.



In summary, questions still remain concerning the volume and uses now claimed.

Sincerely,



Erin C. H. Light, P.E.  
Division Engineer, Water Division 6

e.c. Parties to Division 6 Case No. 14CW3043

