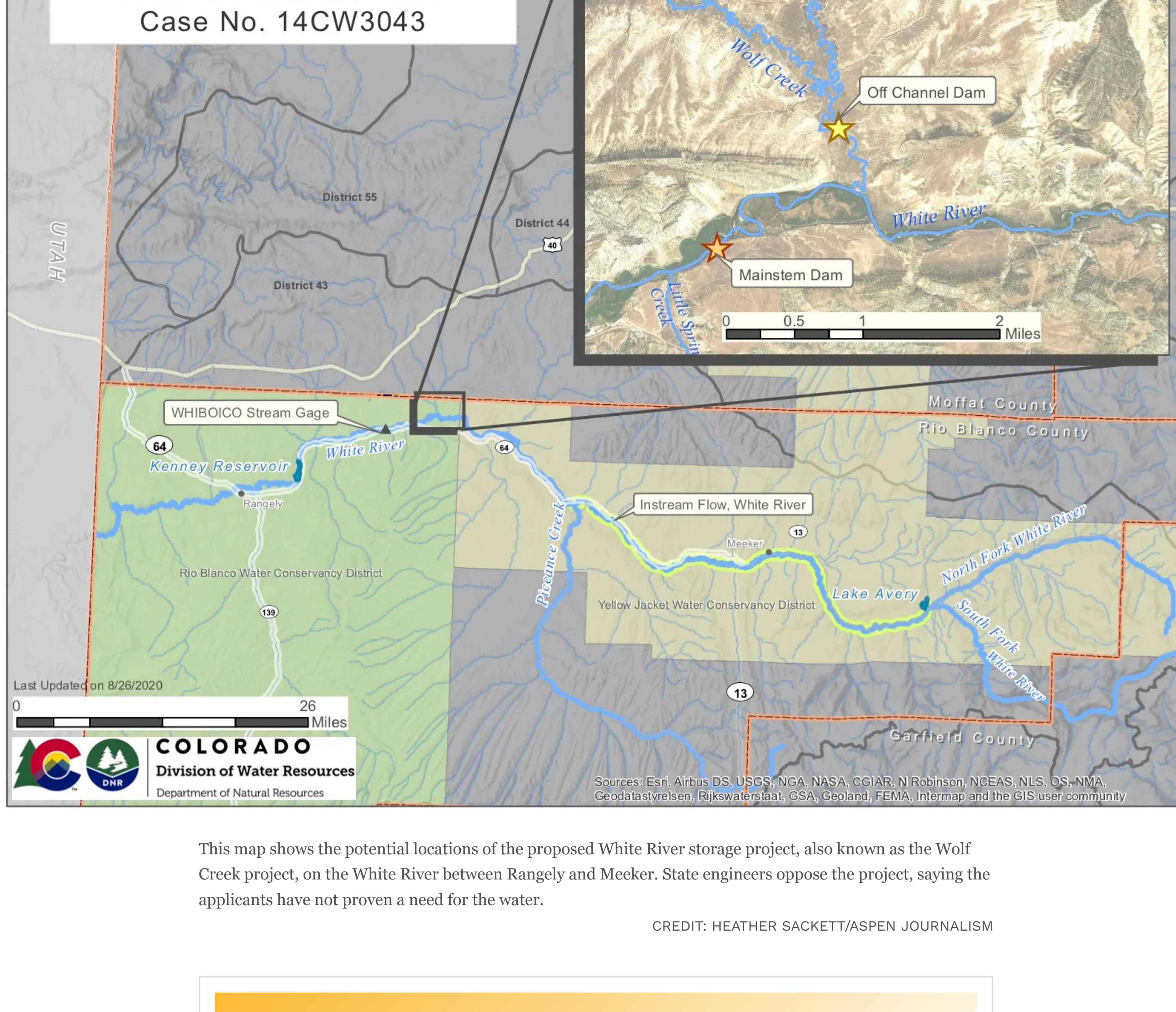


WATER

Rio Blanco secures water right for dam-and-reservoir project

by Heather Sackett
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This map shows the potential locations of the proposed White River storage project, also known as the Wolf Creek project, on the White River between Rangely and Meeker. State engineers oppose the project, saying the applicants have not proven a need for the water.

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Six years after the application was filed, a judge has granted a water conservancy district in northwest Colorado a water right for a new dam-and-reservoir project that top state engineers had opposed.

Rio Blanco Water Conservancy District now has a 66,720 acre-foot conditional water right to build a dam and reservoir between Rangely and Meeker, known as the White River storage project or the Wolf Creek project. The conservancy district is proposing an off-channel reservoir with a dam 110 feet tall and 3,800 feet long, with water that will be pumped from the White River.

But [the decree](#), while granting Rangely-based Rio Blanco the amount of storage it was seeking, doesn't allow the district all the water uses that it initially wanted. The [decree grants Rio Blanco](#) a water right for municipal use for the town of Rangely; augmentation within its boundaries; mitigation of environmental impacts; hydroelectric power; and in-reservoir use for recreation, piscatorial and wildlife habitat. The conservancy district will not be able to use the water for irrigation, endangered fish or augmentation in the event of a compact call.

For more than five years, state engineers had argued that the project was speculative and that Rio Blanco couldn't prove a need for the water. Engineers had asked the court to dismiss Rio Blanco's entire application in what's known as a motion for summary judgment. Division 6 Water Judge Michael O'Hara III agreed in part with state engineers and dismissed some of Rio Blanco's requested water uses in an order filed Dec. 23. That left the fate of just three water uses to be determined at trial: Colorado River Compact augmentation, endangered fish and hydroelectric power.

After seeing his order, the parties asked O'Hara if they could postpone the trial, which was scheduled for Jan. 4, while they hammered out a settlement agreement. The final decree and a stipulation, filed Thursday night, [cancel and replace](#) O'Hara's Dec. 23 order and let the parties avoid a trial.

"When you come to agreements, you are much more likely to live with those than having the judge force you to do things you didn't really want to do," O'Hara told the parties in a Dec. 31 conference call.

Both sides said they are happy with the terms of the decree. Conservancy district Manager Alden Vanden Brink said that after six years of working out issues, the decree brought a sense of elation and a sigh of relief to the community of Rangely. The district is very pleased with the final result, he said.

"Folks kept holding their breath," Vanden Brink said. "And now we've got a step forward for drought resiliency."

CREDIT: HEATHER SACKETT/ASPEN JOURNALISM

This map shows the potential locations of the proposed White River storage project, also known as the Wolf Creek project, on the White River between Rangely and Meeker. Rio Blanco Water Conservancy District on Jan. 7 secured a conditional water storage right for 66,720 acre-feet.

Settlement and stipulation

The main issue for state engineers, who were the sole remaining opposer in this case, was whether Rio Blanco could prove it needed the water. According to Colorado water law, new conditional water rights cannot be granted without a specific plan and intent to put the water to beneficial use. State engineers maintained that the conservancy district had not proven that water rights it already owned wouldn't meet its demands.

But Rio Blanco said its existing water rights in their current locations were insufficient and that it needed a new reservoir on Wolf Creek to meet current and future needs. And district officials said they were wary of seeking to transfer these rights and uses to a new reservoir because that requires a water-court process whose outcome is not guaranteed; therefore they needed the new conditional storage right. Even if a water court approved the changes, Rio Blanco still said there was not enough storage in the White River basin to meet demands during a drought or for future uses.

State engineers and Rio Blanco disagreed about how much, if any, water Rio Blanco needed for Rangely, irrigation, endangered fish and other uses. Rio Blanco agreed to give up two of the three water uses left to be determined at trial: Colorado River Compact augmentation and endangered fish.

According to the decree, if Rio Blanco in the future is successful at moving any of their existing water rights to the Wolf Creek project, the same portion of water granted by the decree will be canceled, eliminating duplicate water rights in the reservoir.

[A stipulation](#) agreed to by both parties lays out further restrictions on the water use.

According to the stipulation, annual releases from the reservoir will be limited to 7,000 acre-feet for municipal and in-basin augmentation uses. Up to 20,720 acre-feet of water can be used for mitigation of the environmental impacts of building the project. But once the exact amount of water needed for future mitigation is determined, the difference between that amount and the 20,720 acre-feet will be canceled, reducing the total amount of water decreed.

CREDIT: BRENT GARDNER-SMITH/ASPEN JOURNALISM

A view of the White River between Rangely and Meeker. The Rio Blanco Water Conservancy District on Jan. 7 secured a conditional water storage right for 66,720 acre-feet for the Wolf Creek Reservoir.

Compact compliance

State Engineer Kevin Rein said the final decree is a good outcome, reached in the spirit of cooperation. Even so, state engineers were never willing to compromise on giving Rio Blanco water for Colorado River Compact compliance.

"That's something that we would have held fast on in trial and we held fast on discussing it with them," Rein said. "It's more a matter of something that does not legally occur right now with the state of Colorado water law."

Rio Blanco had proposed that 11,887 acre-feet per year be stored as "augmentation," or insurance, in case of a compact call. Releasing this replacement water stored in the reservoir to meet downstream compact obligations would allow other water uses in the district to continue and avoid the mandatory cutbacks in the event of a compact call.

Many water users in the White River basin, including the towns of Rangely and Meeker, have water rights that are junior to the 1922 interstate compact, meaning these users could bear the brunt of involuntary cutbacks. Augmentation water would protect them from that.

State engineers said augmentation use in a compact-call scenario is not a beneficial use under Colorado water law and is inherently speculative. This doesn't seem to be a legal issue, and O'Hara said in his motion that he would not rule on whether compact augmentation was speculative.

"We believe the augmentation for compact compliance was very difficult to allow just due to the complexities of the Colorado River Compact and the Upper Colorado River compact, and it's gratifying that Rio Blanco listened to us and we were able to get a final decree that didn't include that component," Rein said.

The water-right decree represents just the first step toward constructing the project, which will need approvals from federal agencies. Every six years, in what's known as a diligence filing, Rio Blanco must show the water court that it is moving forward with the dam and reservoir in order to keep its water right. Fort Collins-based environmental group Save the Colorado has already said it will oppose the project.

*This story ran in the [Jan. 9 edition](#) of *The Aspen Times*, the [Jan. 11 edition](#) of the *Steamboat Pilot & Today* and the [Jan. 14 edition](#) of the *Craig Press*.*

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