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Reservoir clears hurdle due to legal settlement

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A legal settlement this week has allowed the Rio Blanco Water Conservancy District to clear a major early hurdle in its attempt to build a large reservoir 17 miles northeast of Rangely.

The agreement reached between the district and state Division of Water Resources averted a trial that was scheduled for this week and led to a decree that was signed by Division 6 Water Judge Michael O'Hara III on Thursday. It gives the district the right to store 66,720 acre-feet of water in a reservoir that would be constructed in Rio Blanco County near the White River and Wolf Creek confluence, approximately 15 miles upstream of the district's Kenney Reservoir.

The district's preferred reservoir site would be on Wolf Creek, with water to be delivered to the reservoir from a proposed pump station on White River.

The proposal still faces major challenges, from federal permitting, to financing, to challenges from environmentalists. But water attorney Alan Curtis, who has been representing the district on the project, said getting the water right is necessary before federal regulatory agencies will consider approving a reservoir proposal.

"We now have a decree from the judge that says this thing will happen if you approve it. This is the first major step in getting that done," Curtis said.

Wade Cox, board president of the Rio Blanco district, said in a news release, "With this decree the District will be able to provide for drought protection and avoid serious water shortages for a long time to come."

Decreed uses for water stored in the reservoir include municipal water for the town of Rangely, and replacement water that can be released to offset future water uses within the district boundaries and within the Yellow Jacket Water Conservancy District, which includes portions of eastern Rio Blanco County, Moffat County and the town of Meeker. Use of the water also is allowed to mitigate environmental impacts associated with the reservoir, and for hydroelectric power generation. In-reservoir use is allowed for recreation, fisheries and wildlife habitat.

Under the settlement, the Rio Blanco district dropped its proposal for some of the water to be used to benefit endangered fish in rivers. Kevin Rein, state engineer for the Division of Water Resources, said the state was concerned with preventing water speculation, which is prohibited in Colorado. To get a water right appropriated requires having a good, nonspeculative plan to put the water to beneficial use, he said. He said the district proposal lacked things such as a formal agreement with the Upper Colorado River Endangered Fish Recovery Program or a specified amount of water that would be involved.

The water district also had proposed to store water so in-basin diversions could continue should local water have to be released to downstream states if Upper Colorado River states including Colorado ever fall out of compliance with water delivery obligations under an interstate compact. The district dropped that proposal under the settlement.

“I would say it’s admirable that Rio Blanco was looking ahead at the potential that Colorado would be out of compliance with the compact at some date,” Rein said. “But this approach of storing water to be released to preserve their diversions at that time has no basis in the compact or in Colorado water law at this time.”

Said Curtis, “I don’t think there’s a win-lose here. To me this settlement is a win-win because both sides had to get what they want in order to sign off on this.”

In a news release, Gary Wockner of the group Save the Colorado, which opposes dam-building in the Colorado River watershed, questioned whether the district will be able to raise the money for the project.

He added, “If the Rio Blanco Water District triggers a permit process for this new dumb dam, they will get a long, hard, legal and scientific battle from us as we work to protect the White River.”

Dennis Webb