

IN THE DISTRICT COURT IN AND FOR THE
COUNTY OF GARFIELD AND STATE OF COLORADO

Civil Action No. 6404

IN THE MATTER OF THE ADJUDICATION)
OF PRIORITY RIGHTS TO THE USE OF)
WATER FOR ALL BENEFICIAL PURPOSES)
IN WATER DISTRICT NO. 70, IRRI-)
GATION DIVISION NO. 5, IN THE)
STATE OF COLORADO,)
)
CITIES SERVICE OIL COMPANY,)
PACIFIC OIL COMPANY, and)
THE COLORADO RIVER WATER)
CONSERVATION DISTRICT,)
)
Petitioners.)

DECREE

Findings of Fact were entered herein on the 21st day of August, A. D. 1970, in accordance with and pursuant to the laws of the State of Colorado; and thereafter this Court caused notice to be given to the attorneys for all parties who had appeared herein that said Findings of Fact had been prepared and were subject to inspection in the office of the Clerk of said District Court and that all persons having objections thereto would be required to appear and file said objections. And, it now appearing that no objections or exceptions have been filed or made to said Findings of Fact and that a Decree in accordance therewith should be entered herein without delay,

It is therefore ORDERED, ADJUDGED and DECREED by the Court that water shall be adjudicated for use in, from and through each and all ditches, reservoirs and other structures involved in this proceeding in conformity with the said Findings; but no priority date or priority number awarded to such ditches, reservoirs and other structures shall be earlier than or prior to the latest or lowest priority which was awarded in the last supplemental general adjudication proceeding in said water district.

It is further ORDERED, ADJUDGED and DECREED by the Court as to each of said ditches, reservoirs and structures as follows, to-wit:

KOBE CANAL No. 114.

The claimant of said structure is The Colorado River Water Conservation District.

The source of supply of said canal is the direct flow of the Colorado River.

The headgate and point of diversion is located on the right bank or northerly bank of the Colorado River at a point which bears North 53°13'51" West 5,798.90 feet from the North quarter corner of Section 35, Township 8 South, Range 97 West of the 6th Principal Meridian. The depth of the canal at high-water line is 2.0 feet, the width of the canal at high-water line is 9.0 feet, the bottom width of the canal is 3.0 feet and the grade of the canal is 1.4 feet per 1,000 feet of length. The approximate length of the canal is 8,310 feet, and the carrying capacity of the canal is 50 cubic feet of water per second of time.

The purposes for which the water in said canal is to be used are irrigation, municipal, industrial, stock water and all other beneficial and useful purposes.

The priority date to which the appropriation hereby awarded said Kobe Canal is June 30, 1936.

Said Kobe Canal is hereby assigned No. 114 in the decrees of this Court.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED.

That there be allowed to flow into the Kobe Canal from the source above stated for the use and benefit of the party lawfully entitled thereto, under and by virtue of commencement of

survey thereof, Priority No. 184 for 50 cubic feet of water per second of time for irrigation, municipal, industrial, stock water and all other beneficial and useful purposes, conditioned, however, upon application of such water to one or more of the beneficial uses for which decreed within a reasonable time after entry hereof, and that final decree shall be hereafter entered for such amount of water as shall be subsequently shown to have been applied to such beneficial use or uses, but such final decree shall in no event be in excess of the amount herein fixed.

MT. LOGAN CANAL No. 115

The claimant of said structure is The Colorado River Water Conservation District.

The source of supply of said canal is Mt. Logan Dam and Reservoir.

The headgate and point of diversion is located at a point whence the quarter corner to Sections 32 and 33, Township 7 South, Range 97 West of the 6th Principal Meridian bears North 56°49' East a distance of 4,801 feet. The approximate length of the canal is 4.8 miles, and the carrying capacity of the canal is 40 cubic feet of water per second of time.

The purposes for which the water in said canal is to be used are irrigation, municipal, industrial and other beneficial uses and purposes.

The priority date to which the appropriation hereby awarded said Mt. Logan Canal is June 30, 1936.

Said Mt. Logan Canal is hereby assigned No. 115 in the decrees of this Court.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED

That there be allowed to flow into the Mt. Logan Canal from the source above stated for the use and benefit of the party lawfully entitled thereto, under and by virtue of commencement of survey thereof, Priority No. 185 for 40 cubic feet of water per second of time for irrigation, municipal, industrial and other beneficial uses and purposes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that such decree is conditioned upon application of such water to one or more of the beneficial uses for which decreed within a reasonable time after entry hereof; and that final decree shall be hereafter entered for such amount of water as shall be subsequently shown to have been applied to such beneficial use or uses, but such final decree shall in no event be in excess of the amount herein fixed.

MT. LOGAN DAM AND RESERVOIR No. 116

The claimant of said structure is The Colorado River Water Conservation District.

The source of supply of said reservoir is the surplus flows of Roan Creek.

The initial point of survey of the high-water line is located at a point on the left abutment of the dam forming the reservoir whence the quarter corner of Sections 32 and 33, Township 7 South, Range 97 West of the 6th Principal Meridian bears North 39°59' East a distance of 4,202 feet. The proposed maximum height of the dam is 155 feet.

The purposes for which the water is stored are irrigation, municipal, industrial and other beneficial uses and purposes, including recreational.

The priority date to which the appropriation hereby awarded said Mt. Logan Dam and Reservoir is June 30, 1936.

Said Mt. Logan Dam and Reservoir is hereby assigned No. 116 in the decrees of this Court.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED

That there be allowed to flow into Mt. Logan Dam and Reservoir from the source above stated for the use and benefit of the party lawfully entitled thereto, under and by virtue of commencement of survey thereof, Priority No. 186 for 10,000 acre feet of water, of which 800 acre feet of water is dead storage, for municipal, irrigation, industrial and other beneficial uses and purposes, including recreational.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that such decree is conditioned upon application of such water to one or more of the beneficial uses for which decreed within a reasonable time after entry hereof; and that final decree shall be hereafter entered for such amount of water as shall be subsequently shown to have been applied to such beneficial use or uses, but such final decree shall in no event be in excess of the amount herein fixed.

ROAN CREEK FEEDER CANAL No. 117.

The claimant of said structure is The Colorado River Water Conservation District.

The source of supply of said canal is Roan Creek.

The headgate and point of diversion is located at a point whence the quarter corner to Sections 4 and 3, Township 7 South, Range 98 West of the 6th Principal Meridian bears North 47°07'07" East a distance of 835 feet. The approximate length of the canal is 9.8 miles, and the carrying capacity of the canal is 75 cubic feet of water per second of time.

The purposes for which the water in said canal is to be used are irrigation, municipal, industrial and other beneficial uses and purposes.

The priority date to which the appropriation hereby awarded said Roan Creek Feeder Canal is June 30, 1936.

Said Roan Creek Feeder Canal is hereby assigned No. 117 in the decrees of this Court.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED.

That there be allowed to flow into the Road Creek Feeder Canal from the source above stated for the use and benefit of the party lawfully entitled thereto, under and by virtue of commencement of survey thereof, Priority No. 187 for 75 cubic feet of water per second of time for irrigation, municipal, industrial and other beneficial uses and purposes.

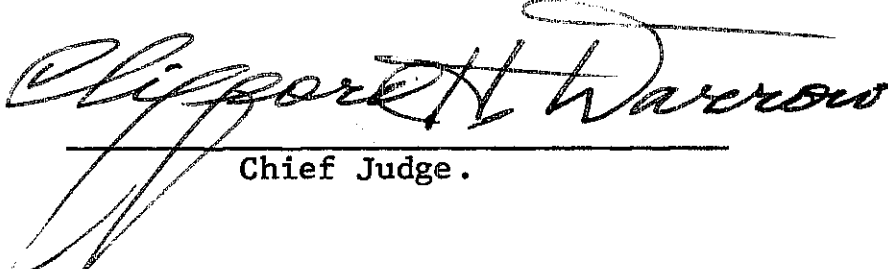
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that such decree is conditioned upon application of such water to one or more of the beneficial uses for which decreed within a reasonable time after entry hereof; and that final decree shall be hereafter entered for such amount of water as shall be subsequently shown to have been applied to such beneficial use or uses, but such final decree shall in no event be in excess of the amount herein fixed.

It is further ORDERED, ADJUDGED and DECREED that the cost and expenses of publication of the notices herein and of personal service of notices and likewise the cost of mailing notices and other costs of a similar kind and of a general nature incurred by the petitioners in this proceeding be, and the same are, hereby taxed as costs against the respective claimants of ditches, reservoirs and structures who have appeared herein and obtained decrees, either absolute or conditional, in proportion to the amount of water adjudicated to the various structures claimed by the respective claimants, and that costs may be calculated and taxed by the Clerk of the Court and execution may issue therefor, or the Clerk may refuse to furnish certified copies of the decrees entered in this proceeding, or certificates, as provided in C.R.S. 1963, 148-9-13(3), and 148-9-19(1), until the costs so apportioned have been paid with respect to the particular structure on which a certified copy of any part of this decree or a certificate is issued.

It is further ORDERED that after costs are apportioned and taxed the Clerk of this Court shall give notice to each claimant of the amount of cost apportioned against the structure of such claimant.

Done in open Court this 10th day of November, A. D.
1970.

BY THE COURT:



Chief Judge.

DISTRICT COURT, GARFIELD (GLENWOOD SPRINGS) COUNTY, COLORADO	
Court Address: 109 8TH STREET, STE. 104, GLENWOOD SPRINGS, CO, 81601	DATE FILED: December 6, 2023 1:35 PM CASE NUMBER: 2022CW3058
In the Interest of: KOBE WATER AUTHORITY	
	△ COURT USE ONLY △
	Case Number: 2022CW3058 Division: E Courtroom:
Order: Proposed Decree of the Court	

The motion/proposed order attached hereto: SO ORDERED.

Any future diligence application shall be filed no later than December 2029.

Issue Date: 12/6/2023



CHRISTOPHER GILES SELDIN
District Court Judge

DISTRICT COURT, WATER DIVISION NO. 5 STATE OF COLORADO Garfield County Courthouse 109 8 th Street, Suite 104 Glenwood Springs, CO 81601 (970) 928-3065	<div style="text-align: center;"> <p>Order - 2022CW3058</p> <p>▲ COURT USE ONLY ▲</p> </div>
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: KOBE WATER AUTHORITY, in the Colorado River, in Mesa and Garfield Counties, Colorado.	
	<div style="text-align: center;"> <p>Case Number: 22CW3058</p> <p>(C.A. 6404, W-789, W-789-76, 80CW94, 84CW63, 88CW83, 94CW187, 01CW17, 07CW119 and 15CW3055)</p> </div>
<div style="text-align: center;"> <p>REVISED FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE AND DECREE OF THE WATER COURT</p> </div>	

The Application in this case was filed on June 27, 2022 (“Application”) and was referred to the Water Referee for Water Division 5, State of Colorado, by the Water Judge of this Court in accordance with C.R.S. §§ 37-92-101, *et seq.*, known as the Water Right Determination and Administration Act of 1969.

The Water Referee entered her ruling on September 27, 2023. Upon reflection, she determined that the ruling should include a statement regarding integration. This Revised Ruling includes paragraph 10 which recognizes a previous finding of integrated system.

The undersigned Referee, having made such investigations as are necessary to determine whether or not the statements in the Application are true, and having been fully advised of the subject matter of the Application, does hereby make the following determination and Ruling as the Referee in this matter:

FINDINGS OF FACT

1. Application. The statements in the Application are true, except as may be otherwise stated within.

2. Applicants. Name and mailing address of Applicant:

Kobe Water Authority
201 Centennial Street, Suite 200
Glenwood Springs, CO 81601

With copies to:

Ryan M. Jarvis
Erika S. Gibson
Charles Goodson
JOHNSTON | VAN ARSDALE | MARTIN PLLC
305 Gold Rivers Court, Suite 200
Telephone: (970) 922-2122
Email: ryan@jvamlaw.com; erika@jvamlaw.com; charles@jvamlaw.com

Peter C. Fleming
Jason V. Turner
Colorado River Water Conservation District
201 Centennial Street, Suite 200
Glenwood Springs, CO 81601
Telephone: (970) 945-8522
Email: pfleming@crwcd.org; jturner@crwcd.org

3. Notice and jurisdiction. Timely and adequate notice of the pendency of these proceedings has been given in the manner required by C.R.S. § 37-92-302(3). Applicants filed the Application on June 27, 2022. The Application was properly published in the resume for Water Division 5 and newspapers of general circulation as identified by the Court. The Court has jurisdiction over the Application and over all entities or persons who had standing to appear even though they did not do so.
4. Opposition. No Statements of Opposition were filed, and the time for filing Statements of Opposition has expired.
5. Report of the Division Engineer/Summary of Consultation. The Court has given due consideration to the Consultation Report of the Division Engineer filed on October 4, 2022, and Applicants' Response to the Consultation Report of the Division Engineer filed on January 25, 2023.
6. First claim for relief: Applicant requested a finding of reasonable diligence and to make absolute a portion of the following conditional water right:
- 6.1. Name of structure: **Kobe Canal.**
- 6.2. *Original decree:* Case No. C.A. 6404, entered on November 10, 1970, by the

District Court in and for Water Division No. 5.

6.3. *Subsequent decrees:* Case Nos. W-789, W-789-76, 80CW94, 84CW63, 88CW83, 94CW187, 01CW17, 07CW119, and 15CW3055, by the District Court in and for Water Division No. 5.

6.4. *Locations:*

Original (C.A. 6404):

On the right bank of the Colorado River at a point which bears N. 53°13'51" W. 5,798.90 feet from the N¼ Corner of Section 35, T. 8 S., R. 97 W. of the 6th P.M. This location may also be plotted as being 1,875 feet from the North Section Line and 2,105 feet from the East Section Line of Section 27, T. 8 S., R. 97 W. of the 6th P.M.

Kobe Canal Alternate Point No. 1 (84CW348):

On the right bank of the Colorado River at a point whence the N¼ Corner of Section 33, T. 8 S., R. 97 W. of the 6th P.M. bears N. 19°38'25" W. 1,627.54 feet. This location may also be plotted as being 1,533 feet from the North Section Line and 2,093 feet from the East Section Line of Section 33, T. 8 S., R. 97 W. of the 6th P.M.

Kobe Canal Alternate Point No. 2 (87CW127 & 07CW38):

At a point beginning at the W¼ Corner of Section 27, T. 8 S., R. 97 W. of the 6th P.M., whence the NW corner of Section 27 bears N. 00°11'45" W.; thence N. 80°45'40" E. 1,564.36 feet to the point of diversion. This location may also be plotted as being 2,389 feet from the North Section Line and 1,544 feet from the West Section Line of Section 27, T. 8 S., R. 97 W. of the 6th P.M.

These points are depicted on the location map attached hereto as **Exhibit A**.

6.5. *Source:* Colorado River.

6.6. *Appropriation date:* June 30, 1936.

6.7. *Amount:* 50.0 c.f.s. total, of which Applicant owns 48.3 c.f.s.¹ Of that amount, 43.0 c.f.s. remains conditional for industrial, commercial, and construction purposes,

¹ The Town of DeBeque owns 1.7 c.f.s. of this water right, which was made absolute for all decreed purposes in Case No. 87CW0269. No portion of the Town's interest is the subject of this proceeding.

44.8 c.f.s. remains conditional for irrigation and municipal purposes, and 48.3 c.f.s. remains conditional for agricultural, domestic, livestock, fire protection, fish and wildlife, and recreation purposes (3.5 c.f.s. was decreed absolute for municipal and irrigation uses in Case No. 07CW119. 5.3 c.f.s. was decree absolute for industrial, commercial, and construction purposes in Case No. 15CW3055).

6.8. *Uses:* Irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation. The water may be used directly for such purposes, and/or it may be used to replace depletions resulting from such purposes by augmentation, replacement and/or exchange in accordance with applicable law. Any use of the subject conditional water right for augmentation shall be made only in accordance with a plan for augmentation or substitute water supply plan approved in accordance with applicable law, and any use of the water right herein by exchange shall be made only in accordance with an exchange approved in accordance with applicable law. The subject conditional water right, when used directly, is limited to use within the boundaries of the Bluestone Water Conservancy District as it exists today or as it may exist in the future. However, nothing herein shall be construed as confining said water right to the boundaries of the Bluestone Water Conservancy District when said water right is being used to replace depletions by augmentation, replacement and/or exchange so long as they are utilized within the boundaries of the Colorado River Water Conservation District. Moreover, nothing herein shall limit Applicant or any of its successors from changing said water right in accordance with applicable law.

6.9. *Application to Beneficial Use:*

6.9.1. Date water applied to beneficial use: May 29, 2021.

6.9.2. Amount of additional water applied to beneficial use: 8.8 c.f.s.

6.9.3. Use(s) applied to beneficial use: Irrigation.

6.9.4. Description of place of use where water is applied to beneficial use: Within the boundaries of the Bluestone Water Conservancy District, shown on **Exhibit B**.

7. Second claim for relief: Applicant requested a finding of reasonable diligence for the following conditional water right:

7.1. *Name of structure:* **Mt. Logan Canal.**

7.2. *Original decree:* Case No. C.A. 6404, entered on November 10, 1970, by the District Court in and for Garfield County, Colorado.

7.3. *Subsequent decrees:* Case Nos. W-789, W-789-76, 80CW94, 84CW63, 88CW83, 94CW187, 01CW17, 07CW119, and 15CW3055, by the District Court in and for

Water Division No. 5.

- 7.4. *Location:* The headgate and point of diversion is located at a point whence the quarter corner of Sections 32 and 33, T. 7 S., R. 97 W. of the 6th P.M. bears N. 56°49' E. a distance of 4,801 feet. This location may also be plotted as being 106 feet South of the North Section Line and 1,118 feet East of the West Section Line of Section 5, T. 8 S., R. 97 W. of the 6th P.M. This point is depicted on the location map attached hereto as **Exhibit A**.
- 7.5. *Source:* Mt. Logan Dam and Reservoir.
- 7.6. *Appropriation date:* June 30, 1936.
- 7.7. *Amount:* 40.0 c.f.s., conditional.
- 7.8. *Uses:* Irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation. The water may be used directly for such purposes, and/or it may be used to replace depletions resulting from such purposes by augmentation, replacement and/or exchange in accordance with applicable law. Any use of the subject conditional water right for augmentation shall be made only in accordance with a plan for augmentation or substitute water supply plan approved in accordance with applicable law, and any use of the water right herein by exchange shall be made only in accordance with an exchange approved in accordance with applicable law. The subject conditional water right, when used directly, is limited to use within the boundaries of the Bluestone Water Conservancy District as it exists today or as it may exist in the future. However, nothing herein shall be construed as confining said water right to the boundaries of the Bluestone Water Conservancy District when said water right is being used to replace depletions by augmentation, replacement and/or exchange so long as they are utilized within the boundaries of the Colorado River Water Conservation District. Moreover, nothing herein shall limit Applicant or any of its successors from changing said water right in accordance with applicable law.
8. Third claim for relief. The Applicant requested a finding of reasonable diligence for the following conditional water right:
- 8.1. *Name of structure:* **Mt. Logan Dam and Reservoir.**
- 8.2. *Original decree:* Case No. C.A. 6404, entered on November 10, 1970, by the District Court in and for Water Division No. 5.
- 8.3. *Subsequent decrees:* Case Nos. W-789, W-789-76, 80CW94, 84CW63, 88CW83, 94CW187, 01CW17, 07CW119, and 15CW3055, by the District Court in and for Water Division No. 5.

- 8.4. *Location:* The initial point of survey of the high-water line is located at a point on the left abutment of the dam forming the reservoir whence the quarter corner of Sections 32 and 33, T. 7 S., R. 97 W. of the 6th P.M. bears N. 39°59' E. a distance of 4,202 feet. This location may also be plotted as being 657 feet South of the North Section Line and 2,418 feet East of the West Section Line of Section 5, T. 8 S., R. 97 W. of the 6th P.M. This point is depicted on the location map attached hereto as **Exhibit A.**
- 8.5. *Source:* Roan Creek, tributary to the Colorado River, carried through the Roan Creek Feeder Canal.
- 8.6. *Appropriation date:* June 30, 1936.
- 8.7. *Amount:* 10,000 acre feet, conditional.
- 8.8. *Uses:* Irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation. The water may be used directly for such purposes, and/or it may be used to replace depletions resulting from such purposes by augmentation, replacement and/or exchange in accordance with applicable law. Any use of the subject conditional water right for augmentation shall be made only in accordance with a plan for augmentation or substitute water supply plan approved in accordance with applicable law, and any use of the water right herein by exchange shall be made only in accordance with an exchange approved in accordance with applicable law. The subject conditional water right, when used directly, is limited to use within the boundaries of the Bluestone Water Conservancy District as it exists today or as it may exist in the future. However, nothing herein shall be construed as confining said water right to the boundaries of the Bluestone Water Conservancy District when said water right is being used to replace depletions by augmentation, replacement and/or exchange so long as they are utilized within the boundaries of the Colorado River Water Conservation District. Moreover, nothing herein shall limit the Applicant or any of its successors from changing said water right in accordance with applicable law.
9. Fourth claim for relief. The Applicant requested a finding of reasonable diligence for the following conditional water right:
- 9.1. *Name of structure:* **Roan Creek Feeder Canal.**
- 9.2. *Original decree:* Case No. C.A. 6404, entered on November 10, 1970, by the District Court in and for Water Division No. 5.
- 9.3. *Subsequent decrees:* Case Nos. W-789, W-789-76, 80CW94, 84CW63, 88CW83, 94CW187, 01CW17, 07CW119, and 15CW3055, by the District Court in and for

Water Division No. 5.

- 9.4. *Location:* The headgate and point of diversion is located at a point whence the quarter corner of Sections 3 and 4, T. 7 S., R. 98 W. of the 6th P.M. bears N. 47°07'07" E. a distance of 835 feet. This location may also be plotted as being 592 feet West of the East Section Line and 1,980 feet North of the South Section Line of Section 4, T. 7 S., R. 98 W. of the 6th P.M. This point is depicted on the location map attached hereto as **Exhibit A**.
- 9.5. *Source:* Roan Creek, tributary to the Colorado River.
- 9.6. *Appropriation date:* June 30, 1936.
- 9.7. *Amount:* 75.0 c.f.s., conditional.
- 9.8. *Uses:* Irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation. The water may be used directly for such purposes, and/or it may be used to replace depletions resulting from such purposes by augmentation, replacement and/or exchange in accordance with applicable law. Any use of the subject conditional water right for augmentation shall be made only in accordance with a plan for augmentation or substitute water supply plan approved in accordance with applicable law, and any use of the water right herein by exchange shall be made only in accordance with an exchange approved in accordance with applicable law. The subject conditional water right, when used directly, is limited to use within the boundaries of the Bluestone Water Conservancy District as it exists today or as it may exist in the future. However, nothing herein shall be construed as confining said water right to the boundaries of the Bluestone Water Conservancy District when said water right is being used to replace depletions by augmentation, replacement and/or exchange so long as they are utilized within the boundaries of the Colorado River Water Conservation District. Moreover, nothing herein shall limit the Applicant or any of its successors from changing said water right in accordance with applicable law.
10. The subject conditional water rights have previously been determined by the Water Court in Case Nos. 01CW17 and 07CW119 to be components of an integrated water supply system that provides water for irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation purposes within the geographical areas of the Bluestone Water Conservancy District and the Colorado River Water Conservation District.
11. The Application requests a finding that the Applicant has exercised reasonable diligence in the development of the conditional water rights awarded to Kobe Canal, Mt. Logan Canal, Mt. Logan Dam and Reservoir and Roan Creek Feeder Canal. The Referee finds that the work and expenditures described in the Application constitute reasonable diligence in the development of the subject conditional water rights and the Application should be granted.
12. The Application requests confirmation that a portion of the water right for Kobe Canal has

been made absolute in the amount of 8.8 c.f.s. for irrigation purposes. The Applicant has provided evidence that illustrates that water has been diverted at a rate of 8.8 c.f.s. for the purpose of irrigation. The Referee finds that the water right decreed to Kobe Canal should be made absolute for 8.8 c.f.s. for irrigation purposes.

CONCLUSIONS OF LAW

Based upon and fully incorporating the Findings of Fact set forth above, the Court concludes as a matter of law that:

13. Notice. All notices required by law have been properly made, including as required under C.R.S. § 37-92-302(3).
14. Personal and Subject Matter Jurisdiction. The Court has jurisdiction over the Application and over all entities or persons who had standing to appear, even though they did not do so. C.R.S. §§ 37-92-301(2) and -303(1).
15. Application Complete. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969. C.R.S. §§ 37-92-101, *et seq.*
16. Authority for Approval. The Court has authority to approve the finding of reasonable diligence requested in the Application. C.R.S. §§ 37-92-301(2), -302 and -303(1). The Court has authority to grant the absolute water right requested in the Application. C.R.S. §§ 37-92-302 and -305.
17. Absolute Water Right Created. An absolute water right is created by the diversion of water and its application to beneficial use. *See, In re Application for Water Rights in Rio Grande County*, 53 P.3d 1165, 1168 (Colo. 2002).
18. Appropriation Vested. An absolute decree confirms that an appropriation has vested as a property right and entitles the subsequent operation of that right through its decreed point of diversion, in a specified amount, for a particular beneficial use. *In re Application for Water Rights in Rio Grande County*, 53 P.3d 1165, 1168 (Colo. 2002); *Williams v. Midway Ranches Property Owners Ass'n, Inc.*, 938 P.2d 515, 521 (Colo. 1997).
19. Appropriation Completed. A conditional water right is the right to perfect a water right with a certain priority upon the completion with reasonable diligence of the appropriation upon which such water right is to be based. C.R.S. § 37-92-103(6). The appropriation is completed, and the water right vests, upon application of water to beneficial use. *SL Group, LLC v. Go West Industries, Inc.*, 42 P.3d 637 (Colo. 2002); *Farmers Highline Canal and Reservoir Co. v. City of Golden*, 975 P.2d 189 (Colo. 1999); *City of Lafayette v. New Anderson Ditch Co.*, 962 P.2d 955 (Colo. 1998).
20. Measure of Diligence. The measure of diligence is the steady application of effort to complete the appropriation in a reasonably expedient and efficient manner under all the facts and circumstances. C.R.S. § 37-92-301(4)(b). The Court may consider all relevant factors in determining whether the holder of a conditional water right has exercised

reasonable diligence in the development of the appropriation. *Trans County Water, Inc. v. Central Colo. Water Conservancy Dist.*, 727 P.2d 60, 64 (Colo. 1986).

21. Requirements for Decree Fulfilled. The Applicant has fulfilled all legal requirements for a decree for the requested finding of reasonable diligence and to make absolute.

RULING OF THE REFEREE

22. Findings and Conclusions Incorporated. The Findings of Fact and Conclusions of Law as set forth above are incorporated herein by reference and are hereby modified as necessary to constitute part of the Ruling of the Referee and final Decree of the Water Court.
23. Confirmation of Absolute Water Rights. The Application of Kobe Water Authority to make **Kobe Canal** partially absolute is granted. Kobe Canal is made absolute in the additional amount of 8.8 c.f.s. for irrigation purposes.
24. Finding of Reasonable Diligence. The Application of Kobe Water Authority for finding of reasonable diligence with respect to **Kobe Canal** is granted and that conditional water right is continued in full force and effect in the amount of 36 c.f.s. for irrigation purposes, in the amount of 43.0 c.f.s. for industrial, commercial and construction purposes, in the amount of 44.8 c.f.s. for municipal purposes, in the amount of 48.3 for agricultural, domestic, livestock, fire protection, fish and wildlife, and recreation purposes.
25. Finding of Reasonable Diligence. The Application of Kobe Water Authority for findings of reasonable diligence for **Mt. Logan Canal** is granted in the amount of 40 c.f.s., conditional, for the purposes of irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation purposes.
26. Finding of Reasonable Diligence. The Application of Kobe Water Authority for findings of reasonable diligence for **Mt. Logan Dam and Reservoir** is granted in the amount of 10,000 acre feet for the purposes of irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation.
27. Finding of Reasonable Diligence. The Application of Kobe Water Authority for findings of reasonable diligence for **Roan Creek Feeder Canal** is granted in the amount of 75.0 c.f.s., conditional, for the purposes of irrigation, agricultural, municipal, domestic, industrial, commercial, construction, livestock, fire protection, fish and wildlife, and recreation.
28. Future Diligence. Should the Applicants desire to maintain the conditional water rights confirmed herein, an Application for Finding of Reasonable Diligence shall be filed in the same month of the sixth calendar year following entry of this decree, unless a determination has been made that such conditional right has been made absolute by reason of the completion of the appropriation, or is otherwise disposed of.

29. Rule 9. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water rights described herein, the transferee shall file with the Division 5 Water Court a notice of transfer which shall state:

28.1. The title and case number of this Case No. 22CW3058

28.2. The description of the conditional water right transferred;

28.3. The name of the transferor;

28.4. The name and mailing address of the transferee; and

28.5. A copy of the recorded deed.

The owner of said conditional water rights shall also notify the Clerk of the Division 5 Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file of this Case No. 22CW3058 and in the case file (if any) in which the Court first made a finding of reasonable diligence.

A copy of the Ruling shall be filed with the Division Engineer for Water Division 5 and with the State Engineer.

It is further ORDERED that this Ruling shall be filed with the Water Clerk, subject to judicial review.

Dated this 29th day of September, 2023.

BY THE REFEREE:



Holly K. Strablizky, Water Referee
Water Division No. 5, State of Colorado

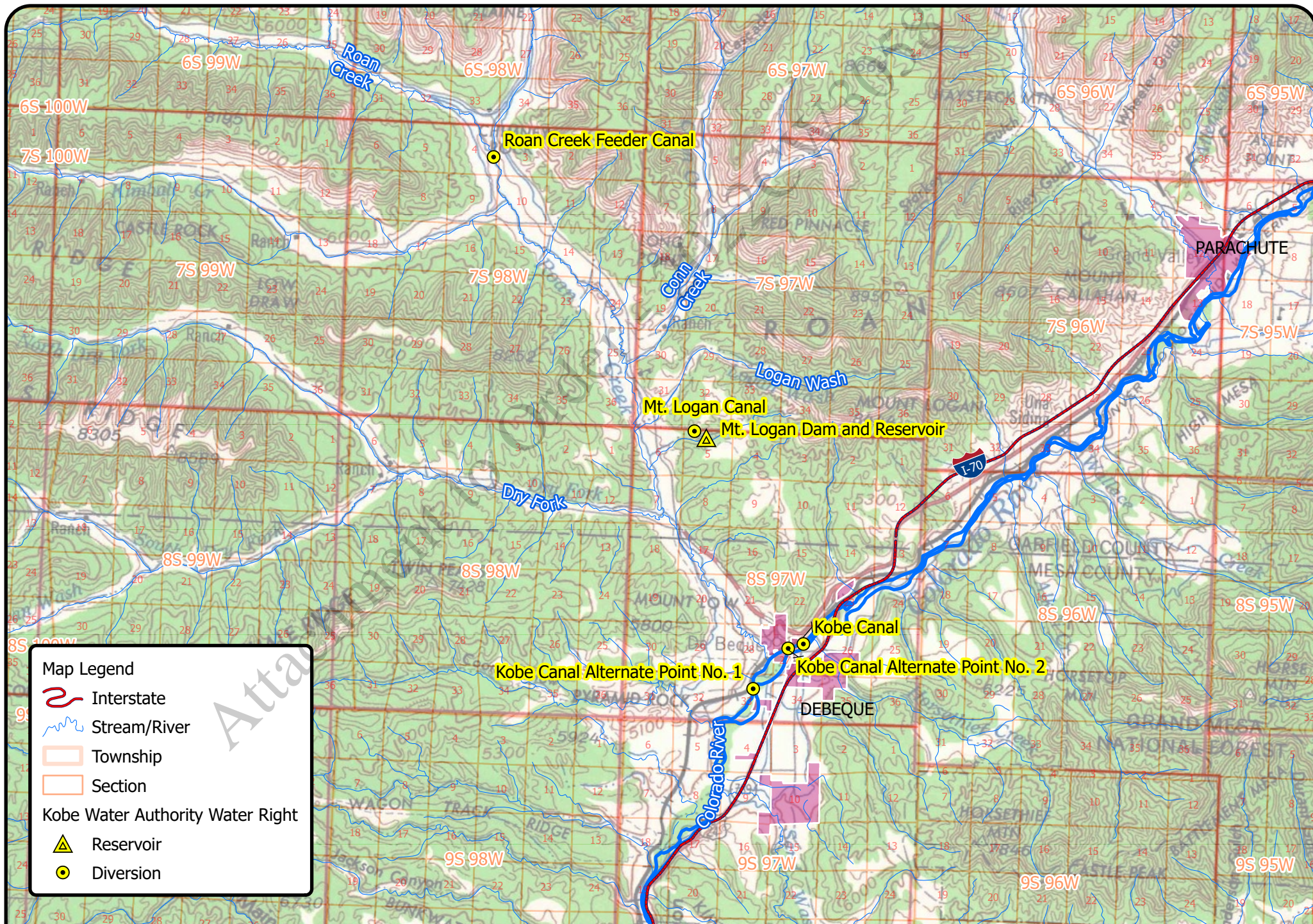
DECREE OF THE WATER COURT

No protest was filed in this matter, and accordingly, the foregoing Ruling of the Referee is confirmed and approved and is made the Decree of the Water Court. The conditional water rights described herein shall be in full force and effect until the end of the month six years from the date of this Order. If the Applicants wish to maintain the conditional water rights thereafter, Applicants shall file an application for findings of reasonable diligence on or before that date, or make a showing on or before then that the conditional water rights have become absolute water rights by reason of the completion of the appropriation.

DATED:

BY THE COURT:

Honorable Christopher Seldin
Water Judge, Water Division 5
State of Colorado



118 W. Sixth St., Suite 200
Glenwood Springs, CO 81601
970.945.1004
www.sgm-inc.com

Exhibit A

Kobe Water Authority

Date: 6/21/2022 Job No. 2021-344.001 Map by: KNR
Coordinate System: NAD 1983 UTM Zone 13N Projection: Transverse Mercator
Data Sources: USGS NHD (Stream/River), CDOT, Mesa and Garfield Counties Assessor's Offices (Parcels), Kobe Water Authority (Decreed Diversion Locations)
File: I:\2021\2021-344-KobeWaterAuthority\001-CivilEng\H-Dwgs\GIS\MXDs\KWA_Diversions\KWA_Diversions.aprx
The information displayed above is intended for general planning purposes. Refer to legal documentation/data sources for descriptions/locations.

0 1.25 2.5
Miles
1 inch = 2.5 miles



DATE FILED: January 25, 2023 3:27 PM

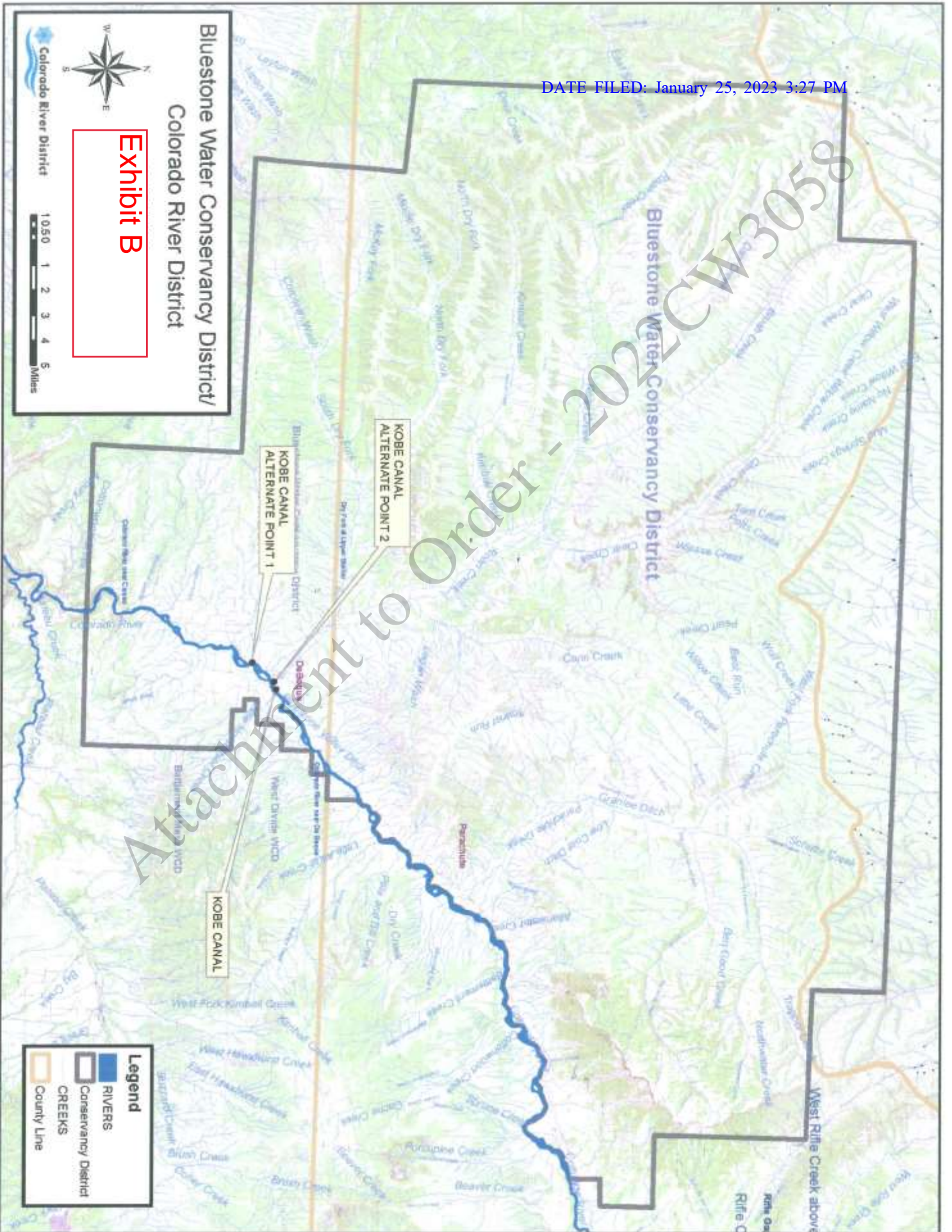


Exhibit B

Bluestone Water Conservancy District/
Colorado River District

Attachment to Order - 2022CW3058

Legend

RIVERS
CREEKS
Conservancy District
County Line