

DISTRICT COURT, GARFIELD (GLENWOOD SPRINGS) COUNTY, COLORADO	
Court Address: 109 8th Street, Ste. 104, Glenwood Springs, CO, 81601	DATE FILED: November 25, 2018 CASE NUMBER: 2018CW3093
In the Interest of:	
In the Interest of: BLUE VALLEY METROPOLITAN DISTRICT	
	△ COURT USE ONLY △
	Case Number: 2018CW3093 Division: E                      Courtroom:
<b>Decree: Decree of the Water Court</b>	

The motion/proposed order attached hereto: GRANTED.

Any request for a future finding of reasonable diligence shall be filed in November 2024.

Issue Date: 11/25/2018



JAMES BERKLEY BOYD  
District Court Judge

DISTRICT COURT, WATER DIVISION 5, COLORADO  
109 8<sup>TH</sup> STREET, GLENWOOD SPRINGS, CO 81601  
PHONE: (970) 928-3065

CONCERNING THE APPLICATION FOR WATER RIGHT OF:

**BLUE VALLEY METROPOLITAN DISTRICT**

IN GRAND COUNTY, COLORADO.

ΔCOURT USE ONLYΔ

CASE NO.: **18CW3093**  
(11CW37, 04CW130, 04CW42,  
98CW027, 96CW286)

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

This matter came before the Court upon the Blue Valley Metropolitan District (“Applicant”) Application for Finding of Reasonable Diligence (“Application”). The Water Judge referred the Application to the undersigned Water Referee for Water Division 5, State of Colorado, in accordance with C.R.S. § 37-92-101, *et seq.*, known as the Water Right Determination and Administration Act of 1969.

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:

**FINDINGS OF FACT**

1. The statements in the Application are true, except as may be otherwise stated herein.
2. Name, Address, and Telephone Number of Applicant:

Blue Valley Metropolitan District	<i>copy to:</i>	Balcomb & Green, P.C.
c/o Buck McNichols		P.O. Drawer 790
56 Grand County Rd. 1014		Glenwood Springs, CO 81601
Silverthorne, CO 80498		(970) 945-6546
(970) 724-3502		

3. Notice: Timely and adequate notice of the pendency of these proceedings has been given in the manner required by C.R.S. § 37-92-302. Applicant filed the Application on June 27, 2018. The Application was properly published in the resume for Water Division 5. 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. Opposers: No statements of opposition were filed in this case and no party has sought to intervene. The time for filing such statements of opposition, as set forth in C.R.S. § 37-92-302(1)(C), has expired.
5. Report of the Division Engineer. This Court has given due consideration to the Division Engineer's Summary of Consultation dated September 21, 2018.
6. Summary of Application: Applicant is a special district that provides water service to residents within the Blue Valley service area. Applicant requested a finding of reasonable diligence on the conditional portions of the Blue Valley Metropolitan District Pump and Pipeline and Blue Valley Metropolitan District 1998 Well Nos. 1 and 2 ("Subject Water Rights").
7. Name of Structure: **Blue Valley Metropolitan District Pump and Pipeline**
  - a. Original Decree: Case No. 96CW286, entered on March 11, 1998, District Court, Water Division 5.
  - b. Subsequent Decrees Awarding Diligence: Cases No. 04CW42 and 11CW37, District Court, Water Division 5.
  - c. Legal Description: A well/infiltration gallery located in the NW1/4 SW1/4, Section 34, Township 1 South, Range 80 West of the 6th P.M. at a point 1,000 feet from the West line and 2,350 feet from the South line of said Section 34. This location is also described in Case No. 11CW37 and Well Permit No. 49622-F as being located in the NW1/4 SW1/4, Section 34, Township 1 South, Range 80 West of the 6th P.M. at a point 831 feet from the West line and 2,363 feet from the South line of said Section 34 as depicted on the map attached as **Exhibit A**.
  - d. Source: Blue River Alluvium, tributary to the Blue River, tributary to the Colorado River.
  - e. Appropriation Date: August 1, 1996.
  - f. Amount: 250 g.p.m., of which 167 g.p.m. is decreed absolute and 83 g.p.m. remains conditional.
  - g. Use: Domestic water service for up to 150 residences, fire protection, municipal, irrigation of approximately 60 acres of lawn and landscape within the District's boundaries and within the West 1/2 of Section 27, and West 1/2 of Section 34, Township 1 South, Range 80 West of the 6th P.M, as depicted on the map attached as **Exhibit B**.
  - h. Depth: approximately 20 feet.

i. Remarks: The Blue Valley Pump and Pipeline is operated pursuant to Well Permit No. 49622-F and in accordance with the plan for augmentation approved in Case No. 96CW286 and as amended in Case No. 98CW27.

8. Name of Structure: **Blue Valley Metropolitan District 1998 Well Nos. 1 and 2.**

a. Original Decree: Case No. 98CW27, entered on August 10, 1998, District Court, Water Division 5.

b. Subsequent Decrees Awarding Diligence: Cases No. 04CW130 and 11CW37, District Court, Water Division 5.

c. Legal Description:

1. *Well No. 1:* A well located in the NW1/4 SW1/4 Section 34, Township 1 South, Range 80 West of the 6th PM, a distance of 777 feet from the West line and 2,454 feet from the South line of said Section 34, as depicted on the map attached as **Exhibit A**.

2. *Well No. 2:* A well located in the NW1/4 SW1/4 Section 34, Township 1 South, Range 80 West of the 6th PM, a distance of 740 feet from the West line and 2,546 feet from the South line of said Section 34, as depicted on the map attached as **Exhibit A**.

d. Source: Blue River Alluvium, tributary to the Blue River, tributary to the Colorado River.

e. Appropriation Date: November 14, 1997.

f. Amount: 250 g.p.m., conditional, for each well.

g. Use: Domestic water service for up to 150 residences, fire protection, municipal, and irrigation of approximately 60 acres of lawn and landscape within the District's boundaries and within the West 1/2 of Section 27, and West 1/2 of Section 34, Township 1 South, Range 80 West of the 6th P.M., as depicted on the map attached as **Exhibit B**.

h. Depth: approximately 20 feet.

i. Remarks:

1. The cumulative diversions under any combination of the Blue Valley Metropolitan District 1998 Well Nos. 1 and 2 and the Blue Valley

Metropolitan District Pump & Pipeline shall not exceed 250 g.p.m.

2. The Blue Valley Metropolitan District 1998 Well Nos. 1 and 2 are operated pursuant to the plan for augmentation decreed in Case No. 96CW286 and as amended in Case No. 98CW27.
3. The wells are to be constructed within 100 feet from the river unless Applicant augments delayed impacts in an amount and upon a schedule acceptable to the Division Engineer.
9. Name of owner of the land on which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed, including any modification to the existing storage pool: Applicant.
10. Integrated System: In Cases No. 04CW42 and 04CW130, the Court confirmed the Subject Water Rights are components of the integrated water supply system for Applicant's service area. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b).
11. Finding of Diligence: The Applicant presented evidence that it has exercised reasonable diligence in the development of the Subject Water Rights. The Referee finds that the work and expenditures described in the Application constitute reasonable diligence in the development of the Subject Water Rights and the Application should be granted C.R.S. § 37-92-301(4).

#### CONCLUSIONS OF LAW

12. To the extent they constitute legal conclusions; the foregoing Findings of Fact are incorporated herein.
13. All notices required by law have been properly made, including as required under C.R.S. § 37-92-302(3). 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.
14. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969. C.R.S. §§ 37-92-101–602.
15. The Water Court for Water Division 5 has jurisdiction over the subject matter of these proceedings and over all persons and owners of property who may be affected hereby, whether or not they have chosen to appear.

16. Applicant has met its burden of proof on all matters that it is required to establish in these proceedings.
17. Applicant has satisfied all legal requirements for the entry of a decree in this case.
18. Applicant has not abandoned any of the Subject Water Rights in the preceding diligence period.
19. Applicant's actions described in the Application satisfy the standard for reasonable diligence and, therefore, constitute reasonable diligence toward the completion of the appropriation of the portion of the Subject Water Rights remaining conditional hereafter.
20. Review of determinations made by the Division Engineer or the State Engineer in administration of the Subject Water Rights are water matters which the Water Court has exclusive jurisdiction.

#### **RULING OF THE REFEREE**

21. 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 and Final Judgment and Decree.
22. The Application of Blue Valley Metropolitan District for a finding of reasonable diligence with respect to the Blue Valley Metropolitan District Pump and Pipeline and Blue Valley Metropolitan District 1998 Well Nos. 1 and 2 is GRANTED and the conditional water rights are continued in full force and effect for the following amounts and uses:
  - a. **Blue Valley Metropolitan District Pump and Pipeline** - 83 g.p.m., conditional, for domestic water service for up to 150 residences, fire protection, municipal, irrigation of approximately 60 acres of lawn and landscape within the District's boundaries and within the West 1/2 of Section 27, and West 1/2 of Section 34, Township 1 South, Range 80 West of the 6th P.M.; and
  - b. **Blue Valley Metropolitan District 1998 Well Nos. 1 and 2** - 250 g.p.m., conditional, each well, for domestic water service for up to 150 residences, fire protection, municipal, and irrigation of approximately 60 acres of lawn and landscape within the District's boundaries and within the West 1/2 of Section 27, and West 1/2 of Section 34, Township 1 South, Range 80 West of the 6th P.M.
23. Should the Applicant desire to maintain the conditional water rights continued herein, an application for finding of reasonable diligence shall be filed in the same month six years from the date of the Water Judge's order, unless a determination has been made prior to

that date that such conditional rights have been made absolute by reason of the completion of the appropriation or are otherwise so disposed.

24. 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 decreed herein, the transferee shall file with the Division 5 Water Court a notice of transfer which shall state: (a) the title and case number of this Case No. 18CW3093; (b) the description of the conditional water right transferred; (c) the name of the transferor; (d) the name and mailing address of the transferee; and (e) a copy of the recorded deed.

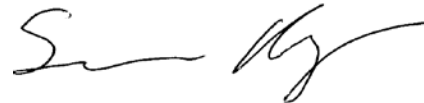
The owner of said conditional water rights shall also notify the Clerk of the Division 5 Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file of this Case No. 18CW3093 and in the case file in which the Court first made a finding 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: November 1, 2018.

BY THE COURT



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Susan M. Ryan, Water Referee  
Water Division 5

**DECREE OF THE WATER COURT**

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

Dated:\_\_\_\_\_.

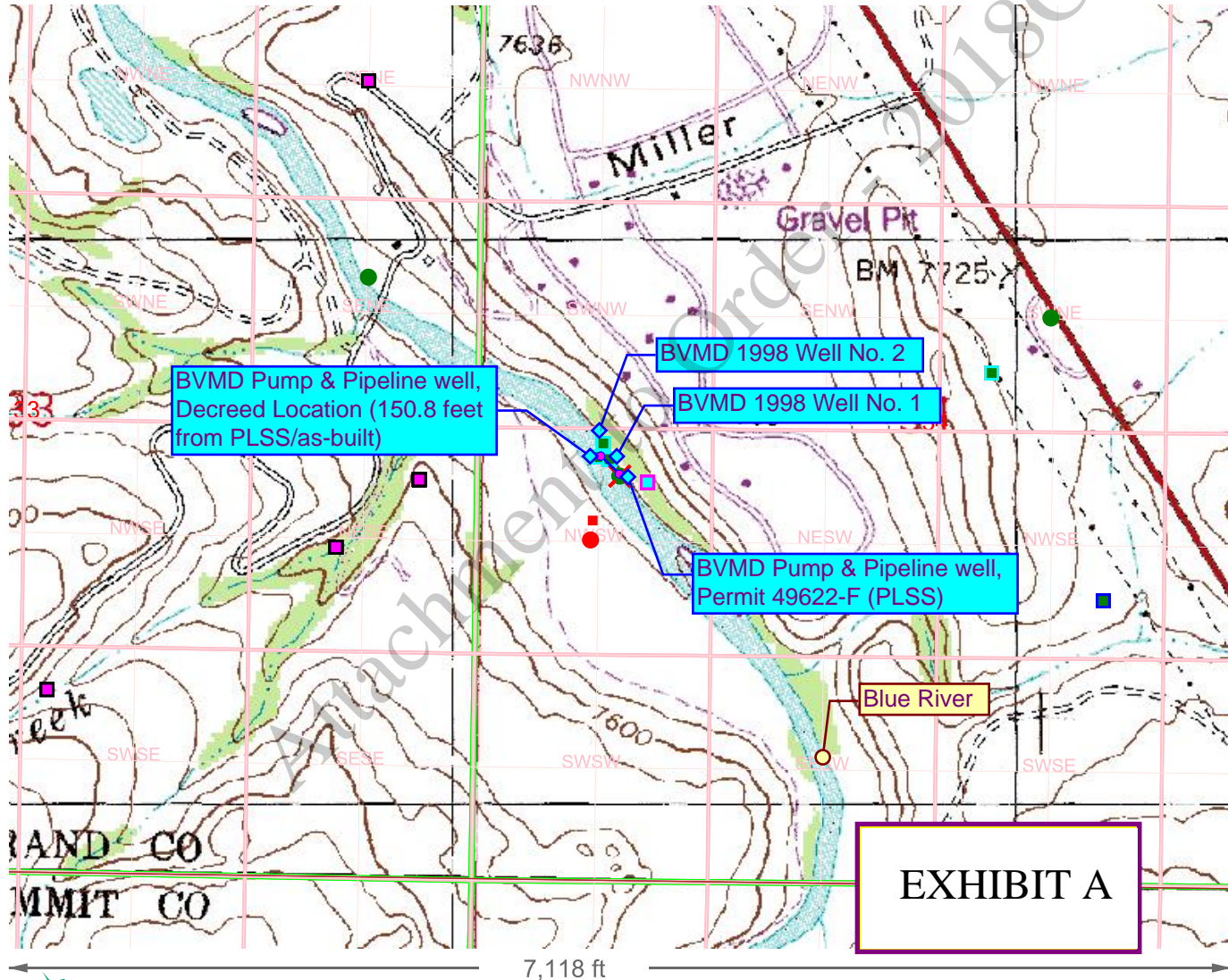
BY THE COURT

\_\_\_\_\_  
James B. Boyd, Water Judge  
Water Division 5

Attachment to Order - 2018CW3093

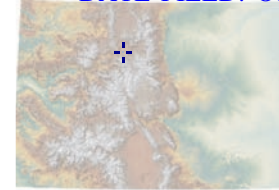


# BLUE VALLEY METROPOLITAN DISTRICT (18CW\_\_\_)



## MAP NAVIGATION

DATE FILED: October 16, 2018



- Click to create PDF
- UTM X, Zone 13: 386217
- UTM Y, Zone 13: 4419278
- Long: -106° 19' 52.8"
- Lat: 39° 54' 57.4"
- UTM and Geographic(LL) coordinates in NAD 83

## DATA DISPLAY

- Background
- Counties
- Water Well Application
- Quad Maps
- PLSS
- DWR Parcels
- Roads
- EPA Well Notification
- Hydrography
- Oil/Gas Well Location
- County Parcels (No Public Access)
- Towns
- 

## LOCATION

Section	Township	Range	Meridian
34	1	80	Sixth
<input type="button" value="PLSS Locator"/> <input type="button" value="Quick Zoom"/> <input type="button" value="Spacing"/>			

## PRINTING

Output Scale	Page Size	User
12,000	8.5x11	ch

Title 11CW37 Blue Valley Metro Dist Permit 49622F

PLSS LOCATOR MENU

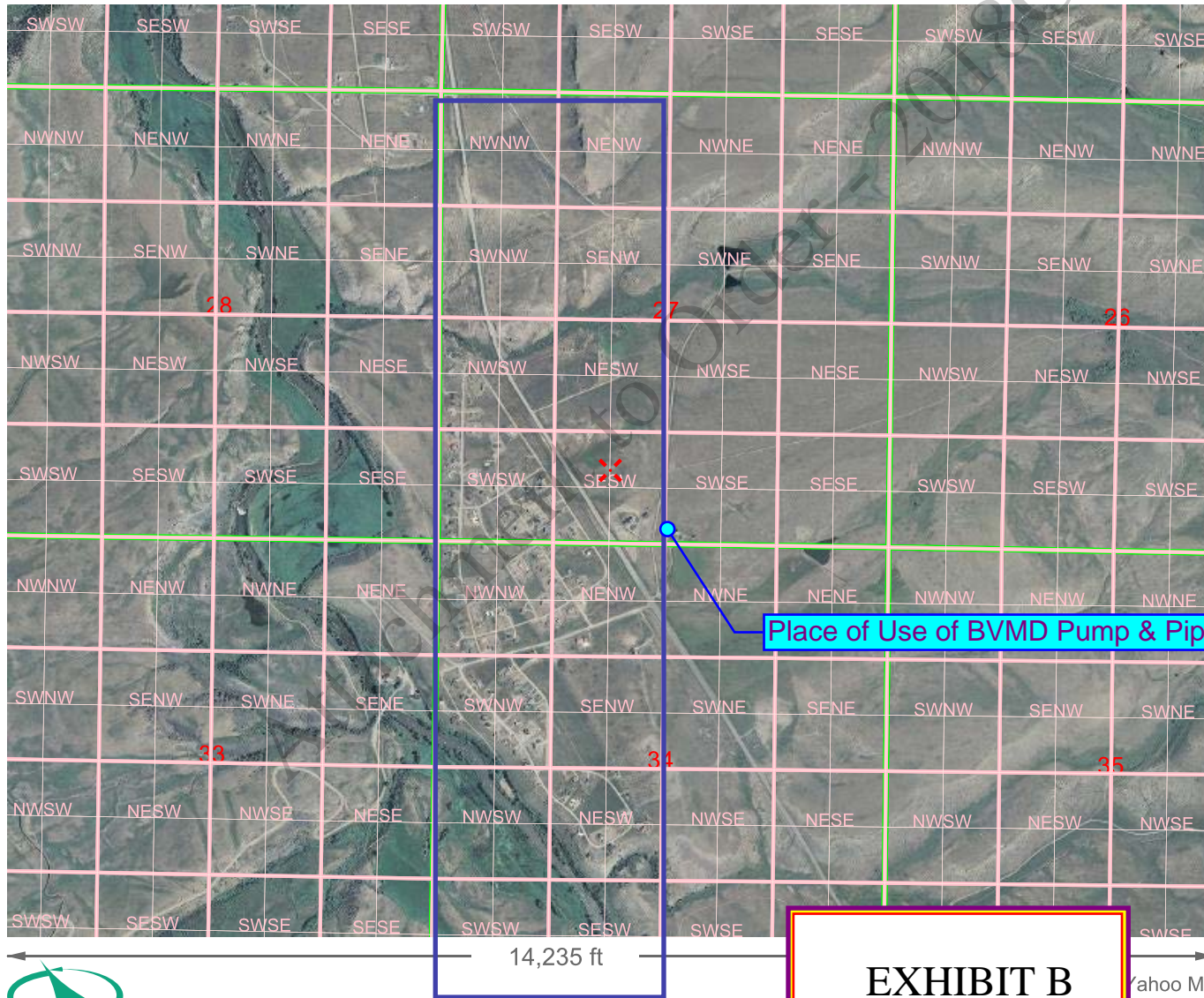
PLSS <=> UTM    Zone Conversions    Lat-Long

Section	Township	Range	Meridian
34	1	80	Sixth
Q 160	Q 40	Dist. (ft N/S)	Dist. (ft E/W)
SW	NW	2363	831

**Easting UTM X (m)**   **Northing UTM Y (m)**  
385254.80   4419783.50



# BLUE VALLEY METROPOLITAN DISTRICT (18CW3093)



## MAP NAVIGATION

DATE FILED: October 16, 2018



Click to create PDF  
 UTM X, Zone 13: 387797  
 UTM Y, Zone 13: 4421208  
 Long: -106° 18' 47.5"  
 Lat: 39° 56' 0.8"  
 UTM and Geographic(LL) coordinates in NAD 83

## DATA DISPLAY

- Background
- Counties
- Water Well Applications
- 2009 Aerials
- PLSS
- DWR Parcels
- Low  High
- Roads
- EPA Well Notifications
- Hydrography
- Oil/Gas Well Locations
- County Parcels (No Public Access)
- Towns
- [More Data](#)

## LOCATION

Section: 27 | Township: 1 S | Range: 80 W | Meridian: Sixth

[PLSS Locator](#) [Quick Zoom](#) [Spacing](#)

## PRINTING

Output Scale: 24,000 | Page Size: 8.5x11 | User: ch

Title: 11cw37 BVMD Ex B Place of Use

Note: The well locations displayed on AquaMap are based on location information provided by well permit application forms and are only as accurate as the information provided. The actual physical locations of all wells have not been field verified and may vary from the location displayed. Refer to a copy of the original well permit file, available on the Division of Water Resources website, for well location details.



Based on work developed at <http://www.carto.net>

**EXHIBIT B**

Yahoo Maps  
July 5, 2009