

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

**IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION IN
WATER DIVISION NO. 7: RINCON LA VACA**

**JOINT MOTION REQUESTING EXTENSION OF PREHEARING
DEADLINE**

The Staff of the Colorado Water Conservation Board (“CWCB Staff”), the Colorado Parks and Wildlife (“CPW”), and the Southwestern Water Conservation District (“SWCD”) (collectively, “Parties”), hereby request that the deadline for Parties to provide prehearing statements be extended. As grounds therefor, the Parties state the following:

1. Pursuant to the Hearing Officer’s Order dated June 8, 2021, the following Hearing Date, Prehearing Conference and Prehearing Deadlines were set forth as follows:

- a. Deadline for Prehearing Statements: July 12, 2021
- b. Prehearing Conference: July 19, 2021 at 4:00 pm
- c. Deadline for Rebuttal Prehearing Statement: August 16, 2021
- d. Hearing Date: September 15-16, 2021

2. The parties to the hearing are working toward either SWCD’s withdrawal of its Notice to Contest or to negotiate a stipulation regarding that withdrawal. Accordingly, requiring the parties to submit prehearing statements would be unnecessary if the parties are able to reach a resolution. The parties need additional time to finalize details of a resolution and they believe focusing time and resources on a resolution, rather than prehearing statements, is more prudent at this time. Therefore, the parties desire and request an extension of the deadline for prehearing statements for one week - until the day of the prehearing conference, July 19, 2021.

3. Rule 5c of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, 2 CCR 408-2 (“ISF Rules”), states that “[w]hen necessary, the Board may modify or delay this schedule [for contested instream flow appropriations] or any part thereof as it deems appropriate.” Moreover, Rule 5n(1) states that the Hearing Officer shall assist the Parties in “adjusting deadlines and schedules to further the Parties’ settlement efforts or for good cause shown.”

4. ISF Rules 5n(2) states that, except for rebuttal statements and testimony provided at the hearing, the Board will not accept any information, statements, related documentation, or exhibits submitted by any Party after five working days before the prehearing conference, “except for good cause shown or as agreed upon by the Parties.” Parties agree to waive this requirement as they believe there is good cause – the Parties are negotiating a path forward – and the Parties agree it is not necessary in this case to exchange prehearing statements five days in advance of the prehearing conference and that a hearing is unlikely to be necessary.

5. The Parties agree that good cause exists to allow the Parties an extension of the prehearing deadline.

6. The Parties request that the deadline of July 12, 2021, for the Parties to provide prehearing statements be extended to July 19, 2021.

7. The Parties are not requesting that the prehearing conference scheduled for July 19, 2021 be rescheduled in order to allow the Hearing Officer to discuss the case status with the parties at that time if needed or desired. The Parties are likewise not requesting an extension of the deadline for rebuttal prehearing statements at this time.

Dated this 8th day of July, 2021.

**For Staff of the Colorado Water
Conservation Board:**

PHIL WEISER
Attorney General



Jennifer Mele, #30720*
First Assistant Attorney General
Natural Resources and Environment
Section
*Counsel of record

For Colorado Parks and Wildlife:



for Elizabeth Joyce

Elizabeth Joyce, #46484*
Senior Assistant Attorney General
Natural Resources and Environment
Section
*Counsel of record

**For Southwestern Water Conservation
District:**

VAN VURST LAW, LLC



Beth Van Vurst, #36931

Certificate of Service

I hereby certify that on this 9th day of July, 2021, I transmitted by electronic mail a true and correct copy of the foregoing **JOINT MOTION REQUESTING EXTENSION OF PREHEARING DEADLINE** to the following:

Hearing Officer

Amy Beatie Deputy Attorney General Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, Colorado 80203 720-508-6296 Amy.Beatie@coag.gov

Party Status

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<u>Colorado Parks and Wildlife</u> Katie Birch Elizabeth Joyce Colorado Parks and Wildlife Area Office 2300 S. Townsend Ave. Montrose, CO 81401 970-819-1037 katie.birch@state.co.us elizabeth.joyce@coag.gov	<u>Southwestern Water Conservation District</u> Beth Van Vurst Van Vurst Law, LLC 822 S. Race Street Denver, Colorado 80209 720-664-6442 beth@vanvurst-law.com

/s/ Margaret L. Popick t