

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 CREEK

**STIPULATION AND AGREEMENT BETWEEN THE COLORADO WATER
CONSERVATION BOARD STAFF, THE SOUTHWESTERN WATER
CONSERVATION DISTRICT AND COLORADO PARKS AND WILDLIFE**

The Southwestern Water Conservation District (SWCD), Colorado Parks and Wildlife (CPW) and staff of the Colorado Water Conservation Board (CWCB), by and through their respective counsel, hereby stipulate and agree as follows:

1. CWCB staff and CPW recommended the CWCB Board appropriate an instream flow right on Rincon La Vaca Creek, in the amount of 2.8 cfs from May 1 through October 31 and 1.2 cfs from November 1 through April 30, with an upper terminus located at the headwaters in the vicinity of UTM North: 4170340.18 UTM East: 288830.29 and the lower terminus at the confluence with the Los Pinos River located at UTM North: 4171003.14 UTM East: 294776.30 (the “Rincon La Vaca ISF”), Water Division 7. The proposed instream flow reach is approximately 4.47 miles and is located entirely within the Weminuche Wilderness of the San Juan National Forest.
2. The CWCB declared its intent to appropriate the Rincon La Vaca ISF at its meeting in January of 2021.
3. SWCD timely filed a Notice to Contest. No other party filed a Notice to Contest or filed for Contested Hearing Participant status.
4. The proposed instream flow appropriation is located on Rincon La Vaca Creek, which is tributary to the Los Pinos River (aka, the Pine River) and included within SWCD’s boundaries. As described in its Notice to Contest, SWCD has no objection to the CWCB appropriating a junior instream flow right at the headwaters of Rincon La Vaca Creek. However, SWCD filed a Notice to Contest because SWCD was unable to understand some of the information regarding the instream flow appropriation as presented.
5. SWCD subsequently engaged in several discussions with CWCB staff and CPW.

6. As a result of these discussions, CWCB staff created a hydrograph that, along with showing estimates of mean monthly streamflow, also accounts for the mean-monthly diversions through the Weminuche Pass Ditch, a diversion structure located within the proposed instream flow reach that is owned and operated by CPW. The parties agree that the water availability analysis and hydrograph demonstrate there is sufficient water available for appropriation of the Rincon La Vaca ISF based on the information provided by CWCB staff.
7. CWCB staff agrees to present its Board with the water availability analysis and above-referenced hydrograph to demonstrate that water is available for appropriation of the Rincon La Vaca ISF. Staff's continued recommendation is based on the water availability analysis and the hydrograph.
8. CPW recommended the Rincon La Vaca ISF because of its interest in sustaining the cutthroat trout fishery in Rincon La Vaca Creek, and a new ISF reach could provide additional opportunities to protect the fishery. CPW continues to support the appropriation of the Rincon La Vaca ISF. CPW intends to continue to consider possible concepts that could provide supplemental water to the ISF once it is decreed.
9. SWCD continues to support the CWCB's and CPW's efforts to protect the natural environment on Rincon La Vaca Creek throughout the entire proposed instream flow reach. Based on the foregoing, SWCD agrees to withdraw its Notice to Contest.
10. The parties shall each bear their own attorney fees and costs associated with this matter.
11. This Stipulation and Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

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Stipulated and agreed to this 17th day of July, 2021.

OFFICE OF THE COLORADO
ATTORNEY GENERAL
*Attorney for Staff of the Colorado Water
Conservation Board*



Jennifer Mele, #30720

OFFICE OF THE COLORADO ATTORNEY
GENERAL
Attorney for Colorado Parks and Wildlife



Elizabeth M. Joyce, #46484

VAN VURST LAW, LLC
*Attorney for the Southwestern Water
Conservation District*



Beth Van Vurst, #36931

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2021, I transmitted by electronic mail a true and correct copy of the foregoing **STIPULATION AND AGREEMENT BETWEEN THE COLORADO WATER CONSERVATION BOARD STAFF, THE SOUTHWESTERN WATER CONSERVATION DISTRICT AND COLORADO PARKS AND WILDLIFE** 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> Elizabeth Joyce Colorado Parks and Wildlife Area Office 2300 S. Townsend Ave. Montrose, CO 81401 970-819-1037 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



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