

DISTRICT COURT, WATER DIVISION NO. 6, COLORADO Court Address: 1955 Shield Drive P.O. Box 773117 Steamboat Springs, CO 80477 (970) 879- 5020	DATE FILED: March 6, 2017 3:10 PM FILING ID: 8A8774FC12AD4 CASE NUMBER: 2014CW3043
CONCERNING THE APPLICATION FOR WATER RIGHTS OF  The RIO BLANCO WATER CONSERVANCY DISTRICT, a Colorado Water Conservancy District  In the White River or its Tributaries  In RIO BLANCO COUNTY, COLORADO	<p style="text-align: center;"><b><i>COURT USE ONLY</i></b></p>
Attorney for Applicant: Edward B. Olszewski, Atty. Reg. #24723 Olszewski, Massih & Maurer, P.C. P.O. Box 916 1204 Grand Avenue Glenwood Springs, CO 81602 Phone Number: (970) 928-9100 Fax Number: (970) 928-9600 E-mail: <a href="mailto:ed@ommpc.com">ed@ommpc.com</a>	Case Number: 14CW003043  Division:                      Courtroom:
<b>STIPULATION BETWEEN APPLICANT AND          OBJECTOR COLORADO WATER CONSERVATION BOARD</b>	

Applicant, Rio Blanco Water Conservancy District (“Applicant”), and Opposer, Colorado Water Conservation Board (“Opposer”), by and through their respective counsel, hereby stipulate and agree as follows:

1. Opposer hereby consents to the entry of the proposed Ruling of Referee and Decree attached hereto as Exhibit A (“Proposed Ruling and Decree”). Opposer will not object to the entry of any modified form of ruling and decree so long as the modified ruling and decree contains terms and conditions that are no less restrictive on the Applicant than those set forth in the Proposed Ruling and Decree.
  
2. Opposer consents to the Applicant’s motion to the Water Referee for an order approving this Stipulation and entering the Proposed Ruling and Decree.

3. The water storage right shall not be used for release and use instream for the maintenance and recovery of federally listed threatened and endangered fish species absent an agreement with the CWCB for instream flow use or other legal arrangement with an entity holding legal authority for this type of beneficial use.

4. Applicant agrees that the claimed uses of piscatorial and maintenance and recovery of federally listed threatened and endangered species will be cancelled if Applicant has not entered into an agreement with Opposer or other appropriate entity or State or Federal agency for the specific use of reservoir water for these purposes within four diligence cycles from the date a decree is entered in this case.

5. Applicant agrees that the use of stored water by exchange upstream of the outlet works for the reservoir, including augmentation use wherein upstream out-of-priority depletions are replaced with downstream reservoir water, shall be made only after resume notice and a new water court application that includes this augmentation source has been decreed or substitute water supply plan approved by the State and Division Engineer's Office pending a final decree. In the event an administrative exchange is sought by Applicant, Applicant shall give CWCB prior notice of such request for administrative exchange with sufficient time, if possible, for opportunity for the CWCB to propose protective terms and conditions if the exchanges extend through any instream flow reach. Notice shall be via e-mail to the Water Resource Engineer in the Stream and Lake Protection Section of the CWCB, currently [don.west@state.co.us](mailto:don.west@state.co.us), but if this email address is unavailable or email is otherwise ineffective notice shall be sent via Certified U.S. Mail to: Section Chief, Stream and Lake Protection Section, 1313 Sherman Street, 7<sup>th</sup> Floor, Denver CO 80203.

6. Opposer and Applicant agree that this Stipulation shall bind and benefit them and will be binding upon and benefit their assigns and successors in interest.

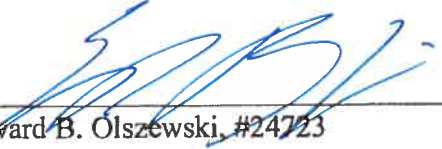
7. This Stipulation is entered into by way of compromise and settlement of this litigation. Any agreements or terms and conditions herein are due solely to the unique circumstances of this case and the resulting Stipulation. This Stipulation shall not establish any precedent and shall not be construed as a commitment to include any specific findings of fact, conclusions of law, or specific engineering methodologies or administrative practices in future stipulations.

8. Opposer and Applicant further agree that each party will bear its own costs and attorneys' fees associated with their appearance in this matter.


9. This Stipulation shall be enforceable by the parties as either an agreement or, after it is approved by the Water Court, as an order of the Water Court.

Dated this 3<sup>rd</sup> day of March, 2017.

OLSZEWSKI, MASSIH & MAURER, P.C.  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **STIPULATION BETWEEN APPLICANT AND OPPOSER** was served on the following parties of record via CCES on the 6<sup>th</sup> day of March, 2017:

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/s/ Leann Record  
Leann Record, Legal Assistant

*In accordance with C.R.C.P. 121, §1-26(9), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the court upon request.*