

**ROUND MOUNTAIN WATER AND SANITATION DISTRICT
RESOLUTION NUMBER 2020-16**

**A RESOLUTION ACCEPTING A STIPULATION BETWEEN APPLICANT
AND OPPOSER OF WATER CASE 18CW3076**

WHEREAS, The Applicant, Upper Arkansas Water Conservancy District (UAWCD), has filed a water decree application with the Colorado State Water Court that would offer a blanket augmentation plan to parts of Custer County, Colorado, and

WHEREAS, the proposed augmentation coverage area includes a large portion of the Round Mountain Water and Sanitation District (RMWSD), and

WHEREAS, to assure the protection and operational authority of RMWSD within its current and future district boundaries, RMWSD filed an objection to Water Case 18CW3076, and

WHEREAS, RMWSD has negotiated with UAWCD a solution that is satisfactory to both parties,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ROUND MOUNTAIN WATER AND SANITATION DISTRICT, COLORADO THAT:

The RMWSD Board approves the stipulation agreement (attached) between UAWCD and RMWSD and removes RMWSD as an opposer to Water Case 18CW3076.

ADOPTED, this 4th day of June, 2020.

ATTEST:



Steve Lasswell, Secretary



Charles Bogle, Chairman



DISTRICT COURT, WATER DIVISION 2, PUEBLO COUNTY, COLORADO 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003	▲ COURT USE ONLY ▲
CONCERNING THE APPLICATION FOR WATER RIGHTS OF UPPER ARKANSAS WATER CONSERVANCY DISTRICT IN FREMONT, CUSTER, AND EL PASO COUNTIES	
Attorneys for Applicant: LAW OF THE ROCKIES Kendall K. Burgemeister, Atty. Reg. #41593 525 North Main Street Gunnison, CO 81230 Phone: 970-641-1903 E-mail: kburgemeister@lawoftherockies.com	Case Number: 18CW3076 Division: Courtroom:
STIPULATION BETWEEN APPLICANT AND OPPOSER ROUND MOUNTAIN WATER AND SANITATION DISTRICT	

Applicant, Upper Arkansas Water Conservancy District acting through the Upper Arkansas Water Activity Enterprise ("UAWCD") and opposer Round Mountain Water and Sanitation District ("Opposer," and together with the Applicant, the "Parties"), by and through their attorneys, hereby stipulate and agree as follows:

1. Opposer consents to the entry of a decree in this case not less restrictive on the Applicant and not less protective of Opposer's water rights than the draft FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING AND DECREE dated June 1, 2020, attached hereto as **Exhibit A** (the "Proposed Decree").
2. Opposer shall remain a party to these proceedings for the limited purpose of ensuring that any decree entered herein is consistent with paragraph 1 above and for the purpose of participating in any proceedings under the Court's retained jurisdiction. Prior to submitting any ruling and decree to the Water Court, if in different form than the Proposed Decree, Applicant shall provide a copy of such proposed ruling and decree to undersigned counsel for Opposer for review to assure compliance with this Stipulation. Opposer shall also have the right to continue to receive copies of all pleadings in this case and to review and provide comments on any accounting form submitted by the Applicant to the Division Engineer and/or the Water Court for administration of the decree to be entered herein.
3. The Parties agree that this Stipulation shall bind and benefit them and will be binding upon and benefit their assigns and successors-in-interest; however, except as may be expressly

provided in any decree which may be entered by the Water Court in this matter, parties in this matter other than the signatories to this Stipulation are neither bound by nor intended to benefit from this Stipulation.

4. This Stipulation is entered by way of compromise and settlement of this litigation. The agreement of the Parties to the entry of the Proposed Decree shall not be construed as concurrence by these Parties, beyond the decree stipulated hereto, with any findings of fact or conclusions of law contained therein, or with the engineering methodologies utilized by either party in arriving at this Stipulation, and nothing contained in said Proposed Decree shall be binding upon these Parties in any proceeding other than the current proceeding and any subsequent proceedings involving the same rights adjudicated in the current proceeding. The Proposed Decree, including its findings of fact and conclusions of law, were completed as the result of discussions, negotiations and compromises by, between and among the Applicant and Opposer pertaining to the Proposed Decree. It is specifically understood and agreed by the Parties, that the acquiescence of the Parties to a stipulated decree under the specific factual and legal circumstances of this contested matter and upon the compromises reached by the Parties shall never give rise to any argument, claim, defense or theory of, waiver, bar, stare decisis, estoppel, or laches, nor to any administrative or judicial precedent, by or against any of the Parties in any other matter, nor shall testimony concerning such acquiescence of any Party to a stipulated decree herein be allowed in any other matter. Notwithstanding the foregoing, the Parties stipulate and agree that they intend the findings, conclusions and decree to have the effect of claim preclusion and issue preclusion only with respect to the water rights decreed in this case, whether in this or any subsequent proceeding, as provided in *Williams v. Midway Ranches Property Owners' Association*, 938 P.2d 515 (Colo. 1997). The Parties further stipulate and agree, however, that they each reserve the right to propose or to challenge any legal or factual position with respect to any other water rights.

5. Each Party shall bear its own costs and attorney fees in this matter.

6. The Applicant shall file a motion to approve this Stipulation with the Water Court, to which motion Opposer consents.

7. The Parties agree that this Stipulation shall be enforceable either as an agreement or, upon approval, as an order of the Water Court for Water Division 2.

8. The signatories to this Stipulation represent and affirm they are legally authorized to bind the Parties by this Stipulation.

9. This Stipulation may be executed in multiple counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. The Parties will accept facsimile signatures or electronic signatures as original signatures.

DONE as of the date this Stipulation has been executed by all Parties.

Attorneys for UAWCD:
Law of the Rockies

By: _____
Kendall Burgemeister

Date

**Attorneys for Round Mountain Water and
Sanitation District:**
Krassa & Miller, LLC

By: _____
Robert F. T. Krassa (#7947)

Date