

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

1313 Sherman Street, Room 721
Denver, Colorado 80203
Phone: (303) 866-3441
Fax: (303) 866-4474
www.cwcb.state.co.us



TO: Colorado Water Conservation Board Members

Bill Ritter, Jr.
Governor

FROM: Linda J. Bassi
Kaylea White
Stream and Lake Protection Section

Harris D. Sherman
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

DATE: November 9, 2009

Dan McAuliffe
CWCB Deputy Director

SUBJECT: **Agenda Item No. 2, November 16-18, 2009 Board Meeting
Stream and Lake Protection Section – Hearing on Proposed Acquisition of
the Stapleton Brothers Ditch Water Right on Maroon Creek,
Water Division 5**

CWCB staff has provided the Board with two hearing notebooks that contain all notices, hearing requests, motions, orders, prehearing statements, and rebuttal statements in this matter.

Electronic versions of the notebooks are available on the CWCB website at

<http://cwcb.state.co.us/StreamAndLake/WaterAcquisitions/Notices/>. The Hearing Officer's Second Prehearing Order dated October 22, 2009, setting forth the amount of time allotted to each Party for its hearing presentation, is attached to this memo. Letters to the Board expressing support for this proposed water acquisition also are attached. At the conclusion of this hearing, staff will request the Board to take action on this proposed water acquisition pursuant to ISF Rule 6n.

Attachments

BEFORE THE COLORADO WATER CONSERVATION BOARD

IN THE MATTER OF PROPOSED INSTREAM FLOW ACQUISITION DIVISION 5: STAPLETON BROTHERS DITCH

SECOND PREHEARING ORDER

Hearing Date

The hearing in this matter is scheduled for November 16, 2009, 1:30-5:30 p.m., at 1580 Logan, Suite 610, Denver, Colorado, 80203.

Conduct of Hearing

The Hearing will be governed by the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, including Rule 6m(5) regarding the conduct of the hearing. At the hearing, the Board will hear from CWCB Staff, the Parties and interested members of the public. The Board will not permit CWCB Staff or Parties to introduce written material at the hearing not previously submitted pursuant to these CWCB Rules without good cause. There will be no cross-examination; only the Board may question witnesses at the hearing.

Allocation of Time

- 1) CWCB Staff: 58 minutes for presentation; 15 minutes for rebuttal
- 2) Board of County Commissioners of Pitkin County: 50 minutes for presentation
- 3) Colorado Water Trust: 7 minutes for presentation
- 4) Trout Unlimited: 5 minutes for presentation
- 5) Public Comment: may be limited by CWCB
- 6) Willow Creek Ditch and Herrick Ditch Co. and Roaring Fork Land and Cattle Co.: 30 minutes for presentation; 20 minutes for closing statement (with Starwood Metropolitan District and Basalt Water Conservancy District)
- 7) Starwood Metropolitan District and Basalt Water Conservancy District: 40 minutes

Motion

Basalt Water Conservancy District and Starwood Metropolitan District moved for leave to substitute testifying witness on October 21, 2009. There being no objection, the motion for substitution is hereby granted.

Dated this 22nd day of October 2009.

_____/s/
Casey Shpall
Hearing Officer
Colorado Attorney General's Office
1525 Sherman St., 7th Floor
Denver, Colorado 80203
casey.shpall@state.co.us

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Second Prehearing Order was served on this 22st day of October, 2009 upon the following via electronic mail:

Susan Schneider
Colorado Attorney General's Office
1525 Sherman St., 7th Floor
Denver, Colorado 80203
susan.schneider@state.co.us

Linda Bassi
Colorado Water Conservation Board
Department of Natural Resources
1313 Sherman St., Room 721
Denver, Colorado 80203
linda.bassi@state.co.us

Paul Noto, Esq.
Patrick, Miller & Kropf, P.C.
730 E. Durant Ave., Suite 200
Aspen, Colorado 81611
noto@waterlaw.com

Board of County Commissioners for Pitkin County
c/o John Ely, Esq.
Courthouse Plaza
530 E. Main St., 3rd Floor
Aspen, Colorado 81611
john.ely@co.pitkin.co.us

Scott Balcomb, Esq.
David C. Hallford, Esq.
Chris L. Geiger, Esq.
Sara M. Dunn, Esq.
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chrisg@balcombgreen.com
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Drew Peternell
Trout Unlimited
1320 Pearl St., Suite 320
Boulder, Colorado 80302
dpeternell@tu.org

Timothy J. Beaton
Patricia M. DeChristopher
Moses, Wittemyer, Harrison and Woodruff, P.C.
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tbeaton@mwhw.com
pdechristopher@mwhw.com

Amy Beatie
Colorado Water Trust
1430 Larimer St., Suite 300
Denver, Colorado 80202
abeatie@coloradowatertrust.org

_____/s/
Casey Shpall

Blazing **ADVENTURES**

BLAZING PADDLES • BLAZING PEDALS • BLAZING TRAILS • SNOWMASS WHITEWATER • THE VILLAGE CONCIERGE

November 5, 2009

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

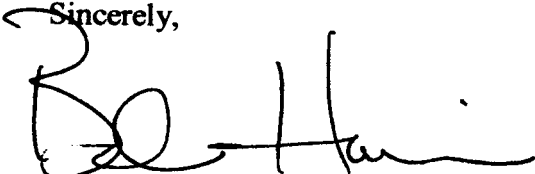
Dear Members of the Colorado Water Conservation Board:

My name is Bob Harris, and I am writing as the owner/operator of Blazing Adventures, Inc. Blazing Adventures is an outdoor adventure company in the Roaring Fork Valley that directly utilizes the water resources of the Roaring Fork River for whitewater rafting and fishing activities. Indirectly, having a healthy river from its headwaters near Independence Pass to its confluence with the Colorado River in Glenwood Springs substantively enhances our hiking, biking and jeeping activities that take place throughout the area.

Blazing Adventures was established in the early 70's and has been providing these services for over 30 years. During that time we have actively supported local concerns that protect the river - such as the Roaring Fork Conservancy. We have also independently worked with CDOT, Open Space & Trails, the City of Aspen, and the Pitkin County Commissioners to acquire, maintain and enhance river access points for both the commercial and private public. These cooperative efforts have helped to establish a uniquely accessible and well managed resource that supports our residents' outdoor recreational activities and provides for a commercial presence that caters to our community's tourist economy and creates jobs.

I applaud the efforts of Pitkin County for taking on this complicated task to assure that instream water flows not only remain healthy, but are enhanced. The trust agreement proposed by them deserves your enthusiastic support. It would be unfortunate, and is unnecessary, to watch a resource with so many recreational, economic and aesthetic qualities continue to be diminished. We are confronted with a dizzying array of stresses on our water resources, both natural and man-made. This proposal strikes me as one obvious avenue to push back in some small way. Thank you for your time and your consideration of this proposal.

Sincerely,



Bob Harris
Blazing Adventures, Inc.

Eagle River Watershed Council

P.O. Box 7688 Avon, CO 81620 Phone (970) 827-5406
A community supported 501 (c)3 nonprofit organization
www.eagleriverwatershedcouncil.org

Kathy R. Chandler-Henry, Board President
Arlene S. Quenon, Vice President
Josiah Macy, Vice President
F. Blake Lynch, Secretary
Phil Frank, Treasurer
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Dr. Thomas Steinberg, Chairman Emeritus
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Keith C. Kepler, Director
Timm E. Paxson, Director
John Mosesso, Director
Bill Carlson, Director
Melissa Macdonald, Executive Director
Tambi Katieb, Director of Policy and Planning

November 10, 2009

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Pitkin County Trust Agreement and the Stapleton Brothers Ditch

Dear CWCB Board:

I am writing on behalf of the Board of Directors of the Eagle River Watershed Council to support the proposed Pitkin County Trust Agreement. This project will add senior water rights into the Roaring Fork River for purposes of instream flow augmentation without impairing the ability of the owner of those rights to utilize them for other future uses.

As you are aware, this is the first test case of House Bill 1280 that permits the CWCB to enter into short-term agreements with water users to place water into the instream flow program without formally dedicating those rights. In effect, this action allows water yet to be developed to be put back into the river system as another means of protecting streamflow and riparian habitat in low flow scenarios. This is an innovative way to allow the CWCB use of water rights that would otherwise not be available for dedicated instream flow purposes.

Finally, while not having a direct physical benefit to the Eagle River watershed, approval of this trust agreement with Pitkin County will nonetheless provide a positive model and precedent for water users statewide who might choose to temporarily put their water rights to non-consumptive instream flow uses without injuring their long term value and seniority.

Promoting innovative arrangements such as these will only preserve and enhance the statewide economic contribution of millions of dollars that our healthy rivers provide.

Kind Regards,



Tambi Katieb, AICP
Director of Policy and Planning

LAW OFFICES
HILL, KINNEY & WOOD, LLC

SPRUCE PROFESSIONAL BUILDING
201 MAIN STREET, SUITE 301
CARBONDALE, COLORADO 81623
tk@hkwlawfirm.com

THOMAS C. HILL
THOMAS E. KINNEY
JOSLYN V. WOOD

TELEPHONE
(970) 963-3900
FACSIMILE
(970) 963-3131

March 9, 2009

Via email: jennifer.gimbel@state.co.us

Jennifer Gimbel, Director
Colorado Water Conservation Board
Colorado Department of Natural Resources
1313 Sherman St., Room 721
Denver, CO 80203

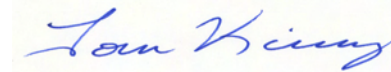
RE: Town of Basalt support for acquisition of Stapleton Bros. Ditch water right for ISF

Dear Jennifer:

As you are aware, I submitted my attached letter of January 21, 2009 to Linda Bassi and Kaylea White of the CWCB Stream & Lake Protection Section addressing several concerns the Town of Basalt has regarding the proposed acquisition of 4.3 cfs Stapleton Brothers' Ditch, Priority No. 269, water right by the CWCB from Pitkin County for instream flow enhancement from the ditch headgate on Maroon Creek downstream to the confluence of the Fryingpan River with the Roaring Fork River. Since then, the Town Council has met with John Ely, Pitkin County Attorney, to further discuss the proposed Stapleton Brothers' Ditch water right acquisition. As a result of this meeting, the Town of Basalt wishes to reiterate its support for the proposed Stapleton Brothers' Ditch water right acquisition for instream flow enhancement in the Roaring Fork River, including the reach of the Roaring Fork River immediately upstream from the Fryingpan River confluence in which reach the Town and Pitkin County have been cooperating to develop a whitewater park. The Town's support, however, is qualified upon the CWCB addressing and resolving the Town's concerns, including prevention of injury to the Town in the exercise of its municipal water rights and approved augmentation plan.

Very truly yours,

HILL, KINNEY & WOOD, LLC
Attorneys for the Town of Basalt



Tom Kinney

cc: Bill Kane, Town Manager; billk@basalt.net
Larry Thompson, Town Engineer; lthompson@basalt.net
Linda Bassi, Chief, Stream & Lake Protection Section, CWCB; linda.bassi@state.co.us
John Ely, Pitkin County Attorney; johne@co.pitkin.co.us

LAW OFFICES
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THOMAS C. HILL
THOMAS E. KINNEY
JOSLYN V. WOOD

TELEPHONE
(970) 963-3900
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(970) 963-3131

January 21, 2009

Via email: linda.bassi@state.co.us & kaylea.white@state.co.us

Linda Bassi, Chief
Kaylea White, Senior Water Resource Specialist
Stream & Lake Protection Section
Colorado Water Conservation Board
Colorado Department of Natural Resources
1313 Sherman St., Room 721
Denver, CO 80203

RE: Town of Basalt comments concerning acquisition of Stapleton Bros. Ditch water right for ISF

Dear Linda & Kaylea:

Yesterday, I received notice of a proposed acquisition of 4.3 cfs of 8.0 cfs, absolute, Stapleton Brothers' Ditch, Priority 269, water right from Pitkin County via a perpetual loan for instream flow purposes from the ditch headgate downstream to the confluence of the Fryingpan River with the Roaring Fork River. I spoke with Kaylea concerning the notice and clarifying that only the consumptive use portion of this water right will be used for instream flow purposes in the reach of the Roaring Fork River between the Maroon Creek and Fryingpan River confluences.

As stated in the CWCB's notice, the Stapleton Brothers' Ditch water right that is the subject of the proposed acquisition from Pitkin County for instream flow purposes was decreed by the Garfield County District Court on October 16, 1933 in Civil Action No. 3000. The duty of water for the Stapleton Brothers' Ditch water right established by the Court's decree in C.A. 3000 is 1 cfs per 50 acres irrigated. As also referenced in the CWCB's notice, the Water Court subsequently entered a decree in Case No. 99CW306 on January 31, 2005 changing Pitkin County's Stapleton Brothers' Ditch irrigation water right to include augmentation use and establishing a historical irrigation consumptive use ratio for this water right of 1.83 acre-feet per acre. However, this historical irrigation consumptive use ratio was reduced by the Water Court to 1.62 acre-feet per acre at the behest of the Division 5 Engineer to reflect periods when the County's Sardy Field airport property was not irrigated using the Stapleton Brothers' Ditch water right. According to the documents posted on the CWCB's website supporting the acquisition of 4.3 cfs, absolute, Stapleton Brothers' Ditch water right for instream flow purposes, this water right is associated with 119.25 acre-feet per acre of the 'remaining' historical irrigation consumptive use recognized by the Water Court in Case No. 99CW306.

The Town of Basalt has the following comments concerning the proposed acquisition of 4.3 cfs, absolute, Stapleton Brothers' Ditch water right from Pitkin County for instream flow purposes:

LAW OFFICES
HILL, KINNEY & WOOD, LLC

1. The CWCB staff and Pitkin County associate 4.3 cfs, absolute, Stapleton Brothers' Ditch water right with 119.25 acre-feet per acre of historical irrigation consumptive use recognized by the Water Court in Case No. 99CW306. (See Exhibit A-1 of the draft Declaration of a Revocable Trust (The Pitkin County Water Rights Revocable Trust) and Linda Bassi and Kaylea White memo to CWCB dated January 20, 2009). However, pursuant to the 1 cfs per 50 acres irrigated 'duty of water' established by the District Court for the Stapleton Brothers' Ditch water right in C.A. 3000 and also according to the historical irrigation consumptive use ratio and historical irrigation season recognized by the Water Court in Case No. 99CW306, 4.3 cfs cannot be associated with 119.25 acre-feet per acre 'remaining' historical irrigation consumptive use in the reach of the Roaring Fork River from the confluence of Maroon Creek downstream to the Fryingpan River confluence. Rather, not more than 0.52 cfs is associated with this amount of remaining 'historical consumptive use for instream flow use in the reach of the Roaring Fork River from the confluence of Maroon Creek downstream to the Fryingpan River confluence during the historical irrigation season. (Linda Bassi and Kaylea White memo to CWCB dated January 20, 2009 at Section 8 on page 5.)

2. The Water Court decree entered in Case No. 99CW306 concerning Pitkin County's Stapleton Brothers' Ditch water right contained the following finding of fact at Paragraph 7.G., which finding was incorporated as a restrictive condition at Paragraph 17 of the decree:

"Any other uses of such remaining consumptive use credits by any person or entity must be approved by subsequent application to the Water Court, requesting a change of water right and approval of either an amended augmentation plan or an additional augmentation plan to replace all out-of-priority depletions associated with such new uses."

The Town of Basalt reminds the CWCB that this restrictive condition applies to its acquisition and proposed use of Pitkin County's 4.3 cfs Stapleton Brothers' Ditch water right for instream flow purposes.

3. The Town of Basalt will likely file a statement of opposition in any case filed in the Water Court for Water Division No. 5 concerning changing the use of Pitkin County's 4.3 cfs, absolute, Stapleton Brothers' Ditch water right for instream flow purposes by the CWCB in order to protect exercise of its municipal well water rights decreed for diversion at the Basalt Municipal Well No. 13 and the Basalt RE-1 School District Well, and also operation of the augmentation plan incorporating bypasses of the Town's John Ruedi Ditch water rights decreed by the Water Court in Case Nos. 90CW138 and 00CW252.

4. The Town has been working with Pitkin County to establish a whitewater park in the reach of the Roaring Fork River immediately upstream of the Fryingpan River confluence. Pitkin County anticipates adjudicating junior-priority RICD water rights for the whitewater park. Pitkin County also desires to gain an additional benefit of having senior-priority water rights, such as the 4.3 cfs Stapleton Brothers' Ditch water right, flowing through the whitewater park reach of the Roaring Fork River pursuant to the proposed acquisition of these water rights by the CWCB for instream flow purposes:

LAW OFFICES
HILL, KINNEY & WOOD, LLC

“... Utilizing the provisions of House Bill 1280 as well as a trust document it will be possible for Pitkin County to assign certain water rights in its existing portfolio as well as any future acquired water rights through the Open Space and Trails or Healthy River funds to enhance the minimum stream flow in this particular reach of the Roaring Fork River. By enhancing the minimum stream flows in this reach of the Roaring Fork River, the last part of the river as it leaves Pitkin County, all other stream segments above this reach in the Roaring Fork and its tributaries will also be enhanced. The kayak course allows for the utilization of acquired rights in a way that will augment minimum stream flows throughout the Roaring Fork River while providing a recreational facility for valley residents.” (Excerpt from John Ely, Pitkin County Attorney, memo to Pitkin County Open Space and Trails Board dated November 20, 2008 at page 4).

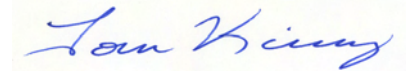
The Town of Basalt agrees with this objective so long as any use of Pitkin County's senior-priority water rights by the CWCB for instream flow purposes does not injure the Town in the exercise of its municipal water rights and operation of its augmentation plan.

5. The Town of Basalt supports the CWCB's acquisition of 4.3 cfs, absolute, Stapleton Brothers' Ditch water right pursuant to a perpetual loan from Pitkin County, but requests that the CWCB expressly condition any such approval of the acquisition such that this water right shall be used for instream flow purposes only upon entry of a final decree by the Water Court: (a) changing the use of this water right to include instream flow purposes; and, (b) incorporating restrictive conditions on the instream flow use of this water right protective of the Town of Basalt's exercise of its municipal water rights and operation of its augmentation plan.

Thank you for considering the Town of Basalt comments concerning acquisition of Pitkin County's 4.3 cfs, absolute, Stapleton Brothers' Ditch water right via perpetual loan for instream flow purposes.

Very truly yours,

HILL, KINNEY & WOOD, LLC



Tom Kinney

ec: John Ely, Pitkin County Attorney, john@co.pitkin.co.us
Tim Beaton, Pitkin County water rights counsel, tbeaton@mwhw.com



WATER QUALITY / QUANTITY COMMITTEE (QQ)

Post Office Box 2308 • Silverthorne, Colorado 80498
970-468-0295 • Fax 970-468-1208 • email: qqwater@nwc.cog.co.us

November 6, 2009

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Colorado Water Conservation Board Directors:

Northwest Colorado Council of Governments Water Quality and Quantity Committee (QQ) is writing in support of Pitkin County's proposal to the Colorado Water Conservation Board (CWCB) for instream flows in the Roaring Fork Basin and the proposed Trust Agreement. QQ comprises towns, counties and water and sanitation districts in the Headwaters Region of Colorado. Members include the Counties of Grand, Summit, Eagle, Pitkin, Gunnison, and Park, and the majority of the municipalities and water and sanitation districts within those county boundaries, and the Upper Gunnison River Water Conservancy District.

QQ has long supported the CWCB instream flow program. We also supported HB08-1280 that allows for water rights to be used in the manner Pitkin County is proposing. Due to the inherent complexities for the County to manage water rights acquired through real property assets, QQ believes utilizing the water to protect stream flows through the CWCB Instream Flow Program is the best and most logical approach for the County. For a variety of reasons, rivers and streams in the Roaring Fork Basin (Basin) are stressed due to lower stream flows. Not only is overall stream health threatened, recreation and tourism are threatened, ultimately leading to economic impacts in the Basin.

QQ also supports the proposal of a "water trust". The trust would enable Pitkin County to use its water rights for instream flow purposes while allowing the County enough flexibility to manage their water rights with respect to unique program limitations associated with those water rights. The trust agreement also allows the County to add different water rights to the agreement as well as to withdraw certain water rights, or to revoke the trust in its entirety; and the County's underlying ownership of these water rights will be preserved while the water is put to a more beneficial use. We are impressed with the forethought and creativity that was put into developing a trust that ensures the County's ability to use these particular water rights for instream flow purposes while avoiding any legal difficulties in the administration of those water rights.

We would like to thank the CWCB for their thoughtful consideration of this proposal. Please let us know if you have any questions regarding our organization or our support.

Sincerely,

James Newberry
NWCCOG/QQ Board Chair

CC: Board of County Commissioners of Pitkin County, CO
John Ely, Pitkin County Attorney
NWCCOG/QQ Committee

Pitkin County Healthy Rivers and Streams
Citizens Advisory Board
530 E. Main Street Ste 302
Aspen, CO 81611

November 4, 2009

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

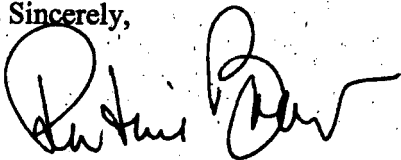
Dear Members of the Colorado Water Conservation Board:

I am writing on behalf of the Board of the Pitkin County Healthy Rivers and Streams Citizens Advisory Board ("River Board") to express our support of the proposal offered by Pitkin County concerning the use of water rights owned by Pitkin County for the CWCB's instream flow purposes in the Roaring Fork basin.

The River Board is the advisory board to the Pitkin County Board of County Commissioners for implementing the Healthy Rivers and Streams Fund Program as authorized by voters in 2008 and to advise the BOCC on the expenditures and administration of the fund. The River Board feels that the use of Pitkin County water rights by the CWCB for instream flow purposes will enhance the Roaring Fork river basin's ecology and economic health by helping to preserve and protect our tourism and recreation economies and improving the overall general health and well being of our valley.

The trust agreement proposed by Pitkin County will allow the CWCB the use of water rights owned by Pitkin County that would otherwise not be available for dedicated instream flow purposes. The River Board applauds the CWCB and its staff for this innovative approach to realizing such a benefit for our river communities.

Sincerely,



Ruthie Brown, Chair

cc: Board of County Commissioners of Pitkin County, Colorado



January 21, 2009

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Dear Members of the Colorado Water Conservation Board:

I am writing on behalf of the Board of the Roaring Fork Conservancy to express our support of the proposal offered by Pitkin County concerning the use of water rights owned by Pitkin County for the CWCB's instream flow purposes in the Roaring Fork basin.

The Roaring Fork Conservancy is the watershed conservation organization in the Roaring Fork valley that seeks to protect the riparian habitat and natural environment of our rivers. The Conservancy was founded in 1996 through a unique public-private partnership and has become one of the most respected watershed conservation organizations in Colorado. Currently, the organization is funded through individual donations, grants, special events and program fees. In 2000, the Conservancy formed the Rivers Council to help raise funds for the organization's four program areas: watershed education, land conservation, water resources research and water quality monitoring.

The Conservancy Board feels that the use of Pitkin County water rights by the CWCB for instream flow purposes will enhance the Roaring Fork river basin's ecology and economic health by helping to preserve and protect our tourism and recreation economies and improving the overall general health and well being of our valley.

The trust agreement proposed by Pitkin County will allow the CWCB the use of water rights owned by Pitkin County that would otherwise not be available for dedicated instream flow purposes. The Conservancy congratulates the CWCB and its staff for this innovative approach to realizing such a benefit for our river communities.

Sincerely,

Rick Lofaro
Executive Director,

cc: Board of County Commissioners of Pitkin County, Colorado

Board of Directors
Rick Lofaro
Executive Director
Diane Schwener
President
Stephen Ellsperman
Vice President
Carter Brooksher
Rivers Council Liaison
Patrick Wilhelm
Treasurer
Ramsey Kropf
Secretary
Andrew Light
Jim Light
Louis Meyer
Rick Neiley
Chris Seldin
Larry Yaw

Program Staff
Rick Lofaro
Executive Director
Sharon Clarke
Water Resource Specialist
Catie Fleming
Office Manager/
Development Associate
Sarah Johnson
Education Coordinator
Carlyle Kyzer
Major Gifts Director
Tim O'Keefe
Education Director
Ed Perregaux
Development Director
Chad Rudow
Water Quality
Coordinator

November 12, 2009

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

Re: Pitkin County Trust Agreement and the Stapleton Brothers Ditch

Via email to linda.bassi@state.co.us

Dear Colorado Water Conservation Board:

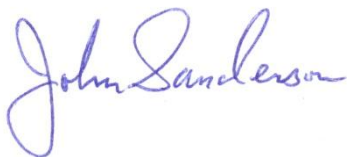
As the Water Program Manager for The Nature Conservancy of Colorado, I thank you for this opportunity to express support for Pitkin County's offer to loan water rights to the CWCB for use in its instream flow program. Over the past decade, The Nature Conservancy in Colorado has greatly expanded its water program. In recent years, we have focused considerable resources on the Roaring Fork watershed. We believe this loan from Pitkin County is significant both in the watershed and also statewide for its demonstration of how innovative approaches can be used to protect Colorado invaluable river resources while respecting the rights of water users.

The initial test case for this loan—Pitkin County's ownership interest in the Stapleton Brothers Ditch—will allow greater opportunities to meet existing instream flow rights on Maroon Creek and on the Roaring Fork. This action will improve habitat conditions on both streams. If the Stapleton Brothers Ditch project is approved, more than thirty additional water rights will be submitted by Pitkin County to the CWCB's instream flow program.

The project also has statewide significance. It will be the first use of House Bill 1280, a bill that paved the way for the CWCB to enter into shorter-term agreements with water users to place water in the instream flow program. Also, the trust agreement provides a model for all other water users in the state that have water rights that are not currently being used, such as municipalities that have developed water supplies beyond their immediate needs.

We at The Nature Conservancy believe stream and river protection is essential to the maintenance of Colorado's character, our economy, our way of life, and our natural heritage. We urge you to support tools, policies, and programs that will expand our collective ability to protect Colorado's valuable water resources.

Sincerely,



John Sanderson
Water Program Manager

TAYLOR CREEK



October 26, 2009

Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Dear Colorado Water Conservation Board,

My name is Tim Heng and I have been the manager of the Taylor Creek Fly Shop in Basalt for the past 20 years. During this time, we championed for quality water flows in both the Roaring Fork and Frying Pan Rivers. This is both for the health of the watershed, as well as for the economic health of the entire Roaring Fork Valley. As I am sure you are aware, many tourism dollars are directly related to the wellbeing of these great rivers.

We wholeheartedly support the proposal by Pitkin County concerning the use of water rights owned by Pitkin County for the CWCB's instream flows in the Roaring Fork basin. We feel that the use of these water rights for instream flow purposes will definitely benefit the health of the local waters. There are times, mostly during years of drought, but even in normal snowpack years, that the guides of Taylor Creek will not fish certain stretches of the Roaring Fork because of the increased stress on trout due to low water conditions. Hopefully, this proposal will change those conditions.

Seldom does the opportunity arise to increase flows into the Roaring Fork River and we commend both Pitkin County and CWCB for their efforts to make this happen.

Sincerely,


Tim Heng

Ellen Olson

From: Ken Ransford [kenransford@comcast.net]
Sent: Wednesday, October 21, 2009 2:02 PM
To: eolson@coloradowatertrust.org
Subject: I Support Pitkin County's donation of water rights to the CWCB

Categories: CWT Responsibilities

To the CWCB:

I fully support Pitkin County's offer of water rights in the Stapleton Brother's Ditch to the CWCB. Please do whatever you can to support and accept this proposed transfer.

Ken Ransford, Esq., CPA
Ken Ransford, P.C.
132 Midland Avenue, Suite 3
Basalt, CO 81621
Telephone: (970) 927-1200
Fax: (970) 927-1300

Ellen Olson

From: kendall@sopris.net
Sent: Wednesday, October 21, 2009 6:04 PM
To: eolson@coloradowatertrust.org
Subject: InStream flows

Hello Ellen,

I think it high time to keep as much water as possible in the river, for the fish, wildlife, and public enjoyment....the future of our planet lies in a healthy environment. Please support this test-case donation.

Thank you very much,
Kendall Henry
2022 Midland Ave.
Glenwood Springs, CO 81601