

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



June 21, 2012

Mr. Dick Wolfe
State Engineer
Colorado Division of Water Resources
1313 Sherman St., Rm 818
Denver, CO 80203

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

Ms. Erin Light
Division Engineer, Water Division 6
Colorado Division of Water Resources
505 Anglers Drive, Suite 101
Steamboat Springs, CO 80487

Re: Temporary Loan of Water to CWCB Pursuant to Section 37-83-105, C.R.S. for Instream Flow Use from Colorado Water Trust and Upper Yampa Water Conservancy District on the Yampa River, Water Division 6, Routt County, Colorado.

Dear Mr. Wolfe and Ms. Light:

The Colorado Water Conservation Board ("CWCB") hereby requests approval of a Temporary Loan of Water Right for water leased from Upper Yampa Water Conservancy District ("UYWCD") to CWCB via the Colorado Water Trust ("CWT") for instream flow ("ISF") use pursuant to 37-83-105, C.R.S. (2011). While the Water Use Agreement implementing this proposal is for a term beginning on July 1, 2012 and continuing until November 1, 2012, the ISF use of the leased water would be limited to 120 days.

The leased water rights consist of 4,000 acre-feet of storage rights in the Stagecoach Reservoir, on the Yampa River, tributary to the Green River, tributary to the Colorado River. UYWCD intends to temporarily lease the subject water rights to CWCB for ISF use downstream of the reservoir at a release rate not to exceed the ISF decreed rates of 72.5 cfs (April 1—August 14) and 47.5 cfs (August 15—March 30), for a period from July 1, 2012 to November 1, 2012, not to exceed 120 days. **See map at Attachment 1.**

The CWCB has provided a written notice of this request for approval by electronic mail to all parties listed on the Division 6 substitute water supply plan notification list established pursuant to section 37-92-308(6), C.R.S. (2011).

I. Summary of Proposal and Statement of Duration

Evidence of proponent's legal right to use the leased water right is provided as follows.

Stagecoach Reservoir is owned and operated by UYWCD. Under the Water Use Agreement among UYWCD, CWCB and CWT, and upon approval of this request by the State and Division Engineers, reservoir releases will be made for ISF use when conditions permit. **See Water Use Agreement at Attachment 2.** Rule 6(k) of the Rules Concerning CWCB's Instream Flow and Natural Lake Level Program ("ISF Rules") sets forth procedures for accepting temporary loans and leases of water for ISF use, in accordance with section 37-83-105. ISF Rule 6k. authorizes the CWCB Director to accept loans and leases and to take any administrative action necessary to put the water to ISF use, provided that the State Engineer has made a determination of no injury pursuant to section 37-83-105(2)(a)(III). Such acceptance and water use is subject to Board ratification at the following Board meeting.

Beginning July 1, 2012, or soon thereafter, UYWCD, in consultation with CWCB and CWT, will cause reservoir releases of up to 4,000 acre-feet, at a release rate of up to the decreed rate of the Yampa River ISF water right (72.5 cfs / 47.5 cfs). Paragraph 6 of the Lease Agreement sets forth additional conditions governing the amount of water UYWCD will release for ISF use. Prior to CWCB's ISF use of the water, UYWCD will use the water for the decreed beneficial use of hydropower generation. The period of ISF use by CWCB under the lease agreement will not exceed 120 days in 2012.

II. Historical Use and Reasonable Estimate of Consumptive Use

The Stagecoach Reservoir is an on-stream reservoir on the Yampa River, tributary to the Green River, tributary to the Colorado River, that is used by UYWCD for in-reservoir and downstream uses. In-reservoir uses include fish propagation, waterfowl habitat, and recreational uses. . Historic reservoir operations have included releases of water for decreed hydropower generation at the dam as well as contract releases of water for downstream power generation. The capacity of Stagecoach Reservoir was expanded by approximately 3,125 acre-feet in 2010 to a total of 36,439 acre-feet, of which 36,400 acre-feet filled in 2011. Under the Water Use Agreement, UYWCD will release up to 4,000 acre-feet from Stagecoach Reservoir under the water rights described below. The Pleasant Valley Reservoir, Bear Reservoir, Four Counties Ditch Nos. 1 and 3, and Ditch Rights are decreed for storage in Stagecoach Reservoir.

Name	Amount Absolute	Adjud Date	Approp Date	Case No.
Stagecoach Reservoir 2nd filling	6,670 AF	12-31-1997	3-1-1996	97CW0084
Pleasant Valley Reservoir	20,854 AF	5-30-1972	6-29-1959	CA3926 W946-76 92CW0026
Bear Reservoir	11,614.2 AF	3-30-1964	9-30-1961	CA3538 92CW0026
Four Counties Ditch #1 & #3	151 cfs (302 AF/day)	3-30-1964	6-2-1958	W1091-76 92CW0026 95CW0116
Ditch Rights (<i>Yellow Jacket, Union, Little Chief</i>)	514.8 AF	9-22-1892 9-20-1906 9-14-1946	10-22-1889 11-14-1889 9-2-1904 6-1-1918 6-1-1919	95CW0078

All of the water provided under the Water Use Agreement will first be used to generate hydropower, a decreed use of the stored water, prior to being provided to CWCB for ISF use. The released water will also likely be shepherded as contract water to other decreed beneficial uses downstream. Therefore, a historical consumptive use analysis is not needed for this lease.

III. Proposed Use

Water previously stored in priority in Stagecoach Reservoir will be released to supplement the existing decreed ISF water right on the Yampa River from Morrison Creek to Lake Catamount to bring flows up to the decreed ISF rate. The Yampa River ISF water right was decreed to preserve the natural environment to a reasonable degree. At the time of appropriation, the Yampa River supported an outstanding rainbow and brown trout fishery. Colorado Parks and Wildlife considers this segment of the Yampa River to be unique in terms of fish biomass, numbers of fish per mile, and stream access. Reservoir releases are expected to increase stream depth and wetted perimeter, and to lower water temperatures for the fish. The ISF water right to be benefitted by this lease is described below:

CWCB Case No.	Stream/Lake	Amount (cfs)	Approp. Date	Watershed	County
6-01W106	Yampa River	47.5 cfs (8/15-3/31) 72.5 cfs (4/1-8/14)	7/24/2001	Yampa River	Routt

The amount of water leased and used for the Yampa River ISF will not exceed the rate of flow decreed to the Yampa River ISF water right. The timing of releases of water from Stagecoach Reservoir will depend upon the timing of stream flow shortages and operational constraints for the reservoir. However, it is anticipated that the existing ISF water right could use this water as early as July 1, 2012. The leased water could likely be used in July, August, September, or October this year. Once the released water reaches the downstream terminus of the ISF reach at Lake Catamount, the released water will no longer be claimed by CWCB. CWT is pursuing a lease for downstream beneficial uses for the released water. If CWT identifies a water user, and the intended use is consistent with the beneficial uses decreed to Stagecoach Reservoir, CWT and the identified water user will seek any necessary from the State and Division Engineers' Offices separate from this application.

The leased water will be beneficially used for hydropower generation, ISF use, and possibly another downstream beneficial use under the lease. Return flows from that downstream beneficial use (or the water that was used for the ISF, if no additional uses occur) will be available for other beneficial uses further downstream. Consequently, this lease of water will not adversely affect Colorado's compact entitlements.

IV. Terms and Conditions to Prevent Injury

To prevent an expansion of use of the decreed water rights for Stagecoach Reservoir and to prevent injury to other water uses from the exercise of this loan agreement, UYWCD, CWT and CWCB ("Proponents") propose to operate the lease in accordance with the following terms and conditions:

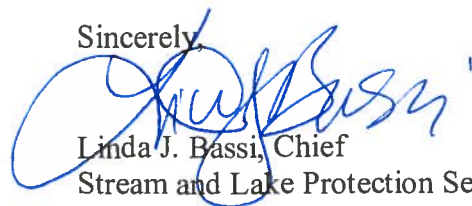
- Proponents shall install and maintain any measuring devices or structures reasonably required by the State and Division Engineers to administer the water right under this approval.
- Proponents shall submit records and accounting as reasonably required by the State and Division Engineers to administer the water right under this approval.
- When reservoir releases are made pursuant to this approval, Proponents shall notify the State and Division Engineers that the releases are being made for ISF use and may need to be administered.

V. Conclusion

The CWCB respectfully requests approval of the temporary lease of UYWCD water rights in Stagecoach Reservoir for ISF use on the Yampa River. If operated in the manner presented herein, no injury will occur to other water rights.

Thank you for your assistance in this matter. Please let us know if you have any questions or require additional information.

Sincerely,



Linda J. Bassi, Chief
Stream and Lake Protection Section

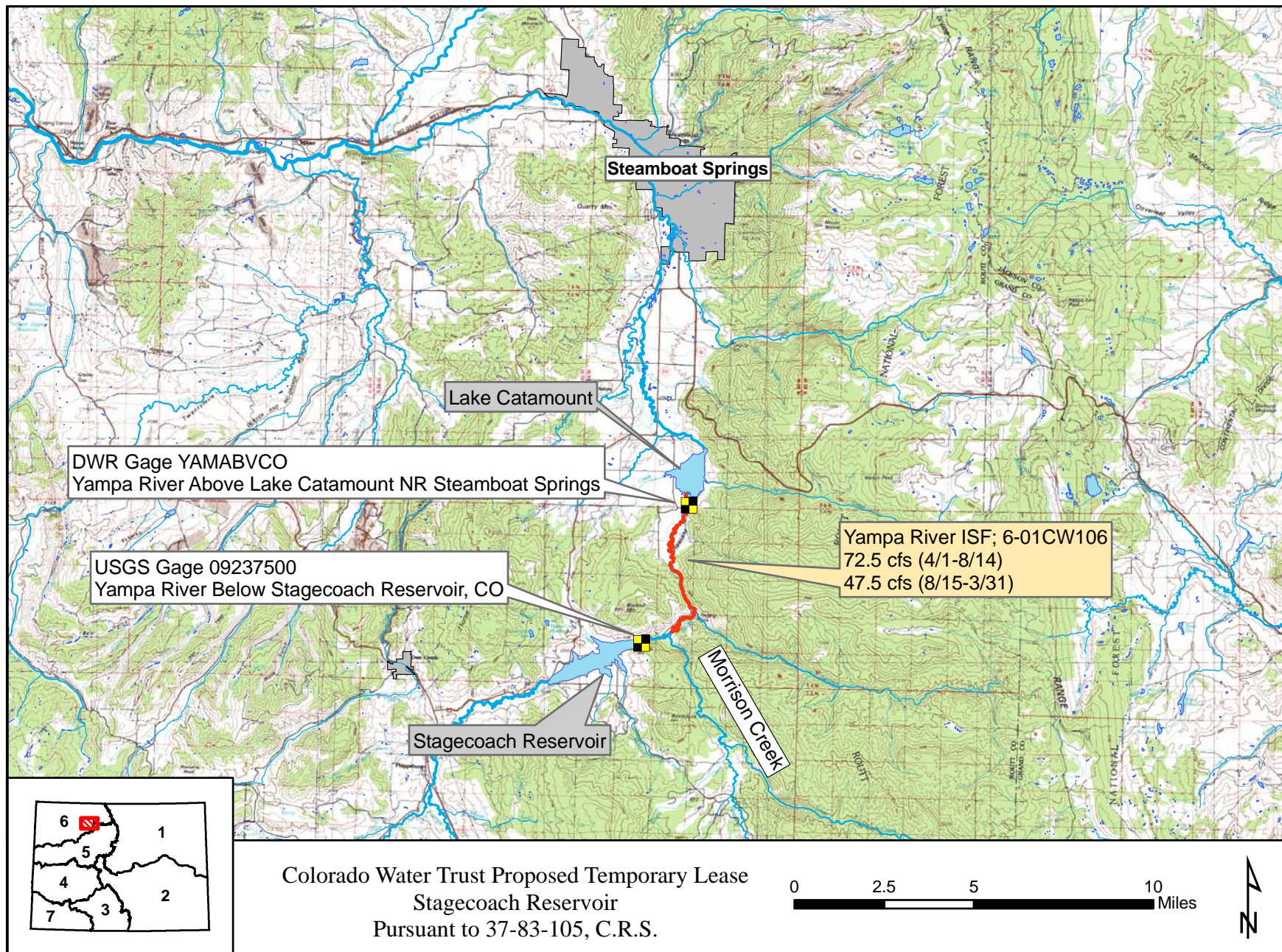
cc: Kaylea White
Don West

Encl:

Attachment 1 - Map
Attachment 2 - Agreement
Attachment 3 - UYWCD Letter
Attachment 4 - CWT Offer to CWCB
Attachment 5 - CWCB Letter to CWT and UYWCD

ATTACHMENT 1

MAP



ATTACHMENT 2
AGREEMENT

2012 WATER USE AGREEMENT

This 2012 Water Use Agreement ("Agreement") is entered into by and between COLORADO WATER CONSERVATION BOARD ("CWCB"), an agency of the State of Colorado; the COLORADO WATER TRUST ("CWT"), a Colorado nonprofit corporation; and UPPER YAMPA WATER CONSERVANCY DISTRICT, a Colorado water conservancy district ("Upper Yampa"), collectively, the Parties.

RECITALS

- A. Section 37-92-102(3), C.R.S. (2011) authorizes CWCB to acquire by lease or other contractual agreement such water, water rights, or interests in water as CWCB determines may preserve and improve the natural environment to a reasonable degree.
- B. CWT is a Colorado nonprofit dedicated to protecting and restoring stream flows in Colorado through voluntary, market-based efforts. CWT works within CWCB's acquisition program to accomplish this mission. This Agreement supports that mission.
- C. Section 37-83-105(2) authorizes water rights owners to lease or loan water to CWCB for instream flow use pursuant to a decreed instream flow water right held by CWCB and administrative approval, subject to certain conditions and procedures ("Short Term Lease Program").
- D. Under the Short Term Lease Program, an agreement may have a term for up to ten years, but may only be used for instream flows for three of those ten years. For each year the water right is used in the Short Term Lease Program, it may only be used for instream flows up to 120 days in that calendar year.
- E. Colorado snowpack totals for the spring of 2012 are similar to those of the drought year of 2002. That year, many CWCB decreed instream flows were not satisfied and the lack of water negatively impacted the state's aquatic ecosystems. This year, CWT and CWCB anticipate many decreed instream flows will not be met again. However, CWT and CWCB desire to supply stored water to those decreed, but not met, instream flows to protect Colorado's aquatic ecosystems.
- F. Upper Yampa has stored water in Stagecoach Reservoir on the Yampa River under the absolute storage water rights described in Appendix A ("Water Rights"). Upper Yampa wishes to contract with CWT and CWCB to release up to 4,000 acre-feet of water stored in Stagecoach Reservoir pursuant to the Water Rights ("Stored Water") to CWCB for instream flow use on the Yampa River, as set forth herein.

- G. CWCB holds an instream flow on the Yampa River, decreed in Case No. 6-01CW106 for 72.5 cfs (April 1 to August 14) and 47.5 cfs (August 15 to March 30), in the reach of the Yampa River extending from Morrison Creek to the inlet of Lake Catamount ("Instream Flow").
- H. Subject to the terms of this Agreement, Upper Yampa will release Stored Water for hydropower use first, and then to CWCB for instream flow purposes. CWCB will use the Stored Water to maintain the Instream Flow for a period not to exceed one hundred twenty days.
- I. Subject to the terms of this Agreement, CWT will pay Upper Yampa for the use of Stored Water.
- J. The use of the Stored Water by CWCB for instream flow purposes will require State and Division Engineer approval and final ratification by CWCB Board of Directors, pursuant to section 37-83-105(2).
- K. The amount of water to be released to CWCB by Upper Yampa under this Agreement will not exceed the amount of water decreed to the Instream Flow.

NOW THEREFORE, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CWCB, CWT, and Upper Yampa agree as follows:

USE OF WATER RIGHTS

- 1. Term. The term of this Agreement shall be from the effective date of this Agreement, until November 1, 2012 ("Term").
- 2. Purchase Price and Payment Procedure.
 - a. For and in consideration of the payment of the sum of one hundred forty thousand and 00/100 Dollars (\$140,000) ("Purchase Price") paid to Upper Yampa by CWT and the keeping and performance of the covenants and agreements contained herein, Upper Yampa shall release to CWCB up to 4,000 AF of water stored in Stagecoach Reservoir to be used by CWCB for the Instream Flow and by CWT for other decreed uses.
 - b. Payment by CWT to Upper Yampa shall occur only upon the approval by the State and Division Engineers and acceptance by the CWCB Director of the use of the Stored Water pursuant to sections 37-83-105(2)(a)(IV) and 37-83-105(2)(b)(VII) as set forth in this Agreement.

- c. Payment by CWT shall not occur if the CWCB Director does not accept, or the State and Division Engineers deny the use of the Stored Water to be released from Stagecoach Reservoir for such purpose.
- d. CWT shall pay the Upper Yampa half the Purchase Price within 10 days after this Agreement is accepted by the CWCB Director and approved by the State and Division Engineers. CWT shall pay the remaining half no later than September 30, 2012.
- e. If the CWCB Director does not accept and the State and Division Engineers have not approved this Agreement and communicated such approval in writing to Upper Yampa by July 30, 2012, this Agreement shall terminate and be of no force and effect.

3. Operations, Accounting and Monitoring.

- a. CWCB shall notify the State and Division Engineers when the water rights are used for the Instream Flow pursuant to this approval for administrative purposes.
- b. The Parties agree to coordinate record keeping and accounting as reasonably required by the State and Division Engineers to administer the water right use for the Instream Flow.
- c. The Parties agree to coordinate to install and maintain any measuring devices or structures reasonably required by the State and Division Engineers to administer the water right use for the Instream Flow, but nothing herein shall require Upper Yampa to incur any cost to purchase or install new or modified measuring devices or structures.

4. CWCB Acceptance of Use of Stored Water. CWCB's acceptance of the use of the Stored Water is contingent upon the State and Division Engineers' determination that CWCB's use of the Water Right will not injure existing water rights of others and will not affect Colorado's compact entitlements. Approval may include terms and conditions to ensure the non-injury standard is met pursuant to section 37-83-105(2)(b)(VI).

5. First Use of Water Released. The first use of the Stored Water shall be for hydropower, a decreed use of the Stored Water.

6. Subsequent Use of Water Released. CWCB will use the Stored Water to maintain its Instream Flow. Upper Yampa shall release the water at

the rate and at the times as determined after consultations between Upper Yampa, CWCB and CWT, provided that Upper Yampa shall not be obligated to release water at a net rate of release as measured at the outlet of Stagecoach Reservoir exceeding the difference between the decreed amount of the CWCB Instream Flow on the date of such release minus the combination of (a) the then current inflow of Morrison Creek at the Yampa confluence, (b) the then rate of release to all other allottees of water in Stagecoach Reservoir who have called for release of allotted water from the Reservoir on a concurrent basis together and (c) the minimum release required to be made by Upper Yampa from Stagecoach Reservoir under the environmental and other permits authorizing construction and operation of the Stagecoach Reservoir and hydropower facilities (i.e. Upper Yampa shall not be obligated to exceed at any time a COMBINED TOTAL release rate of water in excess of the decreed Instream Flow amount (reduced by the Morrison Creek inflow at the confluence) at the time of such release, for all water deliveries under all allotment contracts from Stagecoach Reservoir including this Agreement and all minimum releases, through November 1, 2012). The Parties agree that the rate and timing of release of Stored Water will be approximately 26 cfs from July 1 to September 15. This rate can be modified at any time by mutual agreement of the Parties. Further, notwithstanding the foregoing, Upper Yampa shall not be obligated to release Stored Water more than 120 days following the date of the first release requested by CWCB. The Parties agree to cooperate to maximize the benefits of the water released in light of meteorological conditions in 2012. It is further understood that the Stored Water will be released at the outlet of Stagecoach Reservoir, that all losses by evaporation prior to release and during transit after release will be borne by CWCB, that ramping rates must be approved by Upper Yampa, and that any part of the Stored Water not released before November 1, 2012 will revert to the ownership of Upper Yampa, and CWCB will not have the right to call for the release of such Stored Water after November 1, 2012, for any purpose. CWCB releases any claim to the Stored Water downstream of its Instream Flow to CWT. CWT agrees in good faith to seek to find additional downstream uses of the Stored Water below the lowest structure in the City of Steamboat's Recreational In-Channel Diversion, provided that the arrangements for such uses and the control and delivery for such uses, and any compensation for such delivery for such uses, shall belong solely to CWT in conjunction with administration of such delivery by the Division Engineer, and Upper Yampa has no responsibility for such arrangements or implementing such arrangements beyond the release of the Stored Water at the Stagecoach Reservoir dam in accordance with this Agreement.

7. Early Releases. Before the approvals referenced in Recital J and

paragraph 4 are completed, and notwithstanding anything elsewhere set forth herein, Upper Yampa may release Stored Water to CWT for other decreed downstream uses outside of the Short Term Lease Program, in amounts and timing as mutually agreed upon by the Parties. Notwithstanding the payment schedule in paragraph 2, CWT shall pay for any water released before the approvals at a rate of \$35 per acre foot released due on or before July 31. After approval, the two payments CWT owes Upper Yampa in paragraph 2 shall be reduced pro rata by the amount CWT owes for such early releases such that the total payment from CWT to Upper Yampa under this Lease is \$140,000.

8. Inspections. Upper Yampa grants CWCB or CWT staff and any of their representatives access to the Stagecoach Reservoir subject to the Agreement at reasonable times to ensure compliance with the terms of the Agreement.

STATE AND DIVISION ENGINEER APPROVAL OF AGREEMENT

9. Statement to State Engineer. Prior to signing this Agreement, CWCB shall compile a statement requesting approval and explaining the Agreement in sufficient detail for the State Engineer to determine that implementation of this Agreement does not injure existing decreed water rights. CWT shall use its best efforts to assist CWCB in compiling said statement and in obtaining State and Division Engineer approval of this Agreement as described below.
10. Request for Approval. CWCB shall file a request for approval of this Agreement with the State and Division Engineers pursuant to Section 37-83-105, which request shall include the following information as appropriate:
 - a. Evidence of proponent's legal right to use the Stored Water;
 - b. A statement of the duration of the Water Use Agreement;
 - c. A description of the original points of diversion, the return flow pattern, the stream reach, and the time, place, and types of use of the Stored Water;
 - d. A description of the stream reach, and the time, place, and types of use of the Stored Water; and
 - e. A reasonable estimate of the historic consumptive use of the Stored Water.

14. Limited Representations By Upper Yampa.

- a. Upper Yampa represents and warrants that it has full power and authority to execute this Agreement, allocate and deliver the Stored Water, and perform its obligations hereunder.
- b. Upper Yampa represents and warrants that the Stored Water exists in Stagecoach Reservoir as of the execution of this Agreement, and has been so stored in compliance with decreed terms of existing Water Rights decrees for Stagecoach Reservoir prior to the date of execution of this Agreement.


15. Enforcement of this Agreement.

- a. Pursuant to section 37-92-102(3), C.R.S., the terms of this Agreement shall be enforceable by each party as a water matter in a court of competent jurisdiction; provided, however, that before commencing any action for enforcement of this Agreement, the party alleging violation shall notify the other parties in writing of the alleged violation and the parties shall make a good faith effort to resolve their differences through informal consultation.
- b. Specific performance of this Agreement shall be the exclusive remedy for the failure of either party to comply with any provision of this Agreement.

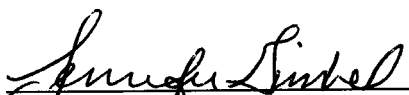
16. Effective Date. The effective date of this Agreement shall be the date it is executed by all parties.

IN WITNESS HEREOF, CWCB, CWT, and Upper Yampa have executed this Agreement.


UPPER YAMPA WATER
CONSERVANCY DISTRICT

By: 
Kevin McBride
General Manager
Date: 6/27/2012

COLORADO WATER CONSERVATION
BOARD

By: 
Jennifer Gimbel
Director
Date: 7/12/2012

COLORADO WATER TRUST

By: 

Date: 7/12/2012

NOTARIZATION

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this 27 day of June, 2012, by Kevin McBride as General Manager of Upper Yampa Water Conservancy District.

Witness my hand and official seal.

KLCy

Notary Public

My commission expires:

May 9, 2016

NOTARIZATION

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me on this 12 day of July, 2012, by Chamber Wendell as Office Coordinator of COLORADO WATER CONSERVATION BOARD.

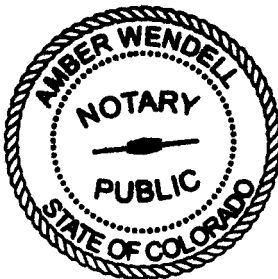
Witness my hand and official seal.

Carbent

Notary Public

My commission expires:

10/21/2016

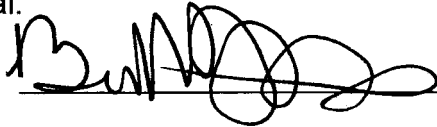


NOTARIZATION

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me on this 12th day of July, 2012, by Amy W. Beattie as Executive Director of COLORADO WATER TRUST.

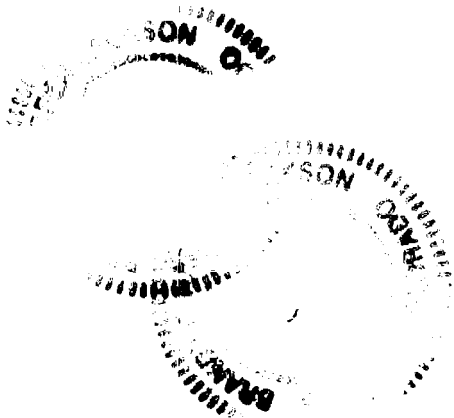
Witness my hand and official seal.

_____

Notary Public

My commission expires:

9/6/13



Water Use Agreement - Appendix A. Water Rights

Name	Amount Absolute	Adjud Date	Approp Date	Case No.
Stagecoach Reservoir 2nd filling	6,670 AF	12-31-1997	3-1-1996	97CW0084
Pleasant Valley Reservoir	20,854 AF	5-30-1972	6-29-1959	CA3926 W946-76 92CW0026
Bear Reservoir	11,614.2 AF	3-30-1964	9-30-1961	CA3538 92CW0026
Four Counties Ditch #1 & #3	151 cfs (302 AF/day)	3-30-1964	6-2-1958	W1091-76 92CW0026 95CW0116
Ditch Rights pursuant to 95CW0078 (<i>Yellow Jacket, Union, Little Chief</i>)	514.8 AF*	9-22-1892 9-20-1906 9-14-1946	10-22-1889 11-14-1889 9-2-1904 6-1-1918 6-1-1919	95CW0078

**Reflects reduced CU amount pursuant to 89CW16. 37.5 AF of the Union Ditch CU was dedicated to wetland development and maintenance, water supply for water fowl ponds and recreation uses.*

Decreed Beneficial Uses:

Case Nos. CA3538, 92CW0026 Bear Reservoir

Domestic, municipal, irrigation, stock watering, industrial, hydropower generations of electricity, mining, recreation and piscatorial uses. (92CW0026, Paragraph 11F)

Case No. 92CW0026 Pleasant Valley Reservoir

Domestic, municipal, irrigation, stock watering, industrial, hydropower generations of electricity, mining, recreation and piscatorial uses. (92CW0026, Paragraph 11F)

Case No. 95CW0078 Ditch Rights

Municipal, Domestic, Industrial, Irrigation, Stock Watering, Recreation, Piscatorial, Power Generation, Evaporation, Augmentation, and Exchange

Case Nos. 92CW0026, 95CW0116 & W1091-76 Four Counties Ditch

Domestic, Municipal, Irrigation, Industrial, Generation of Electric Power and Energy, Mining, Recreation and all other Beneficial Uses.

ATTACHMENT 3
UYWCD LETTER



Upper Yampa Water
Conservancy District

June 21, 2012

Colorado Water Conservation Board
Attn: Jennifer Gimbel, Director.
1313 Sherman St.
Room 721
Denver, CO 80203

RE: 2012 Water Use Agreement

Dear Colorado Water Conservation Board:

Yesterday, June 20, 2012, the Executive Committee of the Upper Yampa Water Conservancy District unanimously approved the attached final lease between Upper Yampa Water, Colorado Water Trust, and Colorado Water Conservation Board to use Stagecoach Reservoir water for hydropower, a temporary loan for instream flow use, and other downstream decreed uses as identified by Colorado Water Trust. The full Board of Upper Yampa will have an opportunity to ratify this lease on Monday, June 25.

I have been given authority by the Executive Committee to make releases pursuant to the lease, and also authority to sign this letter to begin the state approval and acceptance process under section 37-83-105 C.R.S. (2011).

Sincerely,

Kevin McBride, P.E.
General Manager
Upper Yampa Water Conservancy District
P.O. Box 775529
Steamboat Springs, CO 80477
kmcbride@uppervampawater.com
970-871-1035

CC: Colorado Water Trust
KM/kc
encl.

ATTACHMENT 4

CWT LETTER



COLORADO WATER TRUST

1430 Larimer Street, Suite 300
Denver, Colorado 80202

TEL: 720.570.2897

FAX: 303.996.2017

WEB: coloradowatertrust.org

BOARD OF DIRECTORS:

Michael F. Browning, *President*

David Robbins, *Vice President*

Leo Eisel, *Secretary*

David C. Smith, *Treasurer*

Tom Bie

Alexandra Davis

Kirk Deeter

David L. Harrison

Taylor E.C. Hawes

Tom Levandoski

William A. Paddock

Lee Rozaklis

Michael A. Sayler

David C. Taussig

Erin M. Wilson

Ruth Wright

Peter Nichols, *Emeritus*

Thursday, June 21, 2012

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

Dear Ms. Gimbel,

As you know, the Colorado Water Trust ("CWT") is a non-profit organization that acquires water rights from willing parties in order to place those water rights in Colorado's Instream Flow Program. CWT is pleased to offer to the Colorado Water Conservation Board ("CWCB") a Temporary Loan of a water right pursuant to C.R.S. 37-83-105. This water right is decreed to Stagecoach Reservoir, which diverts for storage from the Yampa River, a tributary to the Colorado River, located in Routt County. CWT has worked with CWCB staff on this project, and believes this offer will benefit the CWCB's instream flow water right on the Yampa River. CWT requests CWCB staff initiate the process described in ISF Rule 6k. for review and approval of Temporary Loans of Water to the Board.

This will be CWT's first formal offer of a Temporary Loan of a water right for CWCB's use in the Instream Flow Program—indeed, it is the first offer of a Temporary Loan under C.R.S. 37-83-105 since the statute's creation in 2003. The legislature passed the Temporary Loan statute with widespread, bi-partisan support to respond to the impacts of the severe drought conditions felt across the state in 2002. By allowing water users to bypass water court and temporarily loan their water to existing instream flows through a streamlined state administrative approval process, the legislature hoped to prevent or alleviate drought-related impacts on the State's aquatic resources. We have watched first as 2012 conditions became comparable to those of 2002 and now as they have, in many cases, surpassed 2002. With record low-flows affecting a number of Colorado streams, CWT is especially excited to be able to use the 2003 statute for the first time by offering CWCB this lease from Stagecoach Reservoir.

CWT has entered into a lease agreement with Upper Yampa Water Conservancy District to use in the Instream Flow Program 4000 acre-feet of previously unallocated water that was historically diverted from the Yampa River, a tributary to the Colorado River, for storage and subsequent downstream use. CWT believes this Temporary Loan will bolster the existing junior instream flow right held by CWCB on the Yampa River between Morrison Creek and Lake Catamount Reservoir, which suffered from significant and consistent shortages in 2002, and will

help preserve the natural environment in a year of record low flows. In addition to shoring up the instream flow right on the Yampa, the leased water will be used first for hydropower generation and will provide incidental benefits downstream afterwards. CWT is also working to contract with a downstream user so that the water can provide additional benefits.

Over the past few months, CWT has worked closely with Linda Bassi and staff in the Stream and Lake Protection Section of the CWCB to make the following offer to you. I will attend the CWCB July Board meeting and will be prepared to describe the proposed transaction in more detail. We look forward to working with the CWCB to complete this transaction as well as other short-term leases to bolster instream flows in this extremely dry year.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy W. Beatie". The signature is fluid and cursive, with the first name "Amy" being more prominent than the last name "Beatie".

Amy W. Beatie
Executive Director

Enclosures (5): Signed Lease, Offer Summary, Map, Decrees, Check for \$100 for Division Engineer's filing fee

ATTACHMENT 5

CWCB LETTER

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



June 21, 2012

Amy W. Beatie, Executive Director
Colorado Water Trust
1430 Larimer Street, Suite 300
Denver, CO 80202

Kevin McBride, District Manager
Upper Yampa Water Conservancy District
P.O. Box 880339
Steamboat Springs, CO 80488

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

RE: Water Use Agreement for a Temporary Loan of Water on Yampa River (Water Division 6)

Dear Ms. Beatie and Mr. McBride:

The CWCB staff has reviewed the June 21, 2012 offer from the Colorado Water Trust and the Upper Yampa Water Conservancy District of a temporary lease of water rights associated with Stagecoach Reservoir for instream flow use on the Colorado River in Water Division 6. Based upon that review, we believe that the proposed lease would benefit the CWCB's instream flow water right on the Yampa River. I have directed the CWCB staff to coordinate with the Colorado Water Trust on preparing and submitting the necessary documentation to the State and Division Engineers to obtain approval of the lease, and on providing the statutorily required public notice of the proposed lease. Thank you for working with the CWCB to protect Colorado's streams.

Sincerely,

A large, stylized handwritten signature in blue ink, appearing to read "for Jennifer L. Gimbel".

Jennifer L. Gimbel, Director