

Colorado Water Trust

Request for Water 2013: How It Works



Scott Hummer, Projects Manager
April 18, 2013

What to Expect from Today

- Brief introduction to CWT
- Brief introduction to CWCB's Instream Flow Program
- Nuts and bolts of law allowing temporary use of water rights as instream flows
- How to engage in CWT's Request for Water
- What the process looks like from start to finish (how we screen, how we value, how the State's approval process works)
- Once approved, how these projects hit the ground



Colorado Water Trust

A private, nonprofit organization formed in 2001 and dedicated to protecting and restoring streamflows in Colorado through voluntary, market-based efforts.

STAFF

Amy Beatie, Executive Director
Scott Hummer, Project Manager
Christine Hartman, Comms/Developm't
Alyse Greenberg, Operations

Zach Smith, Staff Attorney
Anne Janicki, Transaction Specialist
Edalin Koziol, CCT Fellow

BOARD OF DIRECTORS

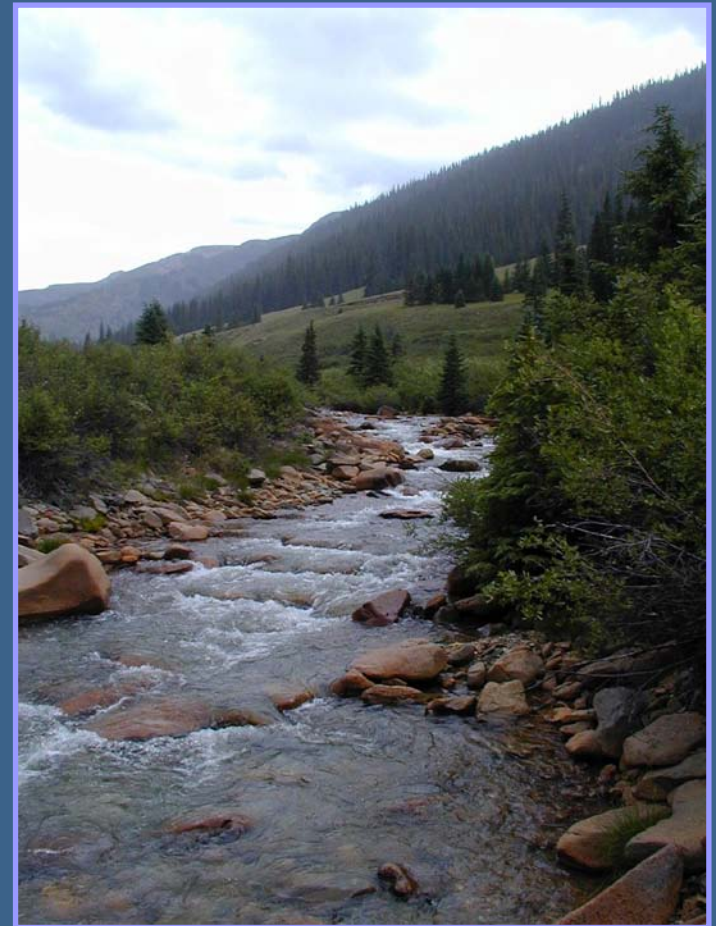
Mike Browning	Lee Rozaklis	David C. Smith	David Taussig
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1973

Legislature Established Colorado's ISF Program

Recognized “the need to correlate the activities of mankind with some reasonable preservation of the natural environment”

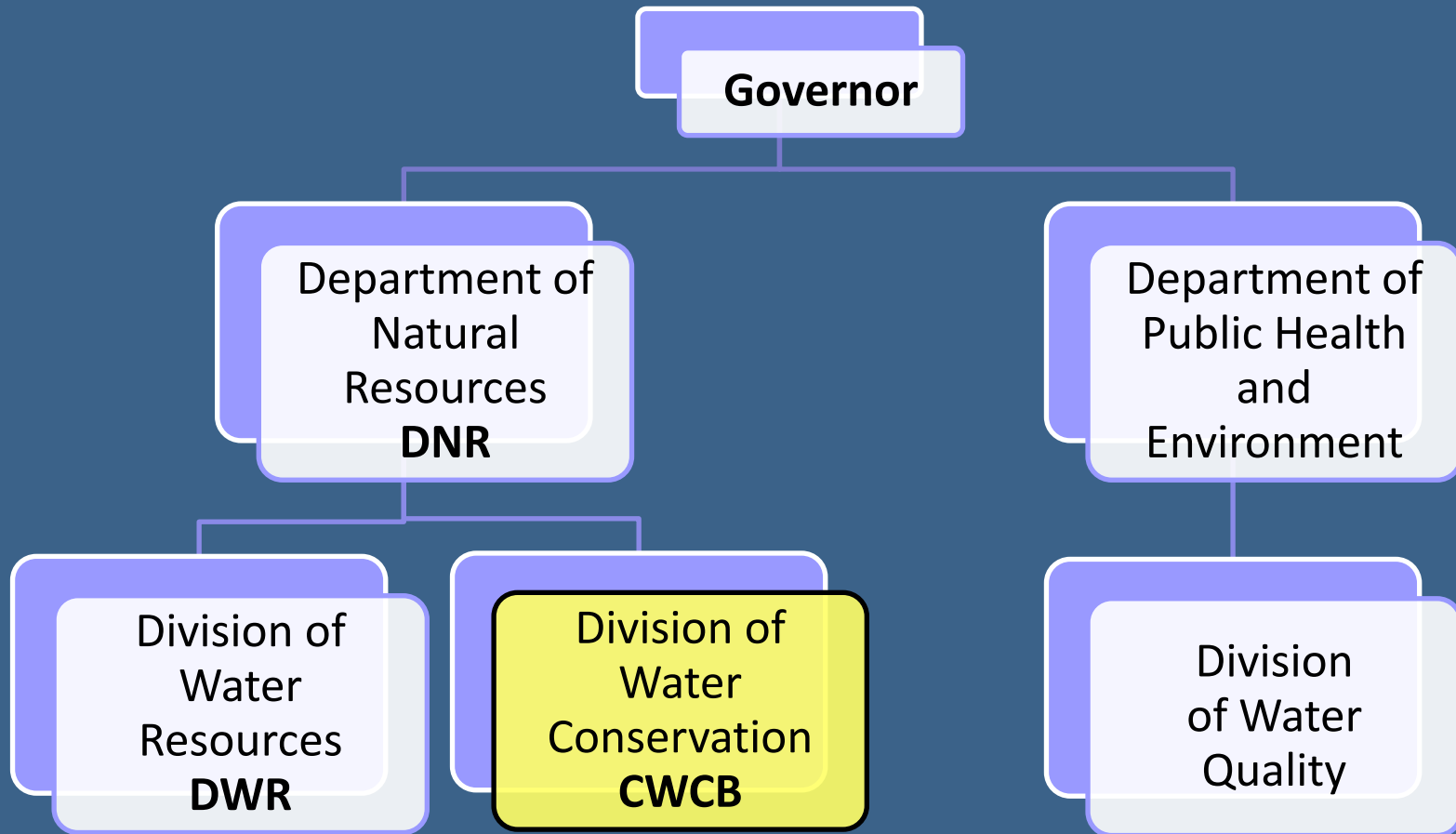
Vested the Colorado Water Conservation Board with the authority “on behalf of the people of the state of Colorado, to appropriate or acquire ... such waters of natural streams and lakes as may be required to preserve the natural environment to a reasonable degree.”



North Fork Mineral Creek



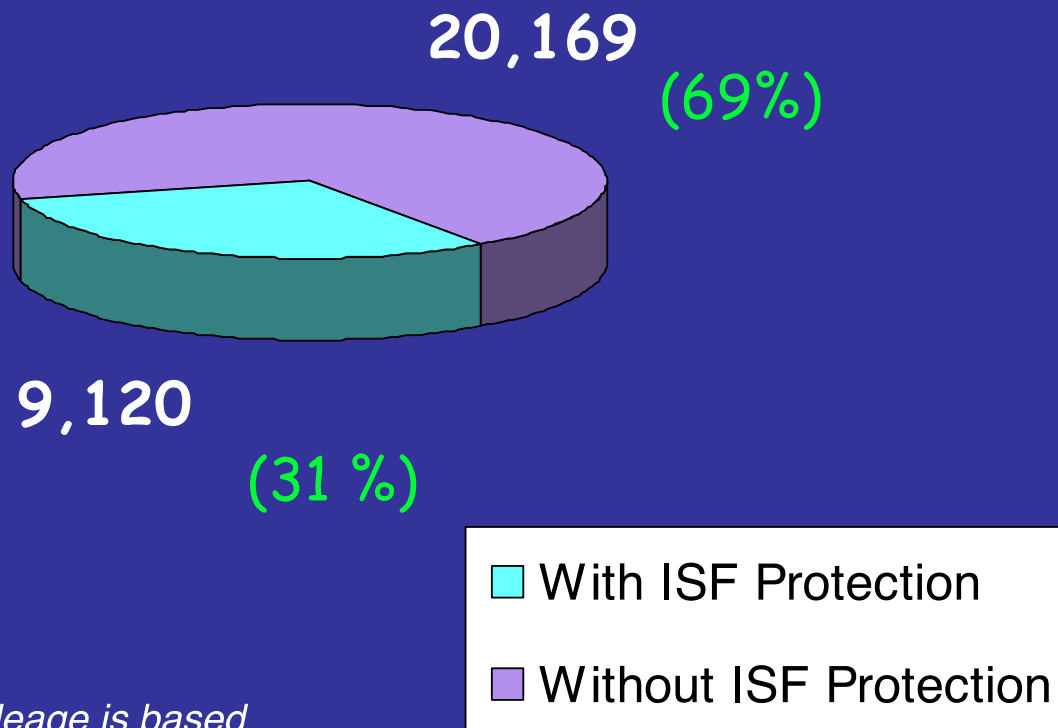
Colorado Water Conservation Board



Stream and Lake Protection Section Staffers

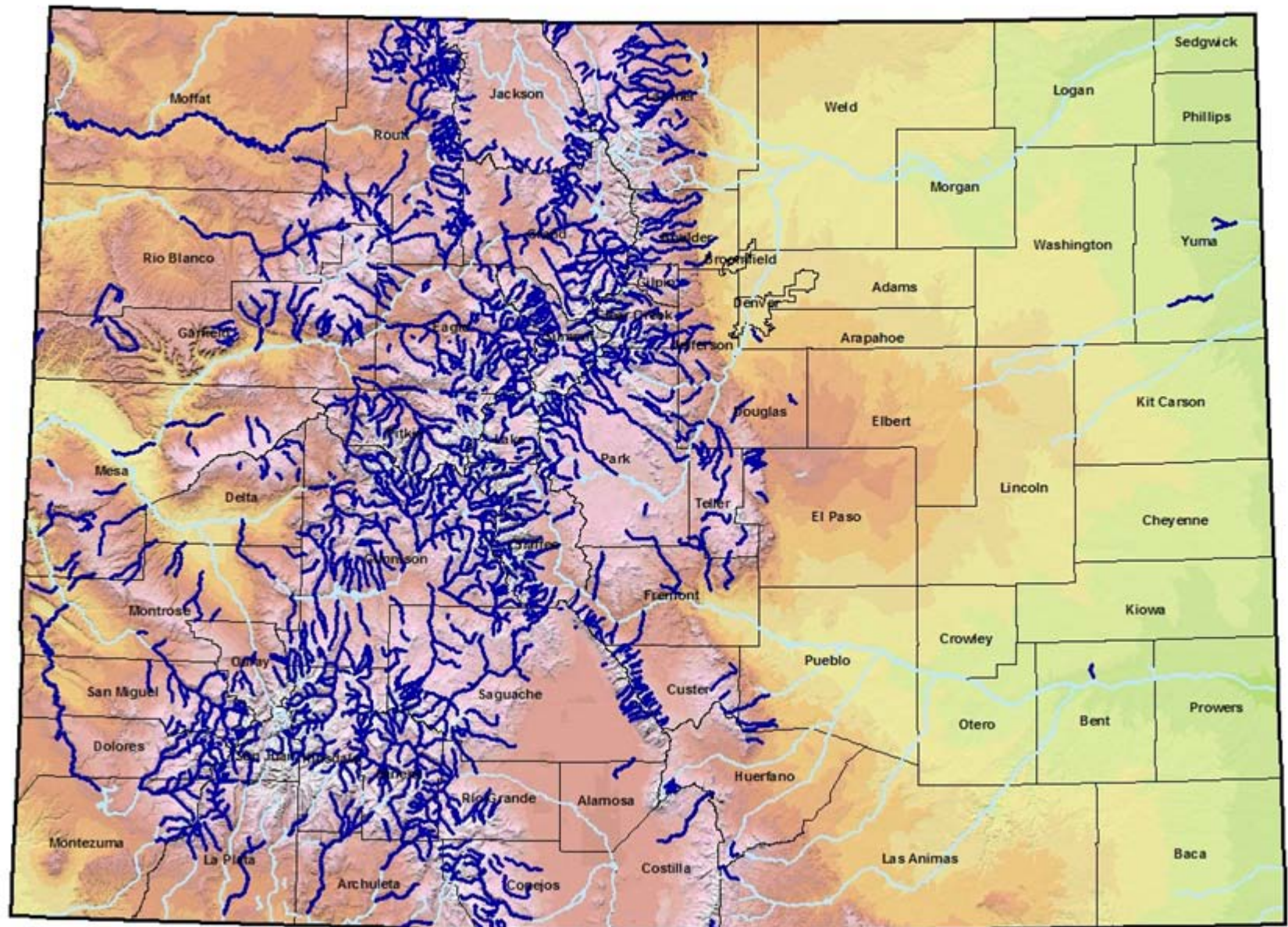
- Linda Bassi - Section Chief
- Jeff Baessler - Deputy Section Chief
- Kaylea White - Senior Water Resources Specialist
- Don West - Water Resources Engineer
- Brandy Logan – Hydrologist
- Rob Viehl - Water Resources Specialist
- Brian Epstein - Hydrologist/Hydrographer

Miles of Stream Protected by ISF Rights in Colorado



Note: Total stream mileage is based upon CDOW estimate of 29,289 miles of perennial streams in the state (H. Vermillion, 2001)

Streams Included in Colorado's Instream Flow Program



Types of Acquisitions

Permanent Transfers:

- *Donations*
- *Purchases*

Other interests in water:

- *Trusts*
- *Permanent Contracts*

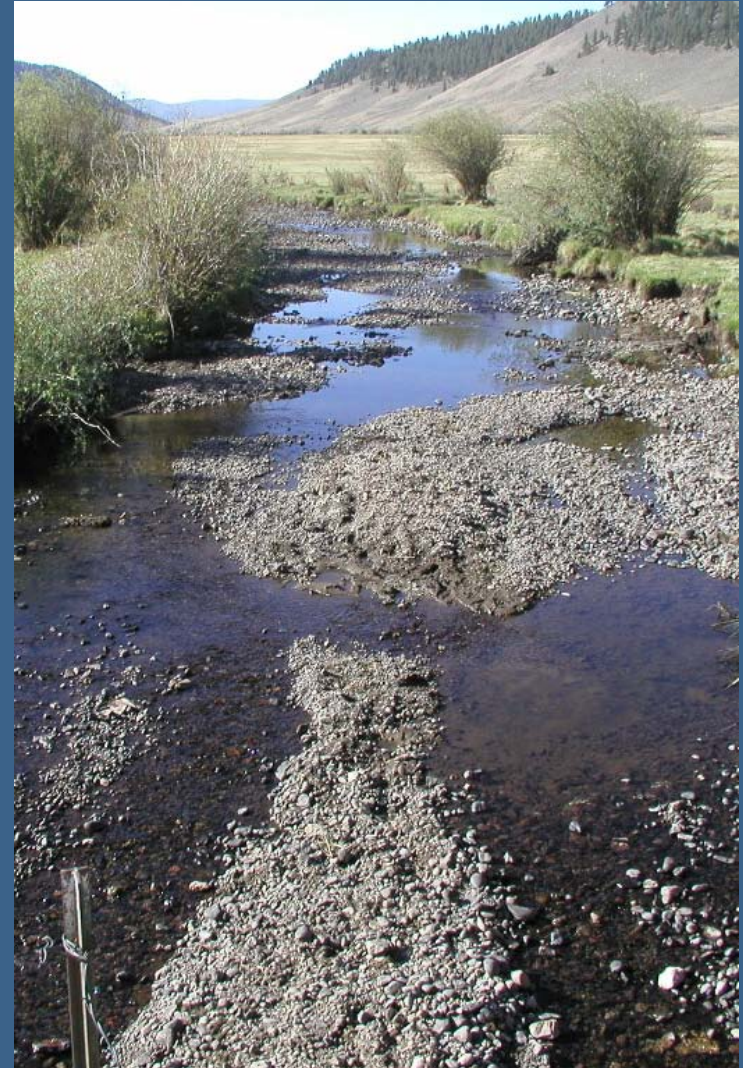
Temporary Transfers

- *Long Term Leases*
- *Short Term Leases*
(3 in 10 year leases)

General Assembly's Reaction to 2002 Drought: Temporary Loans and Short Term Leases

Section 37-83-105, C.R.S.

- In 2003, Colorado legislature created a state statute to allow water rights owners to loan water to the CWCB for use as instream flows.
- Temporary loans for instream flow use limited to a period of up to 120 days per year, and up to 3 years of use over a 10 year period (a “3-in-10” lease)
- Administrative approval process—no water court change case is required. CWCB shall compile information sufficient for Division and State Engineers to determine that short-term instream flow use does not injure existing decreed water rights.
- Can be used on any stream where CWCB currently holds an Instream Flow water right, up to decreed amount



Temporary Loans and Short Term Leases

Section 37-83-105, C.R.S.

- Recent legislation provided significant protections for water right owners:
 - Excluded all periods of time during which CWCB uses a leased/loaned water right for instream flow from any future historic consumptive use (HCU) analysis of the water right
 - Water rights leased or loaned into the Instream Flow Program are protected from abandonment



Colorado Water Trust Request for Water 2012



For the First Time, Short-Term Leases Benefit Instream Flows in Colorado

FINAL STATISTICS

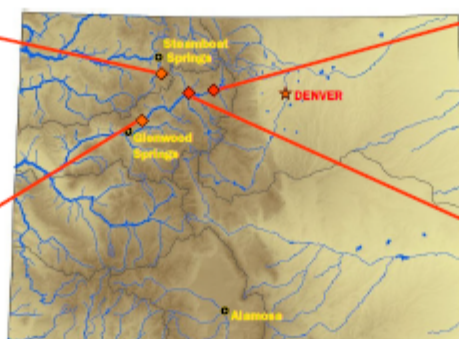
- 87 water rights offered; 56 water rights passed initial screen
- 13 water rights passed engineering review
- 6 water rights approved and currently being used to meet ISF needs; 1 water right pending approval
- 191 miles of stream benefitted (directly and incidentally) by leases

During the 2002 drought, Colorado water users and water practitioners realized there was no quick legal way to lend water to rivers and streams during times of need. In response, the Colorado legislature created state statute 37-83-105 in 2003 allowing water users to temporarily loan water to streams through an expedited administrative approval process. In 2007, additional provisions were added to the statute to prevent injury to a water right during a temporary loan. In the spring of 2012, water availability forecasts began projecting a drought season due to low snowpack and runoff levels. Recognizing the opportunity to use the 2003 statute for the first time, the Colorado Water Trust began building a pilot program, Request for Water 2012, to keep water levels healthy in some of Colorado's rivers and streams. In July, the first Request for Water 2012 lease — and the very first short-term lease of water under the 2003 state statute — was approved. Under Colorado law, temporary leases of water are approved by the Division of Water Resources and State Engineer, and temporary instream flow water rights are held by the Colorado Water Conservation Board.

Formed in 2001, the Colorado Water Trust is a private, non-profit organization that engages in and supports voluntary efforts to restore and protect streamflows in Colorado to sustain healthy aquatic ecosystems. These efforts include water acquisitions, other creative transfers of water, on-the-ground physical solutions, and technical assistance to land trusts.

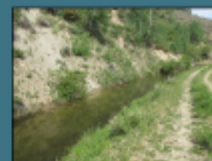
Upper Yampa Water Conservancy District

Water Right: Stagecoach Reservoir Storage Right
ISF Right: Yampa River
Lease Amount: 4,000 acre-feet; (26.6 cfs for 75-days)
Uses: Hydropower, then ISF, then incidental ISF, then power generation through separate contract with Tri-State G & T
Benefitted ISF: 5.4 miles, other streamflow benefits 40-50 miles
Lease Term: One Year
Price: \$140,000 - based on UY contract rate
Status: Approved 7/11
Other: CWT receives \$28 an acre-foot from Tri-State for the portion of CWT releases used at the Craig Power Station.



Aspen Shorefox, LLC

Water Right: Bunte Highline Ditch, 3 priorities out of Willow Creek
ISF Right: Colorado River (4 segments Willow Creek to Blue River)
Lease Amount: 40 cfs; reduced to reflect historical monthly use patterns
Uses: Split Season - Irrigation, ISF, Groundwater Recharge
Benefitted ISF: 30 miles
Lease Term: 10 years
Price: \$83,452 - based on full season irrigation net revenue +10%
Status: Approved 7/27



Coyote River Ranch

Water Right: Yost Ditch
ISF Right: Deep Creek, tributary to the Colorado River near Dotsero
Lease Amount: 2 cfs, reduced to reflect historical monthly use patterns
Uses: Split Season - Irrigation and ISF
Benefitted ISF: 0.5 mile
Lease Term: 10 years
Price: \$3,321 - based on full season irrigation net revenue
Status: Approved 8/3



PROCESS/TIMELINE



Bureau of Land Management

Water Right: Thompson Pump No. 2
ISF Right: Colorado River near Kremmling
Lease Amount: 13.8 cfs, reduced to reflect historical monthly use patterns
Uses: ISF
Benefitted ISF: 1 mile
Lease Term: 10 years
Price: N/A
Status: Pending Approval by DWR and CWRB



What We're Looking For – Very Generally

- Storage – any amount
- Direct Flow Water Rights > 1 cfs
- On or above existing instream flows
- Water available in 2002
- PLEASE DO NOT SELF-SCREEN – Coming into the program is confidential, let us take a look.

Decision time for farmers: 'Do we lay people off? We don't know'

Drought and High Park Fire are forcing Northern Colorado farmers into tough decisions as water worries loom large with spring's approach.

Mar 15, 2013 | 7 Comments



Be the first of your friends to recommend this.



Purchase Image

Ackerman, whose farm is north of Waverly, plans to fallow 70 percent of his farmland this year, including the corn field pictured at top. / Photos by Bobby Magill/The Coloradoan

BUCKEYE — Brown stalks of corn sliced off a few inches above the ground stretch across a field at Ackerman Farms north of Fort Collins, where Eldon Ackerman's family has farmed since 1928.

For Ackerman, it's decision time.

He planted silage corn in the field last year. But as the drought has continued, Ackerman has decided to let the field sit fallow — unplanted amid a drought that is ravaging Northern Colorado agriculture unlike anything farmers have seen in decades.

Another decision: "I've had to lay off three employees because we just don't have the water," Ackerman said. "The city of Fort Collins let us know in November they weren't going to rent water to us for ag use."

The water Ackerman Farms was entitled to was sold off years ago, and recently Ackerman has had to rely on Fort Collins' excess water to keep his fields wet.

With Colorado's mountain snowpack still starved of water, Fort Collins isn't sending its excess water to farmers this year.

"I'm going to be 70 percent short of water," he said. "I'm going to have to make some drastic decisions. It's going to be a disaster, really."

Ackerman's decision: Let 70 percent of his land sit there, cropland.

From the Fort Collins Coloradoan, March 15, 2013

"I'm going to be 70 percent short of water."



Thank you for your interest in Request for Water 2013

All information about the Request for Water 2013 program is available on this dedicated webpage.

All necessary forms can be found in the “Documents” section →

Thank you for your interest in Request for Water 2013

Request for Water is a water leasing program that benefits both water users and the environment. A [2003 Colorado state statute](#) enables CWT in collaboration with the [Colorado Water Conservation Board](#) (CWCB) to lease water for streams on short notice to protect the environment. This tool for rewatering streams under Colorado's [Instream Flow Program](#) has been available since 2003, but CWT was the first to use the statute to add water to streams during drought conditions in 2012. CWT intends to lease water for environmental benefits again this year; the [March 1st snow report](#) indicates that snowpack is again below average. Many rivers and streams may see shortages for a second year in a row and for some in Colorado, the dry spell has been much longer. Request for Water also addresses the financial needs of Colorado's water users by compensating owners for the temporary use of their water rights. We are excited to offer water users the opportunity to both protect Colorado's natural heritage and generate revenue—lease your water for instream flow use, receive compensation, and grow a crop of fish habitat.

Documents:

- Start here: [The case for Request for Water 2013](#)
- [Terms and Conditions](#)
- [Offer Form](#)
- [Offer Form Guide](#)
- [Frequently Asked Questions](#)

The Case for Request for Water 2013



COLORADO WATER TRUST

REQUEST FOR WATER 2013

The [COLORADO WATER TRUST](#) (CWT), a private, nonprofit organization dedicated to restoring and protecting streamflows in Colorado, is making a [Request for Water](#). CWT works to keep water flowing in Colorado's rivers and streams using market-based, voluntary methods. One way the Colorado Water Trust works to restore flows is by acquiring water—through purchases, leases, or donations—and conducting the negotiations and analyses necessary to legally protect that water in streams through collaboration with Colorado's [Instream Flow Program](#).

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The Colorado Water Trust team is seeking direct flow or storage water rights for short-term lease into Colorado's Instream Flow Program for the coming irrigation season to add water to rivers and streams that are stressed by low flows. Water can only be leased with the owner's consent, so we begin this water leasing process by seeking willing lessors. When a water right owner offers to lease his or her water, the CWT staff confidentially analyzes the water right to determine if it can be delivered to a water-short stretch of river. CWT raises funds to pay water rights owners for leasing their water, and CWT works with each water right owner to negotiate leasing terms that all parties can agree on.

Our Request for Water program is closely coordinated with the Colorado Water Conservation Board, which runs Colorado's Instream Flow Program. Water leasing is possible through a 2003 state law, but the law has strict limitations. Water can only be leased if it can be delivered to fill an existing, but water-short instream flow water right. The CWCB is the only entity in Colorado that may legally hold title to an instream flow water right, and the CWCB will serve as a co-lessee, alongside CWT, on any Request for Water 2013 water lease.

In 2012, we were offered 94 water rights for lease, located in six of Colorado's seven Water Divisions. Fifty-six of those water rights made it through our initial screen, and were then advanced to HCU (historic consumptive use) and groundwater modeling analyses. Thirteen water rights passed this engineering review, and ultimately, we packaged six water rights into four water leases in the 2012 water season. Over 190 Colorado river and stream miles saw additional water that would not have otherwise been in those reaches.

The first drop of leased water hit the Yampa River on June 29, 2012. The CWT staff could not have orchestrated our [very first short-term water lease](#) without Kevin McBride and the Upper Yampa Water Conservancy District. Upper Yampa had water available to lease, and they knew that the iconic Yampa River could use some extra water. That lease helped the local environment survive a dry year, and incidentally increased the number of days people could raft and fish, thereby helping the local economy at the same time.

When we launched and piloted the Request for Water program last season, we worked quickly to develop the leasing tool and to provide wet water to rivers and streams. At the end of the season, we hired an independent contractor, the [OMNI Institute](#), to audit the program and to solicit feedback from our constituents. The executive summary, [Request for Water 2012: Final Evaluation Report Executive Summary](#), is available on our Request for Water webpage. The Colorado Water Trust team is committed to continuously improving our efforts to benefit both our Colorado community and Colorado's rivers and streams. We always welcome your input and comments.

If you are at all interested in leasing your water this coming season, please submit an [Offer Form](#) to enter into our confidential screening process. Please read carefully the ["Terms and Conditions"](#) and ["Frequently Asked Questions"](#) for detailed information about the Request for Water 2013 program. Please submit an Offer Form by 5:00pm on March 29, 2013 to be considered in our first round of screening. If you offer water for lease by or before March 29, and your water is formally leased through Request for Water 2013, you will be eligible for a small [signing bonus](#). We will continue to accept Offer Forms through 5:00pm on May 3, 2013, but there will be [no signing bonus](#) for leases entered into from submissions received after March 29, 2013.

Additional information is available on CWT's website:

<http://www.coloradowatertrust.org/campaigns/request-for-water-2013>

Please send Offer Forms to the Colorado Water Trust, by mail or by e-mail, by 5:00pm on Friday, March 29, 2013 or Friday, May 3, 2013:

Colorado Water Trust
attn: Request for Water 2013
1420 Ogden Street, Suite A2
Denver, Colorado 80218

or

admin@coloradowatertrust.org
(Subject: Request for Water 2013)

Thank you for your interest in this program. If you have questions after reading through the materials, please call Zach Smith at the Colorado Water Trust at (720) 570-2897.

Sincerely,

The Team at the Colorado Water Trust

Board of Directors:

Michael F. Browning, *President*
Lee Rozaklis, *Vice President*
David C. Taussig, *Secretary*
David C. Smith, *Treasurer*
Tom Bie
Alexandra L. Davis
Kirk Deeter
Taylor Hawes
Tom Levandoski

William A. (Bill) Paddock
Michael A. Saylor, P.E.
David C. Taussig
Erin M. Wilson
David Harrison, *Emeritus*
Peter Nichols, *Emeritus*

Staff:

Amy Beatie, *Executive Director*
Alyse Greenberg, *Operations Coordinator*
Christine Hartman, *Communications and Development*
Scott Hummer, *Projects Manager*
Anne Janicki, *Water Transaction Specialist*
Edalin Koziol, *Colorado Conservation Trust Fellow*
Zach Smith, *Staff Attorney*

Terms and Conditions

- **Amount:** The minimum offer must be for at least 1 cfs for a direct flow right. There is no minimum amount for consideration of storage water. If your water right is decreed for an amount less than 1 cfs, we suggest you visit with your neighbors and see if you can submit a package of water rights that will meet this threshold. We can help you organize your group if you contact us.
 - **Preliminary inspection:** The party submitting the Offer must be willing to allow staff from the Colorado Water Trust and/or the Colorado Water Conservation Board access to all facilities related to the water right (source, headgate or other diversion structure, ditch system, irrigated acreage) for the purpose of evaluating the stream and habitat characteristics in the reach of stream that would benefit from the lease of the water right and the historical use of the water right.
 - **Follow-up inspections:** If the lease is entered into, the party submitting the Offer must be willing to allow CWT and/or the CWCB and any of their representatives access to the above-described features upon request at reasonable times to ensure compliance with the terms of the lease.
 - **Authority:** The party submitting the Offer is representing and warranting their ownership of the water right and the authority to lease the water right.
 - **Ditch/Reservoir company shares:** If the submitting party's water right is represented by shares in a mutual ditch company, CWT will need to work with the company to ensure we follow any procedures found in the company's articles of incorporation and/or bylaws. At a minimum, this will require notice to the ditch company and efforts to prevent injury to other users in the system.
 - **Unincorporated/Shared/Jointed ownership ditches/reservoirs:** If the submitting party's water right represents less than 100% interest of an unincorporated ditch, the party must notify in writing the other ditch owners. CWT may need to take measures to prevent injury to down-ditch users, but at the very least want to do outreach to ensure all other users are aware of the lease.
 - **Time is of the essence:** Under the Colorado short-term leasing law, there are a series of steps that need to be taken to ensure approval of the lease by the state. In order to put water back into streams this summer, these leases will need to be implemented quickly. The party submitting the Offer must be willing to work promptly to complete the negotiations for the lease of the water right or portion of the water right to Colorado's Instream Flow Program.
 - **Prompt invoicing:** In certain pre-determined circumstances, the water right holder may need to bill CWT for work completed by a contractor or consultant. In those situations the water right holder must invoice CWT promptly.
 - **Media and Communications:** CWT is a private nonprofit organization supported by private grants and donations. We often must communicate with grant-makers about our projects, leases, and activities as a requirement for funding. In addition, we have relied on local and national media to assist with outreach for our efforts. Furthermore, CWT and/or CWCB and their representatives will take photos of your property and infrastructure for water monitoring purposes. We reserve the right to use these photos in CWT materials.
 - **CWT's Attorneys:** A submitting party must acknowledge that CWT's attorneys are not providing legal advice. CWT is the sole client of CWT's attorneys.
- Please retain a copy of these Terms and Conditions for your records, along with a copy of any Offers you might submit.
- Participation in this process shall not result in any obligation on CWT's part to lease a water right. We will lease a water right only if it meets the requirements of the short term leasing law and other criteria. Any water right owner participating in this process agrees to hold CWT harmless from any and all claims that may arise from participation in the process.
- If you have any questions, please contact the Colorado Water Trust at 720-570-2897 or admin@coloradowatertrust.org.

Request for Water Offer Form

Part 1: WATER RIGHT HOLDER INFORMATION

Name:

Physical Address:

Mailing Address (if different):

Telephone: Home

Work

Cell

Email:

Part 2: PREFERRED CONTACT INFORMATION

If the water right holder prefers that the Colorado Water Trust contact someone else (attorney, ranch manager, etc.) regarding this offer and the offered rights, please provide the following info for the preferred contact:

Name:

Relationship to the Water Right Holder:

Company:

Physical Address:

Mailing Address (if different):

Telephone: Home

Work

Cell

Email:

Request for Water Offer Form

Part 3: WATER RIGHT INFORMATION

Name of Water Right:

Source of Water:

Decree number:

Amount (cfs or acre-feet):

Number of shares owned (if applicable):

Decreed Use:

Priority:

Appropriation date:

Adjudication date:

If the water right is used for irrigation, please describe...

- type of crop grown with water:
- number of acres irrigated using the water right holder's portion of the right:

Is there a conservation easement on the land where the water right is used?

☐ yes

☐ no

Was water available to the water right in 2002 and 2012? (please circle one)

In 2002:

Full supply

Some

None

Don't know

If you circled "Some," how much available as % of full supply, if known:

In 2012:

Full supply

Some

None

Don't know

If you circled "Some," how much available as % of full supply, if known:

Request for Water Offer Form

Part 4: TYPE OF LEASE DESIRED

For the Water Right listed in Part 3, please circle...

- the season during which you are interested in leasing: Full season Split-season
- the lease duration(s) in which you are interested: 1 year Three-in-ten years Other (please describe):

Amount of water interested in leasing (please circle): All Some

If interested in leasing some of the right, how much?

Part 5: DESIRED LEASE PRICE

If known, the amount you would like to receive for the lease of the water right per year: \$

Part 6: AGREEMENT TO TERMS AND CONDITIONS

By signing this document, I agree that I have read, understood, and agree to the CWT Request for Water 2013 Terms and Conditions:

Signature: _____ Date: _____

Offer Form Guide

PART 1: WATER RIGHT HOLDER INFORMATION

We need to collect this contact information to begin our evaluation of your water right and possible negotiations with you. We will keep these offers of water confidential until you and CWT sign a lease agreement. Once the water right is accepted into the program and a lease signed by you and CWT, we will need to release the water right information to the State for its review process, which is public. If the water right is not accepted by CWT, your participation in this program and your water rights information will be kept confidential. We will not sell your information to anyone.

PART 2: PREFERRED CONTACT INFORMATION

We need to know who to contact if you, the water right holder, would prefer that we use someone else, like your ranch manager or lawyer, as our main contact.

PART 3: WATER RIGHT INFORMATION

This portion of the form allows CWT to understand your water right so that we may quickly determine its appropriateness for the leasing program. The law that allows CWT to obtain approval for using an existing, decreed water right for temporary in-stream use has strict limitations. These limitations protect water right owners across Colorado, but also limit the water rights that CWT may be able to lease.

The analyses we will perform are standard for other types of water right transactions in the state. We need crop information to help us value your water right and to determine its appropriateness for the program. Additional details about the valuation process can be found in the document entitled "Request For Water 2013: Frequently Asked Questions."

PART 4: TYPE OF LEASE DESIRED

We need to know what kind(s) of lease you are considering. There are two aspects to the types of lease you can enter into – the season during which you'd like to lease and the duration of the lease. You can choose any combination of season and duration that you would like. You can lease your water right for the full irrigation season or for just the later part of your irrigation season (a 'split-season' lease). The duration of the lease can range anywhere from one year to a maximum of three years in a ten-year period. For more information about these lease types, please see our "Request For Water 2013: Frequently Asked Questions" document.

PART 5: DESIRED LEASE PRICE

CWT will offer fair market value for your water based on what the water right would have provided to you this year, if we believe the water will work within the leasing program. If you have an idea of what you might be able to earn with your water this year and what your leased water would be worth, please include this figure on your Offer Form. We will take it into account in our negotiations with you. For more information about the valuation and payment, see our "Request For Water 2013: Frequently Asked Questions" document.

PART 6: AGREEMENT TO TERMS AND CONDITIONS

The "Request For Water 2013: Terms & Conditions" document is available on our website. These terms are important for several reasons. We need to monitor and protect projects in which we invest. We also need quite a bit of coordination between you, the Colorado Water Conservation Board ("CWCB"), and us to get water in the rivers as soon as possible. These terms help us know you understand our requirements for moving forward. Please retain a copy of the Terms & Conditions, Offer Form, and this Guide for future reference.

Frequently Asked Questions



COLORADO WATER TRUST REQUEST FOR WATER 2013 FREQUENTLY ASKED QUESTIONS

CWT and Our Program

1. WHAT IS THE COLORADO WATER TRUST (CWT)?
2. IS CWT A GOVERNMENT AGENCY OR FOUNDATION?
3. WHAT IS THE COLORADO WATER CONSERVATION BOARD (CWCB)? WHAT IS ITS ROLE?
4. WHO IS ON CWT'S BOARD OF DIRECTORS?
5. FROM WHERE DOES CWT GET ITS FUNDING? WILL THERE BE ENOUGH FUNDING FOR MY WATER RIGHT?

Instream Flows

6. WHAT IS AN INSTREAM FLOW WATER RIGHT?
7. I THOUGHT ONLY THE CWCB COULD HOLD INSTREAM FLOW RIGHTS?
8. WHO BENEFITS FROM WATER IN RIVERS? WHY DOES CWT CARE?

Leases

9. WHAT IS THE SHORT TERM LEASING PROGRAM?
10. WHAT MAKES MY WATER ELIGIBLE FOR LEASING?
11. ARE THERE DIFFERENT TYPES OF LEASES?
12. HOW MUCH CONTROL DO I HAVE OVER MY WATER RIGHTS IN THIS LEASING PROGRAM?
13. WHAT COSTS WILL I HAVE?
14. HOW WILL THIS LEASE AFFECT MY WATER RIGHT IN THE FUTURE?
15. IS THIS PROCESS CONFIDENTIAL?
16. DO I HAVE TO LEASE MY WATER FOR THE WHOLE YEAR? DO I HAVE TO LEASE MY ENTIRE WATER RIGHT?
17. IF I CHOOSE A 3-IN-10 LEASE, WHICH THREE YEARS DO I HAVE TO USE MY WATER FOR INSTREAM FLOW USES?
18. WILL THE NEXT HEADGATE DOWNSTREAM BE ABLE TO PICK UP MY LEASED WATER?
19. WILL THE GOVERNMENT BE COMING ON MY LAND?
20. SHOULD I HIRE A LAWYER?
21. WHAT IF I WANT TO DONATE MY WATER RIGHT THIS YEAR?
22. WILL THERE BE A LOCAL PRESENTATION ABOUT CWT'S REQUEST FOR WATER?

CWT's Process and the State Approval Process

23. WHAT DOES THE PROCESS LOOK LIKE? WHEN WILL I KNOW IF MY WATER RIGHT WILL BE ACCEPTED BY CWT AND THE CWCB?
24. WHY ARE THERE TWO SEPARATE SUBMISSION DEADLINES?

Protections for Your Water Right

25. IS THERE RISK TO MY WATER RIGHTS DURING THE APPLICATION PROCESS?
26. AM I AT RISK FOR ABANDONMENT OR LOSS OF HISTORICAL CONSUMPTIVE USE (HCU)?
27. DO I HAVE TO DRY UP MY FIELD?
28. WILL I HAVE TO STOP IRRIGATING DURING THE APPLICATION PROCESS?
29. DO I HAVE TO GO TO WATER COURT?
30. WHAT DOCUMENTS WILL I NEED TO PROVIDE?

For example:

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16. DO I HAVE TO LEASE MY WATER FOR THE WHOLE YEAR? DO I HAVE TO LEASE MY ENTIRE WATER RIGHT?
17. IF I CHOOSE A 3-IN-10 LEASE, WHICH THREE YEARS DO I HAVE TO USE MY WATER FOR INSTREAM FLOW USES?
18. WILL THE NEXT HEADGATE DOWNSTREAM BE ABLE TO PICK UP MY LEASED WATER?
19. WILL THE GOVERNMENT BE COMING ON MY LAND?
20. SHOULD I HIRE A LAWYER?
21. WHAT IF I WANT TO DONATE MY WATER RIGHT THIS YEAR?
22. WILL THERE BE A LOCAL PRESENTATION ABOUT CWT'S REQUEST FOR WATER?

Frequently Asked Questions

CWT's Process and the State Approval Process

- 23. WHAT DOES THE PROCESS LOOK LIKE? WHEN WILL I KNOW IF MY WATER RIGHT WILL BE ACCEPTED BY CWT AND THE CWCB?
- 24. WHY ARE THERE TWO SEPARATE SUBMISSION DEADLINES?

Protections for Your Water Right

- 25. IS THERE RISK TO MY WATER RIGHTS DURING THE APPLICATION PROCESS?
- 26. AM I AT RISK FOR ABANDONMENT OR LOSS OF HISTORICAL CONSUMPTIVE USE (HCU)?
- 27. DO I HAVE TO DRY UP MY FIELD?
- 28. WILL I HAVE TO STOP IRRIGATING DURING THE APPLICATION PROCESS?
- 29. DO I HAVE TO GO TO WATER COURT?
- 30. WHAT DOCUMENTS WILL I NEED TO PROVIDE?

Value and Payments

- 31. WHO VALUES MY WATER RIGHT? HOW IS IT VALUED?
- 32. WHEN AND HOW WILL I GET PAID?
- 33. ARE THERE ANY TAX BENEFITS?

Your Water Right

- 34. WHAT IF I HAVE A RESERVOIR RIGHT?
- 35. WHAT IF MY WATER RIGHT IS DECREED FOR/ MY OWNERSHIP IS LESS THAN 1 CFS OR 20 ACRE-FEET?
- 36. WHO CAN I TALK TO IF I HAVE MORE QUESTIONS?

Temporary Loans and Short Term Leases:

Technical Requirements

According to the statutory language, the CWCB files request for approval of the loan with Division Engineer. CWT discusses and prepares this request with the CWCB before it is filed. Request includes:

- **Evidence of legal right to use the water right**
- **Statement of duration of the proposed loan**
- **Description of diversion points, return flow patterns, stream reaches, and time, place, and type of use for both original use and proposed temporary instream flow use**
- **Reasonable estimate of HCU**

PROCESS/TIMELINE

Completely Confidential

Semi-Confidential

Public

Deadline
for
Lease
Offers

CWT
Screening

Engineering

Valuation

Lease

CWCB
Review

SWSP
Notice/
Public
Comment

SEO/
DWR
Approval

CWCB
Accept
& ISF
Use
Begins

Monitor/
Reporting

Due Diligence,
Evidence of ownership,
Technical analysis
(function within ISF
program,
administrability, physical
barriers, diversion history,
relative priority),
Field Visit

"Reasonable
Estimate of
Historic
Consumptive
Use,"
potential
injury,
return flows

5
Days

15
Days

5
Days



½ of payment
approx. when
ISF use begins;
½ of payment
on September
30th

Each lease is a unique contract, subject to negotiation

TEMPORARY WATER LEASE AGREEMENT: CWT REQUEST FOR WATER 2012

This water lease agreement ("Lease") is entered into by and between the COLORADO WATER CONSERVATION BOARD ("CWCB"), an agency of the State of Colorado; the COLORADO WATER TRUST ("CWT"), a Colorado nonprofit corporation; and COYOTE RIVER RANCH, LLC, a Colorado limited liability company ("Lessor"), 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 streamflows in Colorado through voluntary, market-based efforts. CWT works within CWCB's acquisition program to accomplish this mission. This Lease 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, a lease 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 will use the Short Term Lease Program - not available in 2002 - to supply water to those decreed, but not met, instream flows to protect Colorado's aquatic ecosystems.
- F. CWT issued a statewide "Request for Water" to solicit water rights to lease into the Short Term Lease Program on April 23, 2012. This Lease is a result of that effort.

G. Lessor owns a water right in the Yost Ditch on Deep Creek, tributary to the Colorado River ("Water Right"). Lessor wishes to lease the Water Right to CWCB for instream flow use in Deep Creek, pursuant to the procedures and subject to the conditions set forth herein, in Section 37-83-105(2), and in CWCB Rule 6(k) of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program.

H. CWCB holds an instream flow water right on Deep Creek ("Instream Flow"), decreed in Case No. 5-80CW312 for 14 cfs (May 1 to September 30) and 8 cfs (October 1 to April 30), in the reach of Deep Creek extending from its headwaters to the Colorado River.

I. Subject to the terms of this Lease, Lessor will lease to CWCB the Water Right for instream flow purposes. CWCB will use the Water Right to maintain the Instream Flow for a period not to exceed one hundred twenty days in one calendar year.

J. Subject to the terms of this Lease, CWT will pay Lessor for the use of the Water Right in the Short Term Lease Program.

K. The Water Right to be leased is not currently decreed for instream flow use. The use of the Water Right 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).

L. The amount of water to be used by CWCB under this Lease 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 Lessor agree as follows:

LEASE OF WATER RIGHT

1. Term.

- a. The term of this Lease shall be from July 1, 2012, until June 30, 2022 ("Ten-Year Term"), pursuant to section 37-83-105(2).
- b. The Lease is only implemented this year, from July 1, 2012, until June 31, 2013 ("Implementation Term").
- c. The Parties agreed in good faith to consult on or before April 1 of each year during the Ten-Year Term to determine if the Lease shall be implemented.

Approval from Division of Water Resources



DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

John W. Hickenlooper
Governor

Mike King
Executive Director

Dick Wolfe, P.E.
Director/State Engineer

Alan C. Martellaro, P.E.
Division Engineer

August 2, 2012

Ms. Linda J. Bassi
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, Colorado 80203

**Re: Temporary Loan of Water Rights for Colorado Water Conservation Board for
Instream Flow
Pursuant to Section 37-83-105, C.R.S.
Yost Ditch, Section 29, T 4 S, R 86, 6TH P.M.
Water Division 5, Water District 53, Eagle County**

Approval Period: August 2, 2012 through June 30, 2022
Contact Phone Number for Ms. Linda J. Bassi: 303-866-3441

Dear Ms. Bassi:

We have reviewed your letter dated July 13, 2012 in which you request approval of a temporary loan of water pursuant to Section 37-83-105, C.R.S., for the Colorado Water Conservation Board ("CWCB" or "Applicant") for instream flow ("ISF") use. As required by § 37-83-105(2)(b)(II), C.R.S., written notice of the request for approval of a temporary loan of water was provided on July 13, 2012 to all parties who have subscribed to the Division 5 Substitute Water Supply Plan ("SWSP") Notification List. The Division of Water Resources ("DWR") did not receive comments during the statutory 15-day comment period. The statutory \$100 filing fee (receipt no. 3856148) was submitted with this request.

PROCESS/TIMELINE

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for
Lease
Offers

CWT
Screening

Engineering

Valuation

Lease

CWCB
Review

SWSP
Notice/
Public
Comment

SEO/
DWR
Approval

CWCB
Accept
& ISF
Use
Begins

Monitor/
Reporting

Due Diligence,
Evidence of ownership,
Technical analysis
(function within ISF
program,
administrability, physical
barriers, diversion history,
relative priority),
Field Visit

"Reasonable
Estimate of
Historic
Consumptive
Use,"
potential
injury,
return flows

5
Days

15
Days

5
Days



½ of payment
approx. when
ISF use begins;
½ of payment
on September
30th

Site Visits and Water Administration

Bunte Highline Ditch/Willow Creek, Grand County



Measuring water, Parshall Flume

Measuring water,
staff gage in recharge pond



Site Visits and Water Administration

Bunte Highline Ditch/Willow Creek, Grand County



Site Visits and Water Administration



CWT coordinated closely with local Water Commissioners to be sure that water was administered in accordance with leases.



Accounting with the DE

Final 2012 TEMPORARY ISF LOAN ACCOUNTING						
DATE	DWR GAGED FLOW BELOW	DIVERSION ¹ (at 6 ft PMF) total water	Other USE ² (5 cfs max)	RECHARGE WATER PER FLOW TABLE ³	ISF WATER PER FLOW TABLE ³	EST. AMT BYPASSED AT Ditch
	CFS	CFS	CFS	CFS	CFS	CFS
8/9/12	11.3	6.5	?	2.68	1.82	4.8
8/10/12	5.57	2.63	0	2.68	1.82	2.94
8/11/12	5.5	2.63	0	2.68	1.82	2.87
8/12/12	5.47	2.63	0	2.68	1.82	2.84

End of Year

- CWT will work with DWR to make sure DWR's records are correctly coded to protect the water right's HCU
- With the first season done, our lessors are under no obligation to exercise the lease again:
 - “The Parties agree in good faith to consult on or before April 1 every year during the Ten-Year Term . . . The decision to implement for one or more additional One-Year Terms shall be solely in the discretion of the Lessor once CWT and CWCB determine that the Water Rights can be used in the Short Term Lease Program.”

Request for Water 2013 Dates

- March 6 – Launch
- March 22 – First Webinar
- March 29 – First Round Offer Forms Due (Bonus TBD)
- April 22 – Second Webinar
- May 3 – Second Round Offer Forms Due
- If there is interest in your basin, please let us know and we can schedule a local meeting

Questions ?

www.coloradowatertrust.org/request-for-water-2013/



Colorado Water Trust
1420 Ogden Street, Suite A2
Denver, CO 80218

720-570-2897