

ACCEPTANCE OF WATER FOR INSTREAM FLOW USE AGREEMENT

This Acceptance of Water for Instream Flow Use Agreement ("CWCB Agreement") is entered into by and between COLORADO WATER TRUST ("CWT"), a Colorado nonprofit corporation; and COLORADO WATER CONSERVATION BOARD ("CWCB"), an agency of the State of Colorado, collectively, the Parties.

RECITALS

- A. Section 37-92-102(3), C.R.S. (2012) 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 CWCB Agreement supports that mission.
- C. Section 37-83-105(2) authorizes the CWCB to accept temporary loans and leases of water rights for instream flow use upon approval from the State and Division Engineer.
- D. CWT entered into a 2013 Water Use Agreement with Upper Yampa Water Conservancy District ("Upper Yampa Agreement") for 4,000 AF of stored water in Stagecoach Reservoir ("Leased Water") to release for streamflow augmentation, both officially in conjunction with the CWCB and unofficially pending finalization of applicable approvals and contracts.
- E. On August 20, 2013, the CWCB received approval from the State and Division Engineer to use the Leased Water for instream flow purposes ("Approval") on the Yampa River from the confluence with Morrison Creek to the inlet of Lake Catamount Reservoir, under the CWCB's decree in Case No. 6-01CW106 for 72.5 cfs (4/1—8/14) and 47.5 cfs (8/15--3/31) ("the Instream Flow"). The Approval contained a condition (No. 4) that use of the Leased Water for instream flow use may not occur until a final sublease is signed between CWCB and CWT.
- F. The Parties are entering into this Agreement to confirm that the CWCB has accepted the Leased Water for instream flow use pursuant to section 37-83-105(2)(a)(III), ISF Rule 6k.2 and the Approval's condition No. 4.
- G. Pursuant to ISF Rule 6k.(2), this CWCB Agreement constitutes the administrative action necessary to put the Leased Water to instream flow use. The CWCB may enter into a separate agreement, upon approval by the CWCB Board, to provide payment to CWT for the Leased Water.

NOW THEREFORE, in consideration of the mutual agreements contained herein, CWCB and CWT agree as follows:

CWT'S OBLIGATIONS

- 1) CWT shall make available to the CWCB Leased Water out of Stagecoach Reservoir for instream flow use under section 37-83-105(2), with the following conditions:
 - a. The rate at which Leased Water is released from Stagecoach Reservoir is governed by the Upper Yampa Agreement.
 - b. The Term of the Upper Yampa Agreement ends on November 1, 2013.
 - c. CWCB has no claim to water below the lower terminus of the Instream Flow.
- 2) CWT shall coordinate record keeping and accounting as reasonably required by the State and Division Engineers to administer the Leased Water use for the Instream Flow.

CWCB'S OBLIGATIONS

- 1) CWCB accepts the Leased Water pursuant to section 37-83-105(2)(a)(III) and ISF Rule 6k.2 and will put the Leased Water to instream flow use under its decree in Case No. 6-01CW106 .
- 2) CWCB shall notify the State and Division Engineers when the Leased Water is used for the Instream Flow pursuant to this approval.
- 3) CWCB shall take such action as, in its sole discretion, is necessary or desirable to protect the use of the Leased Water for instream flow purposes, including requesting the Division Engineer to administer the delivery of the Leased Water through the instream flow reach. CWT shall work with CWCB to provide information concerning implementation and monitoring of this CWCB Agreement.

COLORADO WATER TRUST

By: 

Amy Beatie

Executive Director

Date: 9/4/2013

COLORADO WATER CONSERVATION
BOARD

By: 

James Eklund

Director

Date: 8.29.2013