

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

1580 Logan Street, Suite 600
Denver, Colorado 80203
Phone: (303) 866-3441
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www.cwcb.state.co.us



August 2, 2013

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

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

James Eklund
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 the Colorado Water Trust ("CWT"), which in turn will sublease the water to the CWCB for instream flow ("ISF") use pursuant to 37-83-105, C.R.S. (2013). While the 2013 Water Use Agreement ("Agreement") between UYWCD and CWT, and the Water Lease Agreement between CWT and CWCB ("Sublease") implementing this proposal is for a one-year term, CWCB is requesting approval to implement the lease for two years over the next nine years, consistent with the statutory provision. Implementation in year three would be contingent upon UYWCD entering into another water use agreement to provide water for ISF use. Use of the leased water for ISFs would be limited to 120 days in a calendar year, and the maximum number of years the lease is implemented in total, including 2012 and 2013, will not exceed 3 years over a 10 year period.

The leased water rights consist of 4,000 acre-feet of storage rights in Stagecoach Reservoir, on the Yampa River, tributary to the Green River, tributary to the Colorado River. This year, UYWCD contracted directly with CWT, and CWT will subcontract 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 the effective date of the subcontract to November 1, 2013, 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 section 37-92-308(6), C.R.S. (2013).

I. Summary of Proposal and Statement of Duration

Evidence of proponents’ legal right to use the leased water right is provided as follows. Stagecoach Reservoir is owned and operated by UYWCD. Under the Agreement and Sublease, and upon approval of this request by the State and Division Engineers, reservoir releases will be made for ISF use when conditions permit. **See 2013 Water Use Agreement at Attachment 2.** The CWCB and CWT are in the process of drafting the Sublease, which will include, among other things, terms addressing: (1) the term of the Sublease; (2) compensation paid by CWCB to CWCB for the Sublease; and (3) operations, accounting and monitoring.

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.

Upon receipt of this approval and pursuant to any terms and conditions, UYWCD, in consultation with CWCB and CWT, may 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 5 of the 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 2013.

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 36,439 acre-feet filled in 2012. 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 pursuant to 95CW0078 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 (re-named as the Stagecoach 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	10-22-1888 11-14-1889 9-2-1904 6-1-1918 6-1-1919	95CW0078

*The Stagecoach Reservoir is an alternate point of diversion for Pleasant Valley Reservoir in the amount of 40,720 AF under the decree granted in Case No. W946-76. In Case No. 92CW0026, 20,854 AF of this amount was made absolute.

**In accordance with the decree in Case No. W1091-76, the water rights for the Four Counties Ditch No. 1 & 3 may be diverted for storage in the Stagecoach Reservoir in the amount of 1,779 cfs. In Case Nos. 92CW0026 and 95CW116 a total of 151 cfs of this amount has been made absolute.

***Decreed for storage within Stagecoach Reservoir as a result of irrigated land inundated by the reservoir upon construction.

All of the water provided under the Agreement and Subagreement 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	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. The leased water could likely be used in August, September, and/or October of 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 approval from the State and Division Engineers 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 users from the exercise of this lease agreement, UYWCD, CWT and CWCB ("Proponents") propose to operate the lease in accordance with the following terms and conditions:

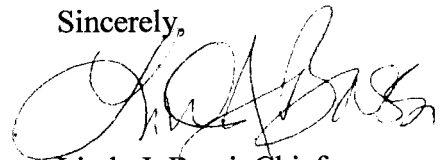
- This temporary lease shall not be exercised until the CWCB has provided a fully executed copy of the Sublease to the State and Division Engineers.
- CWCB and CWT shall install and maintain any measuring devices or structures as may be reasonably required by the State or Division Engineer to administer the water right under this approval.
- Proponents shall submit records and accounting as reasonably required by the State or Division Engineer to administer the water right under this approval.
- When reservoir releases are made pursuant to this approval, proponent shall notify the State and Division Engineers that the releases are being made for instream flow 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 in 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: Colorado Water Trust

Encl:

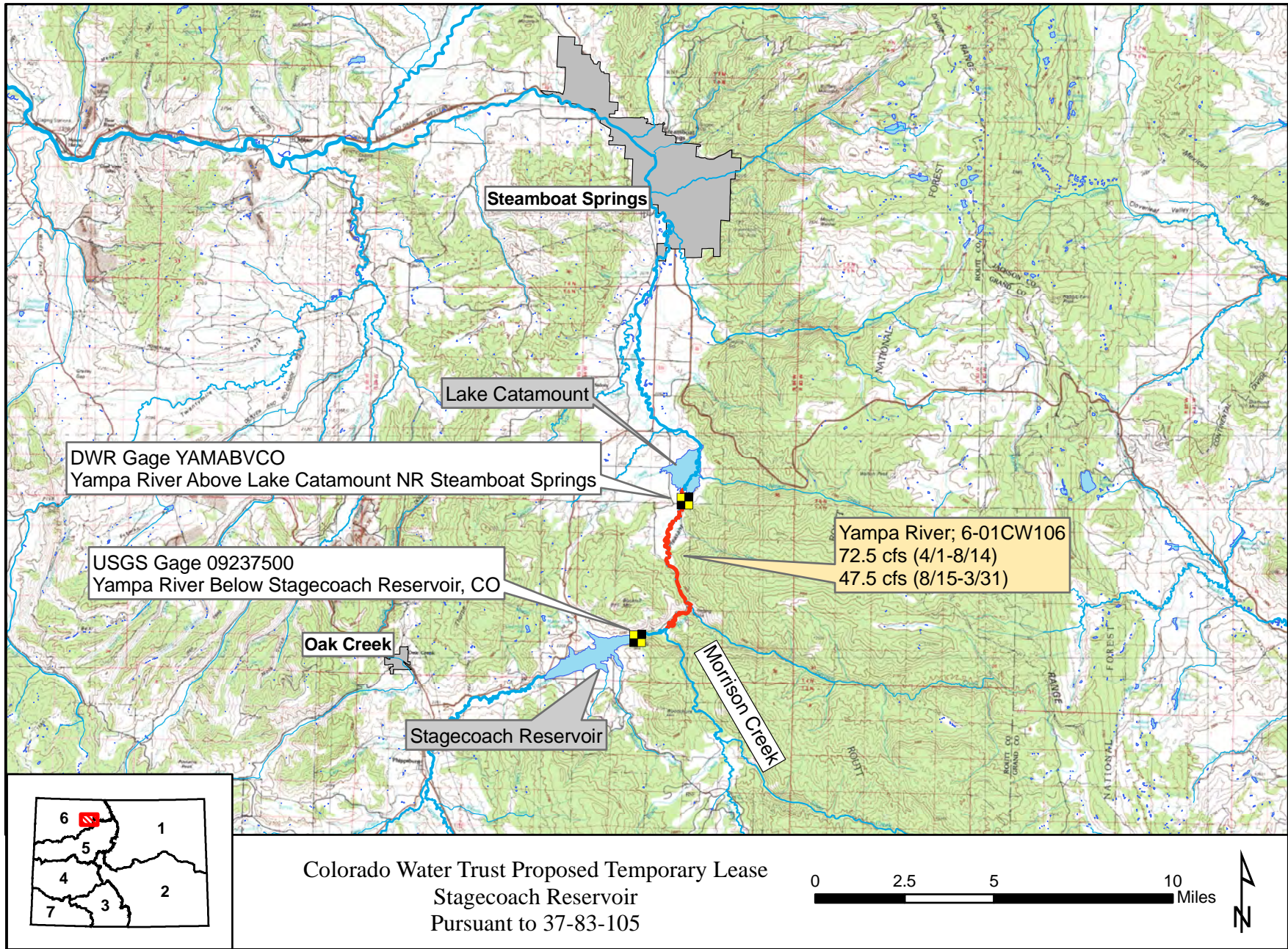
Attachment 1 – Map

Attachment 2 – Agreement

Attachment 3 -- CWT Offer to CWCB

Attachment 4 – CWCB Letter to CWT

ATTACHMENT 1
MAP



ATTACHMENT 2
AGREEMENT

2013 WATER USE AGREEMENT

This 2013 Water Use Agreement ("Agreement") is entered into by and between 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. CWT is a Colorado nonprofit dedicated to restoring and protecting stream flows in Colorado through voluntary, market-based efforts. CWT works within the Colorado Water Conservation Board's ("CWCB's") acquisition program to accomplish this mission. This Agreement supports that mission.
- B. Section 37-92-102(3), C.R.S. (2012) authorizes the 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.
- C. Section 37-83-105(2), C.R.S. (2012) 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. This year, CWT anticipates many decreed instream flows will not be met. CWT desires to supply stored water to those decreed, but not met, instream flows to protect Colorado's aquatic ecosystems.
- E. 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 to release up to 4,000 acre-feet of water stored in Stagecoach Reservoir pursuant to the Water Rights ("Stored Water") to CWT.
- F. CWT desires to subcontract a portion of the Stored Water to CWCB for instream flows under the Short Term Lease Program ("Subcontract"). 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"). CWT also desires to subcontract the water for other beneficial uses.

- G. Subject to the terms of this Agreement, Upper Yampa will release Stored Water for hydropower use first, and then to CWT for the Subcontract and other beneficial uses.
- H. Subject to the terms of this Agreement, CWT will pay Upper Yampa for the use of Stored Water.
- I. The District has designated certain pools of water within the Reservoir for the purpose of administration of the storage and release of water from the Reservoir, as follows:
- (i) 7,000 acre-feet of water allocated to Tri-State Generation and Transmission, Inc. ("Tri-State") or its successors or assigns, or the municipal or industrial allottees of water from Stagecoach Reservoir who contract for all or part of the 7,000 acre-feet allotted to Tri-State if the District's current contract with Tri-State for 7,000 acre-feet from Stagecoach is terminated or released or amended in whole or in part ("Tri-State Pool");
 - (ii) 2,000 acre-feet allocated for municipal use pursuant to existing contracts between the District and such contracting entities or the municipal or industrial allottees of water from Stagecoach Reservoir who contract for all or part of the 2,000 acre-feet allotted to such contracting municipal users if the District's current contract with any such municipal user for water from Stagecoach is terminated or released or amended in whole or in part ("Municipal Pool");
 - (iii) 2,000 acre-feet of water allocated for augmentation use pursuant to the decree entered in Case No. 06CW49, Water Division 6 ("Master Augmentation Pool");
 - (iv) 4,000 acre-feet of water formerly under contract to Tri-State and deliverable out of Yamcolo Reservoir pursuant to an exchange agreement which expired and was not renewed ("Exchange Pool");
 - (v) 3,164 acre-feet of water not currently under contract which represents the increase in capacity of the Reservoir resulting from the raise in the level of the spillway completed in 2011 ("Raise Pool");
 - (vi) 3,125 acre-feet of water not currently under contract which represents the remaining capacity of the Reservoir not allocated to the pools described in paragraphs I (i) through (v) above or viii below ("Preferred Remainder Pool");

- (vii) 15,000 acre-feet of water not currently under contract which represents the remaining capacity of the Reservoir not allocated to the pools described in paragraphs I (i) through (vi) above ("Emergency Remainder Pool");
- (viii) The District has agreed to make a one time allotment of water to CWT of the Stored Water, 3,000 acre-feet to be delivered from the Exchange Pool and 1,000 acre-feet to be delivered from the Raise Pool, as hereinafter set forth.

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, 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, 2013 ("Term").
2. Purchase Price and Payment Procedure.
 - a. For and in consideration of the payment of the sum of thirty-five and 74/100 dollars (\$35.74)("Purchase Price") per acre foot paid to Upper Yampa by CWT and the keeping and performance of the covenants and agreements contained herein, Upper Yampa shall release to CWT up to 4,000 AF of water stored in Stagecoach Reservoir to be used by CWT in accordance with the provisions hereof.
 - 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, 2013.
3. Operations, Accounting and Monitoring.

- a. CWT shall coordinate with CWCB to 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. First Use of Water Released. The first use of the Stored Water shall be for hydropower, a decreed use of the Stored Water.
5. Subsequent Use of Water Released. CWT, under the Subcontract, will use the Stored Water to maintain the 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, 2013). The Parties agree to begin release of Stored Water at approximately 26 cfs. The timing of the releases will be determined by mutual agreement of the Parties. 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 2013. 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 CWT, that ramping rates must be approved by Upper Yampa, and that any part of the Stored Water not released before November 1, 2013 will revert to the ownership of Upper Yampa, and CWT will not have the right to call for the release of such Stored Water after November 1, 2013, for any purpose. 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 and within the Upper Yampa's boundaries, 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.

6. Early Releases. Before the approvals referenced in Paragraph 2(b) 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 \$35.74 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 Agreement is \$142,960.00.

7. Insufficient Water. If insufficient water is stored in Stagecoach Reservoir to supply the full allocations for municipal, agricultural, industrial and other users holding contracts within the District for allotments of water, as measured at time of peak annual storage, then the water in Stagecoach Reservoir shall be allocated to the pools described in Paragraph J above in the descending order listed in such paragraphs so that each pool is completely filled before any water is allocated to the next pool. It is agreed that the one time allotment of water to CWT under this Agreement consists of 3,000 acre feet to be delivered from the Exchange Pool and 1,000 acre feet to be delivered from the Raise Pool. It is further agreed that water to be delivered

under this Agreement from the Exchange Pool and the Raise Pool shall entirely abate before any abatement of the 11,000 acre feet allocated to the Tri-State Pool, the Municipal Pool or the Master Augmentation Pool. If there is less than 4,000 acre feet in the Exchange Pool at the time of peak annual storage, then the water allocated to all parties holding contracts for delivery of water from the Exchange Pool shall abate proportionately so that such Parties shall receive only a prorated portion of their allotment. If there is less than 3,164 acre feet of water in the Raise Pool at the time of peak annual storage, then the water allocated to all parties holding contracts in such pool shall abate proportionally so that such parties shall receive a prorated portion of their allotment. Provided, however, that the District at its sole discretion, may deliver some or all the water allocated to CWT under this Agreement from the Tri-State Pool, the Municipal Pool, or the Master Augmentation Pool. If any part of the water allocated to CWT by this Agreement is to be reduced by abatement as provided herein, the District shall notify CWCB and CWT in writing of such fact and the amount of reduction of such water by July 20, 2013 and in the absence of such notice the full amount of water for CWCB shall be deemed to have been in storage on or by July 15, 2013. If such notice of abatement occurs, the purchase price shall be adjusted accordingly.

8. Inspections. Upper Yampa grants CWCB and 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. Denial and/or Termination.
 - a. If acceptance by the CWCB Director under Paragraph 2(b) or the request for approval from the State Engineer or Division Engineer is denied in whole or in part, or if the approval is conditioned in such manner as to prevent this Agreement from being completely fulfilled, then this Agreement may be terminated within 30 days of written notice by either party to this Agreement, but Upper Yampa shall receive compensation from CWT for stored water released prior to termination at the rate of \$35.74 per acre feet released.
 - b. If acceptance by the CWCB Director under Paragraph 2(b) or the request for approval from the State Engineer or Division Engineer is conditioned in such manner that would injure Upper Yampa's Stored Water or affect Upper Yampa's ability to refill Stagecoach Reservoir in priority, Upper Yampa may terminate

this Agreement upon written notice by Upper Yampa to CWT, but Upper Yampa shall receive compensation from CWT for Stored Water released prior to termination at the rate of \$35.74 per acre foot released.

10. Miscellaneous Provisions.

- a. This Agreement shall not be assignable by any party without the prior written consent of the others.
- c. This Agreement obligates Upper Yampa to release the Stored Water available for release from Stagecoach Reservoir during the period commencing on the date of this Agreement and terminating on November 1, 2013. The term of this Agreement ends unconditionally and absolutely on November 1, 2013. Upper Yampa has no obligation to renew this Agreement for subsequent years and may decline to do so in its absolute and sole discretion.
- d. It is expressly acknowledged that Upper Yampa shall be solely responsible for operating, repairing and maintaining Stagecoach Reservoir and that Upper Yampa shall be the sole owner of the Water Rights and the dam and all facilities used in connection with the construction, operation, repair, and maintenance of Stagecoach Reservoir.
- e. Any notices required or permitted hereunder shall be sent to the addresses or email addresses set forth below, as may be changed from time to time by proper notice.

If to CWT:

Colorado Water Trust
1430 Larimer Street, Suite 300
Denver, CO 80202
Attn: Amy Beatie, abeatie@coloradowatertrust.org
Attn: Zach Smith, zsmith@coloradowatertrust.org

If to Upper Yampa:

Upper Yampa Water Conservancy District
P.O. Box 775529
Steamboat Springs, CO 80477
Attn: Kevin McBride, kmcbride@upperyampawater.com

With copy to:

Weiss and Van Scoyk, LLP
600 S. Lincoln Avenue, Suite 202
Steamboat Springs, CO 80487
Attn: Robert G. Weiss, bweiss@wvsc.com

11. 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.

12. Enforcement of this Agreement.

- a. Pursuant to section 37-92-102(3), C.R.S. (2012), the terms of this Agreement shall be enforceable by each party as a water matter in Water Court in and for Water Division 6; 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.

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

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

UPPER YAMPA WATER
CONSERVANCY DISTRICT

By: _____
Kevin McBride
General Manager
Date: _____

COLORADO WATER TRUST

By: Amy Beatie
Amy Beatie
Executive Director
Date: 7/15/2013

NOTARIZATION

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2013, by _____ as _____ of _____.

Witness my hand and official seal.

Notary Public

My commission expires:

NOTARIZATION

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me on this 15 day of July, 2013, by Amy Beatie as Executive Director of COLORADO WATER TRUST.

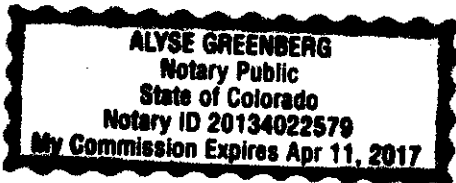
Witness my hand and official seal.

Alyse Greenberg

Notary Public

My commission expires:

4/11/17



ATTACHMENT 3
CWT OFFER TO CWCB



COLORADO WATER TRUST

1420 Ogden Street, Suite A2
Denver, Colorado 80218

TEL: 720.570.2897

FAX: 720.907.0377

WEB: www.coloradowatertrust.org

BOARD OF DIRECTORS:

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Lee Rozaklis, *Vice President*

David C. Taussig, *Secretary*

David C. Smith, *Treasurer*

Tom Bie

Michael Carter

Alexandra Davis

Kirk Deeter

Taylor E.C. Hawes

Tom Levandoski

William A. Paddock

David Robbins

Michael A. Sayler

Erin M. Wilson

David L. Harrison, *Emeritus*

Peter Nichols, *Emeritus*

July 24, 2013

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

Dear Mr. Eklund,

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 the Stagecoach Reservoir, which diverts for storage from the Yampa River, a tributary to the Colorado River, located in Routt County, and this will be the second year that CWT has been able to secure this water for ISF use. CWT has worked with CWCB staff on this project, and is confident this Temporary Loan will benefit the CWCB's instream flow water right on the Yampa River. CWT is requesting CWCB staff initiate the process described in ISF Rule 6k. for reviewing and approving Temporary Loans of Water to the Board.

CWT has entered into a lease agreement with Upper Yampa Water Conservancy District to use in the Instream Flow Program 4,000 acre-feet of previously unallocated water that was historically diverted from the Yampa River for storage. Our experience last year demonstrated that 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 suffers from significant and consistent shortages in drought years such as 2002 and 2012, and will help preserve the natural environment in a second year of record low flows. In addition to shoring up the instream flow right on the Yampa, the leased water will also be used for hydropower generation and will provide incidental benefits downstream. CWT is also pursuing remarketing the water to other consumptive uses downstream.

We look forward to working with the CWCB to complete this transaction as well as other short-term leases to sustain instream flows in this extremely dry year.

Sincerely,

Amy W. Beatie
Executive Director

Enclosures (4): Agreement, Offer Summary, Map, Check for \$100 for Division Engineer's filing fee

ATTACHMENT 4
CWCB LETTER TO CWT

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



July 29, 2013

Amy W. Beatie, Executive Director
Colorado Water Trust
1420 Ogden Street, Suite A2
Denver, CO 80218

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

James Eklund
CWCB Director

RE: Temporary Lease Offer on the Yampa River (Water Division 6)

Dear Ms. Beatie:

The CWCB staff has reviewed the July 24, 2013 offer from the Colorado Water Trust of a temporary lease of water rights associated with Stagecoach Reservoir for instream flow use on the Yampa River in Water Division 6. Based upon that review, we believe that the proposed lease would benefit the CWCB's instream flow water rights 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 handwritten signature in black ink, appearing to read "James Eklund", is written over a horizontal dashed line.

James Eklund, Director
Colorado Water Conservation Board