



## COLORADO

Colorado Water  
Conservation Board

Department of Natural Resources

1313 Sherman Street, Room 721  
Denver, CO 80203

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January 19, 2017

RE: Annual Update Regarding Use of the Stapleton Brothers' Ditch Water Right

Dear John:

This annual update is provided pursuant to the Trust Agreement between Pitkin County and the Colorado Water Conservation Board ("CWCB") regarding the Stapleton Brothers' Ditch ("SBD") water right.

### Background

CWCB and Pitkin County entered into the Pitkin County Water Rights Revocable Trust dated December 30, 2009 (the "Trust Agreement"). Per that agreement, on August 22, 2013, CWCB and Pitkin County obtained the Stapleton Brothers' Ditch Instream Flow Decree in Case No. 10CW184, Water Court for Division No. 5 (the "Stapleton Brothers' Decree" or "Decree"). Section V.D. of the Trust Agreement states:

On January 15 of each year . . . Trustee shall provide an annual update to Settlor regarding the use of the Trust Agreement for instream flow purposes, including but not limited to flow data from the preceding year, any enforcement activities from the previous year, and planned operations and other considerations for the forthcoming year.

### 2016 Annual Update

Under both the Trust Agreement and the Stapleton Brothers' Decree, CWCB and Pitkin County ("Applicants") must provide accounting to the Division Engineer for use of the SBD water right for instream flow ("ISF") purposes. The decree also requires that measurement devices be installed as required by the Division Engineer to administer the water right.

CWCB's staff hydrologist has confirmed with the water commissioner that amount of water presented in the diversion record in Table 1 below was legally and physically available at the SBD headgate and was in fact bypassed for ISF purposes. In summary, the average rates put to



beneficial use for ISF purposes as authorized by the Stapleton Brothers' Decree are as described in Table 1 below.

Table 1. Diversion Record Summary - Water Put to Beneficial Use for ISF purposes

|                      | May<br>1-15 | May<br>16-31 | June        | July        | Aug.        | Sept.       | Oct<br>1-15 | Oct<br>16-31 |
|----------------------|-------------|--------------|-------------|-------------|-------------|-------------|-------------|--------------|
| Reach 1<br>Diversion | 0.53<br>cfs | 1.63<br>cfs  | 3.07<br>cfs | 3.11<br>cfs | 2.96<br>cfs | 2.59<br>cfs | 1.53<br>cfs | 1.22<br>cfs  |
| Reach 2<br>Diversion | 0.49<br>cfs | 1.50<br>cfs  | 2.84<br>cfs | 2.88<br>cfs | 2.74<br>cfs | 2.40<br>cfs | 1.14<br>cfs | 1.13<br>cfs  |
| Reach 3<br>Diversion | 0.12<br>cfs | 0.38<br>cfs  | 0.47<br>cfs | 0.52<br>cfs | 0.39<br>cfs | 0.27<br>cfs | 0.06<br>cfs | 0.05<br>cfs  |

On January 10, 2017, daily diversion records were confirmed with the Division Engineer's Office. The Division Engineer's Office deemed the records acceptable on January 10, 2017.

### 2017 Planned Operation

Provided that water is physically and legally available, CWCB plans to use the water right for ISF purposes at the average rates identified in paragraph 9.D of the Decree. In the event that conditions require or support ISF use at rates other than the average, CWCB will provide notice to Pitkin County, opposers, and the Division Engineer as required by the Decree.

Please contact us if you have any questions. We hope that we will have an opportunity to work with Pitkin County in the coming year.

Sincerely,



Linda J. Bassi  
Chief, Stream and Lake Protection Section

Cc: Kaylea White  
Brian Epstein

