



COLORADO

Colorado Water Conservation Board

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203

February 3, 2022

John M. Ely, Esq.
Pitkin County Attorney
530 East Main Street, Suite 302
Aspen, Colorado 81611-1948

Via Email

RE: Annual Update Regarding Implementation of the 2009 Trust Agreement

Dear John:

This annual update for the 2021 Water Year 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' Instream Flow Decree in Case No. 10CW184 Water Court for Division No. 5 (the "Stapleton Brothers' Decree"). The Trust Agreement Section V.D. 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.

2021 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.

During the 2021 Water Year, CWCB's staff hydrologist worked with the water commissioner to confirm that water was legally and physically available at the SBD headgate and bypassed for



ISF purposes. CWCB confirmed that the average rates were put to beneficial use for ISF purposes as authorized by the Stapleton Brothers' Decree, as described in Table 1 below.

Table 1. Diversion Record Summary - Water put to beneficial use for ISF purposes

	May 1-15	May 16-31	June	July	Aug	Sept	Oct 1-15	Oct 16-31
Reach 1 diversion (cfs)	0.53	1.63	3.07	3.11	2.96	2.59	1.53	1.22
Reach 2 diversion (cfs)	0.49	1.50	2.84	2.88	2.74	2.40	1.41	1.13
Reach 3 diversion (cfs)	0.12	0.38	0.47	0.52	0.39	0.27	0.06	0.05

CWCB has confirmed that diversion records were submitted by the water commissioner to the Division Engineer's Office.

2022 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 Division Engineer as required by the Stapleton Brothers' Decree.

Please contact us if you have any questions. We appreciate the opportunity to work with Pitkin County.

Sincerely,



Pete Conovitz
Water Resource Specialist, Stream and Lake Protection Section

Cc: Rob Viehl
Kaylea White
Laura Fields-Sommers