

Summary

This is an application for surface water and storage rights in Moffat County near the town of Maybell. Applicant is requesting water rights for the Shell Yampa River Pumping Plant Alternate Point 1 and Shell Yampa River Pumping Plant Alternate Point 2 for 375 cfs, conditional, at either point of diversion with an appropriation date of December 30, 2008. Applicant is also claiming a conditional storage right for Cedar Springs Draw Reservoir – an on-channel reservoir on Cedar Springs Draw for 45,000 AF. In addition to the water captured from the Draw, the reservoir will be filled with the water diverted via the Shell Yampa River Pumping Plant. The proposed use for all water rights is for industrial and mining purposes connected with the mining and production of oil and other products from oil shale, and for domestic and commercial purposes. Water may be used directly for such purposes, or by augmentation, replacement and exchange. Water from the Pumping Plant may also be used for storage in Cedar Springs Draw Reservoir.

CWCB Appropriations

The intended use of the Board's interest in up to 7,000 AF of storage in Elkhead Reservoir for the benefit of the Upper Colorado River Basin Endangered Fishes Recovery Program ("Recovery Program") could be adversely impacted by this application. There are no instream flow water rights on the Yampa River that would be directly injured by this application.

Potential for Injury

Under the February 17, 2005 Acquisition Agreement ("Agreement") between the Board, and the Colorado River Water Conservation District acting by and through the Colorado River Water Projects Enterprise, the U.S. Bureau of Reclamation, and the U.S. Fish and Wildlife Service, the Board acquired 5,000 acre-feet of water and storage space in the Elkhead Reservoir Enlargement, decreed in Case No. 02CW106 for in-river fish habitat and river flow maintenance and enhancement uses in furtherance of the Upper Colorado River Basin Endangered Fishes Recovery Program ("Recovery Program"). Under the same Agreement, the Board also leased up to 2,000 acre-feet of additional water stored in the Elkhead Reservoir Enlargement for the same purposes. The Board monitors and protects releases of said water from the outlet of Elkhead Reservoir to and through the Critical Habitat Reach on the Yampa River for four endangered fish species, which extends from the confluence of Elkhead Creek downstream to the confluence of the Green River.

The protection of this acquired water by the Board contributes to the achievement of Recovery Program goals for the four endangered Colorado River fish and is considered by the U.S. Fish & Wildlife Service in determining whether the Upper Colorado River Recovery Implementation Program (UCRIP) had made sufficient progress to continue to function as a reasonable and prudent alternative to avoid the likelihood of jeopardy from existing and new water projects in the Upper Colorado River Basin. The Board has an interest and responsibility to help maintain

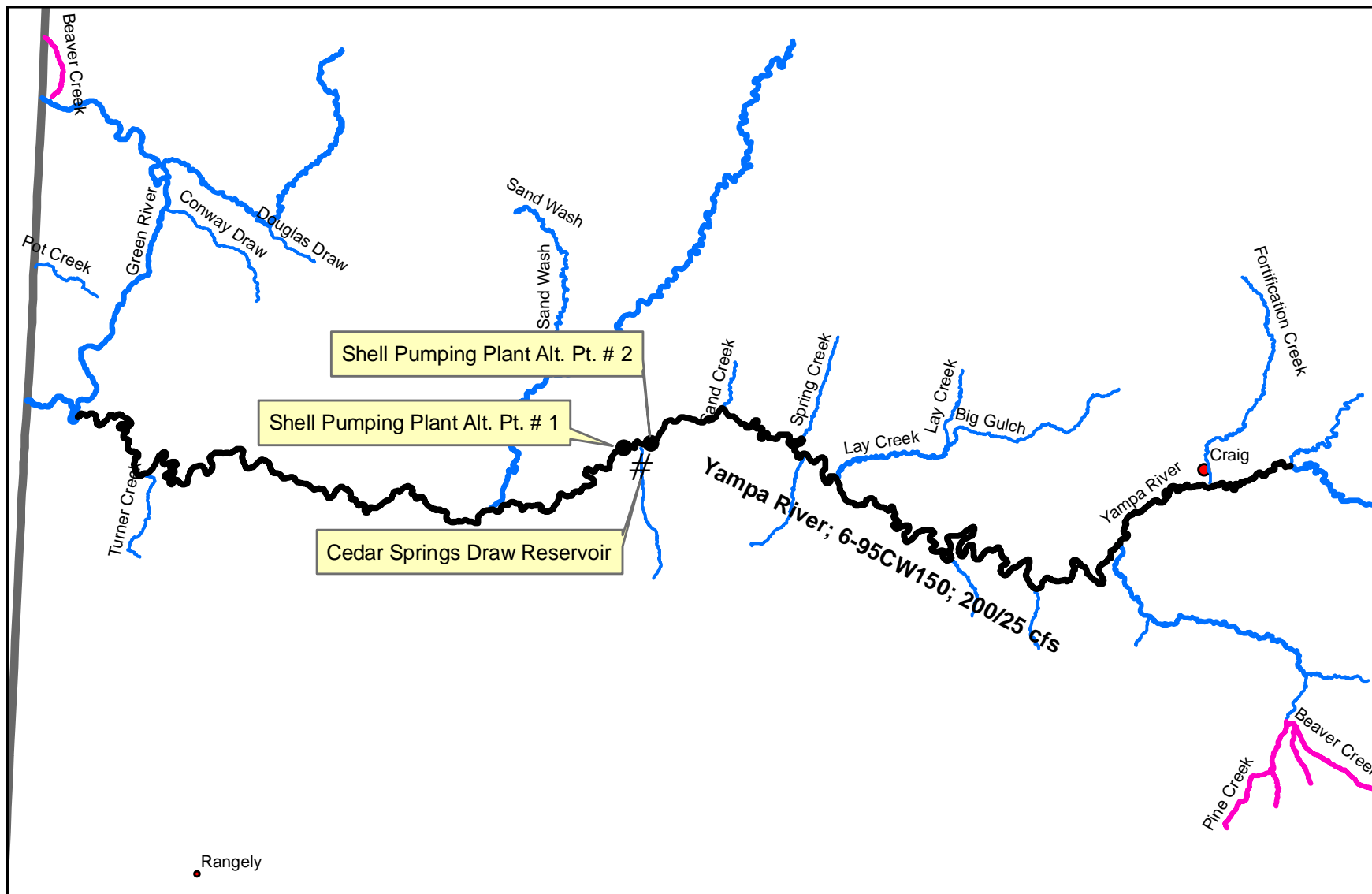
the UCRIP as a “reasonable and prudent alternative”, the benefits of which accrue to all Colorado River water users in Colorado.

The Applicant’s proposed uses may adversely impact the Board’s ability to protect the above-described acquired water in a manner that will maintain the flow recommendations developed by the U.S. Fish and Wildlife Service, particularly the base flow portion of those recommendations for the Yampa River.

The Applicant must be held to strict proof with respect to each element required to be proven under Colorado law for the relief Applicant seeks, and with respect to each claim made in the Application.

Other Objectors

There are 27 other objectors in this case including the U.S. Department of Interior (National Park Service, Bureau of Land Management, Fish & Wildlife Service), Colorado River WCD, Colorado Division of Wildlife, State and Division Engineers, Juniper WCD, Maybell Irrigation District, Mount Werner Water & Sanitation District, Parker Water & Sanitation District, Upper Yampa WCD, Morrison Creek Metro Water & Sanitation District, Routt County, Moffat County, Tri-State G&T, Colo-Wyo Coal Co., Cross Mountain Ranch, City of Steamboat Springs, the towns of Yampa and Oak Creek, Colorado Environmental Coalition, National Wildlife Federation, Sierra Club, Center for Water Advocacy, The Wilderness Society, and Trout Unlimited.



March 17-18, 2009 Board Meeting
 Consent Agenda Item 1i; Statement of Opposition
 Case No. 6-08CW090; Shell Frontier Oil & Gas Inc.

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Consent Agenda 1i

