

BEFORE THE COLORADO WATER CONSERVATION BOARD

STATE OF COLORADO

**IN THE MATTER OF PROPOSED INSTREAM FLOW APPROPRIATION IN WATER
DIVISION 6:**

WILLOW CREEK – UPPER

(outlet of Steamboat Lake to confluence with Beaver Creek)

WILLOW CREEK – LOWER

(confluence with Beaver Creek to confluence with Lester Creek)

**CITY OF STEAMBOAT SPRINGS
NOTICE OF PARTY STATUS**

The City of Steamboat Springs ("City"), by and through undersigned counsel, respectfully submits this Notice of Party Status regarding the Staff ISF Recommendations on Willow Creek in Water Division No. 6, pursuant to Rule 5L of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, 2 CCR 408-2 ("ISF Rules").

I. Identity of Contesting Party:

City of Steamboat Springs
attn: Kelly Romero-Heaney, Water Resource Manager
P.O. Box 775088
Steamboat Springs, CO 80477

Please direct all notices, pleadings, and correspondence to the City's attorneys:

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II. Identity of Proposed Instream Flow Appropriations at Issue:

CWCB ID No.	Stream	Watershed	Upper Terminus	Lower Terminus	Length	Amount
13/6/A-003 (increase)	Willow Creek	Upper Yampa	Outlet of Steamboat Lake	Confluence with Beaver Creek	4.94 miles	7 cfs (4/16-6/30) <i>[Existing: 5 cfs, year-round]</i>
13/6/A-004 (increase)	Willow Creek	Upper Yampa	Confluence with Beaver Creek	Confluence with Lester Creek	1.47 miles	13 cfs (4/16-6/30) 3 cfs (7/1-7/31) <i>[Existing: 7 cfs year-round]</i>

III. Requirements for Party Status (ISF Rule 5L):

A. Reasons for Obtaining Party Status:

- The City is concerned that the requested increases to the existing instream flow rights on Willow Creek could have a negative impact on Steamboat Lake.
- The City has questions regarding the water availability analysis and how a call for the enlarged instream flow rights would be handled in light of the additional sources of supply from various springs, Red Creek, Ways Gulch, and Beaver Creek.
- The City has a keen interest in seeing improvement in the quality of this water body, but the issues discussed in the CWCB's report appear to indicate problems that would be better addressed with riparian and channel restoration, grazing management, riparian fencing, and dam outlet controls that reduce nutrient loads from Steamboat Lake.

B. Contested Facts (to the extent currently known):

- The City adopts, and incorporates herein, the Contested Facts as set forth in the Upper Yampa Water Conservancy District's Notice to Contest.
- The CWCB's analysis focused on the amount of water released from Steamboat Lake, but it appears little to no analysis was done on the amount of inflow into Steamboat Lake to assess whether the water released from the lake was the bypass of inflow or the release of stored water. The reliance on releases from Steamboat Lake and the fact that the inflows into Steamboat Lake are not well understood could impact the lake levels in Steamboat Lake.
- It appears there is not sufficient information to understand the hydrology of Willow Creek, as well as the influences from springs, Red Creek, Ways Gulch, and Beaver Creek.
- Pursuant to C.R.S. § 37-92-102(3)(b), any appropriation of the instream flows on Willow Creek shall be subject to the present uses or exchanges of water being made by other water users pursuant to appropriation or practices in existence on the date of such appropriation, whether or not previously confirmed by court order or decree.

- The City incorporates the issues raised in Section III.A. above, and reserves the right to identify and raise other contested factual and legal issues prior to or at a hearing in this matter.

C. Matters that the City Claims should be Decided:

- Whether the CWCB has met all of its legal requirements, as well as the items discussed above.

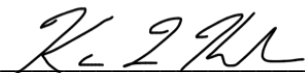
D. General Description of Data to be Presented to the CWCB (to the extent currently known):

- The City adopts, and incorporates herein, the Data listed in the Upper Yampa Water Conservancy District's Notice to Contest.
- All data, documents, facts, data, photographs, and other material in the record of the CWCB and in the files of the U.S. Bureau of Land Management regarding the proposed instream flow rights.
- Records available from the Division of Water Resources regarding existing rights, decrees, stipulations, engineering reports, call chronology, basin studies, agreements, and other relevant information.
- Data from the Willow Creek below Steamboat Lake gage (WILBSLCO); USGS "Elk River near Milner, CO" gage (09242500); USGS "Elk River above Clark, CO" gage (09240900); USGS "Elk River at Clark, CO" gage (09241000); USGS "Elk River at Hinman Park, CO" gage (09240500); and USGS "South Fork Elk River Near Clark, CO" gage (09240800).
- All facts and data to be offered in rebuttal.
- The City reserves the right to present other facts, data, documents, and factual and opinion testimony at a hearing on this matter.

WHEREFORE, the City requests party status to contest the proposed increases to the existing Willow Creek instream flow appropriations described herein and requests that a hearing officer be appointed in accordance with Rule 5(n) of the ISF Rules.

Respectfully submitted this 29th day of April, 2016.

PORZAK BROWNING & BUSHONG LLP

A handwritten signature in black ink, appearing to read 'S. J. Bushong', is written over a horizontal line.

Steven J. Bushong (#21782)

Karen L. Henderson (#39137)

Attorneys for the City of Steamboat Springs