

Consent Agenda Item 1.r

March 22-23, 2017 Board Meeting

Case No. 16CW3039 (Water Division 6): Donald Lee Johnson

Summary of Water Court Application

The Applicant is requesting a "determination of water right" such that the instream flow water rights, including acquired instream flow water rights, would be administered as subject to Applicant's previously decreed junior water rights with junior appropriation dates.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition in this case to protect CWCB's instream flow water rights. A Statement of Opposition was filed on behalf of the Board in February 2017.

The CWCB holds the following instream flow water rights in Division 6 in the Upper Yampa Watershed that could be injured by this application as follows:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
77W1331	Elk River	confl Rock Creek	confl Yampa River	65 (1/1 - 12/31)	09/23/1977
77W1335	Hot Spring Creek	headwaters in vicinity	Forest Service boundary	2 (1/1 - 12/31)	09/23/1977
04CW0024^	Hot Spring Creek	Forest Service boundary	confl Elk River	2 (1/1 - 12/31)	07/31/1965

^ Donated/Acquired Water Right

Potential for Injury

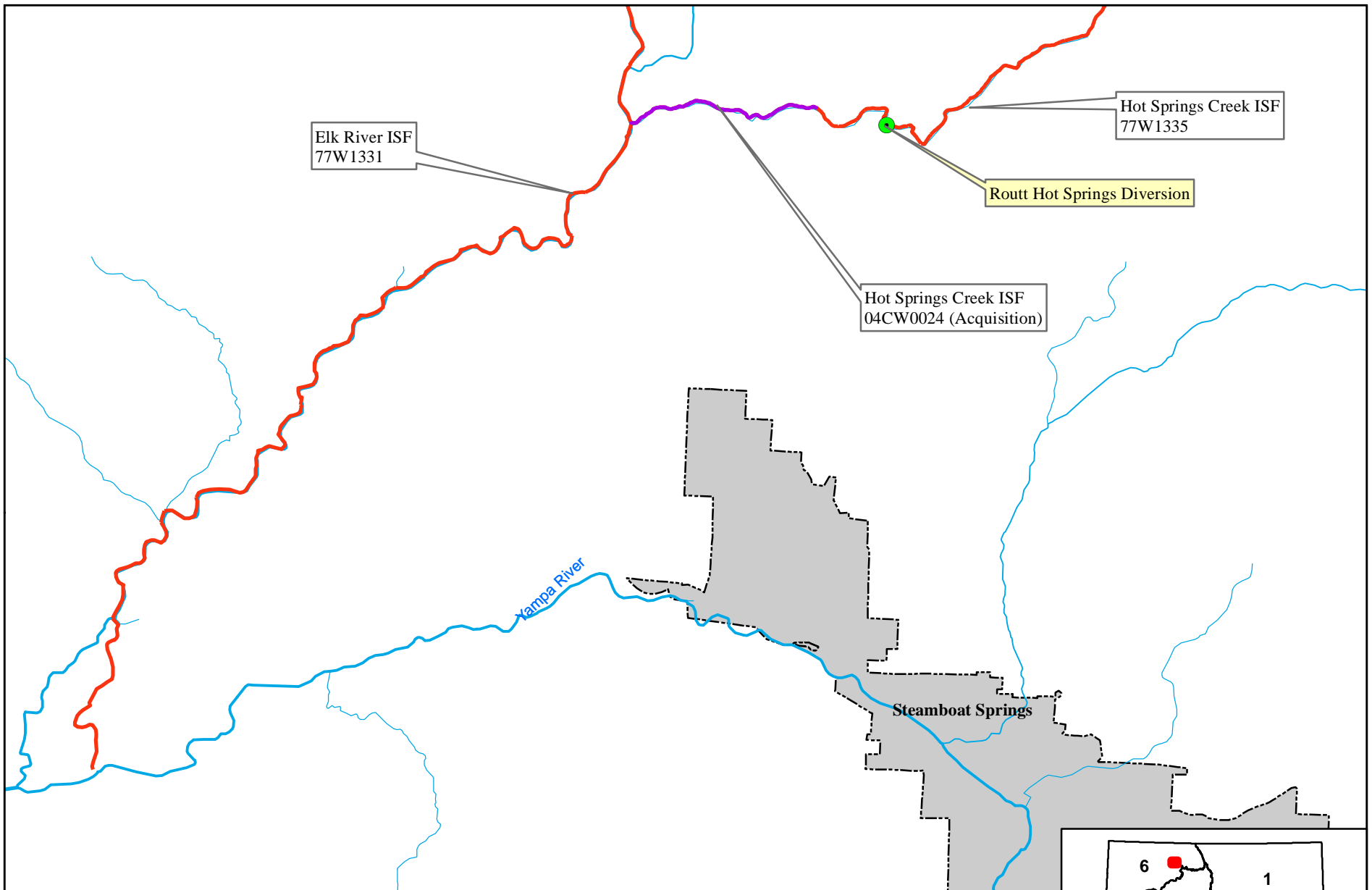
- The application for determination of water right asserts water uses as senior to instream flow water rights. Some of the instream flow water rights might be subject to these water rights under C.R.S. 37-92-102(3)(b) if the pre-existing uses or priorities are sufficiently documented. C.R.S. 37-92-102(3)(b) applies only to appropriated instream flow water rights, and not to acquired instream flow water rights.

Other Objectors

A Statement of Opposition was also filed by J.G. Amato Company LLC.

Attorney Representing CWCB

Michael Toll, Assistant Attorney General, is assigned to this case and can be contacted at michael.toll@coag.gov, or 720-509-6304.



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