

Consent Agenda Item 1.d

July 16-17, 2025 Board Meeting

Case No. 25CW0006 (Water Division 6); The Preserve@Pearl Lake Subdivision Homeowners Association

Summary of Water Court Application

Application for Surface Water Right.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in June 2025 to protect CWCB’s instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water rights in Water Division 6 in the Upper Yampa River Watershed ,that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-1272 (1977)	Beaver Creek	headwaters	confl Willow Creek	4 (1/1 - 12/31)	09/23/1977
W-1273 (1977)	Willow Creek	confl Beaver Creek	confl Elk River	7 (1/1 - 12/31)	09/23/1977
W-1279 (1977)	Elk River	confl NF Elk River	confl Rock Creek	65 (1/1 - 12/31)	09/23/1977
W-1331 (1977)	Elk River	confl Rock Creek	confl Yampa River	65 (1/1 - 12/31)	09/23/1977
16CW3044 (increased)	Willow Creek	confl Beaver Creek	confl Lester Creek	13 (4/16 - 6/30) 3 (7/1 - 7/31)	01/26/2016

Potential for Injury

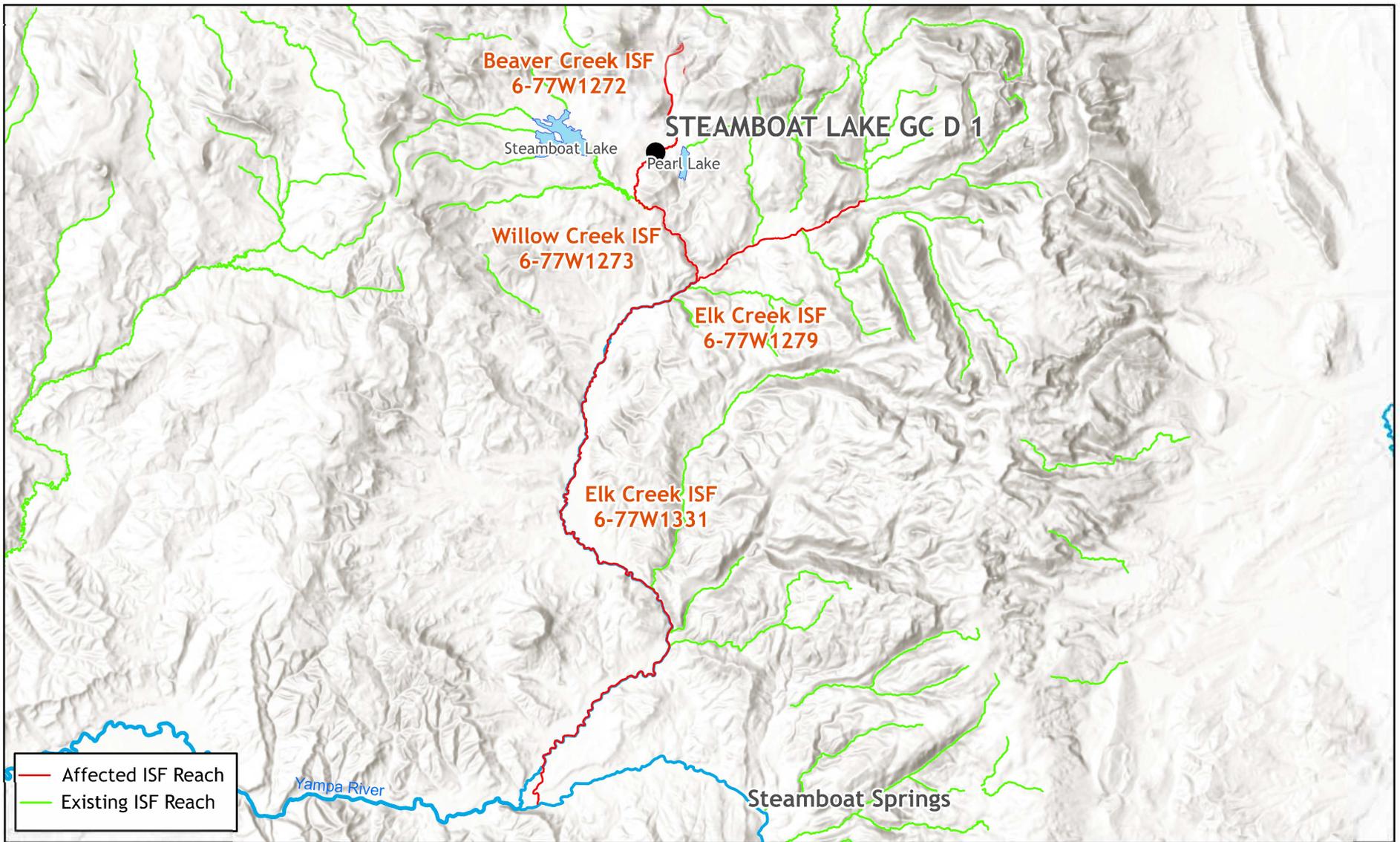
- The proposed flow through water right could injure the CWCB’s instream flow water right because it is fully depletive to a segment of the intervening instream flow (ISF), and the consumption from the flow-through diversion could injure the CWCB’s downstream ISF water rights.
- Applicant claims some water rights with appropriation dates prior to the appropriation dates of the CWCB ISF water rights. The CWCB’s ISF water rights may be subject to the beneficial uses in existence on the date of such ISF appropriations under section 37-92-102(3)(b), C.R.S., so long as the uses are sufficiently demonstrated and documented.
- Terms and conditions should be included in the decree to ensure that Applicants’ operations will not injure the CWCB’s instream flow water rights.

Other Objectors

Statements of Opposition were also filed by Lee Emery & Elaine Emery and S.A.B.L.E. Development Limited Liability Company.

Attorney Representing CWCB

Emilie B. Polley, Assistant Attorney General, is assigned to this case and can be contacted at emilie.polley@coag.gov, or 720-508-6314.



— Affected ISF Reach
— Existing ISF Reach



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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 CA1d: Statement of Opposition
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