

Consent Agenda Item 1.o

March 11-12, 2020 Board Meeting

Case No. 19CW3031 (Water Division 6); Eastern Rio Blanco Metropolitan Recreation & Park District and Town of Meeker

Summary of Water Court Application

Application for groundwater right, surface water right, water storage right, and request for approval of plan for augmentation.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in February 2020 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 5 in the Upper White River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-3652E (1977) (Div. 5)	Big Beaver Creek	outlet Lake Avery Res	confl White River	2 (1/1 - 12/31)	11/15/1977
W-3652C (1977) (Div. 5)	White River	confl NF & SF White River	confl Piceance Creek	200 (1/1 - 12/31)	11/15/1977

Potential for Injury

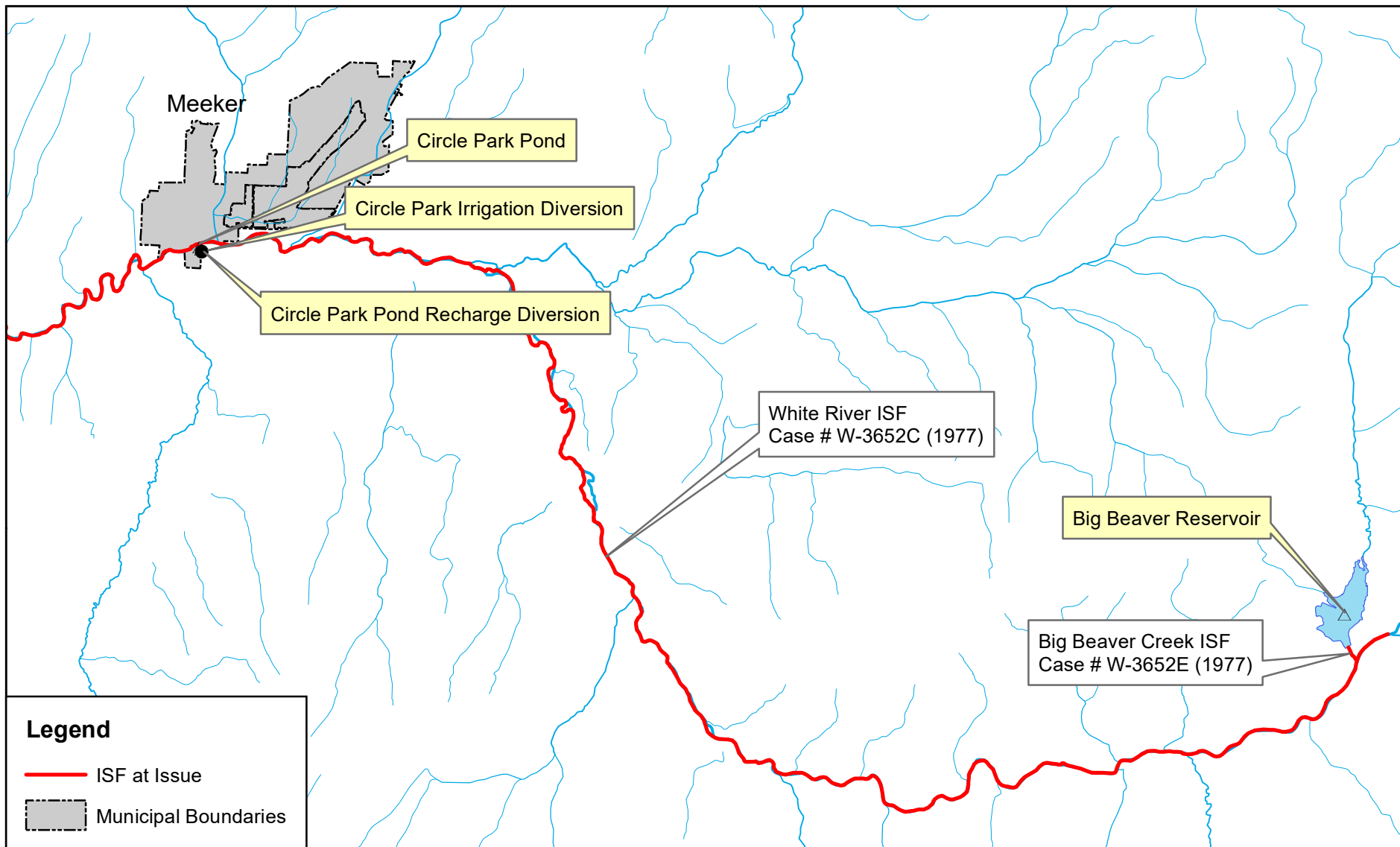
- The proposed plan for augmentation may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.
- The proposed direct flow water right includes a use described as "refreshing flows for piscatorial habitat in Circle Park Pond." This use, point of diversion, and return flow location needs to be described in detail because it could injure the CWCB's instream flow water right by creating a depletive segment to the intervening instream flow water right.
- The application does not present sufficient information to fully evaluate the extent to which the Board's instream flow rights may be injured.

Other Objectors

Statements of Opposition were also filed by: Colorado Division of Parks and Wildlife and Parks and Wildlife Commission ("CPW").

Attorney Representing CWCB

Christopher R. Stork, Assistant Attorney General, is assigned to this case and can be contacted at christopher.stork@coag.gov, or 720-508-6311.

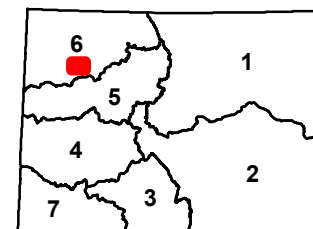


COLORADO
Colorado Water Conservation Board

Department of Natural Resources

March 11-12, 2020 CWCB Board Meeting
 Consent Agenda Item 1.o. Statement of Opposition
 Case No. 19CW3031 (Division 6)
 Eastern Rio Blanco Metropolitan Recreation
 & Park District and Town of Meeker

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**DISTRICT COURT, WATER DIVISION 6, COLORADO
TO ALL PERSONS INTERESTED IN WATER APPLICATIONS**

IN WATER DIVISION 6

Pursuant to C.R.S. 37-92-302, you are hereby notified that the following pages comprise a resume of Applications and Amended Applications filed in the office of Water Division 6, during the month of **December 2019**.

2019CW3031; Rio Blanco County - White River; Eastern Rio Blanco Metropolitan Recreation & Park District (c/o John R. Pierce, Dufford, Waldeck, Milburn & Krohn, LLP, 744 Horizon Court, Suite 300, Grand Junction, CO 81506, (970) 248-5865) and Town of Meeker (c/o Ed Olszewski, Olszewski, Massih & Maurer, P.C., 1204 Grand Avenue, Glenwood Springs, CO 81602, (970) 928-9100; **APPLICATION FOR GROUNDWATER RIGHT, SURFACE WATER RIGHT, WATER STORAGE RIGHT, AND REQUEST FOR APPROVAL OF PLAN FOR AUGMENTATION**; Name and contact information for applicants: Eastern Rio Blanco Metropolitan Recreation & Park District, c/o Sean VanRoenn, 101 Ute Road, Meeker, CO 81641, (970) 878-7410; Town of Meeker, c/o Lisa Cook, Town Administrator, 345 Market Street, Meeker, CO 81641, (970) 878-4962; Request for groundwater right: Name of well: Circle Park Pond; Legal description: SW/4 SW/4 of Section 23, Township 1 North, Range 94 West, of the 6th P.M., at a point approximately 1,100 feet from the west section line and 35 feet from the south section line. (UTM: Easting 251578.11; Northing 4435573.96 (NAD83, UTM ZONE 13)); Source: Groundwater tributary to the White River; Depth: 16 feet; Date of appropriation: April 11, 2018; How appropriation was initiated: By conducting site visit, retaining counsel, and meeting with other parties and engineers; Date water applied to beneficial use: The Circle Park Pond has not yet been constructed; Amount: 0.18 c.f.s., conditional (0.17 c.f.s. associated with irrigation, 0.01 c.f.s. associated with evaporation), 8.77 a.f. (5.83 a.f. associated with irrigation, 2.94 a.f. associated with evaporation), annually; Does well operate pursuant to an augmentation plan? Yes. The Circle Park Pond will operate pursuant to the augmentation plan requested in this case; Uses: Recreation, piscatorial, fire protection, wildlife watering (directly from pond), irrigation by pumping from the pond; Number of acres irrigated: 2.5 acres of lawn grass, located within Circle Park; Request for surface water right: Name of structure: Circle Park Irrigation Diversion; Legal description: NW/4 NW/4 of Section 26, Township 1 North, Range 94 West, of the 6th P.M., at a point approximately 197 feet from the north section line and 1,295 feet from the west section line (UTM: Easting 251636; Northing 4435501 (NAD83, UTM Zone 13)); Source: Surface water and irrigation return flows tributary to the White River; Date of appropriation: April 11, 2018; How appropriation was initiated: By conducting site visit, retaining counsel, and meeting with other parties and engineers; Date water applied to beneficial use: The Circle Park Irrigation Diversion has not yet been constructed; Amount: 0.17, c.f.s., conditional; Uses: Irrigation; Number of irrigated acres: 2.5 acres of lawn grass, located within Circle Park; Request for surface water right: Name of structure: Circle Park Pond Recharge Diversion; Legal description: NW/4 of the NW/4 of Section 26, Township 1 North, Range 94 West, of the 6th P.M., at a point 1,216 feet from the west section line and 96 feet from the north section line (UTM: Easting 251612, Northing 4435532 (NAD 83 Zone 13)); Source: Surface water and irrigation return flows tributary to the White River; Date of appropriation: April 11, 2018; How appropriation was initiated: By conducting site visit, retaining counsel, and meeting with other parties and engineers; Date water applied to beneficial use: The Circle Park Recharge Diversion has not yet been constructed; Amount: 10.6 c.f.s., conditional; Use: Recharge, refreshing flows for piscatorial habitat in Circle Park Pond; Request for water storage right: Name of water right: Big Beaver Reservoir, Circle Park Pond Enlargement; Legal description: The location of the Big Beaver Reservoir was decreed in Case No. 91CW138

to be in the S/2 of Section 7 and N/2 of Section 18, Township 1 South, Range 91 West, 6th P.M.; Date of appropriation: April 11, 2018; How appropriation was initiated: By conducting site visit to investigate the Circle Park Pond site, retaining counsel, and meeting with other parties and engineers; Amount: 8 a.f.; Source: Big Beaver Creek, tributary to the White River; Uses: Augmentation; Request for approval of plan for augmentation: Name of structures to be augmented: Circle Park Pond and Circle Park Irrigation Diversion; Water right to be used for augmentation: Big Beaver Reservoir, Circle Park Enlargement; Does Applicant intend to change any water right to provide a source of augmentation? No; Complete statement of plan for augmentation: The water rights to be augmented by this plan for augmentation are located in an under-appropriated area, so that augmentation isn't required. However, Applicants wish to ensure that the augmented rights remain available in the event of a future call. This plan for augmentation provides for replacement of potential out-of-priority depletions to the White River at Circle Park caused by evaporation from the Circle Park Pond, as well as from irrigation of Circle Park using water pumped from the Circle Park Pond or diverted through the Circle Park Irrigation Diversion. Evaporative losses will be 2.94 a.f., annually, with a maximum of 0.49 a.f. in July. Irrigation use will result in annual depletions of 4.95 a.f., with a maximum irrigation depletion in July of 1.23 a.f. The most likely call period for the White River is during the irrigation season, from April 1 through October 31. Because the Circle Park Pond will be located approximately 75 feet from the White River, the timing of depletions will be delayed. Augmentation water will be provided by an eight acre-foot junior enlargement of the Big Beaver Reservoir, which is owned by the Colorado Department of Natural Resources, Colorado Parks and Wildlife. The Big Beaver Reservoir is located on Big Beaver Creek at its confluence with the White River, approximately 25 miles upstream of Circle Park. If a call is placed on the White River by a senior water user downstream of the Circle Park Pond, water stored in Big Beaver Reservoir under the eight acre-foot right, requested above, will be released in accordance with the water balance and water release schedule. (7 pages)

The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute, or be forever barred.

You are hereby notified that you will have until the last day of **February 2020** to file with the Water Court a Verified Statement of Opposition, setting forth facts as to why a certain Application should not be granted or why it should be granted only in part or on certain conditions. A copy of such Statement of Opposition must be served on the Applicant or the Applicant's Attorney, with an affidavit or certificate of such service being filed with the Water Court, as prescribed by Rule 5, C.R.C.P. The filing fee for the Statement of Opposition is \$192.00, and should be sent to the Clerk of the Water Court, Division 6, 1955 Shield Dr. Unit 200, Steamboat Springs, CO 80487.

MARY ANN NINGER
CLERK OF COURT
ROUTT COUNTY COMBINED COURT
WATER DIVISION 6

/s/ Julie A. Edwards
Deputy Court Clerk