

**Consent Agenda Item 1.g**

March 11-12, 2020 Board Meeting

Case No. 19CW3036 (Water Division 6); Harvey and Seaton Cattle Co., LLC

**Summary of Water Court Application**

Application for surface water right and water storage right.

**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 right 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
W3652C (1977) (Div. 5)	White River	confl NF & SF White River	confl Piceance Creek	200 (1/1 - 12/31)	11/15/1977

**Potential for Injury**

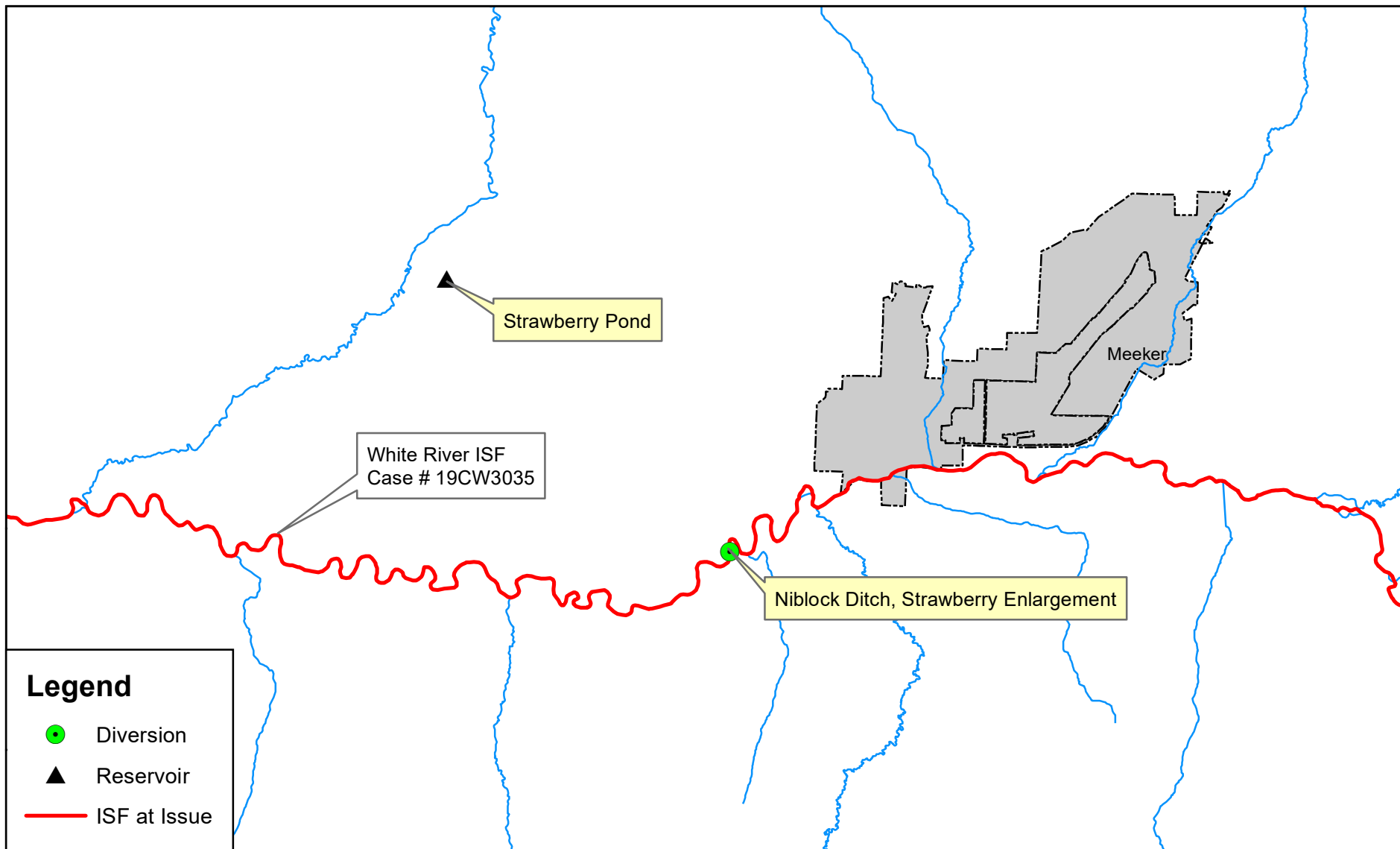
- The proposed 3.0 cfs direct flow water right to fill and refill a pond and for "the provision of freshening flows for aquatic habitat" through a pond needs to be described in detail. The proposed water right could injure the CWCB's instream flow water rights because this use creates a fully depletive segment of 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**

No other Statements of Opposition were filed.

**Attorney Representing CWCB**

Andrew B. Nicewicz, Assistant Attorney General, is assigned to this case and can be contacted at andy.nicewicz@coag.gov, or 720-508-6259.

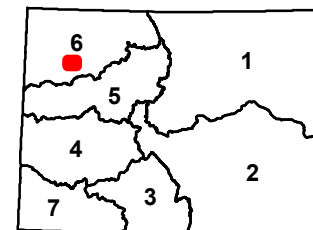


**COLORADO**  
**Colorado Water Conservation Board**

Department of Natural Resources

March 11-12, 2020 CWCB Board Meeting  
 Consent Agenda Item 1.q. Statement of Opposition  
 Case No. 19CW3036 (Division 4)  
 Harvey and Seaton Cattle Co., LLC

0 0.75 1.5 3 Miles



**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**.

**2019CW3036 RIO BLANCO COUNTY – NIBLOCK DITCH AND THE WHITE**

**RIVER AND ITS TRIBUTARIES. Harvey and Seaton Cattle Co., LLC** c/o Kevin L. Patrick, Esq. and Jason M. Groves, Esq., Patrick, Miller & Noto, P.C., 229 Midland Ave., Basalt, CO 81621 (970) 920-1030. APPLICATION FOR SURFACE WATER RIGHT AND STORAGE WATER RIGHT. **First Claim:** Strawberry Pond. Legal Description: SE1/4 of Section 18, Township 1, North Range 94W of the 6<sup>th</sup> P.M. (UTM X = 245740.00 m E, UTM Y = 4438073.00 m N). Source: Run-off, precipitation, and deliveries from the Niblock Ditch Strawberry Enlargement water right applied for in the Second Claim of this application, all of which are tributary to the White River. Date of appropriation: June 27, 2019 by forming intent to appropriate, monumentation, and field location. Amount: 30 acre feet, with the right to fill and refill when water is physically and legally available, all conditional. Fill rate: 3.0 c.f.s. Uses: Piscatorial, wildlife, recreation, fire protection, and aquatic habitat. Surface area: 3.3 acres. Max dam height: 10 ft. Dam length: Approximately 1200 feet. Total capacity: 20 acrefeet (active). **Second Claim:** Niblock Ditch, Strawberry Enlargement. Legal Description of point of diversion: NE¼ of the SE¼ Section 28, Township 1 North, Range 94 West, of the 6<sup>th</sup> P.M. at a point whence the Southwest corner of Section 22, T1N, R94W bears North 22 degrees East, 3,864 feet. Source: White River. Date of appropriation: August 7, 2019 by forming intent to appropriate, monumentation, and field location. Amount: 3.0 cfs, conditional. Uses: To fill and refill the storage structures for the subsequent use of piscatorial, recreational, wildlife, and fire protection uses and for the provision of freshening flows for aquatic habitat. Map of water rights is on file with the Court as Exhibit A. Water rights are components of an integrated water supply plan encompassing the water rights claimed in this application and the application filed in Case No. 19CW3035. Owners of land where water rights are located and where water rights are or will be put to beneficial use: Applicant; Owner of land upon which the Niblock Ditch headgate is located: Albert R. and Mary K. Krueger, 40000 Hwy 13, Meeker, CO 81641; and Niblock Ditch Company, c/o Ila Sturgeon, 1858 C.R. 32, Meeker, CO 81641.

**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