

# STATE OF COLORADO

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## Colorado Water Conservation Board Department of Natural Resources

1313 Sherman Street, Room 721  
Denver, Colorado 80203  
Phone: (303) 866-3441  
Fax: (303) 866-4474  
www.cwcb.state.co.us



TO: Colorado Water Conservation Board Members

John W. Hickenlooper  
Governor

FROM: Linda Bassi and Kaylea White  
Stream and Lake Protection Section

Mike King  
DNR Executive Director

DATE: March 8, 2013

Jennifer L. Gimbel  
CWCB Director

RE: **Agenda Item 7, March 19-20, 2013 Board Meeting--  
Request for Authorization to Proceed to Trial  
Case No. 1-02CW292: Application of Eldorado Artesian Springs, Inc.**

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This case is set for a five-day trial beginning on April 15, 2013. The parties are discussing settlement options and preparing for trial on a parallel track. Staff and the Attorney General's Office intend to discuss litigation strategy and settlement options with the Board in executive session.

### **Recommendation**

Pursuant to ISF Rule 8j., Staff recommends that the Board authorize Staff to proceed to trial to protect its instream flow water rights in the event that Staff and the Attorney General's Office are unable to reach a settlement with the Applicant.

### **Background**

In this case, Applicant seeks approval of a plan for augmentation to augment existing wells that are used for domestic, municipal and commercial purposes. The proposed source of replacement water consists mainly of Applicant's shares in Marshall Lake. Applicant may also rely on trucking its replacement water to the point of its depletions.

The CWCB filed a Statement of Opposition in January 2003 to protect its ISF water rights on South Boulder Creek.

