

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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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 9, March 19-20, 2013 Board Meeting--
Request for Authorization to Proceed to Trial
Case No. 5-11CW109: Application of Vail Summit Resorts, Inc.**

This case is set for a three-day trial beginning on May 29, 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 to change two points of diversion to add a new point of diversion for its artificial snowmaking water rights. Applicant seeks to replace out-of-priority diversions at the new point of diversion under its existing augmentation plan decreed in Case No. 92CW331.

The CWCB filed a Statement of Opposition on September 30, 2011 to protect its ISF water right on the Snake River.

