

**Bootjack Ranch, LLC
12500 Highway 160 East
Pagosa Springs, CO 81147**

March 11, 2019

Rebecca Mitchell, Director
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Himes Creek Instream Flow Application

Dear Ms. Michell,

I am the manager for the Bootjack Ranch, a privately owned ranch on the West Fork of the San Juan River in Archuleta and Mineral Counties, Colorado. The ranch has water rights that are used for its on-going operation. These include two irrigation water rights on Himes Creek, the Himes Ditch decreed in 1912 for 2.5 cfs absolute and the Himes Ditch Teal Enlargement decreed in 1959 for an additional 5.5 cfs absolute.

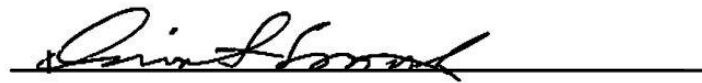
Bootjack Ranch understands that at the request of the USFS, CWCB is considering the appropriation of water on Himes Creek for instream flow purposes that will include all unappropriated water to the point of diversion for Bootjack's water rights on Himes Creek. We have several concerns:

1. An appropriation of "all unappropriated water" is water grab that would not be acceptable for any other appropriator in Colorado because it is speculator. In addition, the request doesn't conform with the methodology that CWCB is required to follow (and has standardly used) in its charter whereby required amounts and water availability are evaluated for an appropriation.
2. The Himes Ditch occupies USFS land under the Act of July 26, 1866. An appropriation of "all unappropriated water to the Himes Creek diversion will potentially encroach on our facility and limit our operations, including future repairs and replacement.

Bootjack Ranch, therefore, requests that the CWCB:

- consider reducing its requested amount to conform with its charter and pass the speculative standard to which all other appropriators in Colorado are held, and
- select the downstream terminus for this ISF at a point located 250 feet upstream of the physical Himes Creek diversion to allow sufficient room for future ditch operations for our senior water rights.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David F. Smith", is written over a solid horizontal line.

David F. Smith, General Manager
Bootjack Ranch

cc: Linda Bassi, Stream & Lake Protection Section Chief