

## ***FWP COMMISSION AGENDA ITEM COVER SHEET***

**Meeting Date:** July 10, 2013

**Agenda Item:** Nevada Spring Creek Stock Water Right Acquisition and Conversion

**Division:** Fisheries    **Action Needed:** Final Action

**Time Needed on Agenda for this Presentation:** 10 Minutes

### **Background**

At its December 20, 2012 meeting the commission approved accepting the donation of six irrigation water rights on Nevada Spring Creek. This donation would allow the department to pursue the permanent conversion of these water rights to an instream flow for fishery purposes. This was the wish of the former owners of these water rights, Nevada Spring Creek Partners, who sold the water rights to Trout Unlimited with the understanding that they would be donated to FWP. The December motion provided by the department to the commission was specific to accepting the irrigation water rights. The motion should have also approved accepting the donation of six related “direct from source” stock water rights. The department is recommending that the commission correct this omission (the department’s environmental analysis and public involvement process included acquisition of the stock water rights). FWP is prepared to then apply to the Department of Natural Resources and Conservation to convert the irrigation and stock water rights to instream flow for fishery purposes. Nevada Spring Creek, located in Powell County near Helmville, is a tributary of Nevada Creek in the Blackfoot River Basin and provides spawning and reproduction habitat for westslope cutthroat trout and other species.

### **Public Involvement Process & Results**

FWP prepared a Draft Environmental Assessment (EA) and solicited public comments on the proposal to acquire the irrigation and stock water rights. There were seven comments received. Six were supportive of the acquisition. One commenter expressed a concern that the acquisition was taking irrigated lands out of production. Note: The Nevada Spring Creek Partners previously made the management decision to cease using water from Nevada Spring Creek for irrigation and have converted much of the property to other uses, including a wetland mitigation bank. The Partners still irrigate some of their property and water stock with water from Nevada Creek.

### **Alternatives and Analysis**

Alternatively the commission could decide not to accept the donation of the stock water rights. This alternative would add confusion to the Department of Natural Resources and Conservation’s “change of use process” and could potentially constrain the proposed instream flow protections.

### **Agency Recommendation & Rationale**

The department recommends that the commission authorize the department to accept the donation of six “direct from source” stock water rights on Nevada Spring Creek (this would be in addition to accepting the donated irrigation rights that the commission already approved in December). Public comment and FWP’s analysis in the Draft EA supported the acquisition of these water rights. The department recommends that the commission solicit public comment at its July 10 meeting before making its decision.

### **Proposed Motion**

“I move that FWP acquire, through donation, six Nevada Spring Creek stock water rights, and pursue the conversion of these water rights to an instream flow for fishery purposes.”