



**THE WATER RIGHT.** Grand County's Stream Management Plan was adopted in 2006 and that plan envisioned permanent protections for recreational stream flows so important to the community. Grand County filed for the water rights for this recreational feature in 2010 and after much negotiation with parties from across the state, as well as significant findings of fact in the case, the water rights were awarded in April 2014. Although junior to other major diversion projects, these recreational water rights provide long term protection for the park from water diversions that may be proposed many years from now.

These water rights were part of a negotiation process known as the Colorado River Cooperative Agreement reached in 2013 with Denver Water and the Windy Gap Firing Project Intergovernmental Agreement with the Municipal Sub-District of the Northern Colorado Water Conservancy District. Lauding the agreement, Commissioner Merritt Linke said, "Although there was a lot of pushing and shoving to get these water rights through water court, the decree represents a good balance of the multiple uses of water in our state." Commissioner James Newberry added, "We had 25 objectors in our case, but were able to reach a settlement with everyone."

Recreational in-channel diversions (RICD's), aka whitewater parks, have had a controversial history due to concerns that RICD's "tie-up" stream systems and impede more traditional, consumptive uses of water. As a result, the Colorado General Assembly substantially revamped the law in 2006 to require the Colorado Water Conservation Board (CWCB) provide findings that RICD's: 1) will not impair Colorado's ability to develop water under its compact; 2) will promote maximum utilization of waters of the State; and 3) will not injure CWCB's in-stream flow water rights. The CWCB made favorable findings on the Grand County RICD filing in March 2012. In January 2013, the CWCB board also voted to award a grant of \$500,000 to help fund a portion of the project's construction costs.

"This is the first RICD decree entered under the new statutes," noted David Taussig, an attorney with White & Jankowski, LLP in Denver who represents Grand County on water matters. "It is the largest RICD water right decreed in Colorado and the only one on the Colorado River mainstem to date. "The beauty of Colorado Water Law is its ability to accommodate new uses of water and to fit them into the prior appropriation system."