

PRESS RELEASE

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RE: Recreational In-Channel Diversion Settlement Between CWCB and the Upper Gunnison Water Conservancy District Reached

The Colorado Water Conservation Board (CWCB), the State and Division Engineers for Water Division No. 4, and the Upper Gunnison River Water Conservancy District today entered into an agreement resolving the CWCB's long-standing opposition to Upper Gunnison's Recreational In-Channel Diversion (RICD) water rights for its whitewater park.

"This historic agreement recognizes the importance of recreation, while promoting maximum utilization of Colorado's water resources," said Russell George, executive director of the Department of Natural Resources.

"We are pleased that the CWCB and our board have been able to put aside their differences and concentrate their efforts on reaching a mutually acceptable compromise," said Karen Shirley, Manager of the Upper Gunnison River Water Conservancy District (Upper Gunnison).

The settlement reduces the flow amounts for several time periods from the amounts originally sought, and endorses the administrative limitations the Upper Gunnison agreed to before trial whereby the Upper Gunnison will not call for the RICD when the Gunnison Tunnel and Redlands Canal water rights are calling for, or could call for, their water rights.

Upper Gunnison was one of the first applicants for an RICD water right after the passage of Senate Bill 01-216, in 2001, which authorized certain local governmental entities to obtain RICD water rights in a river channel for the "minimum stream flow for a reasonable recreational experience."

In 2004, the water court decreed the RICD water right that the Upper Gunnison had requested for the Gunnison Whitewater Park, but the CWCB appealed the decision to the Colorado Supreme Court, seeking clarification of the CWCB's role under Senate Bill 216, and further explanation of the method of calculating the amount of water that may be appropriated for an RICD. The Supreme Court, interpreting various provisions of the new law, agreed with both Upper Gunnison and CWCB on different points. It reversed and remanded the case back to the water court with instructions to remand the matter back to the CWCB, in light of its clarification of the CWCB role under the statute.

The CWCB was set to consider the matter in January, but this settlement largely resolves the case. Upper Gunnison and the CWCB are hopeful that the sole remaining opposer, the Uncompahgre Valley Water Users Association, will also agree to settle the case on the terms Upper Gunnison and CWCB have agreed to.

“We couldn’t be more pleased with the settlement of this matter. The reduced flow rates and restrictions on calls allow the CWCB to support this win-win solution for recreational users and for future generations of traditional water users,” said Rod Kuharich, director of the CWCB.

Robert Drexel, president of the Upper Gunnison, added, “We are pleased that the CWCB and the Upper Gunnison River Water Conservancy District have been able to reach final resolution. With a decreed RICD, Upper Gunnison will be able to protect this water resource that is so valuable to our community, both as a recreational amenity and an important source of revenue.”

Keith Catlin, the CWCB representative from the Gunnison River Basin also is pleased, saying, “The taxpaying citizens of Colorado and the UGRWCD are the winners in this settlement that strikes an appropriate balance for recreational and traditional diversionary interests.”

This settlement will be presented to Division 4 Water Judge Steven Patrick for his approval and the parties anticipate that Judge Patrick will approve the settlement.

For more information, please contact:

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