

**RESOLUTION 2013-38**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, AUTHORIZING THE INITIATION OF A WATER COURT PROCEEDING FOR THE PURPOSE OF CONFIRMING RECREATIONAL IN-CHANNEL WATER RIGHTS ON THE COLORADO RIVER.**

**WHEREAS**, the City of Glenwood Springs has participated in a planning process for a new boating park to be located within the Colorado River upstream of its confluence with the Roaring Fork River; and

**WHEREAS**, recreational boating enthusiasts and the representatives of the local and regional kayaking and rafting industries have consistently indicated that the establishment of a boating park and the protection of recreational water flows within this reach of the Colorado River is a high priority;

**WHEREAS**, the City has commissioned engineering, surveying and planning studies regarding the location and construction of diversion facilities within this river reach for the purpose of enhancing the recreational experience of users of this reach of the river for purposes including boating, kayaking, tubing, rafting, floating, canoeing and other such general recreational uses, all of which uses are significant contributors to the economic well being of the City; and

**WHEREAS**, pursuant to Colo. Rev. Stat. Sections 37-92-103(4), -103(7), -103(10.3) and -305(9)(b), Colorado municipalities may adjudicate water rights for recreational boating facilities, which water rights are known as "Recreational In-Channel Diversions" or "RICDs"; and

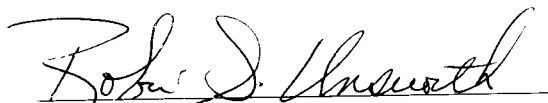
**WHEREAS**, the appropriation of RICD water rights will serve to preserve and protect future recreational opportunities within and upon this reach of the Colorado River;

**NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, THAT:**


Legal counsel for the City is authorized to prepare and file with the Water Court, and the Mayor is authorized to sign and verify, an Application for Surface Water Rights for Recreational In-channel Uses for the purpose of establishing and confirming an appropriate water right for recreational water uses within and upon the Colorado River in substantially the same form as the draft application attached to this Resolution as Exhibit A.

INTRODUCED, READ AND PASSED THIS 19<sup>th</sup> DAY OF December, 2013.

ATTEST:

  
Robin S. Unsworth, City Clerk

CITY OF GLENWOOD SPRINGS, COLORADO

  
Leo R. McKinney, Mayor

<b>DISTRICT COURT, WATER DIVISION NO. 5</b> <b>STATE OF COLORADO</b> Court Address: 109 Eighth Street, Suite 104 Glenwood Springs, CO 81601 (970) 945-5075 telephone	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<b>CONCERNING THE APPLICATION FOR WATER RIGHTS OF:</b>  <b>THE CITY OF GLENWOOD SPRINGS, COLORADO</b>  <b>in Garfield County, Colorado.</b>	
Attorneys for Applicant:	<p style="text-align: center;"><b>Case Number:</b></p> <p style="text-align: center;"><b>13 CW _____</b></p> <p style="text-align: center;"><b>Div.:            Ctrm.:</b></p>
Name:                    Mark E. Hamilton, #24585 Address:                 HOLLAND & HART LLP 600 East Main Street, Suite 104 Aspen, CO 81611-1991 Telephone:             (970) 925-3476 Facsimile:              (866) 784-7682 E-Mail: <u>MEHamilton@hollandhart.com</u>	
Name:                    Christopher L. Thorne, #20003 Address:                 HOLLAND & HART LLP 555 17th Street, Suite 3200 Denver, CO 80202-3979 Telephone:             (303) 295-8488 Facsimile:              (303) 713-6310 E-Mail: <u>CThorne@hollandhart.com</u>	
<b>APPLICATION FOR SURFACE WATER RIGHTS          FOR RECREATIONAL IN-CHANNEL USES</b>	

1. *Name and address of Applicant:*

City of Glenwood Springs  
 c/o Jan Shute, City Attorney  
 101 West 8th Street  
 Glenwood Springs, CO 81601

*Please direct all pleadings to:*  
 Mark E. Hamilton, Esq.

**EXHIBIT A**

Christopher L. Thorne, Esq.  
Holland & Hart LLP  
600 E. Main St., Suite 104  
Aspen, CO 81611  
[mehamilton@hollandhart.com](mailto:mehamilton@hollandhart.com)  
[cthorne@hollandhart.com](mailto:cthorne@hollandhart.com)

2. *Introduction:* The City of Glenwood Springs (“City” or “Applicant”) seeks to confirm three conditional water rights associated with three whitewater parks in and on the Colorado River: the No Name Whitewater Park, the Horseshoe Bend Whitewater Park, and the Two Rivers Whitewater Park. Each location will have up to two control structures designed to control the entire flow within the river channel and to perform at various rates of flow for the beneficial uses described below. The locations of these three parks are depicted on the attached map (Exhibit A).
3. *Names of structures:* No Name Whitewater Park, Horseshoe Bend Whitewater Park, and Two Rivers Whitewater Park.
4. *Conditional surface water right for recreational in-channel diversion:* No Name Whitewater Park
  - a. Location:

The No Name Whitewater Park will be located in the channel of the Colorado River between the following two points on the centerline of the river:

- i. No Name Whitewater Park Upstream Extent:

PLSS: NW¼ of the SW¼ of Section 1, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point 1880 feet from the north section line and 85 feet from the west section line of said Section 1, Garfield County, CO.

UTM: NAD 83 Zone 13S: northing 4,381,478 m, easting 303,685 m

- ii. No Name Whitewater Park Downstream Extent:

PLSS: NW¼ of the SE¼ of Section 2, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point 1475 feet from the south section line and 1290 feet from the east section line of said Section 1, Garfield County, CO.

UTM: NAD 83 Zone 13S: northing 4,381,237 m, easting 303,246 m

The precise locations of the structures within this reach of the Colorado River will be confirmed upon making this conditional water right absolute.

- b. Source: Colorado River
- c. Appropriation date: December 19, 2013
- d. How appropriation was initiated: By formation of the requisite intent to appropriate coupled with actions manifesting such intent, including but not limited to discussions in public meetings, engineering and planning studies, preliminary design, and passage of Resolution 2013-38 by the City authorizing this filing.
- e. Date water applied to beneficial use: N/A (this claim is for a conditional water right)
- f. Amounts claimed:

Time Period	Flow Rate (c.f.s.)
Apr. 1 through Apr. 29	1250
Apr. 30 through May 10	Not to exceed 2500*
May 11 through July 6	Not to exceed 4000*
July 7 through July 23	Not to exceed 2500*
July 24 through Sept 30	1250

The above amounts claimed are limited to the period between 6:00 a.m. and 9:00 p.m. each day, except during competitive events when these hours may be extended to between 6:00 a.m. and 12:00 midnight each day.

\*See below remarks in Section 8.a.

5. *Conditional surface water right for recreational in-channel diversion:* Horseshoe Bend Whitewater Park

- a. Location:

The Horseshoe Bend Whitewater Park will be located within the channel of the Colorado River between the following two points on the centerline of the stream:

- i. Horseshoe Bend Whitewater Park Upstream Extent:

PLSS: NW¼ of the SE¼ of Section 3, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point 1285 feet from the south section line and 1910 feet from the east section line of said Section 3, Garfield County, CO.

UTM: NAD 83 Zone 13S: northing 4,381,288 m, easting 301,608 m

ii. Horseshoe Bend Whitewater Park Downstream Extent:

PLSS: NW¼ of the SE¼ of Section 3, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point 1920 feet from the north section line and 2250 feet from the east section line of said Section 3, Garfield County, CO.

UTM: NAD 83 Zone 13S: northing 4,381,513 m, easting 301,551 m

The precise locations of the structures within this reach of the Colorado River will be confirmed upon making this conditional water right river.

- b. Source: Colorado River
- c. Appropriation date: December 19, 2013
- d. How appropriation was initiated: By formation of the requisite intent to appropriate coupled with actions manifesting such intent, including but not limited to discussions in public meetings, engineering and planning studies, preliminary design, and passage of Resolution 2013-38 by the City authorizing this filing.
- e. Date water applied to beneficial use: N/A (this claim is for a conditional water right)
- f. Amounts claimed:

Time Period	Flow Rate (c.f.s.)
Apr. 1 through Apr. 29	1250
Apr. 30 through May 10	Not to exceed 2500*
May 11 through July 6	Not to exceed 4000*
July 7 through July 23	Not to exceed 2500*
July 24 through Sept 30	1250

The above amounts claimed are limited to the period between 6:00 a.m. and 9:00 p.m. each day, except during competitive events when these hours may be extended to between 6:00 a.m. and 12:00 midnight each day.

\*See below remarks in Section 8.a.

- g. Use: All recreational uses in and on the Colorado River including without limitation, boating, rafting, kayaking, tubing, floating, canoeing, paddling, and all other non-motorized recreational uses.
6. *Conditional surface water right for recreational in-channel diversion: Two Rivers Whitewater Park*

a. Location:

The Two Rivers Whitewater Park will be located within the channel of the Colorado River between the following two points on the centerline of the river:

i. Two Rivers Whitewater Park Upstream Extent:

PLSS: SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point 2394 feet from the north section line and 1975 feet from the east section line of said Section 9, Garfield County, CO.

UTM: NAD 83 Zone 13S: northing 4,380,248m, easting 300,033 m

ii. Two Rivers Whitewater Park Downstream Extent:

PLSS: SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 9, Township 6 South, Range 89 West of the 6<sup>th</sup> P.M., at a point 2075 feet from the north section line and 2330 feet from the west section line of said Section 9, Garfield County, CO.

UTM: NAD 83 Zone 13S: northing 4,380,353 m, easting 299,772 m

The precise locations of the structures within this reach of the Colorado River will be confirmed upon making this conditional water right absolute.

- b. Source: Colorado River
- c. Appropriation date: December 19, 2013
- d. How appropriation was initiated: By formation of the requisite intent to appropriate coupled with actions manifesting such intent, including but not limited to discussions in public meetings, engineering and planning studies, preliminary design, and passage of Resolution 2013-38 by the City authorizing this filing.
- e. Date water applied to beneficial use: N/A (this claim is for a conditional water right)

f. Amounts claimed:

Time Period	Flow Rate (c.f.s.)
Apr. 1 through Apr. 29	1250
Apr. 30 through May 10	Not to exceed 2500*
May 11 through July 6	Not to exceed 4000*
July 7 through July 23	Not to exceed 2500*
July 24 through Sept 30	1250

The above amounts claimed are limited to the period between 6:00 a.m. and 9:00 p.m. each day, except during competitive events when these hours may be extended to between 6:00 a.m. and 12:00 midnight each day.

\*See below remarks in Section 8.a.

g. Use: All recreational uses in and on the Colorado River including without limitation, boating, rafting, kayaking, tubing, floating, canoeing, paddling, and all other non-motorized recreational uses.

7. *Names and addresses of owners of lands upon which structures will be located (based upon information obtained from the Garfield County Assessor):*

a. No Name Whitewater Park:

Colorado Department of Transportation  
 222 S. 6th St.  
 Grand Junction, CO 81601

Joseph Wayne McKeel  
 6544 Harlow Drive  
 Bremerton, WA 98312

b. Horseshoe Bend Whitewater Park:

City of Glenwood Springs (Applicant)

c. Two Rivers Whitewater Park:

City of Glenwood Springs (Applicant)

Colorado Department of Transportation  
 (see above Section 7.a)

Union Pacific Corporation  
c/o Bob Brenner (property tax department)  
1400 Douglas St., Stop 1640  
Omaha, NE 68179-1640

Pursuant to Colo. Rev. Stat. § 37-92-302(2)(b), within ten (10) days of filing this application, Applicant shall give notice by registered or certified mail, return receipt requested, to each of the foregoing landowners (other than Applicant).

8. *Remarks:*

- a. The City hereby reserves the right and gives notice to all interested parties that it will further refine the time periods and flow rates claimed herein and provide such information to the Colorado Water Conservation Board (CWCB) and objectors in this proceeding. While flow rates will not exceed the above-listed claims, nor extend beyond the time periods listed, it is the City's intent that any final decree in this matter will limit the total volume of water represented by the flow rates decreed for the claimed recreational in-channel diversion to no greater than 50% of the sum of the total average historical volume of water for the stream segments where these recreational in-channel diversions will be located pursuant to C.R.S. § 37-92-305(13)(f). Based upon preliminary engineering, this is expected to result in no more than 46 days each year with flow rates in excess of 1250 c.f.s. With regard to the 4000 c.f.s. claimed flow rate, it is the City's intent to confirm an event flow right at this rate for only up to five days each year to coincide with a holiday weekend or other planned special events.
- b. This Application is made pursuant to Colo. Const. Art XVI, § 5, Art XVI, § 6, and C.R.S. §§ 37-92-1001, *et seq.* Pursuant to C.R.S. § 37-92-102(5), within 30 day of filing the Applicant will submit a copy of this Application to the CWCB for review.

RESPECTFULLY SUBMITTED this \_\_\_\_ day of December 2013.

Respectfully submitted,

*/s/ Mark E. Hamilton*

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Mark E. Hamilton, #24585  
Christopher L. Thorne, #20003  
HOLLAND & HART LLP  
ATTORNEYS FOR APPLICANT



VERIFICATION

I, Leo McKinney, Mayor of the City of Glenwood Springs, Colorado, state under oath that I have read this application and verify its content.

\_\_\_\_\_  
Leo McKinney

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF GARFIELD    )

Subscribed and sworn to before me this \_\_\_\_ day of December 2013, by Leo McKinney, as Mayor of the City of Glenwood Springs, Colorado.

WITNESS my hand and official seal.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

*In accordance with C.R.C.P. 121 § 1-26, this document has been electronically filed via ICCES. A printed copy of this document with original signatures is maintained by the filing party and will be made available for inspection by other parties or by the Court upon request.*

**DRAFT**



Wright Water Engineers, Inc.  
 818 Colorado Ave. Suite 307  
 Glenwood Springs, CO 81601  
 P:(970) 945-7755 F:(970) 945-9210

Designed by: HJC  
 Checked by: JMK  
 Date: 12-16-13  
 Project Number: 131-036.000

**City of Glenwood Springs**  
**Recreational In-Channel Diversion Reaches**  
 Township: 6S Range: 89 W. of the 6th P.M.

**EXHIBIT**  
**A**