

## WISSEL'S COLORADO SUPREME COURT CASES – PROTECTING & DEFENDING PARK COUNTY WATER

The first Colorado State Supreme Court case was *South Adams v. Broe*, 812 P.2d 1161 (Colo. 1991). In brief, the case held that the North Fork water rights adjudicated in 1913 would relate back to the date of appropriation as opposed to be postponed to all rights adjudicated in the South Park 1889 adjudication. If postponed to all rights in the 1889 adjudication, effect would have been to make all the North Fork rights junior to numerous water rights below Two Forks. Park County et al won that case at both trial and appeal.

The next three involved SPCUP (South Park Conjunctive Use Project). First was the 96CW13 case appealed to the Colorado Supreme Court, *Park County Sportsmen's Ranch LLP v. Bargas*, 986 P.2d 262 (Colo. 1999) which determined that the Laramie Fox Hill aquifer in South Park was not allocated to overlying landowners by SB5, so PCSR did not have that water to use for augmentation. Second, which went against Park County et al (but in the end turned out fine), was *Park County v. PCSR* 45P.3d 693(Colo. 2002) which determined that you did not need an easement from the overlying landowner for underground storage, unlike surface storage. We believed this was wrong, but was the result that Justice Hobbs wanted. But PCSR and Aurora still lost the third case which was the main case, *Aurora v. State Engineer* 105 P.3d 595 (Colo. 2005). This case and the Supreme Court opinion denied the conjunctive use project on the merits and awarded costs and fees to opposers. The Park County Land & Water Trust Fund recovered \$1.3 million in costs recovery related to these trials.

This is a record of action. David Wissel has become a leader in water issues related to the Upper South Platte Basin along with the portion of Park County located in the Arkansas River Basin. His skills, relationships and knowledge obtained as a volunteer over a 37-year span has directly benefited the residents and citizens of Park County for a total of 43 years.