



Colorado's Instream Flow Program

By Alexa Kelly

The instream flow (ISF) program was created by legislation in 1973, which authorized the Colorado Water Conservation Board (CWCB) to appropriate or acquire water rights of natural streams and lakes to preserve the natural environment without diverting the water. The ISF program recognized the need to balance the environmental benefits that come from maintaining water in a stream within the confines of the prior appropriation system. Since 1973, CWCB has appropriated ISF water rights on close to 1,700 stream segments across more than 9,700 miles of stream, and natural lake level water rights on 480 natural lakes.

ISF Water Rights

In order to create the Colorado Instream Flow Program, Senate Bill 73-097 made key changes to the definitions of “appropriation,” “beneficial use,” and “priority” in state law. The bill established the new ISF and natural lake level rights as in-channel or

in-lake appropriations of water or minimum flows between specific points on a stream or a level in a natural lake that are:

- made exclusively by CWCB;
- preserving the natural environment to a reasonable degree; and
- administered within the state's water rights priority system.

CWCB may acquire water rights by purchase, bequest, donation, lease, exchange, or other contractual agreement. CWCB works closely with the Division of Water Resources to administer the water rights and regularly uses real-time alert systems and stream gauges across the state to monitor flows and lake levels. Table 1 discusses some of the mechanisms that CWCB uses to administer the ISF program.

Table 1
Instream Flow Program Mechanisms

Mechanism	Description
Permanent acquisition	Water rights are permanently donated or sold to CWCB
Short-term leases or loans	Allow for a lessee's water right to be used for an ISF water right for five years in a ten-year period
Long-term leases or loans	Allow for a lessee's water right to be used for an ISF water right for an agreed-upon length of time
Augmentation	CWCB use of an acquired water right that was previously quantified and changed to include augmentation for environmental streamflow benefits
Substitute water supply plan	Short-term acquisition and approval to allow a water right to change to ISF use for up to five years, or while a water court application is pending

Funding

For the first several decades, the ISF program received no funding and CWCB relied solely on donations to administer it. In 2008, the General Assembly established an annual appropriation of \$1 million to the program. In the same year, \$500,000 was appropriated from the Species Conservation Trust Fund to pay for acquisitions of water that were aimed at preserving or improving the natural environment of species that are listed, or at risk of becoming listed, as threatened or endangered in state or federal law.

Partnerships. CWCB often collaborates with other entities to obtain water rights for the ISF program. For example, the [Colorado Water Trust](#) is a nonprofit that aims to restore flows of Colorado's rivers. It often helps CWCB acquire water rights for ISFs.

Water Acquisition Program

To help facilitate the acquisition of ISF water rights, CWCB operates the [Water Acquisition Program](#). This is a voluntary program that allows water rights' owners to donate, sell, lease, or loan their decreed water rights to CWCB on either a permanent or a temporary basis.

Examples of acquired ISFs. Examples of ISFs that CWCB has obtained include:

- a 300 cubic feet per second senior water right on 29 miles of the Gunnison River, which includes the Black Canyon of the Gunnison National Monument, donated by The Nature Conservancy;
- senior water rights in Boulder Creek donated by the City of Boulder; and
- a water right to preserve a gold medal fishery in Summit County purchased and conveyed to CWCB by the Colorado Water Trust.

Program History

Since 1973, the ISF program has gone through substantial changes. Figure 1 outlines some of the key changes that have occurred over the last few decades.

Figure 1
Legislative History of Colorado's Instream Flow Program

