

# Request for Water Acquisitions Pilot Process



COLORADO WATER TRUST



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# Colorado Water Trust

- Colorado non-profit created in 2001 to complement the work of State's ISF Program and to restore flows to rivers in need
- Use voluntary, market-based efforts to accomplish our mission
- Our work is transactional; small staff, no advocacy
- Work within existing water law framework and partner with the Colorado Water Conservation Board for ISF use
- Only non-profit organization solely dedicated to restoring flows to Colorado's rivers in need using market-based transactions



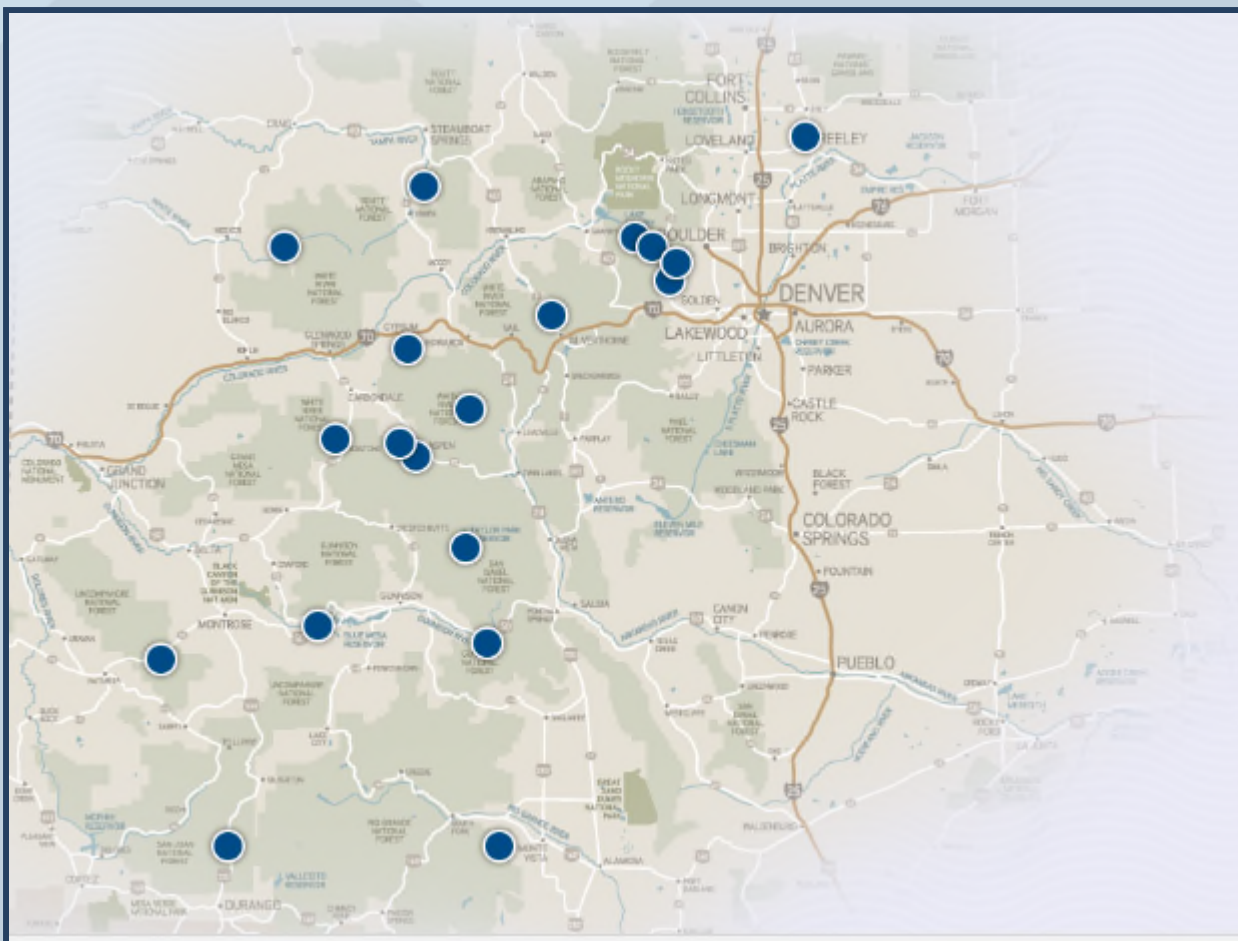
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# Our Work



*Since 2010, the Water Trust has successfully completed 31 projects, adding over 32,000 acre-feet of water to nearly 400 miles of rivers and streams in Colorado.*



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# Our Work

All of our projects are VOLUNTARY  
many are TEMPORARY  
and our projects can provide COMPENSATION

## 2012 - 2013

- First-ever use of the *Temporary Instream Flow Loan* statute authorized in 2003
- Partnered with CWCB to secure 7 *Temporary ISF Loans*
- Developed split season ag/ISF leases

2015 – First-ever approval of a *Water Conservation Program* under new 2013 statute



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# Request for Water Acquisitions Pilot Process



- Flow restoration tools require partnership with Colorado Water Conservation Board for ISF use to protect flows in rivers
- Developed jointly with CWCB to enhance their existing voluntary water acquisition process and to achieve following goals:

# Request for Water Acquisitions Pilot Process

- To **invite voluntary water offers** from willing water rights owners to benefit streamflows
- To **provide a user-friendly mechanism** for water rights owners to explore working with CWCB and the Colorado Water Trust on water transactions
- To **streamline transaction processes** and utilization of resources
- To **facilitate implementation** of Colorado's Water Plan objectives
- To **add flows to river segments in need** while coordinating with agricultural and other uses



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# Request for Water Acquisitions Pilot Process

- Creates a common entry point for water right owners interested in exploring optional, flexible uses for their water rights
- Offers a free, confidential water right review by Water Trust staff to identify whether offered rights can bring meaningful benefits to a stream reach
- Establishes a timeframe to submit inquiries to the Water Trust (by 4/30), and for the Water Trust to respond (by 7/31)

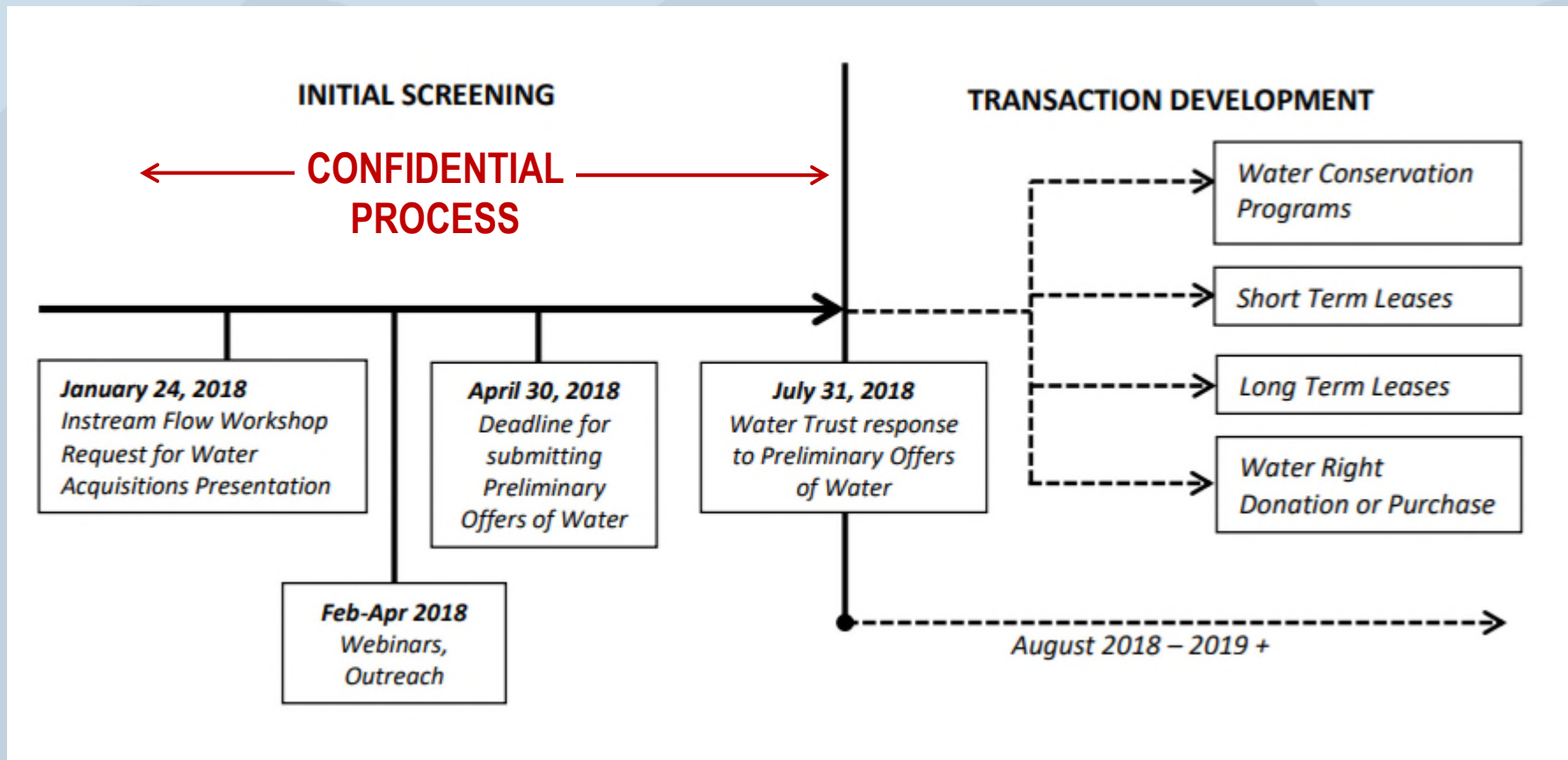


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# Request for Water Acquisitions Pilot Process



**Submitting an inquiry or preliminary offer of water DOES NOT commit water right owners to completing a project with the Water Trust or Water Conservation Board.**



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# Flow Restoration Tools

*These tools can provide opportunities for water right owners to use their rights to sustain streams and fisheries during low flows.*

## Water Conservation Programs

**No ISF Protection, but may  
provide flow benefits  
depending on location of  
downstream rights.**

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## Provide ISF Protection

### Temporary Loans or Leases of Water

### Long Term Leases of Water

### Permanent Acquisitions of Water



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# Flow Restoration Tools

**All tools provide protections for water right owner against diminishment or abandonment of the water right**

**All tools provide opportunities to share water –  
can be full or split season use**

**All tools are flexible – owners have discretion over the  
terms and timing of use**

**May provide compensation to the owner  
for implementation years**



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# Approval Requirements

Transaction Type	Contract Required	Approval by Auth. Entity	Admin. Approval by SEO/DWR	CWCB Expedited Approval	CWCB Board Approval Process	Water Court Approval
Water Conservation Program	<b>Preferred, but not required</b>	<b>Yes – can be an expedited process</b>	No	No	No	No
Temporary Leases/Loans	<b>Yes</b>	No	<b>Yes (20 days)</b>	<b>Yes</b>	<i>(Approval confirmed by Board)</i>	No
Long Term Leases	<b>Yes</b>	No	No	No	<b>Yes (120 days)</b>	<b>Yes</b>
Permanent Acquisitions	<b>Yes</b>	No	No	No	<b>Yes (120 days)</b>	<b>Yes</b>



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# Water Conservation Programs

## *Section 37-92-305(c), CRS (2017)*

- **SB13-19** originally passed in 2013 in response to 2012 drought; expanded to most Water Divisions in 2017 (**HB17-1233**)
- Recognized that some water appropriators *“may wish to reduce their water consumption, in part to ameliorate the effects of drought on low stream flows, but there is a disincentive in current law that penalizes appropriators who decrease their consumptive use of water”*
- Provided *“safe harbor”* for those owners when they participate in authorized Water Conservation Programs



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# Water Conservation Programs

## *Section 37-92-305(c), CRS (2017)*

- Voluntary reduction in use or non-use of water right for up to 5 years in any consecutive 10-year period
- Available in Water Divisions 1-6 (*Not Div 7*)
- Can be approved by water providers, state agencies and other entities as authorized by the statute -- no Water Court approval
- No instream protection for water, but possible flow benefits if used in the right place



**Protections for owner against abandonment or HCU reduction for implementation years**



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# Water Conservation Program Example



## Rio Colorado, Willow Creek

- First approved Water Conservation Program in CO
- Water Conservation Program approved by the Colorado River District
- Owner voluntarily ceases diversion when streamflow drops to 7 cfs; no penalty for not diverting
- Restores flow to 4.8 miles of Willow Creek to its confluence with the Colorado River
- 638 acre-feet restored in 2016



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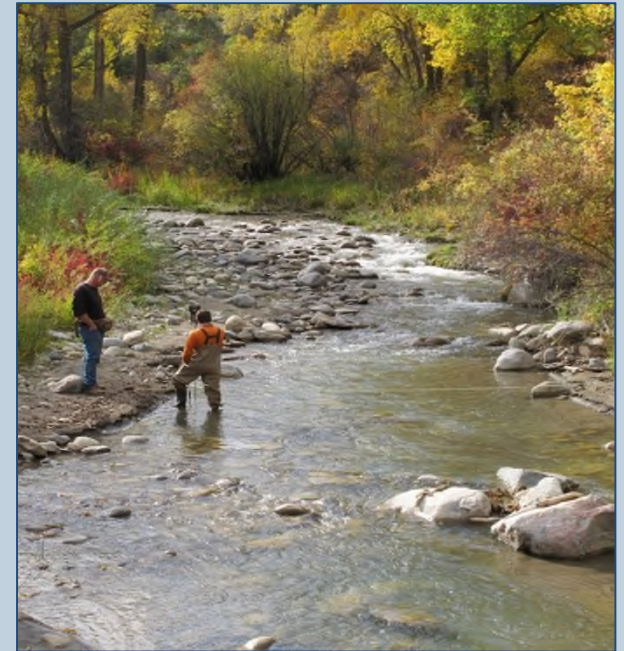
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# Temporary Loans / Leases of Water for ISF Use

**Section 37-83-105, C.R.S**  
**(HB 03-1320, HB 07-1012).**

- Allows water right owners to temporarily loan their water right to CWCB for ISF use
- Can be used up to 3 years in a 10 year period; for up to 120 days in a calendar year; non-renewable
- Can be used on any stream where CWCB already holds a decreed ISF right
- Amount used by CWCB cannot exceed the amount decreed to the underlying ISF right
- Administrative approval by DWR within 20 days



**Protections for owner against abandonment or HCU reduction in years when used for ISF**



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# Temporary ISF Loan Example

## Coats Bros Ditch, Tomichi Creek

- Maintain agricultural use (*165 acres of irrigated hay and pasture*) while providing water to restore flow to Tomichi Creek
- 3/10 Temporary, Split Season Lease. Irrigation through July 1 or August 1, followed by ISF use
- Water Trust, CWCB identify annual need for water – owner decides annual and seasonal implementation
- Approved in 2015, first implemented in July 2018, can restore up to 1.85 cfs



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# Temporary ISF Loan Example



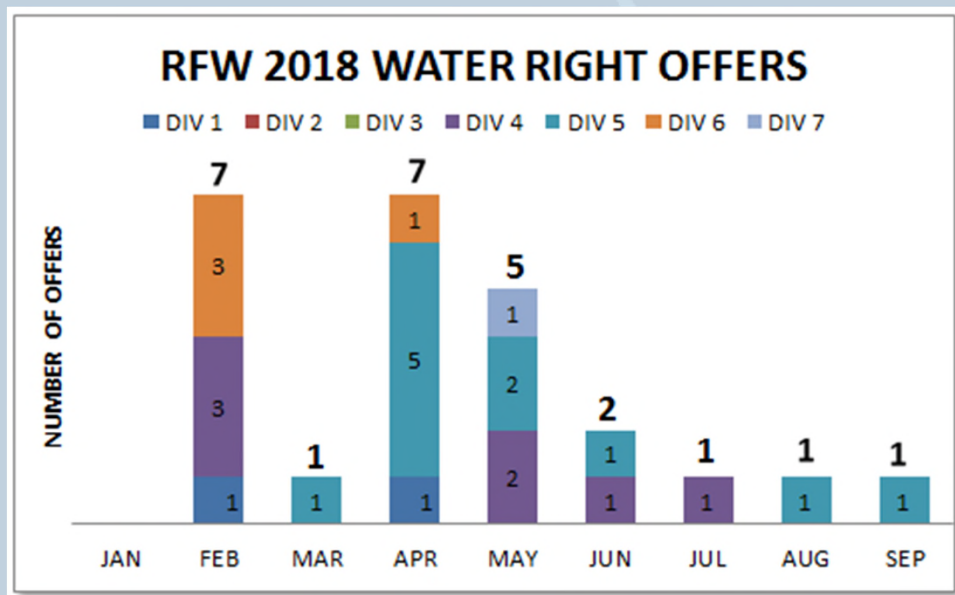
## Stagecoach Reservoir, Yampa River

- First ever use of short-term instream flow lease, 2012 drought
- Water Trust purchased storage water from Upper Yampa WCD
- Up to 26 cfs released; lowered water temps in town and allowed Yampa to re-open to recreational use for July 4<sup>th</sup> holiday
- Subsequent, non-consumptive municipal use by Steamboat and for industrial use by Tri-State
- 3-in-10 years, and used 2012, 2013, 2017



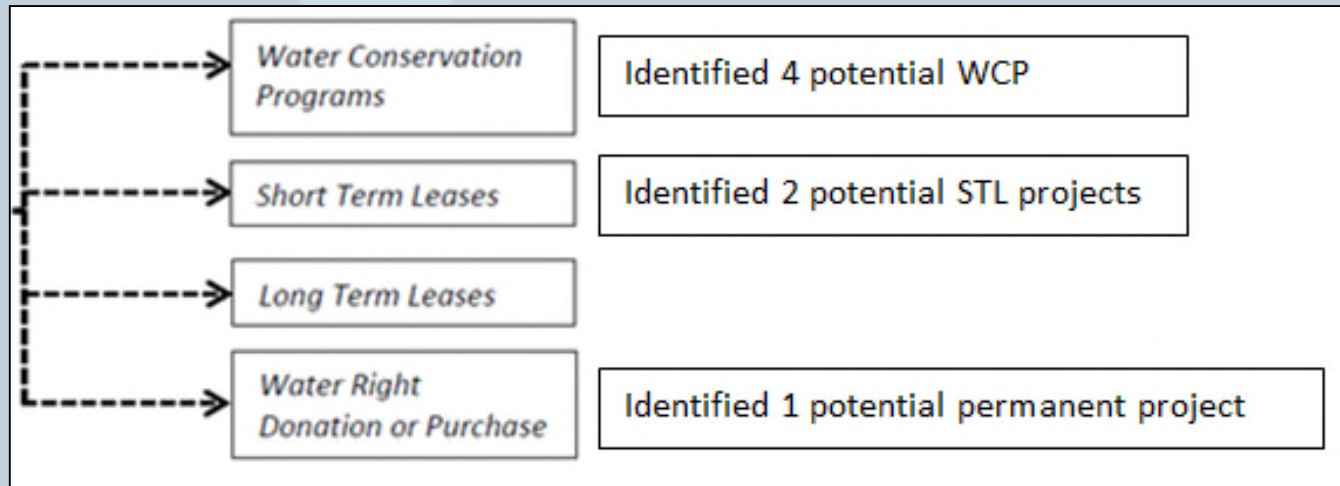
# Re-Cap of 2018 Pilot Process

- 25 water rights offered by 21 separate entities – Individuals, state/federal government, corporations/large ditch companies
- Offers received from 5 Water Divisions (nothing from D2, D3)
- Decreed uses – mostly ag water, some industrial use, some municipal use and some augmentation water



- 9 water rights not good fit
- 15 water rights - additional investigations
- 1 project implemented – *Water Conservation Program approved by River District*

# Re-Cap of 2018 Pilot Process



- Severity of the drought added a layer of complexity to the process this year
- Some streams simply had no water
- Some limitations in the tools due to geography or location of ISF water rights



# Questions?



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