

Upper Green filing was a long time coming

An up-close look at Wyoming's instream flow water rights and what they mean to anglers

On December 23, 1969, Wyoming Outdoor Coordinating Council founder Tom Bell, in partnership with six other inspired citizens; the Isaac Walton League; and the Wyoming Wildlife Federation submitted the very first instream flow water right application. Of all the great rivers in Wyoming, they chose a section of the upper Green River near Pinedale for this important distinction. The people and groups who submitted this application quite certainly knew their action would create a stir and considerable debate, but they may have had little idea of the ripples their bold step would have in the state even today, some 40 years hence.

State Engineer Floyd Bishop had the responsibility of acting on the Green River flow recommendations, and on March 13, 1971, he issued his determination that Wyoming water law at the time did not allow him the legal authority to issue the water right. His denial was based on four key points including that: 1) instream flow water rights would be of such value to the state that they should be held by all the people of Wyoming as vested in the state and not a handful of individuals; 2) that there was no evidence contained in the application to support the amount of water requested; 3) that there was no diversion or storage proposed (e.g., there was no way to show the water had been controlled by the applicants); and 4) it would be impossible to know if the water right were ever abandoned, which was another key characteristic of water rights at the time.

Mr. Bishop suggested that the applicants seek resolution of these issues in the legislature, which they ultimately did. The League of Women Voters embraced the concept of instream flows in a Wild, Scenic and Recreational Rivers seminar in 1972 that led to the formation of a Stream Preservation Feasibility Committee that included Mr. Bishop. Their final report was issued in 1974 and contained model instream flow legislation that was first acted on, and failed, in 1975, as did every other attempt at instream flow legislation until 1986. Finally, with legal authority in hand, the Wyoming Game and Fish Department filed another instream flow water right on the upper Green on January 10, 1989, on behalf of all the people of Wyoming. The result of



The very first instream flow water right filed in the state was submitted by a group of individuals back in 1969 for a portion of the Upper Green River near Pinedale. That application was denied, and it wasn't until 1989 that a successful application was finally made for this part of the Green. The fabulous scenery and fishing make this segment a logical candidate to protect flows for fisheries to benefit present and future generations of anglers. *Photo by Tom Annear*

that filing was every bit as important as the first filing but considerably less dramatic.

The Fishery

The Green River instream flow segment is one of the most heavily used sections of the Green from its headwaters all the way to Flaming Gorge Reservoir. Thousands of anglers visit the stream every year in pursuit of world-class fishing and scenery. Brown trout far outnumber any other trout species in that area, though rainbow trout can be found on occasion. Cutthroat and brook trout are also present but in extremely low numbers. According to the most recent department surveys on this part of the Green, the average brown was around 10.5 inches long, but anglers commonly catch trout in excess of 22 inches. Mountain whitefish can also be found throughout the instream flow

segment, along with native mottled sculpins, speckled dace and mountain suckers.

Just upstream from the instream flow segment, the department installed numerous man-made logjams that are magnets for lunker brown trout and complement the great fishing within the instream flow reach.

Historically, the department stocked this part of the river heavily with rainbow trout, but that practice has been greatly reduced.

Today the department only stocks about 12,500 rainbows per year. The response of the wild trout fishery has been phenomenal and seems to justify the change in management strategy here.

Area 4 flowing-water fishery regulations apply here. For those anglers who wish to harvest trout, that means there's a limit of three trout per day or in

possession. Only one can be more than 16 inches long, and only one may be a cutthroat trout.

How to get there

Drive about 11 miles west from Pinedale on U.S. Highway 191 to the junction with U.S. Highway 189 near Daniel. Then continue on another 10 miles or so north toward Jackson until the road crosses the Green River. Immediately on the north side of the river, take the good gravel road to the right (back to the east). This road parallels the river for several miles, and there are numerous places you can drive or hike down to test the fishing. Though many of the two-track roads down to the river are passable by a passenger car (when the weather's good), you may find a high-clearance vehicle a good choice in some places. The instream flow segment is entirely on public land, so no permission is needed.

The Instream Flow

Permit Number: Permit Number 6 IF.

Priority Date: January 10, 1989.

Location and length: The instream flow segment begins just upstream from Warren Bridge (Highway 191) west of Pinedale and extends 9.8 river miles upstream.

Land ownership: The entire segment is located on lands administered by the U.S. Bureau of Land Management or the State of Wyoming.

Rationale: The entire Green River, and especially the segment upstream from Warren Bridge, is one of the most spectacular and productive river

fisheries in the state, so filing an instream flow water right to maintain this fishery was considered in the public interest. Field studies were conducted to identify the amount of flow needed to protect habitat for all life stages of rainbow trout in this segment of the Green River. Rainbow trout spawn in the spring, and juvenile trout of all species (any trout smaller than about 6 inches long) are present in the river throughout the year, so appropriate flows were recommended to maintain habitat for these life stages and species during the critical spring runoff period. The flows recommended

from July 1 through September were based on studies that showed that amount of water was needed to maintain habitat for trout growth. Flow recommendations were also provided for the winter period to maintain survival of trout and other fish species during that time of year. This kind of seasonally dynamic flow recommendation is typical of flow needs for most streams in the state.

Status of the filing: The state engineer issued this instream flow right on January 7, 1992. The Board of Control has not yet adjudicated this water right.

To get more information about instream flow, visit the Wyoming Game and Fish Department's Web site at <http://gf.state.wy.us/fish/instreamflow>