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. Bell. 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 right on January 7, 1992. The Board of Control has not yet adjudicated this water right.

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.

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