

X-Stream Fishing ... on Pine Creek

An up-close look at Wyoming's Instream Flow Water Rights and what they mean to fishermen

THE SETTING

It's been over two decades since the Wyoming legislature passed a law that recognized leaving water in the stream for fish is a legal beneficial use of water. To some, such an action seems like a no-brainer. To others the notion that water could provide a beneficial use of real value without being taken out of its natural state was simply wrong. Before any proposed instream flow water right can be approved by the State Engineer, the public is given the opportunity to appear at a public hearing to voice their views on each proposal. Needless to say, some of these gatherings have been more controversial than others. A proposal to allow instream flows in Pine Creek through Pinedale generated one of the more highly energized hearings.

"Approving this water right will make Pinedale look like a desert," some said. "Leaving water in the stream and scaling back on irrigation will make the wells around town go dry when groundwater isn't recharged by irrigation," said others. In contrast, others spoke of the positive benefits that better flows through Pine Creek would have on tourism-related businesses, property values and recreational opportunities for kids. Game and Fish Department personnel illustrated the value of using storage water the Game and Fish Commission owns in Fremont Lake for instream flow when extra water was needed to keep Pine Creek fish alive – something they couldn't do without a formal instream flow right.

After considering all the input at the hearing, reviewing detailed reports by the Game and Fish Department and Wyoming Water Development Office and addressing the state's water laws, the State Engineer approved the proposed instream flow water right. So far, Pinedale doesn't look much more like a desert than it ever has and groundwater levels have not diminished. However, the trout fishery has never been more robust and kids (and others) have had some of the best fishing opportunities ever.

THE FISHERY

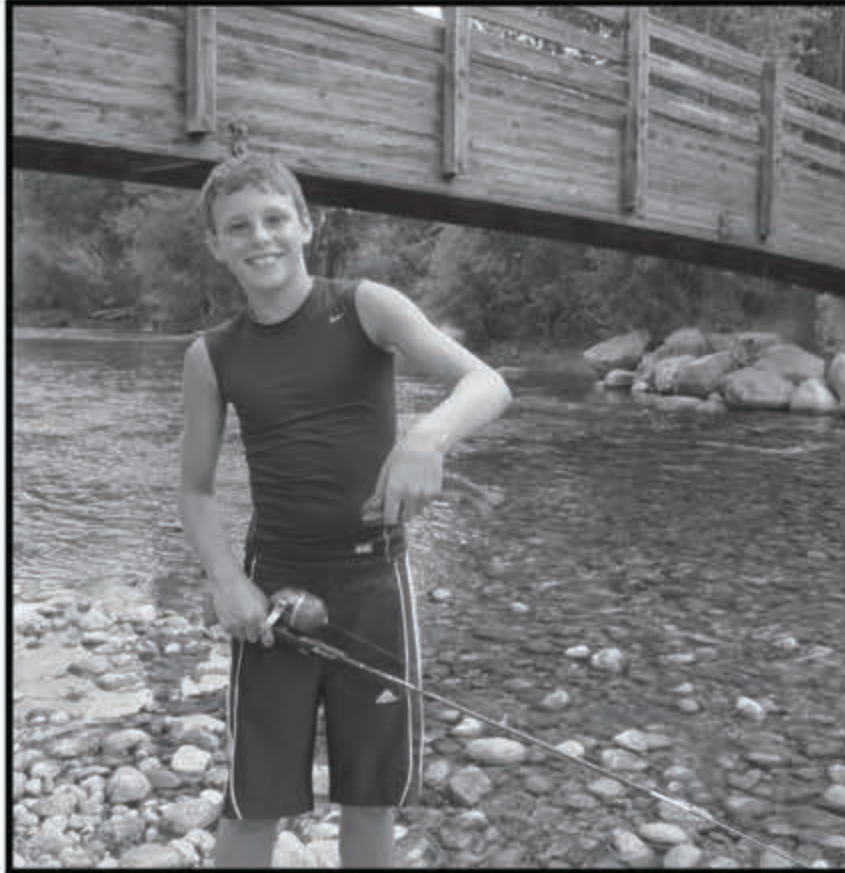
Prior to 2002, flow in Pine Creek through Pinedale was commonly reduced to a trickle in late summer when most of the flow was diverted through large irrigation diversions above town. Likewise, winter flows were often much lower than natural flow levels because irrigators stored most of the flow in Fremont Lake. The fishery through Pinedale consisted primarily of catchable-size rainbow trout that were stocked by the Game and Fish Department. Brown trout from the New Fork River occasionally moved upstream to spawn after irrigation season ended in mid-October, but because of low flows at that time of year, few of the eggs they laid hatched and made it to adulthood.

After the department filed instream flow water right applications for the river, the water interests on Pine Creek actually came together to provide better flows throughout the year. Irrigators, the town of Pinedale and the state Board of Control deserve a lot of credit for working in concert with the new state instream flow water rights to help achieve a better flow regime.

The department still stocks about 1,000 catchable rainbow trout each year in the city park, but with the improved flow regime throughout the year biologists

documented a tremendous increase in wild rainbow and brown trout populations in a 2009 study. Wild brown trout numbers increased from just under 1,000 fish per mile to over 3,700 per mile. Rainbow trout populations increased even more dramatically. Browns up to 20 inches were observed in the 2009 study and most rainbows were about 12 inches long. With the return of better flow at all times of year, the local Trout Unlimited chapter invested a major effort to improve fish passage past irrigation diversions on the stream. There's no better example of the critical importance of instream flows for maintaining or restoring populations of trout for public benefit.

This entire stream is covered by Area 4 fishing regulations. There is a limit of three trout per day or in possession, only one trout can exceed 16 inches, and no more than one cutthroat trout may exceed 12 inches. There are no special restrictions on the kind of tackle or bait that can be used other than as provided by general statewide regulations.



HOW TO GET THERE

The best public access to this stream is found right in the town of Pinedale. The stream flows under State Highway 191 just north of the business district in town. The city parks located immediately upstream and a short distance downstream from the bridge offer good opportunities to fish or just enjoy foot paths along this scenic stream and relaxing riparian environment.

For more information about instream flow and other instream flow segments, visit the Department's web page on the subject at: <http://gf.state.wy.us/fish/instreamflow/index.asp>.

The Instream Flow

Permit Number: Permit Numbers IF 33 (from storage in Fremont Lake) and IF 34 (from direct stream flow).

Priority Date: September 15, 1931 and November 20, 1931 (storage rights) and June 4, 2002 (direct stream flow).

Quantity: The permit was granted for 20 cfs in December, January, February and March; 26 cfs in April; 0 cfs in May; 40 cfs in June and July; 0 cfs in August and September; 40 cfs in October; and 32 cfs in November.

Location and length: 8.2 miles from the base of Fremont Lake Dam to the confluence with the New Fork River.

Land ownership: There are short stretches of lands administered by the U. S. Forest Service immediately below the dam and Bureau of Land Management approximately one mile downstream of the dam. These two sections of public land are divided by a short section of private lands. There is also public access in two city parks in Pinedale. Boyd Skinner Park is located a short distance downstream from the State Highway 191 bridge and American Legion Park is located immediately upstream from the bridge. The majority of land bordering the instream flow segment is privately owned. It is always a good idea to check a land ownership map to learn the status of the lands where you'd like to fish.

Rationale: Managing the Pine Creek fishery has long been a high priority for the department by virtue of its location and appeal to resident and tourist anglers alike. However, the impetus to determine instream flow needs and pursue an instream flow water right came from a request by the city of Pinedale and then-mayor Rose Skinner. Mayor Skinner promoted the widely held sentiment in the community that a healthy river and viable stream fishery through town would benefit

everyone without harming any other water users. The town's motives included a desire to stimulate tourism-related businesses, enhance property values, provide better fishing opportunities, and generally improve the quality of life for citizens of the community. They simply lacked a legal mechanism to keep enough water in the stream at all times of the year.

Though the town had a large quantity of water storage in Fremont Lake that could have been used to provide needed flows, state law prevents them from using it for instream flow. Only the state can hold the needed instream flow water right and call for water when it is needed. The department acted in response to Mayor Skinner's request to help restore flows because we agreed that the benefits envisioned by the town were justified and achievable with our help.

A slight modification in state water law would allow Pinedale to use some of their own storage water in Fremont Lake on a temporary basis to address this important value and improve the fishery even more. There have been unsuccessful efforts by various individuals and legislators in recent years to pass legislation that would make it possible for Pinedale and other communities and individual water right owners to realize fishery benefits like those in Pine Creek.

Status of the filing: Two public hearings were held in Pinedale after it was learned that the first hearing may not have been properly advertised. The first hearing was held on August 15, 2002 and the second was held on December 19, 2002. Both hearings were well-attended. The State Engineer approved the instream flow water right permits on December 10, 2003 in compliance with all legal and regulatory requirements.