I ssuing water rights for instream flow tends to raise all sorts of questions for people who may not be familiar with the legitimate use of water for maintaining fisheries for public benefit. One of the concerns that’s been around since the earliest discussions of instream flow rights has been the risk that allowing such uses of water might somehow prevent people in the state from using all the water the state is entitled to use under its compact with Idaho. As a result, this instream flow water right—one that’s left unprotected by the instream flow law—remains on hold for 16 years pending a formal ruling by the State Engineer as to whether the application was consistent with the rule it issued.

Engineer could conduct a study.

HDR, a global engineering company, completed its detailed study in June 2012. It concluded that future water uses in the Salt River drainage will remain about the same or decline from present amounts. The report also found that, even if the instream flow right is approved, there is still a large amount of water available for future development. More importantly, the report noted that approval of the instream flow right will not, by itself, increase the amount of water leaving the state or affect the state’s ability to fully use all the water allowed under its compact with Idaho. As a result, the application was delayed until the State Engineer could make a final decision.

There are numerous public access areas to the Salt River but one of the best ways to fish the river is by floating from one access area to another. The State Engineer’s Office held a public hearing in Afton on April 29, 1997. The permit has remained on hold for 16 years pending a formal ruling by the State Engineer as to whether the application was consistent with the requirement that such filings cannot limit the state’s ability to consumptively use all the water to which the state is entitled under the interstate compact with Idaho. Now that the assessment is complete, the State Engineer will decide whether to approve the application, reject it, or approve it with modifications.

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