

A scenic view of a river flowing through a dense forest of evergreen trees, with mountains in the background. The river is in the foreground, surrounded by lush greenery and tall trees. The background shows a range of mountains under a clear sky.

# 2012 Instream Flow Workshop

**Colorado Water Conservation Board  
Stream and Lake Protection Section**

# ISF Program Staff

Linda Bassi  
Section Chief

Policy, Program & Staff Management

Jeff Baessler  
Deputy Section Chief  
Hydrologist

Appropriations, Physical Protection,  
Section Finances & Planning

Kaylea White  
Senior Water Resource Specialist

Acquisitions and Legal Protection

Rob Viehl  
Water Resource Specialist

Appropriations &  
Legal Protection Analyses

Don West  
Engineer

Engineering Analysis,  
Acquisition Support

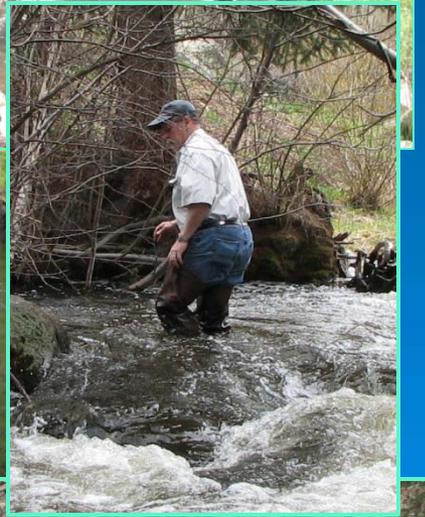
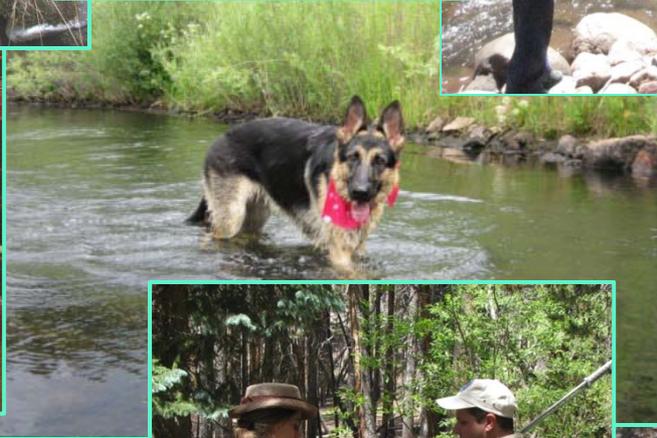
Owen Williams  
Hydrologist

Appropriations &  
Physical Protection Analyses

Brian Epstein  
Hydrologist \ Hydrographer

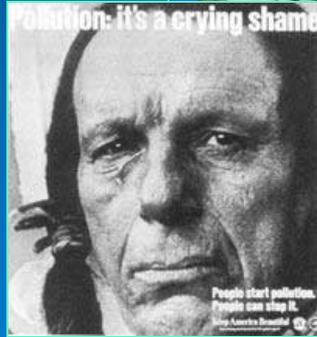
Physical Protection & Monitoring

Kim Ricotta / Amy Beres  
Paralegal





# ISF Program History and Overview



1970

- Twenty million people celebrate the first Earth Day.
- President Nixon creates EPA
- Congress amends the Clean Air Act to set national air quality, auto emission, and anti-pollution standards.

1972

- EPA bans DDT, a cancer-causing pesticide, and requires extensive review of all pesticides.
- Congress passes the Clean Water Act, limiting raw sewage and other pollutants flowing into rivers, lakes, and streams.

*In 1972, only 36 percent of the nation's assessed stream miles were safe for uses such as fishing and swimming*

1973

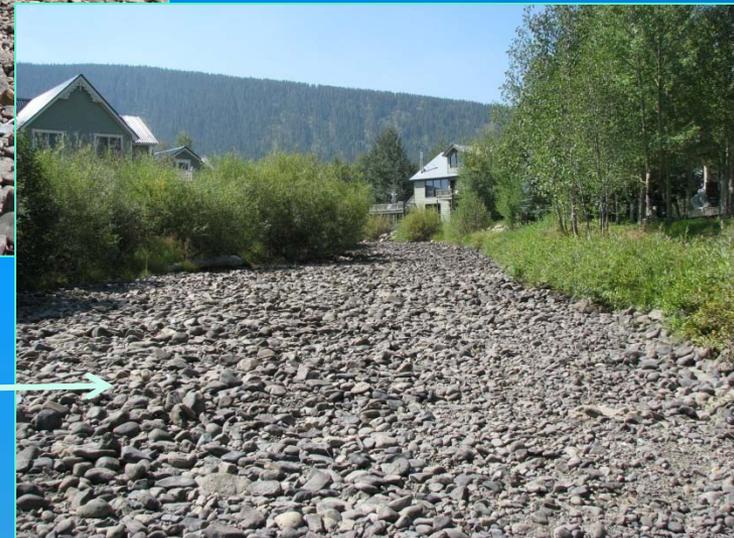
- Passage of the Endangered Species Act

1973

- Public concern over dry stream reaches and no mechanism within the prior appropriation (first in time – first in right) system to keep water within a stream for environmental preservation.

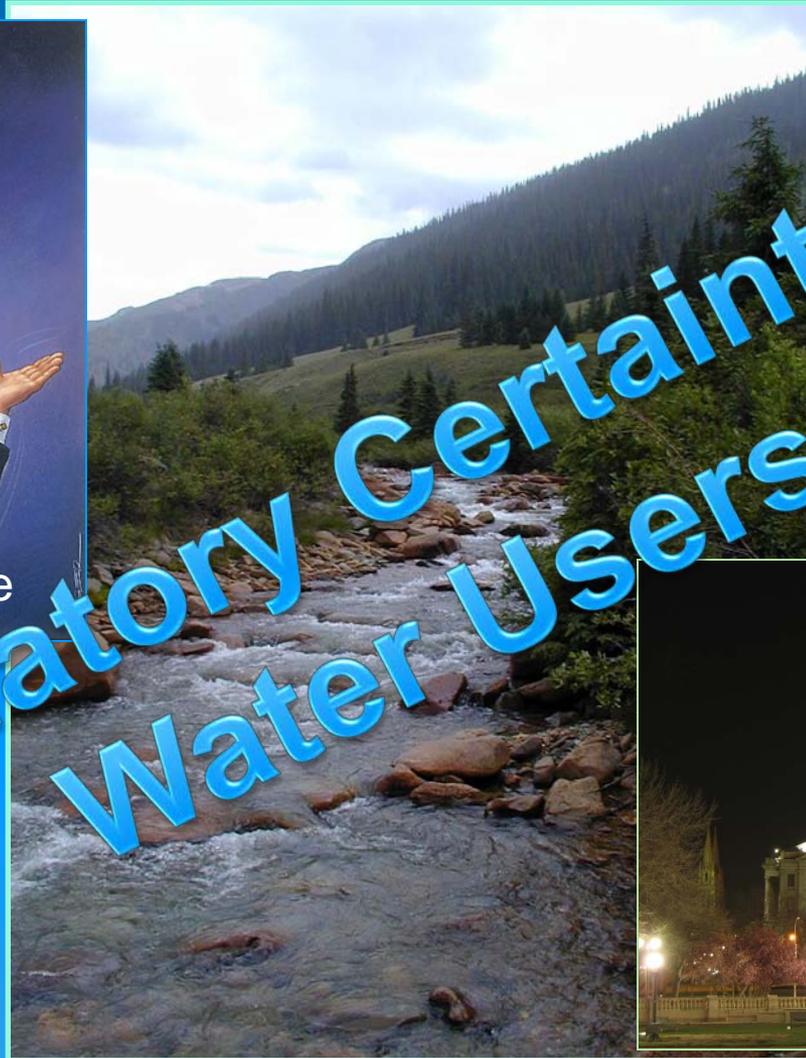


McCormick Ditch



Coal Creek near Crested Butte Colorado

# What did the Colorado Legislature believe was the answer to environmental water issues in 1973?

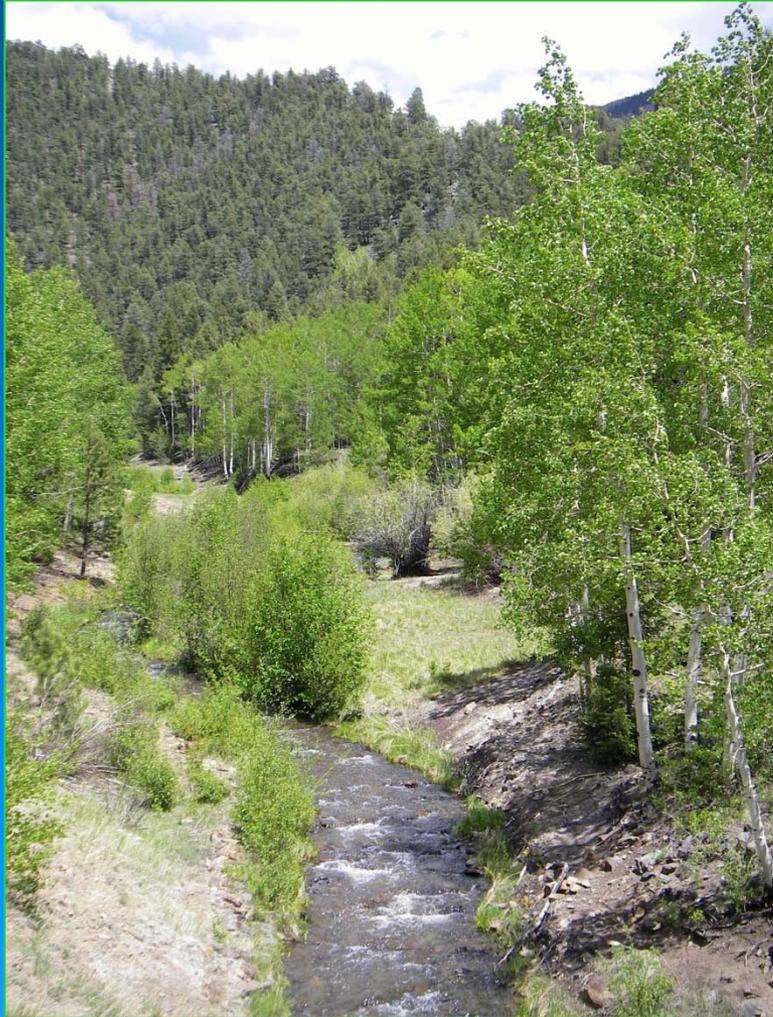


Regulatory Certainty for  
Water Users



North Fork Mineral Creek

# In 1973, the Colorado Legislature created the Instream Flow Program with the passage of Senate Bill 97:



*“Further recognizing the need to correlate the activities of mankind with some reasonable preservation of the natural environment, the Colorado Water Conservation Board is hereby vested with the authority, on behalf of the people of the state of Colorado, to appropriate or acquire... such waters of natural streams and lakes as may be required to preserve the natural environment to a reasonable degree.”*

It's a taking by the  
Government!

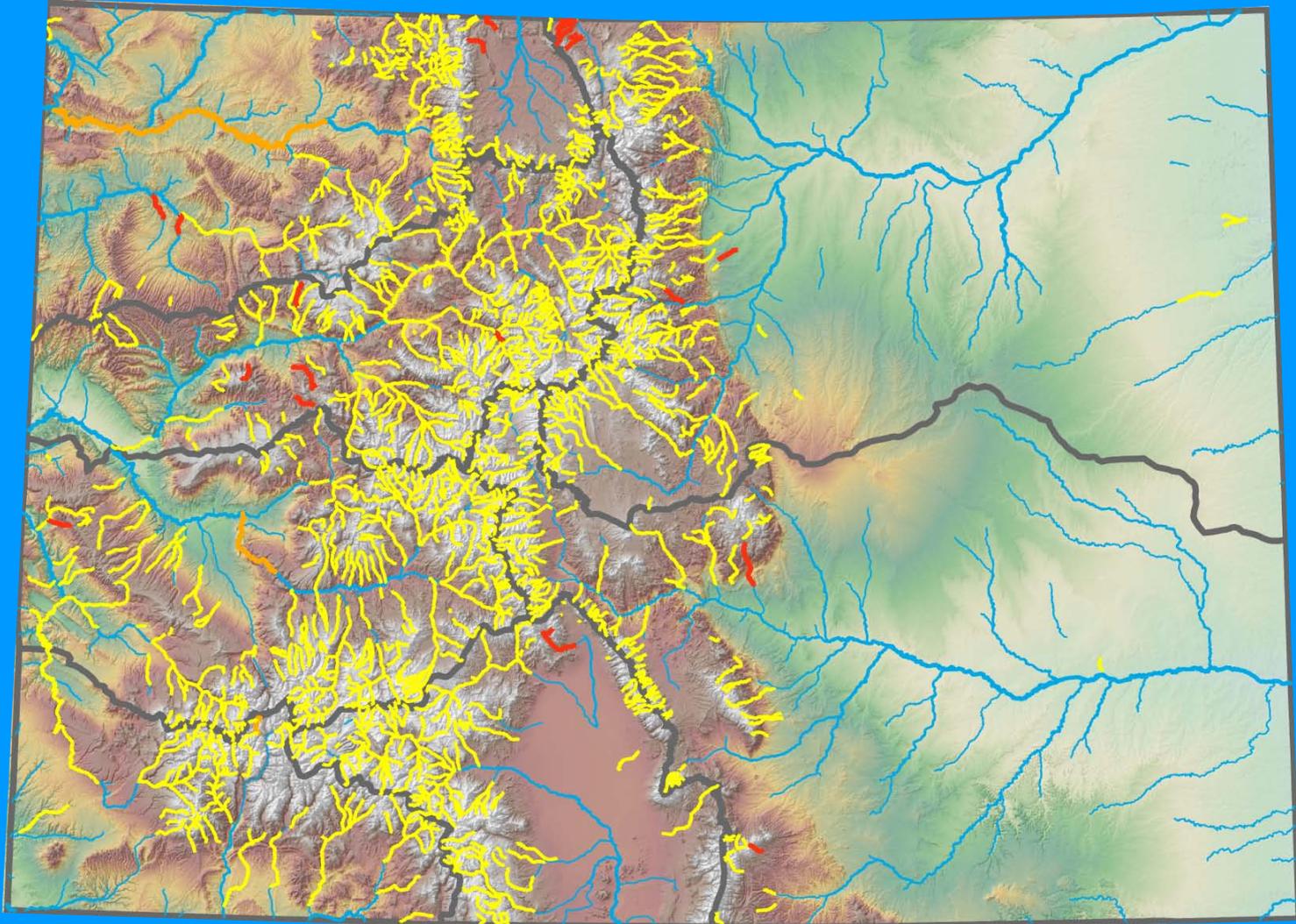
It's not enough water  
for true preservation



There will be no  
water left for water  
users !

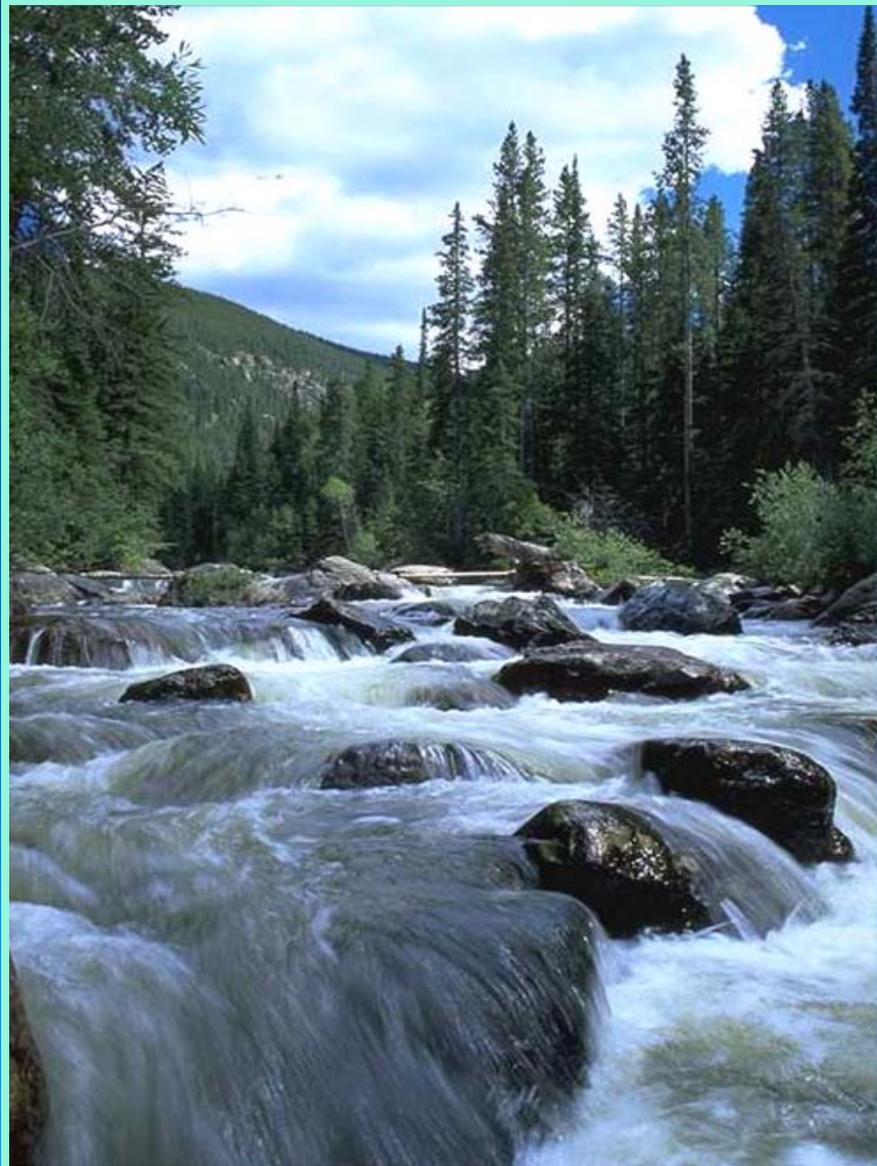
The program is biased  
toward water  
development

# Distribution of Existing ISF Water Rights in Colorado



Yellow lines represent streams with decreed ISF rights

# An Instream Flow or Natural Lake Level Water Right is:



- An “in-channel” or “in-lake” appropriation of water
- Made exclusively by the Colorado Water Conservation Board
- To preserve the natural environment to a reasonable degree
- For “minimum flows” between specific points on a stream, or “levels” on natural lakes
- Administered within the State’s water right priority system

# Since 1973, the Board has

## Appropriated

Instream flow water rights on

- over 1500 stream segments,
- covering 9005 miles of stream,
  - and 480 natural lakes

## Acquired

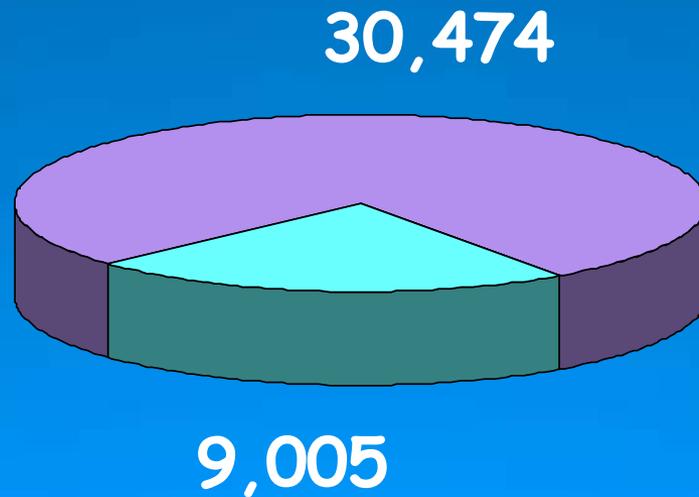
Over 21 water right donations  
or long-term contracts for  
water totaling

398.91 cfs

and

8,651.7 AF

# Miles of Stream Protected by ISF Rights in Colorado



**Note:** 39, 479 miles of perennial streams in the state based upon the National Hydrography Dataset

# New Appropriations



Stuck Creek

# New Appropriation Process

Any person or entity may recommend streams or lakes to be considered for appropriation to **preserve** the natural environment.

ISF Workshop held each February to present recommendations.

## Recommenders

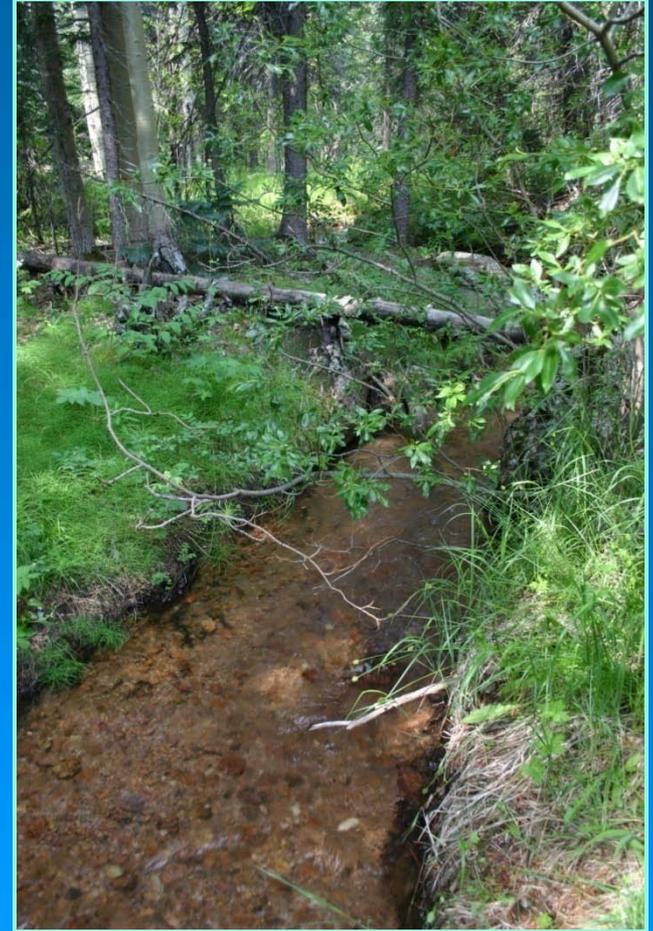
- collect data
- quantify flow requirements using R2Cross or other standard methodology – usually cold water fishery standard, but not limited
- submit recommendations to CWCB at February workshop— must be submitted ***in writing*** and ***with specificity***.



# New Appropriation Process

## CWCB staff

- Informs CWCB of recommendations at March Board meeting & provides public notice (March & November)
- Prioritizes and analyzes each recommendation
- Performs site visits and collects additional data
- Performs water availability analyses
- Holds public meetings to get stakeholder input on recommendations
- Consults with DWR
- Brings recommendations to CWCB for appropriation – *typically at the Board's January Meeting.*

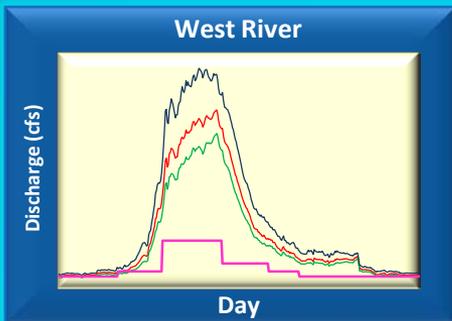


# Statutory Requirements



## A natural environment exists

- typically identified by the presence of a coldwater fishery, but other indicators can be used



## The natural environment will be preserved by the water available for the appropriation

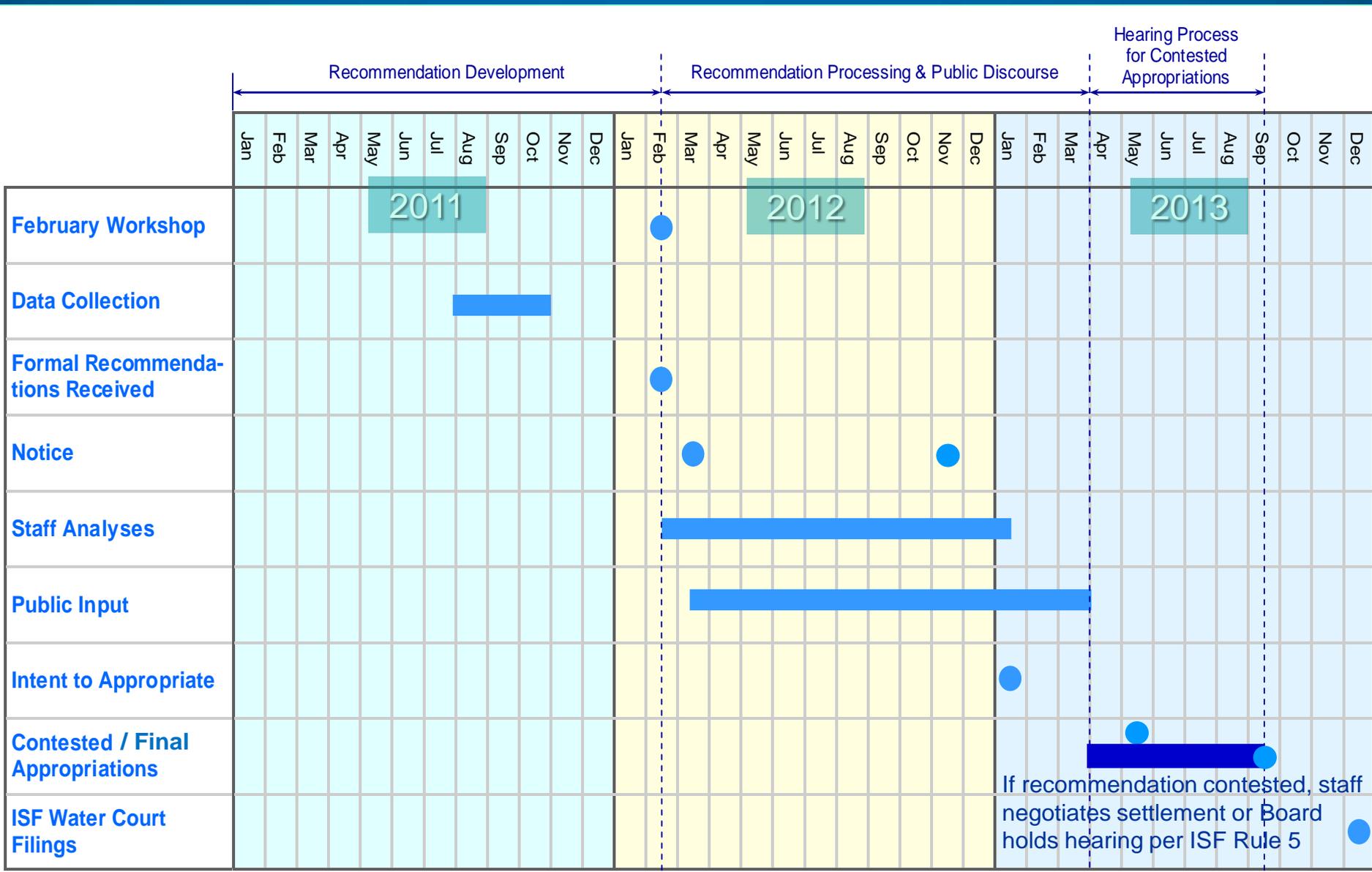
- determined by water right and hydrologic investigations performed by staff experts



## No material injury to other water rights will occur

- new appropriations are junior water rights which have no effect on existing senior appropriations
- 37-92-102(3) b. Recognition of un-decreed uses and exchanges

# New Appropriation Processing Timeline



If recommendation contested, staff negotiates settlement or Board holds hearing per ISF Rule 5

# Prioritization of Candidate Streams

## Factors that influence the prioritization of candidate streams

- Staff workload
- Staff resources (budget & FTE resources)
- Board priorities and direction to staff
- Streams with threatened or endangered species
- Stakeholder concerns (extended time for discourse based on specific issues that require additional staff investigation)
- Need for additional data collection
- Need for additional water availability analyses or modeling.

**Some factors may result in a delay in the normal 1 year processing of recommendations.**

**Recommendations stay on the candidate list until all issues are addressed and staff moves the recommendation for Board action.**

# Web Site updates on Recommended Streams

<http://cwcb.state.co.us/environment/instream-flow-program/Pages/InstreamFlowAppropriations.aspx>

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## Environment

- Instream Flow Program
- Instream Flow Appropriations**
- Water Acquisitions
- Monitoring & Enforcement
- Climate Change
- Watershed Protection & Restoration
- Nonconsumptive Needs
- Endangered Species
- Recreational In-Channel Diversions
- Salinity Control

### Instream Flow Appropriations

The CWCB appropriates water rights to preserve the natural environment of streams and lakes in the state. After receiving detailed recommendations for instream flow (ISF) water rights from state and federal agencies, conservation groups and members of the public, the CWCB reviews and processes the recommendations in accordance with the Board's ISF Rules.

The CWCB performs detailed hydrological analyses to ensure that all recommendations meet the statutory requirements for an ISF appropriation. The CWCB notifies and involves the public throughout the ISF appropriation process.

#### Recommendation Process

Each February, the CWCB holds a workshop to request recommendations for streams and lakes to be protected. The workshop is open to the public and notice is provided through this Website and the ISF Subscription Mailing List. Any person or entity may submit recommendations; however, such recommendations need to be provided to staff in writing and with specificity (for guidance, please use the Recommendation Questionnaire). All recommendations are processed in accordance with the ISF Rules and Statutes, as well as the timeline and procedures.

#### Proposed and Contested Appropriations

Technical information for current recommendations is presented to



#### Recommended Appropriations

Click on the links below for more information about that year's recommended appropriations:

- 2012 Proposed ISF Appropriations
- 2011 Proposed ISF Appropriations
- 2011 Contested ISF Appropriations

#### Additional Information

- ISF Rules
- ISF Statutes
- Recommendation Questionnaire

# Questions ?



“...to correlate the activities of mankind with some reasonable preservation of the natural environment...”