



Colorado's Instream Flow and Natural Lake Level Program

Tools for Protecting Stream Flows

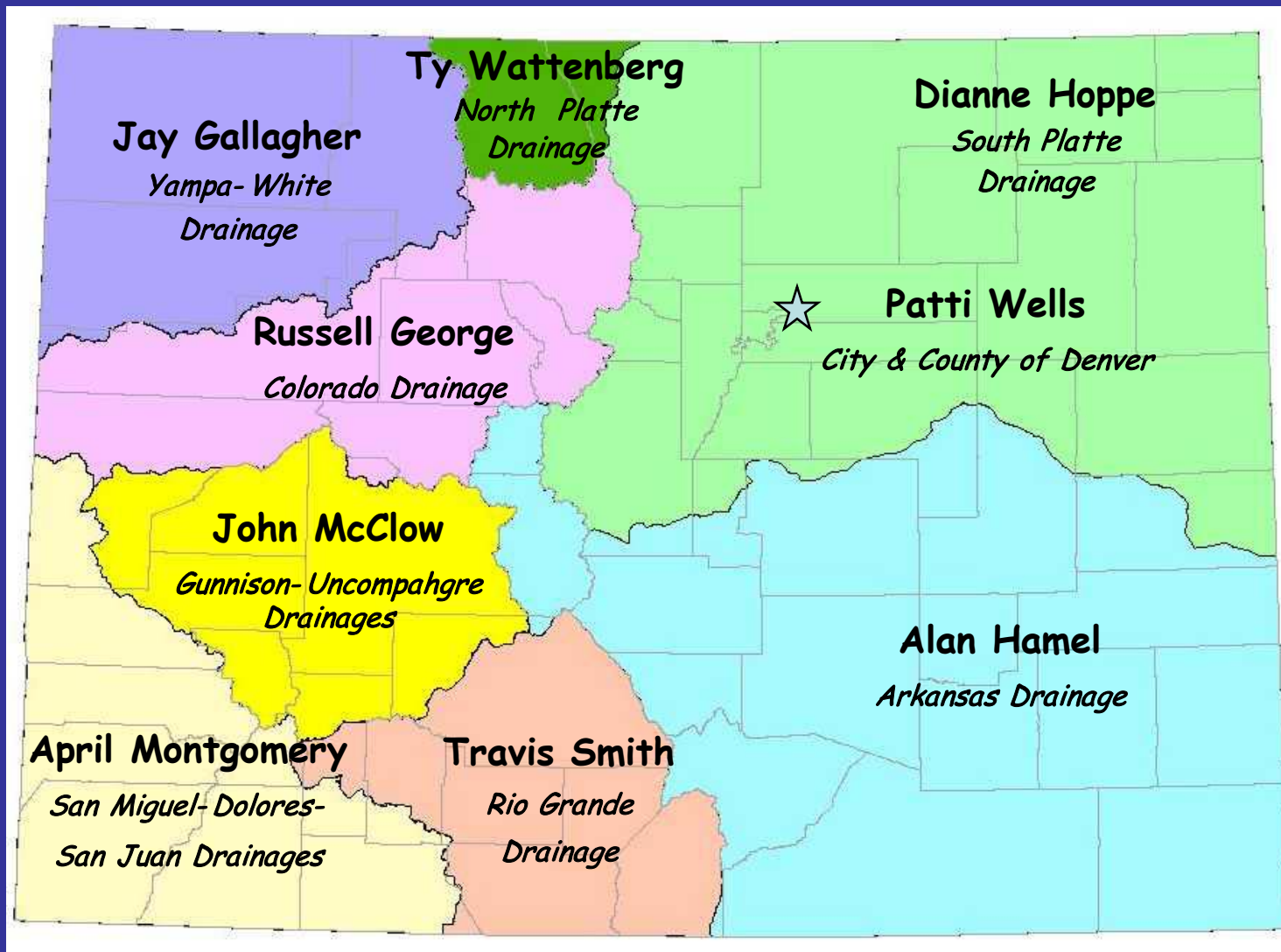
*The Poudre Runs Through It
Study/Action Work Group*

April 5, 2013 Fort Collins, CO

Linda Bassi

Stream and Lake Protection Section
Colorado Water Conservation Board

Colorado Water Conservation Board



Ex-Officio Members:

Mike King, DNR Director (*voting*) -- **John Suthers**, AG (*non-voting*) -- **Dick Wolfe**, State Engineer (*non-voting*)

John Salazar, DOA Director (*non-voting*) -- **Rick Cables**, CPW Director (*non-voting*) -- **Jennifer Gimbel**, CWCB Director (*non-voting*)

What are instream flow water rights?

- In-channel water rights
- For minimum flows between specific points on a stream
- To preserve the natural environment to a reasonable degree
- Held exclusively by CWCB
- Administered within the State's water right priority system
- Obtained by appropriation or acquisition

Two ways CWCB obtains ISF water rights

New Appropriations

- Appropriate and adjudicate a new (junior) ISF water right for the **minimum** required to **preserve** the natural environment to a reasonable degree

Water Acquisitions

- Acquire existing water rights and change to ISF use **in amounts CWCB determines appropriate** to **preserve or improve** the natural environment to a reasonable degree

Aspects of natural environment protected by ISFs

- Fisheries – cold water, warm water (most ISFs)
- Waterfowl habitat (Gageby Creek in Arkansas Basin)
- Unique glacial ponds and habitat for salamanders (Mexican Cut Ponds at RMBL in Gunnison Basin and Galena Lake)
- Bird species (black swifts), riparian vegetation, unique hydrologic and geologic features (Hanging Lake and Deadhorse Creek, Dominguez Canyons)
- Aquatic macroinvertebrates (Horsefly Creek in San Miguel Basin and other ISFs)

ISF Water Rights on the Cache La Poudre River

North Fork Poudre River

Cache La Poudre River

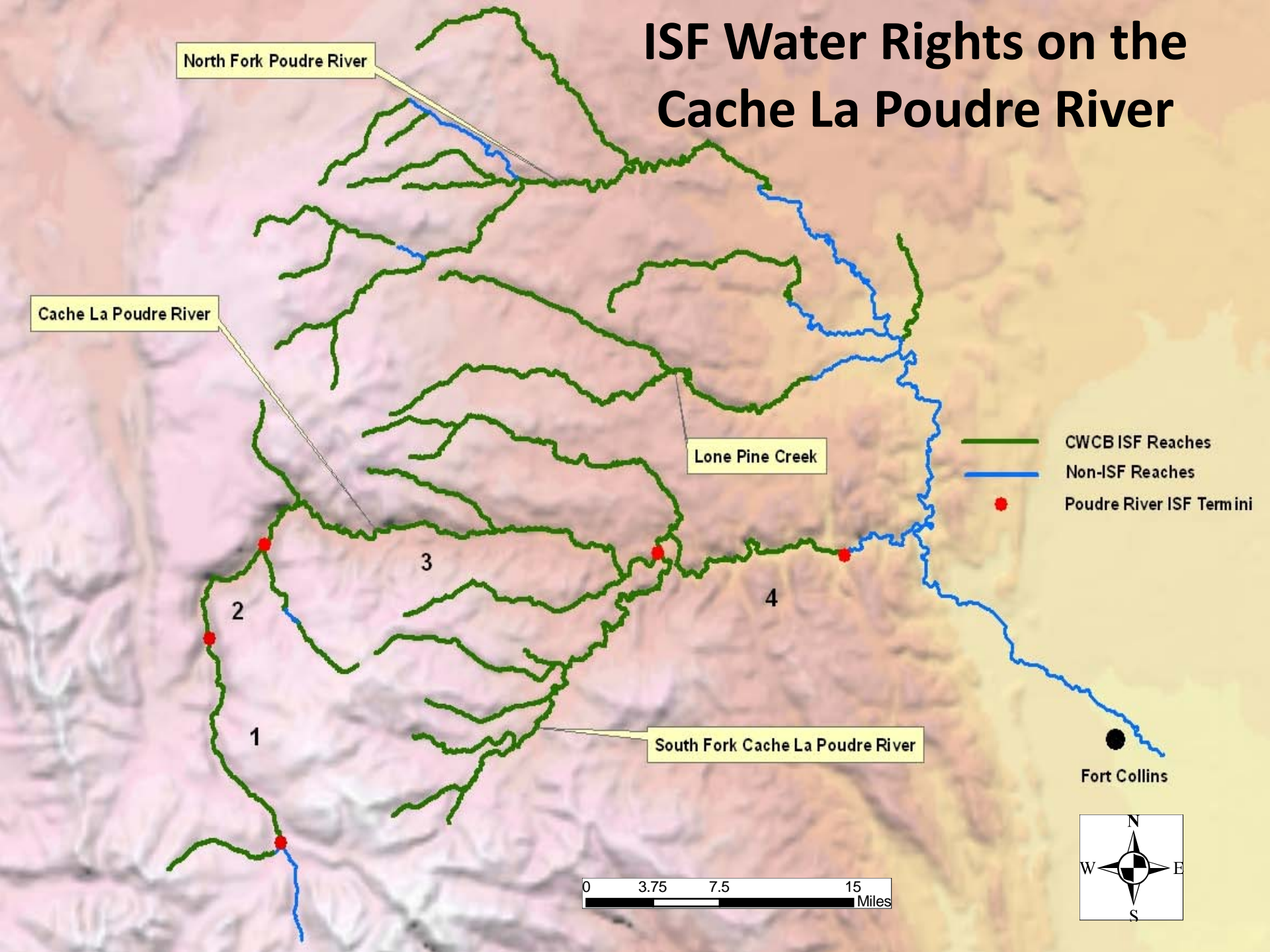
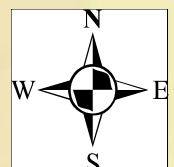
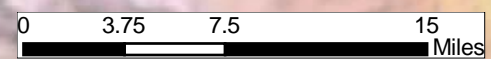
Lone Pine Creek

South Fork Cache La Poudre River

- CWCB ISF Reaches
- Non-ISF Reaches
- Poudre River ISF Termini

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CWCB's Water Acquisition Program

CWCB can acquire water

- in amounts it determines appropriate to preserve or improve the natural environment to a reasonable degree
- by donation, purchase, lease, or other contract
- On a permanent or temporary basis
- from willing water rights owners.



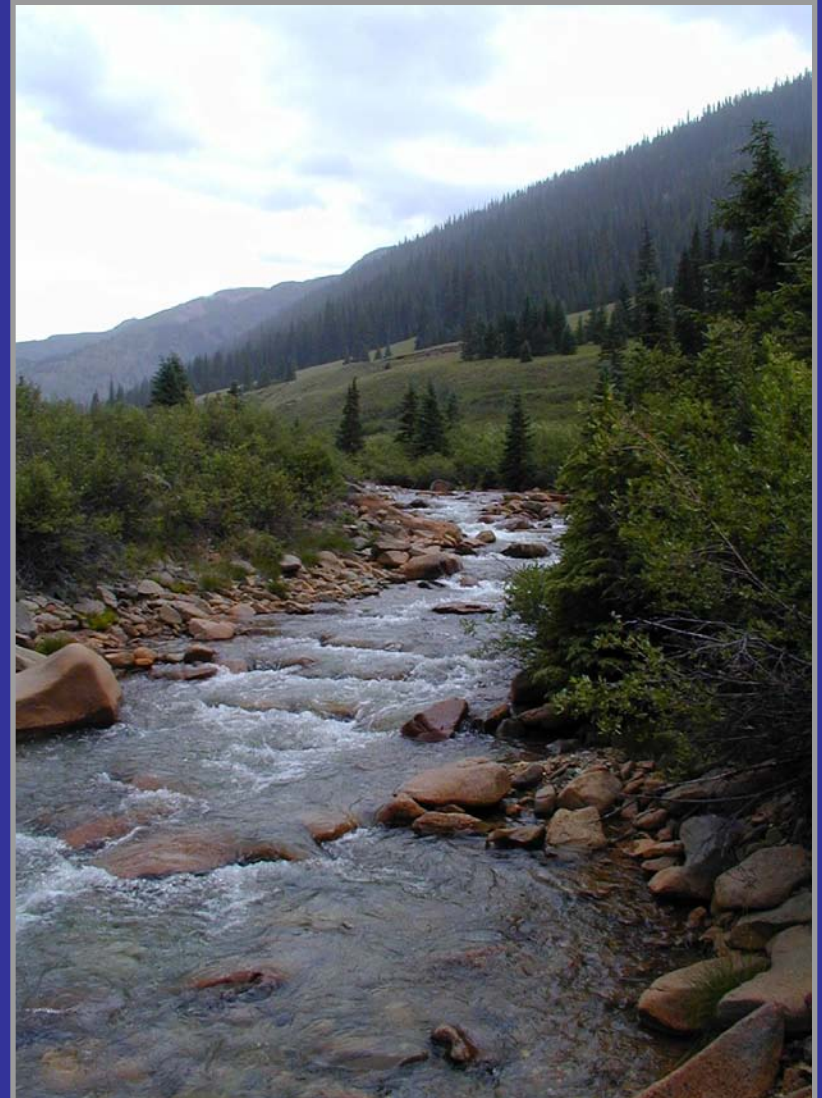
Cochetopa Creek – July 2002

CWCB may use any funds available to it for water acquisitions (Construction Fund, Species Conservation Trust Fund)

Permanent acquisitions of water for ISF use

Section 37-92-102(3), C.R.S.

- Donation or purchase
- Change water right to ISF use (water court)
- Donor or seller can retain right to use water under certain circumstances (City of Boulder drought provisions)



Long term leases of water for ISF use

Section 37-92-102(3), C.R.S.

- Can be for any time period
- Can be flexible to meet lessor's needs
- CWCB must apply to water court to obtain a decreed right to use the leased water for ISF purposes
 - Add ISF as a decreed use
 - Ensure no injury to other water rights on stream
- Historical c.u. of water right protected

Temporary leases of water for ISF use


Section 37-83-105, C.R.S.

- Limited to
 - ISF use for a period of 120 days
 - 3 years of use over a 10 year period
- Can be used on any stream where CWCB currently holds an ISF right, up to decreed amount
- **No water court change case** – State and Division Engineer can approve ISF use if no injury to other water rights
- Expedited approval process

For more information: CWCB Website

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

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Instream Flow Program

In Colorado's semi-arid environment, water is scarce with many competing demands placed on it by an ever-increasing population. Recognizing the need to correlate the activities of mankind with the reasonable preservation of the natural environment, the CWCB is responsible for the appropriation, acquisition, protection and monitoring of instream flow (ISF) and natural lake level water rights to preserve and improve the natural environment to a reasonable degree.

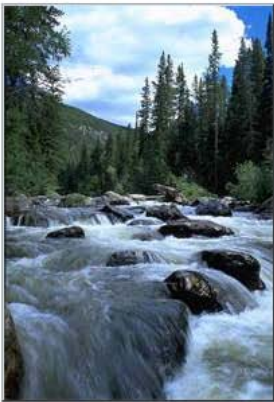
What is an instream flow or natural lake level water right?

These water rights are nonconsumptive, in-channel or in-lake uses of water made exclusively by the CWCB for minimum flows between specific points on a stream or levels in natural lakes. These rights are administered within the state's water right priority system to preserve or improve the natural environment to a reasonable degree.

What is the purpose of this type of water right?

The CWCB's instream flow and natural lake level water rights protect diverse environments in Colorado including:

- Coldwater and warm water fisheries (various streams and lakes)
- Waterfowl habitat (Gageby Creek)
- Unique glacial ponds and habitat for neotenic salamanders (Mexican Cut)



Additional Information

- Instream Flow Water Rights Database
- Instream Flow Statutes
- Instream Flow Rules
- ISF Program FAQs



Rex and Bob Go Fishing

Questions?