



Brief SB23-270 overview & Suggested Best Management Practices for Stream Restoration Projects

SB23-270: Projects to Restore Natural Stream Systems was passed by the Colorado legislature in 2023 to "facilitate and encourage the commencement of projects that restore the environmental health of natural stream systems."

SB270 was a dynamic effort led by DNR, in collaboration with multiple sectors of water stakeholders, aimed at providing greater certainty for stream restoration proponents around whether or not a water right might be needed for their project. This 4-pager briefly summarizes SB270 and outlines key Best Management Practices to consider when developing a stream restoration project.



Download the full SB23-70 Training Manual here



SB270: Brief Overview

What is the problem SB270 sought to address?

Degraded, incised streams are unfortunately common across all Western States. Causes of degradation vary; the most typical include riparian vegetation removal by grazing or development, stream channelized for land use, altered flows, and beaver removal. Detrimental impacts of incised streams include lower groundwater tables, lower summer base flows, higher sedimentation, reduced water quality, warmer stream temps, and loss of habitat and forage for wildlife.

How does SB270 define a “stream restoration project”?

“A project that is designed and constructed within a natural stream system AND for purposes of WILDLAND FIRE MITIGATION; FLOOD MITIGATION; BANK STABILIZATION; WATER QUALITY PROTECTION OR RESTORATION; HABITAT, SPECIES, OR ECOSYSTEM RESTORATION; SOURCE WATER PROTECTION; INFRASTRUCTURE PROTECTION; OR SEDIMENT AND EROSION MANAGEMENT.” CRS 37-92-602(9)(b)(IV).

Where does SB270 fit into Colorado Water Statutes?

CRS 37-92-602 — Exemptions & Presumptions

602 creates EXEMPTIONS to typical water rights administration for the use of water because the legislature has deemed these uses essential and unlikely to cause material injury, such as monitoring wells, rain barrels, and storm-water detention ponds. SB270 added a new exemption for Minor Stream Restoration Activities.

What qualifies as a “Minor Stream Restoration Activity?”

Six minor stream restoration activities are exempt from water rights administration. Each of these activities are subject to qualifying criteria. Below is a short summary of the criteria, not the full list.

1. Bank/substrate stabilization structures that do not cause the water level to exceed the ordinary high-water mark.
2. Mechanical grading that does not expose groundwater, divert surface water, or collect storm water.
3. Reducing the surface area of natural streams.
4. Deformable & porous bank/substrate stabilization structures in ephemeral or intermittent streams.
5. Daylighting natural streams.
Structure installation & channel reconstruction for wildfire/flood recovery
- 6.

For further detail on these criteria, please see our full SB270 manual.

Best Management Practices for Stream Restoration Projects

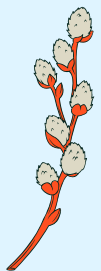
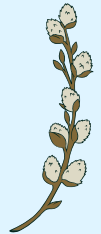


Safeguards & Sideboards for water users

You do not want your project to adversely affect the function of structures used to divert or measure water flows by holders of vested water rights. Nothing in the statute prohibits the state engineer from taking any action necessary to comply with an interstate compact, interstate apportionment decree, interstate agreement, or to order the discontinuance of an unpermitted diversion, storage, or obstruction that impedes the flow to water users.

Suggested Best Management Practices Checklist

- ✓ **Early Conversations:**
Discuss with your partners the project goals, and how they can or cannot be met within one of the **SB270 Minor Stream Restoration Activities**.
- ✓ **Choose the appropriate Minor Stream Restoration Activity**
Select this based on where you're working (pre or post fire, perennial, intermittent, ephemeral) and what restoration method(s) are needed.
- ✓ **Document prior to project commencement:**
 - Baseline conditions of the stream system type, photo points of stream corridor during high and low flows if possible - document where is the **Ordinary High Water Mark (OHWM)**; document flows if a stream gage or other measuring device is available.
 - Best estimate of how proposed restoration methods and project design will conform to SB270 criteria.
- ✓ **Consider consulting with DWR**
While not required by statute, it's good practice to have DWR review your project for the SB270 criteria **before** project installation.
- ✓ **Document project results after installation:**
Especially where and how results relate to the SB270 criteria.



What if my project doesn't qualify as a "minor restoration activity" under SB270?

This would most likely happen if:

- The project goes beyond the OHWM in a perennial stream soon after the installation of the project.
- Project will cause more than an incidental increase in surface area (this is not defined in statute).

How to address it:

- Can you still design the project to not cause material injury to water rights?
- Consider requesting DWR review prior to installation.
- Utilize best management practices to help reduce risk of harm - see next page.

Remember: The law states there is NO "presumption of injury for any activity that does not meet the definition of a minor stream restoration activity."

CRS 37-92-602(9)(e)

Project Planning Considerations to Reduce Water Rights Concerns

Historical Footprint of the natural stream system:

Design your project to restore what was historically present (riparian/wetland vegetation, connection to floodplain etc.) before the degradation occurred, and not beyond that. See box below.

Choose these factors with care:

- **Location:** Look for places that minimize risk of conflicts with water rights & flooding from beavers – e.g. upper watersheds above reservoirs/diversions, partnering with Sr. water right landowners if possible.
- **Method/design:** Any structures placed in the stream should be significantly porous to allow base flow and fish passage through, under, and around.
- **Timing of installation:** Be careful during low-flow summer months – you don't want your project to reduce flows downstream of your project for any significant time (1 day can be significant).

Engagement, transparency, and many partners:

Who would potentially be concerned? Include them or at least address their concerns; project planning that proactively includes water users & other watershed stakeholders who may be concerned has many benefits.

Post project considerations:

Adaptive Management	Monitoring Changes
<ul style="list-style-type: none"> • What worked? • What did not? • Where are opportunities to apply lessons learned? 	<ul style="list-style-type: none"> • Hydrology/flow/surface area • Vegetation condition • Sediment capture • Plant & animal species diversity

Be prepared to assist landowners to address beaver issues that may arise or other post project aspects if needed!



Structure Design Considerations



Aggressive Design



Low profile, porous design

Common methods for identifying historical footprint

- Aerial photos prior to disturbance (post-1930s)
- Colorado Natural Heritage Program's Historical Wetland Areas mapping tool
- Reference reaches of similar streams, valleys, and wetlands
- Geological testing – soil profiles; geomorphic analysis