

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Ted Kowalski

SUBJECT: **Agenda 23, January 27-28, 2009 Board Meeting
Water Supply Protection Section – Platte River
Recovery Implementation Program**

Bill Ritter, Jr.
Governor

Harris D. Sherman
DNR Executive Director

Jennifer L. Gimbel
CWCBC Director

Dan McAuliffe
CWCBC Deputy Director

Background

In 2006, the Governors of Wyoming, Colorado and Nebraska, and the Secretary of the Interior signed the Platte River Recovery Implementation Program ("Program" or "PRRIP") Agreement, and initiated the PRRIP on January 1, 2007. The Program is an incremental program with the first increment set at 13 years. Congress passed authorizing legislation that President Bush enacted into law in May 2008. Over the past two years of the Program, the States, federal agencies, water users, and environmental organizations have been implementing the many complex and integrated pieces of the PRRIP. Below is a brief description of the key Program efforts of 2007 and 2008, and a description of some of the efforts and challenges that the Program will be working on in 2009.

- **Financial Resources** – The federal agencies have the largest financial contribution obligation under the Program (\$157 million in 2005 dollars) and to date the federal agencies have been able to dedicate substantial contributions to the Program on an annual basis (approximately \$9 million in 07-08. The next federal budget (08-09) includes approximately \$12 million for the Program but we are currently operating under a continuing resolution—that is funding remains at last year's level. Given the current fiscal challenges that face the country, we will need to continue to advocate for continuing to adequately fund this Program over the first increment. Wyoming has fully funded its \$6 million obligation. Colorado's obligation is \$24 million and we have secured approximately \$16 million in authorizations from the General Assembly towards this obligation. With Colorado's budgetary challenges, current funding, and future funding, may be at risk. There is another agenda item specifically related to the Endangered Species Conservation Trust Fund recommendations.
- **Land** – The Program has made substantial strides in land evaluation and acquisition. The Program must obtain and restore 10,000 acres in the first increment. The Program has: 1) established a Land Interest Holding Entity; 2) entered into a lease agreement with Wyoming on the Wyoming property (470 acres); 3) made progress towards developing a sponsorship agreement on Cottonwood Ranch (2650 acres); 4) finalized the land evaluation process; 5) evaluated 47 parcels and advanced 41 of these properties through the process; and, 6)

initiated appraisals and negotiations with thirteen land owners. The land acquisition effort will continue to be a major thrust of the Program for the next several years.

- Water –
 - The Program commits each State to certain water obligations (80,000 acre-feet obligation, on average, to retine water towards target flows at the habitat in Nebraska and future depletions obligations) and commits the Program to develop a Water Action Plan to retine 50,000 to 70,000 acre feet of water, on average, to habitat within Nebraska. The Program has completed Phase I of the Water Action Plan Study and has initiated Phase II that should be complete by the end of the year. Phase I focused the Program on three water re-regulations facilities in Nebraska near the habitat (J-2 return, Johnson Reservoir expansion, and Plum Creek storage). Phase II will examine feasibility of these three projects in more detail. The Program continues to explore the choke point issues and search for solutions to resolve the choke points. This effort has been complicated within the last few years with the explosion of phragmites within the Platte River watershed in Nebraska. As such, the Program has undertaken cooperative partnerships with various State and local agencies to take steps to eradicate phragmites.
 - On Colorado's water obligations, we have an obligation to be able to retine up to 10,000 acre-feet of water, on average, from times of surplus at the habitat to times of deficit at the habitat (generally December and January retimed into February through June) (this is sometimes referred to as the "Tamarack I" obligation) and we have an obligation to retine water from times of net accretion due to population increases to times of net depletions due to population increases (generally July through April retimed into May and June) (this is sometimes referred to as the "Tamarack II" obligation). We have made great progress towards satisfying Colorado's obligations. The State will be entering into an MOU with the South Platte Water Related Activities Program, Inc. ("SPWRAP") whereby the State will take on the cash obligation of the Program and SPWRAP will pay for the work needed in order for the State to be able to meet the water obligations, with the exception of the money the State has already dedicated towards this effort (Tamarack State Wildlife Area capital costs, employee costs at Tamarack State Wildlife Area, and certain DU cooperative efforts). To date, SPWRAP and the State have worked closely to make certain that we have been able to meet our obligations through recharge efforts. In fact in 2007, we exceeded our Tamarack I obligations. Currently we are in the middle of collecting information to demonstrate how we are meeting our Tamarack II obligations, but we are confident that we have met and exceeded our Tamarack II obligations.
 - Colorado also has agreed to work with federal agencies to help them offset their future depletions that occur within the State of Colorado. The State, SPWRAP, and the FWS have been working to develop an MOU to address depletions of federal agencies that will occur in the South Platte basin. A similar MOU may be developed for addressing federal depletions that may occur in the North Platte basin, but we are also working with SPWRAP and the Jackson County Water Conservancy District ("District") to address a number of other issues that may be associated with covering the federal agencies in that basin. In particular the District has raised questions about: 1) the District's authority to deny approved water uses under the Program; 2) protection of the North Platte entitlement in this and future increments; and, 3)

funding issues; and 4) the CWCB's proposed instream flow water rights. As we work through these issues, we hope to develop an approach that works for SPWRAP, the District, the State, and the federal agencies.

- Adaptive Management – The Program has initiated our annual species monitoring. We are looking at ways to improve these monitoring efforts. The Program is very close to finalizing a water quality monitoring protocol and the Program has selected geomorphology/in-channel vegetation monitoring contractor. The Program has a stage change study underway and the pallid sturgeon information review is near completion. The Program has established an Independent Scientific Advisory Committee and developed a set of recommended peers to serve on future peer review panels. In 2009, the Program expects to conduct an initial pulse flow in March to test several scientific hypotheses related to the relationship between flows, sediment transport, vegetation, and species habitat. This will be an important step for the Program, and the adaptive management aspect of the Program, in particular.
- Data/Database – The Program is in the process of selecting an entity to manage the database for the Program. Susan Lesovsky has been dedicating time to the hiring of a database management company and I thank her for her time and effort. The Program has also installed two new stream gages (Lexington, Shelton) that will be managed by the Nebraska Department of Natural Resources. The Program has also begun analyzing the data collected during the natural high flow event that occurred in May 2008.

Staff Recommendation

Don Ament, the present Chairman of the Governance Committee, will give a short presentation about the Program, and we will both be available for questions about and discussion of the Program.