

# STATE OF COLORADO

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## Colorado Water Conservation Board

### Department of Natural Resources

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TO: Colorado Water Conservation Board Members

Bill Ritter, Jr.  
Governor

FROM: Doug Robotham  
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CWCB Director

DATE: January 22, 2010

Dan McAuliffe  
CWCB Deputy Director

SUBJECT: **Agenda Item 22, January 26-27, 2010 Board Meeting**  
**Water Supply Protection Section – Endangered Species Conservation Trust**  
**Fund FY 10-11 Funding Recommendations**

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### Background

HB 98-1006 created the Native Species Conservation Trust Fund (SCTF). Each year, after consulting with the Colorado Water Conservation Board (CWCB), the CWCB Director, the Colorado Wildlife Commission, and the Director of the Colorado Division of Wildlife (CDOW), the Executive Director of the Department of Natural Resources (DNR) must prepare a “species conservation eligibility list” (SCEL). The list must describe programs and associated costs that are eligible to receive funding.

The SCEL is then sent to the General Assembly for review and modification, as appropriate, prior to the passage of the SCTF Bill for that year. When the SCEL is submitted to the General Assembly, the DNR Executive Director must also provide a detailed report about the status of certain native species and the progress that has been made toward the recovery of those species. The report must include an assessment of habitat benefits attributable to activities that have been undertaken by the State and its partners. This year’s annual report is still being drafted, but it will be shared with the Board once it is final. Additional background, including the Staff’s recommendations for expenditures from the SCTF, is attached to this memorandum.

### Staff Recommendation

Staff recommends, contingent upon appropriations, that the Board: 1) recommend the expenditure of \$7,500,000 from the SCTF for FY 10-11; 2) forward these recommendations to the Wildlife Commission, who will then forward the recommendations to the Executive Director of DNR; and, 3) continue to seek additional funding for the SCTF, given that the SCTF lacks sufficient funds to meet its obligations over the next few years.

### Attachments

## **Additional Background**

### **Distribution of Funds**

The Act requires that funding be distributed for the following purposes:

1. Cooperative agreements, recovery programs, and other programs that are designed to meet obligations arising under the federal "Endangered Species Act of 1973" and that provide regulatory certainty.
2. Studies and programs established or approved by the CDOW and the Executive Director of the DNR regarding:
  - (a) Species placed on the state endangered or threatened list;
  - (b) Candidate species, in order to assist in the recovery or protection of the species to avoid listing of the species; and,
  - (c) Scientific research relating to listing or delisting any species.

### **Current SCTF Balances**

As of January 16, 2010, the balance in the SCTF Capital Account and the SCTF O&M Account, which are used to fund the Recovery Program efforts and CDOW activities related to state listed threatened and endangered species, candidate species and species of concern, is approximately \$250,000. DNR is working with the State Office of Planning and Budget to replenish funds in the SCTF account and is considering a request of \$7,500,000, which would come mainly from Severance Tax. We are hopeful that the SCTF can be replenished to a level that makes substantial funding available to meet Colorado's anticipated cost share requirements. The projected balance, based on the funds that may be generated from the Severance Tax Operational Account and used to replenish the SCTF, is \$7,500,000. However, the Severance Tax projections will be updated in March 2010. Consequently, there is potentially \$7,750,000 available to fund the FY10-11 requests.

This financial information demonstrates the need to replenish the SCTF if we are to be able to meet Colorado's cost share for the Platte River ESA Recovery Implementation Program, meet Colorado's cost share for selenium work associated with the Gunnison River Preferred Biological Opinion, and continue to provide state funding to address state listed species, candidate species and species of concern.

### **FY 2010-11 Recommended Programs**

The recommendations for FY 2010-11 are coming to the CWCB first this year, and will be presented to the Wildlife Commission in February 2010. Assuming that the SCTF Capital Account is replenished as is being requested, the recommendations are as follows:

#### ***1. Platte River ESA Recovery Implementation Program (Program or PRRIP): \$3,000,000***

The PRRIP was initiated in January 2007, and was authorized by Congress in May 2008. The Program serves as the "reasonable and prudent alternative" under the Endangered Species Act for water use and development in Colorado in the North and South Platte River basins, while promoting the conservation and recovery of downstream endangered bird and fish species. The federal funding appropriations for FY09-10 and FY 10-11 are approximately \$12,000,000 and \$15,000,000, respectively. Colorado's cost share contribution for the first program increment (13 years) is estimated to be \$24,000,000 (in 2005 dollars), or approximately \$1.85 million per year. However, many of the activities of the Program occur in the beginning of the Program. For example, land acquisition is expected to occur within the first five years of the Program, at an estimated cost of \$23,000,000. The land acquisition program operates under a "willing seller,

willing buyer” concept; therefore, the program must be able to act on short notice when an opportunity arises. To date, the Program has been purchasing land at an extraordinarily fast pace. In addition, many of the monitoring and research activities will require substantial capital and operating expenditures in the first few years.

In addition, appropriation of Colorado’s full funding meets with prudent fiscal management practices. Wyoming has already appropriated its entire \$6,000,000 cost share obligation. The earlier Colorado pays its cost share, the less the overall costs Colorado may experience due to inflationary adjustments as required under the authorizing legislation and under the Program agreement. Colorado has dedicated \$20 million to this Program to date, so we are nearing the conclusion of Colorado’s required contributions under the Program. The current estimate is that if \$3 million is dedicated to this Program this year, Colorado will need approximately one more installment next year of \$3 million to close out Colorado’s cash obligation to the Program for the first increment.

## **2. Orchard Mesa Irrigation District (OMID) Irrigation Improvements: \$1,000,000**

The Bureau of Reclamation, the Colorado River Water Conservation District, the Northern Water Colorado Water Conservancy District, the Upper Colorado River Endangered Fish Recovery Program, and OMID are exploring these system improvements that will allow OMID to save water through more efficient operations. OMID owns senior water rights on the Colorado River and benefits from water stored in Green Mountain Reservoir, located in Summit County. The construction of a new re-regulating reservoir in the OMID system will reduce the total amount of water needed to fully operate the OMID system in all but the driest years, thus saving stored water in Green Mountain Reservoir. Saved water could be used in late summer to improve endangered fish habitat during average and above-average water years. These improvements will allow additional water to be dedicated to the 15 Mile Reach down to the confluence of the Colorado and Gunnison Rivers, in most years. The cost of the improvements is estimated to be approximately \$17 million. The federal and local partners are covering most of these costs, but need a dedicated revenue stream to cover long term operations and maintenance costs, which are estimated to be approximately \$340,000 annually. Several of the partners would dedicate funds that would be held in trust, with the annual interest accrued being dedicated to the operation and maintenance of these improvements (O&M fund). This type of arrangement occurred with the Grand Valley Water Users system, and it has been regarded as successful by all accounts. In order to be able to meet the entire costs for operation and maintenance, the partners need approximately 2 million additional dollars to be held in trust. However, a commitment of \$1 million this year from the SCTF could provide enough money to leverage this money with additional partner money to adequately fund the O&M fund. The Bureau of Reclamation will not proceed with capital construction of this project until the O&M funding commitment has been established.

***Colorado Division of Wildlife Recommendation: \$3,100,000 SCTF to support DOW programs as described in the attached spreadsheet.***

***Colorado Department of Parks Recommendation: \$400,000 SCTF to support Natural Areas and Parks programs as described in the attached spreadsheet.***

Attachment

**Species Conservation Trust Fund -- Project Eligibility List for FY 10-11  
with preliminary projections for FY 11-12 and 12-13**

Agency	Program	Activity	Cost (\$)		
			FY 10-11	FY 11-12	FY 12-13
CWCB					
	Platte River Basin Agreement	FY 09-10 obligation	3,000,000.00	-	-
		Obligation through 2013	-	3,000,000.00	-
	Upper Colo River Fish Recovery Program	15 Mile Reach Protection - Orchard Mesa ID system improvements	1,000,000.00	-	-
		Gunnison Basin selenium research, monitoring and evaluation	-	500,000.00	500,000.00
	Instream flow rights acquisition	Stream reach / water rights to be determined	-	500,000.00	500,000.00
	CWCB subtotals		4,000,000.00	4,000,000.00	1,000,000.00
DOW					
	Native grouse conservation (Gunnison, Greater, Columbian Sharptail, Lesser prairie chicken)	Population Management (GuSG captive breeding program)			
			50,000.00	50,000.00	50,000.00
		Habitat Management (pinyon-juniper removal to restore sagebrush; native seed nursery/distribution warehouse; revegetation; weed control; cost-share to USDA's CRP/SAFE program; CCAA enrollment (includes work for both species of sage-grouse, Columbian sharp-tails and lesser prairie chickens)	1,500,000.00	1,500,000.00	1,500,000.00
		Research, Monitoring, and Evaluation (Gunnison sage-grouse grazing interaction study; habitat treatment evaluation)	580,000.00	580,000.00	580,000.00
	Native fish conservation	Population Management (translocation of fish species; population augmentation)	-	200,000.00	200,000.00
		Habitat Management (eastern plains fish barrier identification and mitigation; stream habitat restoration for eastern plains fish, native cutthroat species)	-	500,000.00	500,000.00
		Research, Monitoring, and Evaluation (effectiveness of fish passage mitigation and recharge systems; impact of endocrine disrupters; evaluation of current sampling protocols, inventory for bluehead sucker, flannelmouth sucker, roundtail chub)	470,000.00	100,000.00	100,000.00
	Wildlife disease management	Research on a plague management tool to benefit burrowing owls, black-footed ferrets, mountain plovers, 3 species of prairie dogs, etc.	400,000.00	400,000.00	400,000.00
	Wildlife Climate Adaptation	Coordinate adaptive wildlife management research and actions to address climate change	100,000.00	100,000.00	100,000.00
	DOW Subtotals		3,100,000.00	3,430,000.00	3,430,000.00
Parks					
	Rare species inventory and protection within designated Natural Areas	Inventory and protect endangered plants and rare wildlife within designated Natural Areas	300,000.00	300,000.00	300,000.00
	Rare species inventory and protection within State Parks	Inventory and protect endangered plants and rare wildlife within existing State Parks	100,000.00	100,000.00	100,000.00
	State Parks Subtotals		400,000.00	400,000.00	400,000.00
TOTALS			7,500,000.00	7,830,000.00	4,830,000.00