

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Suzanne Sellers, Interstate & Federal Section

DATE: June 17, 2011

SUBJECT: **Agenda Item 7, July 12-13, 2011 Board Meeting**
Interstate & Federal Section –
Platte River Recovery Implementation Program Update

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

Jennifer L. Gimbel
CWCB Director

Background

The Platte River Recovery Implementation Program ("Program" or "PRRIP") began on January 1, 2007 to implement the agreement between the Governors of Wyoming, Colorado and Nebraska, and the Secretary of the Interior to recover four threatened and endangered species (the whooping crane, interior least tern, piping plover and pallid sturgeon) in Nebraska while at the same time allowing water use and development to continue in Colorado and the other states. The Program is an incremental program with the first increment set at 13 years. At the January 2009 CWCB meeting, Ted Kowalski presented a summary of the key Program efforts through 2008. Over the past two years of the Program, the states, federal agencies, water users, and environmental organizations have made great progress in implementing the PRRIP. Below is a summary of the key Program efforts of 2009 and 2010, and a description of some of the efforts that the Program will be working on in 2011.

Financial Resources

The federal agencies have the largest financial contribution obligation under the Program (\$157 million in 2005 or 2008 dollars, depending on the context), and to date, the federal agencies have been able to dedicate substantial contributions to the Program (approximately \$24.8 million). The President's proposed federal budget (FY 2011-2012) includes approximately \$11 million for the Program. The House Appropriations Energy and Water Subcommittee is proposing that the Bureau of Reclamation's requested budget be reduced by approximately 5%, which may impact the \$11 million budget request for the PRRIP. Given the current fiscal challenges that face the country, we will need to continue to advocate for the federal government to adequately fund this Program over the first increment. Wyoming has fully funded its \$6 million obligation and contributed approximately \$1 million of those funds through 2010. Colorado's obligation is \$24 million in 2005 dollars and we have secured approximately \$25.5 million in authorizations from the General Assembly towards this obligation. Additional money may be needed to cover the inflationary adjustments. With Colorado's budgetary challenges, current and future funding may be at risk.

Land

The Program has made substantial strides in land acquisition. The Program objective is to obtain and restore 10,000 acres in the first increment. In 2009 and 2010, the Program has: 1) acquired approximately 8,000 acres of land (including two structures to house seasonal Program workers) through purchase, lease, perpetual easement or sponsorship agreements; 2) performed various land management activities (fencing, tree removal, demolition, seeding, etc.); 3) allowed public access for hunting; and 4) leased up to 1880 acres for agricultural use (grazing, crops, etc.).

Water

The Program commits the three states to certain water obligations, including: 1) a total of 80,000 acre-feet annually to be retimed to meet target flows at the habitat in Nebraska, and 2) additional water to cover each state's new (post-1997) depletions. The three states each have one water project to meet these obligations, and Colorado's is the Tamarack Project which is described below. Additionally, the Program as a whole must annually retime on average 50,000 to 70,000 acre feet of water to meet target flows at the habitat in Nebraska ("Program obligation").

Program-Related Water Activities

In 2009, the Program completed its update of the Water Action Plan with updated project yields, costs and schedules and added the short duration high flow ("SDHF") concept. In 2009 and 2010, the Program conducted reservoir feasibility studies at two potential reservoir sites (Elm Creek site and the J-2 Return site) for the retiming of water to meet target flows and for storage of SDHF flows. The J-2 Return site has the added potential to mitigate the fluctuation of river flows due to Central Nebraska Public Power and Irrigation District ("CNPPID") hydrocycling, which provides an opportunity for cost sharing with CNPPID. Also in 2010, the Program completed a pre-feasibility study to select potential sites for recharge pilot studies and then began procurement of a contractor for the field investigation stage for pilot studies at two sites (Phelps and Gothenburg sites). Lastly, in 2010, the Program continued to explore the choke point issues and search for solutions to resolve the flow constriction at the choke point. This effort has been complicated within the last few years by 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. Additionally, the Program is working on a calibrated hydraulic and sediment transport model for the North Platte choke point to evaluate various mitigation options. The choke point modeling and analysis will be completed in 2011. Also in 2011, additional feasibility work will be performed on the J-2 Return reservoir site and field work, groundwater modeling and a pilot study design will be performed for the Phelps groundwater recharge site.

Colorado-Related Water Activities

Regarding Colorado's water obligations, we have an obligation to retime up to an average of 10,000 acre-feet of water, from times of surplus at the habitat (December and January) to times of deficit at the habitat (February through June). The retiming of an average of 10,000 acre-feet of water is designed to meet Colorado's first obligation described above and is often referred to as the "Tamarack I" obligation. Additionally, Colorado has an obligation to retime water from times of net accretion (generally July through April) due to post-1997 population increases to times of net depletions due to these same increases (May and June). The retiming of these accretions from Colorado's post-1997 population increases is often referred to as the "Tamarack II" obligation. Future expansion of the Tamarack Project ("Tamarack III") that would result in ground water return flows to the river that exceed the needs of the Tamarack I and II and that

results in return flows during periods of deficit to Program target flows could be leased by the Program to meet the Program obligation.

In February 2009, the State amended its original Memorandum of Agreement (“MOA”) signed in 2006 with the South Platte Water Related Activities Program, Inc. (“SPWRAP”), whereby the State agreed to accept the cash obligation of the Program (\$24 million) and SPWRAP will pay for the work needed in order for the State to be able to meet the water obligations. An exception includes money that the State has already dedicated towards meeting its water obligation, including capital costs for the Tamarack project build-out, employee costs at Tamarack State Wildlife Area, and cooperative efforts with Ducks Unlimited (“DU”). In 2009, the State funded a portion of two recharge projects (Heyborne and Fender) constructed by DU from which Colorado has the ability to receive credit for the retiming of a portion of those projects’ water. In 2010, the State redoubled its efforts to initiate the build-out of the Tamarack project. In January 2011, the State hired an additional Division of Wildlife employee to operate the Tamarack project.

In February 2009, the State entered into a Memorandum of Understanding (“MOU”) with SPWRAP to define its role in the planning, development and operation of the Tamarack recharge facilities and its associated water rights. DOW is currently adjudicating water rights for the expansion of the Tamarack project. The trial is currently set for July 2012. Over the last two years, SPWRAP and the State have continued to work closely to operate the Tamarack project and to make certain that the State has been able to meet its obligations through recharge efforts. In 2009 and 2010, the State exceeded its Tamarack I and II obligations, but we get credit for these over-deliveries.

Lastly, in 2009, the State, SPWRAP, the Jackson County Water Conservancy District (“JCWCD”) and the U.S. Fish and Wildlife Service (“FWS”) developed MOUs to address the depletions from federal agencies that will occur in the South Platte and North Platte basins. These MOUs allow SPWRAP to cover federal depletions up to 87.5 acre-feet in each of the South Platte and North Platte basins, with options to double those amounts. Thus far, the FWS has requested coverage for 4 federal projects.

Adaptive Management

In 2009 and 2010, the Program continued and expanded on its annual monitoring program to include: whooping cranes, terns and plovers, forage fish, water quality, geomorphology, in-channel vegetation, ground surface elevation (LiDAR) and aerial photography. Also during this period, the following research was conducted: Lower Platte Stage Change Study, Tern and Plover Foraging Habits Study, Directed Vegetation Research, Whooping Crane Telemetry and a Wet Meadows Information Review. Over the last two years, implementation projects included: sediment augmentation feasibility analysis, hydraulic/sediment transport modeling, off-channel sand and water (“OCSW”) habitat construction, habitat rehabilitation actions, and pulse flow and natural high flow events. The Independent Science Advisory Committee (“ISAC”) was convened to review the overall scientific approach on projects initiated by the Program, and project specific independent peer reviews were also performed. Many of these projects will continue in 2011. Additionally in 2011, the Program will study the Flow-Sediment-Mechanical (“FSM”) concept at the Elm Creek Complex and participate in a Platte River Basin time-lapse photography project.

Data/Database

In 2009, the Program contracted with an entity to develop the Program database and a new website, which is now up and running. Additionally, the Program continues to update and organize the Program's web-based library.

Benefits

One of the greatest benefits of the Program for Colorado is that it allows water use and development to continue through a streamlined Section 7 consultation process with the FWS. Since 2007, the FWS has provided 96 streamlined Section 7 consultations, with no litigation occurring during that time. During the 2009 and 2010 time frame, Colorado benefited from 37 streamlined Section 7 consultations.

Staff Recommendation

This memorandum is provided as information only. There is no staff recommendation.