COLORADO
Colorado Water Conservation Board
Department of Natural Resources

1313 Sherman Street, Room 721
Denver, CO 80203

TO: Colorado Water Conservation Board Members

FROM: Ted Kowalski
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DATE: January 26-27, 2015

SUBJECT: Agenda Item 11, January 2015 Board Meeting
Interstate, Federal and Water Information Section
Species Conservation Trust Fund, FY 15-16 Funding Recommendations

Introduction
The Native Species Conservation Trust Fund (SCTF) was created in 1998, pursuant to HB98-1006 (codified at section 24-33-111, C.R.S. (2014)). After its initial creation, the General Assembly expanded the SCTF to cover studies and programs within Colorado Parks and Wildlife (CPW) dedicated to recovering species listed as threatened and endangered under state law; recovering and protecting federal candidate species; conducting scientific studies related to the listing or delisting of any species; and evaluating genetic, habitat and declining species baseline data.

Each year, the Executive Director of the Department of Natural Resources (DNR) prepares a "species conservation eligibility list" (SCEL) after consultation with the CWCB and its Director, and the Commission and Director of CPW. The SCEL describes programs intended to accomplish the goals first articulated in HB98-1006, and associated costs eligible for funding. The SCEL is then sent to the General Assembly for review and modifications as appropriate prior to the passage of the annual SCTF bill.

Staff Recommendation
Staff recommends, contingent upon appropriations, that the Board: 1) concur with the DNR Executive Director's proposed recommendations to the General Assembly to approve an expenditure of up to $5,000,000 from the SCTF for FY 15-16 for the projects and programs outlined herein; and 2) forward a statement of concurrence to the CPW Commission.

Additional Information – Species Conservation Trust Fund
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 CPW 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 Balance and related considerations

The unobligated balance in the SCTF is currently projected to be as much as $5 million for FY 15-16, although this amount is dependent upon actual severance tax receipts in the remaining months of FY 14-15.

Severance tax projections will be updated on March 20, 2015, at which time the Executive Director's office will make its final determination about the total amount of funds available for expenditure from the SCTF in FY 15-16. Since severance tax receipts are subject to some volatility due to fluctuating energy prices as well as variable local property tax rates and associated credits energy producers can apply towards state severance tax liability, it is possible that there could be less than $5 million available to fund FY 15-16 SCTF projects. Should less money be available for expenditure than current projections indicate, staff recommends that the Board authorize reduction of FY 15-16 contributions proportionally from the amounts described in more detail below, unless staff deems it necessary to reduce amounts based on prioritization, project need and the matching capacity of project partners.

FY 2015-16 Recommended Projects

The recommended projects for FY 15-16 are summarized below.

CWCB Projects Total Request: $2,000,000

1. ***Selenium Management Program/Selenium Research, Monitoring, Evaluation and Control Activities: up to $500,000***

The Gunnison Basin Selenium Management Program (SMP) is a required conservation measure identified in the Programmatic Biological Opinion (PBO, issued by USFWS Dec. 4, 2009) as part of the Aspinall Unit NEPA evaluation (PFEIS, issued December 2010). The USFWS has determined that high selenium levels in the Uncompahgre and Gunnison Rivers are limiting the recovery of several Colorado River endangered fish species and that a SMP is necessary to avoid a finding that basin water operations are causing jeopardy to the continued existence of those endangered species. By meeting the targets set in the SMP, critical historical water uses are protected and basin water users are provided regulatory certainty that continued operation of their water projects will not be found to be in violation of the Endangered Species Act. Pursuant to that mandate, the CWCB, on behalf of the State of Colorado, on October 15, 2010 entered into a Memorandum of Understanding (MOU) with Reclamation and the other affected parties under which they agreed to develop the SMP to meet the PBO goals and assist in the recovery of the endangered fish.

The SMP Program Formulation Document (SMP-PFD) was transmitted from the U.S. Bureau of Reclamation on behalf of the SMP partners and beneficiaries to the USFWS on Jan 3, 2012. It sets aggressive goals for selenium reductions in order to comply with the Endangered Species Act over the next 15 years. As outlined in the PBO and SMP-PFD, affected parties, including Reclamation, basin water users and the State of Colorado must act together to achieve these goals. The primary selenium control measure will be accelerated implementation of irrigation system improvements through the existing Colorado River Basin Salinity Control Program (CRBSCP). However, that program is prohibited from spending its funds on any incremental costs associated with selenium control. The SCTF appropriation sought for FY 15-16 will be used to provide cost share support to the selenium-specific costs of related salinity study and research activities. It is estimated that SCTF funds will be leveraged at a ratio of 1:2 or better through this process. In addition, the SMP identifies other opportunities for the CWCB to assist basin water users in meeting the selenium reduction targets and/or determining the effectiveness of selenium control as a component of endangered fish species recovery. Specifically, the FY 15-16 authorization requested herein will be used to support implementation of the USGS Science Plan recommendations through the following activities:

- Updating geospatial-statistical models to identify and rank selenium loading from Lower Gunnison subbasins.
- Continuation of collection and analysis of groundwater and soil samples.
- Collection of sediment and biological sampling data and development of ecological modeling tools to better assess selenium sources and impacts on endangered fish.
- Technical and financial assistance to irrigation BMP demonstration and monitoring projects.
- Technical assistance and outreach to water users considering participation in the CRBSCP.

2. Non-Native Fish Control Management Actions: up to $1,000,000

The Upper Colorado River ESA Recovery Implementation Program has been recognized as a model program for supporting water development while recovering endangered species. To date, hundreds of water projects have undergone streamlined consultations with the Fish and Wildlife Service through this Program. Recently nonnative/ native fish interactions have threatened some of the success associated with the recovery of the endangered fish within the Upper Colorado River basin. Successive dry years during the current drought have resulted in significant population increases of non-native species such as smallmouth bass and pike in the Yampa River and other areas in the Upper Colorado River system. Despite ongoing non-native species control efforts, particularly in northwestern Colorado, there is growing concern that the increasing non-native fish populations are impeding the progress of recovering the endangered fish. Additional non-native fish management activities will target several backwater areas and stream reaches where non-native fish populations have recently increased, areas of apparent illicit stocking of non-native fish, a possible pilot program to explore the effectiveness of "must kill" regulations, and the installation of a screen at Elkhead reservoir to decrease escapement of non-native fish into the Yampa River below the dam.

3. Lease of Ruedi Reservoir Water for Instream Flow Purposes Associated with the 15 Mile Reach: up to $500,000

Under this project, CWCB would lease water from the Ute Water Conservancy District's contract allotment in Ruedi Reservoir for delivery to the 15 Mile Reach of the Colorado River. The water would be used to supplement existing instream flow water rights in that reach to preserve the natural environment and to provide water to meet USFWS flow targets for the four endangered fish species present in the 15 Mile Reach. CWCB would pay for the lease with SCTF money that is authorized for acquisitions of water for instream flow use to preserve or improve the natural environment of species that have been listed as threatened or endangered under state or federal law, are candidate species, or are likely to become candidate species.

Colorado Parks and Wildlife Projects Total Request: $3,000,000

1. Native Terrestrial Wildlife Conservation ($1,092,000)

- Continue work on controlling plague in prairie dog colonies. This work was instrumental in the recent Fish and Wildlife Service decision that listing the Gunnison prairie dog as threatened or endangered was not warranted.
- Estimate abundance of white-tailed ptarmigan (federal status review undertaken in response to a petition to list)
- Develop a standardized technique to monitor the effects of environmental change on reptiles (2 species are currently being considered for listing under the ESA).
- Monitor black-footed ferret release sites, treat for plague and develop oral vaccine.
- Monitor native bat species for the occurrence of white-nose syndrome and inform management decisions should the deadly fungus be detected.
- Contract for the production of native seeds for critical habitat restoration and improvement (e.g., greater sage-grouse) projects.

- Model population dynamics of Gunnison sage-grouse in the Gunnison basin.
- Update and improve statewide raptor monitoring database.

2. Native Aquatic Wildlife Conservation ($558,000)

- Continue work on native cutthroat trout (creating and improving habitat and unraveling the complicated genetics) and improving broodstocks for native trout and whitefish.
- Continue to develop captive broodstocks and husbandry techniques for three native fish species of concern (flannelmouth sucker, bluehead sucker and roundtail chub).
- Continue to monitor native fish in the South Platte basin to evaluate the effects of the 2013 flood on species abundance and distribution.
- Improve post-stocking survival of native fish reared in hatcheries.
- Continue to develop techniques to detect the fungus causing significant amphibian population declines and evaluate the impact of chytrid fungus on boreal toads.

3. Colorado Natural Areas Program ($234,500)

- Monitor and conduct wildlife and rare plant inventories to protect natural features through voluntary agreements with landowners (with an emphasis on the conservation needs of listed and candidate species and species of concern).

4. Colorado Resource Stewardship Program ($115,500)

- Survey and map the occurrence of rare species on state parks to address conservation needs of listed and candidate species and species of concern.

5. Native Species Management, Monitoring and Propagation ($1,000,000)

- Continue work related to a variety of species of concern, including black-tailed prairie dogs, lynx, eastern plains fish, greenback cutthroat trout, Colorado River native fish, black-footed ferrets, and multiple grouse species (e.g., lek counts). Expenses include contracted services, operating costs and a portion of salary and benefit costs of CPW personnel (based on actual time and costs spent on these projects).