



**COLORADO**

**Colorado Water  
Conservation Board**

Department of Natural Resources

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**TO:** Colorado Water Conservation Board Members

**FROM:** Ted Kowalski, Steve Miller, and Michelle Garrison  
Interstate, Federal & Water Information Section

**DATE:** January 11, 2016

**AGENDA ITEM:** Agenda Item 7 - 2016 Species Conservation Trust Fund Eligibility List Approval

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### Introduction

The General Assembly created the native Species Conservation Trust Fund (SCTF) in 1998, pursuant to HB98-1006 (codified at section 24-33-111, C.R.S. (2014)). The SCTF provides funding for activities by the CWCB and Colorado Parks and Wildlife (CPW) associated with the protection and recovery of endangered, threatened, or imperiled species. After its initial creation, the General Assembly expanded the SCTF to cover studies and programs within 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 CPW Commission and the 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.

The CPW Commission will be reviewing this list of recommended projects on January 13, 2016, and the CWCB Staff will update the Board (at the Board meeting) about the CPW Commission’s actions.

### Staff Recommendation

Staff recommends, contingent upon appropriations, that the Board concur with the DNR Executive Director’s proposed recommendations to the General Assembly to approve an expenditure of up to \$5 million from the SCTF for FY 16-17 for the projects and programs outlined herein.

### Additional Information – Species Conservation Trust Fund

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 16-17, although this amount is dependent upon actual severance tax receipts in the remaining months of FY 15-16.

Severance tax projections will be updated in March, 2016, 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 16-17. 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 Commission 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 2016-17 Recommended Projects**

The recommended projects for FY 16-17 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 16-17 has been developed through consultation with the SMP partner agencies and follows a USGS developed, and SMP approved, Science Plan. It is estimated that

SCTF funds will be leveraged at a ratio of at least 1:1 through this process. The SMP has also developed a priority order for the recommended projects based on time sensitivity and critical program needs that will allow funding of projects in a logical sequence if SCTF allocations are reduced. Funds will be used to provide cost share support to the selenium-specific costs of eight research activities, as well as to develop and implement an on the ground pilot program to test and demonstrate selenium remediation techniques. Specifically, the FY 16-17 authorization requested herein will be used to support implementation of Science Plan recommendations through the following activities:

- Continued updating of statistical models to identify selenium loading sources within Lower Gunnison sub-basins.
- Continued collection and analysis of water table elevations and groundwater quality data to better track selenium flow paths and eventually target locations for future control projects.
- Continued collection of sediment and biological sampling data and development of ecological modeling tools to better assess the impacts of various chemical forms of selenium on the food chain and endangered fish uptake mechanisms.
- Conceptual development of a pilot project demonstrating in-situ selenium treatment strategies.
- Fish tissue sampling for selenium to better assess the extent of selenium impacts on the endangered fish.

**2. *Upper Colorado River Recovery Program: 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. To extend the streamlined consultation benefits to the water users of the White River basin, continued support will be provided to the development of a management plan for the White River basin, and to the drafting of the accompanying NEPA documents.

Recently non-native/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 small mouth 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. These funds will be used to support additional non-native fish management activities. These projects 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 pilot program to explore the effectiveness of incentivized angler harvest of selected species, and the installation of a screen at Ridgway reservoir to decrease escapement of illicitly stocked non-native fish into the Uncompahgre River below the dam.

**3. *Repairs and improvements to the Grand Valley Power Plant to benefit flows in the 15 Mile Reach of the Colorado River: up to \$500,000***

The Grand Valley Power Plant was constructed in 1933 by Xcel Energy and was recently acquired by the Orchard Mesa Irrigation District (OMID) and Grand Valley Water User Association (GVWUA). Agreements with the acquiring entities have allowed water to be delivered to the power plant and returned to the river to increase flows in the 15 Mile Reach to benefit habitat for endangered species. The aging power plant requires repairs and updates to operate reliably in order to continue to provide water to the 15 Mile Reach for the benefit of the endangered fish that use the 15 Mile Reach as habitat. To improve the efficiency and reliability of the power plant, the following repairs and updates will be performed: update

of intake structure, refurbishment of turbines, disassembling and rewinding of generators, updates of the electrical system, controls, switchgear and substation, and lowering of the tailrace. These funds will provide approximately 10% of the total costs of repairs, and the other funds will come from OMID, GVWUA, and some additional sources. OMID and GVWUA have initiated conversations with the CWCB finance section in order to secure a loan for a substantial portion of the funds.

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

***1. Native Terrestrial Wildlife Conservation (up to \$1,086,110)***

- 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. Reestablish additional prairie dog colonies through relocation in South Park area.
- 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, eastern Colorado grassland birds) projects.
- Enhance greater sage grouse habitat, including the potential for projects through the Habitat Exchange.
- Increase and enhance habitat for lesser prairie chicken.
- Improve habitat for Columbian sharp-tailed grouse by increasing plant diversity of marginal grass habitat areas.
- Update and improve statewide raptor monitoring database.

***2. Native Aquatic Wildlife Conservation (up to \$913,890)***

- Continue work on native cutthroat trout (creating and improving habitat and unraveling the complicated genetics) and improving broodstocks for native trout and whitefish. Construct new isolation building at Roaring Judy hatchery to increase capacity for propagation.
- Continue to develop captive broodstocks and husbandry techniques for three native fish species of concern (flannemouth 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. Restore boreal toad habitat impacted by the West Fork Complex fire.
- Monitor seasonal native fish movement in Fountain Creek. Evaluate need for fish passage in Fountain Creek and St. Vrain Creek.
- Evaluate effects of food web toxicants on native fish; evaluate need for new water quality regulations.
- Research distribution of aquatic mollusks in Colorado to inform conservation efforts for over 40 native species.

***3. Native Species Management, Monitoring and Propagation (up to \$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).