



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

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AGENDA ITEM: 8. 2018 Species Conservation Trust Fund Eligibility List Approval

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 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.

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 million from the SCTF for FY 18-19, including \$2 million for the CWCB-led projects and programs outlined herein; and 2) forward a statement of concurrence to the CPW Commission.

Statutory Requirements of the 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

DNR typically projects approximately \$5 million available for SCTF projects per fiscal year, provided that the General Assembly allocates and approves that amount of funding. DNR works with CWCB and CPW staff to determine the allocation of that amount per agency. The June 2017 budget forecast of the unobligated balance in the SCTF was projected to be as much as \$5 million for FY 18-19. The December 2017 Legislative Council staff revenue forecast was dramatically lower, however, due to a combination of routine severance tax refunds and a new round of severance tax deductions and refunds that followed the Colorado Supreme Court's ruling in *BP America*.

Given the poor fiscal outlook, DNR does not expect any funding for FY 2018-19 projects, severance tax or otherwise. However, given the General Assembly's past acknowledgement that SCTF projects are important and worth funding, it is possible that resources could be allocated to the fund through a transfer from the General Fund. This was the case during the last legislative session, when the SCTF received a transfer of \$4.1 million from the General Fund that will help support FY17-18 projects (SB 17-259).

DNR believes it is prudent to have a list of projects prepared to make use of alternative funding if it does become available. Thus, CWCB staff proposes the following projects and programs for funding up to a designated amount, totaling \$2,000,000. Should less money be available for expenditure than current projections indicate, staff recommends that the Board authorize reduction of FY 18-19 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 2017-18 Recommended Projects

The recommended projects for FY 18-19 are summarized below.

Colorado Water Conservation Board Projects Total Request: Up to \$2,000,000

1. Platte River Recovery Implementation Program: Up to \$600,000

The Platte River Recovery Implementation Program helps to provide Endangered Species Act (ESA) compliance through management of land and water resources on the Platte River in Nebraska. The four target species that benefit from the Program include three endangered species (the whooping crane, the interior least tern, and the pallid sturgeon), and one threatened species (the piping plover). While the management actions are concentrated in Central Nebraska, a Programmatic Biological Opinion provides ESA compliance for existing and certain new water-related activities upstream in the North Platte and South Platte Rivers. This provides a significant benefit to Colorado and its water users, in addition to the four species in question.

Colorado contributes to this program through cash for its funding and some water contributions. Colorado's total cost share contribution for the first program increment—defined as the years 2007-2019—is \$24,000,000 (in 2005 dollars; indexed for inflation). This payment will help Colorado meet its obligations to the program. Colorado will need another \$24,900,000 for the extension of the first increment, which will run from 2020 to 2032.

2. Non-native fish control: Up to \$500,000

Interactions between native and non-native fish interactions increasingly threaten the success associated with the recovery of four endangered fish species 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.

These funds will be used to support non-native fish management activities. Projects may include a pilot program to explore the effectiveness of incentivized angler harvest of selected species, mechanical removal, 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. *Selenium Management, Research, Monitoring, Evaluation & Control: Up to \$100,000*

Selenium is a naturally occurring element that can cause deleterious effects to fish reproduction in high levels, as can occur when weathering and irrigation mobilize selenium through the soil and into waterways. Selenium levels are high in the Gunnison and Colorado River basins, rivers which provide designated critical habitat to the endangered Colorado pikeminnow, humpback chub, bonytail, and razorback sucker.

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 for the continued existence of those endangered species.

In the Lower Arkansas River Basin, selenium concentrations exceed the monthly average exposure of 3.1 µg/L for lotic aquatic systems. The Lower Arkansas is home to certain species listed as threatened or endangered by the State of Colorado, including the Arkansas darter.

Funds for selenium management will be directed to the SMP as well as monitoring, research, and projects that help understand and address selenium in the Gunnison, Colorado, and Lower Arkansas River Basins.

4. *Morgan Bottom Irrigation Delivery and Habitat Enhancement Project: Up to \$800,000*

The 14-mile reach of the Yampa River known as Morgan Bottom near Hayden supports numerous diversions and irrigated acres on meadows, benches, and bottomlands adjacent to and near the river. This reach also provides in-channel habitat to three sensitive native fish species (bluehead sucker, flannelmouth sucker, and roundtail chub) and supports a globally rare assemblage of riparian vegetation species.

CWCB is working with local ditch companies, neighboring ranchers, and the Nature Conservancy (which owns and operates the Carpenter Ranch located adjacent to the Morgan Bottom reach) to address issues on the river stemming from past flood damage and outdated or poorly-sited irrigation infrastructure. These issues include altered channel alignments, removed riparian vegetation, and headgates that are isolated from their source of water supply and require temporary seasonal measures to enable diversions. The stakeholders are developing strategies to restore riparian habitat, upgrade irrigation infrastructure, and control erosion along this reach of the river. The goal is to address to these issues while helping to harmonize resource protection with continued human use of the river.