



## COLORADO

### Colorado Water Conservation Board

Department of Natural Resources

1313 Sherman Street  
Denver, CO 80203

P (303) 866-3441  
F (303) 866-4474

John Hickenlooper, Governor

Robert Randall, DNR Executive Director

Rebecca Mitchell, CWCB Director

**TO:** Colorado Water Conservation Board Members

**FROM:** Linda Bassi, Chief, Stream & Lake Protection Section  
Carlee Brown, Interstate, Federal & Water Information Section

**DATE:** March 21-22, 2018 Board Meeting

**AGENDA ITEM:** 17. Wild and Scenic Rivers Fund: Proposed Edits to Terms and Conditions

---

### Background

At its May 2017 meeting, the Board asked Colorado Water Conservation Board (CWCB) Staff to evaluate the *Terms and Conditions Developed by the Colorado Water Conservation Board for the Allocation of Funds from the Wild and Scenic Alternatives Fund* (Terms and Conditions). A description of CWCB's recommendations are included in this memo.

### Staff Recommendation

Staff recommends that the Board adopt the proposed changes to the existing Terms and Conditions (attached).

### Discussion

During the May 2017 Board meeting, former Director April Montgomery requested that Staff review the Terms and Conditions to determine whether the concept and term "alternative" was necessary to the Terms and Conditions. She also suggested other housekeeping edits to the document. After reviewing the Wild and Scenic Rivers Fund statute<sup>1</sup>, Staff incorporated Director Montgomery's suggestions and took the opportunity to improve the readability of the document.

Staff offered proposed revisions to the Terms and Conditions at the July 2017 Board Meeting (see the corresponding [board memo](#) for more information). The edits included (1) excerpts from the [statute](#); (2) a fuller description of the role of stakeholder groups receiving funds; and (3) several editorial changes for clarity.

After discussion at the July 2017 Board Meeting, the Board directed Staff to take an additional look at the Terms and Conditions, and to engage interested members of the Board in any

---

<sup>1</sup> C.R.S. 37-60-122.3



## Agenda Item 17

### Wild and Scenic Rivers Fund: Proposed Edits to Terms and Conditions

March 22-23, 2018 Board Meeting

Page 2

changes. Staff has worked with Directors Gallagher, George, Hawkins, and Wattenberg on the most recent draft. The new edits include:

- A paragraph that resulted in some ambiguity regarding whether Stakeholder Groups could choose to support W&S designations has been removed, to reflect the statutory language.
- Additional references to the statute have been added for consistency with the General Assembly's original intent for use of the Fund.
- A statement supporting the use of Colorado's Instream Flow Program as a means to protect flow-related Outstandingly Remarkable Values has been added.
- Edits for style, grammatical consistency, and consistency with other language from the statute authorizing the Fund.

Staff recommends the changes shown in redline on the attached Terms and Conditions. A clean copy of the proposed revised Terms and Conditions is also attached for convenience.

Attachments

TERMS AND CONDITIONS ~~DEVELOPED BY THE~~  
~~COLORADO WATER CONSERVATION BOARD~~  
FOR THE ALLOCATION OF FUNDS FROM  
THE WILD AND SCENIC ~~ALTERNATIVES RIVERS~~ FUND

Adopted January 27, 2010  
Revised July \_\_, 2017 March 21, 2018

## **Introduction**

### **Background**

~~In 2009, the~~The Colorado General Assembly~~;~~<sup>1</sup>~~)-~~ established the Colorado Water Conservation Board's ("CWCB's") Wild and Scenic Rivers ~~Act Alternatives~~ Fund ("the Fund") ~~in 2009.~~<sup>1</sup> The legislature~~;~~<sup>2</sup>~~(1)~~ provided that the Fund would be refreshed annually up to \$400,000; ~~3~~~~(2)~~ stated that the Fund should be used to ~~support cooperative and collaborative processes designed to protect outstandingly remarkable values ("ORVs") associated with rivers within Colorado, while protecting Colorado's ability to fully use its compact and decree entitlements~~<sup>"work with stakeholders within the state of Colorado to develop protection of river-dependent resources as an alternative to wild and scenic river designation under the federal Wild and Scenic Rivers Act"</sup>; and, ~~4~~~~(3)~~ provided that the Board may adopt terms and conditions for fund disbursements.

The Fund is used for two primary purposes: ~~(1) to support local resource protection groups ("stakeholder groups") that form to develop protection of river-dependent resources as an alternative to wild and scenic river designation under the~~ respond to federal Wild and Scenic Rivers Act, ~~processes in order to explore~~ different approaches that will most benefit the resource and the community, and ~~(2) for CWCB sStaff operational expenses related to participation in such stakeholder groups. In response to federal processes, local groups may form alternative resource protection groups ("alternatives stakeholder groups") that explore different avenues for resource protection.~~ These terms and conditions are designed to assure that the Fund is used to support the efforts of these various ~~stakeholder~~<sup>alternatives</sup> groups in an equitable and efficient manner.

### **Introduction**

~~Except for funds used by the CWCB staff for operational expenses, requests for use of the Fund shall be provided to the CWCB Director in writing.~~ It is the goal of the CWCB to ensure wise and effective use of monies from the Fund. - The CWCB strongly encourages the use of this Fund for projects that result in the compilation of the best available data at the earliest stages of the federal agencies' plan revisions and -processes to evaluate streams and rivers for eligibility and suitability for Wild and Scenic designation.

## **Administration of the Fund**

The CWCB will:

- Annually review information regarding the Fund~~;~~ in May of each year.

---

<sup>1</sup> C.R.S. 37-60-122.3

- ~~Each year~~On an annual basis, Consider and make any necessary revisions to these terms and conditions on an annual basis.
- Determine if the purposes for which the Fund was established have ceased, and if so, de-authorize the Fund.

The CWCB Director will:

- Approve or deny the use of all funds, after consultation with the Board member(s) of basins involved with the project.

The CWCB Staff will:

- Ensure that the Fund is managed consistently with state statutes, applicable state fiscal rules, and these terms and conditions.
- Review applications and recommend use of the Fund. The CWCB Director must approve all applications to use the Fund.
- Enter into contracts with appropriate entities and ensure that the projects identified in the application and work plan ~~is~~are implemented within the time and budget identified in the application.
- Ensure that sound fiscal, fiduciary, and accounting practices are implemented.

## **Stakeholder Groups**

Stakeholder groups are associations of interested parties and organizations that cooperate and collaborate to protect outstandingly remarkable values (“ORVs”) associated with rivers within Colorado, while protecting Colorado’s ability to fully use its compact and decree entitlements. Stakeholder groups should include, but are not limited to, traditional consumptive water interests and non-consumptive interests.

Stakeholder groups often have nuanced opinions regarding federal agencies’ proposed Wild and Scenic designations. Protection measures which support findings of eligibility, or suitability or Wild and Scenic river designation should be developed based on the discussions of the diverse parties within the stakeholder group.

Stakeholder groups may receive a Fund allocation to support distinct projects and/or ongoing stakeholder processes (collectively referred to as “projects”). Applications may be submitted by the stakeholder group itself or an entity applying on behalf of the group, as described in the next section. Ideally, stakeholder groups will include both traditional consumptive water interests and non-consumptive water interests.

Colorado's Instream Flow Program offers a means to protect flow-related ORVs without a Wild and Scenic designation; ~~and thus,~~ stakeholder groups are encouraged to ~~should always~~ consider instream flows as a primary tool in the effort to protect such ORVs.

## **Overview of the Fund Management Eligibility Requirements for Project Sponsorship**

~~The CWCB~~ Staff may use the Fund to pay for travel costs or other operating expenses incurred by the Staff for activities related to participation in ~~alternatives~~stakeholder groups. In addition, non-federal entities may apply for use of monies from the Fund. Eligible entities that may sponsor projects and apply for allocations from the Fund include:

- Public (Government) - municipalities, enterprises, counties, and State of Colorado agencies.
- Public (Districts) - special, water and sanitation, conservancy, conservation, irrigation, and water activity enterprises.
- Private Incorporated - mutual ditch companies, homeowners' associations, and non-profit corporations.
- Private - individuals, partnerships, and sole proprietors.
- Non-governmental organizations - ~~are~~ broadly defined as any organization that is not part of the government.

## **Project Sponsorship Process**

Project sponsors may submit applications for monies from the Fund at any time. The Board will be notified of any requests for use of the Fund that are granted, partially approved, and/or denied, through the Director's report or a memorandum to the Board.

### **Written Request Submittal Requirements**

To apply for use of the Fund, the project sponsor must submit a written request to the CWCB Director ("application" or "request for funds"). These terms and conditions will guide the CWCB Director's and Staff's review and analysis of the application, ~~utilizing the terms and conditions, will~~ and will form the basis for the CWCB Director's decision to either fund, partially fund, or not fund the request. Therefore, project sponsors should prepare their applications to address-meet these terms and conditions. ~~The following paragraphs provide a general overview of the information that is needed to complete an application for use of the Funds.~~

Application information and requirements may vary depending upon the stakeholders involved, the status of a federal agency's Wild and Scenic review process, and other unique circumstances that may exist. The project sponsor is encouraged to discuss the application with CWCB ~~staff~~ Staff if any questions arise.

### **Description of Project Sponsor(s) and/or Stakeholders involved in the process**

Each request for funding should include a description of the entity/entities that are involved in the process. The project sponsor may be a non-federal public or private entity. Given the diverse range of potential project sponsors, not all of the following information may be relevant. Where applicable and relevant, the description should include the following:

- Type of organization, official name, the year formed, the statute(s) under which the entity was formed, a contact person and that person's position or title, address and phone number.
- The project sponsor's background, interest and capacity, organizational size, staffing and budget, ~~and funding,~~ partner organizations, and volunteer commitments.

## Background

### Purpose

This section should provide: (1) a brief overview of goals of the alternatives stakeholder group; (2) the status of the federal agency's (or agencies') Wild and Scenic process; and, (3) a description of the project the funds would support.

### Project Area Description

The project area is generally the geographic area that is being discussed. This description should include a listing of the rivers that are under "Wild and Scenic" consideration by a federal agency. The description also should include the following items:

1. -A narrative description of the project area that includes the county (or counties), the location of towns or cities, topography, land ownership along the river systems, and locations of major rivers.
2. An area map showing each of the items above, as well as the locations of existing facilities, proposed project facilities and river segments that are being considered for listing as eligible and/or suitable for Wild and Scenic designation.

## Scope of Work

The request for funds must provide a scope of work. The scope of work should include a detailed summary of how the project will be accomplished. The scope of work must include a description of the activities and tasks that will be undertaken, logistics, and final product/deliverables to be produced with the monies distributed by the Fund for the various tasks.

The scope of work should include the following:

- Detailed summary of the work plan.
- Description of the work plan's goals and how the work will accomplish those goals.
- Description of how the work will be accomplished and the anticipated major deliverables/products.
- A list of participants.
- A description of the selection process of the any contracting entity that will complete the scope of work; or, if an entity has already been selected, ~~then~~ a list of the contracting entity's qualifications to accomplish the project.

- A detailed budget ~~by describing~~ activities, level of effort, and rates. The budget shall also detail the source and amount of matching funds and/or in-kind contributions, if any. If applicable, the budget should also include any other outstanding or previously applied for funding that also supports the project.
- A detailed project schedule that includes key milestones.

## **Reporting**

The project sponsor shall provide progress reports to the CWCB at least every 6 months, and on a more regular basis to the CWCB ~~staff~~Staff, beginning from the date of the CWCB approval of the project. The progress report shall describe the completion or partial completion of the tasks identified in the scope of work, including a description of any major issues that have occurred and any corrective action taken to address these issues.

## **Final Deliverables**

At completion of the project, the project sponsor shall provide a final report to the CWCB that summarizes the project and documents how the project was completed. This report may include photographs, summaries of meetings and/or additional reports.

## **Evaluation Process for Allocation of Funds**

Allocation of funds will depend upon availability of funds and an evaluation of the project using the terms and conditions in this section.

## **Matching Requirement:**

Applicants will be required to demonstrate a 20 percent (or greater) match from other sources of the total amount of funds requested. Recognizing the limited resources of some entities, in-kind services will be eligible as matching funds, but written documentation of in-kind services will be required. Past expenditures directly related to the project may be considered as matching funds if the expenditures occurred within 12 months of the date the request for funds was submitted to the CWCB.

## **~~Evaluation~~ Terms and Conditions**

The following terms and conditions will be utilized to further evaluate requests for funds:

- a. The number and types of entities represented by the application and the degree to which the project will promote cooperation and collaboration among traditional consumptive water interests and/or non-consumptive interests.
- b. Whether the project could help in assuring that ORVs or potential ORVs are protected while protecting Colorado's ability to fully use its entitlements under compacts or decrees.

- c. Whether the project will still enable Colorado to fully use its compact and decree entitlements.
- d. Urgency of need for the project and/or any compelling “window of opportunity” that may be missed without the requested funding.
- e. The length of time needed to implement the project. Projects that can be accomplished within a specified time period will receive more favorable consideration for receiving monies from the Fund. In addition, projects that will be completed in a timely manner, rather than projects that have ~~sought been subject to~~ many lengthy delays, will receive more favorable consideration for receiving monies from the Fund.
- f. The expertise and ability of the project sponsor and participants to implement the project.
- g. The level of matching funds the project sponsor ~~and/or stakeholders is are~~ providing. The greater the amount of matching funds, the more likely the project will receive monies from the Fund, provided that all other terms and conditions are satisfied.
- h. The degrees to which the project will help meet environmental or recreational needs ~~as an alternative to and~~ protect ~~ing the~~ ORVs identified through the Wild and Scenic ~~designation suitability~~ process.
- i. The degree to which the project will assist in the administration of compact-entitled waters or address problems related to compact-entitled waters and compact compliance, and the degree to which the project promotes maximum utilization of state waters.
- ~~j. Whether the project will assist in, or not impair, the recovery of threatened and endangered wildlife species or Colorado State state species of concern, native species that have been listed as threatened or endangered under federal or state law or that are candidate species or are likely to become candidate species, species at risk and species of special concern, or species the decline or extinction of which may affect the welfare of the citizens of the state.~~
- ~~j.~~
- k. Whether the project will complement or assist in the implementation of other CWCB programs.

~~For additional information, questions or assistance please contact Ted Kowalski (Colorado Water Conservation Board), at (303) 866-3441 ext.3220 or email Ted at [ted.kowalski@state.co.us](mailto:ted.kowalski@state.co.us).~~



**TERMS AND CONDITIONS  
FOR THE ALLOCATION OF FUNDS FROM  
THE WILD AND SCENIC RIVERS FUND**

Adopted January 27, 2010

Revised March 21, 2018

**Introduction**

The Colorado General Assembly established the Colorado Water Conservation Board's (CWCB's) Wild and Scenic Rivers Fund ("the Fund") in 2009.<sup>1</sup> The legislature: (1) provided that the Fund would be refreshed annually up to \$400,000; (2) stated that the Fund should be used to "work with stakeholders within the state of Colorado to develop protection of river-dependent resources as an alternative to wild and scenic river designation under the federal Wild and Scenic Rivers Act"; and, (3) provided that the Board may adopt terms and conditions for fund disbursements.

The Fund is used for two primary purposes: (1) to support local resource protection groups ("stakeholder groups") that form to develop protection of river-dependent resources as an alternative to wild and scenic river designation under the federal Wild and Scenic Rivers Act, exploring different approaches that will most benefit the resource and the community, and (2) for CWCB Staff operational expenses related to participation in such stakeholder groups. These terms and conditions are designed to assure that the Fund is used to support the efforts of these various stakeholder groups in an equitable and efficient manner.

It is the goal of the CWCB to ensure wise and effective use of monies from the Fund. The CWCB strongly encourages the use of this Fund for projects that result in the compilation of the best available data at the earliest stages of the federal agencies' plan revisions and processes to evaluate streams and rivers for eligibility and suitability for Wild and Scenic designation.

**Administration of the Fund**

The CWCB will:

- Annually review information regarding the Fund in May of each year.
- Consider and make any necessary revisions to these terms and conditions on an annual basis.
- Determine if the purposes for which the Fund was established have ceased, and if so, de-authorize the Fund.

The CWCB Director will:

- Approve or deny the use of all funds, after consultation with the Board member(s) of basins involved with the project.

---

<sup>1</sup> C.R.S. 37-60-122.3

The CWCB Staff will:

- Ensure that the Fund is managed consistently with state statutes, applicable state fiscal rules, and these terms and conditions.
- Review applications and recommend use of the Fund. The CWCB Director must approve all applications to use the Fund.
- Enter into contracts with appropriate entities and ensure that the projects identified in the application and work plan are implemented within the time and budget identified in the application.
- Ensure that sound fiscal, fiduciary, and accounting practices are implemented.

## **Stakeholder Groups**

Stakeholder groups are associations of interested parties and organizations that cooperate and collaborate to protect outstandingly remarkable values (“ORVs”) associated with rivers within Colorado, while protecting Colorado’s ability to fully use its compact and decree entitlements.

Stakeholder groups may receive a Fund allocation to support distinct projects and/or ongoing stakeholder processes (collectively referred to as “projects”). Applications may be submitted by the stakeholder group itself or an entity applying on behalf of the group, as described in the next section. Ideally, stakeholder groups will include both traditional consumptive water interests and non-consumptive water interests.

Colorado's Instream Flow Program offers a means to protect flow-related ORVs without a Wild and Scenic designation; thus, stakeholder groups are encouraged to consider instream flows as a primary tool in the effort to protect such ORVs.

## **Fund Eligibility Requirements**

CWCB Staff may use the Fund to pay for travel costs or other operating expenses incurred by the Staff for activities related to participation in stakeholder groups. In addition, non-federal entities may apply for use of monies from the Fund. Eligible entities that may sponsor projects and apply for allocations from the Fund include:

- Public (Government) - municipalities, enterprises, counties, and State of Colorado agencies.
- Public (Districts) - special, water and sanitation, conservancy, conservation, irrigation, and water activity enterprises.
- Private Incorporated - mutual ditch companies, homeowners’ associations, and non-profit corporations.
- Private - individuals, partnerships, and sole proprietors.
- Non-governmental organizations - broadly defined as any organization that is not part of the government.

## **Project Sponsorship Process**

Project sponsors may submit applications for monies from the Fund at any time. The Board will be notified of any requests for use of the Fund that are granted, partially approved, or denied, through the Director's report or a memorandum to the Board.

To apply for use of the Fund, the project sponsor must submit a written request to the CWCB Director ("application" or "request for funds"). These terms and conditions will guide the CWCB Director's and Staff's review and analysis of the application, and will form the basis for the CWCB Director's decision to either fund, partially fund, or not fund the request. Therefore, project sponsors should prepare their applications to meet these terms and conditions.

Application information and requirements may vary depending upon the stakeholders involved, the status of a federal agency's Wild and Scenic review process, and other unique circumstances that may exist. The project sponsor is encouraged to discuss the application with CWCB Staff if any questions arise.

### **Description of Project Sponsor(s) and/or Stakeholders involved in the process**

Each request for funding should include a description of the entity/entities that are involved in the process. The project sponsor may be a non-federal public or private entity. Given the diverse range of potential project sponsors, not all of the following information may be relevant. Where applicable and relevant, the description should include the following:

- Type of organization, official name, the year formed, the statute(s) under which the entity was formed, a contact person and that person's position or title, address and phone number.
- The project sponsor's background, interest and capacity, organizational size, staffing and budget, funding, partner organizations, and volunteer commitments.

### **Background**

#### **Purpose**

This section should provide: (1) a brief overview of goals of the stakeholder group; (2) the status of the federal agency's (or agencies') Wild and Scenic process; and, (3) a description of the project the funds would support.

#### **Project Area Description**

The project area is generally the geographic area that is being discussed. This description should include a listing of the rivers that are under Wild and Scenic consideration by a federal agency. The description also should include the following items:

1. A narrative description of the project area that includes the county (or counties), the location of towns or cities, topography, land ownership along the river systems, and locations of major rivers.

2. An area map showing each of the items above, as well as the locations of existing facilities, proposed project facilities and river segments that are being considered for listing as eligible and/or suitable for Wild and Scenic designation.

### **Scope of Work**

The request for funds must provide a scope of work. The scope of work should include a detailed summary of how the project will be accomplished. The scope of work must include a description of the activities and tasks that will be undertaken, logistics, and final product/deliverables to be produced with the monies distributed by the Fund for the various tasks.

The scope of work should include the following:

- Detailed summary of the work plan.
- Description of the work plan's goals and how the work will accomplish those goals.
- Description of how the work will be accomplished and the anticipated deliverables/products.
- A list of participants.
- A description of the selection process of any contracting entity that will complete the scope of work; or, if an entity has already been selected, a list of the contracting entity's qualifications to accomplish the project.
- A detailed budget describing activities, level of effort, and rates. The budget shall also detail the source and amount of matching funds and/or in-kind contributions, if any. If applicable, the budget should also include any other outstanding or previously applied for funding that also supports the project.
- A detailed project schedule that includes key milestones.

### **Reporting**

The project sponsor shall provide progress reports to the CWCB at least every 6 months, and on a more regular basis to the CWCB Staff, beginning from the date of the CWCB approval of the project. The progress report shall describe the completion or partial completion of the tasks identified in the scope of work, including a description of any major issues that have occurred and any corrective action taken to address these issues.

### **Final Deliverables**

At completion of the project, the project sponsor shall provide a final report to the CWCB that summarizes the project and documents how the project was completed. This report may include photographs, summaries of meetings and/or additional reports.

### **Evaluation Process for Allocation of Funds**

Allocation of funds will depend upon availability of funds and an evaluation of the project using the terms and conditions in this section.

## **Matching Requirement**

Applicants will be required to demonstrate a 20 percent (or greater) match from other sources of the total amount of funds requested. Recognizing the limited resources of some entities, in-kind services will be eligible as matching funds, but written documentation of in-kind services will be required. Past expenditures directly related to the project may be considered as matching funds if the expenditures occurred within 12 months of the date the request for funds was submitted to the CWCBC.

## **Terms and Conditions**

The following terms and conditions will be utilized to further evaluate requests for funds:

- a. The number and types of entities represented by the application and the degree to which the project will promote cooperation and collaboration among traditional consumptive water interests and/or non-consumptive interests.
- b. Whether the project could help in assuring that ORVs or potential ORVs are protected while protecting Colorado's ability to fully use its entitlements under compacts or decrees.
- c. Whether the project will still enable Colorado to fully use its compact and decree entitlements.
- d. Urgency of need for the project and/or any compelling "window of opportunity" that may be missed without the requested funding.
- e. The length of time needed to implement the project. Projects that can be accomplished within a specified time period will receive more favorable consideration for receiving monies from the Fund. In addition, projects that will be completed in a timely manner, rather than projects that have been subject to many lengthy delays, will receive more favorable consideration for receiving monies from the Fund.
- f. The expertise and ability of the project sponsor and participants to implement the project.
- g. The level of matching funds the project sponsor and/or stakeholders are providing. The greater the amount of matching funds, the more likely the project will receive monies from the Fund, provided that all other terms and conditions are satisfied.
- h. The degree to which the project will help meet environmental or recreational needs and protect ORVs identified through the Wild and Scenic suitability process.
- i. The degree to which the project will assist in the administration of compact-entitled waters or address problems related to compact-entitled waters and compact compliance, and the degree to which the project promotes maximum utilization of state waters.
- j. Whether the project will assist in, or not impair, the recovery of native species that have been listed as threatened or endangered under federal or state law or that are candidate species or are likely to become candidate species, species at risk and species of special concern, or species the decline or extinction of which may affect the welfare of the citizens of the state.
- k. Whether the project will complement or assist in the implementation of other CWCBC programs.