



COLORADO

Colorado Water Conservation Board

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Kara Scheel, Endangered Species Recovery Program Manager
Interstate, Federal, and Water Information Section

DATE: January 29-30, 2024

AGENDA ITEM: 16. 2024 Species Conservation Trust Fund Eligibility List Approval

Staff Recommendation:

Staff recommends, contingent upon available revenues, that the Board:

- (1) Concur with the Department of Natural Resources Executive Director's proposed recommendations to the General Assembly to approve an expenditure of up to \$5 million from the Species Conservation Trust Fund for fiscal year 2024-2025, including up to \$2.5 million for the Colorado Water Conservation Board priorities outlined herein; and
- (2) Forward a statement of concurrence to the Colorado Parks and Wildlife Commission.

Introduction:

The Species Conservation Trust Fund (SCTF) was created in 1998, pursuant to [H.B.98-1006](#) (codified in section 24-33-111, C.R.S. [2016]). The Colorado General Assembly set forth that the fund would be used to preserve or improve the natural environment of species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species.

Each year, the Executive Director of the Department of Natural Resources (DNR) prepares a species conservation eligibility list (SCEL) after consultation with the Colorado Water Conservation Board (CWCB) and its Director, and the Colorado Parks and Wildlife (CPW) Commission and its Director. The SCEL identifies programs (and associated costs) that are eligible for funding from the SCTF. Once finalized with the Board and the Commission, the SCEL is sent to the Colorado General Assembly for review and modifications as appropriate prior to the passage of the annual SCTF bill.



Statutory Requirements of the Species Conservation Trust Fund:

The Species Conservation Trust Fund 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 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.

Fiscal Year 2024-25 Outlook:

The Species Conservation Trust Fund is supported by transfers of severance tax revenue from the Severance Tax Operational Fund and treasury interest earned on the fund balance. Pursuant to structural changes to the Severance Tax Operational Fund made in S.B. 21-281, the annual revenue transfer between the Operational Fund and the Species Conservation Trust Fund has been enacted through a Long Bill appropriation starting in FY 2022-23. Separate annual legislation is still required to secure legislative approval for the species conservation eligibility list and authorize expenditures from the SCTF for the identified projects. Importantly, S.B. 21-281 reprioritized the Species Conservation Trust Fund within the Operational Fund and included it as an obligation that is covered by the statutory reserve requirement, which is equal to 200% of annual Operational Fund appropriations. While severance tax revenue itself remains highly volatile, the SCTF is now more insulated from boom-and-bust funding due to the relative protection of the Operational Fund reserve and is likely to experience greater stability in funding from year-to-year.

Senate Bill 23-214 (2023 Long Bill) appropriated \$5 million to be transferred to the Species Conservation Trust Fund in the current fiscal year. That revenue is now available in the SCTF to be authorized for species conservation projects during the 2024 session. Regarding the future outlook for the SCTF, the Governor's FY 2024-25 budget request includes another annual transfer of \$5.0 million that, if approved by the legislature, will be available to support projects that will be authorized in the annual Species Conservation Trust Fund bill during the 2025 legislative session.

DNR has requested CWCB and CPW to each identify priorities for up to \$2.5 million of funding for FY 2024-25, as well as a plan for reduced funding if needed. CWCB staff proposes allocating \$2.5 million of SCTF funding to the programs described below. Should less money be available, staff recommends that the Board authorize proportional reduction of recommended funding, unless staff deems it necessary to reduce amounts based on prioritization, need, or the matching capacity of program partners.



Fiscal Year 2024-2025 Recommended Projects:

CWCB staff recommends the following projects for fiscal year 2024-25.

Project/Program	Request
1. Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Implementation Program	\$1,800,000
2. Selenium Management, Research, Monitoring, Evaluation, and Control	\$650,000
3. Farmers Ditch Improvement Project	\$50,000
Total CWCB SCTF Request:	\$2,500,000

1. Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Implementation Program: Up to \$1,800,000

The Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Implementation Program (Colorado Recovery Programs) were established under cooperative agreements, signed by the Governor of Colorado, as multi-agency partnerships in 1988 and 1992. The goal of the Recovery Programs is to recover the threatened and endangered Colorado pikeminnow, bonytail, razorback sucker, and humpback chub. The Recovery Programs provide Endangered Species Act compliance for more than 1,500 water projects in Colorado.

Funding for improvement projects is greatly needed to ensure the success of these programs. Projects include studies related to recovery of the species, installation of screens to prevent escapement of non-native fish, diversion rehabilitation to improve fish passage, augmenting flows under dry conditions, equipment needed for performing non-native removal and other recovery efforts, habitat restoration, canal salvage operations, and other conservation measures as defined in the Programs' respective recovery action plans.

2. Selenium Management, Research, Monitoring, Evaluation and Control: Up to \$650,000

Selenium is a naturally occurring element that can cause deleterious effects to fish reproduction. Increased selenium concentrations 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 that are designated critical habitat for the threatened and endangered Colorado pikeminnow, humpback chub, bonytail, and razorback sucker.

The Gunnison Basin Selenium Management Program is a required conservation measure identified in the Programmatic Biological Opinion (issued by the U.S. Fish and Wildlife Service, December 2009) as part of the Aspinall Unit National Environmental Policy Act evaluation (issued December 2010). The U.S. Fish and Wildlife Service determined that high selenium levels in the Uncompahgre and Gunnison Rivers are limiting the recovery of the Colorado River endangered fish species and that the Selenium Management Program is necessary for the continued existence of the species. The Program has



successfully improved fish habitat by reducing selenium loading from irrigation runoff in the Gunnison Basin. Due to this program's efforts, the mainstem of the Gunnison River was removed from the State's list of impaired waters (303D) in 2021.

The group plans to analyze existing data and develop and implement a long-term monitoring plan in the Lower Gunnison to further the understanding of selenium in the food web.

3. Farmers Ditch Improvement Project: Up to \$50,000

The Western Slope Conservation Center, in partnership with the North Fork Farmers Ditch Association, will reconstruct and modernize the current diversion dam and headgate on the North Fork of the Gunnison River to automatically measure flows into the ditch while keeping excess water in the river for aquatic habitat. The project will remove the dam, replace it with an automatic Obermeyer gate and construct a natural fish passage to allow upstream movement of three native fish species to tributary spawning grounds upstream. The project will reconnect a quarter mile section of the river with water that has traditionally been dried up during the irrigation season while providing for a full decree of irrigation water to 1,000 acres of prime agricultural land.

Colorado Parks and Wildlife (CPW) has proposed the design and installation of a permanent passive inductive transponder (PIT) tag antenna array and/or the use of multiple mobile, submersible PIT tag readers to monitor the movement of the Three Species (flannemouth sucker, bluehead sucker and roundtail chub) past the new diversion. CPW staff is committed to providing and deploying thousands of PIT tags, providing labor for array installation, maintaining the array, and downloading and analyzing detection data. Project proponents have secured more than \$2.1 million in contributions for the overall project and wish to secure an additional \$50,000 for the purchase of equipment for antenna arrays.

