



## COLORADO

### Colorado Water Conservation Board

Department of Natural Resources

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**TO:** Colorado Water Conservation Board Members

**FROM:** Brandy Logan, Stream & Lake Protection Section  
Andrew Rickert, Interstate, Federal & Water  
Information Section

**DATE:** May 15, 2024

**AGENDA ITEM:** 14. Wild and Scenic Rivers Fund Grant Program Update

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### Staff Recommendation

Staff recommends that the Board:

1. Affirm that the need and purpose of the Wild and Scenic Rivers Fund still exists and is expected to continue in the future; and
2. Approve proposed changes to the Terms and Conditions for the Allocation of Funds from the Wild and Scenic Rivers Fund.

### Background

CWCB Staff is actively engaged in policy processes related to the Wild and Scenic Rivers Act, both through direct communications with the federal agencies contemplating making findings of suitability for Wild and Scenic River (WSR) designation and through coordination with stakeholder groups investigating alternatives to such findings. CWCB generally advocates for the use of state mechanisms—primarily the Instream Flow Program—to protect resources and avoid the potential restrictions that could result from WSR designations.

The General Assembly encouraged a state- and locally-led approach to WSR issues through the creation of the Wild and Scenic Rivers Fund (“the Fund”). In the act creating the Fund, the General Assembly directed \$400,000 to be made available for “the board 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.”<sup>1</sup>

The Board annually evaluates whether the Fund is needed and whether the Terms and Conditions it has adopted for allocations of the Fund are adequate or need revisions. This memo provides the Board with information about the status of WSR-funded processes across the state and provides information on proposed changes to the Terms and Conditions for these board decisions.

Interstate Compact Compliance • Watershed Protection • Flood Planning & Mitigation • Stream & Lake Protection  
Water Project Loans & Grants • Water Modeling • Conservation & Drought Planning • Water Supply Planning



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<sup>1</sup> §37-60-122.3, C.R.S. (2019).

## Stakeholder Group Updates

### Upper Colorado River Wild and Scenic Stakeholder Group Update

The Upper Colorado River Wild and Scenic Stakeholder Group (UCRW&S or SG) was formed to protect the outstandingly remarkable values (ORVs) identified in the U.S. Bureau of Land Management (BLM) and U.S. Forest Service (USFS) Wild and Scenic Eligibility Reports for Segments 4 through 7 of the Upper Colorado River. The SG includes water users from both the West Slope and East Slope, environmental interests, anglers, recreational interests, and local and state government representatives.

The Amended and Restated Upper Colorado River Wild and Scenic Stakeholder Group Management Plan (Plan) was completed in June 2020 and includes final ORV Indicators and Resources Guides related to recreational fishing and floatboating. The effective date of the Plan commenced June 12, 2015, upon issuance of records of decision by BLM and USFS. The SG continues to successfully carry out the Plan and major accomplishments include:

- Annual monitoring including collecting recreational and angling survey information, quality trout and biomass data, macroinvertebrate samples, and water quality and temperature data.
- Implemented long-term protection measures and met specified milestones outlined in the Plan. This included the appropriation and adjudication of CWCB instream flows for the Wild and Scenic segments consistent with the SG's recommendations.
- Explored and implemented voluntary cooperative measures when available and annually assess the need for, focus of, and availability of cooperative measures.
- Held regular quarterly SG meetings, annual meetings, and various special meetings.
- Finalized documents necessary to form a legal entity to receive and manage endowment funds. The SG will receive approximately \$1,375,000 in endowment funds committed through a number of agreements with Northern Water, Denver Water, and the Colorado River District.<sup>2</sup>
- Completed the first round of channel maintenance flow monitoring in 2023 which included drone surveys, cross-section surveys, sediment sampling, observational notes, and photo points.

Recently, the SG approved the Chairs for 2024-2025, the 2024 Annual Monitoring Plan, the 2024 budget, and selected an Endowment Fund Manager. The SG continues discussions about use of the Endowment Fund which will be created when all project permits are completed and poison pill provisions in the SG plan expire. The Monitoring Committee is finalizing the 2023 Annual Monitoring report and planning to install cameras to observe this year's high flow event at select locations. The Cooperative Measures Committee continues to discuss potential options to increase water supply during low streamflow or high-water temperature conditions. The finance committee continues to work on issues related to the Endowment Fund and develop funding requests to the W&S Fund. The SG recently submitted a \$99,999 request for funding for 2024-2025 SG activities.

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<sup>2</sup> Colorado River Cooperative Agreement (CRCS); 5412.5 Water IGA (2012) with Northern Water, Grand County, Middle Park WCD, and the Colorado River WCD; Windy Gap FIRMING Project IGA (2012).

### Lower Dolores Plan Working Group Update

The Lower Dolores Plan Working Group (LDPWG) has been working for years to develop alternative protection for the Wild and Scenic values associated with the lower Dolores. This group proposed to 1) create a National Conservation Area and 2) continue to understand and improve native fish habit through the Dolores River Native Fish Monitoring and Recommendations Team (M&R Team). The BLM has agreed to not find portions of the Lower Dolores River eligible for Wild and Scenic designation if those actions occur.

The legislation to create a National Conservation Area passed through the Senate Environment and Natural Resources (ENR) committee. The NCA Working Group (a part of the LDPWG) recently sent a letter to Representative Boebert and the House ENR Committee to ask for a hearing. The NCA Working Group believe that if the NCA legislation does receive a hearing it has potential to be included in a package later this year.

The M&R Team continues to conduct monitoring efforts and make recommendations to water managers. This committee recently met to review monitoring efforts, identify opportunities to conduct additional monitoring or answer research questions, and consider whether projects can help to address some issues such as willow management.

Fort Lewis College is assisting the M&R Team in conducting a number of monitoring efforts on the Dolores River. This group secured a WSRF Grant in 2020 for \$165,617 for a 5-year project (DRAMS). In addition, in 2023 Fort Lewis College applied for WSR funding on behalf of the group for \$73,565.04 for a 2-yr project for: 1) M&R Team coordination 2) covering increased costs for monitoring and additional hydraulic modeling 3) PIT tag analysis of native fish migration patterns. That proposal was approved and work on all tasks has been started. An invoice for the work conducted to date is expected before the end of the fiscal year. High flow conditions in 2023 resulted in enhanced monitoring efforts and some work was delayed until 2024.

### **Fund Expenditures**

Expenditures for Fiscal Year 2023-24 and expected requests for FY 2024-25 are set forth below. The estimated request for FY 2024-25 was developed in coordination with the Upper Colorado River Wild and Scenic Stakeholder Group and the Lower Dolores Plan Working Group.

FY 2023-2024	
UCRW&S: Funds Spent	(\$118,052.84)
UCRW&S: Funds Encumbered	(\$168,042.42)
LDPWG: Funds Spent	(\$0)
LDPWG: Encumbered	(\$73,565.04)
<b>Total Encumbered</b>	(\$241,607.46)
<b>Total Spent</b>	(\$118,052.84)
FY 2024-2025	
UCRW&S: request	\$99,999.00

LDPWG: anticipated request	\$0
<b>Total Request</b>	<b>\$99,999.00</b>
<b>Anticipated unencumbered funds</b>	<b>\$300,000.00</b>

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## Proposed Revisions to the Terms and Conditions

The Fund Terms and Conditions were last updated in May of 2018. A recent review of the statute by the Procurement Director at the Department of Natural Resources identified that the Fund could be operated as a grant program governed by the State Controller Policy on Competitive Requirements for Grants rather than the Procurement Code. Managing the Fund as a competitive grant program allows flexibility that achieves the program goals while meeting the State Controller's requirements.

The Fund will largely operate in the same way for the same purposes, with stakeholder groups submitting requests for funding to support their efforts to protect ORVs through alternative processes. Revisions to the Terms and Conditions are proposed to clarify the change to a competitive grant program and to align the language with other CWCB grant programs. In addition, other changes are proposed to clarify potential uses of the Fund as well as editorial changes for clarity. The primary changes include:

- Changing the name of the document to identify it as guidelines for a grant program.
- Changing the Boards annual review date to evaluate the need for the fund and approve the Terms and Conditions from May to July, this allows for streamlined presentation of allocated funds.
- Refining definitions of the types of projects the Fund can support and providing examples of eligible projects, including allowing capacity building grants for stakeholder groups deciding whether or not to pursue Wild and Scenic designation.
- Changing the match requirements to align with other CWCB grants. This increases the match from 20% for any type of project to 25% for capacity, planning, and studies-based projects; and 50% for implementation projects. Definitions for Cash Match and In-kind Match were also added.
- Substantially revising the application process and the required information to make it more streamlined and to align other grant programs. Information about the review and approval process was also added.
- Adding the degree to which stakeholder groups develop a long-term plan for funding that is independent of the Fund as part of the criteria for evaluating requests for Funds
- Clarify references to Colorado's compact and decree entitlements.
- Adding more detail related to Grant Administration to align with other Grant Programs.

A clean and redline version of the proposed changes to the Terms and Conditions, with the proposed changes to the document name, are attached to this memo.

Attachments:

Terms and Conditions for the Allocation of Funds from the Wild and Scenic Rivers Fund, redline

The Wild and Scenic River Fund Grant Program Guidelines, clean

~~TERMS AND CONDITIONS~~  
~~FOR THE ALLOCATION OF FUNDS FROM~~ **THE WILD**  
**AND SCENIC RIVERS FUND GRANT**  
**PROGRAM**  
Guidelines

Adopted January 27, 2010  
Revised ~~March 24~~April 15, 2018~~2024~~

## 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 here called "guidelines" 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~~guidelines 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. Colorado's Instream Flow Program offers a means to protect flow-related Outstandingly Remarkable Values (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.

**Commented [LB1]:** This statement was moved from the section now called "Eligible Applicants"

## Fund Administration ~~of the Fund~~

The CWCB will:

- Annually review information regarding the Fund in ~~May~~July 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,

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

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 and procurement 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.
- ~~Notify the Board will be notified of any requests for use of the Fund that are granted~~ approved, partially approved, or denied, through the Director's report or a memorandum to the Board.
- Enter ~~into contracts~~ agreements 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.

**Commented [LB2]:** This statement was moved from the section now titled "Application Process"

## ~~Stakeholder Groups~~ Eligible Applicants

Stakeholder groups are associations of interested parties and organizations that cooperate and collaborate to protect ~~outstandingly remarkable values ("ORVs")~~ associated with rivers within Colorado, without infringing upon ~~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.

## **Eligible Projects and Activities**

### **Stakeholder Group Support**

The fund can be used to support to a range of projects. Examples of eligible projects and activities include:

- Capacity Building or Stakeholder Group Support to establish a stakeholder group represented by all interested parties in the watershed or support continued efforts by already established stakeholder groups working to develop protection of river-dependent resources as an alternative to wild and scenic river designation or assist groups in determining whether to pursue wild and scenic alternatives. Funds can be used by stakeholder groups to support outreach, organization, coordination, facilitation, communication, meeting costs, and management of planning activities.
- Planning projects such as project identification and prioritization.
- Engineering or studies projects such as hydrological modeling, water temperature and quality information, macroinvertebrate sampling, riparian assessments, sediment transport evaluations, recreational surveys, and other basic data collection.
- Implementation projects such as stream and floodplain restoration, revegetation, culvert replacement, facilities, or infrastructure improvements.

### **CWCB Support**

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.

## **Matching Fund Requirements**

Fund requests require matching funds. A minimum of 25% match is required for all Capacity Building or Stakeholder Support, Planning, and Engineering or Studies Grants. A minimum of 50% match is required for all Implementation Grants. Project costs may consist of a combination of in-kind and cash match, but no more than half of the match may be in the form of in-kind services. Applicants should identify match as pending or secure and provide evidence of matching funds (such as an award letter).

### **Cash Match**

A cash match is an actual expenditure paid directly with cash funds from the grantee to a vendor. Examples are supplies, services, and necessary equipment purchase or rental.

**Commented [LB3]:** This section was expanded to provide examples of the type of projects

**Commented [LB4]:** This section was largely replaced with new language that aligns with other



#### In-Kind Match

In-kind match is materials, services, and labor provided by grantee to perform all or part of the approved project scope of work, including necessary project administration. This can include standard direct and indirect personnel fringe benefits. Volunteer services provided at no cost to the applicant by firms or individuals consistent with the approved scope of work will be valued for in-kind match at local prevailing wage rates. Project-specific land acquisition or access agreement costs may also be claimed as in-kind contributions and credited against the minimum requirement. Costs that CANNOT be considered include general organization operating costs such as utilities, operating supplies and services, amortized costs or rental costs for buildings and equipment used for the general operation of the organization, and general property and liability insurance costs; nor will overhead percent charges to cover such items be allowed. These business expenses are NOT reimbursable costs and may not be claimed as matching contributions.

#### Past Expenditures

Recognizing the limited resources of some entities, past expenditures directly related to the water activity may be considered as matching funds if the expenditures occurred within 9 months of the execution date of the contract or purchase order between the applicant and the State of Colorado.

~~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.~~

**Commented [LB5]:** This is the original match language which was moved from lower in the document and then replaced with new language

## **Project Application Sponsorship Process**

Project sponsors may submit applications for ~~monies a grant~~ 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.~~ 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 must discuss the application with CWCB Staff if any questions arise prior to submitting.

To apply for use of the Fund, the project sponsor must submit a written request an application to designated staff on the CWCB Wild and Scenic Fund web page the CWCB Director ("application" or "request for funds"). These ~~terms and conditions~~ Guidelines will guide inform the CWCB Director's and Staff's review and analysis of the ~~application proposal~~, 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.~~

Given the diverse range of potential project sponsors, not all of the following information may be relevant. Where applicable and relevant, the application description should include the following:

- Description of Project Sponsor(s) and ~~for~~ Stakeholders involved in the process.

~~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.
- +○ C, 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 0 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 Statement of Work
- Engineer's estimate of probable cost for construction projects over \$100,000
- Budget (Excel)
- Schedule
- Letters of commitment (matching funds)
- Photos or drawings

~~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.~~

#### Documents Required for Agreement Execution:

- Insurance Certificate of Liability (Government entities excluded)
- Secretary of State - Certificate of Good Standing
- W-9
- Electronic Funds Transfer (preferred)

#### Deadlines

The CWCB accepts applications on a rolling basis until all funds are obligated.

### Evaluation Criteria

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

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

- 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.
- Whether the project could help in assuring that ORVs or potential ORVs are protected while without infringing upon protecting Colorado's ability to fully use its entitlements under compacts or decrees.  
Whether the project will still enable Colorado to fully use its compact and decree entitlements.
- Urgency of need for the project and/or any compelling "window of opportunity" that may be missed without the requested funding.
- 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.
- The expertise and ability of the project sponsor and participants to implement the project.
- 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.
- The degree to which the project will help meet environmental or recreational needs and protect ORVs identified through the Wild and Scenic suitability process.
- 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.
- 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.

- Whether the project will complement or assist in the implementation of other CWCB programs.
- The degree to which the stakeholder group develops a long-term plan for funding that is independent of the Fund.

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The CWCB's review and approval process will include the following steps:

- CWCB staff will determine if the required documentation has been submitted. The application will be accepted once all documents have been received.
- CWCB staff and a committee of subject matter experts will evaluate the application based on the criteria described in this document.
- CWCB staff will make a recommendation to the CWCB Director and consult the CWCB Board Member representing the corresponding basin.
- Upon CWCB Director approval of the applicant's request, funding can only be used on project components that begin after a grant contract is executed by the office of the state controller.

**Commented [BL6]:** This section was added to align with other grant programs

## Grant Administration

### Agreements

After approval of funding, CWCB staff will direct the applicant to revise and supplement submitted documents if required for issuance of a purchase order or execution of a grant agreement.

Successful applicants are expected to finalize an agreement with CWCB within 6 months of award. If a grant agreement is not executed within this timeframe, CWCB staff may return the funds, making them available to for other projects, if adequate progress is not made.

### Reporting Requirements

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 Report

At completion of the project, the ~~project sponsor~~ applicant shall provide the CWCB a Final Report ~~to on the applicant's letterhead that:~~

- the CWCB that summarizes the project and ~~documents~~ how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.

- ~~• This report may include~~ photographs, summaries of meetings, and engineering reports/designs, and/or additional reports.

~~The CWCB will withhold disbursement of the last 10% of the budget until the Final Report is completed to the satisfaction of CWCB staff. Once the Final Report has been accepted, and final payment has been issued, the purchase order or grant will be closed without any further payment.~~

#### **Payments**

~~Payment will be based on actual expenditures invoices by the grantee.~~

### **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.~~

#### **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. a. 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. a. Whether the project will still enable Colorado to fully use its compact and decree entitlements.~~
- ~~d. a. Urgency of need for the project and/or any compelling "window of opportunity" that may be missed without the requested funding.~~

- ~~e. a. 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. a. The expertise and ability of the project sponsor and participants to implement the project.~~
- ~~g. a. 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. a. 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. a. 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. a. 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. a. Whether the project will complement or assist in the implementation of other CWCB programs.~~

# THE WILD AND SCENIC RIVERS FUND GRANT PROGRAM

## Guidelines

Adopted January 27, 2010

Revised May 15, 2024

### 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 here called "guidelines" 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 guidelines 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. Colorado's Instream Flow Program offers a means to protect flow-related Outstandingly Remarkable Values (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 Administration

#### The CWCB will:

- Annually review information regarding the Fund in July 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.

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<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 and procurement 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.
- Notify the Board of any requests for use of the Fund that are approved, partially approved, or denied, through the Director's report or a memorandum to the Board.
- Enter agreements 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.

## Eligible Applicants

Stakeholder groups are associations of interested parties and organizations that cooperate and collaborate to protect ORVs associated with rivers within Colorado, without infringing upon 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.

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.

## Eligible Projects and Activities

#### Stakeholder Group Support

The fund can be used to support to a range of projects. Examples of eligible projects and activities include:

- **Capacity Building or Stakeholder Group Support** to establish a stakeholder group represented by all interested parties in the watershed or support continued efforts by already established stakeholder groups working to develop protection of river-dependent resources as an alternative to wild and scenic river designation or assist

groups in determining whether to pursue wild and scenic alternatives. Funds can be used by stakeholder groups to support outreach, organization, coordination, facilitation, communication, meeting costs, and management of planning activities.

- **Planning projects** such as project identification and prioritization.
- **Engineering or studies projects** such as hydrological modeling, water temperature and quality information, macroinvertebrate sampling, riparian assessments, sediment transport evaluations, recreational surveys, and other basic data collection.
- **Implementation projects** such as stream and floodplain restoration, revegetation, culvert replacement, facilities, or infrastructure improvements.

### **CWCB Support**

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.

## **Matching Fund Requirements**

Fund requests require matching funds. A minimum of 25% match is required for all Capacity Building or Stakeholder Support, Planning, and Engineering or Studies Grants. A minimum of 50% match is required for all Implementation Grants. Project costs may consist of a combination of in-kind and cash match, but no more than half of the match may be in the form of in-kind services. Applicants should identify match as pending or secure and provide evidence of matching funds (such as an award letter).

### **Cash Match**

A cash match is an actual expenditure paid directly with cash funds from the grantee to a vendor. Examples are supplies, services, and necessary equipment purchase or rental.

### **In-Kind Match**

In-kind match is materials, services, and labor provided by grantee to perform all or part of the approved project scope of work, including necessary project administration. This can include standard direct and indirect personnel fringe benefits. Volunteer services provided at no cost to the applicant by firms or individuals consistent with the approved scope of work will be valued for in-kind match at local prevailing wage rates. Project-specific land acquisition or access agreement costs may also be claimed as in-kind contributions and credited against the minimum requirement. Costs that CANNOT be considered include general organization operating costs such as utilities, operating supplies and services, amortized costs or rental costs for buildings and equipment used for the general operation of the organization, and general property and liability insurance costs; nor will overhead percent charges to cover such items be allowed. These business expenses are NOT reimbursable costs and may not be claimed as matching contributions.

### **Past Expenditures**

Recognizing the limited resources of some entities, past expenditures directly related to the water activity may be considered as matching funds if the expenditures occurred within 9 months of the execution date of the contract or purchase order between the applicant and the State of Colorado.

## Application Process

Project sponsors may submit applications for a grant from the Fund at any time. 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 must discuss the application with CWCB Staff prior to submitting.

To apply for use of the Fund, the project sponsor must submit an application to designated staff on the CWCB Wild and Scenic Fund web page. These Guidelines will inform the CWCB Director's and Staff's review and analysis of the proposal and will form the basis for the CWCB Director's decision to either fund, partially fund, or not fund the request. Given the diverse range of potential project sponsors, not all of the following information may be relevant. Where applicable and relevant, the application should include the following:

- Description of Project Sponsor(s) and Stakeholders involved in the process.
  - Type of organization, official name, the year formed, the statute(s) under which the entity was formed.
  - 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.
- Purpose
  - Overview of goals of the stakeholder group.
  - Status of the federal agency's (or agencies') Wild and Scenic process.
  - 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.
  - 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.
  - 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.
- Statement of Work
- Engineer's estimate of probable cost for construction projects over \$100,000
- Budget (Excel)
- Schedule
- Letters of commitment (matching funds)
- Photos or drawings

### Documents Required for Agreement Execution:

- Insurance Certificate of Liability (Government entities excluded)
- Secretary of State - Certificate of Good Standing
- W-9
- Electronic Funds Transfer (preferred)

## Deadlines

The CWCB accepts applications on a rolling basis until all funds are obligated.

## Evaluation Criteria

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

The following criteria will be utilized to further evaluate requests for funds:

- 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.
- Whether the project could help in assuring that ORVs or potential ORVs are protected without infringing upon Colorado's ability to fully use its entitlements under compacts or decrees.
- Urgency of need for the project and/or any compelling "window of opportunity" that may be missed without the requested funding.
- 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.
- The expertise and ability of the project sponsor and participants to implement the project.
- 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.
- The degree to which the project will help meet environmental or recreational needs and protect ORVs identified through the Wild and Scenic suitability process.
- The degree to which the project promotes maximum utilization of state waters.
- 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.
- Whether the project will complement or assist in the implementation of other CWCB programs.
- The degree to which the stakeholder group develops a long-term plan for funding that

is independent of the Fund.

The CWCB's review and **approval process will include the following steps:**

- CWCB staff will determine if the required documentation has been submitted. The application will be accepted once all documents have been received.
- CWCB staff and a committee of subject matter experts will evaluate the application based on the criteria described in this document.
- CWCB staff will make a recommendation to the CWCB Director and consult the CWCB Board Member representing the corresponding basin.
- Upon CWCB Director approval of the applicant's request, funding can only be used on project components that begin after a grant contract is executed by the office of the state controller.

## **Grant Administration**

### **Agreements**

After approval of funding, CWCB staff will direct the applicant to revise and supplement submitted documents if required for issuance of a purchase order or execution of a grant agreement.

Successful applicants are expected to finalize an agreement with CWCB within 6 months of award. If a grant agreement is not executed within this timeframe, CWCB staff may return the funds, making them available to for other projects, if adequate progress is not made.

### **Reporting Requirements**

The project sponsor shall provide progress reports to the CWCB at least every 6 months 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 occurred and any corrective action taken to address these issues.

### **Final Report**

At completion of the project, the applicant shall provide the CWCB a Final Report on the applicant's letterhead that:

- Summarizes the project and how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.
- Includes photographs, summaries of meetings and engineering reports/designs.

The CWCB will withhold disbursement of the last 10% of the budget until the Final Report is completed to the satisfaction of CWCB staff. Once the Final Report has been accepted, and final payment has been issued, the purchase order or grant will be closed without any further payment.

### **Payments**

Payment will be based on actual expenditures invoices by the grantee.