



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Jojo La, Endangered Species Policy Specialist
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DATE: November 17-18, 2021

AGENDA ITEM: 7. Platte River Recovery Implementation Program

Staff Recommendation:

This item is informational only. No Board action is requested.

Background:

The Platte River Recovery Implementation Program (Program) is a partnership that was established in 2006 with an agreement signed by the governors of Colorado, Wyoming, and Nebraska, and the Secretary of the Interior. The Program provides Endangered Species Act compliance for existing and new water-related activities in the South Platte and North Platte River Basins. The Program supports recovery of three threatened (T) and endangered (E) species by improving and maintaining habitat in the Platte River in Nebraska. The target species are the piping plover (T), whooping crane (E), and pallid sturgeon (E). The Program also provides benefits for the interior least tern that was recently delisted early this year.

The Program is vital for allowing water users to continue to pursue water projects in Colorado's growing South Platte Basin. The Program embodies the goals of Colorado's Water Plan by simultaneously supporting a productive economy and a strong environment. The Program allows water use and development to continue through a streamlined Section 7 consultation process with the U.S. Fish and Wildlife Service. Since the inception of the Program, 147 out of 213 total streamlined Section 7 consultations have occurred in Colorado.

The following memorandum summarizes key Program activities and recent developments. For more information on the Platte River Recovery Implementation Program, see the [2019/2018 Biennial Report](#) and visit the [Program's website](#) at platteriverprogram.org.



First Increment and Extension:

The Program sets goals in multi-year increments. The First Increment covered the 13-year period from 2007 to 2019. In, 2019, the Program was reauthorized by Congress for a 13-year extension of the First Increment (from 2020 to 2032) and the cooperative agreement was amended and signed by the governors of Colorado, Wyoming, and Nebraska, and the Secretary of the Interior. The extension provided additional time to meet the water goals of the First Increment, which were not achievable by the original deadline of 2020. Note, the extension was not considered a new, Second Increment.

The objectives set forth in the First Increment and extension include:

- Using incentive-based water projects to provide sufficient water to and through the central Platte River habitat area. This includes re-timing and improving flows to reduce target flow shortages by an average of 120,000 (or 130,000) to 150,000 acre-feet per year.
- Protecting, restoring where appropriate, and maintaining at least 10,000 acres of habitat between Lexington and Chapman, Nebraska. Further, acquiring and protecting an additional 1,500 acres of habitat during the First Increment extension.

The Program is making progress towards achieving these objectives for Endangered Species Act compliance, including through development of its water and land milestones.

Water:

The Program is making progress towards continued development of water projects that will cumulatively reduce shortages to U.S. Fish and Wildlife Service target flows by an average of 120,000 (or 130,000) to 150,000 acre feet per year. The Program has focused on long-term projects to facilitate the retiming of excess flows, with secondary emphasis on short-term purchase or lease of water.

The initial state water projects—the Tamarack State Wildlife Area project (Colorado), Environmental Account in Lake McConaughy (Nebraska), and the Pathfinder Modification Project (Wyoming)—were completed by 2012 and are collectively credited with providing 80,000 acre-feet towards the Program’s water objective. For the Tamarack State Wildlife Area project, Colorado has committed to retime an average of 10,000 acre-feet of water annually at the state line. Additionally, Colorado is responsible for mitigating the impacts of new (post-1997) water-related activities in Colorado on associated habitats.

Other Program water projects include multiple recharge projects such as the Phelps County Canal, Elwood, and Cottonwood Ranch projects and various water leases from the Central Platte Natural Resources District, Nebraska Public Power District, and the Pathfinder Municipal Account. The Program’s current portfolio of water projects provides an estimated 114,000 acre-feet of water cumulatively.

The Program’s potential future water projects under evaluation include recharge projects and additional leases. In addition to these water supply projects, the Program continues to evaluate



ways to increase flow capacity through the North Platte chokepoint to allow larger flow releases from the Lake McConaughy Environmental Account. These proposed future projects will provide an estimated 20,000 acre-feet of additional water towards meeting the Program's objectives.

Land:

During the First Increment, the Program met its objective to obtain, protect, and restore 10,000 acres of habitat for the three avian species. The Program currently protects more than 13,000 acres of land. Currently, the Program is working on acquiring additional non-complex palustrine wetland habitat. The Program has also acquired over 1,400 acres of land towards the extension objective of 1,500 acres of additional habitat.

Species Status:

On January 13, 2021, the U.S. Fish and Wildlife Service published a final rule announcing the removal of the interior least tern from the Federal List of Endangered and Threatened Wildlife. The U.S. Fish and Wildlife Service stated that the interior least tern has been deemed recovered and threats have been eliminated or reduced to the point that the species no longer meets the definition of an endangered or threatened species under the Endangered Species Act.

When the interior least tern was listed as endangered in 1985, biologists estimated only 2,000 individuals surviving in the wild. Now, there are over 19,000 birds across 18 states with long-term protections for approximately 80% of the range-wide population of the species, including the Platte River Recovery Implementation Program's management actions. The Program plans to continue its long-term conservation and management actions for the interior least tern through its Adaptive Management Plan, including implementing similar conservation actions that are necessary to protect the piping plover.

For the other target species, systematic monitoring for whooping cranes, piping plovers (and interior least terns), and the pallid sturgeon has continued to determine species production and survival.

- For the endangered whooping crane, at the inception of the Program, there were approximately 182 whooping cranes in the wild migration population. In 2019, a record 506 whooping cranes were reported. This is a marked difference from the 48 whooping cranes observed in 1967, when the species was first listed as endangered.
- In 2001, nesting habitat acreage for piping plovers and least terns was approximately 50 acres. Currently, the Program provides over 150 acres of managed nesting habitat. Since 2001, the number of piping plover breeding pairs has increased from approximately 10 pairs to now over 150 pairs.
- Finally, the Program has developed a study plan for the pallid sturgeon. The Program is conducting research and monitoring to better understand pallid sturgeon spawning habitat, reproduction and recruitment, and population dynamics. Program partners have also developed a framing document to outline key understanding and policy guidance for addressing the pallid sturgeon during the Second Increment.



South Platte Water Related Activities Program (SPWRAP):

The [South Platte Water Related Activities Program](#) (SPWRAP) is a Colorado nonprofit corporation that was formed by water users to assist the state of Colorado in fulfillment of various Program responsibilities, including water accounting and reporting requirements, obtaining interests in recharge facilities, and water rights and/or recharge credits. Since SPWRAP was formed, it has collected approximately \$17.9 million from its members and has spent \$12.4 million on its activities. SPWRAP funds have been contributed primarily to operations and maintenance of the Tamarack State Wildlife Area and Heyborne recharge facilities, and leasing excess recharge credits from area augmentation plans to fulfill Colorado's water commitments under the Program.

Membership in SPWRAP is the exclusive means by which individual Colorado water users may participate in the Platte River Recovery Implementation Program, and thereby be afforded the benefits and certainty of Endangered Species Act compliance for their projects while avoiding stand-alone project mitigation requirements during Section 7 consultations. The Program provides benefits to water users because stand-alone Section 7 consultations have entailed time-intensive and expensive negotiations and mitigation by the individual water user. In contrast, the programmatic approach toward Endangered Species Act compliance:

- Allows water users in Colorado to use their membership in SPWRAP to address their depletive impacts on target species.
- Provides offsetting measures to avoid jeopardy to species and adverse modification of critical habitat under Section 7.
- Provides streamlined procedures for documenting Endangered Species Act compliance to projects.

Financial Commitments:

The Program is cost-shared 50/50% by federal/states partners. This 50/50% split recognizes both cash and cash-equivalent contributions by the partners.

From 2007-2019, the First Increment expenditures for the Program totaled \$145.4 million. Of the total expenditures, Colorado has contributed \$18.6 million to the Program. Additional First Increment funds are currently being expended with a total cash ceiling amount of \$207.9 million, of which approximately \$8.0 million is committed by Colorado. Colorado has appropriated all of its First Increment cash requirements for the Program for a total of \$26.6 million and no further fund requests are being made for the First Increment.

For the First Increment extension (from 2020 to 2032), the Program partners are committed to provide \$156 million of cash and cash equivalent contributions. Colorado's cash commitment is \$24.9 million, and its cash equivalent commitment is \$6.3 million (adjusted for inflation over time). To date, Colorado has appropriated \$4.1 million for the Program's First Increment extension.

