



## 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:** November 16-17, 2022

#### **AGENDA ITEM:** 9. Information update on the Platte River Recovery Implementation Program

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#### **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 50 miles of critical 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 in 2021.

The Program is vital for allowing water users to continue to pursue water projects in Colorado's growing South Platte Basin. 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 three-state Program, 160 out of 217 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 [2020/2019 Biennial Report](#), visit the Program's website at [platteriverprogram.org](http://platteriverprogram.org), or email questions to [Kara Scheel](#).



### **First Increment and Extension:**

The Program sets goals for the four target species' habitat 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, and acquiring and protecting an additional 1,500 acres of habitat during the First Increment extension.

The Program is making progress towards achieving these objectives in the extension.

### **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. Note that the Program goal is not to achieve Service target flows, but rather to reduce the gap between actual and target flows. 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. Given Colorado's upstream location on the South Platte, Colorado's primary contribution to the Program is financial, not wet water.

Other Program water projects include multiple recharge projects such as the Phelps County Canal, Elwood Reservoir, 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 has been actively engaged in obtaining the final portion of water to achieve the extension objective. The Program has identified potential future water projects, including additional leases of water, and estimates that with the identified projects, the program will be credited approximately 125,000 AF of water by the end of 2023, thereby achieving the water objective. In addition to these water supply projects, the Program continues to evaluate ways to increase flow capacity through North Platte, Nebraska, at a “chokepoint”, or a point of restriction in channel conveyance, to allow larger flow releases from the Lake McConaughy Environmental Account.

#### **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. During the first increment, the Program provided protections on approximately 12,500 acres of land. The program’s extension objective is to acquire an additional 1,500 acres of habitat. To date, the program has acquired 1,200 acres of land towards the extension objective.

#### **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 survived 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. Note that the Program goals are tied to habitat management and improvement for the target species, and not the population numbers due to the species migratory nature.

- 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, with the assistance of the program constructing or restoring habitat, there is 250 acres off-channel habitat in the associated habitat reach.
- 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. SPWRAP funds the operations and maintenance of the Tamarack State Wildlife Area and Heyborne recharge facilities, as well as leasing excess recharge credits from area augmentation plans to fulfill Colorado's water commitments under the Program. SPWRAP represents Colorado water users on the Program's governance committee and works as a close partner to CWCB staff.

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; and
- 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.

Colorado fulfilled our First Increment funding obligations for the Program and contributed \$26.6 million from 2007 - 2019. No further funding requests are being made for the First Increment. In total, the First Increment expenditures for the Program were \$145.4 million. A total of \$63 million in unexpended First Increment cash contributions were carried forward into the Extension.

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). Currently, Colorado's cash ceiling is approximately \$29 million. To date, Colorado has appropriated \$9.8 million for the Program's First Increment extension.

