



COLORADO

Parks and Wildlife

Department of Natural Resources

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TO: Colorado Parks and Wildlife Commission
FROM: Director Prenzlow
DATE: December 30, 2022
SUBJECT: 2022 Species Conservation Trust Fund Eligibility List Approval

Introduction

The native Species Conservation Trust Fund (SCTF) was created in 1998, pursuant to HB98-1006 (codified at section 24-33-111, C.R.S. (2014)). After its initial creation, the General Assembly expanded the SCTF to cover studies and programs within Colorado Parks and Wildlife (CPW) dedicated to recovering species listed as threatened and endangered under state law; recovering and protecting federal candidate species; conducting scientific studies related to the listing or delisting of any species; and evaluating genetic, habitat, and declining species baseline data.

Additional Information

The Act specifically 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 the 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.

Staff Recommendation

Staff recommends, contingent upon available resources, that the Commission: (1) concur with the DNR Executive Director’s proposed recommendations to the General Assembly to approve a total expenditure of up to \$6 million from the Species Conservation Trust Fund (SCTF) for FY 2022-23, including up to \$3 million for the CPW priorities outlined herein; and (2) forward a statement of concurrence to the Colorado Water Conservation Board. A final decision on the amount authorized for new projects in the 2022 legislation will be made following the March 2022 revenue forecast.

Current Year Funding

Senate Bill 21-281 made significant changes to the structure of the Severance Tax Operational Fund, starting in FY 2021-22, in a continued effort to stabilize funding for severance tax-supported programs. These changes included reprioritizing and/or refinancing former Natural Resources and Energy Grant Programs (grant programs; previously known as “Tier 2”



programs¹) and eliminating proportional transfers that were contingent on available revenue and rarely made in full. Under the new Operational Fund structure, the SCTF will receive infusions of revenue via an annual appropriation of up to \$5 million starting in FY 2021-22. The SCTF is also prioritized for funding ahead of, and included in, the Operational Fund's now-200% reserve requirement. Additionally, S.B. 21-281 included two transfers from the General Fund to the Operational Fund that were intended to ensure there was sufficient revenue to support the appropriations to SCTF and two other former grant programs in both FY 2021-22 and FY 2022-23.

Under the pre-S.B. 21-281 Operational Fund distribution structure, the SCTF and other Natural Resources and Energy Grant Programs were highly vulnerable to severance tax revenue volatility because they were prioritized to receive funding from any leftover revenue after Core Programs obligations (formerly known as "Tier 1" Programs²) and the Core Program reserve requirement were met. The change in structure does not make SCTF completely immune to revenue volatility, but it reduces the SCTF's exposure to a level that is more commensurate with Core Programs (formerly known as "Tier 1" programs).

It is important to note that the new appropriation structure implemented by S.B. 21-281 is simply an alternative transfer mechanism to move revenue from the Operational Fund to the Species Conservation Trust Fund. It does not authorize the expenditure of that revenue. Pursuant to Section 24-33-111 (3)(a), C.R.S., annual legislation is still required to secure legislative authorization of the species conservation eligibility list.

Due to the severe severance tax revenue shortfall that resulted from the collapse of oil prices in Spring 2020 and ongoing depressed demand from the pandemic, the Department of Natural Resources did not put forward SCTF legislation to authorize new project expenditures during the 2021 legislative session. Without any new spending and after taking into account interest earnings and other accounting adjustments, the SCTF is projected to have an unobligated reserve of \$2.5 million by the end of FY 2021-22 that can be used to support additional project expenditures beyond available annual severance tax revenue or retained for future severance tax revenue downturns.

FY 2020-21 Outlook

Based on the December 2019 Legislative Council Staff revenue forecast, the Operational Fund is expected to accrue enough revenue during the current year to distribute \$2.8 million to the SCTF for projects in FY 2020-21, approximately 55% of the maximum distribution authorized in statute. However, severance tax continues to be one of the most volatile revenue streams in the state, so caution is warranted when evaluating the availability of funds for SCTF projects. The forecast notes that there is significant uncertainty in the price of oil and gas, which could

¹Former Natural Resources and Energy ("Tier 2") Grant Programs include the Water Supply Reserve Fund, Soil Conservation District Grants, the Water Efficiency Grant Program, Species Conservation Trust Fund, Low-Income Energy Assistance Programs, Forestry Grants, and the Aquatic Nuisance Species Program. Senate Bill 21-281 reprioritized these programs within the Operational Fund, or refinanced them with other fund sources.

²Core ("Tier 1") Programs include the CO Oil and Gas Conservation Commission; the CO Geological Survey; the CO Avalanche Information Center; the Division of Reclamation, Mining, and Safety; the Colorado Water Conservation Board; and Colorado Parks and Wildlife (state parks operating and indirect cost recoveries for wildlife).

result in either an increase or decrease of revenue compared to projections. It also anticipates that ad valorem property tax credits for oil and gas, earned two years prior, will disproportionately reduce severance tax revenues through FY 2020-21. As a result, the Department continues to recommend a conservative approach when evaluating the authorization of SCTF projects for the upcoming fiscal year. It is also important to keep a longer-term view of the severance tax environment in order to facilitate the strategic management of the SCTF to mitigate the impact of revenue volatility to the extent possible. If future economic forecasts exceed expectations or alternative funding becomes available, the Department will revisit the proposed projects list or hold excess revenue in reserve to offset reductions to future funding.

FY 2022-23 Outlook

Barring another unexpected catastrophic downturn in the oil and gas commodity markets, SCTF funding for the next two fiscal years is largely independent of available severance tax revenue due to the pair of General Fund transfers included in S.B. 21-281. It also continues to mirror the “arrears” cadence that was in place for former Natural Resources and Energy Grant Programs:

- Senate Bill 21-281 appropriated \$5 million to the SCTF in FY 2021-22, supported by a General Fund revenue transfer into the Operational Fund on June 30, 2021. This revenue is available for new projects to be authorized during the upcoming 2022 legislative session (FY 2022-23).
- The Department’s FY 2022-23 budget request includes the continuation of the SB 21-281 appropriation for \$5 million to the SCTF, supported by the second transfer of General Fund revenue included in the bill. Pending approval of the requested SCTF appropriation by the legislature, this funding will be available for projects authorized during the 2023 legislative session (FY 2023-24).

Based on the [December 2021 Legislative Council Staff revenue forecast](#), severance tax revenue appears to be recovering from the FY 2020-21 downturn and stabilizing at around \$103 million per year through FY 2023-24. The forecast attributes this recovery to upward pressure from increasing oil and gas prices and an increase in collections resulting from the passage of H.B. 21-1312, which restricts the oil and gas netback deduction to direct costs only and phases out severance tax credits and exemptions for coal production.

However, severance tax continues to be one of the most volatile revenue streams in the state and none of the recent legislation changes the fundamental boom-and-bust character of severance tax revenue collections. Although the near-term funding outlook for SCTF is more stable than usual due to the additional General Fund support in S.B. 21-281, the recent forecast also suggests that revenue may not be able to fully meet all Operational Fund obligations in the longer term. As a result, caution is still generally warranted when evaluating the availability of funds for SCTF projects and managing the SCTF reserve balance, and the Department continues to recommend a broadly conservative approach when evaluating severance tax obligations.

FY 2022-23 Recommended Projects

The recommended Parks and Wildlife projects for FY 22-23 are summarized below.

Colorado Parks and Wildlife Projects Total Request: \$3,000,000

1. Native Terrestrial Wildlife Conservation (up to \$770,000)

- Continue to monitor and evaluate bait uptake and serological response to oral plague vaccine to guide future cost-effective vaccination strategies to manage plague in Colorado's native wildlife.
- Transplant Gunnison sage-grouse to satellite populations. Translocation is a Priority 1 Action in the federal recovery plan.

2. Native Aquatic Wildlife Conservation (up to \$2,230,000)

- Continue using environmental DNA to detect threatened and endangered fish and mollusk species and aquatic invasive species in plains aquatic systems.
- Evaluating sterile tiger muskie stocking as a means for reconciling conflict between sport fishing in reservoirs and long-term native fish conservation in Western Slope rivers.
- Continue investigation of methods to minimize effects of gill lice parasitism on Colorado salmonid populations (e.g., cutthroat trout).
- Fish hatchery improvements for select species of greatest conservation need (e.g., cutthroat trout, roundtail chub, bluehead sucker, and flannelmouth sucker).
- Design a fish passage structure for a diversion on Fountain Creek to address barriers to fish movement upstream.
- Assess temperature values needed to protect Colorado native fish in Tiers 1 and 2 of the State Wildlife Action Plan.
- Continue efforts to inventory and assess the "three species" (roundtail chub, bluehead sucker, and flannelmouth sucker) in western Colorado to guide management and restoration efforts necessary to avert a future federal listing.
- Evaluate reproductive success of hatchery-released Eastern Plains native fishes to guide future management actions.
- Determine if Dolores Basin green lineage cutthroat trout are indigenous and assess suitability as broodstock for recovery efforts. Inform future federal listing decision-making for three Colorado River cutthroat trout lineages by exploring distinct subspecies vs. lineages.
- Continue to examine the direct dietary toxicity of algae to a variety of Colorado's aquatic algivorous (algae-feeding) species (e.g., certain frogs, fish, and mollusks). Toxic algal blooms are becoming frequent in state parks and reservoirs across the Front Range. The same algal species that can cause death or paralysis to humans, pets and wildlife can be toxic or non-palatable to algivorous fish. Preliminary data suggests that some algaecides used to control toxic algal blooms are causing a community phase shift that gives toxic algal species a competitive advantage in Colorado's aquatic ecosystems.