



COLORADO

Parks and Wildlife

Department of Natural Resources

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TO: Colorado Parks and Wildlife Commission
FROM: Acting Director Heather Disney Dugan
DATE: January 6, 2023
SUBJECT: 2023 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 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 \$5 million from the Species Conservation Trust Fund (SCTF) for FY 2023-24, including up to \$2.25 million for the CPW priorities outlined herein and \$0.5 million to renew funding for Endangered Species Act litigation support; and (2) forward a statement of concurrence to the Colorado Water Conservation Board.

Background:

The Species Conservation Trust Fund is supported by infusions of revenue from the Severance Tax Operational Fund (Operational Fund). Severance tax is a notoriously



volatile revenue stream because it is primarily generated by oil and gas activity and the tax itself has structural characteristics that exaggerate the boom-and-bust cycles of the commodity markets. As a result, the amount of revenue allocated to the SCTF on an annual basis has historically been highly unstable and difficult to forecast with much certainty.

Senate Bill 21-281 made significant changes to the structure of the Severance Tax Operational Fund, starting in FY 2021-22, in an effort to stabilize funding for severance tax-supported programs including the SCTF. Under the new Operational Fund structure, annual funding for the SCTF is much more consistent, which makes project planning significantly easier. The SCTF is now authorized to receive infusions of revenue via an annual appropriation of up to \$5 million, approved each year by the General Assembly through the Long Bill. The SCTF is also protected by the 200% statutory reserve requirement for the Operational Fund. When the reserve is full, which it is currently, there is a sufficient balance in the Operational Fund to sustain programs through two full years without disruption in the event of a severe severance tax revenue downturn.

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 the required authorization of the species conservation project eligibility list.

FY 2023-24 Outlook:

The FY 2022-23 Long Bill (H.B. 22-1329) included an appropriation of \$5 million from the Severance Tax Operational Fund to the SCTF effective July 1, 2022. The revenue from this appropriation is now available in the SCTF and requires legislative authorization during the 2023 session for Commission- and Board- approved priorities and projects that will begin in FY 2023-24. Based on the December 2022 revenue forecasts from Legislative Council Staff and the Governor's Office of State Planning and Budgeting, the Department anticipates that there will be sufficient severance tax revenue to support the SCTF at the \$5 million level through the forecast period (FY 2024-25) without requiring any of the funds currently held in the Operational Fund reserve. Accordingly, the Department's budget request for FY 2023-24 includes a continuing appropriation of \$5 million in revenue for SCTF. If approved, the appropriated revenue will be available for species conservation projects that will be authorized in the annual SCTF legislation passed during the 2024 legislative session to begin in FY 2024-25.

Severance tax continues to be one of the most volatile revenue streams in the state, although recent legislative changes have attempted to smooth the impact of the boom-and-bust character of severance tax revenue collections. Although the near-term funding outlook for SCTF is now much more stable than in the past, some

caution is still warranted when evaluating the availability of funds for SCTF projects and managing the SCTF reserve balance over time. As a result, the Department continues to recommend a broadly conservative approach when evaluating severance tax obligations in the longer term.

FY 2023-24 Recommended Projects

The recommended Parks and Wildlife projects for FY 23-24 are summarized below.
Colorado Parks and Wildlife Projects Total Request: \$2,250,000

1. Native Terrestrial Wildlife Conservation (up to \$750,000)

- Evaluate new methods of camera sets for detecting Canada lynx.
- Enroll private agricultural lands into the USDA's Upland Wildlife State Acres for Wildlife Enhancement (SAFE) CRP program to create more acres in eastern Colorado for species such as lesser prairie chickens, songbirds and pollinators and to enroll acres in western Colorado into the Western Slope Grouse SAFE to restore and enhance habitat for the Colorado grouse species of concern (e.g., Columbian sharp-tailed grouse, greater sage-grouse and Gunnison sage-grouse).
- Evaluate the impacts of oral and topical insecticides used in plague management on non-target arthropods.
- Continue incentive payments to private landowners involved in black-footed ferret reintroductions until a long-term federal incentive program is developed.

2. Native Aquatic Wildlife Conservation (up to \$1,500,000)

- Fish hatchery improvements for select species of greatest conservation need (e.g., roundtail chub, bluehead sucker, flannelmouth sucker, eastern plains native species).
- Evaluate potential for selective breeding and genetic management to facilitate genetic rescue for greenback cutthroat trout and enhance chytrid disease tolerance in boreal toads.
- Evaluate the effects of ash and sediment flows on fish in the Cache la Poudre River.
- Identify habitat characteristics that contribute to the non-native bullfrog's range expansion and the persistence of native northern leopard frogs in some of those locations, despite bullfrog invasion.
- Restore 0.5 miles of river habitat in the Upper Chuck Lewis State Wildlife Area along the Yampa River by stabilizing the river bank, reshaping the channel, and reducing northern pike spawning habitat.
- Construct a barrier in Roan Creek to protect green-lineage cutthroat trout, bluehead sucker, mottled sculpin, and speckled dace from invasion by non-native brook trout and non-native white sucker.