

2001
WILDLIFE
DIVERSITY
PROGRAM

ANNUAL REPORT: NATIVE SPECIES CONSERVATION TRUST FUND

Documentation supporting HJR 01-1022: 2001-2002 funding for the Native
Species Conservation Trust Fund.

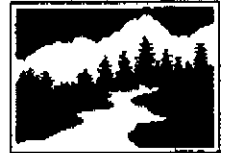
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STATE OF COLORADO

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April 4, 2001



DEPARTMENT OF
 NATURAL
 RESOURCES

Bill Owens
 Governor

Greg E. Walcher
 Executive Director

Dear Members of the Colorado General Assembly:

On behalf of the Department of Natural Resources, I have attached the Species Conservation Trust Fund Annual Report for 2001. It provides a progress report for the projects underway this fiscal year and lists the proposals for next fiscal year. Those proposals will be part of HJR 01-1022 sponsored by Representative Hoppe and Senator Jim E. Dyer this session. If you would like a copy of last year's annual report, please contact my office.

As I have indicated on several occasions, it is my intention that Colorado assume a lead role in the area of species conservation. That lead role requires us to develop adequate science, evaluate the effectiveness of the existing programs, set goals for future programs, and establish a finite term for these programs.

The availability of these funds is critical as we prepare to enter into a new Memorandum of Agreement Concerning Management of Colorado's Declining Native Species (MOA) with the United States Department of Interior. This MOA will serve to: (1) commit federal and state agencies to use market-based and other incentives to prevent the need to list species in the first place; and (2) commit the U.S. Fish and Wildlife Service to establish measurable recovery goals for species that are already listed. The State of Colorado, in collaboration with local governments, private citizens, businesses, and community groups, will work together to protect wildlife and plant species before ESA listing is required.

The state will commit significant resources and use the best science to actually recover and delist threatened and endangered species in a timely fashion. The state will place emphasis on property rights, collaboration, voluntary action and constructive partnerships. Also, Colorado will aggressively challenge unwarranted petitions to list species so that maximum resources are spent on those truly in need of protection. In this way, we will protect the state's valuable wildlife and plant resources while allowing for a minimum intrusion from federal regulations.

Please do not hesitate to contact Ron Cattany, Tom Blickensderfer, or me if you would like further information on the specifics of these programs. Thank you for your interest in these complex and sometimes perplexing issues.

Sincerely,

Greg Walcher
 Executive Director

JANUARY, 2001 EXECUTIVE SUMMARY

In 1998, the General Assembly passed HB 98-1006 that established a Native Species Conservation Trust Fund (hereinafter, "the Fund"). The statute is attached as Appendix A.

Expenditures from the Fund are intended to promote the conservation of native wildlife species whose populations are declining. The General Assembly initially appropriated \$10 million into the Fund from several state water funds and the General Fund. In 2000, the General Assembly transferred \$5 million from the Colorado Department of Natural Resources Severance Tax Operating Account to the Fund. It is anticipated that up to \$5 million of Great Outdoors Colorado (GOCO) funds also will be used for specific projects. The fund was initially estimated to require \$25 million to meet Colorado's share of recovery plan costs for a 15-year period reflecting the time value of money. The fund has not yet been fully capitalized.

HB 98-1006 directs the Executive Director of DNR to annually prepare a Species Conservation Eligibility List describing programs eligible to receive funding from the Fund. This list is prepared after consulting with the Colorado Water Conservation Board, its director, the Colorado Wildlife Commission and the director of the Colorado Division of Wildlife. The proposed list for FY 2001-2002 is contained in this report.

HB 98-1006 also directs the Executive Director to provide an annual report to the General Assembly on the progress and status of activities undertaken to recover Colorado's native species, as well as activities that may be required in the future. This is the report for FY 2000-20001. The previous annual reports are available from DNR.

Following the Introduction the report is organized into two sections reflecting the major purposes for which expenditures from the Fund are authorized for DNR to:

- make expenditures from the Fund for purposes of implementing cooperative agreements, recovery programs, and other programs designed to meet obligations arising under the federal Endangered Species Act and to provide a stable and predictable regulatory environment for Colorado's citizens while allowing resource use to continue; and
- make expenditures from the Fund for studies and programs designed to conserve species currently listed as threatened and endangered species under state law; recover or protect candidate species in order to avoid the need to list these species under federal law; and improve scientific understanding that governs decisions on adding or removing species from either the state or federal endangered species lists.¹

¹ Both state and federal law contain endangered species statutes. The federal Endangered Species Act of 1973 (ESA), 16 U.S.C. 1531, et seq., is a complex federal statute that has been the focus of considerable public debate and judicial interpretation almost since its adoption by Congress in 1973. It often is referred to as the most powerful environmental law in the world due to the extraordinary regulatory authorities it confers upon the U.S. Fish and Wildlife Service for protection of species and habitats thought to be in danger of going extinct. By contrast, the State of Colorado's endangered species protection law, 33-2-105, C.R.S., is limited to creating a special management status for rare or declining species, but confers no habitat protection regulatory authority upon agencies of the State of Colorado, though it does affirm the Colorado Division of Wildlife's authority to regulate the killing, or "taking," of state-listed species.

Within each of these sections a status report on the projects for FY 1999-2000 and FY 2000-2001 is provided. This is followed by a section that describes the recommended projects and activities for the coming year.

The Executive Director of DNR has reviewed the past and present conservation programs that are discussed in this report and has consulted with many interested parties about the appropriateness of providing funding for them. The list of stakeholders is attached as Appendix B. The Executive Director believes that expenditures from the Fund are warranted to support them. Accordingly, we recommend the General Assembly adopt a joint resolution approving expenditures from the Species Conservation Trust Fund for FY 2001-2002 as described in this report and the accompanying Species Eligibility List.

The following table summarizes the DNR's recommendations for FY 2001-2002. The table also summarizes estimated contributions from other sources as an indication of the extent to which expenditures from the Fund will leverage other funding. Finally, it summarizes the projected long-term costs for each of the species protection efforts for which HB 98-1006 funding is sought, as well as Colorado's anticipated share of those costs. The report relates the projects to specific recovery goals.

FY 2001-2002 Recommendations Summary

Cooperative Program/Species Protection Effort	Recommended Expenditures from FY 2001-2002 Fund	Estimated FY 2001-2002 Contributions from other sources	Colorado's estimated share of total long-term cost*	Estimated total long-term cost
San Juan / Upper Colorado Endangered Fish Recovery Programs	\$ 1,646,000	\$2,167,000	FY 1989-2007: \$14,893,200	FY 1988-2007: \$193,474,100
Platte River Endangered Species Program - Cooperative Agreement	\$0 (*see below)	\$0 (*see below)	\$20,000,000	\$78,000,000 - \$80,000,000
Preble's Meadow Jumping Mouse Conservation Plan	\$250,000	\$423,497	Estimates not yet available	Estimates not yet available
Conservation of Aquatic Species of Special Concern/Species at Risk	\$120,000	\$210,560	Estimates not yet available	Estimates not yet available
Prairie Grassland Species	\$0	\$0	Estimates not yet available	Estimates not yet available
TOTALS	\$2,016,000	\$2,801,057	\$34,893,200 for San Juan/Upper Colorado and Platte Projects only.	\$273,474,000 for San Juan/Upper Colorado and Platte Projects only.

* \$300,000 was encumbered from HB 98-1006 in July 1999, and an equivalent amount of money was encumbered from the Colorado Water Conservation Board's "Fund 100" to cover contractor support implementing the Cooperative Agreement. To date, Colorado has preferentially paid expenses out of Fund 100. It is anticipated that Colorado may begin expensing against the 1999, HB 1006 encumbrance in the next fiscal year.

INTRODUCTION

COLORADO IS A GROWING, DYNAMIC STATE

Colorado's strong economy, excellent business opportunities, and natural environment attract new residents in large numbers every year. Despite some signs of the slowing of the economy nationwide, Colorado's growth trend shows no immediate signs of significantly slowing. The Colorado State Demographer's Office projects that by the year 2010, an estimated 5 million people will call Colorado home.

THREATS TO NATIVE SPECIES

While most (well over 90%) of Colorado native species are secure, a number of these species are sensitive to the effects of growth, especially when growth occurs in the absence of knowledge about the species' needs. The most recent data shows that federal land management activities that have led to forests that are unnaturally dense and caused wildfires; decreasing water yields also have negative impacts on native species. However, numerous species are able to accommodate these effects when growth and land management are accomplished with an eye to that species' welfare. Minimizing unavoidable impacts and maximizing the probabilities of sustaining viable populations is a goal of Colorado's wildlife and natural resource programs, and is reflected in the recommendations for expenditures from the Species Conservation Trust Fund as listed below.

THE FEDERAL ENDANGERED SPECIES ACT IN COLORADO

Some of Colorado's native species have declined to the point where they could become extinct. As a result, they have been added to the list of threatened and endangered species pursuant to the federal Endangered Species Act (ESA). The ESA is the most powerful environmental protection law in the world due to the extensive regulatory authority it confers upon the U. S. Fish and Wildlife Service. Use of this authority has generated considerable controversy around the United States, due to concerns that federal-level decisions would take private property without just compensation or unacceptably limit state and local land use and natural resource management rights and prerogatives.

Recognizing the importance of endangered species issues to Coloradans, Governor Owens issued Executive Order D01199 to create an Interdepartmental Management Team on Endangered Species. Headquartered at the DNR, the Management Team coordinates endangered species issues with the Departments of Transportation, Agriculture, Public Health and Environment and the Division of Wildlife so that the state can efficiently and effectively deal with these important issues. Furthermore, DNR has established a position of Endangered Species Program Director to chair the Interdepartmental Management Team and to oversee endangered species programs statewide.

The state intends to enter into a new Memorandum of Agreement Concerning Management of Colorado's Declining Native Species (MOA) with the United States Department of the Interior. This MOA will serve to: (1) commit federal and state agencies to use market-based and other incentives to prevent the need to list species in the first place; and (2) commit the U.S. Fish and Wildlife Service to establish measurable recovery goals for species that are already listed. The State of Colorado, in collaboration with local governments, private citizens, businesses, and

community groups, will work together to protect wildlife and plant species before ESA listing is required. The state will commit significant resources and use the best science to recover and delist threatened and endangered species. The state will place emphasis on property rights, collaboration, voluntary action and constructive partnerships. However, Colorado will aggressively challenge unwarranted petitions to list species so that maximum resources are spent on species truly in need of protection. In this way, the state will protect its valuable wildlife and plant resources while allowing for a minimum intrusion from federal regulations.

COLORADO'S APPROACH TO NATIVE SPECIES CONSERVATION CHALLENGES

Cooperative species recovery and habitat protection programs are in place to address the effects of water development in the Upper Colorado, San Juan and Platte River basins while allowing water management and development activities to proceed under state law. Colorado is committed to the success of these recovery programs and has a real interest in seeing them to fruition: the recovery and delisting of threatened and endangered species.

Colorado will also take early action to keep species from being listed. In recent years, the Colorado Division of Wildlife (CDOW) has initiated efforts or entered into partnerships to conserve the boreal toad, several fish species native to the South Platte and Arkansas rivers, the Colorado River cutthroat trout, the greenback cutthroat trout, the lesser prairie chicken, the plains sharp-tail grouse, the Gunnison sage grouse, the mountain plover, black tailed prairie dog, the Rio Grande sucker, the wood frog, the Rio Grande cutthroat trout, the Canadian lynx, and the wolverine. The activities of innumerable ranchers and farmers, water districts, private land trusts, and others also have aided in protecting species and their habitats.

THE SPECIES CONSERVATION TRUST FUND MUST BE ADEQUATELY CAPITALIZED IF COLORADO'S COORDINATED EFFORT TO PROTECT NATIVE SPECIES IS TO BE SUCCESSFUL

The General Assembly's initial appropriation of \$10 million, and additional appropriation of \$5 million in 2000, into the Species Conservation Trust Fund, as well as Great Outdoors Colorado (GOCO) funds, will contribute in a significant and meaningful way to addressing the needs of several species while minimizing the regulatory burdens Coloradans otherwise would face. This report, and the accompanying Species Eligibility List, is intended to provide a blueprint for making expenditures from the Fund in FY 2001-2002.

However, a fund capitalization of \$15 million, plus an additional \$5 million as needed from GOCO, is insufficient to address all the demands for an effective, coordinated approach in Colorado to native species conservation over the long-term. Even if the Fund were treated as an annuity, where the Fund balance is reduced progressively to zero over a 15 year time frame, the total value of all expenditures from the Fund would be approximately \$15 million. This is well below of the State of Colorado's \$28-30 million share over the next 15 years of the costs for the Upper Colorado, San Juan, and Platte River Basin programs alone, not to mention costs that may be associated with other species protection and recovery efforts.

To properly address the full range of protection and recovery efforts for both listed and unlisted species, the Department of Natural Resources estimates the Fund will need to be increased.

Assuming the Fund is managed as an annuity over a 15-year time period, returns a nominal rate of 6 percent per year,² and is effectively leveraged against other public and private sources of revenue, the Department estimates that a capitalization of at least \$24.5 million is necessary.

COOPERATIVE AGREEMENTS, RECOVERY PROGRAMS AND OTHER PROGRAMS DESIGNED TO MEET OBLIGATIONS ARISING UNDER THE ENDANGERED SPECIES ACT

Colorado is currently involved in three river basin-oriented endangered species and habitat recovery programs: the Cooperative Endangered Species Agreement for the Platte River Basin, the San Juan River Recovery Program, and the Upper Colorado River Recovery Program. These programs are designed to protect species and habitat currently listed under the federal Endangered Species Act, while allowing water use and development to proceed under state law and interstate compacts.

In addition, Colorado is coordinating the Habitat Conservation Planning (HCP) and the National Environmental Policy Act (NEPA) process for the **Preble's Meadow Jumping Mouse (PMJM)**. Soon the counties affected by the listing will have these plans in place. PMJM habitat conservation plans and implementation agreements will protect the mouse and its habitat and provide the regulatory compliance that assures a continuation of broad range human activities along the Front Range.

After years of hard work and study, the **San Juan and Upper Colorado River Endangered Fish Recovery Programs** are beginning to yield positive results. Operating under Cooperative Agreements in place since 1988 (Upper Colorado Program) and 1992 (San Juan Program), these Programs are designed to protect four endangered fish species occurring in the Colorado River Basin while allowing water development to continue in accordance with the State of Colorado's entitlements under the Colorado River Compact and state water law. In addition to Colorado, the states of Utah, Wyoming, and New Mexico, the U.S. Fish and Wildlife Service, the U.S. Bureau of Reclamation, other federal agencies, Indian tribes, water users, and the environmental community are engaged in these efforts.

As of December, 2000, more than 200 water development projects and 372 minor depletion projects in the Upper Colorado River Basin have received the required clearances under the federal Endangered Species Act. Populations of two of the four target species – the Colorado River Pikeminnow (formally the Colorado River squawfish) and the humpback chub – are stable or increasing in response to habitat management actions throughout the Upper Colorado River Basin. More effort is required for the razorback sucker and the bonytail chub throughout the basin. As of December 30, 1999, work has progressed on the provision and protection of flows required to sustain the fish, the development and maintenance of habitat, the stocking of native fish, control of non-native competitors, and additional monitoring and research.

The U.S. Fish and Wildlife Service will be publishing recovery goals for the four fish in Spring, 2001. The DNR has been adamant in assuring that these goals aggressively undertake all

² The nominal rate of return is not adjusted for inflation

considerations to allow for the expeditious downlisting and ultimate delisting of the various fish in the Upper Colorado Basin, focusing on species recovery and enhancing species populations as the primary focus.

Key Issues: A mechanism to ensure that all historic depletions and up to 120,000 acre-feet of future depletions from the Colorado River above the 15 Mile Reach near Grand Junction can proceed in compliance with the ESA, was completed in December 1999. This mechanism, called a programmatic biological opinion or PBO, is a defining feature of the Upper Colorado River Recovery Program.

Work is proceeding on the development of PBO's for the Yampa, White and Gunnison rivers as well. It is expected the Yampa Management Plan will culminate in a completed PBO by July 2001. The PBO process for the Gunnison Basin was initiated on January 31, 2001.

Finally, the five years of research leading up to ESA-mandated federal consultation on the Aspinall Units has been completed and the synthesis reports and flow recommendations for the Gunnison River are currently being considered by the Upper Colorado Fish Recovery Management Committee for their final recommendation. Actual consultation will commence after the flow recommendations are adopted by the Upper Colorado Recovery Program. The consultation will be coordinated with the quantification of the reserved rights for the new Black Canyon of the Gunnison National Park, which was filed in January 2001.

The San Juan Program continues to provide the regulatory compliance mechanism – called the reasonable and prudent alternative – that ensures the ESA is not an insurmountable hurdle for the development of some version of the Animas – La Plata water supply project near Durango. Specifically, the U.S. Fish and Wildlife Service has determined that up to 57,100 acre-feet of annual depletions from the Animas River are permissible under the ESA as long as the San Juan Recovery Program continues to make progress toward recovering the listed fish species in the San Juan River Basin. An agreement mandated under Section 7 of the ESA defining how the San Juan Recovery Program will be used to allow existing future depletions is also nearing completion.

Finally, U.S. Senator Wayne Allard and Congressman Scott McInnis, working with a diverse group of water users, electric power suppliers, environmentalists, and state and federal agencies, sponsored bills in Congress to provide for the federal government's share of funding for the San Juan and Upper Colorado River Programs. The bills identified cost sharing by the states of Colorado, Wyoming, Utah, and New Mexico, and recognized contributions that are being made by consumers of electricity generated by federal hydropower projects. Congress passed the measures last session, and they have since been signed into law by the President.

Anticipated Long-Term Costs: The San Juan and Upper Colorado River Programs' capital projects could cost as much as \$100 million during the remaining five to seven years of their anticipated duration. Colorado's share for completion of the San Juan and Upper Colorado Programs is projected to be about \$9 million. The balance, approximately \$91 million, will be paid for by our funding partners: the U.S. Bureau of Reclamation, and the states of Wyoming, Utah and New Mexico, and electric power customers.

Status of Activities and Expenditures from the HB 98-1006 Fund in FY 2000-2001: \$325,000 was allocated from the Fund to the Upper Colorado River Program in FY 1999-2000. These funds are paying for programs initiated by the Colorado Division of Wildlife (CDOW) to ensure that non-native fish do not continue to compete with the native endangered fish. Specific capital funds from the HB98-1006 Fund have been directed at screening outlet works and building berms at two locations to ensure that warm-water non-native fish left in ponds do not escape into the river system and compete with native species. Specific projects include the completion of pond reclamation projects along the Colorado including the Corn Lake design. Bid packages were released in January 2001, and construction is scheduled in Spring 2001.

The Confluence Lake project is also currently undergoing a federal Clean Water Act Section 404-permit review, and a Lake Management Plan is now undergoing requested revisions by the U.S. Fish and Wildlife Service.

Finally, the Duke and Connected Lake project (55 acres) has its preliminary design work completed. Final design is scheduled for an April 2001 completion.

Recommended Expenditure from the HB 98-1006 Fund in FY 2001-2002: The DNR recommends allocating \$1,646,000 from the Fund to the San Juan and Upper Colorado River Programs in FY 2001-2002 to continue non-native fish control. Actions would include design and construction of isolation berms to the 50-year flood level and securing intake and outlet structures as necessary to meet regulatory requirements.

For habitat preservation, various projects have proceeded to provide water flows for fish habitat, specifically dedicating amounts of water from Reudi, Green Mountain and Wolford Mountain reservoirs to improve flows in the 15-mile reach in the Colorado River in Mesa County. Other capital projects include provisions for the introduction of species from hatcheries (especially the razorback sucker), habitat restoration, and monitoring efforts

On July 1, 1997, the governors of Colorado, Nebraska, Wyoming, and the Secretary of the Interior signed the **Platte River Basin Cooperative Endangered Species Agreement**. The Cooperative Agreement provides ESA compliance for Coloradans. Once NEPA compliance is complete, the Cooperative Agreement would be replaced by a subsequent agreement to implement the long-term actions. These actions include acquiring and protecting land in Nebraska to provide habitat for target species: the whooping crane, piping plover, interior least tern, and pallid sturgeon. They also include regulating Platte River flows to reduce flow shortages at Grand Island, Nebraska by an average of 130,000 to 150,000 acre-feet per year. Water users, environmentalists, the U.S. Fish and Wildlife Service, the U.S. Bureau of Reclamation, and the states of Nebraska, Wyoming and Colorado are engaged in this effort.

Key Issues: Over the last several years the parties to the Cooperative Agreement have worked hard to come up with a proposed program which provides land (up to 29,000 acres), water (130,000 – 150,000 acre feet) and monitoring and research of the subject species. Although a number of detailed issues still need to be resolved, Colorado believes that the critical program components are in place. However, the Department of the Interior and the U.S. Fish and Wildlife Service have indicated that the program components may not provide sufficient benefits

to the species. Colorado, Nebraska, and Wyoming are currently initiating an independent analysis of this key issue.

Anticipated Long-Term Costs: In 1997, to address the impacts of existing depletions, the Platte River Basin effort was expected to cost about \$75 million dollars over a 13 to 16 year period. Of this amount, Colorado's share would be \$15 million. Colorado is also responsible for an additional \$3 to \$5 million for actions necessary to offset the effects of future water development in the South Platte and North Platte Basins in Colorado, for a total Colorado obligation of \$18 to \$20 million over a 13 to 16 year period. The balance will be the obligation of our partners -- the federal government and the states of Wyoming and Nebraska. Colorado strenuously objects to exceeding this budget and that position has been clear in recent negotiations. Colorado is especially concerned with the preliminary program cost estimates which indicate that water, land and monitoring/research costs may be higher than the original estimates.

Status of Activities and Expenditures from the HB 98-1006 Fund in FY 2000-2001: Based on last year's expenditure of \$225,000, the Colorado Division of Wildlife entered into an MOU with the Lower South Platte Water Conservancy District for the drilling of three wells in order to generate water for five acres of ponds and associated fish habitat. A 1/3-mile stream has been constructed for use as a brassy minnow and suckermouth (state-listed species of concern) research and propagation site. A total of 2600 acre feet of water was pumped in 2000 for shallow water wetlands, and groundwater recharge/ well augmentation.

This expenditure will provide additional capabilities at the Tamarack State Wildlife Area. The Tamarack Project is an integral part of Colorado's plan to re-regulate flows in the South Platte River for the benefit of critical habitat on the Central Platte, as well as benefiting instate fish species of concern. A portion of the expenditure has also been allocated for pumping costs (electricity) as well as additional equipment, supplies, vehicle mileage and the construction of stream corridors and sloughs at Pony Express State Wildlife Area.

Recommended Expenditures from HB98-1006 Fund in FY 2001-2002: No specific appropriation for the Platte River Basin Cooperative Endangered Species Agreement is recommended this year because earlier appropriations from HB 98-1006, as well as an equivalent amount of money from the Colorado Water Conservation Board's "Fund 100", have been encumbered to cover contractor support implementing the Cooperative Agreement. However, the Cooperative Agreement receives secondary benefits from enhanced reregulation of flows on the South Platte from water pumped to create habitat for fish listed as state species of concern.

The **Preble's Meadow Jumping Mouse (PMJM)** is another species that has been the focus of a large-scale effort to reduce or eliminated regulatory compliance burdens imposed by the federal ESA. A broad-based conservation plan has been implemented for the Preble's Meadow Jumping Mouse (PMJM), a species only recently added to the federal ESA list. The goals of this effort -- protect the mouse and its habitat while reducing or removing burdensome regulations under the ESA -- are similar to those of the basin-wide cooperative recovery programs. This program involves counties and other units of local government throughout the Front Range, with the Colorado DNR contributing technical, biological and legal expertise to assist in the preparation

of Habitat Conservation Plans and National Environmental and Policy Act (NEPA) documentation (Environmental Impact Statements or Environmental Assessments), as needed.

According to the U.S. Fish and Wildlife Service (Service), PMJM populations have declined throughout the species' range in Colorado and Wyoming possibly due to habitat conversion and degradation. On May 12, 1998, the Service listed the PMJM as a "threatened" species under the federal Endangered Species Act. In its decision to list the PMJM, the Service identified residential and commercial development, flood control and water projects, mining, highway and bridge construction, and livestock grazing as possible causes of the species' decline. The DNR, working with numerous local government and private sector partners, is coordinating a collaborative planning process to address conservation of the PMJM. This effort is designed to reduce or eliminate the need for federal regulation of the numerous activities along the Front Range that affect the PMJM or its habitat.

Key Issues: The collaborative PMJM planning effort is near completion. Five county habitat conservation plans for the PMJM habitat are underway in El Paso, Douglas, Elbert, Jefferson and Boulder counties, as well as one for landowners in the Livermore area of Larimer County.

The effort will demonstrate successful programs that protect riparian habitats (e.g., local ordinances, open space programs, etc.) that can substitute for direct federal regulation. Federal permits should then be written to allow activities -- such as trail construction, gravel mining, highway and home construction -- to proceed in compliance with the ESA, as long as they fit within the planning and regulatory priorities of local governments.

Anticipated Long-Term Cost of the HCP Process: ESA compliance, primarily through the NEPA process, will also add to long-term costs, but no estimates can be determined at this time. Continued funding for recovery of the species will also be necessary, but long-term funding estimates cannot be determined as of yet.

Status of Activities and Expenditures from the HB 98-1006 Fund in FY 2000-2001: Without anticipated federal funds for the Preble's Meadow Jumping Mouse, counties and landowners were left vulnerable to regulatory burdens and delay. Accordingly, the Department of Natural Resources is using HB 98-1006 monies to seek competitive bid proposals from Endangered Species Act legal experts to assist in the development and completion of Habitat Conservation Plans (HCP's) and to coordinate them through the National Environmental Policy Act (NEPA) process.

Once selected, the attorney will provide background and expertise to the state, affected counties and landowners on the highly specialized field of HCP's and NEPA compliance. The attorney will also work closely with the Colorado Attorney General's Office to inform them of the ongoing work and help train their staff in this field. The end goal is to achieve Endangered Species Act compliance for Coloradans and set the stage for recovery and delisting of the species.

Recommended Expenditure from the HB 98-1006 Fund in FY 2001-2002: The Department of Natural Resources directs and staffs the Preble's Meadow Jumping Mouse Steering Committee

wherein parties and stakeholders interested in the protection, recovery, and delisting of the species can voice their opinions and concerns as to the overall direction of the conservation of the species. One of the constant concerns raised by stakeholders, particularly counties who are preparing the Habitat Conservation Plans, is the lack of sufficient biological and technical support as the counties prepare their plans.

Based on that input, the Department recommends \$250,000 be dedicated to this type of biological and technical assistance to make this type of assistance readily available.

OTHER DECLINING, AS YET UNLISTED, SPECIES

In addition to the species that are the focal point of the cooperative, programmatic efforts described above, there are a number of species in Colorado that are declining to the point that listing under the Endangered Species Act is either imminent or contemplated in the future. These species are often referred to as "candidate species."

These species are not yet under federal jurisdiction. The state, in cooperation with local governments and private landowners, has initiated programs to help protect some of these species, to manage them to a point at which listing may not be necessary. If listing does occur, these programs are designed to give landowners, water users and others a degree of regulatory certainty, and a framework or workplan for the eventual delisting of the species.

The **Conservation of Aquatic Species program** is directed primarily toward developing and implementing conservation plans and agreements for aquatic species that are not currently listed as threatened or endangered under the federal Endangered Species Act, but which may be listed if no action is taken. The species benefiting include native fishes of the Arkansas and South Platte basins and native cutthroat trout.

Anticipated Long-Term Costs: The long-term costs of this effort, as well as a full range of sources to fund these costs, will be developed through a cooperative planning process.

Status of Activities and Expenditures from the HB 98-1006 Fund in FY 2000-2001: The Colorado Division of Wildlife and the Natural Resource Conservation Service staff have worked together to leverage dollars to acquire habitat easements on the Arkansas River. The focus is on protection of water quality and associated riparian vegetation. The Division of Wildlife currently is entering into negotiations with two willing landowners on Big Sandy and South Rush Creeks.

The DNR also recommended allocating \$100,000 from the Fund to continue to acquire easements for Arkansas darter habitat and \$300,000 to fabricate and install an ultraviolet water treatment system for native cutthroat at the Mt. Ouray hatchery near Salida. The UV system is intended to provide protection against disease organisms including whirling disease by treating the incoming water with ultraviolet light. This will ensure the Division's ability to produce and re-introduce 500,000 inches of native cutthroats per year.

Recommended Expenditures from the HB98-1006 Fund in FY 2001-2002: The DNR recommends allocating \$120,000 for ongoing pumping costs in the Tamarack State Wildlife Area and for replacement of heavy equipment to maintain project features.

The **Prairie Grasslands Species program** is directed toward developing conservation plans and agreements for prairie grassland species not currently listed under the federal Endangered Species Act, but that may be listed if no action is taken.

The species that would be addressed through this program include the mountain plover (petitioned for federal listing), the burrowing owl (currently listed under state law as threatened), the long-billed curlew (species of special concern), the upland sandpiper (undetermined status), and the black-tailed prairie dog, which had been petitioned for federal listing as a threatened species. The U.S. Fish and Wildlife Service has designated the black-tailed prairie dog as "warranted but precluded", which means the Service will monitor the status of the species over the next two years before considering a listing as "threatened" or "endangered" under the ESA.

Anticipated Long-Term Costs: The long-term costs of this effort, as well as a full range of sources to fund these costs, has yet to be determined.

Status of Activities and Expenditures from the HB 98-1006 Fund in FY 2000-2001: The DNR contracted with EDAW, Inc., in Ft. Collins to prepare a thorough Black-Tailed Prairie Dog Study of Eastern Colorado. The report, which confirmed just over 214,000 acres as a minimum of active prairie dog acreage in eastern Colorado, provided a series of considerations for Colorado's Black-Tailed Prairie Dog conservation strategy, including additional field surveys and monitoring, need for further species research, and landowner incentives.