



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

FISH AND WILDLIFE RESOURCES FUND GRANT PROGRAM

Grant Guidelines

May 2023

INTRODUCTION

The Fish and Wildlife Resources Fund was established in 1987 and is authorized by § 37-60-122.2, CRS. Pursuant to this statute, which is attached at the end of these guidelines, the state is responsible for fish and wildlife resources found in and around state waters which are affected by the construction, operation, or maintenance of water diversion, delivery, or storage facilities. Fish and wildlife resources are a matter of statewide concern and impacts on such resources should be mitigated by the project applicants in a reasonable manner. Fish and wildlife resources that are affected by the construction, operation, or maintenance of water diversion, delivery, or storage facilities should be mitigated to the extent, and in a manner, that is economically reasonable and maintains a balance between the development of the state's water resources and the protection of the state's fish and wildlife resources. §37-60-122.2(1)(a), C.R.S.

Given the statewide importance of fish and wildlife resources, the legislature has made funds available to mitigate impacts on fish and wildlife resources. The Colorado Water Conservation Board is vested with the authority to grant money for mitigation, enhancement, and species recovery projects consistent with § 37-60-122.2, C.R.S.

GRANT TYPES

- A. Applications pursuant to subsections 2-4 of section 37-60-122.2, C.R.S. (referred to hereafter as “New Projects”)**

Grants for design plans, engineering, and construction projects to: (1) address impacts from the construction of water diversion, delivery, and storage facilities that require a permit license, or other approval from the United States; and (2) respond to needs of declining native species and to those species protected under the federal “Endangered Species Act of 1973,” 16 U.S.C. sec. 1531, et seq., as amended, in a manner that will carry out the state water policy.

- B. Applications pursuant to subsection 5 of section 37-60-122.2, C.R.S. (referred to hereafter as “Existing Projects”)**

Grants for the appropriation or acquisition of instream flow water rights and river restoration construction projects to mitigate the effects of the construction, operation, and maintenance of existing water diversion, delivery, and storage facilities.

Fish and Wildlife Resources Fund allocations will be made for both New Projects and Existing Projects in the order that applications are received and approved.

The CWCB will manage the Fish and Wildlife Resources Fund in a manner that, over time, distributes grants evenly between east and west slope applicants.

GRANT REQUIREMENTS

A. GRANTS FOR NEW PROJECTS PURSUANT TO § 37-60-122.2 (2)-(4)

Eligible Applicants

Eligible parties for all grants for New Projects are limited to the operators of the water facility for which mitigation and enhancement are needed. Eligible parties for Species Recovery Grants include established non-profit organizations, watershed coalitions, local governments, conservation and water conservancy districts, and Colorado's tribal governments. Federal agencies and private landowners are not eligible to receive Species Recovery Grant funds; however, projects may be conducted on private, state, or federal lands with appropriate permissions and under the sponsorship of an eligible entity. Local governments that do not participate in the National Flood Insurance Program will not be eligible for funding.

Eligible projects and activities

Applications for grants from the Fish and Wildlife Resources Fund for New Projects will be accepted in the following categories:

1. Mitigation Grants to reduce, minimize, or avoid undesirable impacts on fish and wildlife resources caused by the New Project as outlined in the official state recommendation, i.e., the State Fish and Wildlife Mitigation Plan (Mitigation Plan).
2. Enhancement Grants to improve the habitat of fish and wildlife resources beyond existing conditions in the vicinity of the New Project.
3. Species Recovery Grants for the purpose of responding to needs of declining native species and to those species protected under the federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531, et seq., as amended, in a manner that will carry out the state water policy.

Funding Restrictions and Requirements

Mitigation Grants:

The Board shall make Mitigation Grants only if the applicant funds mitigation costs for the first 5 percent of the project's design, engineering, and physical construction costs (construction costs). The Board shall make Mitigation Grants for the costs of mitigation for the impacts to fish and wildlife resources from the construction, operation, or maintenance of water diversion, delivery, and storage facilities up to an additional 5 percent of a project's construction costs. Mitigation Grant disbursements shall not exceed 70 percent of the amount of the grant during any fiscal year. Mitigation grants shall be made only for recommendations in the Mitigation Plan. The Board does not intend to make Mitigation Grants for mitigation required outside of the Mitigation Plan. Mitigation should not include that already required by a Federal Record of Decision, County 1041 permit, or other permitting entity. The Mitigation Plan may be adopted as part of a Federal Record of Decision or other permit. Mitigation Grants shall only be awarded for a project after that project has received a permit, license, or other approval from the United States and/or other permitting entities.

- **Matching Fund Requirement**
Mitigation Grants shall not exceed 50% of the total mitigation project cost.

Enhancement Grants:

The Board shall consider applications for Enhancement Grants after receiving a recommendation from the Colorado Parks and Wildlife Commission ("CPW). The Board may award an Enhancement Grant with the concurrence of CPW. Enhancement Grant costs will be shared equally by the CWCB and CPW.

- **Matching Fund Requirement**
Enhancement Grants shall not exceed 50% of the total enhancement project cost.

Species Recovery Grants:

The Board shall consider applications for Species Recovery Grants when funding is not available from the Native Species Conservation Trust Fund.

- **Matching Fund Requirements**
Species Recovery Grants shall not exceed 50% of the total project cost. The balance of the project costs can be paid through a combination of in-kind and cash match, but no more than half of the match may be in the form of in-kind services.

- **Cash Match**

For Species Recovery Grants, a cash match is an actual expenditure paid directly with cash funds from the grantee to a vendor. Examples are supplies, services, and necessary equipment purchase or rental.

- **In-Kind Match**

For Species Recovery Grants, an in-kind match is materials, services, and labor provided by grantee to perform all or part of the approved project scope of work,

including necessary project administration. This can include standard direct and indirect personnel fringe benefits. Volunteer services provided at no cost to the applicant by firms or individuals consistent with the approved scope of work will be valued for in-kind match at local prevailing wage rates. Project-specific land acquisition or access agreement costs may also be claimed as in-kind contributions and credited against the minimum requirement. Costs that CANNOT be considered include general organization operating costs such as utilities, operating supplies and services, amortized costs or rental costs for buildings and equipment used for the general operation of the organization, and general property and liability insurance costs; nor will overhead percent charges to cover such items be allowed. These business expenses are NOT reimbursable costs and may not be claimed as matching contributions.

The CWCB may, in any year, approve Enhancement Grant and Species Conservation Grants that the Board deems worthy of funding through the Fish and Wildlife Resources Fund. Mitigation Grants shall be funded and will take precedence over Enhancement Grants and Species Recovery Grants.

The project applicant must have completed a fully executed funding contract with the CWCB within 6 months of the grant authorization by the CWCB or the Board will consider de-authorization of the grant.

Deadlines

The CWCB will accept applications on a rolling basis.

Application Process

Interested parties are required to discuss potential applications with CWCB staff prior to submitting an application.

The grant application must be submitted through the grant portal, which is linked from the CWCB website. Applicants will be prompted to submit the following items to the portal:

- Statement of Work
- Engineer's estimate of probable cost for construction projects over \$100,000
- State Fish and Wildlife Mitigation Plan
- Budget (Excel)
- Schedule
- Maps (if applicable)
- Letters of Commitment (matching funds)
- Photos or drawings
- Enhancement Plan

Evaluation Criteria

Each application will be reviewed for conformity with the goals and objectives of the Fish and Wildlife Resources statute, 37-60-122.2, Colorado's Water Plan, and the appropriate Basin Implementation Plan(s). Grant applications for Mitigation Grants shall be funded if approved and the funds are available, and Enhancement Grants and Species Recovery Grants will be considered after existing Mitigation Grant requests are considered.

In addition, the Board will consider and CWCB staff will evaluate and recommend to the Board Mitigation, Enhancement, or Species Recovery Grant applications based on the following:

- Soundness of the project design, work plan, or plan of study.
- The need for the proposed project.
- Project benefits, considered on a state-wide and local basis.
- Organizational capacity, and whether the applicant and others working on the project have the skill, capacity, and history of achievements for the project to be successful.
- The need for financial assistance.
- Participation open to all affected stakeholders.

Recognizing that future needs and responses to those needs cannot be predicted with certainty, the Colorado Water Conservation Board reserves the right to recommend for funding any design plan, engineering, or construction project that it determines would: (1) address the fish and wildlife impacts from the construction of water diversion, delivery, and storage facilities that require a permit, license, or other approval from the United States; or (2) respond to needs of declining native species and to those species protected under the federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531, et seq., as amended, in a manner that will carry out the state water policy.

Documents Required for Contract Execution:

- Insurance Certificate of Liability (Government entities excluded)
- Secretary of State - Certificate of Good Standing
- W-9
- Electronic Funds Transfer (preferred)

The CWCB's review and approval process will include the following steps:

- CWCB staff will determine if the required documentation has been submitted. The application will be accepted once all documents have been received.
- CWCB staff and a committee of subject matter experts will evaluate the application based on the criteria described in this document and notify the CWCB

Board members representing the corresponding basin. CPW staff will also be notified.

- CWCB staff will notify the applicant of staff's recommendation and of the date and time when the Board will consider the application. While CWCB staff has primary responsibility for presenting the recommendation to the Board, the applicant is welcome to attend the meeting to address the Board and may offer comments during the opportunity for public comment.
- Upon Board approval of the applicant's request, funding can only be used on project components that begin after a grant contract is executed by the office of the state controller.
- The grant contracting estimate is 45 days from the receipt of the signed grant contract from the grantee.

Grant Administration

Progress Reports: The applicant shall provide the CWCB progress reports every 6 months, beginning from the date of issuance of a purchase order, or the execution of a contract. The progress report shall describe the status of the tasks identified in the statement of work, including a description of any major issues that have occurred and any corrective action taken to address these issues. The CWCB may withhold reimbursement until satisfactory progress reports have been submitted.

Final Report:

At completion of the project, the applicant shall provide the CWCB a Final Report that:

- Summarizes the project and how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.
- Includes photographs, summaries of meetings, final expenses, and engineering reports/designs.

The CWCB will withhold disbursement of the last 10% of the budget until the Final Report is completed to the satisfaction of CWCB staff. Once the Final Report has been accepted, and final payment has been issued, the purchase order or grant will be closed without any further payment.

Payments:

Payment will be based on actual expenditures invoices by the grantee.

B. GRANTS FOR EXISTING PROJECTS PURSUANT TO § 37-60-122.2(5)

Eligible Applicants

All applicants must be mitigating impacts to fish and wildlife resources as a result of the construction, operation, or maintenance of existing water diversion, delivery, or storage facilities pursuant to section 37-60-122.2 C.R.S.

Eligible parties are limited to the CWCB and the operators of the water facility for which mitigation is needed.

Eligible applicants include operators of existing water diversion, delivery, or existing storage facility projects and the CWCB.

Local governments that do not participate in the National Flood Insurance Program will not be eligible for funding.

Eligible projects and activities

Applications for mitigation grants from the Fish and Wildlife Resources Fund for existing projects will be accepted for the following types of projects:

1. The appropriation of water rights to preserve, or the acquisition of water rights to preserve or improve, the natural environment to a reasonable degree to mitigate the impact of an existing water facility. All acquisitions and appropriations must be in compliance with the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, 2 CCR 408-2 and state water law.
2. River restoration feasibility studies and construction projects that are designed to directly mitigate or significantly improve the environmental impacts of existing water facilities.
3. An appropriate combination of river restoration and water rights acquisition or appropriation.

Restrictions on Funding

The CWCB may, in any year, approve grants to fund any project in the above categories that the Board deems worthy of funding through the Fish and Wildlife Resources Fund.

The project applicant must have completed a fully executed funding contract with the CWCB within 6 months of the grant authorization by the CWCB or the Board will consider de-authorization of the grant.

Matching Fund Requirements

Existing Project Grants shall not exceed 50% of the total project cost. The balance of the project costs can be paid through a combination of in-kind and cash match, but no more than half of the match may be in the form of in-kind services.

● Cash Match

A cash match is an actual expenditure paid directly with cash funds from the grantee to a vendor. Examples are supplies, services, and necessary equipment purchase or rental.

● In-Kind Match

An in-kind match is materials, services, and labor provided by grantee to perform all or part of the approved project scope of work, including necessary project administration. This can include standard direct and indirect personnel fringe benefits. Volunteer services provided at no cost to the applicant by firms or individuals consistent with the approved scope of work will be valued for in-kind match at local prevailing wage rates. Project-specific land acquisition or access agreement costs may also be claimed as in-kind contributions and credited against the minimum requirement. Costs that CANNOT be considered include general organization operating costs such as utilities, operating supplies and services, amortized costs or rental costs for buildings and equipment used for the general operation of the organization, and general property and liability insurance costs; nor will overhead percent charges to cover such items be allowed. These business expenses are NOT reimbursable costs and may not be claimed as matching contributions.

Deadlines

The CWCB will accept applications on a rolling basis.

Application Process

Interested parties are required to discuss potential applications with CWCB staff prior to submitting an application.

The grant application must be submitted through the grant portal, which is linked from the CWCB website. Applicants will be prompted to submit the following items to the portal:

- Statement of Work
- Engineer's estimate of probable cost for construction projects over \$100,000
- Budget (Excel)
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- Maps (if applicable)
- Letters of Commitment (matching funds)
- Photos or drawings

Evaluation Criteria

Each application will be reviewed for conformity with the goals and objectives of the Fish and Wildlife Resources statute, 37-60-122.2, Colorado's Water Plan, and the appropriate Basin Implementation Plan(s). Grant applications will be considered only in the following two categories:

1. The appropriation or acquisition of water rights for the purpose of preserving or improving the natural environment to a reasonable degree to mitigate the impact of an existing water facility.
2. River restoration feasibility studies and construction projects that are designed to directly mitigate or significantly improve the environmental impacts of existing water facilities.

The Board will consider and CWCB staff will evaluate and recommend to the Board grant applications for appropriation or acquisition of water rights to be held by the Board based on the following project types:

- Instream flow water rights that facilitate the resolution of federal water rights issues.
- Instream flow water rights that assist in the recovery of threatened or endangered wildlife species or the conservation of existing wildlife species within riparian ecosystems.

The Board will consider and CWCB staff will evaluate and recommend to the Board grant applications for appropriation or acquisition of water rights and river restoration feasibility studies and construction projects based on the following:

- Soundness of the project design, work plan or plan of study.
- The need for the proposed project.
- Project benefits, considered on a state-wide and local basis.
- Organizational capacity, and whether the applicant and others working on the project have the skill, capacity, and history of achievements for this project to be successful.
- The need for financial assistance.
- Participation open to all affected stakeholders.

Recognizing that future needs and responses to those needs cannot be predicted with certainty, the Colorado Water Conservation Board reserves the right to recommend for funding any instream flow acquisition, river restoration construction project, or study that it determines would mitigate the effects of an existing water supply facility and furthers the purposes of the Fish and Wildlife Resources Fund.

Documents Required for Contract Execution:

- Insurance Certificate of Liability (Government entities excluded)
- Secretary of State - Certificate of Good Standing
- W-9
- Electronic Funds Transfer (preferred)

The CWCB's review and approval process will include the following steps:

- CWCB staff will determine if the required documentation has been submitted. The application will be accepted once all documents have been received.
- CWCB staff and a committee of subject matter experts will evaluate the application based on the criteria described in this document and notify the CWCB Board members representing the corresponding basin.
- Applications will be posted on the CWCB website 30 days after the application deadline. Staff will present the applications to the Board, provide an opportunity

- for public comment, and make a recommendation to the Board for full funding, partial funding, or denial of funding.
- CWCB staff will notify the applicant of staff's recommendation and of the date and time when the Board will consider the application. While CWCB staff has primary responsibility for presenting the recommendation to the Board, the applicant is welcome to attend the meeting to address the Board and may offer comments during the opportunity for public comment.
 - Upon Board approval of the applicant's request, funding can only be used on project components that begin after a grant contract is executed by the office of the state controller.
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