



COLORADO

Original Wetland Acreage	Remaining Wetland Acreage	Acreage Lost	% Lost
2,000,000	1,000,000	1,000,000	-50%

Colorado Wetlands: Palustrine wetlands in Colorado include forested wetlands in riparian areas and near springs and seeps; scrub-shrub wetlands, such as willow carrs (thickets) and bottomland shrublands; emergent wetlands, such as marshes, fens, alpine snow glades, and wet and salt meadows; and aquatic-bed wetlands in ponds and lakes.

Summary	Individual Features	Regulation	Water Quality Standards	Mitigation	Monitoring and Assessment	Restoration	Public/Private Partnerships
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SUMMARY

Overall Program

Wetland-related activities at the state level in Colorado are conducted by individual departments or programs within those departments. They can be categorized at either regulatory or non-regulatory. Major regulatory wetland activities are conducted by the Colorado Department of Transportation (CDOT). Similar activity occurs at the Division of Mined Land Reclamation within the Department of Natural Resources (DNR). The Colorado Department of Public Health and Environment (CDPHE) is also involved in wetland-related activities through its responsibilities under the federal Clean Water Act (e.g., Section 401 and 404) and similar water quality duties. The Colorado Division of Wildlife (CDOW) within DNR houses the state’s major non-regulatory wetlands program.

Innovative Features and New Programs/Initiatives

The Colorado Water Conservation Board is authorized to acquire water rights to protect wildlife by maintaining minimum stream flows.

State law requires adequate protection of streams from the impact of activities by “agencies of the state,” i.e., state departments and counties. In response to this statute, CDOW and CDOT created a memorandum of agreement (MOA) that specifies a variety of best management practices to be followed during CDOT stream-crossing activities. The MOA also specifies impact thresholds above which more formal consultations and protections are required.

A number of communities such as Boulder and Fort Collins have adopted wetland protection programs as part of broader greenway or stream corridor efforts.

Since its inception in 1997, CDOW's non regulatory wetland program has protected, restored or created over 200,000 acres of wetlands, including adjacent upland habitat. In addition, the program has protected or restored 114 miles of riparian habitat.

State Wetland Conservation Plan

Colorado does not currently have a state wetland conservation plan that incorporates and coordinates regulatory and non-regulatory wetland activities. The CDOW Wetlands Program has a strategic plan composed of a variety of strategies related to: 1) important program partnerships and partners (e.g., Ducks Unlimited, Partners for Fish and Wildlife, and The Nature Conservancy); 2) important state funding sources; 3) program connections with federal Farm Bill (USDA) and Section 404 (U.S. Army Corps of Engineers (Corps)) programs; 4) program connections with federal joint venture activities; 5) the provision of CDOW technical expertise for wetland projects; and 6) wetland project monitoring and evaluation. Please see <http://wildlife.state.co.us/habitat/wetlands/>.

No Net Loss/Net Gain Goal

The goals of no net loss of wetlands and net gain of wetlands are largely implicit in existing programs. The wetland regulatory program at CDOT requires one-to-one replacement of both jurisdictional and non-jurisdictional wetlands impacted by road projects. Replacement ratios greater than one-to-one are infrequent because of the complexity and expense of water rights in Colorado. CDOT implemented a mitigation tracking program two years ago, so information is rudimentary. CDOW's non regulatory wetland program has protected, restored or created over 200,000 acres of wetlands contributing significantly to achieve no net loss/net gain of wetlands in Colorado.

INDIVIDUAL FEATURES:

Regulation

Wetland Regulatory Statutes and Administrative Rules

Wetlands in Colorado are considered "state waters" and, therefore, subject to state water quality regulations by the Water Quality Control Division within the CDPHE (5 CCR 1002-31). The definition of "wetlands" in CDPHE regulations largely reflects that in the 1987 Corps manual. Additionally, local governments are encouraged to define and regulate areas of "state interest" (24-65.1-101, *et seq.*, C.R.S.), including "significant wildlife habitats in which the wildlife species...in a proposed area could be endangered."

Wetland Definition and/or Delineation; Comparability With Federal Definition

The definition of "wetlands" for CDOT is that used by the Corps and the Federal Highway Administration (FHWA). In addition, a definition of "wetlands" exists in the regulations governing "state waters" by CDPHE. That definition also largely reflects the 1987 Corps manual. The CDOW wetland program does not explicitly define wetlands for its non-regulatory programs. Rather, projects are evaluated based on their contribution to protection and enhancement of habitats important to wetland-dependent wildlife. In addition to classic wetlands, projects eligible for assistance in the CDOW program include riparian areas, ephemeral wetland habitats (e.g., playas), and adjacent non-wetland buffer zones.

Evaluation Methodology

No specific wetland evaluation methodology is designated for use in CDOT's wetland program. Variations on the "Montana method" (Berglund) have been used in environmental impact documents submitted by private consultants for proposed CDOT projects. The aquatic habitat classification system by Cowardin, et al. (1979) is used to classify wetland habitats.

Regulated and Exempted Activities

None specific in state law.

Special Provisions for Agriculture and Forestry

None specific in state law.

Penalties and Enforcement

Generally, Colorado lets the federal agencies take the lead on enforcement cases.

Permit Tracking

A very basic tracking system exists.

State General Permit (PGP or SPGP) for 404

None.

Assumption of Section 404 Powers

State assumption of Section 404 powers was examined by the state DNR in the early 1990s, but was rejected as more expensive than justified by the benefits gained.

Joint Permitting

There is no joint permitting program for individual 404 permits. In conjunction with the Corps, the FHWA, and the U.S. Environmental Protection Agency, CDOT is pursuing streamlining of the 404 process within the context of environmental documentation under the National Environmental Policy Act (NEPA) for CDOT projects.

Special Area Management Plans and Advanced Identification Plans

A special area management plan has been developed for wetland resources in Summit County, Colorado, in conjunction with the Northwest Colorado Council of Governments (www.nwc.cog.co.us/).

Role of Local Governments

Communities such as Boulder and Fort Collins have incorporated wetland protection programs as part of broader greenway, flood loss reduction or stream corridor restoration efforts.

Staffing

CDOT has one wetland person at a headquarters environmental unit. Each of CDOT's six regions also has one person that deals with wetland-related issues, among other general environmental duties. CDPHE shares wetland responsibilities among three staff in addition to other duties. The total time spent adds up to 0.8 FTE.

Water Quality Standards

Wetlands and Water Quality Standards

The Water Quality Control Division (WQCD) within the CDPHE implements the provisions of the federal Clean Water Act. In Colorado, stream segments are classified according to use and those classifications identify the uses that are to be protected on a given stream segment. Numerical standards for specific pollutants are then adopted which are designed to protect the designated uses. WQCD operates a Section 401 certification program, but there are no special standards for wetlands. A narrative water quality standard for wetlands is under consideration. The Corps will not issue related 404 permits until 401 certification is approved.

Wetland Definition

According to CDPHE water quality regulations (5 CCR 1002-31), wetlands are defined as “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.” For purposes of the regulations, additional definitions are supplied for constructed wetlands, created wetlands, and tributary wetlands.

Designated Uses

Designated uses are the same as those applied to all waters in the state.

Narrative and/or Numeric Criteria

Narrative and/or Numeric Criteria are the same as those applied to all waters in the state.

Antidegradation Policy

Antidegradation Policy is consistent with policies applied to all other waters in the state.

Other

None.

Staffing

CDPHE does not have staff directly attending to wetland water quality issues.

Mitigation

Mitigation Policy

CDPHE does not require mitigation under the 401 Certification Program. The regulatory wetlands program at the CDOT requires one-to-one replacement of both jurisdictional and non-jurisdictional wetlands impacted by road projects. Because of the complexity and expense of water rights in Colorado, replacement ratios greater than one-to-one are infrequent. Off-site and out-of-kind mitigation may have different ratios decided on a case-by-case basis.

Mitigation Banks

CDOT constructed a public wetland mitigation bank in Limon, Colorado. Several private wetland mitigation banks are currently operating in Colorado, mostly in the eastern half of the state along the Front Range.

In Lieu Fee Program

Colorado does not have a state-level in-lieu-fee program. However, within the operation of federal programs such as the Corps and FHWA, CDOT has explored the in-lieu-fee approach to wetland mitigation on a few projects.

Ad Hoc Arrangements

None Indicated.

Mitigation Database

Very basic data is collected for 401 certification by CDPHE.

Very basic data collection is occurring at CDOT related to wetland impacts and accompanying mitigation. Other impacts under 404 would be tracked by the individual Corps districts in the state.

Staffing

CDOT has one wetland person at a headquarters environmental unit. Each of CDOT's six regions also has one person that deals with wetland-related issues, among other general environmental duties. CDOT design and hydraulic engineers work on wetland mitigation designs; landscape architects also help on the process.

Monitoring and Assessment

Mapping/Inventory

CDOW continues to digitize the National Wetland Inventory maps in the state and is also mapping riparian habitat across the state (<http://ndis1.nrel.colostate.edu/riparian/riparian.htm>). CDOW's wetlands program also funds on-going wetland mapping and resource inventories by the Colorado Natural Heritage Program (CNHP). CDOT has also pursued wetland mapping in certain road corridors as part of its long-range planning efforts. CDOT employs the classification system of Cowardin, et al. (1979). Because wetland-related activities are spread across several state and local government agencies, a comprehensive status and trends report has not been prepared.

Wetland Classification and Assessment

The CDOW wetlands program is funding research efforts by the CNHP toward the creation of a "vegetative index of biological integrity." CNHP has also published *A Classification of Riparian Wetland Plant Associations of Colorado* (1999). Please refer to <http://www.cnhp.colostate.edu/reports.html>.

Overall Wetland Gain and Loss Tracking System

Because wetland-related activities are spread across several state and local government agencies, a comprehensive wetland-gain-and-loss tracking system does not exist.

Staffing

Approximately two people at the Rocky Mountain Bird Observatory work on CDOW's wetlands program monitoring effort. It is likely that reorganization of the monitoring component will involve several people both within and without the wetland program itself.

Restoration

Program Description

Since its inception in 1997, CDOW's nonregulatory wetland program has protected, restored or created over 200,000 acres of wetlands, including adjacent upland habitat. In addition, the program has protected or restored 114 miles of riparian habitat.

Depending on site conditions, restoration is one approach to wetland projects within CDOW's wetlands program. There is no explicit wetland restoration program nor specific eligibility criteria.

Restoration Program Goals

None identified.

Eligibility Criteria

The state does not use a specific evaluation methodology.

No specific wetland evaluation methodology is designated for use in CDOW's wetland program. Projects are evaluated based on their contribution to protection and enhancement of habitats important to wetland-dependent wildlife. Projects are currently evaluated by personnel at the Rocky Mountain Bird Observatory (www.rmbo.org). The method is largely directed at identifying improvements in habitat use by birds. Overall evaluation procedures for CDOW's wetlands program will be examined in the near future after reviewing program direction, discussing the needs of the major program partners (Partners For Wildlife, The Nature Conservancy, Ducks Unlimited, Inc.) and examining cost-effectiveness.

Restoration Database

Very basic data collection is occurring at CDOW regarding wetland acreage gains (protection, enhancement, creation) and miles of riparian systems restored.

Staffing

None Identified.

Public/Private Partnerships

Acquisition Program

The CDOW wetland programs uses some of its funds to purchase wetlands, mostly in the form of conservation easements.

Public Outreach/Education

Although one of the wetlands program's strategies, public outreach and education activities have been minimal to date.

Tax Incentives

A credit is allowed against incomes taxes owed for those who donate all or part of the value of a perpetual conservation easement in gross to a governmental entity or a charitable organization. The donation must meet the criteria of a "qualified conservation contribution" pursuant to section 170 (h) of the Internal Revenue Code (see 38-30.5-101, *et seq.*, C.R.S.).

Technical Assistance

A wide variety of technical assistance is available through the CDOW wetlands program, including pre-project site evaluation and natural resource inventories, legal and real estate-related activities, hydraulics and hydrology, and habitat management and restoration planning.

Other Nonregulatory Incentives for Private Landowners

CDOW wetlands program funds are used to fund lease payments to farmers and ranchers involved in the programs of Partners for Fish and Wildlife.

Wetland Training and Education

None currently.

Watershed Planning

One of the major implementing structures of CDOW's wetlands program is the nine "wetlands focus area committees." These committees are located in each of the state's major drainages. Long-term plans include linking these committees with the state health department's watershed activities related to water quality monitoring.

Special Problems

The prior appropriations doctrine in Western water law can constrain wetland mitigation and creation efforts. Much like row crops, wetlands are considered a "consumptive use" of water in Colorado, thus the amount of water they use via evapotranspiration must be accounted for. Moving wetland mitigation sites away from the original impact site may also be problematic from the standpoint of impacting unrelated water rights.

The transfer of water from natural drainages for human consumption and for irrigation have altered the natural flow regime of most streams and rivers in Colorado. Those changes also complicate restoration efforts along those watercourses. By virtue of their position in the landscape, riparian systems have experienced a disproportionate amount of impact from human development (e.g., road corridors, housing, etc.). Those same pressures, in addition to mountain resort development, have increased the value of riparian land, making wetland protection and creation in those areas expensive.

Coordination

Efforts have recently begun to coordinate the wetland impact and mitigation activities of CDOT with CDOW's wetlands program. Future coordination efforts are aimed at the state health department (water quality and Section 401/404 activities) and state floodplain managers.

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Contact Points

<http://wildlife.state.co.us/habitat/wetlands/index.asp>

Primacy Page: <http://www.cdphe.state.co.us/cdphehom.asp>

State Home Page: <http://www.colorado.gov/>

Legislative Page: http://www.state.co.us/gov_dir/stateleg.html

Guidebooks, Brochures, Websites, Other Educational Materials

<http://wildlife.state.co.us/education/index.asp>

<http://wildlife.state.co.us/education/westresourcecatalog/us.page.asp>

<http://wildlife.state.co.us/education/nemedia/nesubjectwetlands.asp>