Pennsylvania Fish & Boat Commission

SINNEMAHONING CREEK WATERSHED RESTORATION

GRANT PROGRAM

Implementation Guidance

Division of Habitat Management

January 2016

**Background**

The Pennsylvania Fish & Boat Commission (PFBC) and the Pennsylvania Department of Environmental Protection (PA DEP) each received $3.675 million as part of a natural resource damage settlement with Norfolk Southern Corporation and Norfolk Southern Railway Company stemming from the June 2006 train derailment in McKean County. The derailment, and resulting spill of liquid sodium hydroxide, polluted and killed fish and other aquatic life in Big Fill Run, Sinnemahoning-Portage Creek, and Driftwood Branch Sinnemahoning Creek.

The PFBC “Sinnemahoning Creek Watershed Restoration Grant Program” (SCWRG Program) was established when the PFBC deposited the settlement funds into a restricted, interest bearing account that can only be used for development and implementation of projects that benefit fishing, boating and the aquatic resources in Cameron, McKean, Elk, and Potter Counties. Primary emphasis will be on projects within the Sinnemahoning Creek watershed upstream of the confluence of First Fork Sinnemahoning Creek (Exhibit A); however, projects may be funded anywhere within the four aforementioned counties.

Following the PA DEP’s receipt of its settlement funds, the “Sinnemahoning Stakeholders Committee” (SSC) was formed through a Memorandum of Understanding between the PA DEP and Headwaters Resource Conservation and Development Council (RC&D). The SSC is responsible for the management and distribution of PA DEP funds derived from the civil settlement to support projects of a similar scope as the PFBC’s. However, SSC funding will be geographically limited to projects located only within the impacted watershed (Exhibit A). The PFBC has one voting member on the SCC – typically the program manager of the PFBC’s SCWRG Program. Some proposed projects may benefit from receipt of fund awards from both grant programs, and this is allowable, but coordination and collaboration of the administrators of both programs is necessary. Funds awarded by one grant program may be used as match by the other program.

**Establishment of PFBC Stakeholder Group**

The PFBC established a stakeholders group that includes representatives from selected state agencies, county conservation districts, local governments, NGO’s and local interests. The stakeholder group will assist the PFBC by recommending the types of projects supported by the grant program, but it will not review and approve projects for funding. The stakeholder group will meet on an ad hoc basis determined by the SCWRG Program manager with the concurrence of the Internal Review Committee (IRC) until revenues in the restricted account have been expended.

**PFBC Internal Review Committee**

An IRC of PFBC staff was established to develop details of the grant program, to serve as the proposal review committee, and to decide which proposals will be awarded funding. This committee will by chaired by the designated Division of Habitat Management (DHM) program manager. It includes individuals from DHM, Division of Fisheries Management (DFM), Division of Environmental Services (DES), Bureau of Law Enforcement (BLE), and Division of Public Access & Property Services (DPA&PS). The PFBC’s Chief Counsel or Assistant Counsel will serve as the committee’s legal advisor.

**External and Internal Projects**

The PFBC will fund external and internal projects, and the IRC will consider applications and proposals for both which are consistent with the project types described below under Tier 1 and 2 project funding priorities. An external project is one that is proposed and implemented by a third party partner under a cooperative agreement with the PFBC, typically following a competitive grant round. An internal project is one that is proposed by a PFBC employee and is implemented utilizing PFBC staff or a vendor selected in accordance with the Commonwealth’s procurement rules. Internal projects may use funding to hire contractors and consultants, contract for services and purchase materials, equipment and supplies. Funding may also be used to pay for the costs associated with PFBC staff salary, benefits, travel and administrative support. Receipt of in-kind goods and/or services, including volunteer labor, is allowable.

**Call for Projects**

The PFBC will solicit proposals for external projects from the stakeholder group and general public on an ad hoc basis determined by the SCWRG Program manager with the concurrence of the PFBC IRC. An agency press release and website posting will announce the request for project proposals. Proposals for external projects will be accepted from eligible applicants who have submitted their proposal using a standardized application form developed by the IRC. The PFBC has developed a list of types of projects with two priority tiers for targeting funding. Applications addressing these priorities will be given preference. SCWRG priorities may change between grant rounds as determined by the IRC. Proposals for internal projects from PFBC staff can be submitted at any time following the established procedure.

During years when the PFBC plans to issue a “request for project proposals,” the time frame for receiving and awarding grant applications will be somewhat concurrent with the SSC’s grant program. This will ensure that duplicative efforts are not funded and that available revenues from both programs can support the maximum possible number of high quality projects. In some circumstances, both grant programs may “jointly” fund projects or “exchange” proposals. In addition, funds awarded by the one grant program may be used as match by the other program. Efforts will be made to avoid duplication and foster appropriate collaboration on funding high quality projects. The PFBC SCWRG Program manager is an active member of the SSC and will ensure coordination between both programs.

**Project Selection**

External project proposals submitted by SCWRG Program applicants will be evaluated, ranked, and recommended for funding by the PFBC IRC. In order to minimize the potential for bias, all grant applications will be scored using objective written criteria. The PFBC’s Board of Commissioners has authorized the Executive Director to approve individual grants in the amount of $100,000 or less per grantee per year for projects meeting the grant program’s objectives. For grants exceeding that amount, staff will seek separate Commission approval prior to any public announcement of grant awards.

Internal project proposals submitted by PFBC staff shall be reviewed and scored by the IRC. Staff seeking approval of their internal projects from the IRC will submit their requests to the SCWRG Program manager using the same application form used by external applicants, and the same scoring criteria will be used by the IRC. Unlike grants for external projects, a minimum match of 25% of the total project cost will not be required for internal projects; however, some match is encouraged, and the proposal will be rewarded with additional points in accordance with the established scoring criteria during the review by the IRC. In addition, PFBC staff will not be required to obtain letters of support from parties external to the PFBC. However, prior to consideration of an internal proposal, written support must be obtained from the management supervisor of the employee who submitted the project proposal and this supervisor’s written approval of the proposed project must be included with the proposal. The PFBC staff member who received project approval will be responsible for implementing the project according to the scope-of-work, budget, and time schedule indicated in the proposal unless amendments are approved in writing by the SCWRG Program manager. In addition, the originating staff will act as the project manager and will forward project deliverables, progress reports, and invoices to the SCWRG Program manager in order to track expenditures and ensure projects are completed.

**Project Ranking Criteria**

Applications will first be reviewed for applicant eligibility and completeness. Although the PFBC will attempt to obtain missing information from the applicant, it is the applicant’s responsibility (and not that of the PFBC) to insure that application packages are complete. Incomplete applications will not be considered in the evaluation process. The PFBC may request supplemental information and/or a site visit if it determines that such information is necessary to assist in evaluating an application. Applications will be scored using the system described in Part C of the Grant Application Package.

**Project Management**

The SCWRG Program manager will be responsible to provide a general accounting and tracking of expenditures from the restricted account for all authorized projects. Bureau of Administration staff will provide accounting, fiscal record-keeping, and invoice processing assistance to the SCWRG Program manager. Project management for approved PFBC internal projects will be the responsibility of the “project manager” identified in the proposal. Approved external grants may be assigned to PFBC staff (project manager) based on the project scope-of-work (e.g., species inventories and assessments (DES, DFM); habitat related projects (DHM); easements, acquisitions and access development (DPA&PS)). It is the responsibility of the project managers to coordinate execution of the necessary third party agreements with the SCWRG Program manager and the Office of Chief Counsel.

As part of the settlement with Norfolk Southern Corporation and Norfolk Southern Railway Company, the PFBC may utilize funds in an amount not to exceed $179,100 (5% of the PFBC’s total payment) “to improve law enforcement training and planning and to purchase equipment for the Bureau of Law Enforcement to address major environmental incidents and pollution events statewide.” The Law Enforcement Bureau Director is responsible for management of these funds without the concurrence of the IRC; however, the Director is required to report all expenditures to the Bureau of Administration staff and the SCWRG Program manager so that fiscal record keeping may be kept current.

Additionally as part of the settlement, the PFBC was required to dedicate, at a minimum, $125,000 to the McKean County Juvenile Probation “Boondocs” Program for projects that benefit fishing and boating and the aquatic resources in McKean County. The PFBC entered into a cooperative agreement with the McKean County Commissioners for these projects, and this agreement is administered by the SCWRG Program manager with assistance from both DHM technical staff and Bureau of Administration staff.

**Eligible Use of Funds, Required Match, and General Grant Guidelines**

Funds received from the settlement will be eligible to finance a variety of projects that benefit fishing, boating and aquatic resources in Cameron, McKean, Elk, and Potter Counties. Funds can be used for PFBC internal projects or grants to eligible external applicants. There is no specific minimum or maximum limit with regard to the amount of funds that can be awarded for individual projects. However, the PFBC’s decisions regarding particular applications may be limited by the need to accomplish certain objectives. The quality and number of proposed projects that can be effectively managed by PFBC staff, rather than a targeted total amount of funds to be awarded, will be the primary consideration in determining grant awards following a “request for proposals.” The PFBC will fund high quality projects until the revenues in the restricted account are exhausted.

Applicants for external projects must secure matching funds equal to at least 25% of the total project costs to supplement PFBC funds and assist in implementing their proposed projects. The 25% match may be in the form of grants from other institutions, cash, in-kind labor, equipment, materials and supplies. PFBC services or grants from other PFBC programs cannot be used as match. In-kind contributions with the corresponding dollar values must be documented with a letter from the entity providing the contribution. Volunteer services should be valued at $15.00 per hour. Donated land value is an eligible match for acquisition projects.

Applicants typically will be required to complete projects within two years. However, under certain circumstances, the PFBC may grant extensions.

Applicants for external projects must be willing to enter into a cooperative agreement with the PFBC containing standard Commonwealth terms and conditions and others that the PFBC requires.

Applicants will be required to comply with all applicable federal and state laws and regulations and local ordinances and will be responsible for obtaining necessary permits applicable to their projects from the appropriate local, state and federal agencies. Where necessary, applicants also will be required to conduct appropriate archeological and historical surveys and surveys for wetlands and endangered and threatened species. For acquisitions of real property, an environmental assessment and title search must be performed. Costs associated with obtaining required permits and conducting necessary surveys and assessments may be reimbursed to applicants, if requested in the application or may be considered a matching or in-kind contribution. Such costs, along with preliminary designs and associated cost estimates, if incurred prior to a fully executed cooperative agreement between the grantee and the PFBC, will not be reimbursed unless specifically identified within the grant application and approved by the PFBC within the cooperative agreement.

Depending on the type of project, applicants may be required to be responsible for long-term maintenance and operation and for ensuring long-term public access. Applicants seeking funding for fee simple acquisitions must be willing to grant a public fishing and boating access conservation easement to the PFBC or other entity deemed qualified by the PFBC. For easement acquisitions, applicants must be willing to name the PFBC as a co-holder or beneficiary of the easement, whichever is determined by the PFBC to be in its best interests.

## Administrative and Overhead Costs, Salary/Wages

A maximum of 10% of the total grant award may be used to cover project-related administrative and overhead costs for external projects. Salary and wages are eligible for funding provided a clear link between project implementation is demonstrated.

**Eligible Applicants**

To be eligible, external applicants must meet one of the following criteria. Although the applicant does not have to be located in Cameron, McKean, Elk or Potter County, the project has to be implemented in one of those counties.

* Commonwealth and federal agencies involved with the protection and conservation of environmental resources and fish/wildlife habitat;
* Counties and municipalities (boroughs, townships, etc.);
* County conservation districts;
* Councils of Government;
* Watershed/conservation organizations that promote local watershed/conservation efforts;
* Other organizations involved in research, restoration, rehabilitation, planning, acquisition, development, land conservation, education or other activities that further the protection, enhancement, conservation, preservation or enjoyment of Pennsylvania's environmental, conservation, recreation or similar resources.

**Note:** Non-governmental organizations must meet all of the following criteria in order to be eligible for funding:

* The organization’s bylaws must indicate that its charitable purpose includes the preservation or conservation of critical fish and wildlife habitat, open space, watersheds, rivers and streams, or natural areas for public benefit.
* The organization must be incorporated with the Pennsylvania Department of State, Bureau of Corporations.
* The organization must be tax-exempt under Section 501 (c )(3) of the Internal Revenue Code of 1986.
* The organization must be registered with the Pennsylvania Department of State, Bureau of Charitable Organizations. This requirement will be waived for grant requests of less than $5,000.
* The organization must be in existence for at least five consecutive years.
* For acquisition projects, the organization must have demonstrated experience in acquiring property.

**Ineligible Applicants**

Ineligible applicants include individuals, private for-profit firms, and others that do not fall within the eligibility categories.

Funding Priorities

The PFBC has identified the following priorities for funding under the SCWRG Program. The PFBC will afford Tier 1 projects a higher priority than Tier 2. Projects are not prioritized within a given tier. Funding tiers may be revised in future grant rounds as determined necessary by the IRC.

Tier 1

1. Natural stream channel and bank restoration projects that maintain or improve water quality and/or habitat for fish and other aquatic life. Eligible costs include:
   * Project planning and design.
   * Project construction.
   * Assessment of the impacts of the project on aquatic life, and aquatic life habitat.
   * Maintenance activities on new or existing projects.
2. In-stream aquatic wildlife/fish habitat enhancement, provisions for fish passage at barriers to migration and projects to remove abandoned dams, water obstructions or encroachments. Eligible costs include:
   * Project planning and design.
   * Project construction.
   * Assessment of the impacts of the project on aquatic life, and aquatic life habitat.
   * Maintenance activities on new or existing projects.
3. Riparian buffer installation and/or improvement. Eligible costs include:
   * Purchase price of property (fee simple or easement). See item number 6 for eligible acquisition costs.
   * Project planning and design.
   * Project construction activities including materials, supplies and contracted services.
   * Assessment of the impacts of the project on aquatic life and aquatic life habitat.
   * Maintenance activities on new or existing projects.
4. Agricultural best management practices. Eligible costs include:
   * Project planning and design.
   * Project construction activities.
   * Maintenance activities on new or existing projects.
   * Nutrient management and farm conservation plans.
   * Assessment of the impacts of the project on aquatic life and aquatic life habitat.
5. Abandoned mine drainage treatment systems or mine reclamation projects that result in significant improvements to water resources that are likely to benefit fish and other aquatic life.
   * Project planning and design.
   * Project construction activities.
   * Operation and maintenance of new projects, as well as operation, maintenance, and replacement of existing projects.
   * Assessment of the impacts of the project on aquatic life and aquatic life habitat.
6. Acquisition and development of property (fee simple or easements) for public access, conservation and environmental improvement purposes. Eligible costs include:
   * Purchase price.
   * Associated legal, recording, and settlement costs.
   * Preparation of the baseline document for easements. This will be required for all easement projects.
   * Title insurance, environmental assessments and appraisals.
   * Public fishing and boating access development, including design, engineering and construction.
   * GIS mapping and surveying.
   * One time stewardship endowment cost for monitoring and enforcement of easement agreements
   * Maintenance activities.
7. Enhancement or restoration of populations of aquatic Species of Greatest Conservation Need (SGCN) with State Status Rank of S3, S2, or S1 and species that are of Regional Responsibility within the Northeast United States (i.e., secure in PA, but extirpated or rare and declining elsewhere in this region) that are conserved and managed under the jurisdiction of the PFBC and are identified in the 2015 Pennsylvania Wildlife Action Plan **– and** **limited to the following species:**

|  |  |  |
| --- | --- | --- |
| **FISH** | **MUSSELS** | **AMPHIBIANS** |
| Allegheny Burbot | Brook Floater | Eastern Hellbender |
| Allegheny Pearl Dace | Creek Heelsplitter | Mudpuppy |
| American Eel | Elktoe |  |
| Bigmouth Shiner | Green Floater |  |
| Brook Trout | Long-solid |  |
| Longhead Darter | Round Pigtoe |  |
| Mountain Brook Lamprey | Wavy-rayed Lampmussel |  |
| Redside Dace |  |  |
| Tonguetied Minnow |  |  |

For additional information, please see <http://fishandboat.com/swap.htm> - especially the species accounts found in Appendix 1.4.

Eligible costs include:

* + Project planning and design.
  + Project implementation/construction.
  + Mussel species propagation, translocation, and reintroduction – limited solely to the aforementioned mussel species.
  + Conservation or population enhancement measures that benefit the host fishes for the aforementioned eligible mussel species will be considered.
  + Assessment of the effects of the project on aquatic SGCN habitat and population – including aquatic SGCN population monitoring to determine presence, abundance, distribution, translocation/reintroduction survivorship, and reproductive success.

1. Plugging of orphan or abandoned oil and gas wells. Eligible costs include:
   * Project planning and assessment activities.
   * Plugging and site restoration activities.
   * Assessment of the impacts of the project on aquatic life and aquatic life habitat.
2. Assessment and cleanup of illegal dumps that negatively impact water resources.

**Tier 2**

1. Storm water best management practices. Eligible costs include:
   * Project planning and design.
   * Project construction.
   * Maintenance activities on new or existing projects.
   * Environmentally sensitive dirt and gravel road maintenance.
   * Assessment of the impacts of the project on aquatic life and aquatic life habitat.
2. Acid deposition abatement and alkaline addition. Eligible costs include:
   * Pre-project assessment and sampling.
   * Planning and design activities.
   * Alkaline addition activities (automatic lime dosers, anoxic lime drains, accepted land liming methods, etc.).
   * Assessment of the impacts of the project on aquatic life and aquatic life habitat.
3. Targeted aquatic resource sampling and watershed assessment activities related to habitat protection or improvement and conducted according to PFBC and/or PA DEP sampling and assessment protocols. Eligible costs include:
   * Water quality and/or macro-invertebrate sampling and assessment.
   * Sample analysis conducted by certified laboratories.
   * Habitat assessment.
   * Fish sampling and assessment.
   * GIS mapping and analysis.
   * Applied research that will directly contribute to the execution of the PFBC mission.
4. Trout propagation facility improvements by a PFBC Cooperative Nursery. Eligible costs include:
   * Project planning and design.
   * Project construction.
   * Maintenance activities on existing nursery facilities.
5. Education and/or outreach.
   * Programs that increase public awareness of environmental issues.
   * Programs on environmental issues that reach school age youth.
   * Programs that use service learning environmental projects for school age youth.

