

Ark Basin Roundtable - Environmental & Recreation Committee

March Meeting Notes

Monday, March 27, 2023

10:00am – 11:00am

Zoom

A regular meeting of the Environmental – Recreation Committee of the Arkansas Basin Roundtable convened virtually. The meeting was called to order by Rena Griggs, Ark Basin Envi-Rec - Agency Liaison (Bob Hamel, Envi-Rec Committee Chair, was unable to attend).

Attendees:

Roundtable Members: Mannie Colon (Canon City Area Farmer, Roundtable Rep), Dwayne McFall (Fremont County)

Agency Liaisons: Rena Griggs (CPW – Water Specialist – SE Region), Tom Waters (CPW – AHRA State Park Manager – SE Region); PJ Klavon (USFS)

Stakeholders & Frequent Guests: Kyle Horne (Canon City Recreation & Park District), Chris Lamson (TU Collegiate Peaks Chapter), Jonathan Paklaian (ARWC), Lisa Walters (CO Springs Utilities), Luke Javernick (River Science)

March 27, 2023 Envi-Rec Committee Meeting Notes:

1. **Voluntary Flow Management Program Updates (Rena)** – Bureau of Reclamation forecast (as of March 7) is 59K acre-feet of Fry-Ark Project Water (this is slightly above average). This means flows will likely be available for boating (Target 700 cfs at Wellsville gauge from July 1-Aug 15). Target flows for other times of year are also within range.
2. **March 26 Snow Water Equivalent Map from USDA – Ark Basin now at 97% of median (Rena).** (Received some snow at Wolf Creek pass recently, which bumped us up). See attached map.
3. **Colorado Water Conservation Board – March 15-16, 2023 Board Meeting and grant outcomes for Watershed Health and Recreation Grant or Water Supply Reserve Fund Grant:**
 - a. Chaffee County – Four Mile Creek (north of Buena Vista) – Multi benefit restoration (Request \$115,000) **Recommended for full funding.**
 - b. Southmoor Drive Channel and Floodplain Restoration by Fountain Creek Watershed and Flood Control Greenway District, South of Security along I-25 (Request \$700,000). **Recommended for full funding.**
 - c. Riparian Restoration Project on Fountain Creek in Colorado Springs by Mile High Youth Corps (Request \$22,000). **Not recommended for funding.**
 - d. UAWCD Trout Creek Intra-ditch exchange, well and pipeline (Request \$485,000). **Recommended for full funding.**
4. **CPW Updates (Rena):** (1) Salida Low Head Dam Removal – waiting for outcome next month of National Fish Passage Program grant (Requested \$1.1 Million); Also recently requested \$200,000 funding from Congressional District Spending. (2) CPW recently coordinated with BLM on finding water opportunities for storage in DeWeese, with intent to make releases to Grape Creek. (3) In far Southeast Colorado, the Amity Ditch Company (Holly) is working on a dam rehab for Queens Reservoir, a storage vessel for Amity water, and also a CPW State Wildlife Area.

5. ***New* Colorado Legislature – Proposed CO Stream Restoration Bill (Luke).** The Ark Basin RT recently shared the draft Stream Restoration Bill; Luke gave us an overview of it. In short, it divides types of projects into categories and proposes to require registration with the Colorado Div of Water Resources for evaluation of any possible water right injury. This has been a hot issue lately since stream restoration is needed all around the state, yet water rights issues tends to delay project timelines or create considerable added cost. Some projects may cause ponding of water which leads to evaporative loss, requiring augmentation. Mannie Colon reported that Colorado Water Congress is tracking this bill very closely.
6. **Ark River Watershed Collaborative Update (Jonathan):** ARWC's recent request for CWCB grants (WSRF) was approved. This will go toward work in Lake County for culvert replacement and additional personnel needed to manage projects. Also, ARWC has a job opening for a Fuels Mitigation Specialist ([see attached job description](#)).
7. **Black Hills Energy Property (Canon City) Update:** (Kyle, Tom, and Dwayne) This project is regarding rafting recreation improvements (put-in, take-out site) along the Ark River at this property. An informational (County Commission?) meeting was held in late February 2023. It was decided to move the issue into an executive session, as there's logistics / legal issues related to selling of property.
8. **Canon City Recreation & Park District – Reactivate Ark River channels in John Griffin Regional Park:** (Kyle Horne & Luke Javernick) – Meeting scheduled for next Tuesday with River Science and Rec District to explore options and set priorities to get water through this area. Water rights is also an issue here.
9. **USFS Updates (PJ Klavon):** Forest Service working on Bear Creek at FS Road 101 – opened with low water crossings, but looking to get culverts in there and do bank stabilization work up and downstream of those sites. Monarch Pass Park campground (South of Hwy 50) under renovation. In a separate but nearby project, dredging ponds and prepping area for an ADA fish pier installation in cooperation with TU. Fooses and Garfield dams (S. Arkansas River) also still in slow progress towards being removed.
10. **Trout Unlimited update (Chris Lamson):** TU working on fishing-is-fun grant and looking for design input on ADA fishing pier near Monarch pass. Also, South Ark River Riparian Restoration Project (last 1.2 miles before confluence with mainstem) – still looking for funding for design.
11. **Ark River Basin Water Forum Update:** (Rena, Mannie, Luke) The 2023 forum is set for April 25-26 at the DoubleTree Hotel in Colorado Springs. (The ARBWF moves to different locations around the basin each year...last year it was in Salida). This is a great event for networking all things water in the Ark Basin. All are welcome. **Registration is now open! – check the website for details at <https://www.arbwf.org/>.** Luke shared that 24 Canon City High School Students will attend one day of the forum and attend the stream gauge tour. They are excited to see/learn from various water stakeholders! Introduce yourself if you see them. They will have a table showing their class final projects.

Mark your Calendar:

Next Ark Basin Roundtable Meeting – April 12, 12:30-3:00pm, In person & Hybrid (This meeting always held 2nd Wed of the month).

Next Envi-Rec Committee Meeting, June 26, 2023. Stay tuned for emails.

See below for more info on the Ark Basin Roundtable Environmental – Recreation Committee.

About us:

Arkansas Basin Roundtable – Environmental & Recreation Committee Purpose and Goals

The Environmental - Recreation Committee's purpose

- Ark Basin RT legislative directive...to propose projects or methods, structural and non-structural, to meet environmental and recreational needs.
- Constantly review Basin Implementation Plan, evaluate goals and priorities.
- Consider sustainability values (economic, social, environmental) as we evaluate environmental & recreation issues, projects, and priorities.
- Work with Needs Assessment Committee to advise on environmental and recreation priorities (but do not infringe on Needs Assessment Committee).
- Encourage environmental & recreation groups to come to this committee before approaching Needs Assessment Committee or Roundtable. This committee can aid by providing letters of support of certain projects.
- Outreach and education. Continually strive to bring awareness of past, present, and future envi & rec projects.

Environmental - Recreation Committee structure

- Bob Hamel (AROA), Ark Basin Roundtable At Large Recreation Rep, Chair
- Rena Griggs (CPW) Vice or Co-chair (non-voting RT member).
- Blake Osborne (LAVWCD) Ark Basin Roundtable At Large Environmental Rep
- Mark Shea (CSU)(ARWC) Ark Basin Roundtable Chair
- Matt Heimrich (Palmer Land Trust / Otero Farmer) and Ark Basin Roundtable Vice Chair

Difference between (Non-Consumptive) Envi-Rec Committee and the Ark River Watershed Collaborative (ARWC)?

- Discussion: ARWC is like the "operating body" or "fiscal agent" of the NC committee...
...whereas the NC committee itself is the group of experts offering advisement on projects and priorities.

Envi-Rec Committee Meeting Goals

- Strive for a purpose for every meeting; provide an agenda prior to each meeting.
- Set a regular schedule - last Monday of every month in Canon City (and occasional other locations).
- Send out a meaningful agenda, ahead of meeting.
- Emphasize all folks are welcome; grow the invite list; invite special guests for specific planned topics.
- For each month's agenda, expect agency updates from USFS, BLM, CPW, and ARWC.

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**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

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LLS NO. 23-0640.02 Sarah Lozano x3858

SENATE BILL

SENATE SPONSORSHIP

Roberts,

HOUSE SPONSORSHIP

(None),

BILL TOPIC: Projects To Restore Natural Stream Systems

A BILL FOR AN ACT

101 CONCERNING PROJECTS THAT RESTORE THE ENVIRONMENTAL HEALTH
102 OF NATURAL STREAM SYSTEMS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes that stream restoration projects are essential for the protection of public safety, welfare, property, and the environment. It creates a rebuttable presumption that a project that is designed and constructed within a natural stream system for certain restoration purposes (stream restoration project) does not cause material injury to vested water rights (rebuttable presumption). A holder of a vested water right may challenge the rebuttable presumption by sufficiently demonstrating in a court of competent jurisdiction that the

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

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operation of the stream restoration project has caused material injury to a vested water right.

The bill also requires that, at least 63 calendar days before the commencement of a stream restoration project, the owner or proponent of the stream restoration project register the project with the state engineer and provide notice to the substitute water supply plan notification list (registration and notification requirement).

If a stream restoration project is limited to certain minor restoration activities:

- The stream restoration project does not cause a material injury to any vested water right; _____
- The stream restoration project is not an unnecessary dam or other obstruction; and
- The owner or proponent of the stream restoration project is not required to comply with the registration and notification requirement.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Functioning natural streams are beneficial to all Coloradans
5 because they provide abundant clean water for farms and cities as well as
6 broad-based public safety and ecological services, including:

- 7 (I) Forest and watershed health;
- 8 (II) Wildfire mitigation and recovery;
- 9 (III) Drought resilience;
- 10 (IV) Flood safety;
- 11 (V) Water quality;
- 12 (VI) Recreation; and
- 13 (VII) Riparian and aquatic habitats;

14 (b) Functioning natural streams that are connected to floodplains
15 balance the patterns of sediment erosion and deposition, which protects
16 water infrastructure, including diversion structures, ditches, pumps, pipes,

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and reservoirs, that are susceptible to damage and adverse impacts from sedimentation, especially sedimentation resulting from fires and floods;

(c) Most of Colorado's one hundred thousand miles of streams have experienced floodplain alteration due to a diverse range of impacts that render the streams nonfunctional, which has resulted in the reduction or loss of the benefits described in subsection (1)(a) of this section;

(d) Colorado has taken steps to address the long-term detrimental effects of climate change on Colorado's water resources, public lands, wildlife populations, critical infrastructure, and forest health by funding a wide variety of projects that address those effects;

(e) Stream restoration projects are an essential tool for water project developers and wastewater and stormwater dischargers to meet regulatory obligations;_____

(f) Stream restoration projects address the legacy of water quality and habitat impacts from abandoned mines or catastrophic mine spills that have deprived entire communities of safe drinking water; and

(g) The Colorado water plan sets a vision for thriving watersheds and calls for multi-benefit projects that restore stream health to enhance water supply security for agriculture, communities, tourism, and ecosystem function.

(2) The general assembly therefore declares that because of the vast amount of benefits that natural streams provide the state's communities and environment, the state should facilitate and encourage the commencement of projects that restore the environmental health of natural stream systems.

SECTION 2. In Colorado Revised Statutes, 37-92-602, **add** (9) as follows:

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37-92-602. Exemptions - presumptions - stream restoration

2 **projects - report - legislative declaration - definitions.** (9) (a) THE
3 GENERAL ASSEMBLY HEREBY DECLARES THAT STREAM RESTORATION
4 PROJECTS ARE ESSENTIAL FOR THE PROTECTION OF PUBLIC SAFETY,
5 WELFARE, PROPERTY, AND THE ENVIRONMENT.

6 (b) AS USED IN THIS SUBSECTION (9), UNLESS THE CONTEXT
7 OTHERWISE REQUIRES:

8 (I) "HISTORICAL" MEANS THE EXTENT OF A NATURAL STREAM
9 SYSTEM BEFORE ALTERATION OF THE NATURAL STREAM SYSTEM BY
10 HUMAN CAUSES OR NATURAL DISASTERS.

11 (II) "HISTORICAL OR EXISTING EXTENT" MEANS THE DELINEATED
12 AND QUANTIFIED HISTORICAL OR EXISTING AREA OF NATURAL STREAM
13 SYSTEM THAT CAN BE DEMONSTRATED BY THE OWNER OR PROPONENT OF
14 A STREAM RESTORATION PROJECT THROUGH METHODS THAT INCLUDE
15 HISTORICAL AERIAL PHOTO REVIEW, REVIEW OF UNITED STATES
16 GEOLOGICAL SURVEY TOPOGRAPHICAL MAPS, FLUVIAL HAZARD ZONE
17 MAPPING, REMOTE SENSING, SOIL SURVEYS, WETLANDS INVENTORY
18 MAPPING, AND OTHER SCIENTIFICALLY-VALID METHODS.

19 (III) "MINOR STREAM RESTORATION ACTIVITY" MEANS ANY OR ALL
20 OF THE FOLLOWING ACTIVITIES:

21 (A) STABILIZING A NATURAL STREAM SYSTEM WITH HARD OR
22 BIO-ENGINEERED STRUCTURES COMPOSED OF WOOD, ROCK, OR NATURAL
23 MATERIALS WITH THE PRIMARY OBJECTIVE OF STABILIZING THE NATURAL
24 STREAM SYSTEM AND ONLY RESULTING IN AN INCIDENTAL INCREASE IN
25 SURFACE AREA;

26

27 (B) GRADING THE GROUND SURFACE ALONG A NATURAL STREAM

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1 SYSTEM IN A MANNER THAT DOES NOT RESULT IN GROUNDWATER
2 EXPOSURE, DIVERSIONS OF SURFACE WATER, OR THE COLLECTION OF
3 STORM WATER;

4 (C) INSTALLING STRUCTURES OR RECONSTRUCTING A CHANNEL
5 FOR THE SOLE PURPOSE OF CONTROLLING EROSION ON AN EPHEMERAL
6 NATURAL STREAM;

7 (D) DAYLIGHTING A NATURAL STREAM THAT HAS BEEN PIPED OR
8 BURIED;

9 (E) REMOVING INVASIVE VEGETATION FROM OR PLANTING
10 VEGETATION IN A NATURAL STREAM SYSTEM;

11 (F) BUILDING FENCING TO CONTROL THE MOVEMENT OF ANIMALS
12 WITHIN AND AROUND A NATURAL STREAM SYSTEM; AND

13 (G) INSTALLING STRUCTURES OR RECONSTRUCTING A CHANNEL IN
14 A NATURAL STREAM SYSTEM FOR THE SOLE PURPOSE OF RECOVERY FROM
15 THE IMPACTS OF A WILDLAND FIRE OR FLOOD EMERGENCY.

16 (IV) "NATURAL STREAM" HAS THE MEANING SET FORTH IN
17 SECTION 37-87-102 (1)(b).

18 (V) "NATURAL STREAM SYSTEM" MEANS THE HISTORICAL OR
19 EXISTING EXTENT OF A NATURAL STREAM IN THE STATE, INCLUDING THE
20 GEOMORPHIC FLOODPLAIN AND ASSOCIATED RIPARIAN AREA.

21 (VI) "STREAM RESTORATION PROJECT" MEANS A PROJECT THAT IS
22 DESIGNED AND CONSTRUCTED:

23 (A) WITHIN A NATURAL STREAM SYSTEM; AND

24 (B) FOR THE PURPOSES OF WILDLAND FIRE MITIGATION, FLOOD
25 MITIGATION, BANK STABILIZATION, WATER QUALITY PROTECTION OR
26 RESTORATION, HABITAT OR ECOSYSTEM RESTORATION, DROUGHT
27 RESILIENCE, SOURCE WATER PROTECTION, INFRASTRUCTURE PROTECTION,

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OR SEDIMENT AND EROSION MANAGEMENT.

(c) (I) EXCEPT AS SET FORTH IN SUBSECTION (9)(e)(I) OF THIS SECTION:

(A) THERE IS A REBUTTABLE PRESUMPTION THAT A STREAM RESTORATION PROJECT DOES NOT CAUSE MATERIAL INJURY TO VESTED WATER RIGHTS; AND

(B) THE HOLDER OF A VESTED WATER RIGHT MAY CHALLENGE THE REBUTTABLE PRESUMPTION BY BRINGING AN ACTION IN A COURT OF COMPETENT JURISDICTION.

(II) THE HOLDER OF A VESTED WATER RIGHT MAY REBUT THE REBUTTABLE PRESUMPTION PURSUANT TO SUBSECTION (9)(c)(I)(B) OF THIS SECTION BY PRESENTING EVIDENCE SUFFICIENT TO SHOW THAT THE OPERATION OF A STREAM RESTORATION PROJECT HAS CAUSED MATERIAL INJURY TO THE VESTED WATER RIGHT _____.

(d) EXCEPT AS SET FORTH IN SUBSECTION (9)(e)(II) OF THIS SECTION, AT LEAST SIXTY-THREE CALENDAR DAYS BEFORE THE COMMENCEMENT OF A STREAM RESTORATION PROJECT, THE OWNER OR PROPONENT OF THE STREAM RESTORATION PROJECT SHALL:

(I) REGISTER THE STREAM RESTORATION PROJECT WITH THE STATE ENGINEER ON A FORM PRESCRIBED BY THE STATE ENGINEER; AND

(II) PROVIDE NOTICE TO THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST MAINTAINED BY THE STATE ENGINEER PURSUANT TO SECTION 37-92-308 (6) FOR THE WATER DIVISION IN WHICH THE STREAM RESTORATION PROJECT IS LOCATED. THE NOTICE MUST INCLUDE:

(A) THE LOCATION OF THE STREAM RESTORATION PROJECT;

(B) CONTACT INFORMATION FOR THE OWNER OR PROPONENT OF THE STREAM RESTORATION PROJECT;

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1 (C) A DESCRIPTION OF ANY PURPOSES OF THE STREAM
2 RESTORATION PROJECT, AS DESCRIBED IN SUBSECTION (9)(b)(VI)(B) OF
3 THIS SECTION; _____

4 (D) A PROJECT MAP, DESIGN, AND DESCRIPTION DEMONSTRATING
5 THAT THE STREAM RESTORATION PROJECT IS DESIGNED WITHIN THE
6 HISTORICAL OR EXISTING EXTENT OF THE NATURAL STREAM SYSTEM; AND

7 (E) A SUMMARY OF THE OUTREACH REGARDING THE STREAM
8 RESTORATION PROJECT, INCLUDING A DESCRIPTION OF THE BEST EFFORTS
9 MADE TO PROVIDE NOTIFICATION OF THE STREAM RESTORATION PROJECT
10 TO NEIGHBORING WATER RIGHTS OWNERS AND THE BASIN ROUNDTABLE OF
11 THE WATER BASIN WHERE THE STREAM RESTORATION PROJECT IS
12 LOCATED.

13 (e) IF A STREAM RESTORATION PROJECT IS LIMITED TO ONE OR
14 MORE MINOR STREAM RESTORATION ACTIVITIES:

15 (I) THE STREAM RESTORATION PROJECT DOES NOT CAUSE A
16 MATERIAL INJURY TO ANY VESTED WATER RIGHT; _____

17 (II) THE STREAM RESTORATION PROJECT IS NOT AN UNNECESSARY
18 DAM OR OTHER OBSTRUCTION; AND

19 (III) THE OWNER OR PROPONENT OF THE STREAM RESTORATION
20 PROJECT IS NOT REQUIRED TO COMPLETE THE REGISTRATION AND NOTICE
21 REQUIREMENTS DESCRIBED IN SUBSECTION (9)(d) OF THIS SECTION.

22 (f) THE OWNER OR PROPONENT OF A STREAM RESTORATION
23 PROJECT SHALL NOT OPERATE THE STREAM RESTORATION PROJECT IN A
24 MANNER THAT ADVERSELY AFFECTS THE FUNCTION OF STRUCTURES USED
25 TO DIVERT WATER OR MEASURE WATER FLOW BY HOLDERS OF VESTED
26 WATER RIGHTS WITHOUT THE PERMISSION OF THE OWNERS OF THE
27 STRUCTURES.

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1 (g) ON OR BEFORE FEBRUARY 1, 2026, THE STATE ENGINEER SHALL
2 REPORT THE FOLLOWING INFORMATION TO THE AGRICULTURE AND
3 NATURAL RESOURCES COMMITTEE OF THE SENATE AND THE AGRICULTURE,
4 WATER, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF
5 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES:

6 (I) THE TOTAL NUMBER OF STREAM RESTORATION PROJECTS THAT
7 HAVE BEEN REGISTERED PURSUANT TO SUBSECTION (9)(d)(I) OF THIS
8 SECTION;

9 (II) ANY COMPLAINT OF MATERIAL INJURY TO A VESTED WATER
10 RIGHT MADE PURSUANT TO SUBSECTION (9)(c)(I)(B) OF THIS SECTION _____
11 _; AND

12 (III) THE RESULTS OF ANY STUDIES THAT THE STATE ENGINEER IS
13 AWARE OF THAT EVALUATE IMPACTS TO HYDROLOGY OR WATER
14 AVAILABLE TO VESTED WATER RIGHT HOLDERS DUE TO STREAM
15 RESTORATION PROJECTS IN THE STATE.

16 (h) NOTWITHSTANDING ANYTHING IN THIS SUBSECTION (9) TO THE
17 CONTRARY, NOTHING IN THIS SUBSECTION (9):

18 (I) CREATES A BASIS FOR A WATER RIGHT, CREDIT, OR OTHER
19 RIGHT FOR THE USE OF WATER;

20 (II) CREATES PRECEDENT FOR THE LITIGATION OF, CREATES A
21 LEGISLATIVE DETERMINATION OF, ALTERS, OR AFFECTS ANY REAL
22 PROPERTY INTERESTS, INCLUDING EXPRESS OR PRESCRIPTIVE FLOWAGE
23 EASEMENTS AFFECTING LAND ALONG A PUBLIC STREAM HELD BY ANY
24 POLITICAL SUBDIVISION OR PERSON; OR

25 (III) PROHIBITS THE STATE ENGINEER FROM TAKING ANY ACTION
26 NECESSARY TO COMPLY WITH AN INTERSTATE COMPACT, INTERSTATE
27 APPORTIONMENT DECREE, OR INTERSTATE AGREEMENT.

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SECTION 3. Act subject to petition - effective date -

2 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
3 the expiration of the ninety-day period after final adjournment of the
4 general assembly; except that, if a referendum petition is filed pursuant
5 to section 1 (3) of article V of the state constitution against this act or an
6 item, section, or part of this act within such period, then the act, item,
7 section, or part will not take effect unless approved by the people at the
8 general election to be held in November 2024 and, in such case, will take
9 effect on the date of the official declaration of the vote thereon by the
10 governor.

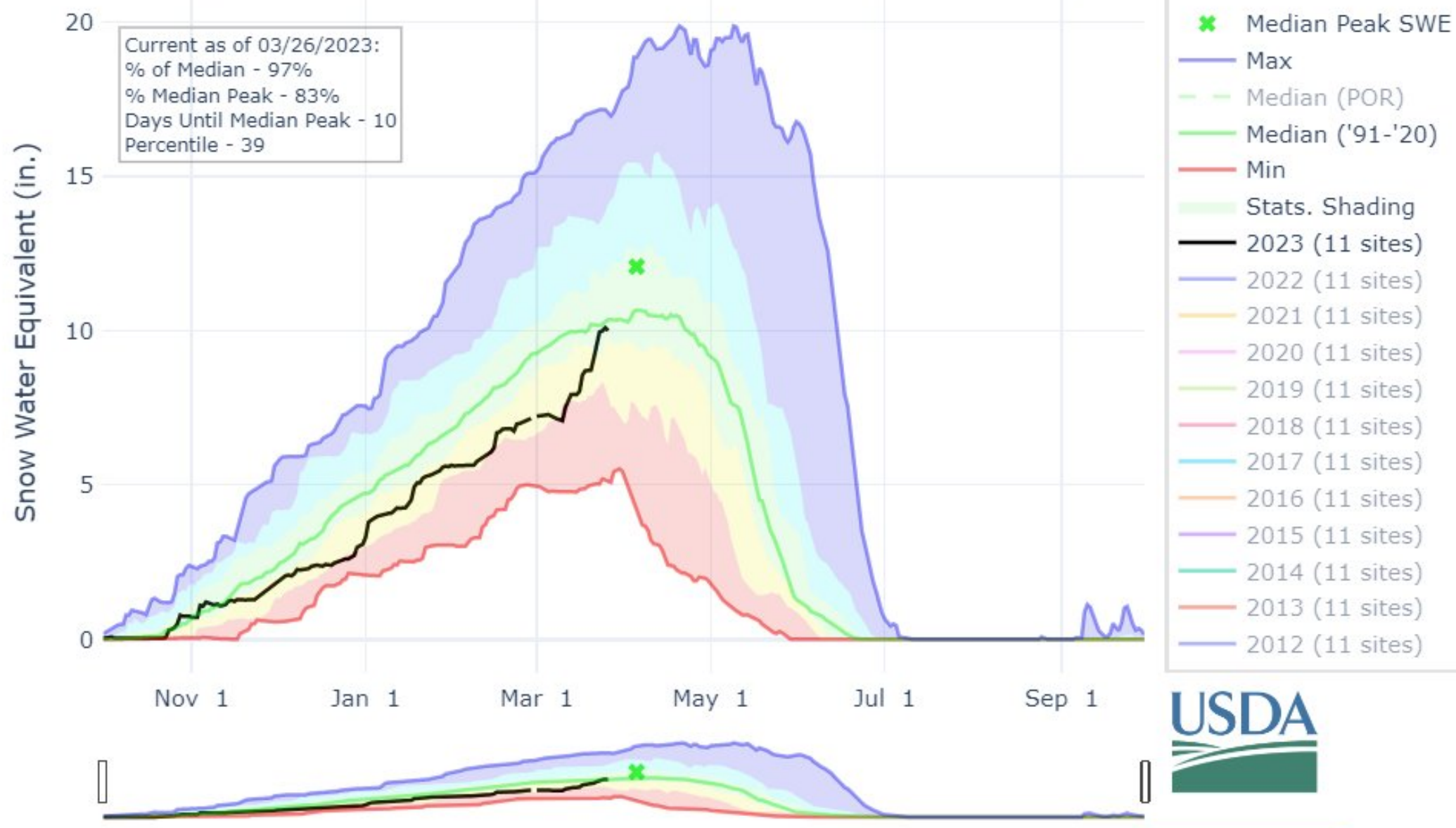
11 (2) This act applies to stream restoration projects that have
12 commenced on or after the applicable effective date of this act.

SNOW WATER EQUIVALENT IN ARKANSAS

Reset Range

Link to data: [CSV](#) / [JSON](#)

[Station List](#)



 Feedback