



United States Department of the Interior


FISH AND WILDLIFE SERVICE
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In Reply Refer to:
FWS/R6

MEMORANDUM

To: Jason Farnsworth, Executive Director
Platte River Recovery Implementation Program

From: Matt Rabbe, U.S. Fish and Wildlife Service
Wildlife Biologist, Mountain-Prairie Region 

Date: April 18, 2023

Subject: U.S. Fish and Wildlife Service Reporting on 2022 Tiered Platte River Biological Opinions

The U.S. Fish and Wildlife Service (Service) committed, in the Platte River Recovery Implementation Program (PRRIP or Program) Federal Depletions Plan, to provide an annual summary to the Governance Committee (GC) regarding the Endangered Species Act (ESA) Section 7 consultations related to depletions that relied on coverage provided by the PRRIP. Attached is a summary of these consultations completed during the 16th calendar year of the Program, January through December 2022, for distribution to the GC.

Tiered Biological Opinions

The PRRIP's programmatic biological opinion (BO or opinion) was issued on June 16, 2006. As described in those opinions, subsequent Federal agency activities in the Program area having a federal nexus (both existing and certain new water-related activities) are able to proceed in a streamlined manner and "tier" from the programmatic BO's with regard to addressing their effects on federally-listed species and designated critical habitat in the central and lower Platte River.

The Program Document (page 21) states that "such ESA compliance will continue beyond the first 13 years of the Program provided a subsequent Program increment or First Increment Program extension is adopted pursuant to ESA and National Environmental Policy Act compliance procedures, and, for a subsequent increment or extension, the effects of water-related activities are to be covered under a programmatic BO for that subsequent increment or extension." In 2018, the Service issued a Supplemental Biological Opinion addressing a 13-year Extension to the First Increment. In December, 2019, the 13-year Extension to the First Increment was approved and implementation under this Extension began in January, 2020. Based on the above, each completed BO that tiered from the above-mentioned programmatic BO's includes a statement that re-initiation of consultation will not be required at the end of the first increment or an extension.

Section 7 Consultation Website

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In 2022, the Service began a website transition and development of a new website is underway and will replace the previous website (<http://www.fws.gov/platteriver>), which is no longer operational. It is unknown when the website will be operational and capable of providing information to federal agencies and water-related project proponents regarding procedures for seeking ESA coverage for water-related activities through the PRRIP. The PRRIP website provides some related information (<http://www.platteriverprogram.org>).

Federal Depletion Offsetting Mechanisms and Agreements with the Three States

The PRRIP Federal Depletions Plan notes that:

“Each state has agreed to work with the DOI and cooperating federal agencies in the process of securing up to 350 acre-feet of water annually, if needed, to offset new federal depletions within the state in a manner consistent with the respective state’s Depletion Plan.”

Federal depletions associated with historic (pre-1997) federal water uses in the Platte River basin are considered automatically covered by the Program, consistent with the Program’s intent to cover historic uses and in recognition of the substantial federal monetary contributions being made toward First Increment implementation.

With regard to new federal water uses in the Platte River basin, the following progress was made in 2022:

No Federal depletions formal consultations resulting in a tiered biological opinion relying on the PRRIP were completed in 2022. One Federal Agency reported anticipated Federal depletions for a proposed project 2022 that would have been covered under the FWS-Colorado-SPWRAP MOA and FWS-CFLHD MOA. Consultation for this project did not occur though reporting and offsets are consistent with PRRIP coverage. The U.S. Fish and wildlife Service is currently undertaking efforts to update, revise, and complete MOA’s with the applicable interested Federal Agencies and that process will continue in 2023.

Tiered-Consultation Activity in 2022

Five consultations relying on coverage provided by the PRRIP were completed in 2022. Additionally, one project (in Colorado) reported federal depletions on the Platte River but didn’t undergo formal consultation relying on the PRRIP (offset and reporting requirements still met). Of the five completed consultations, all were in Wyoming. All five consultations completed in 2022 are included in the enclosed spreadsheet. They are grouped by state and ordered by date that the BO was issued. The table provides the following information:

- The Service’s internal Tracking and/or Integrated Logging System (TAILS) number;
- Lead federal agency;
- County (where applicable);
- Project name;
- Project proponents/beneficiaries;
- Date that the BO was issued;

- Category of the depletion (existing, new, or some combination thereof; and whether the depletion is federal or non-federal);
- Estimated start year of the water use (if a new water-related activity);
- A summary of the corresponding water sources, uses, and depletions if estimated; and
- The offsetting measure(s) used to address depletions.

The information presented in the table is condensed summarized information; more complete information is provided in the corresponding BO. The shaded rows in the attached table highlight the one Project not consulted on that involved federal depletions for 2022. Since PRRIP Implementation began in 2007, a total of 222 tiered formal consultations resulting in biological opinions have been completed (through CY2022) for depletions projects relying on the PRRIP programmatic biological opinion.

cc: Tyler Abbott, U.S. Fish and Wildlife Service, Wyoming
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