

TEMPLATE BIOLOGICAL ASSESSMENT & REQUEST FOR FORMAL SECTION 7 CONSULTATION

[DATE]

[FROM FEDERAL ACTION AGENCY
TO U.S. FISH & WILDLIFE SERVICE]

This letter comprises the Biological Assessment addressing potential impacts from operation of the [Project] on federally-listed species in Nebraska. With this submission, we are requesting initiation of Formal Consultation under Section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (ESA), concerning the whooping crane (*Grus americana*), northern Great Plains population of the piping plover (*Charadrius melodus*), pallid sturgeon (*Scaphirhynchus albus*) (collectively referred to as the “listed target species”), and designated critical habitat of the whooping crane. We further request initiation of Formal Consultation for the western prairie fringed orchid (*Platanthera praeclara*) [include other non-target listed species or critical habitats, as needed]. We have determined that the Project is not likely to adversely affect the American burying beetle (*Nicrophorus americanus*) and will have no effect on the Eskimo curlew (*Numenius borealis*).

[Using the “**Supplemental Worksheet for PRRIP BA Template**” (**Worksheet**) ([link to Worksheet](#)), insert the information from items 1. (Applicant Name), 2. (Federal Agency Involved), 3. (Project Name/Description of Project or Proposed Action), and 4. (Project Location)]

[**Note:** the completed *Supplemental Worksheet* should be attached to this *Biological Assessment* when submitting to the Service.]

Operation of this Project will result in some amount of continuing historic and/or new depletions to the South Platte River associated with the [from the **Worksheet**, insert information from items 5. (General Description of Water Source) and 7. (Annual Volumetric Water Use)].

The Platte River Recovery Implementation Program (PRRIP or Program), established in 2006, is implementing actions designed to assist in the conservation and recovery of the target species and their associated habitats along the central and lower Platte River in Nebraska through a basin-wide cooperative approach agreed to by the States of Colorado, Nebraska, and Wyoming and the U.S. Department of the Interior [Program, 2006; Section I.A.1.]. The Program addresses the adverse impacts of existing and certain new water related activities on the Platte target species and associated habitats, and provides ESA compliance¹ for effects to the listed target

¹ “ESA Compliance” means: (1) serving as the reasonable and prudent alternative to offset the effects of water-related activities that FWS found were likely to cause jeopardy to one or more of the target species or to adversely modify critical habitat before the Program was in place; (2) providing offsetting measures to avoid the likelihood of jeopardy to one or more of the target species or adverse modification of critical habitat in the Platte River basin for new or existing water-related activities evaluated under the ESA after the Program was in place; and (3) avoiding any prohibited take of listed target species in the Platte River basin.

species and whooping crane critical habitat from such activities including avoidance of any prohibited take of such species. [Program, 2006; Section I.A.2 & footnote 2.]. The State of Colorado is in compliance with its obligations under the Program.

For Federal actions and projects participating in the Program, the Platte River Recovery Implementation Program Final Environmental Impact Statement (U.S. Department of Interior, 2006) and supplemental Environmental Assessment and Finding of No Significant Impact (2018), as well as the June 16, 2006 programmatic biological opinion (PBO) and the August 27, 2018 Supplemental biological opinion (collectively referred to as the PBOs) serve as the description of the environmental baseline and environmental consequences for the effects of the Federal actions on the listed target species, whooping crane critical habitat, and other listed species in the central and lower Platte River addressed in the PBOs. These documents are hereby incorporated into this Biological Assessment by this reference.

Table II-1 of the Supplemental biological opinion (pages 6-8) contains a list of species and critical habitat in the action area, their status, and the Service's determination of the effects of the Federal action analyzed in the PBOs, including the continued operation of existing and certain new water-related activities. The Service determined in the PBOs that the continued operation of existing and certain new water-related activities may adversely affect but would not likely jeopardize the continued existence of the whooping crane, interior least tern, and pallid sturgeon, or the northern Great Plains population of the piping plover. Further, the Service found that the continued operation of existing and certain new water-related activities may adversely affect but would not likely jeopardize the bald eagle and western prairie fringed orchid associated with the central and lower reaches of the Platte River in Nebraska, and was not likely to destroy or adversely modify designated critical habitat for the whooping crane. The bald eagle was subsequently delisted under the ESA on August 8, 2007 and the interior least tern was delisted on February 12, 2021.

The Service also determined that the PBOs Federal Action, including the continued operation of existing and certain new water-related activities, would have no effect to the endangered Eskimo curlew. There has not been a confirmed sighting since 1926 and this species is believed to be extirpated in Nebraska. Lastly, the Service determined that the PBOs Federal Action, including the continued operation of existing and certain new water-related activities, was not likely to adversely affect the endangered American burying beetle.

CHOOSE APPLICABLE LANGUAGE BELOW:

[Based on the **Worksheet information from item 6. (Water Use Classification)]**

The above-described Project operations qualify as an "existing water related activity" because they reflect the effects of a surface water or hydrologically connected groundwater activity implemented on or before July 1, 1997, within the intent and coverage of the Program. [Program, 2006; Section I.A. footnote 3].

-OR-

The above-described Project operations qualify as a "new water related activity" because such operations constitute a new surface water or hydrologically connected groundwater activity

which may affect the quantity or timing of water reaching the associated habitats of the target species implemented after July 1, 1997. [Program, 2006; Section I.A. footnote 3]. The Project conforms to the following criteria in Section H of Colorado's Plan for Future Depletions [Program, Attachment 5, Section 9]:

1. The Project is operated on behalf of Colorado water users;
2. The Project does not involve construction of a major on-stream reservoir located on the mainstem of the South Platte River anywhere downstream of Denver, Colorado;
3. The Project is not a hydropower diversion/return project diverting water including sediments from the mainstem of the South Platte River anywhere downstream of Denver and returning clear water to the South Platte River.
4. The Project does not cause the average annual water supply to serve Colorado's population increase from "Wastewater Exchange/Reuse" and "Native South Platte Flows" to exceed 98,010 acre feet during the February-July period.

Accordingly, the impacts of this activity to the target species, whooping crane critical habitat, and other listed species in the central and lower Platte River addressed in the PBO are covered and offset by operation of Colorado's Future Depletions Plan as part of the PRRIP.

The Applicant intends to rely on the provisions of the Program to provide ESA compliance for potential impacts to the listed target species, whooping crane critical habitat, and other listed species in the central and lower Platte River addressed in the PBOs. The [Federal Agency] intends to require, as a condition of any approval, that the Applicant fulfill the responsibilities required of Program participants in Colorado, which includes participation in the South Platte Water Related Activities Program, Inc. (SPWRAP). The [Federal Agency] also intends to retain discretionary Federal authority for the Project, consistent with applicable regulations and Program provisions, in case reinitiation of Section 7 consultation is required.

This letter addresses consultation on all listed species and designated critical habitat in Nebraska, including the referenced Platte River listed target species and whooping crane critical habitat. Potential impacts from construction and operation of the Project to any other federally-listed threatened or endangered species and designated critical habitats will be addressed within the applicable biological opinion prepared by the Service, in accordance with the ESA.

References:

Platte River Recovery Implementation Program Document. 2006.

Addendum to the Platte River Recovery Implementation Program First Increment Extension. 2017.

Addendum II to the Platte River Recovery Implementation Program. 2021.

U.S. Department of the Interior. 2006. Platte River Recovery Implementation Program Final Environmental Impact Statement.

U.S. Fish and Wildlife Service. 2006. Biological Opinion on the Platte River Recovery Implementation Program.

U.S. Department of the Interior. 2018. Platte River Recovery Implementation Program First Increment Extension Final Environmental Assessment.

U.S. Fish and Wildlife Service. 2018. Supplemental Biological Opinion on the Platte River Recovery Implementation Program First Increment Extension.

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