

**RESOLUTION OF THE COLORADO WATER CONSERVATION BOARD
SOUTH PLATTE RIVER POLICY**

March 2001

The Colorado Water Conservation Board hereby adopts a policy concerning the obligations of the State regarding endangered species located in the Platte River basin in Central Nebraska. The Colorado Water Conservation Board finds that:

1. The State of Colorado is signatory to the South Platte River Compact, C. R.S. § 37-65-101 *et. seq.*, executed on behalf of the State on the 27th day of April, 1923. The South Platte River Compact divides and apportions the waters of Lodgepole Creek and the South Platte River between the State of Colorado and the State of Nebraska.
2. The State of Colorado is subject to a decree of the United States Supreme Court regarding the use of the waters of the North Platte River. *Nebraska v. Wyoming*, 325 U.S. 589, 65 S.Ct. 1332, 89 L.Ed. 1815 (1945) as amended or as it may be amended.
3. The South Platte River Compact and the decree in *Nebraska v. Wyoming* limit the use of the waters of the South Platte and North Platte Rivers within the State of Colorado.
4. The State of Nebraska, in the case of the South Platte River, and the States of Wyoming and Nebraska, in the case of the North Platte River, are entitled to use such waters of the South and North Platte Rivers, respectively, which flow out of the State of Colorado in accordance with the requirements of the South Platte River Compact and the decree in *Nebraska v. Wyoming*.
5. All water which is not required to flow out of Colorado under the South Platte River Compact and the decree in *Nebraska v. Wyoming* is available for diversion and beneficial use within the State of Colorado.
6. The State of Colorado is signatory to the 1922 Colorado River Compact and 1948 Upper Colorado River Compact under which Colorado may use such waters within the State of Colorado pursuant to Colorado Water Law. By law, water users have the right to use, reuse and successively use to extinction water imported from the Colorado River into other river basins within the State of Colorado.
7. The United States Fish and Wildlife Service has listed the whooping crane, piping plover, least tern, and pallid sturgeon under the federal Endangered Species Act, and has designated critical habitat for the whooping crane pursuant to the Endangered Species

Act. These species, and the designated critical habitat, are located in the Central Platte region of the State of Nebraska.

8. The State of Colorado is a signatory to a Cooperative Agreement between the States of Colorado, Wyoming, and Nebraska, and the United States Department of the Interior that was originally executed July 1, 1997, and extended on December 15, 2000. The primary purpose of the Cooperative Agreement is to develop a program that will result in full and complete satisfaction of all requirements of the Endangered Species Act for all water-related activities in the Platte River basin which may affect the listed species and designated critical habitat in Nebraska.

NOW THEREFORE:

9. The State of Colorado should cooperate with Wyoming and Nebraska and the United States Department of the Interior to address issues related to endangered species in the Central Platte region in Nebraska in accordance with Colorado State water law.
10. Any program or effort to address issues related to endangered species in the Central Platte region in Nebraska must allow the development and beneficial use of all waters of the North Platte and South Platte Rivers which are available for use within the State of Colorado under the South Platte River Compact and the decree in *Nebraska v. Wyoming*, as well as the right to use, reuse and successively use to extinction waters that are imported into the Platte River basin within the State of Colorado.
11. The State of Colorado should oppose any program or effort to address issues related to endangered species in the Central Platte region in Nebraska which requires or has the result of requiring that water users in the State of Colorado forego the use of any water available for beneficial use within the State of Colorado.

Done this 27th day of March, 2001