Kingsley Dam & Lake McConaughy B.O.

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U.S. FISH AND WILDLIFE SERVICE BIOLOGICAL OPINION PROVIDES BETTER HABITAT FOR WILDLIFE WHILE PROTECTING EXISTING IRRIGATION WATER SUPPLIES

FERC

The Fish and Wildlife Service announced today that the Federal Energy Regulatory Commission's preferred alternative for relicensing of Kingsley Dam and the North Platte/Keystone Diversion Dame and related facilities, while addressing many of the environmental concerns regarding endangered species, is likely to jeopardize the continued existence of the endangered whooping crane, least tern, pallid sturgeon, and the threatened piping plover. The Service also believes that the Commission's alternative would result in the destruction or adverse modification of federally designated habitat along the central Platte River that is critical for the survival of the whooping crane.

In addition to a draft "jeopardy opinion" by the Service, biologists have presented the Commission with two reasonable and prudent alternatives for the proposed relicensing actions that it believes will avoid the likelihood of jeopardy. The first reasonable and prudent alternative (RPA-I) is a stand alone alternative that relies only on actions by the licensees for implementation. RPA-I would not impact the quantity and timing of irrigation water compared to present operations. The second RPA (RPA-II) would rely on a future basinwide program that would serve to compensate for the effects of water projects throughout the Platte River Basin.

"Implementation of the Fish and Wildlife Service's reasonable and prudent alternatives would not only protect federally listed species and their habitats along the central Platte River," said Ralph Morgenweck, Director of the Service's Mountain-Prairie Region, "but it would provide regulatory certainty for the licensees and protect the historic quantity of water available for irrigation." In addition, the Service would facilitate efforts to implement a basinwide program. "Under either alternative, water reregulation and habitat restoration by the licensees would begin upon license renewal, ensuring immediate action to improve Platte River habitat conditions critical to the needs of the species dependent on the Platte River," Morgenweck added.

RPA-I is a stand alone alternative that relies only on actions by the licensees. Computer modeling shows that full deliveries of irrigation water would be available for historic drought

conditions. RPA-I would include:

1. An environmental account, similar to the one being discussed in basin-wide program negotiations, would be established in Lake McConaughy and managed by the Service. (An environmental account would include a set amount of water stored in Lake McConaughy and used only for fish and wildlife. There would be a certain amount allocated each year and it would be stored until it is needed at the habitat areas downstream during certain times of the year. This water could not be used for any purposses other than fish and wildlife.)

2. Baseflows would be established for the Platte River at the Overton gaging station based on hydrologic conditions, such as wet, transitional, and dry (as defined in the Nebraska Plan), and would improve flow conditions for fish and wildlife.

3. Impacts to recreation at Lake McConaughy would be relatively minor. During May through September, the percent of time the levels at Lake McConaughy would be between 3,240 feet and 3,265 feet above mean sea level would be reduced approximately 4 percent as compared to present operations.

4. A water conservation program would be required to achieve a net annual water savings of 10 percent. At least 50 percent of the net saved water would be dedicated toward improving irrigation drought protection and the remaining 50 percent would be credited to the environmental account. The water conservation program would be phased in over 10 years.

5. The licensees would restore and manage in perpetuity, suitable riverine and adjacent non-wooded wet meadow-wetland habitat in four habitat complexes totaling approximately 8,800 acres. These complexes, located along the central Platte River downstream from Overton, would be phased in over 15 years.

As a result of RPA-I, instream flow wildlife habitat shortages should be reduced by an average of 80,000 af/year (compared to the proposed action which only reduced instream flow shortages by about 12,000 af/year), resulting in improved fish and wildlife habitat conditions .

RPA-I would result in generation of more power on average over the year compared to present conditions, but less dependable capacity for hydropower at Kingsley Dam. The economic cost over 30 years (of the 40-year license) of the decrease in capacity and increase in generation is estimated to be $2.8 million to $8.4 million. The comparable cost of the Commission's proposed action was approximately $3 million. These changes are not substantial when compared to total hydropower benefits or total project value. A study by Bureau of Reclamation economists estimated the economic value of the projects to be approximately $556 million to $806 million. In addition, this study showed that the projects could sustain fish and wildlife mitigation costs in excess of $100 million. Because estimated costs of implementing RPA-I is considerably less than this, the Service's reasonable and prudent alternatives are economically and technologically feasible.

RPA-II would make the proposed relicensing action an integral part of a future Platte River Recovery Implementation Program for restoring habitat and providing enhanced instream flows for the benefit of federally listed species along the central Platte River. This program would involve all three basin states (Nebraska, Colorado and Wyoming), the Department of the Interior, and water user and environmental interest groups. Efforts are underway currently to develop and implement a cooperative agreement to begin such a program.

The agreement would be in place for about 3 years, during which time an analysis would be done under the National Environmental Policy Act to explore alternatives for the program and analyze impacts of the proposed program. The final NEPA document would identify a preferred alternative which would serve as the reasonable and prudent alternative for water projects in the Platte River basin. The program participants would sign another agreement implementing the preferred alternative before the program could be begin.

During the 3-year agreement period the licensees' responsibilities under RPA-II would include:

1. An environmental account similar to the one described under RPA-I.

2. The participation of the licensees in developing and implementing a basin-wide water conservation plan.

3. A 2,200-acre habitat complex which includes at least 2 miles of river channel provided by and restored by the licensees.

4. An operational regime which is currently being developed.

RPA-II would only go into affect if there is a signed cooperative agreement before the licenses are issued. Otherwise, RPA-I would go into affect. If, at the end of the 3-year period of the cooperative agreement, no basinwide program is established, the licenses would provide that RPA-I would become effective. If a basinwide agreement is reached, the licensees' responsibility under the basinwide program would be included as conditions of the licenses.

If a basinwide program (RPA-II) is terminated at a future date, the Service recommends that the requirements of RPA-I become effective under the licenses and credit be given for relevant fish and wildlife contributions up to that time. Also, the Commission would be required to reinitiate formal section 7 consultation with the Fish and Wildlife Service.

On February 14, 1996, the Federal Energy Regulatory Commission requested initiation of formal consultation with the U.S. Fish and Wildlife Service on a proposed action for relicensing hydroelectric projects owned and operated by the central Nebraska Public Power and Irrigation District and the Nebraska Public Power District. The projects are located along the North Platte, South Platte, and Platte Rivers in a seven-county area of southcentral Nebraska. The affected action area includes a 77-mile reach of the North Platte River from near Lewellen to the confluence with the South Platte River, a 34-mile reach of the South Platte River from the Korty

Diversion near Paxton to the confluence with the North Platte River, and a 314-mile reach form the confluence of the North and south Platte rivers to the mouth of the Platte River at the Missouri River confluence.

The projects being relicensed consist of an elaborate and complex system of storage reservoirs, canals, and powerplants with operations that are closely coordinated and cannot be operated independently. The two projects have five hydroelectric powerplants and supply water to 15 canals and about 215,000 acres of cropland annually. Kingsley Dam is the largest water storage facility in the Platte River basin area.

As required under the Endangered Species Act, a Federal agency is to formally consult with the Service after it has been determined that a proposed action may affect federally listed species or designated critical habitat. The Service is then required to issue a biological opinion which provides detailed information as to how the proposed action affects federally listed species or designated critical habitat. In a biological opinion, the Service is to provide reasonable and prudent alternatives to the proposed action that, if implemented, would avoid the likelihood of jeopardy or adverse effects.

EXECUTIVE SUMMARY

FISH AND WILDLIFE SERVICE DRAFT BIOLOGICAL OPINION

On The

FEDERAL ENERGY REGULATORY COMMISSION'S PREFERRED ALTERNATIVE FOR THE PROPOSED RELICENSING OF KINGSLEY DAM AND NORTH PLATTE/KEYSTONE DIVERSION DAM (FERC PROJECT NOS. 1417 AND 1835)

Formal Section 7 Consultation

On February 14, 1996, the Federal Energy Regulatory Commission (Commission) requested initiation of formal consultation with the U.S. Fish and Wildlife Service (Service) on a preferred alternative (proposed action) for relicensing hydroelectric projects owned and operated by the Central Nebraska Public Power and Irrigation District and the Nebraska Public Power District (Districts). This request is pursuant to section 7(a)(2) of the Endangered Species Act of 1973 (Act) which requires a Federal action agency to formally consult with the Service after a determination has been made that a proposed action may affect federally listed species or designated critical habitat. The Service is then required to issue a biological opinion which provides detailed information as to how the proposed action affects federally listed species or designated critical habitat. If the biological opinion concludes that a proposed action is likely to jeopardize the continued existence of federally listed species or destroy or adversely modify designated critical habitat, the Service must suggest reasonable and prudent alternatives, if available, which the Federal action agency should implement to avoid the likelihood of jeopardy or adverse modification.

Biological Opinion

The Service concludes in this draft biological opinion that the effects associated with the proposed action are likely to a) jeopardize the continued existence of the endangered whooping crane, least tern, and pallid sturgeon, and the threatened piping plover; and b) result in the destruction or adverse modification of Federally designated whooping crane critical habitat along the central Platte River.

The Service previously submitted to the Commission under provisions of the Federal Power Act and the Fish and Wildlife Coordination Act recommendations relating to non-Federally listed migratory birds and other species .

Project Description

Both projects are located along the North Platte, South Platte, and Platte rivers in a seven-county area of southwestern Nebraska. Kingsley Dam creates the single largest storage reservoir (Lake McConaughy) in the Platte River basin encompassed within the States of Colorado, Nebraska, and Wyoming. The Projects are operated for four principal purposes:

- to provide water for irrigation, including provisions for drought protection;
- to provide cooling water for Gerald Gentleman coal fired generating station;
- to generate hydropower; and
- to provide recreational opportunities at project facilities.

The affected area includes a 77-mile reach of the North Platte River from near Lewellen to the confluence with the South Platte River; a 34-mile reach of the South Platte River from the Korty Diversion near Paxton to the confluence with the North Platte River; and a 314-mile reach of the Platte River from the confluence of the North and South Platte rivers to the mouth of the Platte River at the Missouri River confluence. The effects of activities which are interrelated and interdependent with the proposed federal action are considered part of the federal action subject to section 7 consultation.

The Projects include a complex system of storage reservoirs, canals, and powerplants with closely coordinated and interdependent operations. While being transported for irrigation, storage water is used for power generation at five hydroelectric powerplants with a combined capacity of 128 megawatts (MW) and a dependable capacity of 118 MW, and for cooling purposes at the Gerald Gentleman coal fired powerplant. The Projects deliver about 285,200 acre-feet (af) of water to 15 irrigation canals for irrigating about 215,000 acres of cropland annually. The economic value of this irrigation water is estimated to be approximately $15.8 million.

Description of Affected Resource Area

The Platte River provides important habitat for fish and wildlife resources of national and international significance, with particular importance as migratory bird habitat within the central flyway of North America. Six of nine federally listed species that occur along the Platte River are migratory birds. In addition to being federally designated critical migratory habitat for the whooping crane, this area provides essential nesting habitat for the least tern and piping plover, wintering and nesting habitat for the bald eagle, and spring staging and foraging habitat for the Eskimo curlew and American peregrine falcon.

The Platte River also provides important spring staging habitat for a majority of the mid-continent sandhill crane population. Each spring, about 80 percent of the sandhill cranes in North America use the Platte and North Platte River valleys in Nebraska enroute to nesting areas in Canada, Alaska, and northern Siberia. An estimated 7-9 million waterfowl use the area as migratory resting habitat in preparation for the breeding season. In addition, the Platte River provides a variety of year-round habitat types for a diverse fish community including the pallid sturgeon and sturgeon chub, and numerous species of plants, invertebrates, shellfish, amphibians, and reptiles.

Due to numerous dams, diversions, and storage facilities throughout the basin,

the hydrology of the Platte River has been radically altered. Flows in the central Platte have been depleted by about 70 percent from historic conditions, resulting in sediment transport loads being reduced to about 30 percent of historic levels. Consequently, much of the original open, braided river channel area is now dominated by riparian woodlands and surrounded by croplands. Channel widths in many areas have been reduced to 10 to 20 percent of former width. Habitat conditions within the existing channel have substantially deteriorated as a result of reduced scouring of sandbars and shifting of alluvial sediments. Wet meadows, a vital habitat component of the Platte River valley, have been substantially reduced over the past century due to numerous factors stemming from depletion of instream flows. The Service has developed flow targets that it believes would be needed to maintain habitat requirements for listed species in the central Platte.

Proposed Federal Action

The Commission's preferred alternative presented in its biological assessment provides for new licenses for continued operation of both Projects with the following conditions:

Operational Guidelines: The District's would be required to meet specified baseflow levels in the central Platte River at Overton under wet, transitional, and dry conditions. The quantities of these baseflows would vary depending on reservoir levels and expected inflow to Lake McConaughy. The proposed baseflows are not intended to provide entire water needs for federally listed species, but only a portion of the needs and when those needs are compatible with other operational objectives.

Environmental Account (EA): A portion of the Projects' stored water in Lake McConaughy would be allocated each year to an EA dedicated to fish and wildlife purposes. The amount allocated in any single year is based upon the combined total of the reservoir level as of October 1 and the expected inflows from October 1 through March 31 of the next year using a formula-based approach. The amount allocated to the EA in any single year would range from 0 (during dry years when habitat needs are greatest) to 100,000 af, with an average of about 62,000 af annually. The Nebraska Game and Parks Commission would manage the EA and possess the sole authority to release water from the EA on a daily basis pursuant to operating criteria developed by the Districts and approved by the Commission. The Districts would be required to apply for and obtain a storage-use permit from the State of Nebraska to legally protect the water stored in and released from the EA for fish and wildlife purposes.

Water Conservation: The Districts would be required to conduct a study for development and implementation of a water conservation program. The Commission does not specify a required level of water conservation, but estimates that 10 to 20 percent of surface water irrigation demand could be conserved by the Districts. It also specifies that 50 percent of the net conservation savings (and all savings of water currently lost to the Republican River basin) would be used to supplement instream flows for the benefit of fish and wildlife resources. In no case would the net conserved water be available to increase irrigated cropland acreage.

River Channel and Land Restoration: The Districts would be required to develop and implement a plan to restore, protect, and manage riverine and adjacent non-wooded wet meadow/wetland habitat for whooping cranes and other wildlife species in four habitat complexes totaling about 8,400 acres along the central Platte River. In addition, the Districts would be required to improve nesting habitat for least terns and piping plovers through the development and maintenance of eight permanent riverine nesting sites. Each site would consist of 3.6 to 10 acres of bare sand exposed at river flows of 800 cubic-feet per second (cfs). The habitat complexes and nesting sites would be phased in over a 15-year period.

Other Measures: The Districts would: a) be prohibited from providing water to meet new or expanded water service contracts that would have the effect of increasing total acreage served by both projects; b) be required to develop and implement long-term plans for passing sediment at the Korty and Central Diversion dams; and c) be required to monitor the effectiveness of the license conditions in protecting and enhancing fish and wildlife resources and to assess the potential need for new or modified conditions.

Effects of the Proposed Action

In analyzing the effects of the proposed action, the Service used an environmental baseline based on the hypothetical situation which used current conditions *but without the existence of the projects* (run of the river conditions with no project storage). Consequently, only the environmental effects specifically attributable to the two projects are considered in the analysis.

Relative to the environmental baseline, the Commission's proposed action would cause an average annual streamflow depletion of 305,500 af (22 percent) at Grand Island, Nebraska. This flow depletion was evaluated against flow and habitat requirements of federally listed species. Whooping crane habitat is adversely affected by channel narrowing and the reduction of wet meadow feeding areas. Substantial direct and indirect adverse effects on the breeding, nesting, and foraging habitat of least tern and piping plover occur. Depleted flows would adversely affect the habitat and biological requirements of pallid sturgeon.

The proposed action would increase habitat/species instream flow shortages by about 137,000 af/year compared to the environmental baseline, but would reduce instream flow shortages by about 12,000 af/year compared to present conditions.

Although future additional groundwater pumping within the project area would further degrade habitats used by federally listed species, no reliable future projection of groundwater pumping exists at this time. However, the effect of including or excluding future groundwater pumping from the Service's analyses would probably not change the biological opinion on the proposed action.

Reasonable and Prudent Alternatives (RPAs)

Recognizing evolving efforts to develop a cooperative basin-wide recovery program for the Platte River basin, the Service proposes two alternative RPAs. RPA-I is a stand alone alternative based only on actions by the licensees for implementation. RPA-II is an alternative based on the licensees participation and contribution to a basin-wide recovery program.

RPA-I, based only on actions of the licensees, includes the following components:

Water Management: An EA would be established in Lake McConaughy which accrues 10 percent of the North Platte River inflow from October 1 through April 30 of each water year, similar to the EA proposed by Nebraska in the current discussion on a basin-wide program. The maximum allocation in any year would not exceed 100,000 af. This amount would be in addition to any carryover amount remaining in the EA from the previous year, any amount contributed from other sources specifically for fish and wildlife purposes, and any conservation water dedicated to the EA, and would be subject to a 200,000 af carryover limitation. The Service would manage the EA, with sole authority to request release of EA water on a daily basis. In addition, baseflows would be established for the Platte River at the Overton gaging station based on hydrologic conditions (i.e., wet, transitional, and dry). The baseflows are intended to improve flow conditions during May to September to reduce potential new impacts that could occur as a result of reregulation. The baseflows would also provide the level upon which further improvements could be made through release of EA water.

Water Conservation: The Districts would be required to develop and implement a water conservation program which achieves a net annual water savings of 10 percent (i.e., 53,000 af), with at least 25,000 af per year being allocated to the EA (the balance could be allocated to irrigation drought protection). The water conservation program would be phased in over 10 years, and would be required to give priority to conserving water currently being lost to the Republican River basin. In no case would the conserved water be made available to increase irrigated acreage or increase the consumptive use or delivery of water through the improved system.

Wildlife Habitat: The Districts would be required to develop and implement a plan to restore, protect, and manage in perpetuity suitable riverine and adjacent non-wooded wet meadow-wetland habitat in four habitat complexes totaling approximately 8,800 acres (i.e, 2,200 acres per complex). The habitat complexes would be phased in over 15 years. The Districts would also develop and implement a plan to improve nesting habitat for least terns and piping plovers along the shoreline of Lake McConaughy and at other project locations.

Other Measures: The Districts would be: a) prohibited from storing, diverting, or consuming any water from upstream sources that is specifically provided for instream flow purposes; b) prohibited from

providing water to meet new or expanded water service contracts that would increase total acreage served by the projects or result in additional depletions to the Platte River; c) required to apply for and diligently pursue legal protection of water stored or released by the projects for the benefit of fish and wildlife; and d) required to monitor the effectiveness of the license conditions for protecting and enhancing fish and wildlife resources. The Commission is requested to retain the authority to reopen the project licenses as necessary to change license conditions based on new scientific information and other factors.

Compared to the Commission's proposed action, RPA-I would improve whooping crane spring channel roosting habitat and wet meadows habitat; enhance spring channel maintenance flows; enhances least tern and piping plover nest initiation; reduce the frequency of sporadic operational releases from the J-2 return that flood tern and plover nests; and provide flows that benefit the fish community, including the pallid sturgeon and sturgeon chub in the lower Platte River. Overall, RPA-I would improve flow conditions for federally listed species by reducing the instream flow shortage an average of 80,000 af/year relative to present conditions. By comparison, the Commission's proposed action reduces instream flow shortages by 12,000 af/year. RPA-I would also provide land restoration and management measures that improve habitat conditions for whooping cranes, least terns, and piping plovers.

Compared to the proposed action, RPA-I would result in lower lake elevations at Lake McConaughy during certain conditions, resulting in increased costs in terms of foregone hydropower benefits. However, the operational impacts on hydropower from either the proposed action or RPA-I would be relatively small relative to current operations. RPA-I would not affect the quantity and timing of historic irrigation water deliveries as compared to the historic period of record. Regarding protection during historic drought periods, there is very little difference between present conditions and either RPA-I or the proposed action. Under RPA-I, projected lower reservoir levels in Lake McConaughy under certain conditions during periods of peak summer recreational use may have a slight adverse effect on the economic value of recreation at that site.

The Service used an analysis by Bureau of Reclamation economists to assess the economic feasibility of RPA-I. The total economic value of the projects is estimated to range from $556 million to $806 million (present value, 1994 dollars). It is estimated that mitigation costs of $110.7 million could reasonably be sustained by the project beneficiaries for wildlife measures, either as income losses due to operational changes or as payments for construction and operation of new fish and wildlife features. After the operational impacts of RPA-I are subtracted, $102.3 million to $107.9 million (present value, 1994 dollars), would remain for implementation of fish and wildlife measures included in RPA-I, subject to other relatively minor adjustments. The cost estimate for the Commission's proposed non-operational fish and wildlife measures is $25.7 million, significantly less than the $102.3 to $107.9 million estimate of residual financial capability to pay for mitigation measures.

RPA-II would make the proposed relicensing action an integral part of a

proposed future Platte River Recovery Implementation Program (Program) to provide for conservation and recovery of Federally listed species occurring along the central Platte River. The Program would involve all three basin States, the Department, and other interest groups.

Efforts are currently underway to finalize a Cooperative Agreement (CA) among the various parties to participate in establishing a Program. The CA will describe a proposed Program which the parties could agree to implement subject to compliance with the National Environmental Policy Act (NEPA) and the Endangered Species Act. During the 3-year period of the CA, a NEPA analysis would be conducted on the proposed Program as well as other alternatives. The final NEPA document would identify a preferred alternative which could, consistent with requirements of the ESA, serve as the RPA for all water development projects in the Platte River basin. The Program participants would then sign an agreement to implement the Recovery Implementation Program.

The licensees contribution to and participation in an approved Recovery Program would serve as the license terms and conditions. Based on current discussions, the licensees responsibilities under RPA II (basin-wide program) would include:

Water Management: Reservoir operation requirements would be those prescribed for the licensees in the Program. During the period of the CA the requirements would include: a) establishment of a 100,000 af EA in Lake McConaughy (based on 10% of inflows from October to March) with provision for year-to-year carryover not exceed 200,000 af at any time; b) establishment of an EA manager with sole authority to request release of EA water on a daily basis for fish and wildlife purposes; and c) operation of the reservoir (Lake McConaughy) pursuant to the modified Nebraska Plan, as described in the CA.

Water Conservation: The Districts would actively participate in the development of a water conservation plan and implementation of a water conservation program. The water conservation plan, as described in the CA, would be implemented under the Program.

Wildlife Habitat: Wildlife habitat requirements would be those prescribed for the licensees in the Program. During the period of the CA, the licensees are to provide and restore a 2,200-acre habitat complex which includes at least 2 miles of river channel. Operation and maintenance of the habitat complex would be as described in the CA.

Other Measures: Although not a part of the CA being negotiated, the following measures and other requirements should be included as license conditions: a) prohibitions on storing, diverting, or consuming any water from upstream sources intended for instream flow purposes; b) prohibitions from providing water to meet new or expanded water service contracts which result in additional depletions to the river; c) application for and diligent pursuit of legal protection of water stored and/or released for fish and wildlife purposes; and (d) provisions for the Commission to reopen the new licenses to change license conditions as necessary based on new scientific information or other factors.

RPA-II would provide several major advantages. Cooperation among the three States and other interests would increase the ability to address habitat needs; Platte river flow issues and water conservation could be addressed from a basin-wide perspective; and involving all entities would substantially increase the budgetary resources potentially available to address environmental issues and needs.

Implementation of RPAs

Based on negotiations to date, the Service believes that a basin-wide Program that would be adequate to serve as an RPA for these projects and all other water projects in the basin can be developed and implemented. However, since the ultimate outcome of current negotiations is uncertain at this time, the Service recommends that RPA-I and RPA-II be implemented as follows:

At the time the Commission issues the license renewals:

- If the CA has not been agreed to and executed, RPA-I would be incorporated as license conditions.

- If the CA is executed, with participation of the licensees, the licensees' responsibilities under the CA and RPA-II would be incorporated as license conditions.

At the end of the CA period:

- If an Agreement to implement a basin-wide Program is not executed with participation of the licensees, the provisions of RPA-I would become effective as license conditions for both projects.

- If an Agreement is executed with participation of the licensees, the specific responsibilities for the licensees under the Program would be incorporated into the licenses.

During the time of the Program:

- If a basin-wide Program is implemented with participation of the licensees, but is terminated at a future date, the requirements of RPA-I automatically would be incorporated into the licenses and credit would be given for relevant fish and wildlife contributions by the licensees up to that time. If this occurs, the Commission would be required to re-initiate formal section 7 consultation with the Service pursuant to 50 CFR 402.16.

The Service believes the above approach would be proper and appropriate because during the period of the CA, the following actions common to both RPAs would occur: a) the projects would be operated to establish an EA; b) acquisition and restoration of one habitat complex in the J-2 Return to Chapman reach of the Platte River would be completed; and c) a water conservation plan would be developed that would be applicable under either of the RPAs, although the plan under RPA-II would be basin-wide.

Also, implementation of the RPAs in the above manner would: a) provide necessary protection of Federally listed species and their habitats along the central Platte River; b) facilitate efforts to implement a basin-wide Program; c) provide regulatory certainty for the parties associated with this license renewal process; and d) begin water reregulation and habitat restoration upon license renewal, thereby ensuring immediate action to improve Platte River habitat conditions critical to the needs of the affected species.

Incidental Take

The Service has determined that the proposed action is likely to result in incidental take of the least tern, piping plover, and whooping crane. The amount or extent of incidental take that is not likely to jeopardize these species is:

Least Tern and Piping Plover: The take of any nest(s), egg(s), and/or chick(s) that results from one operational spike flow release event during the nesting season at a frequency of not more than 1 year out of every 6 years. To minimize such take the Districts shall: a) reduce the frequency of sporadic discharges from project facilities (e.g., J-2 Return) during the nesting season to reduce the frequency of nest flooding at riverine nesting sites; and b) develop and maintain five additional riverine nesting sites along the central Platte River.

Whooping Crane: The number of whooping cranes anticipated to be taken because of powerline collisions is one bird during the life of the licenses. To minimize such take the Districts shall: a) identify the locations of all powerlines located within 3 miles of the North Platte and Platte rivers that have had known whooping crane sightings in their vicinity; b) route new powerlines around areas frequently used by whooping cranes or adequately mark powerlines if rerouting is not possible; c) mark existing problem lines; and d) maximize visibility of any structure in whooping crane use areas.

Conclusion

Based on the biological and hydrological analyses presented in the draft biological opinion, the Service believes that implementation of either one of the RPAs will avoid the likelihood of jeopardizing the continued existence of the whooping crane, least tern, piping plover, and pallid sturgeon, and avoid the likelihood of destruction or adverse modification of designated critical habitat for the whooping crane. The Service also has concluded, based on the information presented in the draft biological opinion, that the RPAs are economically and technologically feasible.

Additional Information

Questions or need for additional information, including copies of the draft biological opinion, may be referred to the Service's Nebraska Field Office at:

U.S. Fish and Wildlife Service; 203 West Second Street; Federal Building, Second Floor; Grand Island, Nebraska 68801. Telephone: (308)382-6468