

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM -SUMMARY-

AND

SOUTH PLATTE WATER RELATED ACTIVITIES PROGRAM -2011 ANNUAL REPORT-



Interior Least Tern



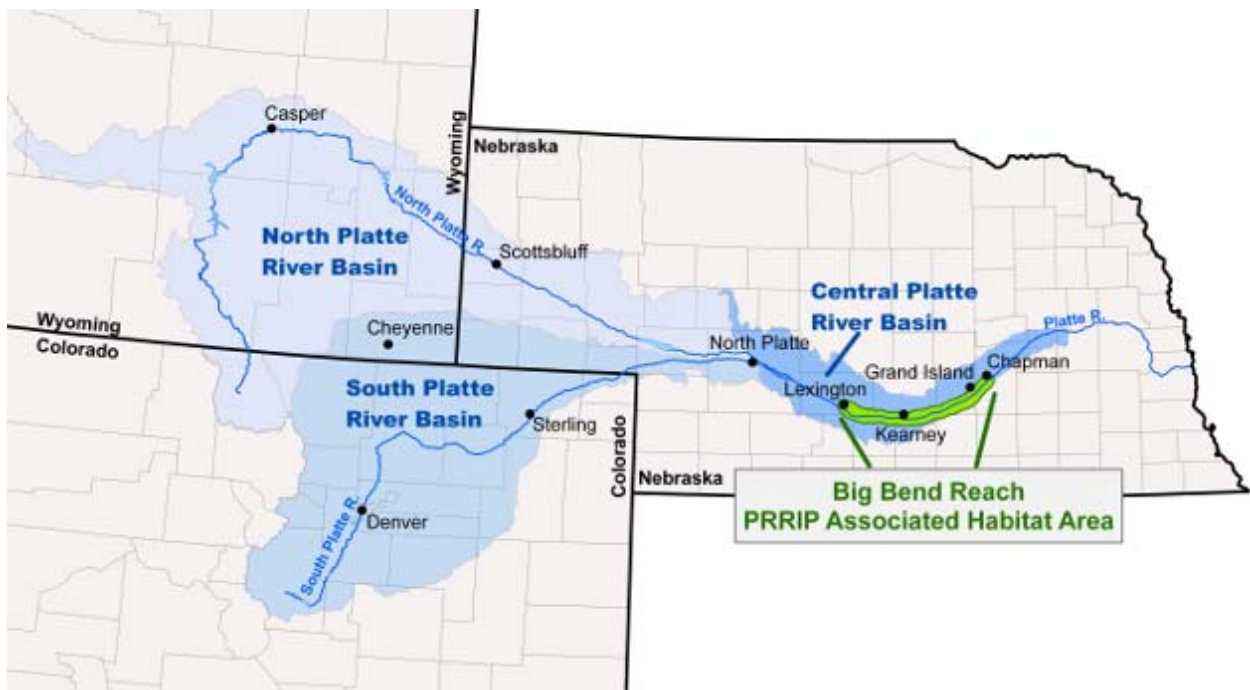
Whooping Crane



Piping Plover



Pallid Sturgeon



Why the Platte River Program is Needed by Colorado

The Platte River Program is designed to resolve conflicts between water use and endangered species protection in the Platte River basin. Resolution of these conflicts is critical to the continued use and development of water supplies to meet the needs of Colorado's South Platte Basin.

The Conflict

Water-related projects that are authorized, funded, or carried out by a federal agency may require consultation with the U.S. Fish and Wildlife Service (FWS) under the Endangered Species Act (ESA). Federal agencies are required by Section 7(a)(2) of the ESA to insure that those actions are not likely to jeopardize listed species or adversely modify their designated critical habitat. Construction, operation and maintenance of water projects in the Platte River basin routinely require a Clean Water Act Section 404 permit from the Corps of Engineers. This includes routine projects such as pipeline crossings of jurisdictional waters and repair or rehabilitation of conveyance structures, which activities are frequently covered by nationwide permits. Many water storage or conveyance facilities located on national forest lands require special use permits issued by the U.S. Forest Service. Federal action may also be present through the receipt of federal funding under certain agricultural assistance programs. The Bureau of Reclamation and Corps of Engineers also own major water collection, distribution and storage facilities that provide water to numerous ditch companies and municipalities or are used for flood control purposes in Colorado. These types of activities are all subject to Section 7 of the ESA.

The FWS believes that the Platte River resource is in a state of jeopardy, and that actions resulting in water depletions to the Platte River will continue the deterioration of the endangered species' habitat. The federally listed species at issue include the whooping crane, interior least tern, piping plover and pallid sturgeon. Prior to the Program, the FWS issued "jeopardy" biological opinions for virtually all water-depletive projects in the Platte River basin starting in the late 1970s, citing either new or continued water depletions as contributing factors in jeopardizing the existence of these species and adversely affecting designated critical habitat. Notable examples include the biological opinions issued in 1994 for the renewal of Forest Service special use authorizations for six existing agricultural and municipal water facilities along Colorado's Front Range. The 1994 opinions concluded that, absent offsetting measures, each of those existing water facilities would cause jeopardy to the listed species and adversely modify Platte River designated critical habitat in central Nebraska. The average annual depletions associated with one of those long-standing projects was 0.64 acre feet.

Under the jeopardy standard, individual water projects undergoing ESA consultation must avoid or fully offset all project depletions to FWS instream flow recommendations for the

Platte River in the same amount, timing, duration and frequency in which they occur. Land acquisition and a sediment augmentation component may also be a required component of mitigation for federal authorizations that do not have the benefit of a recovery program. Fulfillment of these requirements may, for some projects, simply not be possible. For many others, these requirements have delayed permitting and compromised water yield and cost-effectiveness of the projects.

What the Program Does

The States of Colorado, Nebraska and Wyoming and the U. S. Department of the Interior entered into the 13-year first increment of a comprehensive basin-wide Program effective January 1, 2007 to address habitat needs of the endangered species in the central and lower Platte River basin. This cooperative basin-wide approach is an equitable and effective means to resolve conflicts and provide greater certainty that the Platte River will continue as a reliable water source for both wildlife and the many people who reside and use water in the basin. The commitment of resources to the Program to preserve and enhance the habitat of the species allows water use and development activities in each of the three states to continue, in compliance with the ESA and in accordance with state water law and entitlements under interstate compacts and decrees.

The Program commits lands, water and management of those resources toward helping address the habitat needs of the species. As a water goal, the Program commits to reduce basin-wide shortages by an average of 130,000 to 150,000 acre feet per year in lieu of the FWS requirement to replace 417,000 acre feet of shortages to the FWS "target flows." The Program also has committed to obtain land, or interests in land, in an amount of 10,000 acres in the central Platte River. This water and land will be managed under the Program on behalf of the species and will constitute the mitigation needed to offset the impact of existing water projects on the Platte River species and habitat during the 13-year first increment of the Program. ESA compliance for future water related activities is afforded under the respective state plans to mitigate the effects of new water development. The operation of the Program past the first 13-year increment is not currently defined and, as provided in the first increment agreement, will be negotiated among the Program interests at the end of the first increment.

For Colorado, the Program is designed to provide regulatory compliance under the ESA for both existing and prospective new water uses within the South Platte River basin¹. This compliance is needed for water providers to meet the water supply needs of the urban, agricultural, and industrial sectors of this rapidly changing and growing part of the state. The Program:

¹ The Program is also designed to address ESA compliance for existing and new water uses occurring within defined consumptive use baseline allowances in the North Platte basin of Colorado

- Provides an alternative to the requirement that historic and future water related activities in Colorado replace individual depletions on a one-for-one basis in amount and in timing at the Colorado-Nebraska state line.
- Provides streamlined ESA Section 7 compliance procedures and regulatory predictability for existing and future water related activities in Colorado. Project owners and operators who choose to rely on the Program will know their requirements prior to ESA consultation.
- Avoids the potential for prohibited "take" of listed species under ESA Section 9 for water-related activities covered by the Program.
- Satisfies Colorado's water-related mitigation requirements through the Tamarack Plan, which utilizes managed groundwater recharge from existing and future recharge wells and ditches located in the lower reaches of the South Platte River in Colorado to re-time river flows from periods exceeding flow targets to periods short of target flows. The Tamarack Plan also obtains annually, by payment, recharge accretion credits not needed by local well augmentation plans during free-river periods. Water re-timing for the Tamarack Plan is limited to water that physically and legally exceeds existing and future water demands in Colorado, i.e. water that would normally flow out of the state and further limited to water that is in excess to target flows in the Program habitat in Nebraska. This water is first diverted for an initial beneficial use within Colorado; some of the unused return flows from this diverted water subsequently reach the river in times that benefit the Platte species.
- Provides potential benefits addressing two other issues important to the lower South Platte River in Colorado. The higher groundwater levels produced in areas adjacent to the South Platte River as a result of the managed groundwater recharge for the Program also benefit Colorado's Minnow Species of Concern. Additionally, the Tamarack Plan puts water in the South Platte River at times when it is not needed or cannot be utilized to reduce target flow shortages. This "new" water supply enhances the effectiveness of augmentation plans and provides water for new uses within Colorado.
- Reduces pressure toward permanent dry up of agricultural lands along the lower South Platte for the benefit of federally listed species in Nebraska.
- Encourages development of improved science on the central Platte River through an adaptive management plan and integrated monitoring/research plan designed to test competing hypotheses of the Program's participants concerning species and habitat needs.

Benefits of a Programmatic Approach

Individual water users will need to decide whether to rely on the Program for purposes of ESA compliance for their water-related projects in the Platte River basin. The circumstances surrounding each project will inform the decision whether to participate under the Program or pursue stand-alone ESA consultation and project-specific mitigation. The requirements in the vast majority of stand-alone Section 7 consultations conducted independent of a Program have, to date, entailed time intensive negotiations and mitigation requiring that water users replace individual project depletions on a one-for-one basis. In contrast, under the programmatic approach toward Platte ESA compliance: (1) individual projects are asked to contribute money, not water, to address their depletive impacts on the target species; (2) individual projects rely on the Program's offsetting measures as their means to avoid jeopardy to the species and adverse modification of critical habitat under Section 7; (3) programmatic offsetting measures serve to avoid any prohibited "take" of target species for all federal nexus and non-nexus individual water activities participating under the Program; and (4) individual projects can take advantage of streamlined procedures for documenting ESA compliance.

Commitments and Costs under the Program

Colorado's responsibilities under the Program comprise 20% of the total Program budget in cash and cash-equivalent contributions. Colorado is contributing less water (10,000 to 27,000 acre feet out of the 130-150,000 annual acre foot shortage reduction) and more money (\$24million), relative to the other states during the first increment of the Program. During the first increment of the Program, Colorado and its water users are required to:

1. Develop the capability under the Tamarack Plan to provide an average of 10,000 acre feet annually based on historic hydrology of shortage reduction to FWS target flows by the end of 2011. Colorado is on track to meet this requirement;
2. Re-time water in Colorado to avoid net increased shortages to target flows in the habitat pursuant to Colorado's Plan for Future Depletions. Colorado is in compliance with this requirement-attached is the Colorado Annual Review provided to and approved by the Program;
3. Participate in the business and operational activities of the Program; and
4. Provide \$24 million in cash or cash equivalent contributions to the Program (in 2005 dollars) to fund Program activities such as acquiring additional land and water, performing monitoring and research, and conducting Program operation and maintenance activities. To date, the Colorado Legislature has funded about \$24 million toward satisfaction of this requirement.

Role of the South Platte Water Related Activities Program, Inc. (SPWRAP)

The South Platte Water Related Activities Program, Inc. (SPWRAP), a Colorado nonprofit corporation, has been formed by Colorado water user participants under the Program to assist the State in fulfillment of various Program responsibilities including accounting and reporting requirements, obtaining interests in facilities, water rights and/or recharge credits, and assisting with the State's cash contributions to the Program, if necessary. In addition to the State of Colorado delegate, Colorado water users also have representation on the Program Governance Committee and advisory committees through membership in SPWRAP.

Membership in SPWRAP is the exclusive means by which individual Colorado water users may participate in the Platte River Program, and thereby be afforded the benefits and certainty of ESA compliance for their projects that are provided by the Program while avoiding stand-alone project mitigation requirements during Section 7 consultation under ESA. A certification of membership in SPWRAP is a prerequisite for water users to rely on the Program for purposes of ESA compliance. The river depletions about which FWS is concerned are both the depletions that have been occurring for decades, as well as the compounding effect of future depletions. Because of that and the fact that the costs of the Program began in 2007, fairness requires that all water users in the basin pay their fair share. As a result, water users who delay becoming members are required to pay assessments for all prior years, plus compounded interest, at the time they do join.

Websites

South Platte Water Related Activities Program – <http://www.spwrap.org>

Platte River Recovery Implementation Program - <http://www.platteriverprogram.org>

SPWRAP 2011 Administration/Membership Report

2011 Officers and Directors

Following are the officers and directors who have graciously offered their time and talents to **SPWRAP** during 2011.

Lisa Darling (Class M) – President	Wayland Anderson (Class M) - Director
Alan Berryman (Class W) – Vice President	John Kolanz (Class M) - Director
Dennis Harmon (Class A) – Treasurer	Kim Hutton (Class M) – Director
Greg Dewey (Class M) – Secretary	Randy Rhodes (Class I) – Director
Kevin Urie (Class M) – Director, Asst. Secretary	

Inquiries about SPWRAP

SPWRAP continues to field a variety of inquiries about membership in SPWRAP. Many of these inquiries are related to federal permitting requirements associated with U.S. Army Corps of Engineers Section 404 permits and how membership in SPWRAP provides ESA compliance under the larger basin-wide Platte River Recovery Implementation Program.

Membership Certificates

SPWRAP is committed to providing Membership Certificates in a timely manner to members once we have received full payment for the assessed annual fee and any required back assessments. Some members require an invoice from SPWRAP in order to process their assessment fees within their organization. SPWRAP is glad to provide you with a separate invoice upon your request. SPWRAP will need you to complete and submit the appropriate member class Reporting Form & Assessment Invoice for us to determine the amount to include on the separate invoice.

In 2011, SPWRAP issued 44 Class M (Municipal); 18 Class A (Agricultural); 4 Class W (Water Conservancy & Water Conservation Districts); 3 Class I (Industrial); and 14 Class X (Miscellaneous) memberships for a total of 83 members. Municipal members continue to account for the majority of SPWRAP memberships and assessments (97.3%) followed by Industrial members at 1.3%.

Funding

Funding through memberships in 2011 met our anticipated goals and we anticipate that our 2012 funding will be similar or slightly higher with additional members using the Program for ESA compliance.

2012 Assessments

The deadline for payment of 2012 assessments is **March 1, 2012**.

If annual membership is not renewed/paid by May 1st then your membership in SPWRAP will lapse. In order to re-join SPWRAP your entity will be required to pay all unpaid back assessments plus 4% interest (compounded annually).

Please complete and submit the appropriate member class Reporting Form & Assessment Invoice to:

SPWRAP
% NCWCD
220 Water Avenue
Berthoud, CO 80513.

Entities that join SPWRAP for the first time in 2012, or in subsequent years, are required to pay back assessments to the beginning of 2007. Please contact Kevin Urie at Kevin.urie@denverwater.org, or 303-628-5987, if you need help determining the back assessments or have other questions.

Coordination with the U.S. Fish & Wildlife Service on SPWRAP Membership

It is SPWRAP's policy to not provide a formal list of membership to the USFWS. However, SPWRAP will confirm the current status of specific members who are relying on Program participation for ESA compliance if the USFWS requests such confirmation.

2012 SPWRAP Meeting Schedule

- 1) January 19th, 2012
- 1) April 19th, 2012
- 1) July 19th, 2012
- 1) September 20th, 2012
- 2) October 25th, 2012 (anticipated)

- 1) All SPWRAP meetings will be at NCWCD in Berthoud at 9am unless otherwise noted or changed by the board of directors
- 2) SPWRAP traditionally holds its Annual meeting in October immediately following the South Platte Forum in Longmont

Colorado Plan for Future Depletions (CPFD)—Annual Review 2010

Presented at Water Advisory Committee Meeting April 26, 2011

BASIS: Maintain Current Regime of the River by replacing river flow monthly depletions caused by population growth since July 1, 1997 on an average annual basis. Groundwater recharge captures monthly net river accretions from population growth to retime into months of net depletions (May and June).

Original assumptions unchanged except for 2 updates approved in 2009 and noted in Items 3 and 4 below (as presented in Colorado’s April 30, 2009 Report and August 6, 2009 Memo on Revised Assumptions). **No changes in basic assumptions for 2010-2011 accounting.**

(1) South Platte Basin in Colorado divided into North, Central, and South Regions based on counties

(2) Population Increase by Region since July 1, 1997 (baseline) via State Demographer

(3) GPCD--Gross Water Use ac-ft/person/year (original 0.27, now updated to 0.2504)

(4) % Water Source Mix (original and now updated) by Region of 6 sources; 5 measured divertible sources (transbasin imports, nontributary groundwater, agricultural conversion, reuse, and native post-1997 S. Platte flow development) plus water conservation as a source. Each source has a monthly accretive and/or depletive effect.

(5) Monthly effects are routed to the Colorado-Nebraska Stateline using administrative routing loss factors.

CPFD Operations through 2010

SPWRAP, Inc.--South Platte Water Related Activities Program is a non-profit group of mainly municipal Colorado water users collecting assessments (\$0.90 per tap in 2010) to pay for Colorado’s water obligations for PRRIP in partnership with the State of Colorado where the State covers other Program costs. SPWRAP pays for creditable accretions not used by existing recharge plans at \$40 per ac-ft and pays for electrical pumping costs at dedicated projects. For 2007-2010, SPWRAP paid a total of about \$750,000 for CPFD replacement supplies.

May and June Depletions (acre-feet) at Stateline from population growth:

2007	1,410
2008	1,552
2009	1,679
<u>2010</u>	<u>1,807</u>
Avg	1,610

Managed groundwater recharge retimed accretions (acre-feet) into May and June at Stateline for replacement supplies:

2007	3,976
2008	1,470
2009	4,781
<u>2010</u>	<u>6,290</u>
Avg	4,130

On the average annual basis, adequate retimed accretions (4,130 ac-ft) available to replace depletions (1,610 ac-ft).

