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Mr. Chairman and members of the Committee on Resources, it is a privilege and honor to provide testimony to you this afternoon here in America=s Heartland at Grand Island, Nebraska representing the Nebraska Game and Parks Commission. My name Rex Amack. I am a native Nebraskan having grown up on a farm on the Republican River in Webster County near Red Cloud about 60 miles due south of this hearing room.

I have worked for the Nebraska Game and Parks Commission since June, 1967. I have served the Commission as Agency Director since April, 1988.

You have asked me here today to share the Commission=s views regarding the Platte River Cooperative Agreement and the Game and Parks Commission=s experiences protecting species in Nebraska in coordination with the United States Fish and Wildlife Service and the Nebraska Game and Parks Commission acting alone.

The Nebraska Game and Parks Commission has been a participant in the Platte River Cooperative Agreement since its inception. Although the Commission has not played a major role in the formation or operation of the Cooperative Agreement, we have been involved in committee work developing the Nebraska Program and we fully support the Agreement=s intent and goals. The issue is extremely complex and there are no simple solutions to the problems and conflicts that have arisen during the past several decades over the future use of Platte River water. The waters of the Platte River serve the people of Wyoming, Colorado and Nebraska in many ways. The Platte provides municipal and industrial water supplies for about 3.5 million people, it is used to irrigate millions of acres of farmland, it generates millions of dollars of hydroelectric power, and it provides a variety of habitat for fish and wildlife, including the four endangered species that are the subject of the Cooperative Agreement. The Platte and the associated reservoirs provide anglers, hunters, wildlife viewers, boaters and other outdoor recreation enthusiasts opportunities to pursue and enjoy their activities, resulting in significant social and economic benefits.

Protection and restoration on an ecosystem scale is more effective than trying to save one species or one small habitat at a time. A basin approach such as the Cooperative Agreement is preferable to a piecemeal approach. The Cooperative Agreement is attempting to bring the many parties of the basin together to attempt to find solutions to the many problems associated with limited water resources and threatened and endangered species.

By bringing all effected parties together, everyone gets a chance to provide input and to see how the process is established so there is not the perception of the federal government, especially the United States Department of the Interior, carrying out its mission without input or other parties= considerations.

The Cooperative Agreement provides the opportunity through the Governance Committee and the Committees that are addressing land, water, and technical issues, for Nebraska farmers, Natural Resources

Districts, irrigation districts, state agencies, and conservation organizations to have a place and voice at the table, and to help shape the recovery programs. Input from all Platte River interests is essential for successful cooperative management of the Platte River resource.

The Cooperative Agreement is in the best interests of Nebraska's citizens.

Next year is the 30th anniversary of the Endangered Species Act which was preceded by the 1966 Endangered Species Preservation Act. The Endangered Species Preservation Act established the authority to create a list of endangered species and a minimal program to conserve them. A year later the first list contained the black-footed ferret, the Florida panther, the whooping crane, the bald eagle, and California condor. Five years later, in 1973, the Endangered Species Act was enacted. The House passed the bill 390 to 12 and the Senate passed a similar measure on a 92 to 0 vote. President Richard Nixon signed the new bill into public law. The new law expanded its predecessor by making all plants and animals eligible for listing, including subspecies. It also established threatened species as those likely to become endangered. The Endangered Species Act established protection of species by making it illegal to take endangered species and provided harsh penalties.

What started out as 114 species across America is now over 1000 species and growing annually. A few species have perished, but there have been success stories such as the bald eagle, Peregrine falcon and American alligator. Twenty seven species have been removed from the list.

Congress has wrestled over reauthorizing the Endangered Species Act for years. Some believe the Act is too burdensome, others believe the Act needs to be strengthened and actions need to be sped up and more species listed and critical habitat established. One key to addressing this issue is to find ways to reward landowners for conservation that protects and restores valuable habitat for these species. More than half of the listed species occur on private or non-Federal lands. Private landowners are critical to the conservation and recovery of most of the listed species. Partnerships with landowners are essential in this process.

The United States Fish and Wildlife Service works with private landowners in the conservation and recovery of species by providing technical assistance and through safe harbor agreements. A safe harbor agreement assures landowners that improving habitat for species will not restrict land-use options on their land in the future. The key to recovery is the cooperation of many partners working together to develop innovative conservation and management actions that benefit the species, while accommodating socioeconomic goals.

The Nebraska Game and Parks Commission is granted general authority under Nebraska statutes, which state, "The commission shall have sole charge of the state's parks, game and fish, recreational grounds, and all things pertaining thereto." With that broad authority comes great responsibility towards those resources. Nebraska's wildlife is owned by all citizens and the Commission is charged with the welfare of our state's flora and fauna. The Nebraska Legislature has also enacted the Nongame and Endangered Species Conservation Act.

The Mission statement of the Nebraska Game and Parks Commission is, "A Stewardship of the state's fish, wildlife, parks, and outdoor recreation resources in the best long-term interests of the people and those resources." If future generations are to enjoy those resources, we must perpetuate and enhance all fish, wildlife, and park resources for recreational, aesthetic, educational, and scientific use by Nebraska citizens and their visitors.

One of the Commission's goals is to conserve ecosystems upon which Nebraska Nongame resources depend. To attain that goal, we have established five objectives.

1. Conserve the land and water base that support nongame resources.
2. Increase the appreciation and awareness of nongame resources.
3. Attain the knowledge necessary for conservation of nongame resources.
4. Conserve viable populations of nongame resources.
5. Secure funding and the work force needed to carry out conservation activities for nongame resources.

Through Statute the Nebraska Legislature finds and declares:

- (1) That it is the policy of this state to conserve species of wildlife for human enjoyment, for scientific purposes, and to insure their perpetuation as viable components of their ecosystems;
- (2) That species of wildlife and wild plants normally occurring within this state which may be found to be threatened or endangered within this state shall be accorded such protection as is necessary to maintain and enhance their numbers;
- (3) That this state shall assist in the protection of species of wildlife and wild plants which are determined to be threatened or endangered elsewhere pursuant to the Endangered Species Act by prohibiting the taking, possession, transportation, exportation from this state, processing, sale or offer for sale, or shipment within this state of such endangered species and by carefully regulating such activities with regard to such threatened species. Exceptions to such prohibitions, for the purpose of enhancing the conservation of such species, may be permitted as set forth in the Nongame and Endangered Species Conservation Act; and
- (4) That any funding for the conservation of nongame, threatened, and endangered species shall be made available to the commission from General Fund appropriations, the Nongame and Endangered Species Conservation Fund, or other sources of revenue not deposited in the State Game Fund. @

The US Fish and Wildlife Service has been given similar responsibilities on the Federal level, but with many more restrictions placed upon them. Many people attack the Service for doing the job Congress has assigned them to do. The Endangered Species Act belongs to the citizens of the United States, not the US Fish and Wildlife Service. They administer the Act and with that responsibility comes great criticism. They continue to be sued from groups for not listing species as well as from parties attempting to overturn their decisions to list species and their critical habitats.

The Commission is always looking at ways to work with landowners that benefit them as well as wildlife. Generally, when steps are taken to protect threatened and endangered species and their habitats, you are improving habitat for other species.

Many of the new federal programs are system-based problem solving, looking at the big picture and will be working with the private landowners. In Nebraska, 97% of the land is privately owned. To have any chance for success in recovery programs, working successfully with private landowners is an absolute must.

There are definitely species that have polarized citizens of our state including the prairie dog, whooping crane and pallid sturgeon, but there are success stories such as the river otter that is a State endangered species that had been trapped out of existence. A very successful reintroduction program through our agency has restored that species to most of the state's river systems in the past 25 years. This program may not have received press coverage that programs such as the gray wolf reintroduction in Yellowstone or the red wolf in the southeast, but it also saw no opposition by the landowners and citizens of the state. The river otter has never been listed as a federal endangered species as it has remained plentiful in some portions of its range, it has been a state endangered species from the beginning of the state list. We are proud of this successful re-introduction and believe it serves as an example of how a species can be saved.

The demand for wildlife technical assistance by private landowners along the Platte River has increased dramatically during the last 10 years. The US Fish and Wildlife Service and the Nebraska Game and Parks Commission have provided technical advice and funding to hundreds of private landowners along and near the Platte River. Clientele include landowners who wish to improve their property for duck and goose hunting, ranchers seeking ways to improve their pastures for cattle and wildlife, and grain farmers wanting to convert marginal cropland to grasslands. The US Fish and Wildlife Service and the Nebraska Game and Parks Commission have programs that can pay producers up to 100% of habitat restoration costs and in some cases provide an annual land use payment. All private lands programs the Commission sponsors are done strictly on a voluntary basis.

Funding provided by the US Fish and Wildlife Service through their Partnerships for Fish and Wildlife Program have been critical in helping to meet the demands of private landowners. As more and more duck and goose hunters discover the benefits of brush clearing and wetland slough development, demand for these projects will very soon outstrip the availability of funds. A Nebraska Environmental Trust grant was received several years ago to provide additional funds for habitat projects along the Platte River. Although most landowners are primarily interested in improving their land for waterfowl hunting, secondary benefits to island clearing include improved habitat for whooping and sandhill cranes, piping plovers, least terns, and other wildlife.

The recent increased demand for private lands assistance along the Platte River resulted in the hiring this winter of a biologist who will focus solely on assisting private landowners along the Platte River from Gothenburg to Columbus. This individual is being jointly funded by the Game and Parks Commission and The Nature Conservancy. We are currently in the process of setting up local advisory groups made up of farmers and ranchers to determine what types of programs are needed to improve the Platte Valley's grazing lands for cattle and wildlife production. The Game and Parks Commission has applied for a \$900,000 federal grant through the US Fish and Wildlife Service to provide funding for a cost-share assistance program that will benefit producers along the Platte River.

Two programs through the US Department of Agriculture, the Wetland Reserve Program and the federal Wildlife Habitat Incentives Program have been very beneficial in the region to producers and wildlife. The Wetland Reserve Program will pay for the cost of wetland restoration and can pay producers up to 100% of the agricultural value of their land if they are willing to enter into a conservation easement. The Wetland Reserve Program encourages producers to graze and hay wetlands in this program to help maintain the habitat benefits. The Wildlife Habitat Incentives Program has been used to do several projects aimed at improving grazing lands in the Platte River Valley.

Recent Projects

In December 2001, Todd Tyler, a farmer in Merrick County put nearly 900 acres of his Platte River land in the Wetland Reserve Program under perpetual easement. The US Department of Agriculture paid the landowner 100% of the agricultural value of his land. The Game and Parks Commission along with Pheasants Forever, and Ducks Unlimited paid for an easement on an additional 37 acres that did not qualify for the program. The Game and Parks Commission and US Fish and Wildlife Service will likely be contributing additional funds towards the restoration. Within the last two months, five landowners in the immediate vicinity of the Tyler farm have inquired about enrolling in the Wetland Reserve Program.

In December 2001, two landowners downstream of the Ft. Kearny Hike-Bike bridge enlisted the support of the Nebraska Game and Parks Commission, US Fish and Wildlife Service, Platte River Crane Trust, and the National Audubon Society to clear brush from several Platte River islands to improve goose and duck hunting. A secondary benefit will be improved viewing of sandhill cranes by the public from the Game and Parks Commission=s viewing bridge.

In December 2001, two landowners near Shelton enlisted the support of the Game and Parks Commission and US Fish and Wildlife Service to remove trees and brush from several islands and create a warm water slough. These landowners were primarily interested in improving duck and goose hunting but sandhill cranes and potentially whooping cranes, least terns and piping plovers will also benefit.

During October 2001 a producer along the Platte River near Kearney requested the Game and Parks Commission=s assistance to remove cedar trees from a pasture to improve grazing and wildlife productivity. Cedars were removed using funds from the Game and Parks Commission, US Fish and Wildlife Service and the Nebraska Environmental Trust. The Commission is working with the producer to set up a planned grazing system. Sandhill cranes and other wildlife will benefit from this project.

Successful projects with US Fish and Wildlife Service and Threatened & Endangered species

Section 6 Funding Program

Under Section 6 of the Endangered Species Act, the US Fish and Wildlife Service provides funds annually for work on federally listed species. This can include inventory, research or conservation projects. In the past the Commission has received funds to do work (primarily research and inventory) on the species including: whooping crane, least tern, piping plover, American burying beetle, pallid sturgeon, Topeka shiner, western prairie fringed orchid, blowout penstemon and the Ute Lady=s tresses orchid. Through this research we have gained a better understanding of the ecology, biology and distribution of these species which in turn has aided the development of more effective conservation strategies for these species.

Blowout Penstemon

The US Fish and Wildlife Service provided funding for research to better understand what management practices would benefit this species. In addition, the US Fish and Wildlife Service has collaborated with University of Nebraska - Lincoln researchers to re-introduce this species at several sites on National Wildlife Refuges in Nebraska. The Penstemon is making progress toward recovery.

Western Prairie Fringed Orchid Pesticide Protection

The Commission is currently conducting research in cooperation with landowners in Pierce County to develop methods for herbicide application that will not be harmful to the orchid but will meet the

landowners objectives of complying with the noxious weed control act. The US Fish and Wildlife Service is a cooperator in the project. Once the techniques have been developed, we will develop a program to provide financial and technical assistance to landowners to incorporate the methods.

Raptor Electrocution Program. A cooperative program including the US Fish and Wildlife Service, Nebraska Game and Parks Commission, and all power companies in Nebraska that are members of the Rural Electric Association. The power companies have agreed to report any raptor electrocutions to the US Fish and Wildlife Service and have agreed to make modifications to the structures where the electrocutions occurred. This program has been operating since 1988 and allows the industry to report electrocutions without being in violation of the Endangered Species Act.

The Tern and Plover Conservation Partnership is a well-developed program of data collection, conflict mitigation, public involvement and education. In order to conduct these activities on private lands, a high level of cooperation and trust is required between wildlife managers, landowners, river users, federal and state law enforcement officials, and gravel mining companies. This partnership has been very successful in raising the awareness of every one involved about Threatened & Endangered species while addressing the needs of the gravel mining industry. The Tern and Plover Conservation Partnership, which includes the University of Nebraska Cooperative Extension, Nebraska Game and Parks Commission, the US Fish and Wildlife Service, Western Sand and Gravel, Arps Gravel and Concrete, Mallard Sand and Gravel, Overland Sand and Gravel, Lyman-Richey Corporation, the Nebraska Environmental Trust, the Nebraska Air Boaters Association, the Great Plains Council of Girl Scouts, has developed these relationships and stands uniquely poised to affect meaningful conservation and conflict mitigation. In addition to these partners, 14 mining companies and landowners serve as Acooperators@allowing access to their land and participating in program activities and 75 to 100 volunteers contribute their time through the AAdopt a Colony@program. Federal Law Enforcement officials support this effort and are impressed with the effectiveness of this partnership and it=s ability to address both the species and industries needs without law enforcement involvement.

Surveys of Threatened & Endangered species in Nebraska usually involve the Fish and Wildlife Service and Nebraska Game and Parks Commission personnel. Depending on the survey, coordination of efforts is the responsibility of one or the other agency and participation may include biologists from each of the agencies and possibly from other cooperators. Survey results are provided to all participants and shared with the public. These surveys are possible because of the cooperation between the Nebraska Game and Parks Commission and the Fish and Wildlife Service. Neither agency has sufficient staff to effectively carry out all these surveys alone but by combining our efforts, we are able to successfully accomplish these important activities. Threatened & Endangered bird species surveys conducted that involve biologist from both agencies include the Bald Eagle Mid-Winter and Nesting surveys, Least tern and piping plover surveys and Whooping Crane Migration Monitoring activities. Threatened and Endangered Species Surveys and Monitoring activities include informal agreements with Nebraska Public Power District, Central Nebraska Public Power and Irrigation District, United States Fish and Wildlife Service, The Nature Conservancy, the Nebraska Environmental Trust and others to assist with conducting these activities.

Thank you.

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