

To: The U.S. House of Representatives Committee on Resources

From: Dave Sands, Executive Director, Audubon Nebraska

RE: Testimony in favor of the Platte River Cooperative Agreement

Date: February 16, 2002

Up until five years ago, I enjoyed a very different career, as my brother and I ran a third-generation meat business that produced steaks from Nebraska Beef. I was raised with an appreciation for the cattle industry in our state, and my father also instilled a deep appreciation for Nebraska's rivers, prairies, and wildlife.

My love of the outdoors eventually led to a membership in Audubon, and on occasion, I would volunteer to represent Nebraska Audubon's positions in the state Legislature. About a decade ago, I was approached by Audubon's national office to become involved in a federal process--the FERC relicensing of Kingsley Dam.

From a business standpoint, I understood that farmers needed the flows that Kingsley provided, to grow the corn that fed the cattle that our company processed and sold nationwide. I was keenly aware of all the families that depended upon that chain of events, from the sandhills rancher's to my own. In addition, the river provided power, recreation, and drinking water for millions of people throughout the basin. Clearly, there were human uses that needed to be preserved.

From a conservation perspective, the case was also compelling. The Platte River is a world-class wildlife resource that annually attracts millions of waterfowl, the largest gathering of cranes on earth, and regular visits from some of the rarest cranes on earth. Habitat for these birds had steadily declined over the past century due to a substantial reduction in the river's flows, and new projects threatened the flows that were left. Above all, the Endangered Species Act (ESA) now required any water project in the basin with a federal connection to address these concerns, and Kingsley Dam was at the front of the line.

Given these facts, I recognized the obvious. The Platte River is so important for both agriculture and wildlife that we can not afford to harm either one. For this reason, I told our national office that I would jump into Platte issues on two conditions: that we base our positions on the best science available, and never advocate for the taking of water from an existing irrigator. Audubon agreed, and we have been working toward that end ever since.

At Audubon Nebraska, this philosophy is not confined to the Platte River, as the organization actively pursues collaboration over confrontation, especially when it comes to the ESA. In a state where 97 percent of the land is in private hands, meeting the concerns of landowners is vital, or a recovery program won't work for the species or the people who live on the land. On private lands, incentives and involvement makes a lot more sense than regulations and resentment.

Others in the state share this view. This was demonstrated several years ago when we participated in a diverse group of Nebraskans convened by Senator Bob Kerrey to find common ground on reauthorization of the ESA. There was more consensus than some might imagine, and all agreed that the ESA could be improved with:

• Greater stakeholder and public involvement in the process;

- Decisions based on good science and peer review;
- Emphasis on recovery planning crafted to reduce conflict with economic activities;
- Financial incentives for landowners;
- An educational and technical assistance program for the public and landowners; and
- Increased appropriations for impacted federal agencies.

These ESA improvements that were envisioned five years ago could be used to describe the goals of the Platte River Cooperative Agreement today.

Stakeholder involvement should be at the top of any conservation agenda, and it has certainly been a priority of the Cooperative Agreement. This involvement is formally recognized on the agreement's Governance Committee, which includes state, federal, water, and conservation interests on a ten-member board that requires nine votes to act. Involvement is further magnified through Governance Committee meetings, sub-committees, state advisory groups, education, and communication among the various participants and their peers. The Cooperative Agreement may be lacking in some things, but stakeholders and their opinions are not among them!

This is a strength because the outcome can only be a program with a solid scientific foundation that is crafted to reduce economic conflicts. There is recognition that the Platte's loss of habitat and flows must be reversed, but any program should be voluntary, with financial incentives for the conservation of water and land. There is also an agreement to minimize adverse third-party impacts that can be readily identified. Any action under the program will be measured for its benefits to the species, and as better science becomes available, management will adapt accordingly to maximize the results for each dollar spent.

This is the way the ESA should work, and it is worth pursuing because the stakes are so high. To understand what is at stake, I would remind you that it took over 13 years and more than \$30 million to relicense Kingsley Dam. If the Cooperative Agreement fails, not only would Kingsley's license be subject to further review, every project in the basin could be subjected to proportional scrutiny and costs, which means that lawyers would do very well at the expense of the water users and wildlife.

While there is much to lose if this effort fails, the payoff from success will be equally dramatic. ESA conflicts that have persisted on the Platte for 20 years would finally be resolved throughout the entire basin, bringing some much needed regulatory certainty to those involved. In addition to enhancing habitat for endangered species, habitat would be protected for many other valuable species as well, including a half-million sandhill cranes that provide a \$25 to \$50 million boost to the area economy each year through tourism. More water in the river would benefit drinking water supplies, by recharging municipal well fields in the valley. Moreover, all of this would be accomplished without significant changes in existing irrigation or power generation. A successful Cooperative Agreement could even serve as a national model that is used to resolve other ESA conflicts that may come down the road, both here and elsewhere.

One of those issues may already be in sight with the designation of critical habitat for the piping plover, although I suspect that it will be far less complex than the central Platte. Certainly, the identification of critical habitat is an important part of the Endangered Species Act, because the decline of a species is often linked to its loss of habitat. However, the fact that so many people are concerned by this recent designation

probably says more about people's perceptions of the law, than it does about its actual impact on landowners. There are other people here today who can better speak to those impacts and the science behind the designation. In our view, the uproar over the piping plover again points to the need for a more collaborative, incentive-based effort on private lands.

For example, suppose for a moment that there was something like a CRP program for endangered species habitat on private lands, that paid landowners to continue the same sound stewardship that protected the habitat in the first place. Under this program, the designation of critical habitat would be akin to the designation of highly erodable land under the CRP Program, and give one a better chance of getting their land in the program. This could create a very different view of the designation and spur private conservation instead of fear in the affected area.

These are the kinds of innovative solutions that are needed to increase the effectiveness of the ESA, and the Platte River Cooperative Agreement is a huge step in the right direction. With a resolve to work together, along with sufficient funding and support from Congress, we can preserve both water use and wildlife in the Platte River Valley. The truth is, we can not afford to do anything less.

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