

NWU Verbal Testimony
House Resources Committee Field Hearing
Grand Island, Nebraska
Feb. 16, 2002

Good afternoon Ladies and Gentlemen. My name is Tom Schwarz. I am a farmer from Bertrand, Nebraska, and I am here representing the Nebraska Water Users, also known as NWU.

NWU is an organization that is devoted to educating the public regarding irrigated agriculture and protecting the rights of those involved in that practice. Our membership is statewide and we represent both surface and ground water users, many who farm here along the Platte River.

Our organization traces its roots to a federal court order issued 12 years ago this week. Early in the relicensing process for FERC Projects 1417 and 1835 - the hydroelectric projects of Central Nebraska Public Power and Irrigation District (or Central) and Nebraska Public Power District (or NPPD) - environmental organizations, with the backing of the U.S. Fish and Wildlife Service, attempted to require the districts to release water stored for irrigation, supposedly to benefit endangered species.

Before the order was stayed 80,000 acre feet of water was dumped and to this day no benefits to the species were ever shown.

This example is not an extreme. It is exactly what Fish and Wildlife is demanding now as we work on the Cooperative Agreement, a process born out of the FERC projects license settlements.

In theory the process looks good. Spread the costs to protect habitat for endangered species among three states and the federal government. Instead of one endless consultation after another on hundreds of projects, we will have one consultation to cover all of them. Instead of blindly releasing water and protecting undefined habitat, we will have a program based upon an incremental approach using adaptive management to evaluate our activities before we make errors.

But that was the theory. NWU has grown concerned about the promises made. The very word "cooperative" has become suspect as time and again a part of the deal brokered by the governing committee of the Cooperative Agreement would be undone by low level Fish and Wildlife persons. "Cooperative" to the Service apparently means "my way."

For example recently a new "mitigation" was introduced that calls for adding sediment to the river. Not only was Nebraska being asked to provide 130,000 acre feet of water and 10,000 acres of habitat, now the ridiculous idea of adding thousands and thousands of tons of sand to the river each year had been introduced.

Needless to say there has been no peer review of the shoddy science that led to this faulty conclusion. The Service pushed ahead with this deal because the program they designed appeared in their modeling to actually harm the habitat because the "new" water they were adding might remove sediment for sandbars and affect the river channel.

This brings me to my next point and that is the exact purpose of a Cooperative Agreement or any endangered species program. I have always believed the purpose was to help the species. But, it appears that in the Central Platte, the purpose is to gain power through control of water and land.

The evidence is everywhere. Every spring 500,000 Sandhill cranes use the river and their numbers have increased since the 1960s. Yet of the 150 whooping cranes that migrate a few weeks later, and never more than a handful of them land on the Platte, we don't seem to have enough habitat. How can that be when the Service uses Sandhill habitat as a surrogate for the whoopers?

The Platte River is the only river for which the Service has developed target flows. It doesn't seem to matter that the flows desired by the Service decrease the habitat for whooping cranes in every bridge segment but two by making the water too deep.

Another example is the piping plover. The only place that piping plovers have nested west of Columbus (roughly 50 miles downstream from here) in the last 10 years is on sandpits created by the gravel industry, even though hundreds of natural sandbars exist. Yet the Service has proposed critical habitat for this bird throughout this entire reach - specifically excluding the only areas the birds use, the sand pits.

Gentlemen, the system that we have now related to administering the ESA is broken. I don't believe that what we experience in central Nebraska is what Congress intended.

I am a farmer. I live on the land and I love to watch birds and wildlife. I favor protecting endangered species. I want my children to appreciate and respect nature. I believe that habitat that is truly critical for a species should be protected IF it does not unduly harm private individuals.

I do not believe you should designate over 100 miles of river where the birds do not nest - especially when the very goal is habitat improvement. I do not believe that the law should be evaded by federal agencies, that the public be excluded from participating, or that incomplete data and opinions be used as fact and as the basis for extending regulation.

Thank you.

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