

**PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM**  
**Attachment 5**  
**Section 10**

**Federal Depletions Plan**  
**for the Platte River Recovery Implementation Program**

**December 7, 2005**

**1. Purpose**

The purpose of the Federal Depletions Plan is to describe the approach for offsetting or preventing the impacts of new water related activities on the occurrence of target flows and on the effectiveness of the Program in reducing shortages to target flows for certain new water related activities which are a federal agency responsibility to offset.

**2. Background**

Key elements of the Program include depletion plans to ensure that new depletions to target flows (species and annual pulse flows) in the central Platte River (i.e., those resulting from new or expanded uses begun on or after July 1, 1997) will be offset, replaced, or prevented. Plans intended to help achieve this objective have been developed by the states of Nebraska, Wyoming, and Colorado. However, for certain types of federal activities the states' depletion plans do not provide water to replace the new depletion. This means that some new federal projects, specifically, those providing primarily a "national benefit" as opposed to benefits accruing primarily to local water users within a state, will not be covered in full or in part by the states' new depletion plans. Therefore, this Federal Depletions Plan will address some of the new depletions that will be deemed a federal agency responsibility.

The Federal Depletions Plan was developed by the DOI in coordination with other federal agencies involved in land and water management activities in the Platte River basin. Discussions with a number of these agencies and solicitation of relevant information was initiated on October 17, 2001, in a meeting at the FWS regional office in Lakewood, Colorado. In January 2004, a draft of this Plan was distributed to the federal agencies listed in Table 1, and their comments on this Plan were requested and are reflected in the table.

**3. Definitions**

**Federal Depletion**

An existing or new water related activity (as defined in the Program Document) implemented by federal agencies that primarily provide a "national benefit" to the general public as opposed to benefits accruing primarily to local water users within a state. In cases where an environmental project of "national benefit" is implemented by a state agency with some federal participation (e.g., federal cost-sharing), any new depletions resulting from that project will be a federal

responsibility in proportion to the extent to which the cost of establishing and maintaining that project is provided by federal funds and personnel.

#### New Depletion

A depletion to target flows (FWS species and annual pulse flows) in the Platte River caused by new water related activities (as defined in the Program Document) begun after July 1, 1997.

#### New Federal Depletion

A new depletion which is partially or solely a federal agency responsibility to address. Typically, these are water-related activities for which the associated water rights are held by a federal government agency for a national benefit.

### **4. Categories of Known or Anticipated New Federal Depletions**

General categories of known or anticipated New Federal Depletions likely to be provided ESA compliance under this plan have been identified to the extent possible (Table 1). Examples of new water related activities that would be considered primarily a national benefit in scope include, but are not necessarily limited to, the following:

- New water storage facilities, impoundments, and consumptive water uses at National Wildlife Refuges, Waterfowl Production Areas, and National Fish Hatcheries;
- New consumptive water uses at National Forests, Parks, Monuments, and Historic Sites, including recreational, habitat improvement, administrative, and emergency uses; and
- New depletions associated with activities at federal facilities which provide benefits that are primarily national in scope, such as national defense, national security, or national research and development activities (e.g., Rocky Mountain Arsenal; National Renewable Energy Laboratory; Rocky Flats).

There may be other future projects where the classification of the new depletion (“federal” or “non-federal” responsibility) is not obvious. In such cases, final classification of the project will be made by the FWS in coordination with the Platte River Governance Committee. However, each state retains the right to determine whether the activity may be covered by that state’s plan.

### **5. Scope of the Federal Depletions Plan**

The scope of the Federal Depletions Plan is to cover relatively small new federal depletions associated with the operation, management, and improvement of federal lands and federal facilities providing primarily national benefits to the general public.

### **6. Water Related Activities Outside the Scope of the Federal Depletions Plan**

This Plan does not address “the impacts, including channel stability, of past and future vegetation management” by the U.S. Forest Service (USFS) in the Platte River basin.<sup>1</sup> Such impacts will be

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<sup>1</sup> It is the position of the Forest Service that changes to water yield from forested landscapes resulting from the natural variability of the forest condition are not federal actions and do not constitute depletions that require

the subject of further research and analysis during the First Increment of the Program as described in Attachment B of this plan (December 2, 2005 letter from Rick D. Cables, Regional Forester to Dale Strickland, Executive Director, Platte River Endangered Species Partnership).

This Plan is not intended to cover large new federal depletions (e.g., federal depletions measured in thousands of acre-feet per year) that could be associated with new or enlarged reservoirs, large well fields, large surface water diversions, or other large-scale activities. Those will be covered through measures developed under separate ESA Section 7 consultation.

This Plan is not intended to address water conservation activities implemented on privately-owned agricultural lands in the Platte River basin that may result in new depletions. It will remain the responsibility of federal agencies to initiate Section 7 ESA consultation with FWS for such federal actions that are likely to result in new depletions to the Platte River, including water and land conservation activities.

## **7. Procedure for Addressing New Federal Depletions**

### 7.1 ESA Section 7 Consultation Requirements

Section 7 (a)(2) of the ESA requires federal agencies to consult with the Secretary of the Interior to ensure their actions are not likely to jeopardize federally-listed (threatened or endangered) species or adversely modify or destroy designated critical habitat. Consultation is required if a federal action may affect federally listed species or designated critical habitat. Adoption of a Platte River Recovery Implementation Program does not change this legal requirement.

New federal depletions may be covered by the Program's Federal Depletions Plan when the federal agency consults under Section 7 of the ESA, quantifies the new federal depletion, and agrees to participate in the Program. Attachment A of this plan describes the consultation process for water related activities and Federal Depletions.

If a federal agency chooses to not participate in the Program/Federal Depletions Plan then the FWS will request the agency to replace the new federal depletion to the extent necessary to (1) be consistent with the Program Agreement, and (2) mitigate the impacts of the new federal depletion on the occurrence of target flows and on the effectiveness of the Program in reducing shortages to target flows, consistent with Section III.E.3 of the Program Document. Such replacements shall occur in the same state in which the new federal depletion occurs, or the responsible agency shall use other acceptable methods as agreed to by the FWS and the Governance Committee.

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consultation under Section 7(a)(2) or any other provisions of the Endangered Species Act. Several entities represented on the Governance Committee do not agree with this position taken by the Forest Service.

## 7.2 Extent of New Federal Depletions Addressed by the Federal Depletion Plan

This Plan may serve as a mechanism for providing ESA coverage for a maximum 1,050 acre-foot/year of new federal depletions after July 1, 1997 and the end of the First Increment, measured in terms of average annual reductions in target flows. These reductions will be quantified at the Colorado-Nebraska state line (if the project is in the South Platte basin above this line), at the Colorado-Wyoming state line (if the project is in the North Platte basin above this line), at the Wyoming-Nebraska state line (if the project is in the North Platte Basin in Wyoming above this line), or at the uppermost point in the South Platte, North Platte, or mainstem Platte River above Chapman where the project's aggregate impact on flows can be quantified (if the project is in Nebraska). For purposes of quantifying flow reductions, water tracking and accounting procedures adopted for the corresponding state plans will be applied.

Each state has agreed to work with the DOI and cooperating federal agencies in the process of securing up to 350 acre-feet of water annually, if needed, to offset new federal depletions within the state in a manner consistent with the respective state's Depletion Plan. Such assistance could include making water that is available for offset purposes to non federal parties under that state's Depletion Plan also available to federal agencies that are responsible for new federal depletions. If such water is made available and if the federal agency initiating the new federal depletion decides to offset its new federal depletion in that manner, the federal agency is to reimburse the appropriate parties the proportionate cost of the project providing the offset water or is to do whatever else is required of other parties using water from the same offset source. Replacement timing and location will be consistent with state plans, and the replacement responsibility is to be commensurate with the new federal depletion occurring.

At such time that a proposed activity is determined to result in new federal depletions that cumulatively exceed the 1,050 acre-foot/year threshold, this Plan will not be available for purposes of ESA compliance for new federal depletions in excess of this total. In such an instance FWS and the activity's proponent can consider amendments that will allow this Plan to provide ESA compliance for the activity, as provided in Section III.E of the Program Document. The development of any such amendments will include an evaluation of impacts (if any) to peak flows in the central and lower Platte River.

## 7.3 Method of Determining Responsibilities for Offsetting, Replacing, or Preventing New Federal Depletions

Requirements for the replacement of new federal depletions using the Federal Depletions Plan are as follows:

1. New federal depletions will be replaced in the same state in which they occur, or use other acceptable replacement locations as agreed to by the Governance Committee.
2. New federal depletions will be quantified as follows:

- a) In general, the same tools, methods, and procedures used to determine new depletions and the required offsets according to the states' plans, including timing of replacements, will apply in determining and replacing new federal depletions.
- b) The extent to which the proposed activity creates or increases shortages to the occurrence of target flows and on the effectiveness of the Program in reducing shortages to target flows relative to pre-July 1,1997 conditions will be determined and the quantity, timing, and location of the new federal depletion to target flows will be offset.
- c) Lag times and conveyance loss between the site of the new depletion and the state line (if in Colorado or Wyoming) or the Platte River at Grand Island, Nebraska (if in Nebraska) will be estimated using the same tools and methods adopted for the corresponding state's depletions plan.

For example, for new federal depletions associated with activities in **Colorado**, the transit loss factors utilized in Colorado's New Depletions Plan would be applied to estimate the effects at the Colorado-Nebraska state line. For activities in **Nebraska**, the Cooperative Hydrology Study (COHYST) models and other tools used to implement Nebraska's New Depletions Plan will be used to estimate depletive impacts and to determine the required offsets. For activities in **Wyoming**, depletions will be routed to the Wyoming-Nebraska state line using the methods identified in Wyoming's Depletions Plan.

#### 7.4 Options for Mitigating, Offsetting or Preventing New Federal Depletions

If the federal agency elects to participate in the Program and rely of the Federal Depletions Plan, they will have several options for addressing the new federal depletions for which the agency is responsible, as listed below.

1. **Replace the new federal depletion by permanently retiring an equivalent federal depletive activity.**  
For example, if the creation or expansion of ponds on a national wildlife refuge in the Platte basin results in new federal depletions, FWS would have the option of ceasing activities at the same or a different site to partially or fully fulfill its obligation to offset the federal depletive impacts. Documentation sufficient to demonstrate the quantity, timing, and location of the proposed offsetting activity would be an essential requirement.
2. **Provide funding to the appropriate parties to ensure that offsetting measures will be implemented consistent with the applicable state depletion plan, as necessary to offset the new federal depletion.**  
Provided there is concurrence on the part of the state in which the new federal depletion will occur, the federal agency would have the option of providing annual funding in the amount necessary to ensure replacement of this water or offsetting of its depletive effects consistent with the corresponding state's new depletion plan. Federal agency reimbursements would be proportionate to their share of offsetting water from the corresponding state project. For example, should Wyoming choose to establish a "water

bank” as part of its program for offsetting Platte depletions, the federal agency may be given the option, at Wyoming’s discretion, of paying Wyoming or the Program to offset the new federal depletion by means of this water bank strategy.

**3. Replace the new federal depletion through other means.**

If the federal agency is unable or elects not to replace the depletion through cessation of another consumptive water use or through coordination with a state depletion plan, other means of replacing the depletion may be acceptable. For example, a commitment to lease the requisite quantity of augmentation water from a private entity in the same state may be an acceptable alternative, provided that (1) this activity is determined to satisfactorily offset new depletions to Program target flows in quantity, timing, and location, (2) it is determined to satisfactorily offset new depletions in accordance with Section III.E.3 of the Program Document.

7.5 Monitoring of Section 7 Consultations and Federal-Nexus Depletions

The accurate and timely identification, accounting, and tracking of new federal-nexus projects that cause depletions is an integral component of the Program. This includes identifying and accounting for new federal depletions. The FWS will develop a system to monitor the status of federal-nexus depletions throughout the Platte River basin as Section 7 consultation is conducted. For each federal-nexus depletion, this system will include information on:

- The responsible federal agency (*i.e.*, the agency consulting with FWS);
- The project name, operator, and cooperators if applicable;
- The date of the action;
- The amount of the depletion at the project site;
- The offsetting obligation (*i.e.*, lagged depletion at the replacement site after transit losses are taken into account);
- The category of depletion (new, existing, federal, state, private non-Program, etc.)
- The location and starting date of the depletion;
- The method used to offset the new depletion, and the status of the action taken (for example, if a “fair share” payment is being made under the state depletion plan, when was the requisite fee last paid?).

A summary report will be derived from this project tracking and accounting system and provided to the Governance Committee on an annual basis.

**8. Impacts to Peak Flows**

The Program requires full offset of any anticipated increases in shortages to Program target flows, as Program target flows are defined in Attachment 5, Section 11 of the Program Document. With regard to the larger and less frequent peak flows identified by the FWS as desirable for maintenance of habitat conditions in the central and lower Platte River (see also Attachment 5, Section 11), it is the position of the FWS to minimize reductions in the magnitude and frequency of these flows due to new activities in the basin, while recognizing that some

reductions may be necessary in order to implement the re-regulation or other activities necessary to achieve Program goals.

It is assumed that new projects having the potential to significantly affect peak flows in the central and lower Platte River will necessarily include a storage component, and it is reasonable to assume that such projects therefore will have a federal nexus (*e.g.*, require a Section 404 permit). Thus, future ESA section 7 consultation with the FWS is highly probable in cases where significant impacts to peak flows may occur, whether they result in a new federal depletion or a new non-federal depletion.

No major new storage facilities (*e.g.*, with storage capacities measured in hundreds of acre-feet or more) to serve national benefit/federal uses are anticipated in the Platte River basin during the First Increment. However, federal facilities storing relatively modest quantities of water (for example, new ponds on national wildlife refuges) are likely during the First Increment.

### **9. Known and Anticipated New Federal Depletions Occurring After July 1, 1997**

Table 1 identifies known and anticipated New Federal Depletions occurring since July 1, 1997. This matrix was developed by the Department of the Interior by soliciting information about known and anticipated water-use activities in the Platte River basin from the identified federal agencies.

While an attempt has been made to identify all possible new federal depletions of significance, this summary is necessarily limited by currently available information and by imperfect knowledge of future activities. Moreover, it is possible that federal agencies not included in Table 1 (for example, the Department of Defense) may create depletions that would be a federal responsibility to address. Nevertheless, the information gathered to date and summarized in Table 1 suggests that the anticipated magnitude of cumulative new federal depletions in the Platte River basin from July 1, 1997 through the end of the First Increment of the Program will likely be in the range of a few hundred acre-feet or less.

**Table 1. Estimated New Federal Depletions**

Agency	Example Activities of “Federal Scope”	Example Activities Not Considered to be of “Federal Scope”	Estimated New Federal Depletions Since 1997	Planned/Reasonably Foreseeable Additional New Federal Depletions	Background/Baseline Information Provided by/ Available from Agency
<p><b>U.S. Army Corps of Engineers</b></p>	<p>None identified.</p>	<ul style="list-style-type: none"> <li>- Flood control &amp; water supply</li> <li>- Environmental restoration</li> <li>- Section 404 permitting</li> </ul>	<p>None.</p>	<p>None anticipated.</p> <p>“We do not believe we have any planned or foreseeable activities that could be defined as Federal depletions for strictly Federal needs.”</p>	<ul style="list-style-type: none"> <li>- Booklet describing Corps assistance activities: <i>Civil Works: Technical Assistance, Project Implementation, and Emergency Management Programs</i></li> <li>- Omaha District Home Page: <a href="http://www.nwo.usace.army.mil/html/pdp/CivWeb.htm">www.nwo.usace.army.mil/html/pdp/CivWeb.htm</a></li> <li>- Contact: Bob Nebel, (402) 221-4621.</li> </ul>
<p><b>U.S. Bureau of Land Management</b></p>	<p>Spring developments, Wells, and Small reservoirs/ ponds, including stock ponds and tanks, to the extent that the above activities involve water rights held by BLM.</p> <p>- Creating new wetlands or enhancing existing wetlands</p>	<p>Externally-initiated authorized user activities. For example, oil and gas development (drilling and related land reclamation activity)</p> <p>- Restoring historic wetlands</p>	<p><u>In Colorado:</u>  <b>31.6 AF/yr</b> associated with new reservoirs at the Hebron Slough Wildlife Area.  <b>6.0 AF/yr</b> associated with 9 spring developments and 15 wells.</p> <p><u>In Wyoming:</u>  <b>5.6 AF/yr</b> associated with stock watering ponds and 1 well (estimated; this number not yet confirmed)</p>	<p><u>In Colorado:</u>  <b>15 to 100 AF/yr</b> by the end of 13 years related to livestock and wildlife water development activities, primarily in the North Platte basin.</p> <p><u>In Wyoming:</u>  107 AF total (<b>8.2 AF/yr</b>) by the end of 13 years associated with “strictly federal” spring developments, wells, and small reservoirs and ponds.  2.3 AF total (<b>0.2 AF/yr</b>) by the end of 13 years associated with resolution of a trespass violation.  13 AF total (<b>1.0 AF/yr</b>) by the end of 13 years associated with oil and gas well drilling and land reclamation.</p>	<p><u>In Colorado:</u>  1997, 1998, 1999, and 2000 Depletion Reports.</p> <p>Contact: Jay Thompson, (303) 239-3724.</p> <p><u>In Wyoming:</u>  May 2002 memorandum from Wyoming Deputy State Director.</p> <p>Contact: Mark Gorges, (307) 775-6100.</p>
<p><b>U.S. Bureau of Reclamation</b></p>	<p>Some environmental restoration activities.</p>	<ul style="list-style-type: none"> <li>- Water service contracts</li> <li>- Water conservation activities</li> <li>- Most environmental restoration activities (e.g., establishment</li> </ul>	<p>None.</p>	<p>None.</p> <p>“We have not identified any specific future Federal depletions associated with Reclamation activities in the Platte River basin that are strictly Federal in scope”.</p>	<p>Contact: Gary Davis, (406) 247-7717.</p>

		and restoration of wetland & riparian habitats).			
<b>U.S. Department of Veteran's Affairs</b>	Operation of National Cemeteries, including lawn irrigation, ponds, etc.		None identified.	None identified to date.	John Reiker, National Cemetery Administration, (303) 914-5711.
<b>USDA Natural Resources Conservation Service</b>	None identified.	- Farm impoundments - Grade stabilization - On-farm conservation programs	None identified.	"The NRCS does not anticipate any Federal projects that will have a significant impact on flows in the Platte River" ... "we will consult with USFWS on any individual planned projects that may result in depletions of greater than 25 acre feet. However ... [we] are not aware of any planned NRCS-assisted projects that would exceed 25 acre-feet depletion per year." [FWS note: all applicable activities resulting in new depletions, whether less than or greater than 25 AF/year, will be subject to ESA consultation]	Contact: Richard Van Klaveren, Regional Conservationist, Lincoln, Nebraska. (402) 437-5315.
<b>U.S. Department of Energy</b>	Decommissioning & closure of Rocky Flats Environmental Technology site.	None identified.	None identified.	To be determined for Rocky Flats using the Site-wide Water Balance (SWWB) Model. Anticipated to be <b>less than 25 AF/yr</b> by the end of 13 years, and possibly zero. [FWS note: all applicable activities resulting in new depletions, whether less than or greater than 25 AF/year, will be subject to ESA consultation]	- <i>SWWB Model Report for the Rocky Flats Environmental Technology Site</i> , May 2002 - Contact: John Stover, (303)966-9735
<b>U.S. Environmental Protection Agency</b>	None identified.	None identified.	None identified.	"We ... have made the determination that the Environmental Protection Agency Region 8 does not have any water-related depletion activities in our programs."	Contact: Carol Campbell, (303) 312-6340.
<b>U.S. Fish &amp; Wildlife Service</b>	- Water storage and use at national wildlife refuges, waterfowl	- Federal Aid programs which primarily benefit local	<b>10.2 AF/year</b>	To be determined as they occur. Total federal new depletions during the First Increment are anticipated to total <b>less</b>	"Inventory of USFWS Water-Related Operations in the Platte River Basin and Documentation of

	production areas, and fish hatcheries	communities (e.g., ponds at city parks)  - Partners for Fish & Wildlife-funded activities or other similar activities implemented on private lands (e.g., stream rehabilitation and wetland restoration on private lands)	associated with new wells at the Funk Waterfowl Production Area (Nebraska), at the Saratoga Fish Hatchery (Wyoming), and at the Black-Footed Ferret Facility (Colorado)  <b>5.0 AF/year</b> associated with new ponds at the Arapaho National Wildlife Refuge (Colorado).	<b>than 200 AF/yr</b> , including the following locations and activities:  - <b>Arapaho National Wildlife Refuge (NWR)</b> , Colorado: new ponds with approximately 12 acre-feet of storage capacity and approximately 14 AF/yr of net new depletions are anticipated. - <b>Rainwater Basin Waterfowl Production Area (WPA)</b> , Nebraska: Additional well drilling and/or water impoundments for wetland maintenance may occur in the next 13 years. - <b>Rocky Mountain Arsenal NWR</b> , Colorado: New supply wells, ponds or wetland impoundments may be established on this site. - <b>Wetland Habitat Improvement Program Projects</b> : No new major depletions (>25 AF/yr) are anticipated. Since July 1997, minor new depletions associated with these projects have accrued at a rate of about 10 AF/year.  <i>No</i> new water-depleting activities are anticipated at the following facilities: - <b>Bamforth NWR</b> (Wyoming) - <b>Black-Footed Ferret Facility</b> (Colorado) - <b>Crescent Lake NWR</b> (Nebraska) - <b>Hutton Lake NWR</b> (Wyoming) - <b>Mortenson Lake NWR</b> (Wyoming) - <b>North Platte NWR</b> (Nebraska) - <b>Pathfinder NWR</b> (Wyoming) - <b>Saratoga National Fish Hatchery</b> (Wyoming) - <b>Two Ponds NWR</b> (Colorado)	Pre-1997 Conditions”, October 2001. (This document identifies the pre-1997 “baseline” information available for each wildlife refuge and WPA, against which future water consumption comparisons may be made).  Contact: Don Anderson, (303) 236-4484.
<b>U.S. Forest Service</b>	Forest-Service-initiated water uses, including: -	Externally-initiated authorized user activities. For	In process of tabulating. Estimated <b>less than</b>	To be determined as they occur. Because the rate of new depletions associated with the identified “federal	Pre-1995 “historic” federal-scope USFS minor depletions documented in the <i>Programmatic</i>

	Recreation/campground uses - Species habitat improvement projects - Administrative sites - Emergency actions (wildfire, etc.)	example: - Permitted pipelines and ditches - Permitted reservoirs and ditches - Permitted recreational activities	<b>1 AF/yr</b> total since 1997.	scope” activities in recent decades have occurred at the rate of less than 0.2 AF/yr annually, total federal new depletions during the First Increment of the Program are likely to be <b>less than 3 AF/yr</b> at the end of 13 years. Presumes that there will be no new Forest Service-initiated reservoirs established during this period.	<i>Biological Assessment for Minor Water Depletions (9/25/95)</i> and supplement document. Since that date, individual forests have been documenting new depletions, and the USFWS has been tracking totals. Contact: Director Physical Resources or Director, Renewable Resources (303) 275-5350.
<b>U.S. National Park Service</b>	- Water use at National Parks, National Monuments, and National Historic Sites.	None identified.	None.	To be determined as they occur. Total federal new depletions during the First Increment are anticipated to total <b>less than 10 AF/yr</b> , including the following locations and activities:  <b>Fort Laramie National Historic Site</b> (Wyoming): Up to <b>6 AF/yr</b> associated with construction of a new maintenance facility and new well. <b>Rocky Mountain National Park</b> (Colorado): No new depletions anticipated. There are no plans to modify existing dams nor construct new campgrounds or other facilities requiring new depletions. <b>Scotts Bluff National Monument</b> (Nebraska): No new depletions anticipated.	Letters provided by: <ul style="list-style-type: none"> <li>• Valery Naylor (Superintendent, Scotts Bluff National Monument)</li> <li>• George Helfrich (Superintendent, Fort Laramie National Site), and</li> <li>• Anthony Schetzle (Acting Superintendent, Rocky Mountain National Park). Contact: Karl Cordova, 970-586-1258.</li> </ul>

**NOTE:** The above summary represents USFWS interpretation of information provided by these federal agencies. These agencies may or may not concur with the summary information as presented here. The nature and quantity of new depletions and potential coverage under this Plan ultimately will be determined at the time that ESA Section 7 consultations occur.

**Attachment A**  
**General Schematic of ESA Section 7 Consultation Process**  
**for Water Related Activities and Federal Depletions**

This document illustrates how, with a Program in place, water related activities subject to Section 7(a)(2) consultation will proceed through the consultation process and how the Federal Depletions Plan relates to that process. Projects involving both “new” and “existing” water related activities will proceed on dual pathways during the consultation process. The streamlined process outlined in the schematic may be used to address effects to the target species if the applicant elects to participate in the Program. Effects to other (non-target) listed species also will be separately addressed, as needed, during consultation on that activity.

The bold text for each box as explained below corresponds to the wording in the schematic for that box. If nothing other than the wording in the schematic appears in this document, the wording in the schematic is considered to be self-explanatory. The various steps, or boxes, have been numbered to aid the discussion. However, the numeric order does not imply any sequence of steps. The steps in the schematic are:

Box 1) **Platte River Basin Water-Related Activity.** A Platte River basin water-related activity. Proceed to box 2.

Box 2) **Is Section 7 Consultation Required?** If so, proceed to box 4. Otherwise, proceed to box 3 (stop).

Box 3) **Stop.** Section 7 consultation is not required.

Box 4) **FWS notifies applicable State of Federal Action subject to Section 7 consultation.** FWS will notify each State as federal agencies initiate actions subject to Section 7 consultation within a State, and provide annual reports to the Governance Committee on completed consultations. (See section 7.5 Monitoring of Section 7 Consultations and Federal-Nexus Depletions in the Federal Depletions Plan.) Proceed to box 5.

Box 5) **Is it a New or Existing water related activity?** If it is an existing activity, proceed to box 6. If it is a new activity, proceed to box 8.

Box 6) **If applicant elects to participate in the Program, the existing water related activity can be covered by the Program. Otherwise, consultation is completed without relying on the Program.** Once section 7 consultation for an activity’s effects to listed species is initiated with the FWS, effects to the target species by existing activities can be offset by participating in the Program. Effects to other (non-target) listed species are also addressed, as needed, during consultation on that activity. Proceed to box 7 (participate in Program), otherwise, proceed to box 13 (complete consultation outside of Program).

Box 7) **Federal agency and Governance Committee notified that Program covers the project. FWS completes a streamlined consultation for effects to target species. Stop.** A

"streamlined" consultation is one where: a) the federal action agency determines a project may affect listed species and initiates ESA consultation with the Service, b) the effects to the target species and their critical habitats had been analyzed in the programmatic EIS and programmatic biological opinion, and c) the Program's actions or Depletion Plans can be used as ESA compliance measures for that project's effects to the target species in the Platte River basin and their critical habitats in Nebraska. Other listed species, if any, must also be addressed during consultation.

Box 8) **Is a State Depletion Plan Applicable?** If so, see the applicable schematic for the applicable State Depletion Plan. Otherwise, proceed to box 9.

Box 9) **Can the Federal Depletions Plan be used?** The depletions covered by the Federal Depletions Plan are those associated with new water related activities (as defined in the Program Document) implemented by federal agencies that primarily provide a “national benefit” to the general public as opposed to benefits accruing primarily to local water users within a state. The Federal Depletions Plan can be used to address some or all of the new depletions that will be deemed a federal agency responsibility to offset. The scope of the Federal Depletion Plan is to cover relatively small new federal depletions associated with the operation, management, and improvement of federal lands and federal facilities providing primarily national benefits to the general public. The scope of the programmatic biological opinion includes approximately 350 acre-feet of federal depletions within each of the three states. If the Federal plan can be used, proceed to box 10. If the project is beyond the scope of the Federal Plan, then determine whether an amendment of the plan to include the new water related activity can be done, which would be subject to Governance Committee approval of the modified plan (box 11).

Box 10) **Federal Agency provides depletion analysis to FWS and State.** The federal agency consulting with the Service is responsible for providing a project description of the proposed federal action, including information describing the proposed depletions to waters (surface and ground) that supply flow to the Platte River. The necessary information is identified in a Biological Assessment. Meetings and discussions to define the project depletions will generally include the federal agency, Service, and the State. Proceed to box 12.

Box 11) **Can the Federal Depletions Plan be amended to cover the Federal Depletion, including concurrence by the Governance Committee?** If yes, proceed to box 10 (Depletion Analysis), otherwise, section 7 consultation is conducted outside of the Program (box 13). Stop.

Box 12) **Can replacement water for the Federal Depletion be obtained with State's assistance?** Each state has agreed to work with the DOI and cooperating federal agencies in the process of securing up to 350 acre-feet of water annually, if needed, to offset new federal depletions within the state in a manner consistent with the respective state's Depletion Plan. See section 7.2 Extent of New Federal Depletions Addressed by the Federal Depletion Plan. If State assistance is possible, proceed to box 14. Otherwise, the federal agency may still participate in the Program by finding replacement water on its own (box 15)

Box 13) **Section 7 consultation completed outside of the Program. Stop.** If the Federal Depletion is outside of the scope of the Federal Depletions Plan (box 9), and the Federal plan cannot be amended to address the depletion (box 11), then consultation is completed outside of the Program. Stop.

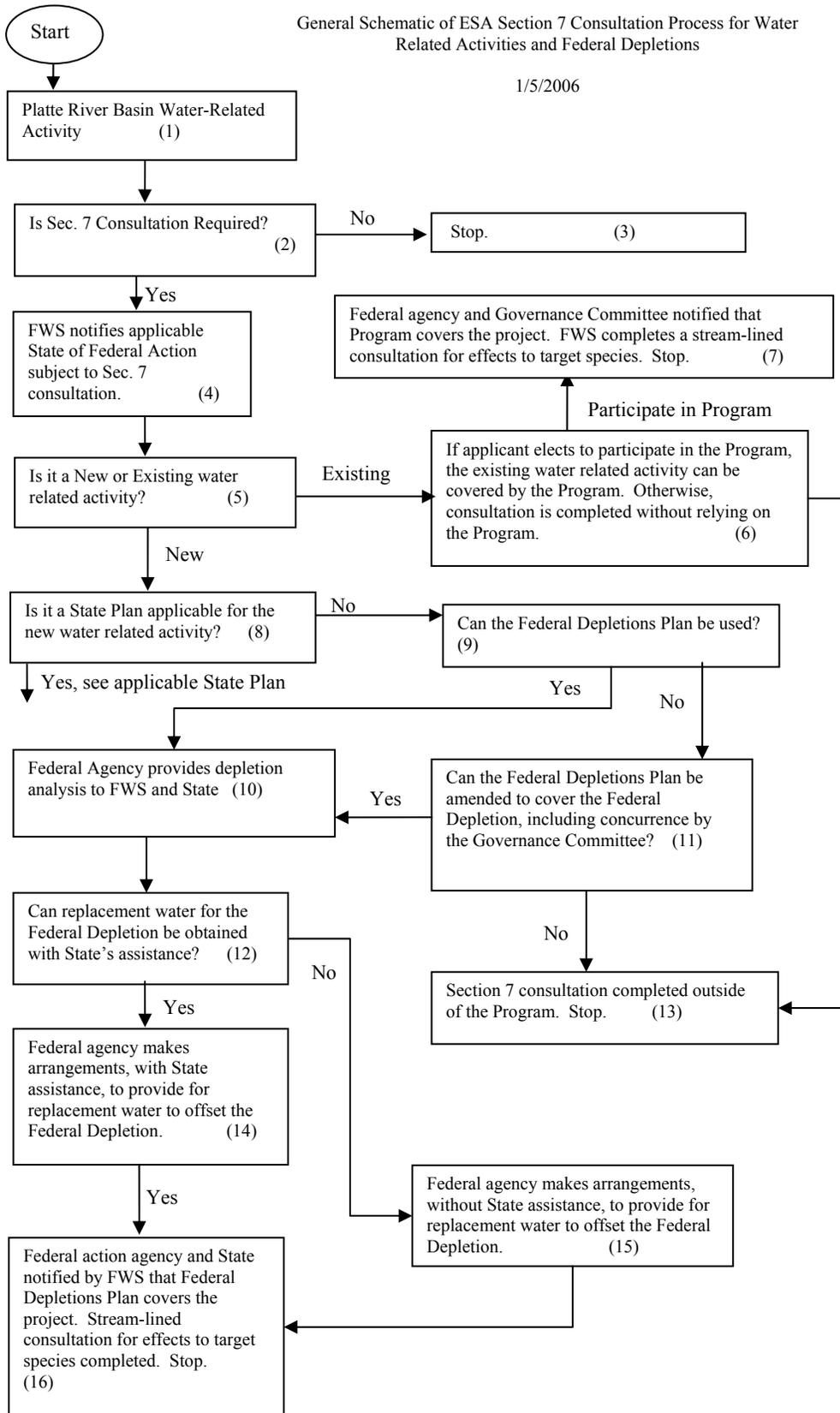
Box 14) **Federal agency makes arrangements, with State assistance, to provide for replacement water to offset the Federal Depletion.** Proceed to box 16.

Box 15) **Federal agency makes arrangements, without State assistance, to provide for replacement water to offset the Federal Depletion.** Proceed to box 16.

Box 16) **Federal action agency and State notified by FWS that Federal Depletions Plan covers the project. Stream-lined consultation for effects to target species completed.** Effects to other (non-target) listed species are also addressed, as needed, during consultation on that activity.

General Schematic of ESA Section 7 Consultation Process for Water Related Activities and Federal Depletions

1/5/2006





United States  
Department of  
Agriculture

Forest  
Service

Rocky  
Mountain  
Region

**ATTACHMENT B**

P.O. Box 25127  
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Delivery: 740 Simms Street  
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**File Code:** 2500/2670

**Date:** December 2, 2005

Dale Strickland  
Executive Director  
Platte River Endangered Species Partnership  
2003 Central Avenue  
Cheyenne, WY 82001

Dear Mr. Strickland and Members of the Governance Committee:

I understand that after many years of hard work under the framework of the July 1997 Cooperative Agreement, a Recovery Program for endangered species on the central Platte River may soon be in place.

One issue that was investigated as part of the development of the Recovery Program is the relationship between forest condition and water yield on forested lands in the Platte River Basin. The Forest Service was able to make substantial contributions to understanding this issue in the Platte River Basin, and provided data and funding towards the completion of two reports that were used in the NEPA analysis for the development of the Recovery Program.

It is clear that the relationship between forest condition and water yield will continue to be important to understanding and evaluating the effectiveness of the Recovery Program as the first increment is implemented. As the manager for a significant proportion of the forested lands in the Platte River Basin, the Forest Service will continue to manage National Forest System lands to include support for goals of the Recovery Program. We will continue to aggressively manage for healthy forest conditions, consistent with the National Forest Management Act, and using tools available under the Healthy Forest Restoration Act, the Healthy Forest Initiative, and other Forest Service programs and authorities. We will also continue to provide data and analysis towards a more complete understanding of the relationships between forested landscapes and water yield.

In addition to being responsive to questions and concerns as they arise during the implementation and evaluation of the first increment of the Recovery Program, the Forest Service will be moving forward with the following specific contributions:

1. Actively participate in the implementation of the Federal Depletions Plan, and consult separately on any depletions which are not covered by the Federal Depletions Plan.
2. Track Forest Service vegetation management activities (timber harvest and fuels treatment) in the Platte River Basin on an annual basis. Analyze changes to water





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yield from these activities on a five-year basis, or more frequently if needed to evaluate the effectiveness of the first increment of the Recovery Program.

3. Conduct an analysis for the South Platte Basin parallel to the May 2003 report: "Impact of Forest Service Activities on the Stream Flow Regime in the Platte River" (Troendle, Nankervis, and Porth). This study is anticipated to be completed by September, 2006.
4. Work with the Governance Committee to conduct a renewed basin-wide analysis of water yield from National Forests in the Platte River Basin, using the most currently available vegetation data, at least once in twenty years or one year prior the end of the first increment, whichever occurs first, or as may be agreed to in writing by the Forest Service and the Governance Committee. In addition, this analysis will include a comparison with the 1997 basin-wide water yields modeled in the May 2003 report by Troendle, Nankervis, and Porth, and in the report from item #3 (above), and a projection into the future for at least one program increment.
5. Analyze the predicted changes in water yield from the 2003 North Platte study and the planned 2006 South Platte study to determine when the simulated effects of the forest regrowth, if actualized, would be reflected in stream gage data, using the reference gages identified in Troendle et al (2003). This analysis is anticipated to be completed by December, 2006.
6. Work with the Governance Committee, the USGS, and the NRCS to ensure that the reference stream flow and precipitation monitoring sites identified in Troendle et al, 2003, remain in operation.
7. Provide support to the National Academy of Sciences study titled: "The Hydrologic Impacts of Forest Management", which has been contracted by the Department of the Interior.
8. Work on an ongoing basis with the Water Management Committee to determine what additional studies may be needed to inform these issues, and develop appropriate timeframes for funding, contracting, and completing any needed studies.

The development of the Platte River Recovery Program is an important achievement. The Forest Service is committed to contributing to the successful implementation of the first increment of the Program.

Sincerely,

/s/ Rick D. Cables



RICK D. CABLES  
Regional Forester

cc:

Russell George  
Executive Director  
Colorado Department of Natural Resources  
Ann Bleed  
Acting Director  
Nebraska Department of Natural Resources  
Mike Besson  
Director  
Wyoming Water Development Commission  
Ralph Morgenweck  
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