

MEMORANDUM**DATE:** October 11, 2021**TO:** Nebraska Public Power District and U.S. Fish and Wildlife Service**C:****FROM:** Ben Bainbridge
Biologist**SUBJECT:** 128143 NPPD R-Project HCP Updates Discussion**MESSAGE**

The list below presents a section-by-section review of potential updates to the Nebraska Public Power District (NPPD) R-Project Habitat Conservation Plan (HCP). This list is for discussion purposes only. Individual topics will be further discussed with the U.S. Fish and Wildlife Service (Service) during the NPPD R-Project Incidental Take Permit application process. The HCP Table of Contents is attached for comparison.

Potential Updates to HCP

- HCP Section 1.2.1 – R-Project Purpose and Need
 - **New Information:** Update with new information on outages and diesel generators to demonstrate continuing need for the Project.
- 1.4 – Permit Area
 - **Discussion Topic:** Whether to update Permit Area to exclude Hwy 83 or revise approach to allow different treatment of certain portions of the Permit Area to account for differences in survey results.
 - **New Information:** Six consecutive years of survey with no ABB captured in Hwy 83 area.
- 1.6.1 – Federal Endangered Species Act
 - **New Information:** Update to include description of ABB 4(d) rule
- 2.4.5 – Access for Construction
 - **Discussion Topic:** Whether to treat overland travel as a Covered Activity. NPPD would redefine access as “New,” “Improve Existing,” or “Existing” instead of the three access scenarios used in the original HCP.
 - **New Information:** The Service has indicated on previous conference calls that overland travel may result in take by crushing individuals that are buried beneath leaf litter but not fully buried in the soil. In this scenario, all access within the Permit Area that is not currently an existing road would be included as a Covered Activity. This approach may be inconsistent with the 4(d) rule’s limitation of prohibited incidental take to that which results from “soil disturbance,” as that term is defined in the rule.

- 2.8 – Covered Activities
 - **Discussion Topic:** Update Covered Activities based on 2.4.5.
- GENERAL – Update Nebraska Natural Heritage Program data for 2021. Was last received in 2015.
- 3.2.1 – American Burying Beetle
 - **New Information:** Update with our survey data for 2019, 2020, and 2021.
- 3.3.1 – Whooping Crane
 - **New Information:** Update with latest population surveys from wintering grounds.
- 3.3.2 – Interior Least Tern
 - **New Information:** Remove. Species was delisted.
- 3.3.4 – Bald Eagle
 - **New Information:** Update with latest survey information from 2019 and 2020. Surveys not conducted in 2021 due to COVID and no construction activities. Potentially include 2022 surveys if conducted.
- 3.3.11 – Western Prairie Fringed Orchid
 - **Discussion Topic:** Orchid surveys last completed in known occupied areas in 2018. Would more surveys, such as clearance surveys immediately before construction, be required?
- 4.0 – Potential Effects to Evaluated Species
 - **Discussion Topic:** Update acres in Table 4-1 for potential access changes. If treated as a Covered Activity, overland travel would no longer be separated out. All access would be New, Improve Existing, or Existing.
- 4.1 – Whooping Crane
 - **Discussion Topic:** Update to collision models.
 - **New Information:** Update to the collision model developed by J. Skorupa using updated collision, population, mortality, and transmission miles data. Preliminary results suggest reduced uncertainty. May affect adaptive management.
- 4.2 – Interior Least Tern
 - **New Information:** Remove. Species was delisted.
- 5.1 – American Burying Beetle
 - **Discussion Topic:** Changes to access and Permit Area. See above.
 - **New Information:** Update Table 5-1 for potential access changes.
 - **New Information:** Update Table 5-1 for potential acreage changes if Permit Area is reduced.
- 5.2 – Estimated Take of Covered Species
 - **Discussion Topic:** Several issues:
 - Method for estimating ABB take
 - Assuming a density-based approach is used, how would that density be calculated? Based on R-Project 2016 – 2021 survey data? Would the density change in some areas based on NPPD’s 2016 – 2021 survey results?
- 5.3 – Anticipated Impacts of the Taking
 - **New Information:** Re-write based on information from 5.2 (see above).
- 6.2.1 – Avoidance and Minimization Measures

- **Discussion Topic:** The Service's current position on ABB avoidance and minimization measures (e.g., use of low-ground-pressure equipment and mowing and carrion removal)
- **New Information:** The Service has indicated it is evaluating its policies regarding ABB avoidance and minimization measures in light of the 4(d) rule.

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