From: Rabbe, Matt
To: Runge, Jeff
Subject: FW: [EXTERNAL] transmission strikes
Date: Tuesday, January 25, 2022 12:22:51 PM

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Rabbe, Matt
Sent: Wednesday, January 19, 2022 3:38 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: RE: [EXTERNAL] transmission strikes

Lots of information in there- thanks for sending.

I don't have additional information so I'd say we can stick with what you have.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, January 19, 2022 3:17 PM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Subject: [EXTERNAL] transmission strikes

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt we are using this document to determine the line strike in North Dakota was a transmission line. Talking with people up there it seems it was one of those places with lots of lines of various sizes so who knows for sure. If you have additional information we could put it with the rest. We did not include the Texas strike as it was a wintering bird that had been in the same area for thirty days or so. Somewhere I have an email from Pearse with that information but I am having a hard

time locating it. Of greater interest is that both occurred at night. I am guessing they got flushed somehow.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Rabbe, Matt
To: Runge, Jeff
Subject: FW: [EXTERNAL] updated whooping sightings
Date: Tuesday, January 25, 2022 12:21:04 PM
Attachments: BLANK_WC data use agreement_2019.pdf

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Rabbe, Matt
Sent: Monday, August 16, 2021 1:24 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: RE: [EXTERNAL] updated whooping sightings

I had updated the data user agreement since the version you signed so if you could review and sign this version and return, I can get you the most updated version.

As for the telemetry data, I'm not real sure. I know USFWS wasn't the entity in charge of managing the data (it might be CWS). Either way, I'm not the one to help out with that. You could start with asking Wade or Aaron but I think Mark Bidwell may be the better contact.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Monday, August 16, 2021 10:40 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Subject: [EXTERNAL] updated whooping sightings

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt,

We are updating the R-Project HCP and in the old one we used I believe a 2017 data set for the opportunistic whooping crane observations. Has that data set been updated since then and if so can we get it?

Also do you know if we can get a limited amount of the more recent radio tracking data like the Program did or was that something special that only they could do.

James Jenniges
Senior Environmental Specialist
Nebraska Public Power District
Office 308-236-2293
Cell 308-627-6732
jjjenni@nppd.com

From:	Rabbe, Matt
To:	Runge, Jeff
Subject:	FW: [EXTERNAL] FW: data use agreement
Date:	Tuesday, January 25, 2022 12:20:48 PM
Attachments:	0598_001.pdf

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, August 24, 2021 3:22 PM
To: matt_rabbe@fws.gov <'matt_rabbe@fws.gov'>
Subject: [EXTERNAL] FW: data use agreement

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt here is the signature page from the data use agreement. I can wait on the updated observational data. However, Joe in his reasonable certain knowledge model used a migration corridor from Pearse et al. 2015, do you have that shapefile? Also do you know how he defined transmission line? When updating the calculation with new collisions do you have any additional data other than that from the original tracking study to update the ratio of powerline strikes to known mortality? Also you mentioned that because the two new strikes were not in Nebraska it lowers the Nebraska ratio. However, the next variable in Joe's equation is to partition out transmission verses distribution collisions and we know both collisions in Nebraska were on distribution lines, so I was wondering how you dealt with that when looking to update the equations. If it is easier we can just discuss some of these things on the phone someday.

From: NPPD Kearney <kea003@nppd.com>
Sent: Tuesday, August 24, 2021 2:52 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Attached Image

From:	Rabbe, Matt
To:	Runge, Jeff
Subject:	FW: [EXTERNAL] FW: data use agreement
Date:	Tuesday, January 25, 2022 12:18:58 PM
Attachments:	WHCR_corridors.sbx WHCR_corridors.shp WHCR_corridors.shp.xml WHCR_corridors.shx WHCR_corridors.cpg WHCR_corridors.dbf WHCR_corridors.prj WHCR_corridors.sbn

---

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Rabbe, Matt
Sent: Wednesday, August 25, 2021 3:25 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: RE: [EXTERNAL] FW: data use agreement

Yeah it is definitely what we consider the standard as it is the most recent and was developed using telemetry data and historic public sightings data. See attached. Only caveat is the data as is, contains confidence intervals (CI). Our standard practice is to set the CI to '0' or NIL (I cant remember exactly the instructions I got). This removes those and gives you an actual concrete single line for each different corridor threshold. So if you aren't viewing it with a hard fast 95% or 75% line and instead those are buffered, you'll have to do a query or something to turn that off.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, August 25, 2021 3:14 PM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Subject: RE: [EXTERNAL] FW: data use agreement

Thanks Matt

If the FWS now considers the Pearse et al 2018 corridor the standard do you have a shapefile for that? Joe does not reference the Pearse et al 2018 corridor paper but we will probably want to use that as the most defensible publicly available definition to the corridor. If you do not have that I will

get in touch with Aaron and see if I can get that and at least a number for other mortality that they believe is not power line.

From: Rabbe, Matt <Matt_Rabbe@fws.gov>
Sent: Wednesday, August 25, 2021 2:46 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: RE: [EXTERNAL] FW: data use agreement

This email is from Matt_Rabbe@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

I have no idea what corridor he used but I don't have shapefiles for it. What's odd is Pearse et al., 2018 migration corridor publication was already live and on the streets at the time Joe did his analysis. Reading through the Pearse et al 2015 paper, I don't believe they developed 75%, 95% corridor shapefiles but they did mention the distance from centerline that 80, 95%, etc. of the points were within and compared those numbers to Tacha 2008 migration corridor. Based on all the data released in the Pearse 2015 publication, I believe the maps they have in that publication are the entire corridor of ALL WC telemetry locations.

So, my guess is he either used a larger corridor (100% of telemetry locations) as opposed to the standard (Pearse et al 2018 is the standard), or he used Pearse et al 2018 and mis-labeled the reference in the write up. Joe is probably the only one that could tell us this. I'm going to need to look back over that whole calculation to re-familiarize myself with what things may or may not have changed. As far as data, I'd guess what I have is the same as you (once you get updated public sightings data). As far as updated mortality, it's basically just the book chapter by Pearse (detailed some telemetry mortality) but we don't have any of the rest of the telemetry mortality from the new study other than the 2 strikes we both are aware of. Since we know that more mortalities have occurred (but don't know any details) from phase 2 telemetry, that makes using only the 2 WC strikes problematic as it is heavily biased on what was reported and what we became aware of as opposed to what the telemetry folks have for data.

I'll try and carve out some time next week to go over Joe's calculation and then maybe we can get on a call. You may want to reach out to Joe to see what he used for the migration corridor.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, August 24, 2021 3:22 PM
To: matt_rabbe@fws.gov <'matt_rabbe@fws.gov'>
Subject: [EXTERNAL] FW: data use agreement

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt here is the signature page from the data use agreement. I can wait on the updated observational data. However, Joe in his reasonable certain knowledge model used a migration corridor from Pearse et al. 2015, do you have that shapefile? Also do you know how he defined transmission line? When updating the calculation with new collisions do you have any additional data other than that from the original tracking study to update the ratio of powerline strikes to known mortality? Also you mentioned that because the two new strikes were not in Nebraska it lowers the Nebraska ratio. However, the next variable in Joe's equation is to partition out transmission verses distribution collisions and we know both collisions in Nebraska were on distribution lines, so I was wondering how you dealt with that when looking to update the equations. If it is easier we can just discuss some of these things on the phone someday.

From: NPPD Kearney <kea003@nppd.com>
Sent: Tuesday, August 24, 2021 2:52 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Attached Image

From:	Rabbe, Matt
To:	Runge, Jeff
Subject:	FW: [EXTERNAL] R-Project FW: Figure 3-4
Date:	Tuesday, January 25, 2022 12:16:22 PM
Attachments:	Fig3-4_WhooperUse_20180906.pdf

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Rabbe, Matt
Sent: Tuesday, January 18, 2022 2:58 PM
To: Wade Harrell <wade_harrell@fws.gov>
Subject: FW: [EXTERNAL] R-Project FW: Figure 3-4

Wade- I know this seems like a pass through request (from NPPD through NEFO, through national WC lead, to CWS… but apparently that is what Aaron Pearse told Jim needed to happen. So I'm forwarding this request on with no expectation one way or the other on whether CWS would even entertain this request.

If the request were to be granted and data provided, I'm also not sure whether it would get sent back through us to NPPD or whether they could skip that step and go straight to NPPD.

Please let me know if there is anything else needed from me. I guess I'm simply the messenger here.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, January 18, 2022 11:25 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Porath, Mark T <mark_porath@fws.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] R-Project FW: Figure 3-4

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt,

As we discussed on January 6, NPPD is updating the Habitat Conservation Plan for the R-Project. Attached is a figure from the HCP which shows whooping crane stopover locations. Currently it includes the Historic Sighting Database and the telemetry study which tagged 68 individual whooping cranes from 2009-2014 (Pearse et al. 2019). There is a new whooping crane tracking study that uses different technology that could be used to update this figure and any analysis of stopovers. My understanding is the data from that tracking studying is potentially available at least if the spatial extent of it is limited. To update the figure would require all Nebraska data. NPPD has concerns that limiting it to less then that provides a biased data set. It is also my understanding the data is collected at very short temporal intervals (i.e. 15 minutes) we do not need such extensive data but rather data that is comparable to past definitions of stopovers.

I believe that any data request for the current tracking study need to go through the local field office of the USFWS and the whooping crane coordinator. NPPD is making a request for the data from this latest whooping crane tracking effort that is compatible with past definitions of stopovers for upgrading more current stopover locations. NPPD can take the extensive data set and reduce it to only those points which represent a stopover but we believe we should work with those familiar with the data set for any such data reduction.

If you have any question or need clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 11, 2022 10:28 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Figure 3-4

***** EXTERNAL EMAIL from prvs=8010afc920=ben.bainbridge@powereng.com, USE CAUTION! *****

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [powereng.com]

From:	Rabbe, Matt
To:	Runge, Jeff
Subject:	FW: [EXTERNAL] transmission strikes
Date:	Tuesday, January 25, 2022 12:15:53 PM
Attachments:	2019-20 WHCR Recovery Activities Report_final.pdf

---

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, January 19, 2022 3:17 PM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Subject: [EXTERNAL] transmission strikes

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt we are using this document to determine the line strike in North Dakota was a transmission line. Talking with people up there it seems it was one of those places with lots of lines of various sizes so who knows for sure. If you have additional information we could put it with the rest. We did not include the Texas strike as it was a wintering bird that had been in the same area for thirty days or so. Somewhere I have an email from Pearse with that information but I am having a hard time locating it. Of greater interest is that both occurred at night. I am guessing they got flushed somehow.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From:	Rabbe, Matt
To:	Runge, Jeff
Subject:	FW: [EXTERNAL] data used
Date:	Tuesday, January 25, 2022 12:14:45 PM
Attachments:	crane summary 1-21-2022.xlsx Stehn and strobel-highlighted.pdf

---

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, January 21, 2022 11:48 AM
To: Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Subject: [EXTERNAL] data used

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Joe and Matt,
I have attached a workbook that lays out the mortalities we used in a little different manner, it also has the calculations I used in updating the RCK model in case I got something wrong. I have also attached a copy of Stehn and Harrelson-Strobel 2014 where I highlighted the mortalities we used. It breaks down like this:
Stehn and Harrelson 2014 = 20
Pearse et al 2019= 3
North Dakota line strike 2020 =1
Oklahoma shot 2021= 4
Total = 28

If you want to discuss sometime give me a call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Rabbe, Matt
To: Runge, Jeff
Subject: FW: [EXTERNAL] whooping crane mortality
Date: Tuesday, January 25, 2022 12:14:44 PM

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, January 21, 2022 9:43 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Subject: FW: [EXTERNAL] whooping crane mortality

Matt.

Here is the communication between Aaron and I on if they were getting any better mortality data.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Pearse, Aaron T <apearse@usgs.gov>
Sent: Monday, September 20, 2021 8:05 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Re: [EXTERNAL] whooping crane mortality

This email is from apearse@usgs.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Looks like from our 2020 paper that we had 117 migrations where we were able to estimate the time in migration - we were able to estiamte a starting and ending date. That is the number I would use.

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, September 17, 2021 4:57 PM
To: Pearse, Aaron T <apearse@usgs.gov>
Subject: RE: [EXTERNAL] whooping crane mortality

Thanks Aaron

I take it the 127 is just this data set. Do you have an estimate from the previous study.

From: Pearse, Aaron T <apearse@usgs.gov>
Sent: Friday, September 17, 2021 3:03 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Re: [EXTERNAL] whooping crane mortality

This email is from apearse@usgs.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

We haven't detected any other mortalities in the US migration corridor. We can't tell where coverage is good or bad from where we get locations - so there still is a good chance we have had deaths. The GPS engine collects points at whatever schedule we decide and stores them onboard. At specified intervals, the device tries to 'make a call' - this is not often (once a day or every other) because it costs lots of energy. It is common to hear nothing from a bird for weeks during migration. Once a call is established, we get all the 'old' data from the days it couldn't connect. In the end, there are no gap. The company doesn't keep good records on where the calls originate from (where connections are or are not successful). Other considerations are that cell signal on a wetland (low area) isn't the same as me or you standing up in more upland areas. And, the transmitters only use ATT technology (3G) vs. Verizon (whatever that is). We worked with ducks in the Dakotas recently and didn't hear from some birds until they left for locations south of us. We have good Verizon coverage but not a great ATT.

As of 2020, we had 127 migrations that seem to have been completed successfully.

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, September 16, 2021 8:13 AM
To: Pearse, Aaron T <apearse@usgs.gov>
Subject: RE: [EXTERNAL] whooping crane mortality

Thanks Aaron,

It is actually helpful. Just out of curiosity, have you had many mortalities during the US portion of the migration. I assume a large portion of that has decent cell phone coverage and you can tell where coverage is and is not just by looking at your locations over time. Can you tell me how many completed migration events you have documented without a line strike? I think it could be used as kind of a real world check of calculated strikes since those calculations come with all kinds of uncertainty.

I will see if Matt thinks we need to update the maps with more recent sightings. Since no one has yet to produce a reliable relationship between use near a line and number of strikes, and we don't show use around all lines I personally think those maps create a false impression that use near the proposed line somehow informs potential for collisions. However, people like maps.

From: Pearse, Aaron T <apearse@usgs.gov>
Sent: Wednesday, September 15, 2021 4:03 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Re: [EXTERNAL] whooping crane mortality

This email is from apearse@usgs.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

I can answer your first three inquiries with the same response. We haven't and won't have the ability to do mortality summaries. The current radios work via the cellular network. This technology has great advantages in allowing for more and different location data, but it comes at a cost. If a bird is killed at a site without good cell signal (actually, they need 3 or 4G data transfer signal) we can't identify the mortality. We have had numerous birds 'go offline'. We don't know if they are dead or alive – if they died, we don't know where or the cause. It just so happened that the two line strikes were in good cell coverage. There would be no way to reliably say which of the other offline transmitters were deaths or what the causes were. We might be able to ultimately tell if an offline bird died from additional observations, but we would have no clue where or when it happened. The chapter is the best information we have at this point.

The line strike in TX was during winter. The bird died on 11.26.19. It had been in the general area (roughly a 30-km radius) since 11.01.19.

I'm taking an advisor role in data requests with the FWS and CWS as primary decision makers. Wade's expectation has been that any request for data be coordinated with local Ecological Service Field Offices. Maybe in this case the regional office might be an option. If Wade, the local/regional office, and your organization all agree that new data would be helpful in evaluating the project, Wade would bring the request to the research partnership.

Sorry that I don't have more definitive information,

Aaron

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Monday, September 13, 2021 1:09 PM
To: Pearse, Aaron T <apearse@usgs.gov>

Subject: [EXTERNAL] whooping crane mortality

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Aaron,

We are once again looking at the impacts of the R-Project and revising the HCP. We need to update the estimate of potential whooping crane take that Joe Skorupa did. If you are not familiar with it and want to see it is on the NEFO website. However, the updates that will be of interest are:

1. We know we have had two line strikes (if there are more let me know) but Joe's analysis uses some ratios of line strikes to total mortality and known mortalities that were not line strikes. Have you kept track of total mortality of the radio birds and have you identified the causes of mortality that would allow for those two ratios to be updated?

2. Joe also uses your chapter to show that daily mortality rates are constant across the annual cycle. Have you looked to see if that is holding true with this data set?

3. Have you looked to see if the ratio of post fledge mortality during migration has changed.

4. If you have looked at some of the above did you consider the line strike in Texas to be during winter or during migration?

5. What are the chances of getting stopover site information within some defined distance of the R-Project?

If you have any questions please call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From:	Harrell, Wade
To:	Runge, Jeff
Subject:	FOIA Request (R-line): AEP HCP--Whooping crane memos
Date:	Monday, January 24, 2022 2:15:01 PM
Attachments:	11.29.19 Attachment 3 - Davis peer review.pdf USFWS-Whooping-Crane-Whitepaper-final-w-Attachments.pdf

---

From: Seymour, Megan <megan_seymour@fws.gov>
Sent: Thursday, January 14, 2021 12:43 PM
To: Erin Hudson <ehudson@envsi.com>; Shaun Kline <skline@envsi.com>
Cc: Harrell, Wade <wade_harrell@fws.gov>
Subject: AEP HCP--Whooping crane memos

Erin and Shaun,
Here are the two memo relative to whooping crane that you requested. I checked with the Field Office and these are public documents, it just took me a while to track down the right person with access, and the web link where they should be posted is broken.
Best,
Megan

Megan Seymour
Wildlife Biologist
U.S. Fish and Wildlife Service
Ohio Ecological Services Field Office
4625 Morse Rd., Suite 104
Columbus, OH 43230
614-416-8993 ext. 116 (office)
614-542-7502 (cell)

From: Harrell, Wade
To: Runge, Jeff
Subject: FOIA Request (R-line) Fw: [EXTERNAL] R-Project FW: Figure 3-4
Date: Monday, January 24, 2022 2:12:53 PM
Attachments: Fig3-4_WhooperUse_20180906.pdf

From: Rabbe, Matt <Matt_Rabbe@fws.gov>
Sent: Tuesday, January 18, 2022 2:57 PM
To: Harrell, Wade <wade_harrell@fws.gov>
Subject: FW: [EXTERNAL] R-Project FW: Figure 3-4

Wade- I know this seems like a pass through request (from NPPD through NEFO, through national WC lead, to CWS… but apparently that is what Aaron Pearse told Jim needed to happen. So I'm forwarding this request on with no expectation one way or the other on whether CWS would even entertain this request.

If the request were to be granted and data provided, I'm also not sure whether it would get sent back through us to NPPD or whether they could skip that step and go straight to NPPD.

Please let me know if there is anything else needed from me. I guess I'm simply the messenger here.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, January 18, 2022 11:25 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Porath, Mark T <mark_porath@fws.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] R-Project FW: Figure 3-4

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt,

As we discussed on January 6, NPPD is updating the Habitat Conservation Plan for the R-Project. Attached is a figure from the HCP which shows whooping crane stopover locations. Currently it includes the Historic Sighting Database and the telemetry study which tagged 68 individual whooping cranes from 2009-2014 (Pearse et al. 2019). There is a new whooping

crane tracking study that uses different technology that could be used to update this figure and any analysis of stopovers. My understanding is the data from that tracking studying is potentially available at least if the spatial extent of it is limited. To update the figure would require all Nebraska data. NPPD has concerns that limiting it to less then that provides a biased data set. It is also my understanding the data is collected at very short temporal intervals (i.e. 15 minutes) we do not need such extensive data but rather data that is comparable to past definitions of stopovers.

I believe that any data request for the current tracking study need to go through the local field office of the USFWS and the whooping crane coordinator. NPPD is making a request for the data from this latest whooping crane tracking effort that is compatible with past definitions of stopovers for upgrading more current stopover locations. NPPD can take the extensive data set and reduce it to only those points which represent a stopover but we believe we should work with those familiar with the data set for any such data reduction.

If you have any question or need clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 11, 2022 10:28 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Figure 3-4

***** EXTERNAL EMAIL from prvs=8010afc920=ben.bainbridge@powereng.com, USE CAUTION! *****

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [powereng.com]

From:	Guilliatt, Lynn
To:	Porath, Mark T; Burgess, Angela; Runge, Jeff; Hill, Laurel A
Cc:	Balerud, Carol A.; Hostetler, Bonnie J.; Jenniges, James J.; Linder, Larry D.
Subject:	[EXTERNAL] FW: Request for Proposals (RFP) to Prepare a Supplemental Environmental Impact Statement for an Incidental Take Permit and Associated Habitat Conservation Plan for the Nebraska Public Power District R-Project
Date:	Friday, January 21, 2022 12:21:29 PM
Attachments:	RFP for SEIS - Proposal Document.pdf RFP for SEIS - Appendix A.pdf RFP for SEIS - Appendix B.pdf Potential Contractors .docx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

All,
The subject RFP was sent today to the email addresses listed in the attached Potential Contractors document. I will be sending a Teams Meeting invite for the Contractors' Conference shortly.
If you have any questions, please contact me.
Thanks,

Lynn Guilliatt
Senior Procurement Specialist
Office (402) 563-5350

From: Moore, Lori M. <lmmoore@nppd.com>
Sent: Friday, January 21, 2022 12:09 PM
Subject: Request for Proposals (RFP) to Prepare a Supplemental Environmental Impact Statement for an Incidental Take Permit and Associated Habitat Conservation Plan for the Nebraska Public Power District R-Project

The U.S. Fish and Wildlife Service (USFWS) is currently soliciting proposals for professional services for the preparation of a Supplemental Environmental Impact Statement (SEIS) for an Incidental Take Permit (ITP) application and associated Habitat Conservation Plan (HCP) being revised by the Nebraska Public Power District (NPPD).

A virtual Microsoft® Teams Contractors' Conference will be held by the USFWS and NPPD on **Wednesday, February 2, 2022, beginning at 10:00 am Central Standard Time**. If you will be participating in the Contractors' Conference, please notify NPPD Attention Lynn Guilliatt, Senior Procurement Specialist by email at l1guill@nppd.com and Lori Moore, Procurement Coordinator at lmmoore@nppd.com by 4:00 p.m. on Monday, January 31, 2022, so a link to the meeting can be provided.

The purpose of this conference will be to answer Contractors' questions about the RFP. During the conference, questions will be answered by USFWS and NPPD. Interested Contractors who provide an email address to NPPD and who do not participate in the conference will be notified of any modifications to the RFP.

It is preferred that the Contractor provide questions prior to the Contractors' Conference to the attention of Lynn Guilliatt at the email address noted above.

Proposals should be submitted by noon Central Time on February 17, 2022, by email to both:

U.S. Fish and Wildlife Service	Nebraska Public Power District
Mark Porath	Lynn Guilliatt, Senior Procurement Specialist
mark_porath@fws.gov	l1guill@nppd.com

If you have any questions regarding the RFP, please contact Lynn Guilliatt at l1guill@nppd.com or 402-563-5350.

Thank you,

Lori Moore
Procurement Coordinator
Nebraska Public Power District
1414 15th Street, Columbus, NE 68601
402-563-5691
lmmoore@nppd.com

From: Guillott, Lynn
To: Borath, Mark T; Burgess, Angela; Bunge, Jeff; Hill, Laurel A; Bakeruf, Carol A.; Jenniges, James J.; Linder, Larry D.
Cc: Hoghetter, Bonnie J.
Subject: [EXTERNAL] Contractors" Conference for RFP to Prepare SEIS for an ITP and Associated HCP

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

USFWS and NPPD will hold a virtual Microsoft® Teams Contractors' Conference on February 2, 2022, beginning at 10:00 am Central Standard Time. The purpose of this conference will be to answer Contractors' questions about the RFP. During the conference, questions will be answered by USFWS and NPPD. Interested Contractors who provide an email address to NPPD and who do not participate in the conference will be notified of any modifications to the RFP.

Microsoft Teams meeting

Join on your computer or mobile app

Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__teams.microsoft.com_l_meetup-2Djoin_19-253ameeting-5FZGMzM2NkMGYtMGNlZS00MGZhLWInN2YzZTQ5ZTg3ZTk4ODfv-2540thread.v2_0-3Fcontext-3D-257b-2522Tid-2522-253a-2522432246b-2DBrb72-2D4bdc-2D9960-2Db61a6288d6e1-2522-253c-2522Oid-2522-253a-2522195e3b6a-22fcf73-2D4f9f5-2D867c-2D1b8554ba8209-2522-253d%2DDwMFAg%26v%3DX0KQpHRzn-YFpCcO8ua6Ynjg%26s%3DU66zIFVK-rqUTjydBWQ2vsQ3le6SCRDFOz5hjxAG90GU%26ne%3Dma30ne4ss4TgYvUH0kpZU3OLFxCT2M8fj4dSkTcl_S2q2hEiwf8jNqvss-JeOu_q__%26v%3Dma2ewdDm14BhcLhKG2ih-FFF0JUlc5wvopOv4qEitnRzSDQ%26c%3Dkdata=04%7C01%7Cjeff_range%40fws.gov%7C96c4c5d1445446ec825708d8dd12da44%7C069f3b5ba4b184d7b9341f32400fa5494%7C0%7C0%7C637783895313931003%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=qSZaVxdpFuqEk2vnzs2LSACzcn5uvf0%2FQZ%2FRj0w6BI%3D&reserved=0>

Join with a video conferencing device

531274403@ipt.plcm.vc <mailto:531274403@ipt.plcm.vc>

Video Conference ID: 113 891 574 9

Alternate VTC instructions [dialin.plcm.vc] <https://gcc02.safelinks.protection.outlook.com?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__dialin.plcm.vc_teams_-3Fkey-3D531274403-26conf-3D113891574926u%3DDwMFAg%26c%3DSKGpHRzn-YFpCcO8ua6Ynjg%26v%3DU66zIFVK-rqUTjydBWQ2vsQ3le6SCRDFOz5hjxAG90GU%26ne%3Dma30ne4ss4TgYvUH0kpZU3OLFxCT2M8fj4dSkTcl_S2q2hEiwf8jNqvss-JeOu_q__%26v%3DO5RtPlOKemiaALC5TIBZJkdQA4vcrspOyWS1wzVGZ2SQU%26c%3Dkdata=04%7C01%7Cjeff_range%40fws.gov%7C96c4c5d1445446ec825708d8dd12da44%7C069f3b5ba4b184d7b9341f32400fa5494%7C0%7C0%7C637783895313931003%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=JH6Wo73hQ7vWFdiE5ZOTmV5fgC%3D&reserved=0>

Or call in (audio only)

+1 872-267-6689,,237503149# <tel:+18722676689,,237503149#> United States, Chicago

(877) 276-5253,,237503149# <tel:8772765253,,237503149#> United States (Toll-free)

Phone Conference ID: 237 503 149#

Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__dialin.teams.microsoft.com_fb884dcfa-2D94a6-2D42a2b2-2D0bc3a9490045-3Fsid-3D237503149%26sk%3DDwMFAg%26c%3DSKGpHRzn-YFpCcO8ua6Ynjg%26v%3DU66zIFVK-rqUTjydBWQ2vsQ3le6SCRDFOz5hjxAG90GU%26ne%3Dma30ne4ss4TgYvUH0kpZU3OLFxCT2M8fj4dSkTcl_S2q2hEiwf8jNqvss-JeOu_q__%26v%3DLSL_r9f8WK0Dh7t9FCkw-4on-g-wYTjRTILQanpIvWt%26c%3Dkdata=04%7C01%7Cjeff_range%40fws.gov%7C96c4c5d1445446ec825708d8dd12da44%7C069f3b5ba4b184d7b9341f32400fa5494%7C0%7C0%7C637783895313931003%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=ICSVnwcuZ0TeeoR1YgfzpfE3krzmm1bNLdW9k4S3I2E%3D&reserved=0> | Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__mysettings.lync.com_pstnconferencing_2Ded%3DDwMFAg%26c%3DSKGpHRzn-YFpCcO8ua6Ynjg%26v%3DU66zIFVK-rqUTjydBWQ2vsQ3le6SCRDFOz5hjxAG90GU%26ne%3Dma30ne4ss4TgYvUH0kpZU3OLFxCT2M8fj4dSkTcl_S2q2hEiwf8jNqvss-JeOu_q__%26v%3DCxuIYqqJAp-eOLtTmUdHkIcFTkXgx5d3o3M6UbeRuL%26c%3Dkdata=04%7C01%7Cjeff_range%40fws.gov%7C96c4c5d1445446ec825708d8dd12da44%7C069f3b5ba4b184d7b9341f32400fa5494%7C0%7C0%7C637783895313931003%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=MEoxu3f9kEi644zcUC7mrBteTPgcTABu8frPWqmtKk45%3D&reserved=0>

Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__aka.ms_JoinTeamsMeeting%26sk%3DDwMFAg%26c%3DSKGpHRzn-YFpCcO8ua6Ynjg%26v%3DU66zIFVK-rqUTjydBWQ2vsQ3le6SCRDFOz5hjxAG90GU%26ne%3Dma30ne4ss4TgYvUH0kpZU3OLFxCT2M8fj4dSkTcl_S2q2hEiwf8jNqvss-JeOu_q__%26v%3DD4knMf6POtyrOMxX93kIR4ezEFKBqFp-7tEt6Q7HEuu1%26c%3Dkdata=04%7C01%7Cjeff_range%40fws.gov%7C96c4c5d1445446ec825708d8dd12da44%7C069f3b5ba4b184d7b9341f32400fa5494%7C0%7C0%7C637783895313931003%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=9%2B%2Bnk6a0BKd4INRPTf0Rn5NnF6Ya9YpSGZH4dW3ww%3D&reserved=0> | Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__teams.microsoft.com_meetingOptions_-3FforganizerId-3D195a3b6a-2Dcf73-2D49b5-2D967e-2D16b455ba8209-26tenantId-3D432224688-2Dfb72-2D4bdc-2D9960-2Db61a6288d6e1-26threadId-3D19-5Fmeeting-5FZGMzM2NkMGYtMGNlZS00MGZhLWInN2YzZTQ5ZTg3ZTk4ODfv-40thread.v2-26messageId-3D0-26language-3Den-2DUS%26sdata%3DDwMFAg%26c%3DSKGpHRzn-YFpCcO8ua6Ynjg%26v%3DU66zIFVK-rqUTjydBWQ2vsQ3le6SCRDFOz5hjxAG90GU%26ne%3Dma30ne4ss4TgYvUH0kpZU3OLFxCT2M8fj4dSkTcl_S2q2hEiwf8jNqvss-JeOu_q__%26v%3DBz5OAqTE2LJ6W5FSEsL3mM34VnzNvbYs9KQrrGZ6GE03E%26c%3Dkdata=04%7C01%7Cjeff_range%40fws.gov%7C96c4c5d1445446ec825708d8dd12da44%7C069f3b5ba4b184d7b9341f32400fa5494%7C0%7C0%7C637783895313931003%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=tMX6mAW13OczTU169%2FMkxyNBFM3FvCJ84fCyOf2Rm0P0%3D&reserved=0>

From: ben.bainbridge@powereng.com
To: Runge, Jeff
Cc: Jenniges, James J. (jjjenni@nppd.com)
Subject: [EXTERNAL] ABB avoidance measures
Date: Friday, January 21, 2022 8:26:21 AM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Jeff,
Reviewing my HCP Updates tracking list, I still have Update ABB Avoidance and Minimization Measures on there. Do you have any updates on the FWS ABB document that has been in draft?
Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From:	ben.bainbridge@powereng.com
To:	Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (jjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; ktyrell@west-inc.com; tprebyl@west-inc.com; Skorupa, Joseph; Rabbe, Matt; Brune, Paul E.
Subject:	[EXTERNAL] 1-20-22 Presentation and model excel spreadsheet
Date:	Thursday, January 20, 2022 3:57:54 PM
Attachments:	USFWS-Reasonably Certain Knowledge 1-20-2022.pptx Task3_Attachment_2022-01-19.xlsx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Thank you all for the productive call today. Attached is the presentation and the WEST model excel spreadsheet from today's call for you further use.
Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Bunge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (jijenni@nppd.com); Hostetler, Bonnie J. (bjhostel@nppd.com); Sandi Snodgrass; jkritta@nppd.com; Skorupa, Joseph; Babbe, Matt
Cc: Boyne, Paul E.; Marinovich, Melissa
Subject: [EXTERNAL] NPPD R-Project Recurring Technical Meeting
Start: Thursday, February 17, 2022 1:00:00 PM
End: Thursday, February 17, 2022 3:00:00 PM
Location: Microsoft Teams Meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2F7%2Fmeetup-join%2F19*3ameeting_MzfiNGMxNztNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07ffff05-bf71-4ed8-b274-173ea27956dc*22*2c*22OId*22*3a*22c4d994f0f-74c3-482c-b6ec-6c2d9fd1ed5*22*5d__%3BISUISUISUISUISUISUI!!NPIPZ64uwXcc4w!_dQq50unaX4UlazAFXMkAaaxtZg42VJx8NcB2tMXsUTSchrcDWl37ti-nKOLWG5B550%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31e90a63931c4a7b273608d9dc681e9e%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637783162024817938%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=oEz5UEjfrwZqWkf5Rkh3wtv7aAAY01Qmfo5SPfpOHUEk%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,374125789# <tel:+12089962916,,374125789> United States, Boise
(833) 428-0163,,374125789# <tel:8334280163,,374125789> United States (Toll-free)
Phone Conference ID: 374 125 789#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-0394-44e0-9b0c-c2e2cfd8ced%3Fid%3D374125789__%3B!!NPIPZ64uwXcc4w!_dQq50unaX4UlazAFXMkAaaxtZg42VJx8NcB2tMXsUTSchrcDWl37ti-nKOLICEFeFA%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31e90a63931c4a7b273608d9dc681e9e%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637783162024817938%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=8LBGvDE3%2FWwAuMvOx5G4k%0O9v5kGWLIWoq9K0uw%3D&reserved=0> |
Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPIPZ64uwXcc4w!_dQq50unaX4UlazAFXMkAaaxtZg42VJx8NcB2tMXsUTSchrcDWl37ti-nKOLgfiKTaZv%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31e90a63931c4a7b273608d9dc681e9e%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637783162024817938%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=yZyc%2BDLHOxIIddfqwnlmVATOcezhSPbTBwJgI%2Bs%2B15Tw%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPIPZ64uwXcc4w!_dQq50unaX4UlazAFXMkAaaxtZg42VJx8NcB2tMXsUTSchrcDWl37ti-nKOLHFYXTEMP%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31e90a63931c4a7b273608d9dc681e9e%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637783162024817938%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=sI1DPuWu9563rsUa6lyuqBjcLCOrPiSoNOxffM3ywpQ%3D&reserved=0> | Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fmeeting/options%23%3ForganizerId%3Da8b946f0-74c3-482c-b6ec-6c2d9fd1ed5%26tenantId%3Df07ffff05-bf71-4ed8-b274-173ea27956dc%26threadId%3ID19_meeting_MzfiNGMxNztNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-US__%3B!!NPIPZ64uwXcc4w!_dQq50unaX4UlazAFXMkAaaxtZg42VJx8NcB2tMXsUTSchrcDWl37ti-nKOLfthtdbYU%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31e90a63931c4a7b273608d9dc681e9e%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637783162024817938%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=F%2B38&XLobGJTs%2BTa%2BFULean97hYF2Sjcl1p%2BtWZE%3D&reserved=0>

From:	Hostetler, Bonnie J.
To:	Runge, Jeff; Porath, Mark T; Burgess, Angela; Hill, Laurel A
Cc:	Jenniges, James J.; Ben Bainbridge; "Sandi Snodgrass"; jlcitta@nppd.com; Brune, Paul E.; Guilliatt, Lynn
Subject:	[EXTERNAL] More Current Revised Version of the RFP to Prepare a Supplemental Environmental Impact Statement
Date:	Wednesday, January 19, 2022 3:30:25 PM
Attachments:	RFP for SEIS on Remand 1-19-2022 (USFWS Edits Jan13)(sas).docx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Above is the most current Revised Version of the RFP to Prepare a Supplemental Environmental Impact Statement

I spent some time today working with Lynn Guilliatt, the Senior Procurement Specialist assigned to this RFP Process, to make sure that we had incorporated all of the changes requested by FWS and to catch anything else we missed before. The few changes we made today are shown in red, and we can discuss any of these items on our call tomorrow afternoon, as needed.

On Page 3., there are two new changes. In the first paragraph 2.5 on Page 3, we made NPPD responsible for providing notification of modifications to the RFP to interested Contractors who provide an e-mail address and do not participate in the conference, thinking that this is a routine clerical item in the RFP that USFWS does not need to deal with.

Also, in that same paragraph 2.5 on Page 3, we added three lines that ask the interested Contractors to send Lynn their questions prior to the Contractor's Conference, so we have a heads up on what they will ask, and can work out any answers needed before the actual call. This way we may receive the bulk of the questions before hand, so we are prepared to answer at the time the questions are asked at the meeting.

The last change is on Page 5, under paragraph 4., where USFWS suggested changing the proposal submittal page limit from 50 to 15 for all of the information requested in Sections 4.1 to 4.7, which is the heart of all of the data required in order to evaluate the contractors. In the original RFP, we suggested that the contractors provide the information contained in those same sections in 50 pages, and the five contractors who submitted a proposal, used, 23, 34, 29, 41, and 48 pages. NPPD evaluated all 5 vendors, and if someone in those pages had extra information that the contractor thought was pertinent, we either decided to read and evaluate the data, or determined that it was not necessary to review some section, depending on the value of the extra data to our evaluation. If USFWS wants to limit all data for these sections to 15 pages, then NPPD needs to understand what this means to the individual contractor's proposal. If they have more pages, are they thrown out? If we can easily tell that they didn't get one section in the 15 pages, can we call the contractor and ask them to submit that section. I don't want us to get into a situation where all

contractors have more than 15 pages and we have to throw them all out and start over. Therefore, we thought perhaps if USFWS wants to leave the 15 page limit in the RFP, by cushioning it with a softer lead in phrase of "it is preferred that you use 15 pages", perhaps that would give us the opportunity to get the contractor to add to his proposal for some subject they left out because they were trying to comply with the 15 page requirement. Since USFWS has indicated several times, we want to make sure we find the most qualified contractor, we were trying to write language that would give us some room to ask for some material that the contractor may have not included due to the small page limit.

As soon as USFWS has a date for the Contactor's Conference, Lynn will add the dates into the RFP, and the document is ready to be emailed to the vendors on the vendor list.

From: _ES_ConfScheduling_FWS
To: Hill, Laurel A; Burgess, Angela; Bunge, Jeff; Porath, Mark T; Williams-shuck, Kathryn L; Guerriero, Kristen C
Subject: R-Project Internal Check-in

Internal review and discussion of R-Project Court Remand and next steps discussion prior to meeting with NPPD on 2/3.

Adding Kristen Guerriero from the Solicitor's office - as she may be assisting Kate with R-project issues as we progress with the project.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19%253ameeting_OTJjMGYxN2YtNGUyZi00OTEzL WFlNWQtMWUSNDg3ZmZmMTIz%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%252206693b5ba-4b18-4d7b-9341-f32f400a5494%2522%252c%2522Oid%2522%253a%2522c4bd95f-96e3-46d0-8958-057946ac2486%2522%257d&data=04%7C01%7Cjeff_runge%40fws.gov%7C072b02301fc6f4d8f640108d9db726d22%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637782106764395084%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVC16Mmf0%3D%7C3000&sdata=D2GlF2pYTQwZf6qoJBuMTJFFrRUbFcbQ3ZUz6jQXQuOPY%3D&reserved=0>
On call in (audio only)
+1 202-640-1187,,568256285# <tel:+12026401187,,568256285#> United States, Washington DC
Phone Conference ID: 568 256 285#
Find a local number <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdialin.teams.microsoft.com%2F4e997179-2249-4e53-b877-e71d63c1fc7a%3Ffp%3D568256285&data=04%7C01%7Cjeff_runge%40fws.gov%7C072b02301fc6f4d8f640108d9db726d22%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637782106764395084%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVC16Mmf0%3D%7C3000&sdata=dn3Dq2k0cQo38N1MInskcdtFfSvOfEzl1NBvbAZty0%3D&reserved=0> | Reset PIN <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing&data=04%7C01%7Cjeff_runge%40fws.gov%7C072b02301fc6f4d8f640108d9db726d22%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637782106764551317%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVC16Mmf0%3D%7C3000&sdata=SLeY%2BtNfZ75PpAztv7BCCjkQdX6W6U2EyoceGO6jQ2t3E%3D&reserved=0>
Learn More <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2FJoinTeamsMeetingsLearnMore&data=04%7C01%7Cjeff_runge%40fws.gov%7C072b02301fc6f4d8f640108d9db726d22%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637782106764551317%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVC16Mmf0%3D%7C3000&sdata=VEfnK0ytatCWz8PEzsdFMfT0YrfIVY%2Bck3ATZb%2FrAIxs%3D&reserved=0> |
Meeting options <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fteams.microsoft.com%2Fmeetingoptions%2F%3ForganizerId%3Dc8bf05f-96e3-46d0-8958-057946ac2486a%26tenantId%3D0693b5ba-4b18-4d7b-9341-f32f400a5494%26threadId%3D19_meetup_OTJjMGYxN2YtNGUyZi00OTEzLWFlNWQtMWU5NDg3ZmZmMTIz%40thread.v2%26messageId%3D0%26langtype%3Den-US&data=04%7C01%7Cjeff_runge%40fws.gov%7C072b02301fc6f4d8f640108d9db726d22%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637782106764551317%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVC16Mmf0%3D%7C3000&sdata=17Na3TbImmv4gmz98rC1tGlWibVJYcoU2lIBFkLxV4g%3D&reserved=0>

From:	Jenniges, James J.
To:	Runge, Jeff; Hostetler, Bonnie J.; Porath, Mark T; Burgess, Angela; Hill, Laurel A
Cc:	Ben Bainbridge; "Sandi Snodgrass"; jlcitta@nppd.com; Brune, Paul E.
Subject:	RE: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors
Date:	Wednesday, January 19, 2022 10:18:47 AM

Hello Everyone,

NPPD has tentatively scheduled the Contractor's Conference for the Request for Proposals for early February. NPPD's personnel are available on February 2, 4, and 8, with the conference starting at 10:00 A.M. Central. We would expect the call to last approximately two hours, but could be shorter depending on questions. If these dates do not work for the FWS folks that will attend the conference please provide alternate dates, and NPPD personnel will try and accommodate the dates available for FWS.

I put this link on the agenda for the meeting Thursday but that I figured I would include it here also in response to Jeff's request below. It is where the FWS R-Project documents can be found on NPPD's website.

U.S. Fish & Wildlife Service Permit & Documents (nppd.com)

If anyone has any questions or concerns please give me a call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, January 13, 2022 3:41 PM
To: Hostetler, Bonnie J. <bjhoste@nppd.com>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Citta Jr., Joseph L. <jlcitta@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: Re: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

***** EXTERNAL EMAIL from jeff_runge@fws.gov, USE CAUTION! *****

Hello everyone,

The USFWS reviewed the RFP, and our proposed edits are in the attached document.

One issue within our agency is that we will be using a new web platform sometime near the end of January (if not later). I have checked with our IT department, and the current R-Project webpage will need to be reconstructed. The URL for the new R-Project site will be different from that refenced in the RFP. Is it possible for NPPD to store the final decision documents for the old permit for refence in this RFP? This will help us to avoid any subsequent redirects to the new URL when it is online.

Jeff

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Wednesday, January 5, 2022 6:15 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; jlcitta@nppd.com <jlcitta@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

On Saturday, January 1, 2022 at 10:40 AM, Jim Jenniges sent you all copies of the Request For Proposals (RFP) to Prepare a Supplemental Environmental Impact Statement (SEIS) to cover the Remand Issues, along with Appendix A , Scope of Work, and Appendix B, the Third Party Contractor Agreement with NPPD and the selected Contractor.

I have been working with NPPD Procurement today to create an easier way for everyone to understand what changes have been made to the original Request for Proposals approved by FWS for the preparation of the original EIS.

The first attachment above is a Comparison between the original USFWS-approved RFP for the EIS and the current version of the RFP for the SEIS. All of the changes made to the original RFP used for the EIS are shown in red.

The second attachment is the current draft version of the RFP for the SEIS, which accepted all of the changes made to the original USFWS-approved RFP for preparation of the original EIS. You should now use this version of the RFP for the SEIS to review to finalize the document that will be submitted to contractors to prepare the SEIS.

The third attachment above is the list of potential contractors and contains the added names provided by FWS.

The original Exhibit A, Scope of Work, which was sent to you by Jim on January 1st contains the changes provided by Angela before the holidays.

No changes have been made to the original Appendix B, Third Party Contractor Agreement and the selected Contractor, which was sent to you by Jim on January 1st.

From: Runge, Jeff
To: Marinovich, Melissa; Porath, Mark T
Subject: Re: [EXTERNAL] FW: R-Project western prairie fringe orchid
Date: Wednesday, January 19, 2022 7:49:36 AM

Thank you for keeping us updated on important species information and NPPD's response. We will make sure this gets addressed at one of our upcoming meetings.

Jeff

From: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Sent: Wednesday, January 19, 2022 8:45 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Subject: [EXTERNAL] FW: R-Project western prairie fringe orchid

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

FYI – see Ben's response below regarding WPFO.

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Environmental Review
Email: melissa.marinovich@nebraska.gov

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 18, 2022 4:10 PM
To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: RE: R-Project western prairie fringe orchid

Thank you for the additional info. That is the parcel where we have surveyed several years running so we have a pretty good handle on where the habitat is in relation to project infrastructure. A yard was considered in that vicinity but was dismissed because of wet habitat. That yard is now on upland habitat about 4 miles north on Hwy 11.

We have orchid survey reports from 2015 through 2019. I'm sure they are pretty big files with mapping. I'll arrange a large-file transfer site with our staff assistant and give you a heads up when they are ready for your download.

Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Sent: Tuesday, January 18, 2022 2:56 PM
To: Bainbridge, Ben <ben.bainbridge@powereng.com>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: [EXTERNAL] RE: R-Project western prairie fringe orchid

CAUTION: This Email is from an **EXTERNAL** source. **STOP**. **THINK** before you CLICK links or OPEN attachments.

Hi Ben (and Jim),

I did some more digging into this sighting and it's an expansion of an already identified population in Section 08, T24N, R15W, in Garfield County. Unfortunately, I don't have a landowner name. Looks like these new records, which were reported by some Prairie Plains Research folks this past summer (2021) expand the population into the northwest ¼ of this section. The landowner had mentioned to the Prairie Plains folks that NPPD (or their contractor?) had approached them about using the area as a staging area or a laydown yard. Knowing that this entire section is filled with suitable habitat for WPFO and we have multiple years of records in this area and a stronghold population here, this area should be avoided for any sort of staging, stockpiling, storage, etc. If the project is considering doing micro-siting around this area, it would be beneficial to consider updating survey information for this species in 2022.

And on a side note – I was looking for my files and I have the survey reports for Blowout penstemon, but couldn't find any for WPFO or SWLS. Would you be able to send those to me please? (It's highly likely that Jim sent them to me and I didn't file them and then deleted the email….)

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Environmental Review
Email: melissa.marinovich@nebraska.gov

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>

Sent: Tuesday, January 18, 2022 1:29 PM
To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: R-Project western prairie fringe orchid

Melissa,
On the last R-Project call you mentioned a landowner that had contacted your office regarding western prairie fringed orchid on their property in R-Project disturbance areas. Do you have a location or even a landowner name for that information? We are starting to think about potential surveys for 2022 and that may be something to include.
Thank you,
Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [gcc02.safelinks.protection.outlook.com]

From: Marinovich, Melissa
To: Runge, Jeff; Porath, Mark T
Subject: [EXTERNAL] FW: R-Project western prairie fringe orchid
Date: Wednesday, January 19, 2022 7:45:41 AM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

FYI – see Ben's response below regarding WPFO.

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Environmental Review
Email: melissa.marinovich@nebraska.gov

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 18, 2022 4:10 PM
To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: RE: R-Project western prairie fringe orchid

Thank you for the additional info. That is the parcel where we have surveyed several years running so we have a pretty good handle on where the habitat is in relation to project infrastructure. A yard was considered in that vicinity but was dismissed because of wet habitat. That yard is now on upland habitat about 4 miles north on Hwy 11.

We have orchid survey reports from 2015 through 2019. I'm sure they are pretty big files with mapping. I'll arrange a large-file transfer site with our staff assistant and give you a heads up when they are ready for your download.
Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Sent: Tuesday, January 18, 2022 2:56 PM
To: Bainbridge, Ben <ben.bainbridge@powereng.com>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: [EXTERNAL] RE: R-Project western prairie fringe orchid

CAUTION: This Email is from an **EXTERNAL** source. **STOP**. **THINK** before you CLICK links or OPEN attachments.

Hi Ben (and Jim),

I did some more digging into this sighting and it's an expansion of an already identified population in Section 08, T24N, R15W, in Garfield County. Unfortunately, I don't have a landowner name. Looks like these new records, which were reported by some Prairie Plains Research folks this past summer (2021) expand the population into the northwest ¼ of this section. The landowner had mentioned to the Prairie Plains folks that NPPD (or their contractor?) had approached them about using the area as a staging area or a laydown yard. Knowing that this entire section is filled with suitable habitat for WPFO and we have multiple years of records in this area and a stronghold population here, this area should be avoided for any sort of staging, stockpiling, storage, etc. If the project is considering doing micro-siting around this area, it would be beneficial to consider updating survey information for this species in 2022.

And on a side note – I was looking for my files and I have the survey reports for Blowout penstemon, but couldn't find any for WPFO or SWLS. Would you be able to send those to me please? (It's highly likely that Jim sent them to me and I didn't file them and then deleted the email….)

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Environmental Review
Email: melissa.marinovich@nebraska.gov

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 18, 2022 1:29 PM
To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: R-Project western prairie fringe orchid

Melissa,
On the last R-Project call you mentioned a landowner that had contacted your office regarding western prairie fringed orchid on their property in R-Project disturbance areas. Do you have a location or even a landowner name for that information? We are starting to think about potential

surveys for 2022 and that may be something to include.
Thank you,
Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [gcc02.safelinks.protection.outlook.com]

From: Runge, Jeff
To: Rabbe, Matt; Hill, Laurel A; Burgess, Angela
Cc: Porath, Mark T
Subject: Re: [EXTERNAL] R-Project FW: Figure 3-4
Date: Wednesday, January 19, 2022 7:18:17 AM

Thanks for keeping us on track with whooping crane data needs. Maybe we can discuss the pros and cons in detail during our internal meeting on Feb 8.

February 3 meeting with NPPD is with the Solicitor's Office, so the following meeting would be a good time to discuss. Alternatively, let us know if that could affect the timeliness of the data request, and if so, we can push this up in the schedule.

Jeff

From: Rabbe, Matt <Matt_Rabbe@fws.gov>
Sent: Tuesday, January 18, 2022 4:45 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: FW: [EXTERNAL] R-Project FW: Figure 3-4

NPPD sent the request below to update the attached figure. I talked to Wade and he indicated NEFO would need to write up its own request and generally speaking, they have been willing to provide the data to ES offices. Canadian Wildlife Services is the data manager so Wade would bring the request to CWS. The data would only be used to update the figures. It isn't mortality data- just use data points from cranes that are alive and transmitting. I guess the only thing it could even change is if a new "high use area" is detected that would require additional line marking. However, Wade thought that's unlikely as most everyone that has requested it isn't getting new answers- just confirmation of things we learned in phase 1 telemetry. I can think of pros and cons to going through the effort to obtain this but wanted to see what your thoughts were. We can have a call to discuss if needed. I just wanted to run it by and see if you thought we should request it as it may take some time for CWS to extrapolate an apples to apples data set comparable to phase 1 telemetry (difference between points every 15 minutes and every 6 hours).

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, January 18, 2022 11:25 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Porath, Mark T <mark_porath@fws.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>

Subject: [EXTERNAL] R-Project FW: Figure 3-4

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt,

As we discussed on January 6, NPPD is updating the Habitat Conservation Plan for the R-Project. Attached is a figure from the HCP which shows whooping crane stopover locations. Currently it includes the Historic Sighting Database and the telemetry study which tagged 68 individual whooping cranes from 2009-2014 (Pearse et al. 2019). There is a new whooping crane tracking study that uses different technology that could be used to update this figure and any analysis of stopovers. My understanding is the data from that tracking studying is potentially available at least if the spatial extent of it is limited. To update the figure would require all Nebraska data. NPPD has concerns that limiting it to less then that provides a biased data set. It is also my understanding the data is collected at very short temporal intervals (i.e. 15 minutes) we do not need such extensive data but rather data that is comparable to past definitions of stopovers.

I believe that any data request for the current tracking study need to go through the local field office of the USFWS and the whooping crane coordinator. NPPD is making a request for the data from this latest whooping crane tracking effort that is compatible with past definitions of stopovers for upgrading more current stopover locations. NPPD can take the extensive data set and reduce it to only those points which represent a stopover but we believe we should work with those familiar with the data set for any such data reduction.

If you have any question or need clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 11, 2022 10:28 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Figure 3-4

***** EXTERNAL EMAIL from prvs=8010afc920=ben.bainbridge@powereng.com, USE CAUTION! *****

Ben Bainbridge
Biologist

208-788-0391

208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [powereng.com]

From: Rabbe, Matt
To: Hill, Laurel A; Burgess, Angela
Cc: Porath, Mark T; Runge, Jeff
Subject: FW: [EXTERNAL] R-Project FW: Figure 3-4
Date: Tuesday, January 18, 2022 3:45:21 PM
Attachments: Fig3-4_WhooperUse_20180906.pdf

NPPD sent the request below to update the attached figure. I talked to Wade and he indicated NEFO would need to write up its own request and generally speaking, they have been willing to provide the data to ES offices. Canadian Wildlife Services is the data manager so Wade would bring the request to CWS. The data would only be used to update the figures. It isn't mortality data- just use data points from cranes that are alive and transmitting. I guess the only thing it could even change is if a new "high use area" is detected that would require additional line marking. However, Wade thought that's unlikely as most everyone that has requested it isn't getting new answers- just confirmation of things we learned in phase 1 telemetry. I can think of pros and cons to going through the effort to obtain this but wanted to see what your thoughts were. We can have a call to discuss if needed. I just wanted to run it by and see if you thought we should request it as it may take some time for CWS to extrapolate an apples to apples data set comparable to phase 1 telemetry (difference between points every 15 minutes and every 6 hours).

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, January 18, 2022 11:25 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Porath, Mark T <mark_porath@fws.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] R-Project FW: Figure 3-4

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt,

As we discussed on January 6, NPPD is updating the Habitat Conservation Plan for the R-Project. Attached is a figure from the HCP which shows whooping crane stopover locations. Currently it includes the Historic Sighting Database and the telemetry study which tagged 68 individual whooping cranes from 2009-2014 (Pearse et al. 2019). There is a new whooping crane tracking

study that uses different technology that could be used to update this figure and any analysis of stopovers. My understanding is the data from that tracking studying is potentially available at least if the spatial extent of it is limited. To update the figure would require all Nebraska data. NPPD has concerns that limiting it to less then that provides a biased data set. It is also my understanding the data is collected at very short temporal intervals (i.e. 15 minutes) we do not need such extensive data but rather data that is comparable to past definitions of stopovers.

I believe that any data request for the current tracking study need to go through the local field office of the USFWS and the whooping crane coordinator. NPPD is making a request for the data from this latest whooping crane tracking effort that is compatible with past definitions of stopovers for upgrading more current stopover locations. NPPD can take the extensive data set and reduce it to only those points which represent a stopover but we believe we should work with those familiar with the data set for any such data reduction.

If you have any question or need clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 11, 2022 10:28 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Figure 3-4

***** EXTERNAL EMAIL from prvs=8010afc920=ben.bainbridge@powereng.com, USE CAUTION! *****

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [powereng.com]

From: Marinovich, Melissa
To: Runge, Jeff; Porath, Mark T
Subject: [EXTERNAL] FW: R-Project western prairie fringe orchid
Date: Tuesday, January 18, 2022 2:57:21 PM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

See below for the response that I sent Ben and Jim regarding orchids and R-project.

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Environmental Review
Email: melissa.marinovich@nebraska.gov

From: Marinovich, Melissa
Sent: Tuesday, January 18, 2022 3:56 PM
To: ben.bainbridge@powereng.com
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: RE: R-Project western prairie fringe orchid

Hi Ben (and Jim),

I did some more digging into this sighting and it's an expansion of an already identified population in Section 08, T24N, R15W, in Garfield County. Unfortunately, I don't have a landowner name. Looks like these new records, which were reported by some Prairie Plains Research folks this past summer (2021) expand the population into the northwest ¼ of this section. The landowner had mentioned to the Prairie Plains folks that NPPD (or their contractor?) had approached them about using the area as a staging area or a laydown yard. Knowing that this entire section is filled with suitable habitat for WPFO and we have multiple years of records in this area and a stronghold population here, this area should be avoided for any sort of staging, stockpiling, storage, etc. If the project is considering doing micro-siting around this area, it would be beneficial to consider updating survey information for this species in 2022.

And on a side note – I was looking for my files and I have the survey reports for Blowout penstemon, but couldn't find any for WPFO or SWLS. Would you be able to send those to me please? (It's highly likely that Jim sent them to me and I didn't file them and then deleted the email….)

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Environmental Review
Email: melissa.marinovich@nebraska.gov

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 18, 2022 1:29 PM
To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: R-Project western prairie fringe orchid

Melissa,
On the last R-Project call you mentioned a landowner that had contacted your office regarding western prairie fringed orchid on their property in R-Project disturbance areas. Do you have a location or even a landowner name for that information? We are starting to think about potential surveys for 2022 and that may be something to include.
Thank you,
Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From: ben.bainbridge@powereng.com
To: ktyrell@west-inc.com; tprebyl@west-inc.com; Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (jjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; jlcitta@nppd.com
Cc: Rabbe, Matt; Skorupa, Joseph; Williams-shuck, Kathryn L; Brune, Paul E.; Marinovich, Melissa
Subject: [EXTERNAL] NPPD R-Project Recurring Technical Meeting
Start: Thursday, January 20, 2022 1:00:00 PM
End: Thursday, January 20, 2022 3:00:00 PM
Location: Microsoft Teams Meeting
Attachments: USFWS-NPPD Meeting summary 1-6-2022.docx
west risk evaluation 01.17.2022.docx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

AGENDA
Review meeting summary from January 6, 2021 – Draft Summary attached
HCP Update List (Previously provided)
Whooping Crane Risk Analysis

* US Fish and Wildlife Service – Reasonably Certain Knowledge

* Additional Data- The final data set can be found in Table 2 of the attached WEST document.
* Update – NPPD will give a presentation

* Modified Approach – WEST Inc.

* Report Attached
* Model – NPPD or WEST will give a presentation

Adding R-Project Documents to NPPD website

* U.S. Fish & Wildlife Service Permit & Documents (nppd.com) [rproject.nppd.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Frproject.nppd.com%2Fproject-status%2Fu-s-fish-wildlife-service-permit-documents%2F__%3B!!NPlPZ64uwXccAw!-
POe4Iq2cvsFA_ZhBQsTMcfqztLTxqpwaCq4i4tdPfffOhj7Ot8c0jBYnuaKjaQlskzoNA%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C518f1064cef2476d518e08d9daadc5bb%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637781262252046819%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=qzwQDIvAkDLPWxNHKZVsWQhJ4LjoMp69gOEy4fRQh2I%3D&reserved=0>

Request for Proposals

* Release Schedule
* Dates for Contractors Conference/Q&A

Discussion of February 3, 2022 call with Solicitor

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07fff05-bf71-4ed8-b274-173ea27956dc*22*2c*22Oid*22*3a*22c8d9640f-7463-482c-b6ec-
fce2d98d1ed3*22*7d__%3BJSUlJSUlJSUlJSUlJSUl!!NPlPZ64uwXccAw!91A41bcTdv9OyU9WNgoCr-
_mtF93vJ5tMmt1OwfHi9fQGwUVGkQQDJC0Q79ZDc51gsA%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C518f1064cef2476d518e08d9daadc5bb%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637781262252202981%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=FHj1nkkxupNdUInSr%2FJZ5HrkMIWfHyfSNh0HIo9TBME%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,374125789# <tel:+12089962916,,374125789>   United States, Boise
(833) 428-0163,,374125789# <tel:8334280163,,374125789>   United States (Toll-free)
Phone Conference ID: 374 125 789#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-c2e2cfdf8cdf%3Fid%3D374125789__%3B!!NPlPZ64uwXccAw!91A41bcTdv9OyU9WNgoCr-
_mtF93vJ5tMmt1OwfHi9fQGwUVGkQQDJC0Q79ZEL1fWlc%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C518f1064cef2476d518e08d9daadc5bb%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637781262252202981%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=S4z99o6smdtCqGX6jg0T1g6869lJTFzd6%2BYZ6blacHI%3D&reserved=0> | Reset PIN
[mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPlPZ64uwXccAw!91A41bcTdv9OyU9WNgoCr-
_mtF93vJ5tMmt1OwfHi9fQGwUVGkQQDJC0Q79ZJZt1Ptk%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C518f1064cef2476d518e08d9daadc5bb%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637781262252202981%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=p1OJJR10K4HbeQ%2FLQPyjR%2B5rQsPvlRX1Lgia%2BTJx8Pc%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPlPZ64uwXccAw!91A41bcTdv9OyU9WNgoCr-
_mtF93vJ5tMmt1OwfHi9fQGwUVGkQQDJC0Q79ZjUWeTXM%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C518f1064cef2476d518e08d9daadc5bb%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637781262252202981%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=hIWMW40d%2FxxeZ30%2F0iHfldA6oyhT91kyDmNoH8h5R78%3D&reserved=0> | Meeting
options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dc8d9640f-7463-482c-b6ec-fce2d98d1ed3%26tenantId%3Df07fff05-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-
US__%3B!!NPlPZ64uwXccAw!91A41bcTdv9OyU9WNgoCr-
_mtF93vJ5tMmt1OwfHi9fQGwUVGkQQDJC0Q79ZJnA_q7A%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C518f1064cef2476d518e08d9daadc5bb%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637781262252202981%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=TxveWU3WjbkoL2JU49naNmQzFHor6%2Bz4BHbb3Tbh%2BeA%3D&reserved=0>

From: Jenniges, James J.
To: Rabbe, Matt
Cc: Porath, Mark T; Ben Bainbridge
Subject: [EXTERNAL] R-Project FW: Figure 3-4
Date: Tuesday, January 18, 2022 10:27:24 AM
Attachments: Fig3-4_WhooperUse_20180906.pdf

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Matt,

As we discussed on January 6, NPPD is updating the Habitat Conservation Plan for the R-Project. Attached is a figure from the HCP which shows whooping crane stopover locations. Currently it includes the Historic Sighting Database and the telemetry study which tagged 68 individual whooping cranes from 2009-2014 (Pearse et al. 2019). There is a new whooping crane tracking study that uses different technology that could be used to update this figure and any analysis of stopovers. My understanding is the data from that tracking studying is potentially available at least if the spatial extent of it is limited. To update the figure would require all Nebraska data. NPPD has concerns that limiting it to less then that provides a biased data set. It is also my understanding the data is collected at very short temporal intervals (i.e. 15 minutes) we do not need such extensive data but rather data that is comparable to past definitions of stopovers.

I believe that any data request for the current tracking study need to go through the local field office of the USFWS and the whooping crane coordinator. NPPD is making a request for the data from this latest whooping crane tracking effort that is compatible with past definitions of stopovers for upgrading more current stopover locations. NPPD can take the extensive data set and reduce it to only those points which represent a stopover but we believe we should work with those familiar with the data set for any such data reduction.

If you have any question or need clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, January 11, 2022 10:28 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: Figure 3-4

*** EXTERNAL EMAIL from prvs=8010afc920=ben.bainbridge@powereng.com, USE CAUTION! ***

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [powereng.com]

From: Runge, Jeff
To: Porath, Mark T; Burgess, Angela; Hill, Laurel A; Skorupa, Joseph; Rabbe, Matt
Subject: Re: [EXTERNAL] R-Project January 20 meeting
Date: Tuesday, January 18, 2022 5:21:34 AM

The risk analysis is saved on our shared drive (see below link). Please use this document for edits or sharing comments with the group.

Jeff

west risk evaluation_01.17.2022.docx

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Monday, January 17, 2022 5:37 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Brune, Paul E. <pebrune@nppd.com>; jlcitta@nppd.com <jlcitta@nppd.com>
Subject: [EXTERNAL] R-Project January 20 meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hello Everyone,
Following is an agenda and attached at the appropriate documents.

AGENDA
Review meeting summary from January 6, 2021 – Draft Summary attached
HCP Update List (Previously provided)
Whooping Crane Risk Analysis

- US Fish and Wildlife Service – Reasonably Certain Knowledge
    - Additional Data- The final data set can be found in Table 2 of the attached WEST document.
    - Update – NPPD will give a presentation
- Modified Approach – WEST Inc.
    - Report Attached
    - Model – NPPD or WEST will give a presentation

Adding R-Project Documents to NPPD website

- U.S. Fish & Wildlife Service Permit & Documents (nppd.com)

Request for Proposals

- Release Schedule
- Dates for Contractors Conference/Q&A

Discussion of February 3, 2022 call with Solicitor

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From:	Hostetler, Bonnie J.
To:	Runge, Jeff; Porath, Mark T; Burgess, Angela; Hill, Laurel A
Cc:	Jenniges, James J.; Ben Bainbridge; "Sandi Snodgrass"; jlcitta@nppd.com; Brune, Paul E.
Subject:	RE: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors
Date:	Thursday, January 13, 2022 3:53:10 PM

Thanks Jeff. We will start working on the RFP. With respect to your questions on the webpage and where we can store documents, I will get the appropriate experienced computer folks to see what we can do on our end.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, January 13, 2022 3:41 PM
To: Hostetler, Bonnie J. <bjhoste@nppd.com>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Citta Jr., Joseph L. <jlcitta@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: Re: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

***** EXTERNAL EMAIL from jeff_runge@fws.gov, USE CAUTION! *****

Hello everyone,

The USFWS reviewed the RFP, and our proposed edits are in the attached document.

One issue within our agency is that we will be using a new web platform sometime near the end of January (if not later). I have checked with our IT department, and the current R-Project webpage will need to be reconstructed. The URL for the new R-Project site will be different from that refenced in the RFP. Is it possible for NPPD to store the final decision documents for the old permit for refence in this RFP? This will help us to avoid any subsequent redirects to the new URL when it is online.

Jeff

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Wednesday, January 5, 2022 6:15 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; jlcitta@nppd.com <jlcitta@nppd.com>; Brune,

Paul E. <pebrune@nppd.com>
Subject: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

On Saturday, January 1, 2022 at 10:40 AM, Jim Jenniges sent you all copies of the Request For Proposals (RFP) to Prepare a Supplemental Environmental Impact Statement (SEIS) to cover the Remand Issues, along with Appendix A , Scope of Work, and Appendix B, the Third Party Contractor Agreement with NPPD and the selected Contractor.

I have been working with NPPD Procurement today to create an easier way for everyone to understand what changes have been made to the original Request for Proposals approved by FWS for the preparation of the original EIS.

The first attachment above is a Comparison between the original USFWS-approved RFP for the EIS and the current version of the RFP for the SEIS. All of the changes made to the original RFP used for the EIS are shown in red.

The second attachment is the current draft version of the RFP for the SEIS, which accepted all of the changes made to the original USFWS-approved RFP for preparation of the original EIS. You should now use this version of the RFP for the SEIS to review to finalize the document that will be submitted to contractors to prepare the SEIS.

The third attachment above is the list of potential contractors and contains the added names provided by FWS.

The original Exhibit A, Scope of Work, which was sent to you by Jim on January 1st contains the changes provided by Angela before the holidays.

No changes have been made to the original Appendix B, Third Party Contractor Agreement and the selected Contractor, which was sent to you by Jim on January 1st.

From:	Runge, Jeff
To:	Jenniges, James J.
Subject:	Re: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors
Date:	Thursday, January 13, 2022 3:45:42 PM

Yes.

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, January 13, 2022 3:54 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

Jeff are those the documents that are on the NEFO website under Programs>>R-Project?

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, January 13, 2022 3:41 PM
To: Hostetler, Bonnie J. <bjhoste@nppd.com>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Citta Jr., Joseph L. <jlcitta@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: Re: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

***** EXTERNAL EMAIL from jeff_runge@fws.gov, USE CAUTION! *****

Hello everyone,

The USFWS reviewed the RFP, and our proposed edits are in the attached document.

One issue within our agency is that we will be using a new web platform sometime near the end of January (if not later). I have checked with our IT department, and the current R-Project webpage will need to be reconstructed. The URL for the new R-Project site will be different

from that refenced in the RFP. Is it possible for NPPD to store the final decision documents for the old permit for refence in this RFP? This will help us to avoid any subsequent redirects to the new URL when it is online.

Jeff

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Wednesday, January 5, 2022 6:15 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; jlcitta@nppd.com <jlcitta@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

On Saturday, January 1, 2022 at 10:40 AM, Jim Jenniges sent you all copies of the Request For Proposals (RFP) to Prepare a Supplemental Environmental Impact Statement (SEIS) to cover the Remand Issues, along with Appendix A , Scope of Work, and Appendix B, the Third Party Contractor Agreement with NPPD and the selected Contractor.

I have been working with NPPD Procurement today to create an easier way for everyone to understand what changes have been made to the original Request for Proposals approved by FWS for the preparation of the original EIS.

The first attachment above is a Comparison between the original USFWS-approved RFP for the EIS and the current version of the RFP for the SEIS. All of the changes made to the original RFP used for the EIS are shown in red.

The second attachment is the current draft version of the RFP for the SEIS, which accepted all of the changes made to the original USFWS-approved RFP for preparation of the original EIS. You should now use this version of the RFP for the SEIS to review to finalize the document that will be submitted to contractors to prepare the SEIS.

The third attachment above is the list of potential contractors and contains the added names provided by FWS.

st

The original Exhibit A, Scope of Work, which was sent to you by Jim on January 1 contains the changes provided by Angela before the holidays.

No changes have been made to the original Appendix B, Third Party Contractor Agreement and the selected Contractor, which was sent to you by Jim on January 1st.

From:	Jenniges, James J.
To:	Runge, Jeff
Subject:	RE: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors
Date:	Thursday, January 13, 2022 2:54:49 PM

Jeff are those the documents that are on the NEFO website under Programs>>R-Project?

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, January 13, 2022 3:41 PM
To: Hostetler, Bonnie J. <bjhoste@nppd.com>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Citta Jr., Joseph L. <jlcitta@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: Re: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

***** EXTERNAL EMAIL from jeff_runge@fws.gov, USE CAUTION! *****

Hello everyone,

The USFWS reviewed the RFP, and our proposed edits are in the attached document.

One issue within our agency is that we will be using a new web platform sometime near the end of January (if not later). I have checked with our IT department, and the current R-Project webpage will need to be reconstructed. The URL for the new R-Project site will be different from that refenced in the RFP. Is it possible for NPPD to store the final decision documents for the old permit for refence in this RFP? This will help us to avoid any subsequent redirects to the new URL when it is online.

Jeff

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Wednesday, January 5, 2022 6:15 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>

Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; jlcitta@nppd.com <jlcitta@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

On Saturday, January 1, 2022 at 10:40 AM, Jim Jenniges sent you all copies of the Request For Proposals (RFP) to Prepare a Supplemental Environmental Impact Statement (SEIS) to cover the Remand Issues, along with Appendix A , Scope of Work, and Appendix B, the Third Party Contractor Agreement with NPPD and the selected Contractor.

I have been working with NPPD Procurement today to create an easier way for everyone to understand what changes have been made to the original Request for Proposals approved by FWS for the preparation of the original EIS.

The first attachment above is a Comparison between the original USFWS-approved RFP for the EIS and the current version of the RFP for the SEIS. All of the changes made to the original RFP used for the EIS are shown in red.

The second attachment is the current draft version of the RFP for the SEIS, which accepted all of the changes made to the original USFWS-approved RFP for preparation of the original EIS. You should now use this version of the RFP for the SEIS to review to finalize the document that will be submitted to contractors to prepare the SEIS.

The third attachment above is the list of potential contractors and contains the added names provided by FWS.

The original Exhibit A, Scope of Work, which was sent to you by Jim on January 1st contains the changes provided by Angela before the holidays.

No changes have been made to the original Appendix B, Third Party Contractor Agreement and the selected Contractor, which was sent to you by Jim on January 1st.

From:	Runge, Jeff
To:	Hostetler, Bonnie J.; Porath, Mark T; Burgess, Angela; Hill, Laurel A
Cc:	Jenniges, James J.; Ben Bainbridge; "Sandi Snodgrass"; jlcitta@nppd.com; Brune, Paul E.
Subject:	Re: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors
Date:	Thursday, January 13, 2022 2:41:16 PM
Attachments:	RFP for SEIS on Remand 12-31-2021 (USFWS Edits Jan13).docx

Hello everyone,

The USFWS reviewed the RFP, and our proposed edits are in the attached document.

One issue within our agency is that we will be using a new web platform sometime near the end of January (if not later). I have checked with our IT department, and the current R-Project webpage will need to be reconstructed. The URL for the new R-Project site will be different from that refenced in the RFP. Is it possible for NPPD to store the final decision documents for the old permit for refence in this RFP? This will help us to avoid any subsequent redirects to the new URL when it is online.

Jeff

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Wednesday, January 5, 2022 6:15 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; jlcitta@nppd.com <jlcitta@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: [EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

On Saturday, January 1, 2022 at 10:40 AM, Jim Jenniges sent you all copies of the Request For Proposals (RFP) to Prepare a Supplemental Environmental Impact Statement (SEIS) to cover the Remand Issues, along with Appendix A , Scope of Work, and Appendix B, the Third Party Contractor Agreement with NPPD and the selected Contractor.

I have been working with NPPD Procurement today to create an easier way for everyone to understand what changes have been made to the original Request for Proposals approved by FWS for the preparation of the original EIS.

The first attachment above is a Comparison between the original USFWS-approved RFP for the EIS and the current version of the RFP for the SEIS. All of the changes made to the original RFP used for the EIS are shown in red.

The second attachment is the current draft version of the RFP for the SEIS, which accepted all of the changes made to the original USFWS-approved RFP for preparation of the original EIS. You should now use this version of the RFP for the SEIS to review to finalize the document that will be submitted to contractors to prepare the SEIS.

The third attachment above is the list of potential contractors and contains the added names provided by FWS.

The original Exhibit A, Scope of Work, which was sent to you by Jim on January 1st contains the changes provided by Angela before the holidays.

No changes have been made to the original Appendix B, Third Party Contractor Agreement and the selected Contractor, which was sent to you by Jim on January 1st.

From: Runge, Jeff
To: Skorupa, Joseph; Rabbe, Matt
Cc: Hill, Laurel A; Burgess, Angela; Porath, Mark T
Subject: R-Project Next Week"s Internal Meeting
Date: Friday, January 7, 2022 6:40:14 AM

Hi Joe and Matt,

There is no need to attend our internal R-Project meeting next Tuesday (Jan 11) as we do not have an updated risk analysis from NPPD.

During yesterday's meeting with NPPD, Matt worked with NPPD to update known whooper mortalities, and now NPPD is updating the risk analysis. We will dedicate the following week (Jan 18) for reviewing the risk analysis.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 216-0384

From:	Rabbe, Matt
To:	Jim Jenniges
Cc:	Runge, Jeff; Porath, Mark T
Subject:	USFWS public sighting database through Spring 21 and a few publications that may be pertinent
Date:	Thursday, January 6, 2022 3:58:32 PM
Attachments:	Central_flyway_WC_sightings_through_Spring_2021_2.cpg Central_flyway_WC_sightings_through_Spring_2021_2.dbf Central_flyway_WC_sightings_through_Spring_2021_2.prj Central_flyway_WC_sightings_through_Spring_2021_2.sbn Central_flyway_WC_sightings_through_Spring_2021_2.sbx Central_flyway_WC_sightings_through_Spring_2021_2.shp Central_flyway_WC_sightings_through_Spring_2021_2.shp.xml Central_flyway_WC_sightings_through_Spring_2021_2.shx Caven et al_2020_trends in WC group sizes.pdf Pearse et al 2020_Heterogineity in migration strategies of WCs.pdf

---

Not sure if the publications will add anything but providing FYI.

Please distribute to anyone at NPPD that needs this. The data user agreement I have with NPPD should be shared with anyone using the data.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From:	Hostetler, Bonnie J.
To:	Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A
Cc:	Jenniges, James J.; Ben Bainbridge; "Sandi Snodgrass"; jlcitta@nppd.com; Brune, Paul E.
Subject:	[EXTERNAL] Comparison of the original RFP for EIS with the Current Version of RFP for SEIS; Current Draft Version of RFP for SEIS Ready for Review; and List of Potential Contractors
Date:	Wednesday, January 5, 2022 5:19:22 PM
Attachments:	RFP EIS to RFP SEIS Compare 010522.docx RFP EIS to RFP SEIS Compare 010522 - Clean.docx Potential Contractors 1-4-2022.docx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

On Saturday, January 1, 2022 at 10:40 AM, Jim Jenniges sent you all copies of the Request For Proposals (RFP) to Prepare a Supplemental Environmental Impact Statement (SEIS) to cover the Remand Issues, along with Appendix A , Scope of Work, and Appendix B, the Third Party Contractor Agreement with NPPD and the selected Contractor.

I have been working with NPPD Procurement today to create an easier way for everyone to understand what changes have been made to the original Request for Proposals approved by FWS for the preparation of the original EIS.

The first attachment above is a Comparison between the original USFWS-approved RFP for the EIS and the current version of the RFP for the SEIS. All of the changes made to the original RFP used for the EIS are shown in red.

The second attachment is the current draft version of the RFP for the SEIS, which accepted all of the changes made to the original USFWS-approved RFP for preparation of the original EIS. You should now use this version of the RFP for the SEIS to review to finalize the document that will be submitted to contractors to prepare the SEIS.

The third attachment above is the list of potential contractors and contains the added names provided by FWS.

The original Exhibit A, Scope of Work, which was sent to you by Jim on January 1st contains the changes provided by Angela before the holidays.

No changes have been made to the original Appendix B, Third Party Contractor Agreement and the selected Contractor, which was sent to you by Jim on January 1st.

From: Burgess, Angela
To: Porath, Mark T; Runge, Jeff; Hill, Laurel A
Subject: R-Project example contractor scoring
Date: Wednesday, January 5, 2022 12:13:31 PM
Attachments: 20210923_NEPA Consultant_Evaluation Scoring Guidance(JRobles).docx

---

Hi All,
Just checked the previous examples other regions shared with us for ranking/scoring proposals received from NEPA contractors. We received 2: 1 attached (the most detailed) and this more general one:

> EVALUATION OF PROPOSALS
> Each proposal will be evaluated according to the following criteria:
> 1. Experience and expertise of the firm's project team in the development of an EIS for habitat-based conservation plans.
> 2. Responsiveness, clarity, and soundness of the firm's approach in developing the EIS for the DBHCP.
> 3. References for the projects of equivalent scope will be consulted to determine the firm's ability to deliver a project on time and within the budget as originally scoped.
> 4. If needed, FWS will interview firms. In the event an interview is required, firms will be required to give a 20-minute presentation followed by approximately 40 minutes of questions by DBBC and FWS officials as well as local stakeholders.

The simplest path forward may be for us to request removal of the percentage values for evaluation in the current RFP, so we have more time to decide exactly how we'd want to evaluate.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Skorupa, Joseph
To: Runge, Jeff
Subject: Re: [EXTERNAL] R-Project January 6, 2022 Agenda
Date: Wednesday, January 5, 2022 10:15:01 AM

Thanks Jeff,

I will pass on tomorrow then as a matter of workload triage. I am trying to closely guard my time this week for another project, but was willing to add the call into my schedule if it was important.

All best,

Joe

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Wednesday, January 5, 2022 10:05 AM
To: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Subject: Re: [EXTERNAL] R-Project January 6, 2022 Agenda

Hi Joe,

Sorry for the confusion. NPPD did not invite you to tomorrow's meeting (1 pm MT) because you had indicated you were not available then. Let me know if your schedule has changed, and I can have NPPD forward the invite for tomorrow. Angela sent invites for internal meetings in preparation for our meeting with NPPD on the 20th.

When looking at the agenda, they will not present their full bird strike evaluation until after tomorrow's meeting, so not a problem if you cannot attend tomorrow. We will continue to prepare for the 20th.

Jeff

From: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Sent: Wednesday, January 5, 2022 10:10 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: [EXTERNAL] R-Project January 6, 2022 Agenda

Hi Jeff,

I don't think I received a calendar invite, if there is an R-Project call today. I see nothing on my calendar.

I don't want to assume it's a call I should be on, but if it is, just wanted to let you know I have no information for it.

I do see R-Project calls on my calendar for the 11th (internal call) and the 20th.

All best,

Joe

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, January 4, 2022 8:42 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Subject: Fw: [EXTERNAL] R-Project January 6, 2022 Agenda

Hello everyone,

The R-Project meetings on January 6 and 20 will focus on whooping cranes. While NPPD has not provided materials for review, they referenced certain sections in the HCP in the below agenda. I have the HCP copied to our shared drive and it can be accessed through the following LINK. It would be helpful to review these sections before our meetings with NPPD.

Looks like it is full speed ahead for the new year.

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, December 30, 2021 5:41 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Cc: Brune, Paul E. <pebrune@nppd.com>; jlcitta@nppd.com <jlcitta@nppd.com>
Subject: [EXTERNAL] R-Project January 6, 2022 Agenda

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Everyone,

Hopefully everyone is having a safe and happy holiday season. There is a pretty short time between when many we get back to work and the meeting on January 6, so I am sending this agenda now. Hopefully that at least gets the topics out for people to see especially as they relate to whooping cranes in case people need to revisit what is in the existing draft HCP. I will also be sending out the RFP if we get a draft from procurement prior to the meeting.

AGENDA

Review meeting summary from November 18, 2021 – Draft Summary attached

HCP Update List (Previously provided and Attached)

Whooping Crane Discussion Topics

- Updated data (HCP Section 3.3.1)
    - Observational
    - Tracking
        - Availability
        - Appropriate use
    - Mortality
- Line marking (HCP Section 4.1)
    - Previous approach in HCP
    - Use in previous and updated collision models
    - Proposed approach for revised HCP
- Habitat assessment (HCP Section 4.1)
    - Previous use in HCP
    - Current relevance
    - Proposed approach for revised HCP
- Adaptive management and changed circumstances (HCP Section 6.5.3)
    - Previous approach in HCP
    - Discussion of appropriate trigger, response, and terminology
- Updated collision-risk model (HCP Section 4.1)
    - Summary of previous modeling efforts
    - Overview of updated model for purposes of discussion at next call

Request for Proposals

- NPPD Process
- Contractors List
- USFWS Review Schedule

As always if anyone has any questions or needs some clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Rabbe, Matt
To: Runge, Jeff
Cc: Porath, Mark T
Subject: RE: [EXTERNAL] R-Project January 6, 2022 Agenda
Date: Tuesday, January 4, 2022 2:45:22 PM

I've reviewed the applicable WC sections of the HCP. It's about exactly as I remember in 2018 and I feel fairly well prepared for the meeting now.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, January 4, 2022 9:43 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Subject: Fw: [EXTERNAL] R-Project January 6, 2022 Agenda

Hello everyone,

The R-Project meetings on January 6 and 20 will focus on whooping cranes. While NPPD has not provided materials for review, they referenced certain sections in the HCP in the below agenda. I have the HCP copied to our shared drive and it can be accessed through the following LINK. It would be helpful to review these sections before our meetings with NPPD.

Looks like it is full speed ahead for the new year.

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, December 30, 2021 5:41 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Cc: Brune, Paul E. <pebrune@nppd.com>; jlcitta@nppd.com <jlcitta@nppd.com>
Subject: [EXTERNAL] R-Project January 6, 2022 Agenda

This email has been received from outside of DOI - Use caution before clicking on

links, opening attachments, or responding.

Hi Everyone,

Hopefully everyone is having a safe and happy holiday season. There is a pretty short time between when many we get back to work and the meeting on January 6, so I am sending this agenda now. Hopefully that at least gets the topics out for people to see especially as they relate to whooping cranes in case people need to revisit what is in the existing draft HCP. I will also be sending out the RFP if we get a draft from procurement prior to the meeting.

AGENDA

Review meeting summary from November 18, 2021 – Draft Summary attached

HCP Update List (Previously provided and Attached)

Whooping Crane Discussion Topics

- Updated data (HCP Section 3.3.1)
    - Observational
    - Tracking
        - Availability
        - Appropriate use
    - Mortality
- Line marking (HCP Section 4.1)
    - Previous approach in HCP
    - Use in previous and updated collision models
    - Proposed approach for revised HCP
- Habitat assessment (HCP Section 4.1)
    - Previous use in HCP
    - Current relevance
    - Proposed approach for revised HCP
- Adaptive management and changed circumstances (HCP Section 6.5.3)
    - Previous approach in HCP
    - Discussion of appropriate trigger, response, and terminology
- Updated collision-risk model (HCP Section 4.1)
    - Summary of previous modeling efforts
    - Overview of updated model for purposes of discussion at next call

Request for Proposals

- NPPD Process
- Contractors List
- USFWS Review Schedule

As always if anyone has any questions or needs some clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com

Phone 308-627-6732

From: Burgess, Angela
To: Williams-shuck, Kathryn L
Cc: Hill, Laurel A
Subject: Re: R-Project Court Remand Discussion
Date: Tuesday, January 4, 2022 10:49:30 AM

Thanks for the heads up, we'll find another time to discuss!

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Williams-shuck, Kathryn L <kate.williams-shuck@sol.doi.gov>
Sent: Tuesday, January 4, 2022 10:48 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>
Subject: Re: R-Project Court Remand Discussion

Just FYI I am in training the entire week of Jan. 24th so we will have to find another day to meet.

Kate Williams-Shuck
Attorney-Advisor
U.S. Department of the Interior
Rocky Mountain Regional Solicitor's Office
755 Parfet Street, Suite 151
Lakewood, CO 80215
Main: 303.445.0610
Direct: 303.445.0597
Cell: 303.842.5877
kate.williams-shuck@sol.doi.gov

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Tuesday, November 23, 2021 7:43 AM
To: Williams-shuck, Kathryn L <kate.williams-shuck@sol.doi.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>

Subject: Re: R-Project Court Remand Discussion

Thanks, Kate. NPPD is chomping at the bit to have a call with you to discuss the remand, but we obviously don't want to schedule that before you have time to review. Given your current workload, generally how long do you think it will be before you have time to read the decision?

(Apologies for that question, I know it's probably impossible to estimate, but had to ask!)

Hope you have a great Thanksgiving.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Williams-shuck, Kathryn L <kate.williams-shuck@sol.doi.gov>
Sent: Saturday, November 20, 2021 4:34 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>
Subject: RE: R-Project Court Remand Discussion

Hi Angela-
Happy to be on a call but nothing will be happening ASAP on my end. I need to read the decision first. I don't think I need anything else. I just need time to read the decision itself.
Thanks,
Kate

Kate Williams-Shuck
Attorney-Advisor
U.S. Department of the Interior
Rocky Mountain Regional Solicitor's Office
755 Parfet Street, Suite 151
Lakewood, CO 80215
Main: 303.445.0610
Direct: 303.445.0597
Cell: 303.842.5877

kate.williams-shuck@sol.doi.gov

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Friday, November 19, 2021 8:17 AM
To: Williams-shuck, Kathryn L <kate.williams-shuck@sol.doi.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>
Subject: R-Project Court Remand Discussion

Hi Kate,
We've been having biweekly calls with NPPD about next steps on updating the R-Project HCP and SEIS. They're proposed to have a call specific to the issues on the court remand ASAP, and they want to make sure we have you on the call. However, prior to scheduling that larger call, we're thinking it would first be good to have an internal call to go over the remand and make sure we're all on the same page.

We'll send a calendar invite for the internal call but given your insane workload, we wanted to check with you - is there anything we can put together in advance of a discussion that would assist you in review? I'm attaching a summary of the court decision, but we can also put together an outline or powerpoint to go over as a group. Let us know if you have any preferences!

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (jjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; jlcitta@nppd.com
Cc: Rabbe, Matt; Brune, Paul E.; Marinovich, Melissa
Subject: [EXTERNAL] NPPD R-Project Recurring Technical Meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

AGENDA
Review meeting summary from November 18, 2021 – Draft Summary attached
HCP Update List (Previously provided and Attached)
Whooping Crane Discussion Topics

* Updated data (HCP Section 3.3.1)

* Observational
* Tracking

* Availability
* Appropriate use

* Mortality

* Line marking (HCP Section 4.1)

* Previous approach in HCP
* Use in previous and updated collision models
* Proposed approach for revised HCP

* Habitat assessment (HCP Section 4.1)

* Previous use in HCP
* Current relevance
* Proposed approach for revised HCP

* Adaptive management and changed circumstances (HCP Section 6.5.3)

* Previous approach in HCP
* Discussion of appropriate trigger, response, and terminology

* Updated collision-risk model (HCP Section 4.1)

* Summary of previous modeling efforts
* Overview of updated model for purposes of discussion at next call

Request for Proposals

* NPPD Process
* Contractors List
* USFWS Review Schedule

____
Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07fff05-bf71-4ed8-b274-173ea27956dc*22*2c*22Oid*22*3a*22c8d9640f-7463-482c-b6ec-fce2d98d1ed3*22*7d__%3BJSUlJSUlJSUlJSUlJSUl!!NPlPZ64uwXccAw!74n-xpRuPxFMBqEUvEQwxSRrc52hNE7-Eh0jrfY0d4HWA93anIlTHRS2POII-uYoEtM%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0ae0e094a7fd4f79d19408d9cfa802f8%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769142786644592%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=xL7Ak4ZqHzhExCGtUGzMw%2F2MaiwzWfmBqTUFhXq%2B9S0%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,374125789# <tel:+12089962916,,374125789> United States, Boise
(833) 428-0163,,374125789# <tel:8334280163,,374125789> United States (Toll-free)
Phone Conference ID: 374 125 789#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-c2e2cfdf8cdf%3Fid%3D374125789__%3B!!NPlPZ64uwXccAw!74n-xpRuPxFMBqEUvEQwxSRrc52hNE7-Eh0jrfY0d4HWA93anIlTHRS2POIIU2WDEtk%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0ae0e094a7fd4f79d19408d9cfa802f8%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769142786644592%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=CnIW9P99gx4otfPqWKXhwOWBwBysQBX933qtHd5Ind4%3D&reserved=0>
| Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPlPZ64uwXccAw!74n-xpRuPxFMBqEUvEQwxSRrc52hNE7-Eh0jrfY0d4HWA93anIlTHRS2POII-WrbrrA%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0ae0e094a7fd4f79d19408d9cfa802f8%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769142786644592%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=iD1rc9Oq8TcpjogOGROeGPlt8MaRPuATDqv7sZ95oRk%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPlPZ64uwXccAw!74n-xpRuPxFMBqEUvEQwxSRrc52hNE7-Eh0jrfY0d4HWA93anIlTHRS2POIImU14u7o%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0ae0e094a7fd4f79d19408d9cfa802f8%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769142786644592%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=WJpXwn9MYCyhsKGKRXNA3tcJ6O4Gkmv2A8eiCrTbO4Q%3D&reserved=0>
| Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dc8d9640f-7463-482c-b6ec-fce2d98d1ed3%26tenantId%3Df07fff05-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-US__%3B!!NPlPZ64uwXccAw!74n-xpRuPxFMBqEUvEQwxSRrc52hNE7-Eh0jrfY0d4HWA93anIlTHRS2POIIrjodnsg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0ae0e094a7fd4f79d19408d9cfa802f8%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769142786644592%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=KLByCvQ4XcAb7YFd7bhxbODeAUpR4cxt9qMRO89O%2Bpo%3D&reserved=0>
____

From: _ES_CorrScheduling_PWS
To: Hill, Laurel S; Burgess, Angela; Burgo, Jeff; Pagels, Mark T; Williams-shack, Kathryn L
Subject: R-Project Internal Check-in

Discussion of court remand and next steps prior to call with NPPD on Feb. 3.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19%253ameeting_OTJjMGYxN2YtNGUyZi00O3TEzL WFlNWQtMWUtNDIyZmZmMTIx%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%2522069fc5ba-4b18-4d7b-9341-f32f400fa5494%2522%252c%2522Oid%2522%253a%2522c4bf05f-96e3-40d9-8958-0579040ac246%2522%257d&data=04%7C01%7Cjeff_runge%40fws.gov%7C87cf6187ebfd343e8d71c08d9cfa55c9%7C0693b5ba4b184d7b9341f32f400fa5494%7C0%7C0%7C637769113387830847%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=4oR4%2BTqlKOo-0v0p9p%2FoAy%2BBwHnbY72VC3gZoqQ%2FY9%3D&reserved=0>
Or call in (audio only)
+1 202-640-1187,,568256285# <tel:+12026401187,,568256285#> United States, Washington DC
Phone Conference ID: 568 256 285#
Find a local number <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ffdafin.teams.microsoft.com%2F4c597179-2249-4e53-b877-e71df63c10c7e%3Fpn%3D568256285&data=04%7C01%7Cjeff_runge%40fws.gov%7C87cf6187ebfd343e8d71c08d9cfa55c9%7C0693b5ba4b184d7b9341f32f400fa5494%7C0%7C0%7C637769113387830868%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=bFE3sFu4BdLDnF0sYJCkdiNVvVNYEkgvE2yHFQCTW9%3D&reserved=0> | Reset PIN <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing&data=04%7C01%7Cjeff_runge%40fws.gov%7C87cf6187ebfd343e8d71c08d9cfa55c9%7C0693b5ba4b184d7b9341f32f400fa5494%7C0%7C0%7C637769113387830868%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=6A0%2FFrQ%2FSB1%2FNh5PCxpA5Y9%2F%2Fxc8VUJ75yZjQz13%2Byjhc%3D&reserved=0> Learn More <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Faka.ms%2FJoinTeamsMeeting&data=04%7C01%7Cjeff_runge%40fws.gov%7C87cf6187ebfd343e8d71c08d9cfa55c9%7C0693b5ba4b184d7b9341f32f400fa5494%7C0%7C0%7C637769113387830868%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=7USQJlFvsMvkUIa9Ho%2B%2Fhkd8CwAPKXQ9EQoCxTZAdFS8%3D&reserved=0> | Meeting options <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fteams.microsoft.com%2Fmeeting/options%2F%3ForganizerId%3Dcc4bf05f-96e3-40d9-8958-0579040ac246%26messageId%3D0693b5ba-4b18-4d7b-9341-f32f400fa5494%26threadId%3D19_meeting_OTJjMGYxN2YtNGUyZi00O3TEzL WFlNWQtMWUtNDIyZmZmMTIx%40thread.v2%26messageId%3D0%26language%3Den-US&data=04%7C01%7Cjeff_runge%40fws.gov%7C87cf6187ebfd343e8d71c08d9cfa55c9%7C0693b5ba4b184d7b9341f32f400fa5494%7C0%7C0%7C637769113387830868%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd9%3D%7C3000&sdata=Ek5ez25%2BmMTo T0WFEE7%2FvIP%2FCHXUEpcQ8oVP9jR%2BGNE%3D&reserved=0>

From: ES_ConfScheduling, FWE
To: Hill, Laurel A; Burgess, Angela; Runge, Jeff; Porath, Mark T; Skorupa, Joseph; Babbe, Matt
Subject: R-Project Internal Check-in

R-Project internal discussions

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19%253ameeting_OTJjMGYxN2YtNGUyZi00OTEzL WFlNWQtMWUSNDg3ZmZmMTIz%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%2522b693b5ba-4b18-4d7b-9341-f324400a5494%2522%252c%2522Oid%2522%253a%2522cffa9f56-96e3-46d9-8958-057946ee248c%2522%2574&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc563fd8131374118f1fc08d9cfa5175f%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769130225858885%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=SJrpsk19QhuHyfEN0qdcjbbrOBx%2FOOQ0DNAxQJuUuHEY%3D&reserved=0>
Or call in (audio only)
+1 202-640-1187,,568256285# <tel:+12026401187,,568256285#> United States, Washington DC
Phone Conference ID: 568 256 285#
Find a local number <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdialin.teams.microsoft.com%2F4c997179-2249-4e53-b877-e7c6f3c1fc7e%3Fsp%3D568256285&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc563fd8131374118f1fc08d9cfa5175f%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769130225858885%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=8g%2ByTVSSKcobnPjcdb3aEJwnIMxPuUpTuZHLKbgbNamg%3D&reserved=0> | Reset PIN <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fmysettings.lync.com%2Fpinconferencingdata&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc563fd8131374118f1fc08d9cfa5175f%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769130225858885%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=t4LkDMaDvIcQRt1WgotRBAOVBNnzxWZ1%2FUgs3YO0%3D&reserved=0>
Learn More <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%3F%2Faka.ms%2FJoinTeamsMeeting&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc563fd8131374118f1fc08d9cfa5175f%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769130225858885%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=YT2swNMcYEIsysGnQnB0N3fzf1XKcoN%2Bvw1Xck A2Mg%3D&reserved=0> |
Meeting options <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dcffa9f56-96e3-46d9-8958-057946ee248c%26tenantId%3D0693b5ba-4b18-4d7b-9341-f324400a5494%26threadId%3D19_meeting_OTJjMGYxN2YtNGUyZi00OTEzL WFlNWQtMWUSNDg3ZmZmMTIz%40thread.v2%26messageId%3D0%26language%3Den-US&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc563fd8131374118f1fc08d9cfa5175f%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769130225858885%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=sfVWvlrHU%2BKIU/64Xumc02KMr1DmhYEr6TFfxG8bg1o%3D&reserved=0>

From: _ES_ConfScheduling, FWS
To: Hill, Laurel A; Burgess, Angela; Runge, Jeff; Porath, Mark T; Skorupa, Joseph; Rabbe, Matt
Subject: R-Project Internal Check-in

Internal R-Project discussions.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19%253ameeting_OTEjMGYxN2YtNGUyZd00OTEzL WFlNWQtMWUSNDg3ZmZmMTIx%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%2522069f3b5ba-4b18-4d7b-9341-f324f00a5494%2522%252c%2522Oid%2522%253a%2522cffe0f5f-96e3-40d9-8958-0579b6ac248a%2522%257d&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc5fbaf25ef7847dcfa3008d9cfa4f100%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769129585972059%7CUnknown%7CTWFpbGZub3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=PC2r1pvjOkak9c%2B1%2FHL4spTqhzc8tPteUmI0DwzCSI%3D&reserved=0>
Or call in (audio only)
+1 202-640-1187,,568256285# <tel:+12026401187,,568256285#>   United States, Washington DC
Phone Conference ID: 568 256 285#
Find a local number <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdialin.teams.microsoft.com%2F4c997179-2249-4c53-b877-e71d83c10c7a%3Fpn%3D568256285&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc5fbaf25ef7847dcfa3008d9cfa4f100%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769129585972059%7CUnknown%7CTWFpbGZub3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=QNt2ZqsubCmGlt3XGrvXHqmtCgH2t%2BLo9ECNB%2FJq%2Fg%3D&reserved=0> | Reset PIN <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc5fbaf25ef7847dcfa3008d9cfa4f100%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769129585972059%7CUnknown%7CTWFpbGZub3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=Jrb5TcGa%2BPfwydZnRKfZOv8AFVF3KU5yuqipYzDtQ%3D&reserved=0>
Learn More <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Faka.ms%2FJoinTeamsMeeting&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc5fbaf25ef7847dcfa3008d9cfa4f100%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769129585972059%7CUnknown%7CTWFpbGZub3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=tr2g1GfZrEfiOdhkgJrpPj90XLXHh%2FGlyb1Zf0aYaAOU%3D&reserved=0> | Meeting options <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fteams.microsoft.com%2Fmeetingin/l/%3Dcffe0f5f-96e3-40d9-8958-0579b6ac248a%26tenantId%3D0693b5ba-4b18-4d7b-9341-f324f00a5494%26threadId%3D19_meeting_OTEjMGYxN2YtNGUyZd00OTEzL WFlNWQtMWUSNDg3ZmZmMTIx%40thread.v2%26messageId%3D0%26language%3Den-US&data=04%7C01%7Cjeff_runge%40fws.gov%7Cc5fbaf25ef7847dcfa3008d9cfa4f100%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637769129585972059%7CUnknown%7CTWFpbGZub3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C3000&sdata=CmYwnf9p6VK7kfjsow%2B4oyRu7FzuUT1PyRoOBWOxlMf%3D&reserved=0>

From:	Porath, Mark T
To:	Rabbe, Matt
Cc:	Runge, Jeff
Subject:	FW: [EXTERNAL] R-Project January 6, 2022 Agenda
Date:	Monday, January 3, 2022 10:18:28 AM
Attachments:	USFWS-NPPD Draft Meeting summary 12-9-2021.docx

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, December 30, 2021 5:42 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Cc: Brune, Paul E. <pebrune@nppd.com>; jlcitta@nppd.com
Subject: [EXTERNAL] R-Project January 6, 2022 Agenda

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Everyone,

Hopefully everyone is having a safe and happy holiday season. There is a pretty short time between when many we get back to work and the meeting on January 6, so I am sending this agenda now. Hopefully that at least gets the topics out for people to see especially as they relate to whooping cranes in case people need to revisit what is in the existing draft HCP. I will also be sending out the RFP if we get a draft from procurement prior to the meeting.

AGENDA
Review meeting summary from November 18, 2021 – Draft Summary attached
HCP Update List (Previously provided and Attached)
Whooping Crane Discussion Topics

- Updated data (HCP Section 3.3.1)
    - Observational
    - Tracking
        - Availability
        - Appropriate use
    - Mortality
- Line marking (HCP Section 4.1)
    - Previous approach in HCP

Use in previous and updated collision models
    - Proposed approach for revised HCP
- Habitat assessment (HCP Section 4.1)
    - Previous use in HCP
    - Current relevance
    - Proposed approach for revised HCP
- Adaptive management and changed circumstances (HCP Section 6.5.3)
    - Previous approach in HCP
    - Discussion of appropriate trigger, response, and terminology
- Updated collision-risk model (HCP Section 4.1)
    - Summary of previous modeling efforts
    - Overview of updated model for purposes of discussion at next call

Request for Proposals

- NPPD Process
- Contractors List
- USFWS Review Schedule

As always if anyone has any questions or needs some clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From:	Jenniges, James J.
To:	Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A
Cc:	Hostetler, Bonnie J.; Ben Bainbridge; "Sandi Snodgrass"; jlcitta@nppd.com; Brune, Paul E.
Subject:	[EXTERNAL] R-Project Request for Proposals to complete SEIS
Date:	Saturday, January 1, 2022 9:47:39 AM
Attachments:	RFP for SEIS on Remand 12-31-2021.docx RFP for SEIS - Appendix A 12-31-2021.docx RFP for SEIS - Appendix B 12-31-2021.docx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Everyone,

Attached you will find the RFP which we will discuss on our next call. If you have any questions feel free to give me a call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From:	Jenniges, James J.
To:	Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Ben Bainbridge; Hostetler, Bonnie J.; "Sandi Snodgrass"
Cc:	Brune, Paul E.; jlcitta@nppd.com
Subject:	[EXTERNAL] R-Project January 6, 2022 Agenda
Date:	Thursday, December 30, 2021 4:45:13 PM
Attachments:	USFWS-NPPD Draft Meeting summary 12-9-2021.docx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Everyone,

Hopefully everyone is having a safe and happy holiday season. There is a pretty short time between when many we get back to work and the meeting on January 6, so I am sending this agenda now. Hopefully that at least gets the topics out for people to see especially as they relate to whooping cranes in case people need to revisit what is in the existing draft HCP. I will also be sending out the RFP if we get a draft from procurement prior to the meeting.

AGENDA

Review meeting summary from November 18, 2021 – Draft Summary attached
HCP Update List (Previously provided and Attached)
Whooping Crane Discussion Topics

- Updated data (HCP Section 3.3.1)
    - Observational
    - Tracking
        - Availability
        - Appropriate use
    - Mortality
- Line marking (HCP Section 4.1)
    - Previous approach in HCP
    - Use in previous and updated collision models
    - Proposed approach for revised HCP
- Habitat assessment (HCP Section 4.1)
    - Previous use in HCP
    - Current relevance
    - Proposed approach for revised HCP
- Adaptive management and changed circumstances (HCP Section 6.5.3)
    - Previous approach in HCP
    - Discussion of appropriate trigger, response, and terminology
- Updated collision-risk model (HCP Section 4.1)
    - Summary of previous modeling efforts

- Overview of updated model for purposes of discussion at next call

Request for Proposals

- NPPD Process
- Contractors List
- USFWS Review Schedule

As always if anyone has any questions or needs some clarification please call.

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A
Cc: Hostetler, Bonnie J.; "Sandi Snodgrass"; Ben Bainbridge
Subject: RE: [EXTERNAL] R-Project SEIS bidders list.
Date: Monday, December 27, 2021 10:19:00 AM

Thanks Mark,

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, December 23, 2021 3:15 PM
To: Jenniges, James J. <jjjenni@nppd.com>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] R-Project SEIS bidders list.

*****EXTERNAL***** **This email is from OUTSIDE of NPPD.** *****EXTERNAL*****
Do the SAFETY Checklist: ✓ Name ✓ Subject ✓ Links ✓ Attachments ✓ Grammar ✓ Tone
This email is from mark_porath@fws.gov.

Jim,
Angela had some good suggestions for some firms to add. I put them at the bottom of the page.

Merry Christmas and Happy New Year
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, December 16, 2021 5:02 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] R-Project SEIS bidders list.

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi everyone,

Attached is a list of companies that NPPD has that we believe would be able to provide a proposal and the expertise to assist in the NEPA process. Please modify as you deem appropriate and return to me and we will get a contact list for the RFP put together.

As Bonnie indicated earlier we will also share the RFP language before it goes out but wanted to get this piece done while we finalize the RFP.

Thanks

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From:	Porath, Mark T
To:	Jenniges, James J.; Runge, Jeff; Burgess, Angela; Hill, Laurel A
Cc:	Hostetler, Bonnie J.; "Sandi Snodgrass"; Ben Bainbridge
Subject:	RE: [EXTERNAL] R-Project SEIS bidders list.
Date:	Thursday, December 23, 2021 2:15:01 PM
Attachments:	PotentialContractors 12-16-2021wFWS .docx

Jim,
Angela had some good suggestions for some firms to add. I put them at the bottom of the page.

Merry Christmas and Happy New Year
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, December 16, 2021 5:02 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] R-Project SEIS bidders list.

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi everyone,

Attached is a list of companies that NPPD has that we believe would be able to provide a proposal and the expertise to assist in the NEPA process. Please modify as you deem appropriate and return to me and we will get a contact list for the RFP put together.

As Bonnie indicated earlier we will also share the RFP language before it goes out but wanted to get this piece done while we finalize the RFP.

Thanks

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Porath, Mark T
To: Burgess, Angela; Hill, Laurel A; Runge, Jeff
Subject: RE: [EXTERNAL] R-Project SEIS bidders list.
Date: Friday, December 17, 2021 7:12:45 AM

Thanks Angela, hope you can enjoy your time away. We'll wrap this up and get back to Jim this next week.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Thursday, December 16, 2021 5:43 PM
To: Porath, Mark T <mark_porath@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: [EXTERNAL] R-Project SEIS bidders list.

Hi Mark, Jeff, and Laurel,
I'm about to be off for the next couple of weeks but just saw this email from Jim. I scanned through and know of at least 3 recent contractors that could be helpful to add based on their recent work with us on Section 10/NEPA:

1. ICF (https://www.icf.com/) (worked on the Kansas Programmatic CCAA/SHA, many HCPs)

2. ERM (https://www.erm.com/) (worked on the NEPA for KXL pipeline)

3. Attwell Group (www.atwell-group.com) (at least one of the project leads from ERM moved to Attwell after completion of the KXL NEPA)

Could you to pass along to NPPD with anyone else you may see that's missing?

Thanks,
Angela

4.
5.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, December 16, 2021 4:02 PM

To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] R-Project SEIS bidders list.

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi everyone,

Attached is a list of companies that NPPD has that we believe would be able to provide a proposal and the expertise to assist in the NEPA process. Please modify as you deem appropriate and return to me and we will get a contact list for the RFP put together.

As Bonnie indicated earlier we will also share the RFP language before it goes out but wanted to get this piece done while we finalize the RFP.

Thanks

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A
Cc: Hostetler, Bonnie J.; "Sandi Snodgrass"; Ben Bainbridge
Subject: [EXTERNAL] R-Project SEIS bidders list.
Date: Thursday, December 16, 2021 4:05:36 PM
Attachments: PotentialContractors 12-16-2021 .docx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi everyone,

Attached is a list of companies that NPPD has that we believe would be able to provide a proposal and the expertise to assist in the NEPA process. Please modify as you deem appropriate and return to me and we will get a contact list for the RFP put together.

As Bonnie indicated earlier we will also share the RFP language before it goes out but wanted to get this piece done while we finalize the RFP.

Thanks

Jim Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone 308-627-6732

From:	Burgess, Angela
To:	Sandi Snodgrass; Bonnie Hostetler; Jenniges, James J.; ben.bainbridge@powereng.com
Cc:	Porath, Mark T; Hill, Laurel A; Runge, Jeff
Subject:	R-Project NEPA Scope of Work
Date:	Tuesday, December 14, 2021 10:50:39 AM
Attachments:	20211214 Remand Scope of Work FWS edits.docx

Hi All,
As discussed last week, I'm attaching the R-Project NEPA SEIS Scope of Work, which includes the Service's modifications.

Could you share the language from the RFP itself and the vendor list prior to its release? We're thinking it would be helpful to limit the description of qualifications to 15 pages.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Walton, Annette J
To: Nelson, Marjorie; Porath, Mark T
Subject: FW: Matt Hogan"s Signature Requested: Response to Rosebud Sioux Letter (075941)
Date: Monday, December 13, 2021 2:06:27 PM
Attachments: 20211213_Rosebud Sioux response (002).pdf

Came back signed.

From: Dew, Cheryl L <cheryl_dew@fws.gov>
Sent: Monday, December 13, 2021 1:56 PM
To: Walton, Annette J <annette_walton@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: FW: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Good Afternoon,
Here you go. Let me know if there is anything else I need to do with this.
Thanks,
Cheryl

Cheryl Dew
Executive Assistant – Regional Director's Office
U.S. Fish and Wildlife Service – Interior Regions 5 & 7
134 Union Boulevard, Lakewood, CO 80228
(303) 236-7920

From: Hogan, Matt <Matt_Hogan@fws.gov>
Sent: Monday, December 13, 2021 1:38 PM
To: Dew, Cheryl L <cheryl_dew@fws.gov>
Subject: RE: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

From: Dew, Cheryl L <cheryl_dew@fws.gov>
Sent: Monday, December 13, 2021 10:40 AM
To: Hogan, Matt <Matt_Hogan@fws.gov>
Cc: RegionalDirector-Region6, FW6 <RegionalDirector_Region6@fws.gov>
Subject: FW: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Matt,
Here is the Rosebud Sioux Letter that has been updated by Anna and Steve. I am forwarding the entire package.
Please sign 1st PDF attachment if you approve.
Thanks,
Cheryl

Cheryl Dew
Executive Assistant – Regional Director's Office
U.S. Fish and Wildlife Service – Interior Regions 5 & 7
134 Union Boulevard, Lakewood, CO 80228
(303) 236-7920

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Tuesday, November 30, 2021 11:17 AM
To: RegionalDirector-Region6, FW6 <RegionalDirector_Region6@fws.gov>
Cc: Walton, Annette J <annette_walton@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Good morning,
The attached response letter to Rosebud Sioux needs Matt Hogan's signature.
Thank you!

NOTE TO REVIEWER (NTR)

Subject:	Subject
Level of Controversy	Medium
Date Submitted:	Wednesday, October 27, 2021
Prepared by:	Mark Porath, Project Leader, Nebraska Field Office
	308-216-2077
Identify DTS Assignment #:	**075941**
Critical Dates (if any**):**	☒ Check if **c**ritical date is not applicable ☐ **Click drop down arrow to select critical due date (if any)**
Description/Main Message:	Response to Rosebud Sioux letter regarding revocation of NPPD ITP for the R-line transmission project.
Files that require Digital Surname or Signature	**RD:** • Surname the Digital Surname Sheet • Sign ARD **Other Reviewers:** • Surname in DTS
Contact for additional information	

Jill Walton
Executive Administrative Assistant for the
Assistant Regional Director, Ecological Services
U.S. Fish and Wildlife Service
Interior Regions 5 & 7
134 Union Blvd., Suite 645
Lakewood, Colorado 80228

Office: (303) 236-4516
Fax: (303) 236-0027

For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From:	Ciurej, Amanda K
To:	Porath, Mark T; Runge, Jeff; Stansberry, Brooke; Rabbe, Matt
Cc:	DeBerry, Drue; Nelson, Marjorie
Subject:	Re: DUE 10 am 12/10: Assistance with Tribal consultation list - review requested
Date:	Friday, December 10, 2021 8:12:29 AM

Gov -to-Gov Tribal Consultation begins on page 3-285. Looks like the tribe requested to be a consulting party via letter on May 29, 2018 (see page 3-286).

Only helping because it sounds like we need to get this done and Jeff is out. EIS's document agency and tribal coordination so I felt comfortable helping on this task. No sure what else is needed, but this gives all a head start.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Friday, December 10, 2021 9:03 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Stansberry, Brooke <brooke_stansberry@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Nelson, Marjorie <marjorie_nelson@fws.gov>
Subject: Re: DUE 10 am 12/10: Assistance with Tribal consultation list - review requested

The consultation should be in the Final EIS for R-Project. https://www.fws.gov/mountain-prairie/pressrel/2019/02072019-final-environmental-impact-statement-for-the-r-project-transmission-line-in-nebraska.php#.YbNsDL3MJPY

Final Environmental Impact Statement for the R-Project

Transmission Line in Nebraska - FWS

DENVER — Today the U.S. Fish and Wildlife Service is releasing the final environmental impact statement for the Nebraska Public Power District's (NPPD) application for a permit for take of the endangered American burying beetle. The statement analyzes potential effects to the beetle and other factors to the human environment that would result from issuance of a take permit associated with ...

www.fws.gov

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, December 9, 2021 11:15 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Stansberry, Brooke <brooke_stansberry@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>; Ciurej, Amanda K <amanda_ciurej@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Nelson, Marjorie <marjorie_nelson@fws.gov>
Subject: Fwd: DUE 10 am 12/10: Assistance with Tribal consultation list - review requested

NEFO Team, we got a short deadline for a RD request. So please respond to me ASAP, as I need to finalize by tomorrow @ 11 am our time.

We need to know what tribal consultations we had in FY21. The only one listed below was w Rosebud Sioux on the Keystone HCP. I'm pretty sure we consulted with the Cherokee nation on the R-project, but that might have been before FY21?

If anyone knows when the Cherokee consult occurred, or of any other qualifying event, let me know ASAP

Get Outlook for iOS

From: Nelson, Marjorie <marjorie_nelson@fws.gov>
Sent: Thursday, December 9, 2021 12:13 PM
To: FW6 ES Project Leaders
Subject: DUE 10 am 12/10: Assistance with Tribal consultation list - review requested

Hello all,

please see the quick turnaround ask for information regarding tribal consultation.

Feel free to reach out to Melissa if you have any questions.

thank you,
Marj

Marjorie Nelson (she/her)
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
720-582-3524 cell

From: Hogan, Matt <Matt_Hogan@fws.gov>
Sent: Thursday, December 9, 2021 11:22 AM
To: Szuszwalak, Joseph A <joseph_szuszwalak@fws.gov>; FW6 RO ARD&Deputy <FW6_RO_ARD&Deputy@fws.gov>
Cc: Castiano, Melissa <melissa_castiano@fws.gov>
Subject: RE: Assistance with Tribal consultation list - review requested

Sorry for the short notice request but ensuring we populate this database with all engagements that meet the definition is a HIGH PRIORITY. Please ensure your program completes this and again, sorry for the last minute fire drill. Thanks.

From: Szuszwalak, Joseph A <joseph_szuszwalak@fws.gov>
Sent: Thursday, December 9, 2021 10:50 AM
To: FW6 RO ARD&Deputy <FW6_RO_ARD&Deputy@fws.gov>
Cc: Castiano, Melissa <melissa_castiano@fws.gov>
Subject: Assistance with Tribal consultation list - review requested

Good Morning,

The Department has issued a requirement for regions to log Tribal consultations into a new database. Our Native American Liaison, Melissa Castiano, has compiled the list below for consultations from **10/1/2020 to 9/30/21**. Please review this list and reach out to Melissa

with any additions or edits no later than 10am MT tomorrow to meet the DOI deadline. **Thank you** in advance!

- 12/14/2020 - ES - Rosebud Sioux - Tribal consultation on Keystone XL HCP with Rosebud Sioux on ABB.
- 6/16/2021 - ES - CSKT - Tribal Consultation with CSKT and white bark pine clarification on seed collection
- 6/24/2021 - Refuges - NHPA Sec 106 - Southern Ute, Ute Mountain, Ute Tribe - Human native remains found on Brown's Park NWR and consulted with Tribes.
- 8/26/2021 - Refuges - Consulted with multiple Montana Tribes on Charles M. Russell NWR Bison and bighorn restoration.

Further guidance: what is a reportable consultation event?

- A reportable consultation event is defined as an event that involves substantive engagement between the Service and a federally recognized Tribal Nation concerning a proposed Service action or a trust responsibility issue. The event should include Service and Tribal representatives with decision-making authority. Example: Tribal notifications about a proposed eagle nest disturbance permit do not have to be recorded. However, if a Tribe responds with questions or asks for additional information, that meeting and its outcome would need to be reported.

Joe Szuszwalak
Public Affairs Specialist
U.S. Fish & Wildlife Service - Interior Regions 5 & 7
joseph_szuszwalak@fws.gov | 303-236-4336
He/Him/His

From: ben.bainbridge@powereng.com
To: Hill, Laurel A; Porath, Mark T; Runge, Jeff; Burgess, Angela; Jenniges, James J. (jjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; jlcitta@nppd.com
Cc: Brune, Paul E.; Marinovich, Melissa
Subject: [EXTERNAL] Canceled: NPPD R-Project Recurring Technical Meeting
Importance: High

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

____
Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07fff05-bf71-4ed8-b274-173ea27956dc*22*2c*22Oid*22*3a*22c8d9640f-7463-482c-b6ec-
fce2d98d1ed3*22*7d__%3BJSUlJSUlJSUlJSUlJSUl!!NPlPZ64uwXccAw!69yPJVAC6rhB1Atq6bBlt-
oBBMRise4MK5eLaOBRWU_IutLEdnthfDJTmZKbgfzKTMU%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C338d744186754d8e23fe08d9bb58b95b%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637746812008712585%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=ih%2BN%2FVriqv7Qh2vk%2F03LfqVAE2XAaX1q5OxImIJ95PA%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,374125789# <tel:+12089962916,,374125789>   United States, Boise
(833) 428-0163,,374125789# <tel:8334280163,,374125789>   United States (Toll-free)
Phone Conference ID: 374 125 789#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-c2e2cfdf8cdf%3Fid%3D374125789__%3B!!NPlPZ64uwXccAw!69yPJVAC6rhB1Atq6bBlt-
oBBMRise4MK5eLaOBRWU_IutLEdnthfDJTmZKbJfXg9j4%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C338d744186754d8e23fe08d9bb58b95b%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637746812008712585%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=TmG7Cw%2BRIKWIVH7V11p1nRhRlwg%2BJPWlMZNG6PQPUSY%3D&reserved=0> |
Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPlPZ64uwXccAw!69yPJVAC6rhB1Atq6bBlt-
oBBMRise4MK5eLaOBRWU_IutLEdnthfDJTmZKbWaLxTNE%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C338d744186754d8e23fe08d9bb58b95b%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637746812008712585%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=wa%2BDciUCvlsoIsWnzUpwIzVBO5Bgww%2BAT5bzOHG%2FmMs%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPlPZ64uwXccAw!69yPJVAC6rhB1Atq6bBlt-
oBBMRise4MK5eLaOBRWU_IutLEdnthfDJTmZKbNGlWhLs%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C338d744186754d8e23fe08d9bb58b95b%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637746812008712585%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=4KHlUkF4itZcepMj6F4Xgzj8yU%2B2oyvVTEqarOp9Zis%3D&reserved=0> | Meeting
options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dc8d9640f-7463-482c-b6ec-fce2d98d1ed3%26tenantId%3Df07fff05-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-
US__%3B!!NPlPZ64uwXccAw!69yPJVAC6rhB1Atq6bBlt-
oBBMRise4MK5eLaOBRWU_IutLEdnthfDJTmZKbF_90ATk%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C338d744186754d8e23fe08d9bb58b95b%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637746812008712585%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000&sdata=ZZeve8CfxBH%2BCyiWr70pqFn2lxoI1veEBYpw8Bgrp0k%3D&reserved=0>
____

From: Burgess, Angela
To: Boroja, Maria T
Cc: Hill, Laurel A
Subject: Re: R-Project - Draft NEPA Scope of Work
Date: Wednesday, December 8, 2021 10:00:29 AM

Thanks so much for your speedy review, Maria! I've responded to and made edits based on your comments and had one question about scoping public comments: "I was thinking scoping comments are generally dealt with in a general scoping report that summarizes the comments received, and doesn't include response to comments. Please correct me if that's wrong and should be included here. (We did include response to comments in the below section on the DSEIS)"

We believe the work associated with the court decision is generally captured, and since those discussions on how to address are still underway, we didn't go into specifics. We did discuss the scope of work with Kate yesterday and decided it was general enough that her review likely wasn't necessary.

Thanks again for your help!
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Wednesday, December 8, 2021 9:49 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>
Subject: Re: R-Project - Draft NEPA Scope of Work

Thanks for the opportunity to review. I put my comments in the document, one question - how do we consider the court's decision in all of this?

Does the solicitor need to review it?

Let me know if you have any questions on my comments.

From: Burgess, Angela <Angela_Burgess@fws.gov>

Sent: Wednesday, December 8, 2021 8:27 AM
To: Boroja, Maria T <maria_boroja@fws.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>
Subject: R-Project - Draft NEPA Scope of Work

Morning Maria,
As I mentioned yesterday, we're hoping you may have some time this week or next to look over the draft NEPA Scope of Work for a NEPA contractor on R-Project.

The current draft is here: Draft Remand Scope of Work17469817v1 mp ab edits.docx

Appreciate any thoughts or edits you may have!

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Skorupa, Joseph
To: Runge, Jeff
Subject: Re: R-Project ABB Files
Date: Tuesday, December 7, 2021 2:58:31 PM

Hi Jeff,

The 6th does not work.

The 20th does work.

All best,

Joe

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, December 7, 2021 6:40 AM
To: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Subject: Re: R-Project ABB Files

Hi Joe,

NPPD would like to discuss whoopers in January. I wanted to check in with you to see if either January 6 or 20 is available (1-3 pm MT). If neither of these would work, then I will discuss further with Mark and NPPD.

Jeff

From: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Sent: Thursday, December 2, 2021 1:27 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project ABB Files

Jeff,

Thank you, especially for also linking me into Whooper communications with NPPD.

All best,

Joe

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, December 2, 2021 8:08 AM

To: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Cc: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Subject: R-Project ABB Files

Hello Joe,

It was great talking with you yesterday. You now have access to our R-Project shared drive. NPPD has shared several ABB documents, and documents are stored at the following link (ABB Docs). Another document of interest is our USFWS Talking Points document. In this document, we have included the agenda from past meetings, our internal talking points for each agenda item, and some notes from the meeting. It maybe helpful to have a quick read of the talking points as background.

We requested that NPPD keep you copied on all email communications for ABB, but that has not been the case. One reason is that ABB is intertwined with all R-Project topics, so it is difficult to have a clear division between ABB effects and discussions on policy items such as permit area, scope of work, etc. I will discuss with Mark, Angela, and Laurel on how we can relay the important information not included in direct emails to you.

FYI, we also requested that NPPD keep you copied on all email communications for whoopers, but we have not had a deep discussion about whoopers to date.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 216-0384

From:	Jenniges, James J.
To:	Porath, Mark T; Burgess, Angela; Runge, Jeff; Hill, Laurel A
Cc:	Ben Bainbridge; "Sandi Snodgrass"; Hostetler, Bonnie J.
Subject:	[EXTERNAL] December 9 meeting
Date:	Monday, December 6, 2021 1:15:47 PM
Attachments:	USFWS-NPPD Draft Meeting summary 11-18-2021.docx HCP Updatws Memo 10-11-2021.docx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon everyone. Hopefully every one had pleasant and relaxing Thanksgiving. Below you will find an agenda for our call coming up this Thursday December 9, 2021 at 2:00 pm CST. If anyone has any questions or would like something added to the agenda please call me.

AGENDA

Review meeting summary from November 18, 2021 – Draft Summary attached
HCP Update List (Previously provided and Attached)
HCP Updates

- Chapter 1
- Chapter 2
- Chapter 3
    - References from USFWS to any relevant new publications or data would be welcome
- ABB data for impacts analysis
    - ABB database update discussion
    - FWS ABB Conservation Measures
- Concurrence on density for take estimation – remains the same as the previous HCP
- Third-Party Contractor Scope of Work
- Agenda for call with solicitor
    - Set date for call
- Questions or Topics the FWS would like to discuss?

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T
To: DeBerry, Drue; Small, Stephen M
Subject: RE: Matt Hogan"s Signature Requested: Response to Rosebud Sioux Letter (075941)
Date: Monday, December 6, 2021 12:14:00 PM

Looks great to me.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, December 6, 2021 12:58 PM
To: Porath, Mark T <mark_porath@fws.gov>; Small, Stephen M <stephen_small@fws.gov>
Subject: Re: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Mark,

A revised version with all changes attached. If you are comfortable with the response, please let Steve know.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, December 2, 2021 3:17 PM
To: Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

No drastic changes, but enough to change the tone, and impart a willingness to work together.

From: Small, Stephen M <stephen_small@fws.gov>
Sent: Thursday, December 2, 2021 3:32 PM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Fw: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Please see Anna's request from Matt Hogan below. Can you please take a crack at beefing up the language as requested.
Cheers,
Steve

From: Munoz, Anna <anna_munoz@fws.gov>
Sent: Thursday, December 2, 2021 1:12 PM
To: Small, Stephen M <stephen_small@fws.gov>; Mogadam, Roya <roya_mogadam@fws.gov>
Subject: Fw: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Matt would like to be more purposeful in how we will be communicating with the Tribe as things

develop to ensure that they are kept apprised of the situation and know that we are sincere and proactive in our ongoing efforts to consult

Anna Muñoz (She/Her)

Acting Deputy Regional Director

U.S. Fish and Wildlife Service | Missouri Basin and Upper Colorado River Regions

Office: 303-236-4510 Cell: 720-648-2542

I acknowledge that I work and live in the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

From: Hogan, Matt <Matt_Hogan@fws.gov>
Sent: Wednesday, December 1, 2021 1:43 PM
To: Munoz, Anna <anna_munoz@fws.gov>
Subject: FW: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

From: Dew, Cheryl L <cheryl_dew@fws.gov> **On Behalf Of** RegionalDirector-Region6, FW6
Sent: Wednesday, December 1, 2021 12:16 PM
To: Hogan, Matt <Matt_Hogan@fws.gov>
Subject: FW: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Tuesday, November 30, 2021 11:17 AM
To: RegionalDirector-Region6, FW6 <RegionalDirector_Region6@fws.gov>
Cc: Walton, Annette J <annette_walton@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Good morning,
The attached response letter to Rosebud Sioux needs Matt Hogan's signature.
Thank you!

NOTE TO REVIEWER (NTR)

Subject:	Subject
Level of Controversy	Medium
Date Submitted:	Wednesday, October 27, 2021
Prepared by:	Mark Porath, Project Leader, Nebraska Field Office
	308-216-2077
Identify DTS Assignment #:	**075941**
Critical Dates (if any**):**	☒ Check if **c**ritical date is not applicable ☐ **Click drop down arrow to select critical due date (if any)**
Description/Main Message:	Response to Rosebud Sioux letter regarding revocation of NPPD ITP for the R-line transmission project.

Files that require Digital Surname or Signature	**RD:** • Surname the Digital Surname Sheet • Sign ARD **Other Reviewers:** • Surname in DTS
Contact for additional information	

Jill Walton
Executive Administrative Assistant for the
Assistant Regional Director, Ecological Services
U.S. Fish and Wildlife Service
Interior Regions 5 & 7
134 Union Blvd., Suite 645
Lakewood, Colorado 80228

Office: (303) 236-4516
Fax: (303) 236-0027

For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: DeBerry, Drue
To: Porath, Mark T; Small, Stephen M
Subject: Re: Matt Hogan"s Signature Requested: Response to Rosebud Sioux Letter (075941)
Date: Monday, December 6, 2021 11:57:58 AM
Attachments: Rosebud Sioux response 2021_12_06.docx

Mark,

A revised version with all changes attached. If you are comfortable with the response, please let Steve know.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, December 2, 2021 3:17 PM
To: Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

No drastic changes, but enough to change the tone, and impart a willingness to work together.

From: Small, Stephen M <stephen_small@fws.gov>
Sent: Thursday, December 2, 2021 3:32 PM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Fw: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Please see Anna's request from Matt Hogan below. Can you please take a crack at beefing up the language as requested.
Cheers,
Steve

From: Munoz, Anna <anna_munoz@fws.gov>
Sent: Thursday, December 2, 2021 1:12 PM
To: Small, Stephen M <stephen_small@fws.gov>; Mogadam, Roya <roya_mogadam@fws.gov>
Subject: Fw: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Matt would like to be more purposeful in how we will be communicating with the Tribe as things develop to ensure that they are kept apprised of the situation and know that we are sincere and proactive in our ongoing efforts to consult

Anna Muñoz (She/Her)
Acting Deputy Regional Director
U.S. Fish and Wildlife Service | Missouri Basin and Upper Colorado River Regions
Office: 303-236-4510 Cell: 720-648-2542

I acknowledge that I work and live in the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

From: Hogan, Matt <Matt_Hogan@fws.gov>
Sent: Wednesday, December 1, 2021 1:43 PM
To: Munoz, Anna <anna_munoz@fws.gov>
Subject: FW: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

From: Dew, Cheryl L <cheryl_dew@fws.gov> **On Behalf Of** RegionalDirector-Region6, FW6
Sent: Wednesday, December 1, 2021 12:16 PM
To: Hogan, Matt <Matt_Hogan@fws.gov>
Subject: FW: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Tuesday, November 30, 2021 11:17 AM
To: RegionalDirector-Region6, FW6 <RegionalDirector_Region6@fws.gov>
Cc: Walton, Annette J <annette_walton@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Good morning,
The attached response letter to Rosebud Sioux needs Matt Hogan's signature.
Thank you!

NOTE TO REVIEWER (NTR)

Subject:	Subject
Level of Controversy	Medium
Date Submitted:	Wednesday, October 27, 2021
Prepared by:	Mark Porath, Project Leader, Nebraska Field Office
	308-216-2077
Identify DTS Assignment #:	**075941**
Critical Dates (if any**):**	☒ Check if **c**ritical date is not applicable ☐ **Click drop down arrow to select critical due date (if any)**
Description/Main Message:	Response to Rosebud Sioux letter regarding revocation of NPPD ITP for the R-line transmission project.
Files that require Digital Surname or Signature	**RD:** • Surname the Digital Surname Sheet • Sign ARD **Other Reviewers:** • Surname in DTS
Contact for additional information	

Jill Walton
Executive Administrative Assistant for the
Assistant Regional Director, Ecological Services
U.S. Fish and Wildlife Service
Interior Regions 5 & 7
134 Union Blvd., Suite 645
Lakewood, Colorado 80228

Office: (303) 236-4516
Fax: (303) 236-0027

For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T
To: Small, Stephen M; DeBerry, Drue
Subject: RE: Matt Hogan"s Signature Requested: Response to Rosebud Sioux Letter (075941)
Date: Thursday, December 2, 2021 3:17:00 PM
Attachments: Rosebud Sioux response 2021_11_30 mpedits.docx

No drastic changes, but enough to change the tone, and impart a willingness to work together.

From: Small, Stephen M <stephen_small@fws.gov>
Sent: Thursday, December 2, 2021 3:32 PM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Fw: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Please see Anna's request from Matt Hogan below. Can you please take a crack at beefing up the language as requested.
Cheers,
Steve

From: Munoz, Anna <anna_munoz@fws.gov>
Sent: Thursday, December 2, 2021 1:12 PM
To: Small, Stephen M <stephen_small@fws.gov>; Mogadam, Roya <roya_mogadam@fws.gov>
Subject: Fw: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Matt would like to be more purposeful in how we will be communicating with the Tribe as things develop to ensure that they are kept apprised of the situation and know that we are sincere and proactive in our ongoing efforts to consult

Anna Muñoz (She/Her)

Acting Deputy Regional Director

U.S. Fish and Wildlife Service | Missouri Basin and Upper Colorado River Regions

Office: 303-236-4510 Cell: 720-648-2542

I acknowledge that I work and live in the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

From: Hogan, Matt <Matt_Hogan@fws.gov>
Sent: Wednesday, December 1, 2021 1:43 PM
To: Munoz, Anna <anna_munoz@fws.gov>
Subject: FW: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

From: Dew, Cheryl L <cheryl_dew@fws.gov> **On Behalf Of** RegionalDirector-Region6, FW6
Sent: Wednesday, December 1, 2021 12:16 PM
To: Hogan, Matt <Matt_Hogan@fws.gov>
Subject: FW: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Tuesday, November 30, 2021 11:17 AM
To: RegionalDirector-Region6, FW6 <RegionalDirector_Region6@fws.gov>
Cc: Walton, Annette J <annette_walton@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Good morning,
The attached response letter to Rosebud Sioux needs Matt Hogan's signature.
Thank you!

NOTE TO REVIEWER (NTR)

Subject:	Subject
Level of Controversy	Medium
Date Submitted:	Wednesday, October 27, 2021
Prepared by:	Mark Porath, Project Leader, Nebraska Field Office
	308-216-2077
Identify DTS Assignment #:	**075941**
Critical Dates (if any**):**	☒ Check if **c**ritical date is not applicable ☐ **Click drop down arrow to select critical due date (if any)**
Description/Main Message:	Response to Rosebud Sioux letter regarding revocation of NPPD ITP for the R-line transmission project.
Files that require Digital Surname or Signature	**RD:** • Surname the Digital Surname Sheet • Sign ARD **Other Reviewers:** • Surname in DTS
Contact for additional information	

Jill Walton
Executive Administrative Assistant for the
Assistant Regional Director, Ecological Services
U.S. Fish and Wildlife Service
Interior Regions 5 & 7
134 Union Blvd., Suite 645
Lakewood, Colorado 80228

Office: (303) 236-4516
Fax: (303) 236-0027

For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Burgess, Angela
To: Walton, Annette J
Subject: Re: R Project, Nebraska: Letter from the Rosebud Sioux
Date: Wednesday, December 1, 2021 2:56:23 PM

Me either. Sounds like Mark/Drue would need to figure that out if there's more questions.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Wednesday, December 1, 2021 2:53 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: RE: R Project, Nebraska: Letter from the Rosebud Sioux

Got it. Thanks. So Matt is asking for a due date????? I have no idea.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, December 1, 2021 2:52 PM
To: Walton, Annette J <annette_walton@fws.gov>
Subject: Re: R Project, Nebraska: Letter from the Rosebud Sioux

Because she's the tribal liaison and it's a response to a letter to a tribe, so it I believe Mark ran it past her when he was drafting it.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Wednesday, December 1, 2021 2:49 PM

To: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: RE: R Project, Nebraska: Letter from the Rosebud Sioux

Hey,
How did Melissa get involved?

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, December 1, 2021 2:48 PM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Walton, Annette J <annette_walton@fws.gov>; Dew, Cheryl L <cheryl_dew@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Subject: Re: R Project, Nebraska: Letter from the Rosebud Sioux

Including Mark here as well. As far as I know, ES received the letter through Meg (who received it as described from ACHP). We were anticipating that it would also come to us from DOI/HQ, but not sure if that ever happened. Mark - any clarity on that?

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Wednesday, December 1, 2021 2:45 PM
To: Walton, Annette J <annette_walton@fws.gov>; Dew, Cheryl L <cheryl_dew@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: R Project, Nebraska: Letter from the Rosebud Sioux

Nope. I think Chris Wilson at ACHP was just passing this onto us as a heads-up and to be sure we saw it.

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103
303.319.1229

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Wednesday, December 1, 2021 2:37 PM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Dew, Cheryl L <cheryl_dew@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: RE: R Project, Nebraska: Letter from the Rosebud Sioux

Thanks Meg,
Is there a due date?

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Wednesday, December 1, 2021 2:36 PM
To: Walton, Annette J <annette_walton@fws.gov>; Dew, Cheryl L <cheryl_dew@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: R Project, Nebraska: Letter from the Rosebud Sioux

As best I know (Angela - jump in here if there is additional information), the only notice of this letter came through the Advisory Council on Historic Preservation (ACHP - see e-mail below). Chris from ACHP also contacted me about a week ago asking if we had responded. I said the letter was making its way through the process and I'd send him a copy as soon as it is sent.

I hope that helps,

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.319.1229

From: Christopher Wilson <cwilson@achp.gov>
Sent: Monday, September 27, 2021 9:42 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>
Subject: [EXTERNAL] Let's check in

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Meg:

Any updates on this letter? We recently received a copy.

Thanks,

Chris

From:	Runge, Jeff
To:	Williams-shuck, Kathryn L
Cc:	Porath, Mark T; Burgess, Angela; Hill, Laurel A
Subject:	R-Project - December 7 USFWS Meeting
Date:	Wednesday, December 1, 2021 2:47:40 PM
Attachments:	R Project Court Decison Summary Skorupa 20200623.docx

---

Hello Kathryn,

You now have access to our shared drive for the R-Project. Of particular interest for our internal meeting next week is the court's decision on the earlier take permit for the project, and the draft scope of work for the NEPA consultant. We are in the early stages of review for this scope of work and have yet to provide written comments to NPPD on the draft. Maybe Angela, Laurel, or Mark would like to provide more background by email. We look forward to meeting with you next Tuesday (10 am).

Jeff

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 202-640-1187,,568256285# United States, Washington DC
Phone Conference ID: 568 256 285#
Find a local number | Reset PIN

Learn More | Meeting options

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 216-0384

From: Williams-shuck, Kathryn L
To: Burgess, Angela
Cc: Hill, Laurel A
Subject: Re: R-Project Court Remand Discussion
Date: Wednesday, December 1, 2021 11:32:11 AM

Sadly I have no idea. Kristen might help cover this right now because I am just slammed with litigation.

Kate Williams-Shuck
Attorney-Advisor
U.S. Department of the Interior
Rocky Mountain Regional Solicitor's Office
755 Parfet Street, Suite 151
Lakewood, CO 80215
Main: 303.445.0610
Direct: 303.445.0597
Cell: 303.842.5877
kate.williams-shuck@sol.doi.gov

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Tuesday, November 23, 2021 7:43 AM
To: Williams-shuck, Kathryn L <kate.williams-shuck@sol.doi.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>
Subject: Re: R-Project Court Remand Discussion

Thanks, Kate. NPPD is chomping at the bit to have a call with you to discuss the remand, but we obviously don't want to schedule that before you have time to review. Given your current workload, generally how long do you think it will be before you have time to read the decision?

(Apologies for that question, I know it's probably impossible to estimate, but had to ask!)

Hope you have a great Thanksgiving.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Williams-shuck, Kathryn L <kate.williams-shuck@sol.doi.gov>
Sent: Saturday, November 20, 2021 4:34 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>
Subject: RE: R-Project Court Remand Discussion

Hi Angela-
Happy to be on a call but nothing will be happening ASAP on my end. I need to read the decision first. I don't think I need anything else. I just need time to read the decision itself.
Thanks,
Kate

Kate Williams-Shuck
Attorney-Advisor
U.S. Department of the Interior
Rocky Mountain Regional Solicitor's Office
755 Parfet Street, Suite 151
Lakewood, CO 80215
Main: 303.445.0610
Direct: 303.445.0597
Cell: 303.842.5877
kate.williams-shuck@sol.doi.gov

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Friday, November 19, 2021 8:17 AM
To: Williams-shuck, Kathryn L <kate.williams-shuck@sol.doi.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>
Subject: R-Project Court Remand Discussion

Hi Kate,
We've been having biweekly calls with NPPD about next steps on updating the R-Project HCP and SEIS. They're proposed to have a call specific to the issues on the court remand ASAP, and they want to make sure we have you on the call. However, prior to scheduling that larger call, we're thinking it would first be good to have an internal call to go over the remand and make sure we're all on the same page.

We'll send a calendar invite for the internal call but given your insane workload, we wanted to check with you - is there anything we can put together in advance of a discussion that would assist you in review? I'm attaching a summary of the court decision, but we can also put together an outline or powerpoint to go over as a group. Let us know if you have any preferences!

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From:	DeBerry, Drue
To:	Porath, Mark T
Subject:	Fw: Matt Hogan"s Signature Requested: Response to Rosebud Sioux Letter (075941)
Date:	Tuesday, November 30, 2021 2:01:15 PM
Attachments:	DIGITAL Surname Rosebud Sioux .pdf R-Project - Incoming Letter from Rosebud Sioux - 2021_09_17.pdf Rosebud Sioux - Scott 2016_02_24 Backup1.pdf 20141024_USFWS_R Project letter to Rosebud Sioux Backup2.pdf Rosebud Sioux response 2021_11_30.docx Rosebud Sioux response 2021_11_30.pdf NTR2021_10_27 .docx

---

fyi

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Tuesday, November 30, 2021 11:17 AM
To: RegionalDirector-Region6, FW6 <RegionalDirector_Region6@fws.gov>
Cc: Walton, Annette J <annette_walton@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Matt Hogan's Signature Requested: Response to Rosebud Sioux Letter (075941)

Good morning,
The attached response letter to Rosebud Sioux needs Matt Hogan's signature.
Thank you!

NOTE TO REVIEWER (NTR)

Subject:	Subject
Level of Controversy	Medium
Date Submitted:	Wednesday, October 27, 2021
Prepared by:	Mark Porath, Project Leader, Nebraska Field Office
	308-216-2077
Identify DTS Assignment #:	**075941**
Critical Dates (if any**):**	☒ Check if **c**ritical date is not applicable ☐ **Click drop down arrow to select critical due date (if any)**
Description/Main Message:	Response to Rosebud Sioux letter regarding revocation of NPPD ITP for the R-line transmission project.
Files that require Digital Surname or Signature	**RD:** • Surname the Digital Surname Sheet • Sign ARD **Other Reviewers:** • Surname in DTS

Contact for additional information	

Jill Walton
Executive Administrative Assistant for the
Assistant Regional Director, Ecological Services
U.S. Fish and Wildlife Service
Interior Regions 5 & 7
134 Union Blvd., Suite 645
Lakewood, Colorado 80228

Office: (303) 236-4516
Fax: (303) 236-0027

For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Burgess, Angela
To: Porath, Mark T; Runge, Jeff; Hill, Laurel A
Subject: Re: R-project, Draft SOW edits
Date: Monday, November 29, 2021 3:50:12 PM
Attachments: Draft Remand Scope of Work17469817v1 mp ab edits.docx

---

Thanks for starting the edits on this, Mark! I've added my thoughts to it in the attached. Also uploaded to the OneDrive, here, in case Jeff and/or Laurel want to edit there.

Much appreciated and look forward to talking tomorrow.

Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Monday, November 29, 2021 1:58 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Subject: R-project, Draft SOW edits

I don't know if this is ready to share with NPPD yet, but wanted to get it in front of you all and see if we are in the ballpark.
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Porath, Mark T
To: Runge, Jeff; Burgess, Angela; Hill, Laurel A
Subject: R-project, Draft SOW edits
Date: Monday, November 29, 2021 1:59:04 PM
Attachments: Draft Remand Scope of Work17469817v1 mpedits.docx

---

I don't know if this is ready to share with NPPD yet, but wanted to get it in front of you all and see if we are in the ballpark.
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: ES_ConfScheduling_FWS
To: Hill, Laurel A; Burgess, Angela; Runge, Jeff; Porath, Mark T; Rabbe, Matt
Subject: R-Project Internal Check-in

Adding Matt to this call in case we want to have any follow-up discussion on Thunderhead and/or Whooping Crane for R-Project.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19%253ameeting_OTJjMGYxN2YtNGUyZi00OTEzLWFlNWQtMWU5NDg3ZmZmMTIx%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%2522069fb5ba-4b18-4d7b-9341-f32400ba5494%2522%252c%2522Oid%2522%253a%2522cdba0f5f-96e3-40d9-895f-657946ac248a%2522%257d&data=04%7C01%7Cjeff_runge%40fws.gov%7C3c2e8bce0bbc457207aa0b6d9b3712be7%7C0693b5ba4b184d7b9341f32400ba5494%7C0%7C0%7C637738120909585147%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd0%3D%7C3000&sdata=Lf6%2F4yGAiFSoUNbdacEgfhcN3zrZoub7Fw%2FLpTzU58%3D&reserved=0>
Or call in (audio only)
+1 202-640-1187,,568256285# <tel:+12026401187,,568256285#> United States, Washington DC
Phone Conference ID: 568 256 285#
Find a local number <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdialin.teams.microsoft.com%2F4c097179-2249-4e53-b877-e71d83c10c7a%3Fsdata%3D568256285&data=04%7C01%7Cjeff_runge%40fws.gov%7C3c2e8bce0bbc457207aa0b6d9b3712be7%7C0693b5ba4b184d7b9341f32400ba5494%7C0%7C0%7C637738120909585147%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd0%3D%7C3000&sdata=iGibbyAIBs89PMB927J4OCacIkzlavDZggnMGR8ZYW7vM%3D&reserved=0> | Reset PIN
<https://gcc02.safelinks.protection.outlook.com?
url=https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing&data=04%7C01%7Cjeff_runge%40fws.gov%7C3c2e8bce0bbc457207aa0b6d9b3712be7%7C0693b5ba4b184d7b9341f32400ba5494%7C0%7C0%7C637738120909595105%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd0%3D%7C3000&sdata=9wxAX55Le39uKEibPptxwJpEobFOBNVvXrEIRTn1xd0%3D&reserved=0>
Learn More <https://gcc02.safelinks.protection.outlook.com?
url=https%3A%2F%2Faka.ms%2FJoinTeamsMeeting&data=04%7C01%7Cjeff_runge%40fws.gov%7C3c2e8bce0bbc457207aa0b6d9b3712be7%7C0693b5ba4b184d7b9341f32400ba5494%7C0%7C0%7C637738120909595105%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd0%3D%7C3000&sdata=Y6dxgRUIgXwovTNbVU2mRFKAG%2FaYLeND4IpMONf7uzM%3D&reserved=0> |
Meeting options <https://gcc02.safelinks.protection.outlook.com?url=https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dcdba0f5f-96e3-40d9-895f-657946ac248a%26threadId%3D0693b5ba-4b18-4d7b-9341-f32400ba5494%26threadId%3D19_meeting_OTJjMGYxN2YtNGUyZi00OTEzLWFlNWQtMWU5NDg3ZmZmMTIx%40thread.v2%26messageId%3D0%26langtmpg%3Den-US&data=04%7C01%7Cjeff_runge%40fws.gov%7C3c2e8bce0bbc457207aa0b6d9b3712be7%7C0693b5ba4b184d7b9341f32400ba5494%7C0%7C0%7C637738120909605062%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd0%3D%7C3000&sdata=L10cFypbPkwPwcOzMWiWJaCj7q0BkzBycC7h19IzBzo0%3D&reserved=0>

From: DeBerry, Drue
To: Small, Stephen M
Cc: Porath, Mark T
Subject: Re: R-Project - Letter From the Rosebud Sioux
Date: Wednesday, November 24, 2021 11:37:47 AM
Attachments: Rosebud Sioux response 2021_11_24.docx

Steve,

I made a revision to to the letter adding information on the vacatur of the ITP and uploaded that version to DTS (also attached). It's ready for surname and signature (date on letter will need to be changed when signed - I put hopeful Friday).

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, November 23, 2021 9:55 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Castiano, Melissa <melissa_castiano@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Meg,
I think it is still in DTS, as 075941
Mark

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Monday, November 22, 2021 5:28 PM
To: Castiano, Melissa <melissa_castiano@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Good Evening,

I just received an e-mail from ACHP asking if we responded to the letter from the Rosebud Tribe. It seems like we had a final (or very close to final) version on October 19. Was a

letter send, and if so, can I have a copy so I can send it to the ACHP staff?

Thanks,

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103
303.319.1229

From: Castiano, Melissa <melissa_castiano@fws.gov>
Sent: Tuesday, October 19, 2021 4:03 PM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hey Mark,

Nope I have no other additions. Thanks to Angela to help on it!
Thanks again!

Ahé'hee'! (Thank You)

I recognize and acknowledge that I work and live on the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

Melissa Castiano (Diné) (Pronouns: She/Her/Hers)
Native American Liaison - External Affairs
U.S. Fish and Wildlife Service
Interior Regions 5 and 7
134 Union Blvd, Lakewood, CO 80228
Office: 303-236-9898
Mobile: 720-668-6729

"Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process."
-S.O. 3317 (Department of the Interior Policy on Consultation with Indian Tribes)

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 19, 2021 4:02 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Castiano, Melissa <melissa_castiano@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Melissa,
I'm just following up to see if anything else in needed. Haven't heard any updates on the status of our response letter, and wanted to make sure you weren't waiting on something.
Thanks,
Mark

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, October 13, 2021 1:53 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Castiano, Melissa <melissa_castiano@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi Mark,
Just had a chance to take a look and made some additional edits in track changes in the version that Melissa shared (here). Let me know if you'd like to discuss any of my suggested edits.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Castiano, Melissa <melissa_castiano@fws.gov>
Sent: Wednesday, October 13, 2021 12:34 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi Mark,

Thank you for the opportunity to review. I made some minor edits in addition to the Friday comments I had.

Rosebud Sioux response DRAFT.docx

Ahé'hee'! (Thank You)

I recognize and acknowledge that I work and live on the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

Melissa Castiano (Diné) (Pronouns: She/Her/Hers)
Native American Liaison - External Affairs
U.S. Fish and Wildlife Service
Interior Regions 5 and 7
134 Union Blvd, Lakewood, CO 80228
Office: 303-236-9898
Mobile: 720-668-6729

"Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process."
-S.O. 3317 (Department of the Interior Policy on Consultation with Indian

Tribes)

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Friday, October 8, 2021 11:30 AM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Thanks for the constructive comments Melissa. This is the revised version attached. I haven't heard anymore about a timeline to respond, but we should be in relatively good position to respond quickly if needed.

Have a good long weekend,
Mark

From: Porath, Mark T
Sent: Friday, October 8, 2021 11:17 AM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <Drue_DeBerry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <Jeff_Runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Thanks Melissa, the attached is a DRAFT succinct response from the RO. Please let me know how it can be improved.
Mark

From: Castiano, Melissa <melissa_castiano@fws.gov>
Sent: Tuesday, October 5, 2021 2:34 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

HI Mark,

This might help. It was the most recent letter sent out for KXL to Rosebud about the KXL. I would add in the new updated status of the project and what has been done so far. I can help review letter after it is drafted to add anything

meaningful.

Ahé'hee'! (Thank You)

I recognize and acknowledge that I work and live on the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

Melissa Castiano (Diné) (Pronouns: She/Her/Hers)
Native American Liaison - External Affairs
U.S. Fish and Wildlife Service
Interior Regions 5 and 7
134 Union Blvd, Lakewood, CO 80228
Office: 303-236-9898
Mobile: 720-668-6729

"Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process."
-S.O. 3317 (Department of the Interior Policy on Consultation with Indian Tribes)

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 5, 2021 12:49 PM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: FW: R-Project - Letter From the Rosebud Sioux

Good afternoon Melissa,
I could really use some help/advice on how to construct an appropriate government-to-government response to the recent letter from the Rosebud Sioux Tribe (attached) regarding the R-transmission

line project. I'm still digging into the record looking for their possible responses to our two letters from 2014 and 2016 (attached), but whether they exist or not may be less relevant than what we really want to communicate. Which is a response to their request to revoke the Incidental Take Permit (ITP).

A significant amount of activity has occurred over the last several years which they may not know. The ITP to which they refer has already been remanded by the court, and we are currently in the process of working with the proponent (NPPD) to complete a SEIS. This should provide the Rosebud Sioux Tribe ample opportunity to bring forth the issues stated within their letter of Sept, 17, 2021, and I'm hoping a well-crafted response letter can serve to establish a better working relationship. Any advice or suggestions would be greatly appreciated.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, October 4, 2021 2:30 PM
To: Porath, Mark T <mark_porath@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi All,
Adding what we have in the files in the RO. Looks like, in addition to the letter from 2016, one was also sent on Oct. 24, 2014 to President Cyril Scott of the Rosebud Sioux Tribe (attached).

If I remember correctly, I believe that Cherokee Nation was the only tribe that reached out about NHPA issues.

Guessing we should start talking about the potential response, assuming that the letter will work its way to us soon from the Department.

Thanks,
Angela

Angela Burgess

Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Saturday, October 2, 2021 5:43 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Good morning Meg,
I found a folder with signed letters addressed to all of those listed under Tribal contacts, and attached the Rosebud letter. However, the only correspondence I can find is from the Cherokee Nation.

R:\Ecological Services-NEFO\ENERGY\R-Project NPPD\NPPD R-Project Permitting (through Jun 2019)\Tribal Letters\Agency Coordination - Tribal Letters

Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Friday, October 1, 2021 2:24 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-Project - Letter From the Rosebud Sioux

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103

From: Runge, Jeff
To: Jenniges, James J.; ben.bainbridge@powereng.com
Cc: Porath, Mark T
Subject: R-Project – USFWS Review of ABB Survey Data
Date: Tuesday, November 23, 2021 9:14:00 AM
Attachments: R-Project – USFWS Review of ABB Survey Data (2021Nov23).docx

---

Jim and Ben,

As mentioned on our call last week, attached document summarizes potential inconsistencies when reviewing the spreadsheets containing ABB survey data. I would like to stress that comments in the document represent potential inconsistencies, but they would need to be verified after NPPD's review as it could simply be user error from my end. I recognize a couple comments do not affect ABB totals, but I included all comments as it may be helpful for future QA/QCs. Let me know if you have any questions.

Also wanted to pass along that Matt Rabbe is available to meet either on January 6 or 20. Please forward the calendar invite(s) to Matt, so the date(s) are reserved for the whooping crane discussion.

Hope you have an opportunity to enjoy the holiday and eat some turkey. I look forward to meeting with everyone in December.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 216-0384

From: Jenniges, James J.
To: Runge, Jeff
Cc: Porath, Mark T; "ben.bainbridge@powereng.com"
Subject: [EXTERNAL] Full abb data
Date: Monday, November 22, 2021 11:23:36 AM
Attachments: Copy of Raw_ABB_Survey_Data_1996_2013.xlsx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Jeff,

This is the latest full ABB data set we have that we used in our impacts analysis. I sent the abbreviated data set the FWS used to calculate the 0.13 ABB/acre in a different email to the whole group so that everyone would have. Please let us know if you have a more up to date data set and if we need to complete a data using agreement to obtain.

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff; Hill, Laurel A; Burgess, Angela; Skorupa, Joseph
Cc: Ben Bainbridge; Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject: [EXTERNAL] ABB data
Date: Monday, November 22, 2021 11:09:56 AM
Attachments: ABB_n167_aug_only_1996-2016.xlsx
NEFO 12212016 review ABB 12_20_16_Final.docx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi all,

Attached is the FWS description of the analysis done and the data set used to calculate the 99th percentile used in the current draft of the HCP. I thought it would be good for everyone to have.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From:	Burgess, Angela
To:	Williams-shuck, Kathryn L
Cc:	Hill, Laurel A
Subject:	R-Project Court Remand Discussion
Date:	Friday, November 19, 2021 8:16:42 AM
Attachments:	R Project Court Decison Summary Skorupa 20200623.docx

---

Hi Kate,
We've been having biweekly calls with NPPD about next steps on updating the R-Project HCP and SEIS. They're proposed to have a call specific to the issues on the court remand ASAP, and they want to make sure we have you on the call. However, prior to scheduling that larger call, we're thinking it would first be good to have an internal call to go over the remand and make sure we're all on the same page.

We'll send a calendar invite for the internal call but given your insane workload, we wanted to check with you - is there anything we can put together in advance of a discussion that would assist you in review? I'm attaching a summary of the court decision, but we can also put together an outline or powerpoint to go over as a group. Let us know if you have any preferences!

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A
Cc: Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject: [EXTERNAL] draft scope of work
Date: Thursday, November 18, 2021 3:17:27 PM
Attachments: Draft Remand Scope of Work17469817v1.docx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Mark,

Here is the draft scope of work we provided in October. Also if any of you have any vendors you want to be on the distribution list please provide the contact information.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Burgess, Angela
To: Runge, Jeff; Porath, Mark T
Subject: 4(d) and ITP take coverage
Date: Thursday, November 18, 2021 9:25:19 AM

Hi Jeff and Mark,
Here's the info from the HCP Handbook about ITPs and 4(d) or 10(j). I believe the 3rd bullet fits the needs of NPPD.

Applicants have three options to address species with special rule exemptions in their HCP, as follows:

- If all take is exempted from project or HCP covered activities, applicants could take advantage of the exemptions afforded under 4(d) or 10(j) and not include those species in the HCP. The HCP should explain how the 4(d) or 10(j) rule requirements will be followed. We should inform applicants of the potential risk that exemptions may change during the term of their permit. If a 4(d) species is uplisted to endangered status or if all or part of the 4(d) or 10(j) exemptions no longer apply in the future, then the permittee would be at risk of section 9 violation for newly-prohibited activities. The permittee would need to avoid take of species that is no longer exempted and seek a new or amended incidental take permit;

- If a special rule prohibits only certain activities while others may be exempted, then we could issue a permit covering only the prohibited activities. This option would have risks similar to the above option; or

- Applicants may anticipate potential changes to 4(d) or 10(j) exemptions and instead elect to address all species and activities in their HCP, as if typical section 9 prohibitions were in effect. We should recommend that the applicant voluntarily include species with 4(d) or 10(j) exemptions if changes to the 4(d) or 10(j) exemptions are likely within the permit term. If an applicant wants incidental take coverage for a species with a 4(d) or 10(j) exemption, the applicant must develop an HCP that meets the section 10(a)(1)(B) permit issuance requirements as if no special exemption applies. Assuming that the HCP adequately addresses the 4(d) or 10(j) species and meets the issuance requirements, then the species can be included as a covered species on the incidental take permit and all applicable regulations (e.g., No Surprises assurances) would apply. This would ensure that if any 4(d) or 10(j) exemptions for HCP-covered activities no longer apply, the permittee would maintain full ESA compliance for the species and No Surprises assurances would apply, as such no further action by the permittee (e.g., amendment to the HCP or incidental take permit, etc.) would be required.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Marinovich, Melissa
To: Runge, Jeff; Dunn, Shaun
Cc: Porath, Mark T
Subject: [EXTERNAL] RE: ABB Avoidance and Minimization
Date: Wednesday, November 17, 2021 2:25:45 PM
Attachments: USFWS ABB Conservation Measures (2021Sep13 Draft) sd.docx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Jeff,

We have completed our review of the draft considerations regarding current ABB Avoidance and Minimization measures. We had very few comments or concerns with the information presented, as it does reflect the current information available on the topics discussed. We had a few minor corrections and comments – see attached. Let us know if you need anything further and thanks for giving us the opportunity to review this document!

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Environmental Review
Email: melissa.marinovich@nebraska.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, November 9, 2021 7:23 AM
To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>
Cc: Porath, Mark T <mark_porath@fws.gov>
Subject: Re: ABB Avoidance and Minimization

Thanks for your time at the meeting on avoidance/minimization. I wanted to check in with you to see how the review of the draft is going.

Jeff

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, September 13, 2021 9:27 AM

To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>
Cc: Porath, Mark T <mark_porath@fws.gov>
Subject: ABB Avoidance and Minimization

Melissa and Shaun,

Attached is our draft review of avoidance and minimization measures. We would welcome any comments/concerns you would have about content and/or conclusions.

It would be helpful to have a meeting to discuss avoidance/minimization as well as our proposed approach for assessing ABB impacts. What would be the earliest for us to meet when considering review time and availability? I will set up a Doodle poll based on your response.

Jeff

Jeff Runge

U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Office: (308) 218-0049

Cell: (308) 216-0384

From: Burgess, Angela
To: Adams, Trish
Subject: Re: Updated guidance on draft HCP development vs. NEPA process?
Date: Wednesday, November 17, 2021 11:15:48 AM

Thanks! Glad we're aligned with how we're discussing with NPPD - guessing they may continue to push it (similar to Wash. Co), but I'll be providing them the background on why our process is different from the last time and how it's currently described in the HCP handbook.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Adams, Trish <trish_adams@fws.gov>
Sent: Wednesday, November 17, 2021 10:49 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: Updated guidance on draft HCP development vs. NEPA process?

Hi Angela,

What we are recommending is that the HCP should be "done" (preliminarily meeting issuance criteria) without any major outstanding issues to resolve before noticing in the FR. Technically, we are noticing receipt of a "complete" application and starting the NEPA time clock. Section 10(c) says we must notice "receipt of application" but the NEPA regulations say the time clock starts when we notice a complete application .. so it's intertwined. We feel this is a streamlining measure that will not only help us meet the NEPA timelines but also expedite the process on the permit decision and possibly reduce the need for supplemental NEPA (unless something significant is raised during public comment). Officially, we don't have any new guidance but we anticipate that any revisions to the HCP Handbook will likely include something a long these lines. So, you're right, the current handbook is a bit out of date.

I think your approach on R Project is sound; better to get major issues largely resolved.

Happy to chat about it!
Trish

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Tuesday, November 16, 2021 5:53 PM
To: Adams, Trish <trish_adams@fws.gov>
Subject: Updated guidance on draft HCP development vs. NEPA process?

Hi Trish,
Do you know if we ever formalized any guidance about what stage a draft HCP should be in before we get publish a NOI? Or has that just been internal discussions/recommendations to date?

For R-Project, we're recommending they have some larger decisions made in the HCP before we get too far on the NEPA. They're referring to the HCP Handbook language stating that NEPA development should be concurrent with HCP development. Guessing that language hasn't been updated since the updates to the NEPA timeline requirments.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; Jenniges, James J. (jjienni@nppd.com); Runge, Jeff; Hill, Laurel A; Burgess, Angela; jfcitta@nppd.com
Cc: Runge, Paul E.; Marinovich, Melissa
Subject: [EXTERNAL] NPPD R-Project Recurring Technical Meeting
Attachments: Timing of Third-Party Contractor Engagement.msg
NPPD Proposed Agenda for Fall Recurring Courtesy Remand.docx
USFWS-NPPD Draft Meeting Summary 10-28-2021.docx
HCP Updates Memo 10-11-2021.docx
R-Project Access Update memo 11-10-2021.pdf
Summary of NPPD R-Project ARR Survey.pdf

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

Microsoft Teams meeting

Join on your computer or mobile app

Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_MzfiNGMxNzcNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07ffff05-bf71-4ed8-b274-173ea27956dc*22Oid*223a*22c8d9640f-7463-482c-b6ec-fce2d98d1ed3*22*7d__%3BJSUlJSUlJSUlJSUlJSU!!NPIPZ64uwXccAw!97sgFgbu6-lmti3bAtf19ZPcPtEiv0qctG84FzXq4MRJpPNcmNB0H-fo2cSMedhjAk%24&data=04%7C01%7Cmark_porath%40fws.gov%7C848e288c726b48c8bbe908d9a48ee2e5%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756269443157%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=wFI7QJLIlTJ0w0es4VX3%2Fh0RZ6eqAoR6lslvoeP%2BID8I%3D&reserved=0>

Or call in (audio only)

+1 208-996-2916,,374125789# <tel:+12089962916,,374125789> United States, Boise

(833) 428-0163,,374125789# <tel:8334280163,,374125789> United States (Toll-free)

Phone Conference ID: 374 125 789#

Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-f039d-44e0-9b0c-e2e2cfdffbcd%3Fid%3D374125789__%3B!!NPIPZ64uwXccAw!97sgFgbu6-lmti3bAtf19ZPcPtEiv0qctG84FzXq4MRJpPNcmNB0H-fo2cSu1u9_Zo%24&data=04%7C01%7Cmark_porath%40fws.gov%7C848e288c726b48c8bbe908d9a48ee2e5%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756269453108%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=jgjzn6Fit93VF1nIFw3Nj9QnMt9EH1ZALcvM3V7IDuzk%3D&reserved=0> | Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpinconferencing__%3B!!NPIPZ64uwXccAw!97sgFgbu6-lmti3bAtf19ZPcPtEiv0qctG84FzXq4MRJpPNcmNB0H-6o2dSQERF-c%24&data=04%7C01%7Cmark_porath%40fws.gov%7C848e288c726b48c8bbe908d9a48ee2e5%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756269453108%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=9cIj15t0TnVDvzBUt9PTAwi0y61wFTcX2C5fyR9Mjc%3D&reserved=0>

Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPIPZ64uwXccAw!97sgFgbu6-lmti3bAtf19ZPcPtEiv0qctG84FzXq4MRJpPNcmNB0H-fo2cSbnBWQcA%24&data=04%7C01%7Cmark_porath%40fws.gov%7C848e288c726b48c8bbe908d9a48ee2e5%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756269463069%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=ACZFjKRcaX%2FRE4ov3HoiD0WVwiC0DBrLGIMx%2FCZc%2FOI0%3D&reserved=0> | Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fmeetingoptions%2F%3ForganizerId%3Dc8d9640f-7463-482c-b6ec-fce2d98d1ed3%26tenantId%3D07ffff05-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_MzfiNGMxNzcNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-US__%3B!!NPIPZ64uwXccAw!97sgFgbu6-lmti3bAtf19ZPcPtEiv0qctG84FzXq4MRJpPNcmNB0H-fo2cSbkX16yk%24&data=04%7C01%7Cmark_porath%40fws.gov%7C848e288c726b48c8bbe908d9a48ee2e5%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756269473015%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=uTPKU7naqfBXy0Fe2%2BcYpkqWrj2DuC6TjfB10gVrFq7ak%3D&reserved=0>

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; Jenniges, James J. (jjjenni@nppd.com); Runge, Jeff; Hill, Laurel A; Burgess, Angela; jlcitta@nppd.com
Cc: Brune, Paul E.; Marinovich, Melissa
Subject: [EXTERNAL] NPPD R-Project Recurring Technical Meeting
Start: Thursday, November 18, 2021 1:00:00 PM
End: Thursday, November 18, 2021 3:00:00 PM
Location: Microsoft Teams Meeting
Attachments: Timing of Third-Party Contractor Engagement.msg
NPPD Proposed Agenda for Call Regarding Courts Remand.docx
USFWS NPPD Draft Meeting Summary 10-28-2021.docx
HCP Updatws Memo 10-11-2021.docx
R-Project Access Update memo 11-10-2021.pdf
Summary of NPPD R-Project ABB Surveys.pdf

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

Microsoft Teams meeting

Join on your computer or mobile app

Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07fff05-bf71-4ed8-b274-173ea27956dc*22*2c*22Oid*22*3a*22c8d9640f-7463-482c-b6ec-
fce2d98d1ed3*22*7d__%3BJSUlJSUlJSUlJSUlJSUl!!NPlPZ64uwXccAw!_HLoZQbTtjLnztwz_yvrEqQjpYKshPkFeH435Ax3MnRyfdxjp4PQnGundE7hgFWQBjg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C82fe6bd620c8485ba7d108d9a48ee195%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756253025567%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=A%2BEDCqv2bmYdqIKLka3tRtz87%2FKhU29lwc0qIY8VCYQ%3D&reserved=0>

Or call in (audio only)

+1 208-996-2916,,374125789# <tel:+12089962916,,374125789> United States, Boise

(833) 428-0163,,374125789# <tel:8334280163,,374125789> United States (Toll-free)

Phone Conference ID: 374 125 789#

Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-
c2e2cfdf8cdf%3Fid%3D374125789__%3B!!NPlPZ64uwXccAw!_HLoZQbTtjLnztwz_yvrEqQjpYKshPkFeH435Ax3MnRyfdxjp4PQnGundE7hZqHi_ng%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C82fe6bd620c8485ba7d108d9a48ee195%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756253035524%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=2VeQoFXWENuCQ6LEuDB%2FkRKqzuw7Kd3mGEYMplsO4NQ%3D&reserved=0> | Reset PIN [mysettings.lync.com]
<https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPlPZ64uwXccAw!_HLoZQbTtjLnztwz_yvrEqQjpYKshPkFeH435Ax3MnRyfdxjp4PQnGundE7hUtAcJ6w%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C82fe6bd620c8485ba7d108d9a48ee195%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756253035524%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=IrpNx5GxKtzzzdfuFkN4s1WQWFdbMIBDYBEUmKknzZg%3D&reserved=0>

Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPlPZ64uwXccAw!_HLoZQbTtjLnztwz_yvrEqQjpYKshPkFeH435Ax3MnRyfdxjp4PQnGundE7hV1UPLlo%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C82fe6bd620c8485ba7d108d9a48ee195%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756253045479%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=qckMFY5xJop2KYzZxgXbtok0RYqapKgrqwM3%2BJ9VZsE%3D&reserved=0> |
Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dc8d9640f-7463-482c-b6ec-fce2d98d1ed3%26tenantId%3Df07fff05-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-
US__%3B!!NPlPZ64uwXccAw!_HLoZQbTtjLnztwz_yvrEqQjpYKshPkFeH435Ax3MnRyfdxjp4PQnGundE7hfNIiagE%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C82fe6bd620c8485ba7d108d9a48ee195%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637721756253045479%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0&sdata=M9ylONdb2%2F74lr2ZGL%2FtaQXGJB3MEe2Uo4hL8cgBKBw%3D&reserved=0>

From:	Jenniges, James J.
To:	Porath, Mark T; Burgess, Angela; Runge, Jeff; Hill, Laurel A
Cc:	melissa.marinovich@nebraska.gov; Ben Bainbridge; Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject:	[EXTERNAL] R-Project November 18 meeting
Date:	Wednesday, November 10, 2021 1:53:29 PM
Attachments:	USFWS-NPPD Draft Meeting Summary 10-28-2021.docx HCP Updatws Memo 10-11-2021.docx R-Project Access Update memo 11-10-2021.pdf Summary of NPPD R-Project ABB Surveys.pdf NPPD Proposed Agenda for Call Regarding Courts Remand.docx Timing of Third-Party Contractor Engagement.msg

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Below is the agenda for the November 18 call. Attached are the documents associated with the Agenda

AGENDA

Review meeting summary from October 28, 2021 – Draft Summary attached

HCP Update List (Previously provided and Attached)

HCP Updates

- Chapter 1
  - Purpose and Need
    - NPPD will provide updated information on transmission restrictions and mobile generation deployment (still in progress)
  - Permit Area
    - Discuss and finalize
  - ABB 4(d) rule
    - Will be discussed in Chapter 3 under ABB analysis instead of in the general discussion of the ESA in Chapter 1
- Chapter 2
  - Access for construction
    - Based on knowledge learned to date with field experience, NPPD will seek coverage for all access (memo attached)
- Chapter 3
  - NPPD is gathering the new information noted in the HCP Update List
  - References from USFWS to any relevant new publications or data would be welcome
- General Nebraska Heritage Database update
  - ABB database update discussion
- Discussion of Density for take estimation (attached a summary of density estimates from ABB trapping effort 2016-2020 previously provided to the FWS)
- Third-Party Contractor Scope of Work

    - Agenda for call with solicitor (proposed agenda attached)
        - Set date for call
    - Discussion of timing of HCP and NEPA process (NPPD Review attached)
- Whooping cranes – anticipate discussing during January call

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T
To: Runge, Jeff
Subject: FW: [EXTERNAL] Permit Area Memo on Sharepoint
Date: Wednesday, November 3, 2021 2:02:54 PM

Just an FYI

From: Porath, Mark T
Sent: Wednesday, November 3, 2021 3:03 PM
To: 'ben.bainbridge@powereng.com' <ben.bainbridge@powereng.com>; Jenniges, James J. <jjjenni@nppd.com>
Subject: RE: [EXTERNAL] Permit Area Memo on Sharepoint

Thanks and much appreciated.
Mark

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Wednesday, November 3, 2021 2:53 PM
To: Jenniges, James J. <jjjenni@nppd.com>; Porath, Mark T <mark_porath@fws.gov>
Subject: RE: [EXTERNAL] Permit Area Memo on Sharepoint

Jim is correct, the trapping effort as a whole on the Ringold-Seneca road wasn't included because it is well outside the Permit Area.

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, November 03, 2021 1:34 PM
To: 'Porath, Mark T' <mark_porath@fws.gov>; Bainbridge, Ben <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] Permit Area Memo on Sharepoint

Mark the individual ABB caught on Ringold-Seneca road was not one of the two ABB reported captured in 2014 on Highway 83.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Wednesday, November 3, 2021 2:11 PM
To: ben.bainbridge@powereng.com
Cc: Jenniges, James J. <jjjenni@nppd.com>
Subject: RE: [EXTERNAL] Permit Area Memo on Sharepoint

This email is from mark_porath@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Gotcha, thanks Ben. A final follow up. The one ABB caught on the Ringold-Seneca Road route, is that part of the two ABB reported captured in 2014? Or was that one not included in the total since it wasn't on the Hwy 83 only route, similar to the three traps east of Thedford in 2021?
Appreciate it,
Mark

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, November 2, 2021 10:57 AM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>
Subject: RE: [EXTERNAL] Permit Area Memo on Sharepoint

Mapping on the pdf page 9 and 10 was part of the 2014 effort that trapped Hwy 83 and an alternate route along the Ringold-Seneca Road about 15 miles west of Hwy 83. 40 miles of that alternate route was surveyed as part of the same effort. One ABB was caught in those 40 miles.

The ten traps showed on page 12 of the pdf were the traps surveyed from 2016 – 2020.

The traps showed on pdf page 14 and 15 are from the 2021 effort. This was two separate transects, one on Hwy 83 and one centered on the Thedford Substation. There were three traps east of Thedford that were not part of the memo because the proposal was to revise the Permit Area to begin at the first structure leaving Thedford Sub heading east. For what its worth, those three traps did not capture ABB either.

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [gcc02.safelinks.protection.outlook.com]

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, November 02, 2021 9:42 AM
To: Bainbridge, Ben <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] Permit Area Memo on Sharepoint

Thanks for sending Ben. I am a little confused with the information provided in Attachment A. So,

hoping you can clear up for me.

Referring to pages 6-10 of the shared .pdf file: I think these maps are for trap locations for 2014 June surveys only, and just the area described as pages 1 & 2 according to the figure insets? Was any trapping conducted along the alternative route (pages 3 & 4 of the figure inset)?

Referring to page 12: I think these are the 10 trap locations straddling the Dismal River, that were sampled each August from 2016-2020?

Referring to pages 14-15: I think these are maps for the 33 trap locations sampled in August 2021? As Table 1 just reports 30 trap locations, do we know which three were omitted and why?

Thanks,
Mark

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Thursday, October 28, 2021 4:44 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Cc: Jenniges, James J. (jjjenni@nppd.com) <jjjenni@nppd.com>; Hostetler, Bonnie J. (bjhoste@nppd.com) <bjhoste@nppd.com>; Brune, Paul E. <pebrune@nppd.com>
Subject: [EXTERNAL] Permit Area Memo on Sharepoint

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

I have uploaded the Permit Area memo with the Attachment A maps to the Sharepoint that Laurel set up during today's conference call.
https://fileshare.fws.gov/?linkid=KZi4zr6VWWUyVq3EU2lgmKCZjirOgZy28YDODS6ncAGbVD1eXFiuOw [fileshare.fws.gov] [gcc02.safelinks.protection.outlook.com] [gcc02.safelinks.protection.outlook.com]

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [gcc02.safelinks.protection.outlook.com]
[gcc02.safelinks.protection.outlook.com]

From:	Burgess, Angela
To:	Porath, Mark T; Runge, Jeff
Cc:	Hill, Laurel A
Subject:	R-Project Fw: Process for FWS selection of NEPA consultant?
Date:	Wednesday, November 3, 2021 9:25:59 AM
Attachments:	20210923_Draft ILA_Third Party Contractor(JRobles).docx 20210923_NEPA Consultant_Evaluation Scoring Guidance(JRobles).docx 20210923_NEPA Consultant_RFP Evaluation Criteria(JRobles).docx 20210923_NEPA Consultant_RFP Scope of Work(JRobles).docx

---

Another potential example for us to review for R-Project NEPA.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Robles, John <john_robles@fws.gov>
Sent: Wednesday, November 3, 2021 9:17 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: Process for FWS selection of NEPA consultant?

Angela,

I just received these a few days ago, I included the versions with my comments. This includes an agreement between County and FWS for FWS to select the NEPA contractor. I have not seen this before, but I like it. These are still draft, so they will change some, but may be helpful?

John

John P. Robles
US Fish and Wildlife Service
California-Great Basin Regional Office
2800 Cottage Way, W-2606
Sacramento, CA 95825
Office (916) 414-6731

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Thursday, October 28, 2021 7:00 AM
To: Robles, John <john_robles@fws.gov>
Subject: Re: Process for FWS selection of NEPA consultant?

Thanks for your input, John. Definitely agree with your recommendation. I'll reach out if we don't hear from other coordinators with examples. Any specific scoring criteria used to rank/select the most appropriate consultant would also be helpful from your FOs, if they have them.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Robles, John <john_robles@fws.gov>
Sent: Wednesday, October 27, 2021 3:38 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Cox, Dan <Dan_Cox@fws.gov>
Subject: Re: Process for FWS selection of NEPA consultant?

Hi Angela,

Not sure what is in the handbook, but in California, we have lots of consultants with experience in preparing State environmental documents and much less with experience in preparing EIS under NEPA. It has been my experience that it takes a lot of effort on my part to direct consultants on preparing EIS and the NEPA process that lack the experience. My recommendation is to limit your search for consultants that have a fair amount of experience with preparing EIS and hopefully for HCPs. Specifically, the lead consultant needs the experience, not just the consulting firm. Sorry, I don't have any recent RFP, etc., but our FOs might if you still need some.

John

John P. Robles
US Fish and Wildlife Service
California-Great Basin Regional Office

2800 Cottage Way, W-2606
Sacramento, CA 95825
Office (916) 414-6731

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, October 27, 2021 2:23 PM
To: Cox, Dan <Dan_Cox@fws.gov>
Cc: Robles, John <john_robles@fws.gov>
Subject: Re: Process for FWS selection of NEPA consultant?

Thanks, Dan! John any thoughts/advice/examples would be much appreciated.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Cox, Dan <Dan_Cox@fws.gov>
Sent: Wednesday, October 27, 2021 3:20 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Robles, John <john_robles@fws.gov>
Subject: Re: Process for FWS selection of NEPA consultant?

John (cc'd) will have some ideas for you

thanks
dan

Dan Cox
Regional HCP Coordinator
(916) 414-6539
dan_cox@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, October 27, 2021 1:51 PM
To: Cox, Dan <Dan_Cox@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>; Freund, Kate <kate_freund@fws.gov>; Dell, David <david_dell@fws.gov>
Cc: Boroja, Maria T <maria_boroja@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Process for FWS selection of NEPA consultant?

Hi All,
Region 6 is currently working with an HCP applicant on potential contracting of a consultant for an SEIS (the R-project HCP in Nebraska). Do any of your regions, or field offices in your region, have a standard process for selecting NEPA consultants on our Section 10 permit issuance?

Any example Requests for Qualifications, example Requests for Proposals, or consultant scoring/selection process information would be very helpful for our current discussions. Or, any lessons learned or things to avoid when selecting the consultant (beyond what's outlined in the handbook) would also be appreciated!

Thanks in advance,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From:	Burgess, Angela
To:	Porath, Mark T; Hill, Laurel A; Runge, Jeff
Subject:	Examples for R-Project Fw: Process for FWS selection of NEPA consultant?
Date:	Monday, November 1, 2021 7:19:55 AM
Attachments:	KIUC - RFQ for LTHCP Birds_USFWS comments.DOCX NEPA MOU USFWS-KIUC-PSI Signed-Fully Executed.pdf

---

For our discussion on R-Project, here's a NEPA RFQ and MOU example for an HCP in Region 1.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Salbosa, Lasha-lynn H <lasha-lynn_salbosa@fws.gov>
Sent: Friday, October 29, 2021 4:05 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Freund, Kate <kate_freund@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>
Subject: RE: Process for FWS selection of NEPA consultant?

Hi Angela,

Attached is an MOU that was executed in 2016 for the KIUC EIS out of the Pacific Islands. I drafted this MOU with SOL and RO review at the time. Several years later, the decision was made to change consultants (but keep parts of the draft NEPA document), thus a RFQ was issued. Attached is the 2020 RFQ with final Service comments. This RFQ was subsequently finalized and issued and a selection was made. Please let me know if you have any questions.

Thanks,
Lasha

Lasha-Lynn Salbosa (she/her)
Acting Conservation Planning/Hydropower Coordinator
U.S. Fish and Wildlife Service, Ecological Services
Columbia Pacific Northwest and Pacific Islands (IR 9 & 12)
808/792-9442 office (*calls forwarded to mobile)

From: Burgess, Angela <Angela_Burgess@fws.gov>

Sent: Friday, October 29, 2021 10:20 AM
To: Freund, Kate <kate_freund@fws.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>; Salbosa, Lasha-lynn H <lasha-lynn_salbosa@fws.gov>
Subject: Re: Process for FWS selection of NEPA consultant?

Thank you, Kate! Those MOU examples you mentioned would be helpful as well, if you have easily available.

Really appreciate sharing this info, and any other info others may be able to provide.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Freund, Kate <kate_freund@fws.gov>
Sent: Friday, October 29, 2021 11:57 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>; Salbosa, Lasha-lynn H <lasha-lynn_salbosa@fws.gov>
Subject: Re: Process for FWS selection of NEPA consultant?

Hi Angela, I was able to find one RFP that we used a few years ago for Deschutes, attached. In my experience, I haven't always seen the Service as involved in the consultant selection process as we probably should be, applicants seem to often get ahead of us on that, so that's great you're involved at this stage. We do have various examples of MOUs with consultants, but it's varied quite a bit, let me know if that would be helpful. Copying Amy as she's working on an MOU right now in Oregon. Lasha may have examples of RFPs from the islands as well.

Kate Freund
Acting Branch Manager - Consultation & Conservation Planning
Ecological Services
U.S. Fish and Wildlife Service
503-702-8044

I acknowledge that the Portland Metro area, where I live and work, rests on traditional village sites of the Multnomah, Wasco, Cowlitz, Kathlamet, Clackamas, Bands of Chinook, Tualatin, Kalapuya, Molalla, and many other tribes who made their homes along the Columbia River.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, October 27, 2021 1:51 PM
To: Cox, Dan <Dan_Cox@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>; Freund, Kate <kate_freund@fws.gov>; Dell, David <david_dell@fws.gov>
Cc: Boroja, Maria T <maria_boroja@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Process for FWS selection of NEPA consultant?

Hi All,
Region 6 is currently working with an HCP applicant on potential contracting of a consultant for an SEIS (the R-project HCP in Nebraska). Do any of your regions, or field offices in your region, have a standard process for selecting NEPA consultants on our Section 10 permit issuance?

Any example Requests for Qualifications, example Requests for Proposals, or consultant scoring/selection process information would be very helpful for our current discussions. Or, any lessons learned or things to avoid when selecting the consultant (beyond what's outlined in the handbook) would also be appreciated!

Thanks in advance,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: ben.bainbridge@powereng.com
To: Burgess, Angela; Runge, Jeff; Hill, Laurel A; Porath, Mark T
Cc: Jenniges, James J. (jjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Brune, Paul E.
Subject: [EXTERNAL] Permit Area Memo on Sharepoint
Date: Thursday, October 28, 2021 4:18:47 PM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

I have uploaded the Permit Area memo with the Attachment A maps to the Sharepoint that Laurel set up during today's conference call.
https://fileshare.fws.gov/?linkid=KZi4zr6VWWUyVq3EU2lgmKCZjirOgZy28YDODS6ncAGbVD1eXFiuOw [fileshare.fws.gov]

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (jjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; jlcitta@nppd.com
Cc: Brune, Paul E.; Marinovich, Melissa
Subject: [EXTERNAL] Canceled: NPPD R-Project Recurring Technical Meeting
Importance: High

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

____

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07fff05-bf71-4ed8-b274-173ea27956dc*22*2c*22Oid*22*3a*22c8d9640f-7463-482c-b6ec-
fce2d98d1ed3*22*7d__%3BJSUlJSUlJSUlJSUlJSUl!!NPlPZ64uwXccAw!91rs8Bdjc0MMVXmGTjGT0JvHyxb2JTdzaUjYbdWp55K2J7D9bBZZfGje_x_Sq0TLyJA%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cfa2ca880599743f3c70d08d99a5a3508%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710534500027448%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=Qdeo3lR3TH0e4%2BHD76BZKZ1HzM5BiAPbX7STsRPAEQo%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,374125789# <tel:+12089962916,,374125789> United States, Boise
(833) 428-0163,,374125789# <tel:8334280163,,374125789> United States (Toll-free)
Phone Conference ID: 374 125 789#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-
c2e2cfdf8cdf%3Fid%3D374125789__%3B!!NPlPZ64uwXccAw!91rs8Bdjc0MMVXmGTjGT0JvHyxb2JTdzaUjYbdWp55K2J7D9bBZZfGje_x_SpYNOrWA%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cfa2ca880599743f3c70d08d99a5a3508%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710534500037418%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=6I%2BS7k78jEuai2thpD62Ci4ThWahhkp7t%2FhrLR3po24%3D&reserved=0> | Reset PIN [mysettings.lync.com]
<https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPlPZ64uwXccAw!91rs8Bdjc0MMVXmGTjGT0JvHyxb2JTdzaUjYbdWp55K2J7D9bBZZfGje_x_Sa6qf5Ig%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cfa2ca880599743f3c70d08d99a5a3508%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710534500047374%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=%2F3MkxNWiNJyinpsKG1L%2Be4W97P8e6eNWFFmJUhiPCfI%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPlPZ64uwXccAw!91rs8Bdjc0MMVXmGTjGT0JvHyxb2JTdzaUjYbdWp55K2J7D9bBZZfGje_x_S-
dW3kvk%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cfa2ca880599743f3c70d08d99a5a3508%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710534500047374%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=MLNYQ0qwZBuUwYicD4tWvlBs%2B3S%2BYaFWlMgpxhU45nk%3D&reserved=0> | Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dc8d9640f-7463-482c-b6ec-fce2d98d1ed3%26tenantId%3Df07fff05-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-
US__%3B!!NPlPZ64uwXccAw!91rs8Bdjc0MMVXmGTjGT0JvHyxb2JTdzaUjYbdWp55K2J7D9bBZZfGje_x_SpC1hQNw%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cfa2ca880599743f3c70d08d99a5a3508%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710534500057327%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=3Psk9MU06uew622NRlJ9R4LzEiMY1jff9KPaZ9hKCqg%3D&reserved=0>

____

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (jjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; jlcitta@nppd.com
Cc: Brune, Paul E.; Marinovich, Melissa
Subject: [EXTERNAL] NPPD R-Project Recurring Technical Meeting
Start: Thursday, November 18, 2021 1:00:00 PM
End: Thursday, November 18, 2021 3:00:00 PM
Location: Microsoft Teams Meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

____

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07fff05-bf71-4ed8-b274-173ea27956dc*22*2c*22Oid*22*3a*22c8d9640f-7463-482c-b6ec-fce2d98d1ed3*22*7d__%3BJSUlJSUlJSUlJSUlJSUl!!NPlPZ64uwXccAw!4XmTfMAdnZ5sFIxVkU9KHZQ0NSUwwBBWIdZl80Qp8ymSiNU2jwLYOSYDK7_adR0uZ-
c%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cd39e32e02213479a636208d99a5a0e76%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710533861354047%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=EoBKQx38XiljDf6VD2cAvWDQuGuGYSyG8JJcBeIwV8w%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,374125789# <tel:+12089962916,,374125789>   United States, Boise
(833) 428-0163,,374125789# <tel:8334280163,,374125789>   United States (Toll-free)
Phone Conference ID: 374 125 789#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-
c2e2cfdf8cdf%3Fid%3D374125789__%3B!!NPlPZ64uwXccAw!4XmTfMAdnZ5sFIxVkU9KHZQ0NSUwwBBWIdZl80Qp8ymSiNU2jwLYOSYDK7_a3ihHuSg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cd39e32e02213479a636208d99a5a0e76%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710533861354047%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=jASDSA2shCyVvLaiiS588YANrgK6PaYrHAYEItGjIGw%3D&reserved=0> | Reset PIN [mysettings.lync.com]
<https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPlPZ64uwXccAw!4XmTfMAdnZ5sFIxVkU9KHZQ0NSUwwBBWIdZl80Qp8ymSiNU2jwLYOSYDK7_aoClekwM%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cd39e32e02213479a636208d99a5a0e76%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710533861363999%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=XOdJbQc0yBeht6ORXqg8mne1MXACmorT6WdT8myEu8g%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPlPZ64uwXccAw!4XmTfMAdnZ5sFIxVkU9KHZQ0NSUwwBBWIdZl80Qp8ymSiNU2jwLYOSYDK7_aFdhXuUg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cd39e32e02213479a636208d99a5a0e76%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710533861363999%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=0J83auRC6ip9sW42tLBoAsi4zL0juYpKnxhmXuCVdME%3D&reserved=0> | Meeting
options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dc8d9640f-7463-482c-b6ec-fce2d98d1ed3%26tenantId%3Df07fff05-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_MzliNGMxNzctNDMyZi00Y2MyLTk0MTItMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-
US__%3B!!NPlPZ64uwXccAw!4XmTfMAdnZ5sFIxVkU9KHZQ0NSUwwBBWIdZl80Qp8ymSiNU2jwLYOSYDK7_a31sQ9os%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cd39e32e02213479a636208d99a5a0e76%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637710533861373955%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=J3C%2BLBLyIHDzuhVUpgedh0RvU50QfSlnni8FnnD1AUs%3D&reserved=0>
____

From:	Porath, Mark T
To:	Walton, Annette J
Subject:	Re: DTS assistance Rosebud Sioux response letter
Date:	Thursday, October 28, 2021 9:52:15 AM
Attachments:	Rosebud Sioux response DRAFT.docx

Here you go. FYI, I tried to add at comment that both Melissa Castiano and Angela Burgess has provided input on the submitted version.

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Thursday, October 28, 2021 9:40 AM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: RE: DTS assistance Rosebud Sioux response letter

Hi Mark,
I need you to send me your response letter in a word document so changes can be made.
Thanks,
Jill

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Wednesday, October 27, 2021 4:13 PM
To: Walton, Annette J <annette_walton@fws.gov>
Subject: RE: DTS assistance Rosebud Sioux response letter

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Wednesday, October 27, 2021 4:54 PM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: RE: DTS assistance Rosebud Sioux response letter

Please surname.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Wednesday, October 27, 2021 3:42 PM
To: Walton, Annette J <annette_walton@fws.gov>
Subject: RE: DTS assistance Rosebud Sioux response letter

Jill, here is the completed NTR and I do have all the files separated. Do you have time now to walk me through the process?
Mark

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Wednesday, October 27, 2021 2:43 PM
To: Porath, Mark T <mark_porath@fws.gov>

Subject: RE: DTS assistance Rosebud Sioux response letter

Below is the link for all the items that have to go into a DTS. I will need you to complete the note to review please which I have attached.

Jill Walton
Executive Administrative Assistant for the
Assistant Regional Director, Ecological Services
U.S. Fish and Wildlife Service
Interior Regions 5 & 7
134 Union Blvd., Suite 645
Lakewood, Colorado 80228

Office: (303) 236-4516
Fax: (303) 236-0027

For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Wednesday, October 27, 2021 12:50 PM
To: Walton, Annette J <annette_walton@fws.gov>
Cc: Castiano, Melissa <melissa_castiano@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: DTS assistance Rosebud Sioux response letter

Good afternoon Jill,
I could use a little help entering something into the DTS system for Matt's signature. It's a formal response to a Rosebud Sioux letter that went originally to Meg VanNess who brought it to my attention. After assembling a draft response, both Melissa and Angela Burgess have provided edits and we are ready to obtain signatures. The full packet contains our response letter, the letter received from the Rosebud Sioux and several supporting documents, all combined into a single pdf file.

This is my first attempt at DTS, but I believe the review chain would go from myself to Steve and then Matt. Please let me know what my steps might be.
Much appreciated,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468

Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From:	Porath, Mark T
To:	Walton, Annette J
Subject:	RE: DTS assistance Rosebud Sioux response letter
Date:	Wednesday, October 27, 2021 4:12:00 PM
Attachments:	Rosebud Sioux response letter 10 27 21.pdf R-Project - Letter from Rosebud Sioux - Sept. 17, 2021.pdf Rosebud Sioux - Scott 02 24 16.pdf 20141024_USFWS_R Project letter to Rosebud Sioux.pdf

---

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Wednesday, October 27, 2021 4:54 PM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: RE: DTS assistance Rosebud Sioux response letter

Please surname.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Wednesday, October 27, 2021 3:42 PM
To: Walton, Annette J <annette_walton@fws.gov>
Subject: RE: DTS assistance Rosebud Sioux response letter

Jill, here is the completed NTR and I do have all the files separated. Do you have time now to walk me through the process?
Mark

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Wednesday, October 27, 2021 2:43 PM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: RE: DTS assistance Rosebud Sioux response letter

Below is the link for all the items that have to go into a DTS. I will need you to complete the note to review please which I have attached.

Jill Walton
Executive Administrative Assistant for the
Assistant Regional Director, Ecological Services
U.S. Fish and Wildlife Service
Interior Regions 5 & 7
134 Union Blvd., Suite 645
Lakewood, Colorado 80228

Office: (303) 236-4516
Fax: (303) 236-0027

For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Wednesday, October 27, 2021 12:50 PM
To: Walton, Annette J <annette_walton@fws.gov>
Cc: Castiano, Melissa <melissa_castiano@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: DTS assistance Rosebud Sioux response letter

Good afternoon Jill,
I could use a little help entering something into the DTS system for Matt's signature. It's a formal response to a Rosebud Sioux letter that went originally to Meg VanNess who brought it to my attention. After assembling a draft response, both Melissa and Angela Burgess have provided edits and we are ready to obtain signatures. The full packet contains our response letter, the letter received from the Rosebud Sioux and several supporting documents, all combined into a single pdf file.

This is my first attempt at DTS, but I believe the review chain would go from myself to Steve and then Matt. Please let me know what my steps might be.
Much appreciated,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Porath, Mark T
To: Walton, Annette J
Cc: Castiano, Melissa; Drue DeBerry FWS
Subject: DTS assistance Rosebud Sioux response letter
Date: Wednesday, October 27, 2021 12:50:00 PM
Attachments: DTS Rosebud Sioux response.pdf

Good afternoon Jill,
I could use a little help entering something into the DTS system for Matt's signature. It's a formal response to a Rosebud Sioux letter that went originally to Meg VanNess who brought it to my attention. After assembling a draft response, both Melissa and Angela Burgess have provided edits and we are ready to obtain signatures. The full packet contains our response letter, the letter received from the Rosebud Sioux and several supporting documents, all combined into a single pdf file.

This is my first attempt at DTS, but I believe the review chain would go from myself to Steve and then Matt. Please let me know what my steps might be.
Much appreciated,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Runge, Jeff
To: Burgess, Angela; Porath, Mark T; Hill, Laurel A
Subject: Fw: [EXTERNAL] October 28 meeting
Date: Tuesday, October 26, 2021 1:36:35 PM

I placed a copy of the draft meeting notes on the shared drive for editing. The agenda is also inserted in the talking points document. We can add to the talking points during Thursday morning meeting, so we are ready for the afternoon meeting with NPPD.

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, October 26, 2021 2:10 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: RE: [EXTERNAL] October 28 meeting

Here is the word version of the call notes.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, October 26, 2021 9:30 AM
To: Porath, Mark T <mark_porath@fws.gov>; Jenniges, James J. <jjjenni@nppd.com>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: Re: [EXTERNAL] October 28 meeting

This email is from jeff_runge@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

A Word version of the draft meeting notes would be helpful when editing the notes.

Jeff

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 26, 2021 8:50 AM
To: Jenniges, James J. <jjjenni@nppd.com>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>;

'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: RE: [EXTERNAL] October 28 meeting

Thanks for sharing these in advance Jim.

One suggestion is that we might want to ensure that previous meeting notes are marked as "DRAFT" when initially sent out, and that one of the agenda items for the next meeting would be to ask for comments/corrections/edits etc. Hopefully that will make for productive meetings.
Thanks,
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Monday, October 25, 2021 4:13 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] October 28 meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon all,

Below is an agenda for our meeting on Thursday along with attachments for the meeting.

AGENDA
Update on third party scope of work
HCP Update List (Attached)
- Presented on last call. Are modifications to this list needed at this time?

HCP Updates
- Chapter 1
  - Purpose and Need
    - NPPD will provide updated information on transmission restrictions and mobile generation deployment
  - Permit Area
    - Discuss new data (memo attached)
      - Presentation and Discussion
  - ABB 4(d) rule
    - Proposed changes
      - Reference rule and incorporate appropriate provisions of the rule.
- Chapter 2

Access for construction

- Overland travel discussion

- General Nebraska Heritage Database update
  - ABB data base update discussion

Other Topics

We have a version of the Revised Permit Area Memo that has several maps attached to it that is 11 MB in size and lots of times NPPD email blocks files that big from being sent. Ben will present these maps at the meeting but if you would like me to try and send a copy just let me know and I will try. We do not expect a decision on the permit area at this meeting but want to present the data and have a discussion.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Jenniges, James J.
To: Runge, Jeff; Porath, Mark T; Burgess, Angela; Hill, Laurel A
Cc: Ben Bainbridge; Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject: RE: [EXTERNAL] October 28 meeting
Date: Tuesday, October 26, 2021 1:14:50 PM
Attachments: 2021-10-14_Agency conf call summary.docx

Here is the word version of the call notes.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, October 26, 2021 9:30 AM
To: Porath, Mark T <mark_porath@fws.gov>; Jenniges, James J. <jjjenni@nppd.com>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: Re: [EXTERNAL] October 28 meeting

This email is from jeff_runge@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

A Word version of the draft meeting notes would be helpful when editing the notes.

Jeff

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 26, 2021 8:50 AM
To: Jenniges, James J. <jjjenni@nppd.com>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: RE: [EXTERNAL] October 28 meeting

Thanks for sharing these in advance Jim.

One suggestion is that we might want to ensure that previous meeting notes are marked as “DRAFT” when initially sent out, and that one of the agenda items for the next meeting would be to ask for comments/corrections/edits etc. Hopefully that will make for productive meetings.
Thanks,
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Monday, October 25, 2021 4:13 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela

<Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] October 28 meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon all,

Below is an agenda for our meeting on Thursday along with attachments for the meeting.

AGENDA
Update on third party scope of work
HCP Update List (Attached)
- Presented on last call. Are modifications to this list needed at this time?

HCP Updates
- Chapter 1
  - Purpose and Need
    - NPPD will provide updated information on transmission restrictions and mobile generation deployment
  - Permit Area
    - Discuss new data (memo attached)
      - Presentation and Discussion
  - ABB 4(d) rule
    - Proposed changes
      - Reference rule and incorporate appropriate provisions of the rule.
- Chapter 2
  - Access for construction
    - Overland travel discussion
- General Nebraska Heritage Database update
  - ABB data base update discussion

Other Topics

We have a version of the Revised Permit Area Memo that has several maps attached to it that is 11 MB in size and lots of times NPPD email blocks files that big from being sent. Ben will present these maps at the meeting but if you would like me to try and send a copy just let me know and I will try. We do not expect a decision on the permit area at this meeting but want to present the data and have a discussion.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Runge, Jeff
To: Porath, Mark T; Jenniges, James J.; Burgess, Angela; Hill, Laurel A
Cc: Ben Bainbridge; Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject: Re: [EXTERNAL] October 28 meeting
Date: Tuesday, October 26, 2021 8:29:45 AM

A Word version of the draft meeting notes would be helpful when editing the notes.

Jeff

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 26, 2021 8:50 AM
To: Jenniges, James J. <jjjenni@nppd.com>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: RE: [EXTERNAL] October 28 meeting

Thanks for sharing these in advance Jim.

One suggestion is that we might want to ensure that previous meeting notes are marked as "DRAFT" when initially sent out, and that one of the agenda items for the next meeting would be to ask for comments/corrections/edits etc. Hopefully that will make for productive meetings.
Thanks,
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Monday, October 25, 2021 4:13 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] October 28 meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon all,

Below is an agenda for our meeting on Thursday along with attachments for the meeting.

AGENDA

Update on third party scope of work
HCP Update List (Attached)

- Presented on last call. Are modifications to this list needed at this time?

HCP Updates

- Chapter 1
    - Purpose and Need
        - NPPD will provide updated information on transmission restrictions and mobile generation deployment
    - Permit Area
        - Discuss new data (memo attached)
            - Presentation and Discussion
    - ABB 4(d) rule
        - Proposed changes
            - Reference rule and incorporate appropriate provisions of the rule.
- Chapter 2
    - Access for construction
        - Overland travel discussion
- General Nebraska Heritage Database update
    - ABB data base update discussion

Other Topics

We have a version of the Revised Permit Area Memo that has several maps attached to it that is 11 MB in size and lots of times NPPD email blocks files that big from being sent. Ben will present these maps at the meeting but if you would like me to try and send a copy just let me know and I will try. We do not expect a decision on the permit area at this meeting but want to present the data and have a discussion.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From:	Porath, Mark T
To:	Jenniges, James J.; Runge, Jeff; Burgess, Angela; Hill, Laurel A
Cc:	Ben Bainbridge; Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject:	RE: [EXTERNAL] October 28 meeting
Date:	Tuesday, October 26, 2021 7:50:22 AM

Thanks for sharing these in advance Jim.

One suggestion is that we might want to ensure that previous meeting notes are marked as "DRAFT" when initially sent out, and that one of the agenda items for the next meeting would be to ask for comments/corrections/edits etc. Hopefully that will make for productive meetings.
Thanks,
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Monday, October 25, 2021 4:13 PM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Cc: Ben Bainbridge <ben.bainbridge@powereng.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] October 28 meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon all,

Below is an agenda for our meeting on Thursday along with attachments for the meeting.

AGENDA
Update on third party scope of work
HCP Update List (Attached)

- Presented on last call. Are modifications to this list needed at this time?

HCP Updates

- Chapter 1
  - Purpose and Need
    - NPPD will provide updated information on transmission restrictions and mobile generation deployment
  - Permit Area
    - Discuss new data (memo attached)
      - Presentation and Discussion

        - ABB 4(d) rule
            - Proposed changes
                - Reference rule and incorporate appropriate provisions of the rule.
- Chapter 2
    - Access for construction
        - Overland travel discussion
- General Nebraska Heritage Database update
    - ABB data base update discussion

Other Topics

We have a version of the Revised Permit Area Memo that has several maps attached to it that is 11 MB in size and lots of times NPPD email blocks files that big from being sent. Ben will present these maps at the meeting but if you would like me to try and send a copy just let me know and I will try. We do not expect a decision on the permit area at this meeting but want to present the data and have a discussion.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A
Cc: Ben Bainbridge; Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject: [EXTERNAL] October 28 meeting
Date: Monday, October 25, 2021 3:17:04 PM
Attachments: 2021-10-14_Agency conf call summary.pdf
HCP Updatws Memo 10-11-2021.docx
Revised Permit Area Memo_10-25-2021.pdf

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon all,

Below is an agenda for our meeting on Thursday along with attachments for the meeting.

AGENDA
Update on third party scope of work
HCP Update List (Attached)

- Presented on last call. Are modifications to this list needed at this time?

HCP Updates

- Chapter 1
  - Purpose and Need
    - NPPD will provide updated information on transmission restrictions and mobile generation deployment
  - Permit Area
    - Discuss new data (memo attached)
      - Presentation and Discussion
  - ABB 4(d) rule
    - Proposed changes
      - Reference rule and incorporate appropriate provisions of the rule.
- Chapter 2
  - Access for construction
    - Overland travel discussion
- General Nebraska Heritage Database update
  - ABB data base update discussion

Other Topics

We have a version of the Revised Permit Area Memo that has several maps attached to it that is 11 MB in size and lots of times NPPD email blocks files that big from being sent. Ben will present these maps at the meeting but if you would like me to try and send a copy just let me know and I will try. We do not expect a decision on the permit area at this meeting but want to present the data and

have a discussion.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T
To: Burgess, Angela
Subject: RE: Standard RFP for HCPs?
Date: Tuesday, October 19, 2021 8:00:00 AM
Attachments: DRAFT NPPD SEIS HCP RFP mpedits.docx

Thanks Angela, I did find an earlier .docx version and attempted to update it for our needs (attached), but maybe our meeting this afternoon will bring some more information.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, October 18, 2021 9:35 AM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: Re: Standard RFP for HCPs?

Hi Mark,
I don't believe we have a standard RFP, since it's usually a process done on the applicant's side (since most frequently, HCP applicants are not a government entity, there's often not as formal of an RFP process when searching for consultants). I did just find a couple of docs related to a different HCP. But I'll check around to see if we have any examples.

For KXL, the NEPA was already underway for the entirety of the project, so we continued using that consultant for the HCP NEPA piece.

We do have a template statement of responsibilities and conflict of interest forms that I've attached (I'll also double check if there are any updates to these, since they're 15 years old!), that would be signed by a consultant, and may be helpful as we review the statement of work.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Friday, October 15, 2021 11:06 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Standard RFP for HCPs?

Angela, do you know if there is a template or standard RFP to solicit firms to do an HCP? I can't find

the one used for R, but will also dig into the Keystone file.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Bunge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (rjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass; jkritta@nppd.com
Cc: Bruna, Paul E.
Subject: [EXTERNAL] NPPD R-Project Recurring Technical Meeting

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Recurring meeting invite for technical meetings regarding NPPD R-Project. Agenda and items for discussion will be sent prior to each call.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_MzJiNGMxNzcNDMyZi00Y2MyLTk0MThMGNkZDJkYjk1MjAy*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07ffff05-bf71-4ed8-b274-173ea27956de*22*2c*22Oid*22*3a*22c6d9640f-7463-482c-b6ec-fce2d9d1ed3*22*7d__%3BJSUJSUJSUJSUJSUJSUJSUJSUJSUJSUJSU!!NPIPZ64ewXccAw!_tLKpArYmj_xhwh_Tqrp0VmKfhZOTI05fZkC2-qmZxXbBaLOMf_TtmNZctAPfXgf%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C91b9688b2baa4894e7b808d9901e5dd2%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637699282378310857%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=%2BTlZPTUZgZmQVZhMOiPc1BfvNRT%2Bpmi1GwOr4uIcSa8%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,374125789# <tel:+12089962916,,374125789> United States, Boise
(833) 428-0163,,374125789# <tel:8334280163,,374125789> United States (Toll-free)
Phone Conference ID: 374 125 789#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b6c-c2e2cfd8bcdf%3Fid%3D374125789__%3B!!NPIPZ64ewXccAw!_tLKpArYmj_xhwh_Tqrp0VmKfhZOTI05fZkC2-qmZxXbBaLOMf_TtmNZctXUXRaM%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C91b9688b2baa4894e7b808d9901e5dd2%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637699282378310857%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=IDIoDq1ZaARMAEmQcuZzeoW0BSs6vxpvfp4oEaAJw4%3D&reserved=0> |
Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPIPZ64ewXccAw!_tLKpArYmj_xhwh_Tqrp0VmKfhZOTI05fZkC2-qmZxXbBaLOMf_TtmNZctJ8bOdg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C91b9688b2baa4894e7b808d9901e5dd2%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637699282378320811%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=AbVKdHK12RQ25%2BKoBXx6o56inPwdR69mTh5wzdE4e2M%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPIPZ64ewXccAw!_tLKpArYmj_xhwh_Tqrp0VmKfhZOTI05fZkC2-qmZxXbBaLOMf_TtmNZctK5q8%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C91b9688b2baa4894e7b808d9901e5dd2%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637699282378380770%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=1SyK4e%2F6tNjbz6o0DKHcLnkJQjISProNL%2Fxnf%2F6L3BM%3D&reserved=0>
| Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fmeetingoptions%2F%3FforganizerId%3Dc8d9640fc-7463-482c-b6ec-fce2d9d1ed3%26tenantId%3Df07ffff05-bf71-4ed8-b274-173ea27956de%26threadId%3D19_meeting_MzJiNGMxNzcNDMyZi00Y2MyLTk0MThMGNkZDJkYjk1MjAy%40thread.v2%26messageId%3D0%26language%3Den-US__%3B!!NPIPZ64ewXccAw!_tLKpArYmj_xhwh_Tqrp0VmKfhZOTI05fZkC2-qmZxXbBaLOMf_TtmNZctSubsNc%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C91b9688b2baa4894e7b808d9901e5dd2%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637699282378330770%7CUnknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=T1GcaVIAG3ryWpiMbbtuF6VDyTi1MDu8E4ZD2%2Fwn4MA%3D&reserved=0>

From: Porath, Mark T
To: Burgess, Angela
Cc: DeBerry, Drue; VanNess, Meg; Hill, Laurel A; Boroja, Maria T; Runge, Jeff; Castiano, Melissa
Subject: RE: R-Project - Letter From the Rosebud Sioux
Date: Wednesday, October 13, 2021 12:55:23 PM

Thanks Angela, much appreciated.
Mark

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, October 13, 2021 1:53 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Castiano, Melissa <melissa_castiano@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi Mark,
Just had a chance to take a look and made some additional edits in track changes in the version that Melissa shared (here). Let me know if you'd like to discuss any of my suggested edits.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Castiano, Melissa <melissa_castiano@fws.gov>
Sent: Wednesday, October 13, 2021 12:34 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi Mark,

Thank you for the opportunity to review. I made some minor edits in addition to the Friday comments I had.

Rosebud Sioux response DRAFT.docx

Ahé'hee'! (Thank You)

I recognize and acknowledge that I work and live on the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

Melissa Castiano (Diné) (Pronouns: She/Her/Hers)
Native American Liaison - External Affairs
U.S. Fish and Wildlife Service
Interior Regions 5 and 7
134 Union Blvd, Lakewood, CO 80228
Office: 303-236-9898
Mobile: 720-668-6729

"Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process."
-S.O. 3317 (Department of the Interior Policy on Consultation with Indian Tribes)

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Friday, October 8, 2021 11:30 AM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Thanks for the constructive comments Melissa. This is the revised version attached. I haven't heard anymore about a timeline to respond, but we should be in relatively good position to respond

quickly if needed.

Have a good long weekend,
Mark

From: Porath, Mark T
Sent: Friday, October 8, 2021 11:17 AM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <Drue_DeBerry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <Jeff_Runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Thanks Melissa, the attached is a DRAFT succinct response from the RO. Please let me know how it can be improved.
Mark

From: Castiano, Melissa <melissa_castiano@fws.gov>
Sent: Tuesday, October 5, 2021 2:34 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hl Mark,

This might help. It was the most recent letter sent out for KXL to Rosebud about the KXL. I would add in the new updated status of the project and what has been done so far. I can help review letter after it is drafted to add anything meaningful.

Ahé'hee'! (Thank You)

I recognize and acknowledge that I work and live on the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

Melissa Castiano (Diné) (Pronouns: She/Her/Hers)
Native American Liaison - External Affairs
U.S. Fish and Wildlife Service
Interior Regions 5 and 7
134 Union Blvd, Lakewood, CO 80228
Office: 303-236-9898
Mobile: 720-668-6729

"Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process."
-S.O. 3317 (Department of the Interior Policy on Consultation with Indian Tribes)

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 5, 2021 12:49 PM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: FW: R-Project - Letter From the Rosebud Sioux

Good afternoon Melissa,
I could really use some help/advice on how to construct an appropriate government-to-government response to the recent letter from the Rosebud Sioux Tribe (attached) regarding the R-transmission line project. I'm still digging into the record looking for their possible responses to our two letters from 2014 and 2016 (attached), but whether they exist or not may be less relevant than what we really want to communicate. Which is a response to their request to revoke the Incidental Take Permit (ITP).

A significant amount of activity has occurred over the last several years which they may not know. The ITP to which they refer has already been remanded by the court, and we are currently in the process of working with the proponent (NPPD) to complete a SEIS. This should provide the Rosebud Sioux Tribe ample opportunity to bring forth the issues stated within their letter of Sept, 17, 2021, and I'm hoping a well-crafted response letter can serve to establish a better working relationship. Any advice or suggestions would be greatly appreciated.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, October 4, 2021 2:30 PM
To: Porath, Mark T <mark_porath@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi All,
Adding what we have in the files in the RO. Looks like, in addition to the letter from 2016, one was also sent on Oct. 24, 2014 to President Cyril Scott of the Rosebud Sioux Tribe (attached).

If I remember correctly, I believe that Cherokee Nation was the only tribe that reached out about NHPA issues.

Guessing we should start talking about the potential response, assuming that the letter will work its way to us soon from the Department.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Saturday, October 2, 2021 5:43 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue

<drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Good morning Meg,
I found a folder with signed letters addressed to all of those listed under Tribal contacts, and attached the Rosebud letter. However, the only correspondence I can find is from the Cherokee Nation.

R:\Ecological Services-NEFO\ENERGY\R-Project NPPD\NPPD R-Project Permitting (through Jun 2019)\Tribal Letters\Agency Coordination - Tribal Letters

Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Friday, October 1, 2021 2:24 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-Project - Letter From the Rosebud Sioux

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.

Lakewood, Colorado 80228

303.236.8103

From: Porath, Mark T
To: Runge, Jeff
Cc: Hill, Laurel A; Burgess, Angela
Subject: RE: [EXTERNAL] RE: Voicemail
Date: Tuesday, October 12, 2021 12:38:49 PM

Thanks Jeff. I think the best we can do is familiarize ourselves with the attachments sent and be ready to discuss Thursday morning and put together a game plan for the afternoon meeting.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, October 7, 2021 3:14 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Hill, Laurel A <laurel_hill@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Fw: [EXTERNAL] RE: Voicemail

Mark,

I sent a copy of the Scope of Work to our OneDrive where everyone can propose edits and insert comments for our Service workgroup to consider (see below link). The file will be a PRIVILEGED AND CONFIDENTIAL INTERNAL DELIBERATIVE DOCUMENT until we are ready to send to NPPD. Since our workgroup will not be able to meet until the morning prior to the NPPD meeting, should we try to get a revised draft by Thursday, or should we just have talking points ready by then?

OneDrive Link

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, October 7, 2021 2:26 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>
Subject: [EXTERNAL] RE: Voicemail

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Mark,

We think it would be a good idea that we have a common understanding to the scope of work before we have WSP contact you. In the original process we drafted a scope as a courtesy to the FWS who then modified and it was discussed with contractor with all parties present. That way we all had the same impression of what was being done. Because we fully understand the magnitude of your work load we have gone ahead and drafted a scope of work for this remand effort for your consideration. Given we have a call in a weak we can discuss then or you can send us edits or revisions if you believe it needs modified. Ultimately we will need a scope of work for the third party contractor so that we can amend our current agreement with WSP.

If you have any questions please call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 5, 2021 11:04 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Voicemail

This email is from mark_porath@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Got your voicemail, tied up in meetings all day as well. I'm certainly fine with talking to WSP, have them reach out to Jeff and I.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov

nebraskaes@fws.gov

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Bunge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (jjjenni@nppd.com); Hostetter, Bonnie J. (bjhostet@nppd.com); Sandi Snodgrass
Cc: jkittel@nppd.com; Brune, Paul E.
Subject: [EXTERNAL] R-Project
Start: Thursday, October 14, 2021 1:00:00 PM
End: Thursday, October 14, 2021 3:00:00 PM
Location: Microsoft Teams Meeting
Attachments: Agenda October14*2021.docx
Draft Remand Scope of Work1746981?v1.docx
HCP Updates Memo 10-11-2021.docx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Updating to provide the following documents:

* Agenda
* Draft Remand Scope of Work
* HCP Update Memo

MS Teams Meeting to discuss the NPPD R-Project and Incidental Take Permit. A full agenda will follow as we get closer to the meeting time.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2F%2Fmeetup-join%2F19*3ameeting_OTg1ZjJmZWEtNTQwOS00NGUSLTlmZGU3NGExNzQw OTA1NDlk*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22B7fIff5-bf71-4cd8-b274-173ea2795dc*22*2c*22Oid*22*3a*22c8d96400-7463-462c-b6ec-fce2d98d1ed3*22*7d__%3BISUIISUIISUIISUIISUI!!NPIPZf64awXccAw!6GnjdwrQPAGZTHAQbmiAMa5PXjB65dcxA1hQ49-
KRRJ3FxgTKbog_Q!!vstTXymkj!%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cacc44f81706340a79bca08d98d802d44%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637695854178883059%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mm0%3D%7C1000&sdata=553doJQOmR%2Bz8Kcer6clv0hXktYdNlyQMd6fMEIsio1xE%3D&reserved=0>
Or call in (audio only)
<+1 208-998-2816,,492930543# <tel:+12089962916,,492930543>   United States, Boise
(833) 428-0163,,492930543# <tel:8334280163,,492930543>   United States (Toll-free)
Phone Conference ID: 492 930 543#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b6e-c2e2cfdf8cdf%3Fid%3D492930543__%3B!!NPIPZf64awXccAw!6GnjdwrQPAGZTHAQbmiAMa5PXjB65dcxA1hQ49-
KRRJ3FxgTKbog_Q!!vst4uq5L5k%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cacc44f81706340a79bca08d98d802d44%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637695854178883059%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mm0%3D%7C1000&sdata=NuD54v2xIc9C5FmN59kU3AXVjYDQHL66xLp4Cyda5WS0%3D&reserved=0>
| Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconference&sdata=NuD54v2xIc9C5FmN59kU3AXVjYDQHL66xLp4Cyda5WS0%3D&reserved=0>
KRRJ3FxgTKbog_Q!!vstPfUuEiY%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cacc44f81706340a79bca08d98d802d44%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637695854178893016%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mm0%3D%7C1000&sdata=bNuYprDBz6NvXB3AGUgr1NFWKNbzfSUBqvyNfKREZ0%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPIPZf64awXccAw!6GnjdwrQPAGZTHAQbmiAMa5PXjB65dcxA1hQ49-
KRRJ3FxgTKbog_Q!!vst_dUOgGi%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cacc44f81706340a79bca08d98d802d44%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637695854178893016%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mm0%3D%7C1000&sdata=0uBNbMiTyeABgZzdN4ITusQVIJmNvRKUt8XGK8BIDZ40g%3D&reserved=0>
| Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dcbd964f4-7463-462c-b6ec-fce2d98d1ed3%26tenantId%3D0f7ffff5-bf71-4cd8-b274-
173ea2795dc%26threadId%3D19_meeting_OTg1ZjJmZWEtNTQwOS00NGUSLTlmZGU3NGExNzQwOTA1NDlk%40thread.v2%26messageId%3D0%26langtage%3Den-US__%3B!!NPIPZf64awXccAw!6GnjdwrQPAGZTHAQbmiAMa5PXjB65dcxA1hQ49-
KRRJ3FxgTKbog_Q!!vstbVb3hpY%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Cacc44f81706340a79bca08d98d802d44%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637695854178902971%7CUnknown%7CTWFpbGZsb3dRey JWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mm0%3D%7C1000&sdata=7PUW8N9v5dZG50VWiZS7GlxfUU%2BIX20ln1sSXQyR7UY%3D&reserved=0>

From:	Jenniges, James J.
To:	Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Ben Bainbridge; Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject:	[EXTERNAL] Agenda and documents for October 14, 2021 meeting
Date:	Monday, October 11, 2021 1:27:45 PM
Attachments:	Agenda October142021.docx Draft Remand Scope of Work17469817v1.docx HCP Updatws Memo 10-11-2021.docx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Attached are an agenda and supporting documents for our meeting on Thursday afternoon.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T
To: Castiano, Melissa
Cc: DeBerry, Drue; Burgess, Angela; VanNess, Meg; Hill, Laurel A; Boroja, Maria T; Runge, Jeff
Subject: RE: R-Project - Letter From the Rosebud Sioux
Date: Friday, October 8, 2021 11:30:11 AM
Attachments: Rosebud Sioux response DRAFT.docx

Thanks for the constructive comments Melissa. This is the revised version attached. I haven't heard anymore about a timeline to respond, but we should be in relatively good position to respond quickly if needed.

Have a good long weekend,
Mark

From: Porath, Mark T
Sent: Friday, October 8, 2021 11:17 AM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <Drue_DeBerry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <Jeff_Runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Thanks Melissa, the attached is a DRAFT succinct response from the RO. Please let me know how it can be improved.
Mark

From: Castiano, Melissa <melissa_castiano@fws.gov>
Sent: Tuesday, October 5, 2021 2:34 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hl Mark,

This might help. It was the most recent letter sent out for KXL to Rosebud about the KXL. I would add in the new updated status of the project and what has been done so far. I can help review letter after it is drafted to add anything meaningful.

Ahé'hee'! (Thank You)

I recognize and acknowledge that I work and live on the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

Melissa Castiano (Diné) (Pronouns: She/Her/Hers)
Native American Liaison - External Affairs
U.S. Fish and Wildlife Service
Interior Regions 5 and 7
134 Union Blvd, Lakewood, CO 80228
Office: 303-236-9898
Mobile: 720-668-6729

"Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process."
-S.O. 3317 (Department of the Interior Policy on Consultation with Indian Tribes)

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 5, 2021 12:49 PM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: FW: R-Project - Letter From the Rosebud Sioux

Good afternoon Melissa,
I could really use some help/advice on how to construct an appropriate government-to-government response to the recent letter from the Rosebud Sioux Tribe (attached) regarding the R-transmission line project. I'm still digging into the record looking for their possible responses to our two letters from 2014 and 2016 (attached), but whether they exist or not may be less relevant than what we really want to communicate. Which is a response to their request to revoke the Incidental Take

Permit (ITP).

A significant amount of activity has occurred over the last several years which they may not know. The ITP to which they refer has already been remanded by the court, and we are currently in the process of working with the proponent (NPPD) to complete a SEIS. This should provide the Rosebud Sioux Tribe ample opportunity to bring forth the issues stated within their letter of Sept, 17, 2021, and I'm hoping a well-crafted response letter can serve to establish a better working relationship. Any advice or suggestions would be greatly appreciated.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, October 4, 2021 2:30 PM
To: Porath, Mark T <mark_porath@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi All,
Adding what we have in the files in the RO. Looks like, in addition to the letter from 2016, one was also sent on Oct. 24, 2014 to President Cyril Scott of the Rosebud Sioux Tribe (attached).

If I remember correctly, I believe that Cherokee Nation was the only tribe that reached out about NHPA issues.

Guessing we should start talking about the potential response, assuming that the letter will work its way to us soon from the Department.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228

303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Saturday, October 2, 2021 5:43 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Good morning Meg,
I found a folder with signed letters addressed to all of those listed under Tribal contacts, and attached the Rosebud letter. However, the only correspondence I can find is from the Cherokee Nation.

R:\Ecological Services-NEFO\ENERGY\R-Project NPPD\NPPD R-Project Permitting (through Jun 2019)\Tribal Letters\Agency Coordination - Tribal Letters

Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Friday, October 1, 2021 2:24 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-Project - Letter From the Rosebud Sioux

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103

From:	Porath, Mark T
To:	Castiano, Melissa
Cc:	DeBerry, Drue; Burgess, Angela; VanNess, Meg; Hill, Laurel A; Boroja, Maria T; Runge, Jeff
Subject:	RE: R-Project - Letter From the Rosebud Sioux
Date:	Friday, October 8, 2021 10:16:58 AM
Attachments:	Rosebud Sioux response DRAFT.docx

Thanks Melissa, the attached is a DRAFT succinct response from the RO. Please let me know how it can be improved.
Mark

From: Castiano, Melissa <melissa_castiano@fws.gov>
Sent: Tuesday, October 5, 2021 2:34 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

HI Mark,

This might help. It was the most recent letter sent out for KXL to Rosebud about the KXL. I would add in the new updated status of the project and what has been done so far. I can help review letter after it is drafted to add anything meaningful.

Ahé'hee'! (Thank You)

I recognize and acknowledge that I work and live on the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

Melissa Castiano (Diné) (Pronouns: She/Her/Hers)
Native American Liaison - External Affairs
U.S. Fish and Wildlife Service
Interior Regions 5 and 7
134 Union Blvd, Lakewood, CO 80228

Office: 303-236-9898
Mobile: 720-668-6729

"Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process."
-S.O. 3317 (Department of the Interior Policy on Consultation with Indian Tribes)

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 5, 2021 12:49 PM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: FW: R-Project - Letter From the Rosebud Sioux

Good afternoon Melissa,
I could really use some help/advice on how to construct an appropriate government-to-government response to the recent letter from the Rosebud Sioux Tribe (attached) regarding the R-transmission line project. I'm still digging into the record looking for their possible responses to our two letters from 2014 and 2016 (attached), but whether they exist or not may be less relevant than what we really want to communicate. Which is a response to their request to revoke the Incidental Take Permit (ITP).

A significant amount of activity has occurred over the last several years which they may not know. The ITP to which they refer has already been remanded by the court, and we are currently in the process of working with the proponent (NPPD) to complete a SEIS. This should provide the Rosebud Sioux Tribe ample opportunity to bring forth the issues stated within their letter of Sept, 17, 2021, and I'm hoping a well-crafted response letter can serve to establish a better working relationship. Any advice or suggestions would be greatly appreciated.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077

mark_porath@fws.gov
nebraskaes@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, October 4, 2021 2:30 PM
To: Porath, Mark T <mark_porath@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi All,
Adding what we have in the files in the RO. Looks like, in addition to the letter from 2016, one was also sent on Oct. 24, 2014 to President Cyril Scott of the Rosebud Sioux Tribe (attached).

If I remember correctly, I believe that Cherokee Nation was the only tribe that reached out about NHPA issues.

Guessing we should start talking about the potential response, assuming that the letter will work its way to us soon from the Department.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Saturday, October 2, 2021 5:43 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Good morning Meg,
I found a folder with signed letters addressed to all of those listed under Tribal contacts, and

attached the Rosebud letter. However, the only correspondence I can find is from the Cherokee Nation.

R:\Ecological Services-NEFO\ENERGY\R-Project NPPD\NPPD R-Project Permitting (through Jun 2019)\Tribal Letters\Agency Coordination - Tribal Letters

Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Friday, October 1, 2021 2:24 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-Project - Letter From the Rosebud Sioux

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103

From: Runge, Jeff
To: Porath, Mark T
Cc: Hill, Laurel A; Burgess, Angela
Subject: Fw: [EXTERNAL] RE: Voicemail
Date: Thursday, October 7, 2021 2:13:34 PM
Attachments: Draft Remand Scope of Work17469817v1.docx

Mark,

I sent a copy of the Scope of Work to our OneDrive where everyone can propose edits and insert comments for our Service workgroup to consider (see below link). The file will be a PRIVILEGED AND CONFIDENTIAL INTERNAL DELIBERATIVE DOCUMENT until we are ready to send to NPPD. Since our workgroup will not be able to meet until the morning prior to the NPPD meeting, should we try to get a revised draft by Thursday, or should we just have talking points ready by then?

OneDrive Link

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, October 7, 2021 2:26 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>
Subject: [EXTERNAL] RE: Voicemail

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Mark,

We think it would be a good idea that we have a common understanding to the scope of work before we have WSP contact you. In the original process we drafted a scope as a courtesy to the FWS who then modified and it was discussed with contractor with all parties present. That way we all had the same impression of what was being done. Because we fully understand the magnitude of your work load we have gone ahead and drafted a scope of work for this remand effort for your consideration. Given we have a call in a weak we can discuss then or you can send us edits or revisions if you believe it needs modified. Ultimately we will need a scope of work for the third party contractor so that we can amend our current agreement with WSP.

If you have any questions please call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 5, 2021 11:04 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Voicemail

This email is from mark_porath@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Got your voicemail, tied up in meetings all day as well. I'm certainly fine with talking to WSP, have them reach out to Jeff and I.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Jenniges, James J.
To: Porath, Mark T
Cc: Runge, Jeff; Hostetler, Bonnie J.
Subject: [EXTERNAL] RE: Voicemail
Date: Thursday, October 7, 2021 1:28:44 PM
Attachments: Draft Remand Scope of Work17469817v1.docx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Mark,

We think it would be a good idea that we have a common understanding to the scope of work before we have WSP contact you. In the original process we drafted a scope as a courtesy to the FWS who then modified and it was discussed with contractor with all parties present. That way we all had the same impression of what was being done. Because we fully understand the magnitude of your work load we have gone ahead and drafted a scope of work for this remand effort for your consideration. Given we have a call in a weak we can discuss then or you can send us edits or revisions if you believe it needs modified. Ultimately we will need a scope of work for the third party contractor so that we can amend our current agreement with WSP.

If you have any questions please call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, October 5, 2021 11:04 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Voicemail

This email is from mark_porath@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.

Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Got your voicemail, tied up in meetings all day as well. I'm certainly fine with talking to WSP, have them reach out to Jeff and I.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Castiano, Melissa
To: Porath, Mark T
Cc: DeBerry, Drue; Burgess, Angela; VanNess, Meg; Hill, Laurel A; Boroja, Maria T; Runge, Jeff
Subject: Re: R-Project - Letter From the Rosebud Sioux
Date: Tuesday, October 5, 2021 1:33:35 PM
Attachments: Rosebud Sioux Tribe_20200814_KXLTribalConsultLtr_NOA.pdf

---

HI Mark,

This might help. It was the most recent letter sent out for KXL to Rosebud about the KXL. I would add in the new updated status of the project and what has been done so far. I can help review letter after it is drafted to add anything meaningful.

Ahé'hee'! (Thank You)

I recognize and acknowledge that I work and live on the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.

Melissa Castiano (Diné) (Pronouns: She/Her/Hers)
Native American Liaison - External Affairs
U.S. Fish and Wildlife Service
Interior Regions 5 and 7
134 Union Blvd, Lakewood, CO 80228
Office: 303-236-9898
Mobile: 720-668-6729

"Consultation is a process that aims to create effective collaboration with Indian tribes and to inform Federal decision-makers. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian tribes or the government-to-government consultation process."
-S.O. 3317 (Department of the Interior Policy on Consultation with Indian Tribes)

From: Porath, Mark T <mark_porath@fws.gov>

Sent: Tuesday, October 5, 2021 12:49 PM
To: Castiano, Melissa <melissa_castiano@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: FW: R-Project - Letter From the Rosebud Sioux

Good afternoon Melissa,
I could really use some help/advice on how to construct an appropriate government-to-government response to the recent letter from the Rosebud Sioux Tribe (attached) regarding the R-transmission line project. I'm still digging into the record looking for their possible responses to our two letters from 2014 and 2016 (attached), but whether they exist or not may be less relevant than what we really want to communicate. Which is a response to their request to revoke the Incidental Take Permit (ITP).

A significant amount of activity has occurred over the last several years which they may not know. The ITP to which they refer has already been remanded by the court, and we are currently in the process of working with the proponent (NPPD) to complete a SEIS. This should provide the Rosebud Sioux Tribe ample opportunity to bring forth the issues stated within their letter of Sept, 17, 2021, and I'm hoping a well-crafted response letter can serve to establish a better working relationship. Any advice or suggestions would be greatly appreciated.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, October 4, 2021 2:30 PM
To: Porath, Mark T <mark_porath@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi All,
Adding what we have in the files in the RO. Looks like, in addition to the letter from 2016, one was also sent on Oct. 24, 2014 to President Cyril Scott of the Rosebud Sioux Tribe (attached).

If I remember correctly, I believe that Cherokee Nation was the only tribe that reached out about NHPA issues.

Guessing we should start talking about the potential response, assuming that the letter will work its way to us soon from the Department.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Saturday, October 2, 2021 5:43 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Good morning Meg,
I found a folder with signed letters addressed to all of those listed under Tribal contacts, and attached the Rosebud letter. However, the only correspondence I can find is from the Cherokee Nation.

R:\Ecological Services-NEFO\ENERGY\R-Project NPPD\NPPD R-Project Permitting (through Jun 2019)\Tribal Letters\Agency Coordination - Tribal Letters

Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov

nebraskaes@fws.gov

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Friday, October 1, 2021 2:24 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-Project - Letter From the Rosebud Sioux

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103

From: Porath, Mark T
To: Castiano, Melissa
Cc: DeBerry, Drue; Burgess, Angela; VanNess, Meg; Hill, Laurel A; Boroja, Maria T; Runge, Jeff
Subject: FW: R-Project - Letter From the Rosebud Sioux
Date: Tuesday, October 5, 2021 12:49:49 PM
Attachments: 20141024_USFWS_R Project letter to Rosebud Sioux.pdf
R-Project - Letter from Rosebud Sioux - Sept. 17, 2021.pdf
Rosebud Sioux - Scott.doc

Good afternoon Melissa,
I could really use some help/advice on how to construct an appropriate government-to-government response to the recent letter from the Rosebud Sioux Tribe (attached) regarding the R-transmission line project. I'm still digging into the record looking for their possible responses to our two letters from 2014 and 2016 (attached), but whether they exist or not may be less relevant than what we really want to communicate. Which is a response to their request to revoke the Incidental Take Permit (ITP).

A significant amount of activity has occurred over the last several years which they may not know. The ITP to which they refer has already been remanded by the court, and we are currently in the process of working with the proponent (NPPD) to complete a SEIS. This should provide the Rosebud Sioux Tribe ample opportunity to bring forth the issues stated within their letter of Sept, 17, 2021, and I'm hoping a well-crafted response letter can serve to establish a better working relationship. Any advice or suggestions would be greatly appreciated.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, October 4, 2021 2:30 PM
To: Porath, Mark T <mark_porath@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project - Letter From the Rosebud Sioux

Hi All,
Adding what we have in the files in the RO. Looks like, in addition to the letter from 2016, one was also sent on Oct. 24, 2014 to President Cyril Scott of the Rosebud Sioux Tribe (attached).

If I remember correctly, I believe that Cherokee Nation was the only tribe that reached out about NHPA issues.

Guessing we should start talking about the potential response, assuming that the letter will work its way to us soon from the Department.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Saturday, October 2, 2021 5:43 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Good morning Meg,
I found a folder with signed letters addressed to all of those listed under Tribal contacts, and attached the Rosebud letter. However, the only correspondence I can find is from the Cherokee Nation.

R:\Ecological Services-NEFO\ENERGY\R-Project NPPD\NPPD R-Project Permitting (through Jun 2019)\Tribal Letters\Agency Coordination - Tribal Letters

Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Friday, October 1, 2021 2:24 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-Project - Letter From the Rosebud Sioux

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103

From: Runge, Jeff
To: Porath, Mark T; Burgess, Angela; Hill, Laurel A
Subject: R-Project - Initial Talking Points
Date: Tuesday, October 5, 2021 8:31:29 AM

Hello everyone,

Below is the agenda for our upcoming meeting this Thursday. We will try to cover all topics but can always push to the next week if needed. Also included are the initial talking points with NPPD. Feel free to include additional agenda topics or talking points for our meeting.

Jeff

Agenda

- Talking points w/ NPPD
- Record management - one drive
- Process for government-to-government tribal consultation
- Rosebud Sioux Tribe letter - recommended actions (reference final EIS, page 3-285 and 3-286)
- Thunderhead documents on one drive
- Review court remand - identify fixes to new permit

Talking points with NPPD

- Ask NPPD to include "R-Project" within the subject line of emails
- Provide Service POCs for future meetings
- Ask NPPD about any state nexus that would warrant NGPC review under NNESCA (PRB, stormwater permits)
- Keep focus on the HCP
- Discuss approach for monarchs
- Thunderhead wind

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 216-0384

From: Burgess, Angela
To: Porath, Mark T; VanNess, Meg; Hill, Laurel A; DeBerry, Drue; Boroja, Maria T
Cc: Runge, Jeff
Subject: Re: R-Project - Letter From the Rosebud Sioux
Date: Monday, October 4, 2021 1:30:17 PM
Attachments: 20141024_USFWS_R Project letter to Rosebud Sioux.pdf

---

Hi All,
Adding what we have in the files in the RO. Looks like, in addition to the letter from 2016, one was also sent on Oct. 24, 2014 to President Cyril Scott of the Rosebud Sioux Tribe (attached).

If I remember correctly, I believe that Cherokee Nation was the only tribe that reached out about NHPA issues.

Guessing we should start talking about the potential response, assuming that the letter will work its way to us soon from the Department.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Saturday, October 2, 2021 5:43 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: R-Project - Letter From the Rosebud Sioux

Good morning Meg,
I found a folder with signed letters addressed to all of those listed under Tribal contacts, and attached the Rosebud letter. However, the only correspondence I can find is from the Cherokee Nation.

R:\Ecological Services-NEFO\ENERGY\R-Project NPPD\NPPD R-Project Permitting (through Jun 2019)\Tribal Letters\Agency Coordination - Tribal Letters

Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Friday, October 1, 2021 2:24 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-Project - Letter From the Rosebud Sioux

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103

From:	Porath, Mark T
To:	VanNess, Meg; Hill, Laurel A; DeBerry, Drue; Zerrenner, Adam; Burgess, Angela; Boroja, Maria T
Cc:	Runge, Jeff
Subject:	RE: R-Project - Letter From the Rosebud Sioux
Date:	Saturday, October 2, 2021 5:43:52 AM
Attachments:	Rosebud Sioux - Scott.doc

Good morning Meg,
I found a folder with signed letters addressed to all of those listed under Tribal contacts, and attached the Rosebud letter. However, the only correspondence I can find is from the Cherokee Nation.

R:\Ecological Services-NEFO\ENERGY\R-Project NPPD\NPPD R-Project Permitting (through Jun 2019)\Tribal Letters\Agency Coordination - Tribal Letters

Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Friday, October 1, 2021 2:24 PM
To: Hill, Laurel A <laurel_hill@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-Project - Letter From the Rosebud Sioux

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7

134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103

From:	VanNess, Meg
To:	Hill, Laurel A; Porath, Mark T; DeBerry, Drue; Zerrenner, Adam; Burgess, Angela; Boroja, Maria T
Cc:	Runge, Jeff
Subject:	R-Project - Letter From the Rosebud Sioux
Date:	Friday, October 1, 2021 1:24:03 PM
Attachments:	R-Project - Letter from Rosebud Sioux - Sept. 17, 2021.pdf 16-NE-ESX-001 (R-Project) Letter to Tribes - Draft - June 15, 2016.docx 16-NE-ESX-001 (R-Project) Addresses for Tribes.docx

---

Please find attached a September 17, 2021 letter to Secretary Haaland from the Rosebud Sioux tribe concerning the R-Project. This is my first day back in the office after a two-week vacation and this was in my in-box from the Advisory Council on Historic Preservation (Chris Wilson). Have you folks seen this?

In my files I have a draft letter to the tribes and a list of Tribal contacts (attached), but no final copies or information about responses.

Let me know if we need to talk further.

Meg

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
U.S. Fish and Wildlife Service: Interior Regions 5 & 7
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103

From: Runge, Jeff
To: Porath, Mark T; Burgess, Angela; Hill, Laurel A
Subject: Re: R-Project Coordination
Date: Tuesday, September 28, 2021 8:26:08 AM

Angela and Laurel,

Mark and I developed the following discussion topics for our meeting this Thursday.

- Schedule meeting day/time for future internal coordination
- Set up a site for shared documents, identify documents to include initially
- Discuss R-Project staffing and logistics document (reference Angela's email on Sep 21)
- Identify talking points for upcoming meeting with NPPD

We wanted to get you thoughts prior to the meeting to see if there is anything we overlooked.

Jeff

From: Runge, Jeff
Sent: Thursday, September 23, 2021 11:00 AM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>
Subject: R-Project Coordination
When: Thursday, September 30, 2021 3:00 PM-4:00 PM.
Where:

Proposed meeting date for the R-Project in advance of the October meeting with NPPD.

Jeff

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Learn More | Meeting options

From: ben.bainbridge@powereng.com
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Jenniges, James J. (jjjenni@nppd.com); Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass
Subject: [EXTERNAL] R-Project
Start: Thursday, October 14, 2021 1:00:00 PM
End: Thursday, October 14, 2021 3:00:00 PM
Location: Microsoft Teams Meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

MS Teams Meeting to discuss the NPPD R-Project and Incidental Take Permit. A full agenda will follow as we get closer to the meeting time.

____

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_OTg1ZjJmZWEtNTQwOS00NGU5LTlmZGUtNGExNzQwOTA1NDlk*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07fff05-bf71-4ed8-b274-173ea27956dc*22*2c*22Oid*22*3a*22c8d9640f-7463-482c-b6ec-
fce2d98d1ed3*22*7d__%3BJSUlJSUlJSUlJSUlJSUl!!NPlPZ64uwXccAw!-
DJk1xIiPkpj5r7Fjq_X6zmSUAvqQxYyk1vLOkxafoHs_j16t83N0yyei8wEn6pcbJ8%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31044e1cfae64d87f84c08d97ed837df%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637680289386774202%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=juG3lGJJ28v5kBv99oFM%2BH6lHeMO9YXfjrKMsKMm9b8%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,492930543# <tel:+12089962916,,492930543> United States, Boise
(833) 428-0163,,492930543# <tel:8334280163,,492930543> United States (Toll-free)
Phone Conference ID: 492 930 543#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-c2e2cfdf8cdf%3Fid%3D492930543__%3B!!NPlPZ64uwXccAw!-
DJk1xIiPkpj5r7Fjq_X6zmSUAvqQxYyk1vLOkxafoHs_j16t83N0yyei8wEi3xl4WI%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31044e1cfae64d87f84c08d97ed837df%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637680289386784161%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=2CezM7%2BZXcgbGvYMffndRYcE%2FmjUVHM%2BbI0Gz9dQDZ8%3D&reserved=0>
| Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconferencing__%3B!!NPlPZ64uwXccAw!-DJk1xIiPkpj5r7Fjq_X6zmSUAvqQxYyk1vLOkxafoHs_j16t83N0yyei8wEzVM-
hoc%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31044e1cfae64d87f84c08d97ed837df%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637680289386784161%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=iuJQ3dgK6O%2FVAns6U3dyoGnvYF7BSNUUNI4VAHRO1E0%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPlPZ64uwXccAw!-DJk1xIiPkpj5r7Fjq_X6zmSUAvqQxYyk1vLOkxafoHs_j16t83N0yyei8wEKwm-
0lQ%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31044e1cfae64d87f84c08d97ed837df%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637680289386794116%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=FNEH8Qf5VJhY1xoD5k1v7UjK8tSWZscp5YGRA6j18ys%3D&reserved=0> | Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2FmeetingOptions%2F%3ForganizerId%3Dc8d9640f-7463-482c-b6ec-fce2d98d1ed3%26tenantId%3Df07fff05-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_OTg1ZjJmZWEtNTQwOS00NGU5LTlmZGUtNGExNzQwOTA1NDlk%40thread.v2%26messageId%3D0%26language%3Den-US__%3B!!NPlPZ64uwXccAw!-
DJk1xIiPkpj5r7Fjq_X6zmSUAvqQxYyk1vLOkxafoHs_j16t83N0yyei8wEYVXuYuA%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C31044e1cfae64d87f84c08d97ed837df%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637680289386794116%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=n0eIkK%2F5FImgIkwvQ2W8WSUO%2BynVTNB9cptkfizMJkI%3D&reserved=0>
____

From:	Jenniges, James J.
To:	Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Hostetler, Bonnie J.; "Sandi Snodgrass"; Ben Bainbridge
Subject:	[EXTERNAL] RE: R-Project Construction
Date:	Thursday, September 23, 2021 11:45:44 AM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi all,

Thank you everyone for completing the doodle poll. The winner is 2-4 CDT on Thursday October 14 so please put it on your calendar. Ben will send out a teams meeting notice soon and they we will follow up the first week of October with an agenda and any relevant information.

James Jenniges
Senior Environmental Specialist
Nebraska Public Power District
Office 308-236-2293
Cell 308-627-6732
jjjenni@nppd.com

From: Jenniges, James J.
Sent: Monday, September 20, 2021 9:34 AM
To: 'Porath, Mark T' <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: R-Project Construction

https://doodle.com/poll/evkhwm4xhb4zhk4e?utm_source=poll&utm_medium=link [doodle.com]

Good Morning,

Attached is a link to a doodle poll with times for a two hour meeting to discuss the R-Project remand process. Once a time is determined we will send out a meeting invite and agenda.

James Jenniges

Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff; Burgess, Angela; Hill, Laurel A; Hostetler, Bonnie J.; "Sandi Snodgrass"; Ben Bainbridge
Subject: [EXTERNAL] R-Project Construction
Date: Monday, September 20, 2021 8:34:09 AM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

https://doodle.com/poll/evkhwm4xhb4zhk4e?utm_source=poll&utm_medium=link [doodle.com]

Good Morning,

Attached is a link to a doodle poll with times for a two hour meeting to discuss the R-Project remand process. Once a time is determined we will send out a meeting invite and agenda.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T
To: Burgess, Angela
Cc: Runge, Jeff; Hill, Laurel A
Subject: RE: NPPD R-project update
Date: Monday, September 13, 2021 1:45:30 PM

Really appreciate that Angela, your experience on this project is priceless!

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, September 13, 2021 2:20 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: NPPD R-project update

Hi Mark,
Thank you for the update! If you could go ahead and add me to the monthly check-in call, that would be much appreciated. Trying to stay in the loop as much as I have time to.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Friday, September 10, 2021 10:39 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: NPPD R-project update

A quick update from our call this morning with NPPD and the R-project next steps.

We passed along the concerns we discussed as a group: not a simple rewrite; expanded scope (revise ABB & WC, add Monarch); need for quality firm to work on NEPA, NHPA and wind energy; need for public review; etc. They challenged us on a few of these (basically the need for another round of public review), but in general we are on the same page to move forward. NPPD wants to

retain the same firm for institutional consistency and will be sending a revised SOW in the next few weeks.

A question arose which Jeff and I couldn't answer in regards to the Monarch. They understand the need to include within the NEPA review, but are wondering what if anything regarding Monarchs needs to be included within the HCP? If anyone has some insight, we would appreciate it.

Lastly, we are going to try and set up a regular scheduled calendar time (monthly?) to keep everyone informed and working together. If anyone wants to be included (other than Jeff, Laurel and I) or should be included now (SOL eventually), please let me know and we'll try and find a time that works for most.

Have a great weekend,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Runge, Jeff
To: Marinovich, Melissa; Dunn, Shaun
Cc: Porath, Mark T
Subject: ABB Avoidance and Minimization
Date: Monday, September 13, 2021 8:27:07 AM
Attachments: USFWS ABB Conservation Measures (2021Sep13 Draft).docx

---

Melissa and Shaun,

Attached is our draft review of avoidance and minimization measures. We would welcome any comments/concerns you would have about content and/or conclusions.

It would be helpful to have a meeting to discuss avoidance/minimization as well as our proposed approach for assessing ABB impacts. What would be the earliest for us to meet when considering review time and availability? I will set up a Doodle poll based on your response.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 216-0384

From: Hill, Laurel A
To: Porath, Mark T; DeBerry, Drue; Zerrenner, Adam; Burgess, Angela; VanNess, Meg; Boroja, Maria T
Cc: Runge, Jeff
Subject: Re: NPPD R-project update
Date: Monday, September 13, 2021 7:42:44 AM

Good morning everyone!

Regarding the monarch question:

Monarchs are a candidate species, so there are no take prohibitions or requirements to include consideration in the HCP. However, to the extent that vegetation restoration, maintenance, and monitoring is already addressed in the HCP, it would be worth considering if any additional conservation measures might voluntarily be incorporated to benefit monarchs and reduce any potential adverse effects (e.g., invasive species management, timing of mowing, seed mix recommendations, etc.). This would also be helpful for our intra-service consultation, although not essential. It could be that these kinds of practices for vegetation restoration and maintenance are already included (admittedly I haven't had a chance to read the HCP yet!).

For our intra-Service consultation, it's our policy to consider candidates as if they were proposed for listing. Since the construction of the line and vegetation maintenance activities are temporary impacts jeopardy wouldn't be likely (therefore formal conference on the species not required). By the way, here is a fact sheet specific to monarch and S7

I hope this helps!

Take care,

Laurel

Laurel Hill (She/her)
Energy and Infrastructure Coordinator
Branch of Landscape Conservation & Restoration
Mountain-Prairie Regional Office

U.S. Fish and Wildlife Service
134 Union Blvd. Ste. 645
Lakewood, CO 80228
Laurel_Hill@fws.gov

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Friday, September 10, 2021 10:39 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Zerrenner, Adam <Adam_Zerrenner@fws.gov>; Hill, Laurel A <laurel_hill@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; VanNess, Meg <Meg_VanNess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: NPPD R-project update

A quick update from our call this morning with NPPD and the R-project next steps.

We passed along the concerns we discussed as a group: not a simple rewrite; expanded scope (revise ABB & WC, add Monarch); need for quality firm to work on NEPA, NHPA and wind energy; need for public review; etc. They challenged us on a few of these (basically the need for another round of public review), but in general we are on the same page to move forward. NPPD wants to retain the same firm for institutional consistency and will be sending a revised SOW in the next few weeks.

A question arose which Jeff and I couldn't answer in regards to the Monarch. They understand the need to include within the NEPA review, but are wondering what if anything regarding Monarchs needs to be included within the HCP? If anyone has some insight, we would appreciate it.

Lastly, we are going to try and set up a regular scheduled calendar time (monthly?) to keep everyone informed and working together. If anyone wants to be included (other than Jeff, Laurel and I) or should be included now (SOL eventually), please let me know and we'll try and find a time that works for most.

Have a great weekend,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff
Cc: Hostetler, Bonnie J.; Ben Bainbridge; "Sandi Snodgrass"
Subject: [EXTERNAL] Remand call
Date: Friday, September 10, 2021 1:52:10 PM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Mark and Jeff, thank you for your time on the call today. We appreciate your collaborative approach and look forward to working with you on this remand process for the R-Project. The action items we came up with today were:

1. NPPD will contact WSP to set up a conference call with NPPD, USFWS, and WSP.
2. USFWS will identify options for establishing a regular schedule for the bi-weekly or monthly meetings.
3. USFWS and NPPD will consider monarch butterfly issues to determine how the species should be addressed. USFWS will provide its recommendation to NPPD.

We will be in touch with you as soon as we are able to reach WSP, and we will look for your feedback on items 2. and 3. If there was anything else please let me know.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: ben.bainbridge@powereng.com
To: Jenniges, James J. (tjenni@nppd.com); Porath, Mark T; Hostetler, Bonnie J. (bjhostel@nppd.com); Sandi Snodgrass
Cc: Runge, Jeff
Subject: [EXTERNAL] R-Project Remand Process Actions
Start: Friday, September 10, 2021 8:30:00 AM
End: Friday, September 10, 2021 9:30:00 AM
Location: Microsoft Teams Meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

MS Teams meeting for the discussion of actions that will be needed in the remand process. Meeting is expected to be mostly administrative in nature. An agenda and necessary actions document to follow.

See the information below provided by Jim Jenniges on 8-25-2021
We have limited time on September 10 so as a follow up on our proposed agenda that we sent on 8/5 regarding our upcoming kickoff call, we thought it would be useful for NPPD to outline the steps that we believe need to be taken to address the issues found by the court. We would appreciate the Service's thoughts on these items on the call as well as any additional steps you believe may be needed.

* NEPA

* USFWS and NPPD reengage the third-party NEPA contractor.
* USFWS and the NEPA contractor prepare a draft supplemental EIS to address issues found by the court related to wind-energy projects and national historic trails and to include updated project or resource information.
* USFWS circulates the draft supplemental EIS for public comment.
* USFWS and the NEPA contractor review and respond to public comments, with input from NPPD as appropriate, and finalize the supplemental EIS.

* NHPA

* USFWS reinitiates the Section 106 consultation process with support from NPPD to address issues found by the court related to wind-energy projects and national historic trails.
* USFWS engages in additional tribal consultation.
* The consulting parties execute a revised programmatic agreement.

* ESA

* NPPD revises the HCP with USFWS input on key issues to include updated species and project information.
* NPPD submits a revised or new application for an incidental take permit.
* USFWS circulates the draft HCP for public comment with the draft supplemental EIS.
* USFWS prepares a new or revised biological opinion.
* USFWS prepares a statement of findings and a record of decision, then issues the incidental take permit (if the issuance criteria are met).

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2F3%2Fmeetup-join%2F19*3ameeting_ZWQ1ZjYxYjY1N2UtYS00NTkxLWExMGItMWY2MDlhMWUwNmJ*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22df07ffb5-bf71-4ed8-b274-173ea27956dc*22ID*22*3a*22c8d964df-74e3-482c-b6ec-fcc2d96d1ed1*22*7d__%3BISUlISUlISUlISUlISUlISUlISUlISU!!NPIPZ64uwXccAw!9WsM55wZvz5IkjKO9WiO4Y-5r4WVS3Rt7r_8yivi4w2fF-AODpdO9EEe3ktbfpjNEg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C7b73fef99fafd41e7297ff8d972282c:ff0%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666339145700185%7CUnknown%7CTWFpbGZsb3dleyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=gEoDBuoNIbcNafg3njgcdneGapbFWFt4UmxMEvgkWY%3D&reserved=0>
Or call in (audio only)
+1 208-998-2916,,632016931# <tel:+12089962916,,632016931> United States, Boise
(833) 428-0163,,632016931# <tel:8334280163,,632016931> United States (Toll-free)
Phone Conference ID: 632 016 931#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-c2e2cfdf8cdf%3Fsd%3D632016931__%3B!!NPIPZ64uwXccAw!9WsM55wZvz5IkjKO9WiO4Y-5r4WVS3Rt7r_8yivi4w2fF-AODpdO9EEe3ktbWWw%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C7b73fef99fafd41e729ff8d972282c:ff0%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666339145700185%7CUnknown%7CTWFpbGZsb3dleyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=iNbMkPLfmfOnvv8I1zQc%2BucR1znsCHK8e9vXQYIxaAhg%3D&reserved=0> |
Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings-lync.com%2Fpsinconferencing__%3B!!NPIPZ64uwXccAw!9WsM55wZvz5IkjKO9WiO4Y-5r4WVS3Rt7r_8yivi4w2fF-AODpdO9EEe3ktHPWDw%4%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C7b73fef99fafd41e729ff8d972282c:ff0%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666339145701139%7CUnknown%7CTWFpbGZsb3dleyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=5NqD1%2FjJ5MFhsvwI1EaAuVvY4Q%2BPTp1qOSZTiNFYg4%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPIPZ64uwXccAw!9WsM55wZvz5IkjKO9WiO4Y-5r4WVS3Rt7r_8yivi4w2fF-AODpdO9EEe3kW-
mkyng%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C7b73fef99fafd41e729ff8d972282c:ff0%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666339145701395%7CUnknown%7CTWFpbGZsb3dleyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=JiZovjgh8jwp5Hko8wZYvtmq6%2FRtzEKDN9NVkYUzZQQg%3D&reserved=0> | Meeting options
[teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fmeetingoptions%2F%3ForganizerId%3Dc8d964df-74e3-482c-b6ec-fcc2d96d1ed1%26tenantId%3D07ffb5-bf71-4ed8-b274-173ea27956dc%26threadId%3D19_meeting_ZWQ1ZjYxYjY1N2UtYS00NTkxLWExMGItMWY2MDlhMWUwNmJ%40thread.v2%26messageId%3D0%26langtage%3Den-US__%3B!!NPIPZ64uwXccAw!9WsM55wZvz5IkjKO9WiO4Y-5r4WVS3Rt7r_8yivi4w2fF-AODpdO9EEe3kEwIAFGk%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C7b73fef99fafd41e729ff8d972282c:ff0%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666339145720100%7CUnknown%7CTWFpbGZsb3dleyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=HNezzFillmeic868bsezxoT7WtAODkHf%2BVtkvY7FIeU%3D&reserved=0>

From: ben.bainbridge@powereng.com
To: Jenniges, James J. (Jjenni@nppd.com); Porath, Mark T; Hostetler, Bonnie J. (bjhoste@nppd.com); Sandi Snodgrass
Cc: Runge, Jeff
Subject: [EXTERNAL] R-Project Remand Process Actions
Start: Friday, September 10, 2021 8:30:00 AM
End: Friday, September 10, 2021 9:30:00 AM
Location: Microsoft Teams Meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

MS Teams meeting for the discussion of actions that will be needed in the remand process. Meeting is expected to be mostly administrative in nature. An agenda and necessary actions document to follow.

See the information below provided by Jim Jenniges on 8-25-2021
We have limited time on September 10 so as a follow up on our proposed agenda that we sent on 8/5 regarding our upcoming kickoff call, we thought it would be useful for NPPD to outline the steps that we believe need to be taken to address the issues found by the court. We would appreciate the Service's thoughts on these items on the call as well as any additional steps you believe may be needed.

* NEPA

* USFWS and NPPD reengage the third-party NEPA contractor.
* USFWS and the NEPA contractor prepare a draft supplemental EIS to address issues found by the court related to wind-energy projects and national historic trails and to include updated project or resource information.
* USFWS circulates the draft supplemental EIS for public comment.
* USFWS and the NEPA contractor review and respond to public comments, with input from NPPD as appropriate, and finalize the supplemental EIS.

* NHPA

* USFWS reinitiates the Section 106 consultation process with support from NPPD to address issues found by the court related to wind-energy projects and national historic trails.
* USFWS engages in additional tribal consultation.
* The consulting parties execute a revised programmatic agreement.

* ESA

* NPPD revises the HCP with USFWS input on key issues to include updated species and project information.
* NPPD submits a revised or new application for an incidental take permit.
* USFWS circulates the draft HCP for public comment with the draft supplemental EIS.
* USFWS prepares a new or revised biological opinion.
* USFWS prepares a statement of findings and a record of decision, then issues the incidental take permit (if the issuance criteria are met).

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19*3ameeting_ZWQ1ZjYxYjYtN2UyYS00NTkxLWEsMGItMWY2MDIhMWUw%mJj*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*22*3a*22f07ffff05-bf71-4cd8-b274-173ea27956da*22*2c*22Oid*22*3a*22c4b94017-7463-482c-b6ec-fce2d96d1cd5*22*7d__%3BISUISUISUISUISUISUISUISUISUISUISUI!NPIPZ64uwXccAw!7LHuxZPMCIPJvG-705vb4zkxxKR-8U1ivZK8OCD6zTExSRv-!qQeahacweEM6Fsmg%24&data=04%7C01%7Cmark_poratth%40fws.gov%7C4cfeb13cb14fb40600c0608d9722823fa%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666338986204417%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=QXYsBkolEzu7918%2BbFL1GvDmpiQT78C0nqxfaNdkltrw%3D&reserved=0>
Or call in (audio only)
+1 208-986-2916,,632016931# <tel:+12089862916,,632016931> United States, Boise
(833) 428-0163,,632016931# <tel:8334280163,,632016931> United States (Toll-free)
Phone Conference ID: 632 016 931#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44c0-9b0e-c2e2cfd8bcdf%3Fa0%3D632016931__%3B!!NPIPZ64uwXccAw!7LHuxZPMCIPJvG-705vb4zkxxKR-8U1ivZK8OCD6zTExSRv-!qQeahacweFI1YS_A%24&data=04%7C01%7Cmark_poratth%40fws.gov%7C4cfeb13cb14fb40600c0608d9722823fa%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666338986214367%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=%2BIY2PnrW2%2F9ner1AynjLidK0MMZGjkEV7BrGXNuIkZs%3D&reserved=0>
| Reset PIN [usysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Fusysettings.lync.com%2Fpstnconferencing__%3B!!NPIPZ64uwXccAw!7LHuxZPMCIPJvG-705vb4zkxxKR-8U1ivZK8OCD6zTExSRv-!qQeahacweCSyycAU%24&data=04%7C01%7Cmark_poratth%40fws.gov%7C4cfeb13cb14fb40600c0608d9722823fa%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666338986214367%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=CTTVB6nfRjjgJpDT3YVH4Zo%2Bnu0IYY%2FC7L8QeEHDPBhA%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPIPZ64uwXccAw!7LHuxZPMCIPJvG-705vb4zkxxKR-8U1ivZK8OCD6zTExSRv-
!qQeahacweehxwcFM%24&data=04%7C01%7Cmark_poratth%40fws.gov%7C4cfeb13cb14fb40600c0608d9722823fa%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666338986224324%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=QtiICXuUeY4dIjAvrqxq1N0wUXpUcimmeRLQZTYVFso%3D&reserved=0> |
Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Farldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fmeetingoptions%2F%3ForganizerId%3Dc8f964ff-7463-482c-b6ec-fce2d96d1cd5%26messageId%3D07ffff05-bf71-4cd8-b274-173ea27956da%26threadId%3D19_meeting_ZWQ1ZjYxYjYtN2UyYS00NTkxLWEsMGItMWY2MDIhMWUw%mJj%40thread.v2%26messageId%3D0%26language%3Den-US__%3B!!NPIPZ64uwXccAw!7LHuxZPMCIPJvG-705vb4zkxxKR-8U1ivZK8OCD6zTExSRv-
!qQeahacweLt6tyNfY%24&data=04%7C01%7Cmark_poratth%40fws.gov%7C4cfeb13cb14fb40600c0608d9722823fa%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637666338990206816%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=oFyODQRXBstpQ0PpfF44uDi6%2FZpo%2FURs8IHcp3pOVw%3D&reserved=0>

From: Stubbs, Kevin
To: Runge, Jeff; Burgess, Angela; Bessken, Charlene; Skorupa, Joseph; Porath, Mark T; McNulty, Michele
Subject: Re: Tomorrow"s ABB Meeting
Date: Monday, August 30, 2021 10:25:27 AM
Attachments: ABB Rangewide Survey Guidance_Final8May2018.pdf

FYI, And survey guidance

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 24, 2021 3:11 PM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; McNulty, Michele <michele_mcnulty@fws.gov>
Subject: Tomorrow's ABB Meeting

For tomorrow's ABB meeting, I would like to discuss data verification, trap radius, and capture efficiency of traps. From this discussion, we can work toward a short-term approach for current projects and a long-term strategy to streamline future projects. There is not much to prepare in advance of the meeting outside of reviewing the below rationale for the 0.5-mile trap radius.

Jeff

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, July 21, 2021 9:31 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

I did find our justification for the .5 mile radius that was implemented in 2009. We can probably add to this but this is what we put out on our website when we changed it to .5 miles.

Kevin
918-695-6769

Survey effort radius (Spatial Scale)

A survey is valid for a 0.5 mile radius. Considering ABBs mobility, small size, recorded movement distances, and distance from which they can detect carrion, a presence/absence survey was effective only over 0.5 miles and that this erred on the side of the species.

An ABB may move as little as 0.15 mile per night to a maximum of 6.2 miles in 6 nights (1.03 miles

per night), with a mean movement distance of 0.52 mile per night (Schnell and Hiott 1995, 2003). Bedick *et al.* (2004) reported average nightly movements of 0.62 mile with the large proportion (85%) of recaptures moving distances of 0.31 mile per night. Creighton *et al.* (1992) reported that individual ABBs moved over 4 miles in only a few days. Creighton and Schnell (1998) reported an average nightly movement of 0.76 mile, and maximum distances of four miles in five nights (0.8 mile per night) and 6.2 miles in 6 nights (1.03 miles per night), a minimum distance of 0.15 mile in one night, and a mean nightly movement of 1.67 miles.

While this data could be interpreted to imply that an ABB could move 95 miles [0.62 (mean nightly movement) X 154 days (May 20 – September 20)] during the active season, the Service does not believe this is an accurate interpretation. Mark and recapture data at Camp Gruber and Fort Chaffee did not find any ABBs that moved between these installations, a distance of about 54 miles (Schnell and Hiott, 1997-2003). Even if ABBs moved such long distances, the Service assumes it is unlikely ABBs move in such a consistently linear direction.

The group of ABBs at Camp Gruber has persisted for at least 11 years. While the numbers and high density areas of ABBs have changed annually or biennially, indicating ABBs are typically a cyclic species (Schnell and Hiott, 2003), they appear to be self-sustaining. The Service assumed it was not likely that all, the majority, or even a single ABB on these installations moved from 54 to 95 miles away from Camp Gruber. Further, for a species to survive it cannot exert more energy than it consumes and would only expend the minimal amount of energy needed to secure necessary resources.

Survey data for ABBs in Oklahoma has documented both positive and negative ABB survey results in the same calendar year and even the same ABB active season within a 5 mile radius. Given this data, the previous effective survey radius of 5 miles is now deemed insufficient because it is too large an area to provide accurate ABB presence or absence data. The Service has re-evaluated the published literature, new and old, describing ABB movement in conjunction with the Oklahoma ESFO survey data in determining a new effective survey radius. A 0.5 mile radius is deemed an effective survey radius and provides much greater confidence in ABB survey results.

From:	Stubbs, Kevin
To:	Runge, Jeff; Burgess, Angela; Bessken, Charlene; Skorupa, Joseph; Porath, Mark T; McNulty, Michele
Subject:	Re: Tomorrow"s ABB Meeting
Date:	Monday, August 30, 2021 10:22:48 AM
Attachments:	2017 abb survey data collection may 17 2017 search.pdf

Here is the survey spreadsheet I promised and we have been using this since 2017.

Kevin
918-695-6769

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 24, 2021 3:11 PM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; McNulty, Michele <michele_mcnulty@fws.gov>
Subject: Tomorrow's ABB Meeting

For tomorrow's ABB meeting, I would like to discuss data verification, trap radius, and capture efficiency of traps. From this discussion, we can work toward a short-term approach for current projects and a long-term strategy to streamline future projects. There is not much to prepare in advance of the meeting outside of reviewing the below rationale for the 0.5-mile trap radius.

Jeff

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, July 21, 2021 9:31 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

I did find our justification for the .5 mile radius that was implemented in 2009. We can probably add to this but this is what we put out on our website when we changed it to .5 miles.

Kevin
918-695-6769

Survey effort radius (Spatial Scale)

A survey is valid for a 0.5 mile radius. Considering ABBs mobility, small size, recorded

movement distances, and distance from which they can detect carrion, a presence/absence survey was effective only over 0.5 miles and that this erred on the side of the species.

An ABB may move as little as 0.15 mile per night to a maximum of 6.2 miles in 6 nights (1.03 miles per night), with a mean movement distance of 0.52 mile per night (Schnell and Hiott 1995, 2003). Bedick *et al.* (2004) reported average nightly movements of 0.62 mile with the large proportion (85%) of recaptures moving distances of 0.31 mile per night. Creighton *et al.* (1992) reported that individual ABBs moved over 4 miles in only a few days. Creighton and Schnell (1998) reported an average nightly movement of 0.76 mile, and maximum distances of four miles in five nights (0.8 mile per night) and 6.2 miles in 6 nights (1.03 miles per night), a minimum distance of 0.15 mile in one night, and a mean nightly movement of 1.67 miles.

While this data could be interpreted to imply that an ABB could move 95 miles [0.62 (mean nightly movement) X 154 days (May 20 – September 20)] during the active season, the Service does not believe this is an accurate interpretation. Mark and recapture data at Camp Gruber and Fort Chaffee did not find any ABBs that moved between these installations, a distance of about 54 miles (Schnell and Hiott, 1997-2003). Even if ABBs moved such long distances, the Service assumes it is unlikely ABBs move in such a consistently linear direction.

The group of ABBs at Camp Gruber has persisted for at least 11 years. While the numbers and high density areas of ABBs have changed annually or biennially, indicating ABBs are typically a cyclic species (Schnell and Hiott, 2003), they appear to be self-sustaining. The Service assumed it was not likely that all, the majority, or even a single ABB on these installations moved from 54 to 95 miles away from Camp Gruber. Further, for a species to survive it cannot exert more energy than it consumes and would only expend the minimal amount of energy needed to secure necessary resources.

Survey data for ABBs in Oklahoma has documented both positive and negative ABB survey results in the same calendar year and even the same ABB active season within a 5 mile radius. Given this data, the previous effective survey radius of 5 miles is now deemed insufficient because it is too large an area to provide accurate ABB presence or absence data. The Service has re-evaluated the published literature, new and old, describing ABB movement in conjunction with the Oklahoma ESFO survey data in determining a new effective survey radius. A 0.5 mile radius is deemed an effective survey radius and provides much greater confidence in ABB survey results.

From:	Porath, Mark T
To:	DeBerry, Drue; Runge, Jeff; Hill, Laurel A; Burgess, Angela; Boroja, Maria T; Zerrenner, Adam; VanNess, Meg
Subject:	FW: [EXTERNAL] September 10, 2021 call
Date:	Wednesday, August 25, 2021 10:32:58 AM

Here are some of the questions that NPPD is wanting to know for our Sept 10 meeting.

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, August 25, 2021 11:25 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Cc: Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] September 10, 2021 call

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Mark and Jeff,

We have limited time on September 10 so as a follow up on our proposed agenda that we sent on 8/5 regarding our upcoming kickoff call, we thought it would be useful for NPPD to outline the steps that we believe need to be taken to address the issues found by the court. We would appreciate the Service's thoughts on these items on the call as well as any additional steps you believe may be needed.

- **NEPA**
  - USFWS and NPPD reengage the third-party NEPA contractor.
  - USFWS and the NEPA contractor prepare a draft supplemental EIS to address issues found by the court related to wind-energy projects and national historic trails and to include updated project or resource information.
  - USFWS circulates the draft supplemental EIS for public comment.
  - USFWS and the NEPA contractor review and respond to public comments, with input from NPPD as appropriate, and finalize the supplemental EIS.
- **NHPA**

- USFWS reinitiates the Section 106 consultation process with support from NPPD to address issues found by the court related to wind-energy projects and national historic trails.
- USFWS engages in additional tribal consultation.
- The consulting parties execute a revised programmatic agreement.

- **ESA**
  - NPPD revises the HCP with USFWS input on key issues to include updated species and project information.
  - NPPD submits a revised or new application for an incidental take permit.
  - USFWS circulates the draft HCP for public comment with the draft supplemental EIS.
  - USFWS prepares a new or revised biological opinion.
  - USFWS prepares a statement of findings and a record of decision, then issues the incidental take permit (if the issuance criteria are met).

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff
Cc: Hostetler, Bonnie J.; "Sandi Snodgrass"; Ben Bainbridge
Subject: [EXTERNAL] September 10, 2021 call
Date: Wednesday, August 25, 2021 10:25:09 AM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Mark and Jeff,

We have limited time on September 10 so as a follow up on our proposed agenda that we sent on 8/5 regarding our upcoming kickoff call, we thought it would be useful for NPPD to outline the steps that we believe need to be taken to address the issues found by the court. We would appreciate the Service's thoughts on these items on the call as well as any additional steps you believe may be needed.

- **NEPA**
  - USFWS and NPPD reengage the third-party NEPA contractor.
  - USFWS and the NEPA contractor prepare a draft supplemental EIS to address issues found by the court related to wind-energy projects and national historic trails and to include updated project or resource information.
  - USFWS circulates the draft supplemental EIS for public comment.
  - USFWS and the NEPA contractor review and respond to public comments, with input from NPPD as appropriate, and finalize the supplemental EIS.
- **NHPA**
  - USFWS reinitiates the Section 106 consultation process with support from NPPD to address issues found by the court related to wind-energy projects and national historic trails.
  - USFWS engages in additional tribal consultation.
  - The consulting parties execute a revised programmatic agreement.
- **ESA**

- NPPD revises the HCP with USFWS input on key issues to include updated species and project information.
- NPPD submits a revised or new application for an incidental take permit.
- USFWS circulates the draft HCP for public comment with the draft supplemental EIS.
- USFWS prepares a new or revised biological opinion.
- USFWS prepares a statement of findings and a record of decision, then issues the incidental take permit (if the issuance criteria are met).

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Runge, Jeff
To: Stubbs, Kevin; Burgess, Angela; Bessken, Charlene; Skorupa, Joseph; Porath, Mark T; McNulty, Michele
Subject: Tomorrow"s ABB Meeting
Date: Tuesday, August 24, 2021 2:11:44 PM
Attachments: rangewide Surveys Protocol 12-30-2010 justification.doc

---

For tomorrow's ABB meeting, I would like to discuss data verification, trap radius, and capture efficiency of traps. From this discussion, we can work toward a short-term approach for current projects and a long-term strategy to streamline future projects. There is not much to prepare in advance of the meeting outside of reviewing the below rationale for the 0.5-mile trap radius.

Jeff

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, July 21, 2021 9:31 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

I did find our justification for the .5 mile radius that was implemented in 2009. We can probably add to this but this is what we put out on our website when we changed it to .5 miles.

Kevin
918-695-6769

Survey effort radius (Spatial Scale)

A survey is valid for a 0.5 mile radius. Considering ABBs mobility, small size, recorded movement distances, and distance from which they can detect carrion, a presence/absence survey was effective only over 0.5 miles and that this erred on the side of the species.

An ABB may move as little as 0.15 mile per night to a maximum of 6.2 miles in 6 nights (1.03 miles per night), with a mean movement distance of 0.52 mile per night (Schnell and Hiott 1995, 2003). Bedick *et al.* (2004) reported average nightly movements of 0.62 mile with the large proportion (85%) of recaptures moving distances of 0.31 mile per night. Creighton *et al.* (1992) reported that individual ABBs moved over 4 miles in only a few days. Creighton and Schnell (1998) reported an average nightly movement of 0.76 mile, and maximum distances of four miles in five nights (0.8 mile per night) and 6.2 miles in 6 nights (1.03 miles per night), a minimum distance of 0.15 mile in one night, and a mean nightly movement of 1.67 miles.

While this data could be interpreted to imply that an ABB could move 95 miles [0.62 (mean nightly movement) X 154 days (May 20 – September 20)] during the active season, the Service does not

believe this is an accurate interpretation. Mark and recapture data at Camp Gruber and Fort Chaffee did not find any ABBs that moved between these installations, a distance of about 54 miles (Schnell and Hiott, 1997-2003). Even if ABBs moved such long distances, the Service assumes it is unlikely ABBs move in such a consistently linear direction.

The group of ABBs at Camp Gruber has persisted for at least 11 years. While the numbers and high density areas of ABBs have changed annually or biennially, indicating ABBs are typically a cyclic species (Schnell and Hiott, 2003), they appear to be self-sustaining. The Service assumed it was not likely that all, the majority, or even a single ABB on these installations moved from 54 to 95 miles away from Camp Gruber. Further, for a species to survive it cannot exert more energy than it consumes and would only expend the minimal amount of energy needed to secure necessary resources.

Survey data for ABBs in Oklahoma has documented both positive and negative ABB survey results in the same calendar year and even the same ABB active season within a 5 mile radius. Given this data, the previous effective survey radius of 5 miles is now deemed insufficient because it is too large an area to provide accurate ABB presence or absence data. The Service has re-evaluated the published literature, new and old, describing ABB movement in conjunction with the Oklahoma ESFO survey data in determining a new effective survey radius. A 0.5 mile radius is deemed an effective survey radius and provides much greater confidence in ABB survey results.

From: ben.hainbridge@powereng.com
To: Jennigas, James J. (Jenni@nppd.com); Porath, Mark T.; Hostetler, Bonnie J. (bjhostel@nppd.com); Sandi Snodgrass
Cc: Runge, Jeff
Subject: [EXTERNAL] R-Project Remand Process Actions
Start: Friday, September 10, 2021 8:30:00 AM
End: Friday, September 10, 2021 9:30:00 AM
Location: Microsoft Teams Meeting

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

MS Teams meeting for the discussion of actions that will be needed in the remand process. Meeting is expected to be mostly administrative in nature. An agenda and necessary actions document to follow.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fl%2Fmeetup-join%2F19%3ameeting_ZWQ1ZjYxYjY0N2UyYS00NTkxLWExMGIbMWY2MDBhMWUw%40thread.v2%2F0%3Fcontext%3D%7b%22Tid%22%3a%22f07ffff5-bf71-4ed8-b274-173ea27956ek%22%2c%22Oid%22%3a%22cfd96405-7463-482c-b6ec-6ce2d96d1ed1%22%7d__%3BISUIISUIISUIISUIISUIISUI!!NPIPZ64wwXccAw!7ozZCHwIRgNrIo2gmrvsqlqBwt-vfxIFQQwsCDAYPExyn69UwE3ZG4GN7HIhzDEmvVSg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C3361494b7548bdaf608b8962ba7a77%7C0693fc9ba4b184d7b9341f32400a5494%7C0%7C0%7C637649169181780578%7C Unknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=yh7yYGBwwLnh1A%2B%2Bzc8MNj4DaRZmhHTgDG2o468985%3Dreserved=0>
Or call in (audio only)
<+1 208-998-2916,,632016931#> <2089982916,,632016931#> United States, Boise
(833) 428-0163,,632016931# <tel:8334280163,,632016931#> United States (Toll-free)
Phone Conference ID: 632 016 931#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b0e-c2e2cfd8ccdf%3Fid%3D632016931__%3B!!NPIPZ64wwXccAw!7ozZCHwIRgNrIo2gmrvsqlqBwt-vfxIFQQwsCDAYPExyn69UwE3ZG4GN7HIhzO6ZDYKM%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C3361494b7548bdaf608b8962ba7a77%7C0693fc9ba4b184d7b9341f32400a5494%7C0%7C0%7C637649169181780578%7C Unknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=96Ahm6BCc4gnXYMxlIbSnobnQ5emVyLnkVVcloRomNzA%3Dreserved=0> | Reset PIN [mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpstnconference&sig__%3B!!NPIPZ64wwXccAw!7ozZCHwIRgNrIo2gmrvsqlqBwt-vfxIFQQwsCDAYPExyn69UwE3ZG4GN7HIhzAMgy0%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C3361494b7548bdaf608b8962ba7a77%7C0693fc9ba4b184d7b9341f32400a5494%7C0%7C0%7C637649169181780537%7C Unknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=QMwoeGnzEDgFcPlmMLHh2Imu6qbqNuq1%2BGTVjnyxw28%3Dreserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPIPZ64wwXccAw!7ozZCHwIRgNrIo2gmrvsqlqBwt-vfxIFQQwsCDAYPExyn69UwE3ZG4GN7HIhzJUPGNg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C3361494b7548bdaf608b8962ba7a77%7C0693fc9ba4b184d7b9341f32400a5494%7C0%7C0%7C637649169181780537%7C Unknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=eXPyGAt6dQRwdkfrpyO%2FZ5vo747hU%2Bhr%2BbHlV%2BoBIdjcRw%3Dreserved=0>
| Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fteams.microsoft.com%2Fmeetingoptions%2F%3ForganizerId%3Dcfd96405-7463-482c-b6ec-6ce2d96d1ed1%26tenantId%3Df07ffff5-bf71-4ed8-b274-173ea27956ek%26threadId%3D19_meeting_ZWQ1ZjYxYjY0N2UyYS00NTkxLWExMGIbMWY2MDBhMWUw%40thread.v2%26messageId%3D0%26langtags%3Den-US__%3B!!NPIPZ64wwXccAw!7ozZCHwIRgNrIo2gmrvsqlqBwt-vfxIFQQwsCDAYPExyn69UwE3ZG4GN7HIhzJKWY-tAN24&data=04%7C01%7Cjeff_runge%40fws.gov%7C3361494b7548bdaf608b8962ba7a77%7C0693fc9ba4b184d7b9341f32400a5494%7C0%7C0%7C637649169181800695%7C Unknown%7CTWFpbGZsb3dlcyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmf0%3D%7C1000&sdata=TwRk47O0hvCt0%2FGJisAgLH5ZRxBybb1FSoXlUvhc%3Dreserved=0>

From: Jenniges, James J.
To: Porath, Mark T; Runge, Jeff; Hostetler, Bonnie J.; "Sandi Snodgrass"; Ben Bainbridge
Subject: RE: [EXTERNAL] Remand process call
Date: Tuesday, August 17, 2021 2:56:01 PM

I see Jeff can not make September 10 and it is the only time Mark can make. Since this call is to have a discussion of actions that will be needed in the remand process, thus is mostly administrative in nature verses technical I suggest we do it September 10, 2021 at 9:30 CST. I will have Ben set up a teams call and send out a meeting notice. To facilitate discussion we will send out a document which lists the actions as we see them prior to that time.

Thanks everyone for responding.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, August 17, 2021 3:19 PM
To: Jenniges, James J. <jjjenni@nppd.com>; Runge, Jeff <jeff_runge@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] Remand process call

This email is from mark_porath@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Friday morning of the 10th is still open

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, August 13, 2021 5:57 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] Remand process call

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

I could of sent out an email with a whole pile of times on a doodle poll, but since this is a pretty small group I am going to try this instead. I am looking for an hour worth of time the week between

September 6 and September 10 to discuss what is needed in a remand process. At that time we will also be looking to schedule a subsequent call within a couple weeks to discuss schedule and how to best facility the work that needs to be done.

Please send me the times you are available the week of September 6 or if it is easier send me the times you are **not available**. I will evaluate the data and pick a time. The sooner you respond the less chance someone else's schedule changes. I will be out Monday-Wednesday next week with some meetings and field work but will check emails each night. If you could respond by Thursday August 19, 2021 I would appreciate it.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T
To: DeBerry, Drue; Runge, Jeff; Hill, Laurel A; Burgess, Angela; Boroja, Maria T; VanNess, Meg; Zerrenner, Adam
Subject: NPPD SEIS for the R-project

Now that NPPD has decided to seek a permit for ABB take, they are asking a
8/13/2021 email from Bonnie Hostetler

"NPPD appreciates the feedback the Service was able to provide on our call on August 3, 2021. Based on that feedback, NPPD has determined that it cannot rely on what we thought were established Service approaches to ABB sampling and conservation measures to modify construction impacts in a manner that would allow NPPD to pursue a take-avoidance approach for the R-Project. Thus, NPPD has decided to once again seek an incidental take permit for the Project.

Therefore, we would like to schedule a call with the Service to kick off the remand process for addressing the issues that the court found with respect to the original issuance of the R-Project incidental take permit. On this call, we would like to discuss the following topics:

* Project staffing and points of contact

* NPPD's team will consist of Jim Jenniges (biologist), Ben Bainbridge (outside consultant), Sandi Snodgrass (outside counsel), and Bonnie Hostetler (coordinator) , with support from other specialists as needed

* Steps required to address the issues remanded by the court and the party or parties responsible for those steps

* NEPA issues – preparation of a supplemental EIS by USFWS and third-party contractor with support from NPPD
* NHPA issues – reinitiation of the Section 106 consultation process by USFWS and NPPD
* ESA issues – preparation of an updated HCP by NPPD; preparation of a new/revised biological opinion by USFWS

* Other issues to be addressed during the remand process
* Re-engagement of the third-party NEPA contractor
* Establishment of periodic status update calls

Mark, please send me the names of the individuals from the Service who will participate in this kick off call, and we will send out a doodle poll to find a date for the call in the next two to three weeks.

We look forward to working with you to move this critical infrastructure project to conclusion as expeditiously as possible."

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://teams.microsoft.com/l/meetup-join/19%3ameeting_MzU5MDM1OTMtZWIxOS00ODdlLTllMTMtZWZlOTBhMWEzOTYw%40thread.v2/0?context=%7b%22Tid%22%3a%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2c%22Oid%22%3a%2238796fc9-ad54-4fa7-b072-75dd5837f7ae%22%7d>
Learn More <https://aka.ms/JoinTeamsMeeting> | Meeting options <https://teams.microsoft.com/meetingOptions/?organizerId=38796fc9-ad54-4fa7-b072-75dd5837f7ae&tenantId=0693b5ba-4b18-4d7b-9341-f32f400a5494&threadId=19_meeting_MzU5MDM1OTMtZWIxOS00ODdlLTllMTMtZWZlOTBhMWEzOTYw@thread.v2&messageId=0&language=en-US>

From: Porath, Mark T
To: Rabbe, Matt; Runge, Jeff
Subject: RE: help for R
Date: Monday, August 16, 2021 3:14:00 PM

I'm hoping to have a clearer view of how much help the RO will provide, tomorrow after a meeting with Drue.

From: Rabbe, Matt <Matt_Rabbe@fws.gov>
Sent: Monday, August 16, 2021 9:26 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: help for R

OK, I'll try and look back and see what all we did but Angela would have the best handle on all the related products and time requirements as I was lead on writing the biological opinion while she was the project manager and lead the effort for things like tribal consultation, Cultural resources, etc. We were able to do an EA for the NEPA because we already had an EIS for the larger project and the scope of the HCP area was small enough that an EA was sufficient. There's also the admin record component. I'll help lay out what we did to the best of my ability.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Friday, August 13, 2021 9:05 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Subject: help for R

Drue is trying to get us some assistance from the RO to help us out on the R-project/ABB. We have an ask into John Gwinott (sp?) about help with any spatial modeling and possibly Laura Hill who might fill the role that Angela took during Keystone. Drue is asking us to help layout what those needs might be, so that's where your perspective from Keystone comes in Matt.

John G. is out till next week, so I told Drue we'd talk about it early this next week. If we want Drue would be willing to jump on a short call with us.

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077

mark_porath@fws.gov
nebraskaes@fws.gov

From: Porath, Mark T
To: DeBerry, Drue
Cc: Runge, Jeff
Subject: FW: [EXTERNAL] Remand process call
Date: Saturday, August 14, 2021 5:03:13 AM

Good morning Drue,
I think this is where I'd be hoping for help from the RO. Is this one of the things that Laura can help us with?
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, August 13, 2021 5:57 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] Remand process call

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

I could of sent out an email with a whole pile of times on a doodle poll, but since this is a pretty small group I am going to try this instead. I am looking for an hour worth of time the week between September 6 and September 10 to discuss what is needed in a remand process. At that time we will also be looking to schedule a subsequent call within a couple weeks to discuss schedule and how to best facility the work that needs to be done.

Please send me the times you are available the week of September 6 or if it is easier send me the times you are **not available**. I will evaluate the data and pick a time. The sooner you respond the less chance someone else's schedule changes. I will be out Monday-Wednesday next week with some meetings and field work but will check emails each night. If you could respond by Thursday August 19, 2021 I would appreciate it.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foreseable future is 308-627-6732

From: Hostetler, Bonnie J.
To: Porath, Mark T; Jenniges, James J.; Ben Bainbridge; "Sandi Snodgrass"
Cc: Runge, Jeff
Subject: [EXTERNAL] RE: R-project point of contact
Date: Friday, August 13, 2021 9:25:00 AM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Thanks Mark. Jim will send out a doodle poll so we can get a schedule for a call or two on the calendar. As we move forward on updating the HCP, we may need to have more shorter calls to discuss some issue we may have a question about.

Sent with BlackBerry Work
(https://go.o02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttp-3A__www.blackberry.com%26d%3DDwIFaQ%26c%3DJ5KGpHBm-YFpCcOGat3mg%26r%3DrU66eFVK-ryUTysBWQ2vsQ3ht6CRDFOzSbjoAG90GU%26m%3DU1SrtqiPXASfaOHRvKSFkWGZZ28o9s_EaFYc9BQ3Ke%26s%3DmG2E_L41STc-ZsJwbgmAOXG0bwgfbST5TcmcKYV%26e%3D&data=04%7C01%7Cjeff_runge%40fws.gov%7C2d3667d1117c4ecc5e9c0f8d95e6e81ea%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637644650993897810%7CUnknown%7CTWFpbGZsb3dzIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCIBTiI6Ik1haWwiLCJXVCI6MmR9%3D%2C1000&reserved=0)

From: Porath, Mark T <mark_porath@fws.gov><mailto:mark_porath@fws.gov>>
Date: Friday, Aug 13, 2021, 8:15 AM
To: Hostetler, Bonnie J. <bjhostet@nppd.com><mailto:bjhostet@nppd.com>>, Jenniges, James J. <jjjenni@nppd.com><mailto:jjjenni@nppd.com>>, Ben Bainbridge <bbainbridge@powereng.com><mailto:bbainbridge@powereng.com>>, 'Sandi Snodgrass' <SSnodgrass@hollandhart.com><mailto:SSnodgrass@hollandhart.com>>
Cc: Runge, Jeff <jeff_runge@fws.gov><mailto:jeff_runge@fws.gov>>
Subject: R-project point of contact

This email is from mark_porath@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Good morning Bonnie,
For the moment please use myself and Jeff Runge as the POCs. Please know that even though we are under-resourced we continue to work on the appropriate guidance. And we are making progress, which I believe will assist us both in this process.
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov<mailto:mark_porath@fws.gov>
nebraskaes@fws.gov<mailto:nebraskaes@fws.gov>

From: Hostetler, Bonnie J. <bjhostet@nppd.com>
Sent: Thursday, August 5, 2021 3:53 PM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <bbainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] Kick Off For The Remand Process

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

NPPD appreciates the feedback the Service was able to provide on our call on August 3, 2021. Based on that feedback, NPPD has determined that it cannot rely on what we thought were established Service approaches to ABB sampling and conservation measures to modify construction impacts in a manner that would allow NPPD to pursue a take-avoidance approach for the R-Project. Thus, NPPD has decided to once again seek an incidental take permit for the Project.

Therefore, we would like to schedule a call with the Service to kick off the remand process for addressing the issues that the court found with respect to the original issuance of the R-Project incidental take permit. On this call, we would like to discuss the following topics:

- Project staffing and points of contact
- NPPD's team will consist of Jim Jenniges (biologist), Ben Bainbridge (outside consultant), Sandi Snodgrass (outside counsel), and Bonnie Hostetler (coordinator) , with support from other specialists as needed
- Steps required to address the issues remanded by the court and the party or parties responsible for those steps
- NEPA issues – preparation of a supplemental EIS by USFWS and third-party contractor with support from NPPD
- NHPA issues – reinitiation of the Section 106 consultation process by USFWS and NPPD
- ESA issues – preparation of an updated HCP by NPPD; preparation of a new/revised biological opinion by USFWS
- Other issues to be addressed during the remand process
- Re-engagement of the third-party NEPA contractor
- Establishment of periodic status update calls

Mark, please send me the names of the individuals from the Service who will participate in this kick off call, and we will send out a doodle poll to find a date for the call in the next two to three weeks.

We look forward to working with you to move this critical infrastructure project to conclusion as expeditiously as possible.

From:	Porath, Mark T
To:	Drue DeBerry FWS
Subject:	FYI R-project point of contact sent
Date:	Friday, August 13, 2021 7:16:00 AM

From: Porath, Mark T
Sent: Friday, August 13, 2021 8:15 AM
To: Hostetler, Bonnie J. <bjhoste@nppd.com>; Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <bbainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Cc: Jeff Runge (Jeff_Runge@fws.gov) <Jeff_Runge@fws.gov>
Subject: R-project point of contact

Good morning Bonnie,
For the moment please use myself and Jeff Runge as the POCs. Please know that even though we are under-resourced we continue to work on the appropriate guidance. And we are making progress, which I believe will assist us both in this process.
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Thursday, August 5, 2021 3:53 PM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <bbainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] Kick Off For The Remand Process

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

NPPD appreciates the feedback the Service was able to provide on our call on August 3, 2021. Based on that feedback, NPPD has determined that it cannot rely on what we thought were established Service approaches to ABB sampling and conservation measures to modify construction impacts in a manner that would allow NPPD to pursue a take-avoidance approach for the R-Project. Thus, NPPD has decided to once again seek an incidental take permit for the Project.

Therefore, we would like to schedule a call with the Service to kick off the remand process for addressing the issues that the court found with respect to the original issuance of the R-Project incidental take permit. On this call, we would like to discuss the following topics:

- Project staffing and points of contact
    - NPPD's team will consist of Jim Jenniges (biologist), Ben Bainbridge (outside consultant), Sandi Snodgrass (outside counsel), and Bonnie Hostetler (coordinator) , with support from other specialists as needed
- Steps required to address the issues remanded by the court and the party or parties responsible for those steps
    - NEPA issues – preparation of a supplemental EIS by USFWS and third-party contractor with support from NPPD
    - NHPA issues – reinitiation of the Section 106 consultation process by USFWS and NPPD
    - ESA issues – preparation of an updated HCP by NPPD; preparation of a new/revised biological opinion by USFWS
- Other issues to be addressed during the remand process
- Re-engagement of the third-party NEPA contractor
- Establishment of periodic status update calls

Mark, please send me the names of the individuals from the Service who will participate in this kick off call, and we will send out a doodle poll to find a date for the call in the next two to three weeks.

We look forward to working with you to move this critical infrastructure project to conclusion as expeditiously as possible.

From: Porath, Mark T
To: Hostetler, Bonnie J.; Jenniges, James J.; Ben Bainbridge; "Sandi Snodgrass"
Cc: Jeff Runge (Jeff_Runge@fws.gov)
Subject: R-project point of contact
Date: Friday, August 13, 2021 7:15:00 AM

Good morning Bonnie,
For the moment please use myself and Jeff Runge as the POCs. Please know that even though we are under-resourced we continue to work on the appropriate guidance. And we are making progress, which I believe will assist us both in this process.
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Thursday, August 5, 2021 3:53 PM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <bbainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] Kick Off For The Remand Process

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

NPPD appreciates the feedback the Service was able to provide on our call on August 3, 2021. Based on that feedback, NPPD has determined that it cannot rely on what we thought were established Service approaches to ABB sampling and conservation measures to modify construction impacts in a manner that would allow NPPD to pursue a take-avoidance approach for the R-Project. Thus, NPPD has decided to once again seek an incidental take permit for the Project.

Therefore, we would like to schedule a call with the Service to kick off the remand

process for addressing the issues that the court found with respect to the original issuance of the R-Project incidental take permit. On this call, we would like to discuss the following topics:

- Project staffing and points of contact
  - NPPD's team will consist of Jim Jenniges (biologist), Ben Bainbridge (outside consultant), Sandi Snodgrass (outside counsel), and Bonnie Hostetler (coordinator) , with support from other specialists as needed
- Steps required to address the issues remanded by the court and the party or parties responsible for those steps
  - NEPA issues – preparation of a supplemental EIS by USFWS and third-party contractor with support from NPPD
  - NHPA issues – reinitiation of the Section 106 consultation process by USFWS and NPPD
  - ESA issues – preparation of an updated HCP by NPPD; preparation of a new/revised biological opinion by USFWS
- Other issues to be addressed during the remand process
- Re-engagement of the third-party NEPA contractor
- Establishment of periodic status update calls

Mark, please send me the names of the individuals from the Service who will participate in this kick off call, and we will send out a doodle poll to find a date for the call in the next two to three weeks.

We look forward to working with you to move this critical infrastructure project to conclusion as expeditiously as possible.

From: Porath, Mark T
To: Runge, Jeff
Subject: FW: [EXTERNAL] Kick Off For The Remand Process
Date: Friday, August 6, 2021 2:56:21 PM

Let's set some time aside to chat next week.

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Thursday, August 5, 2021 3:53 PM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <bbainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] Kick Off For The Remand Process

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

NPPD appreciates the feedback the Service was able to provide on our call on August 3, 2021. Based on that feedback, NPPD has determined that it cannot rely on what we thought were established Service approaches to ABB sampling and conservation measures to modify construction impacts in a manner that would allow NPPD to pursue a take-avoidance approach for the R-Project. Thus, NPPD has decided to once again seek an incidental take permit for the Project.

Therefore, we would like to schedule a call with the Service to kick off the remand process for addressing the issues that the court found with respect to the original issuance of the R-Project incidental take permit. On this call, we would like to discuss the following topics:

- Project staffing and points of contact
  - NPPD's team will consist of Jim Jenniges (biologist), Ben Bainbridge (outside consultant), Sandi Snodgrass (outside counsel), and Bonnie Hostetler (coordinator) , with support from other specialists as needed
- Steps required to address the issues remanded by the court and the party or parties responsible for those steps
  - NEPA issues – preparation of a supplemental EIS by USFWS and third-party contractor with support from NPPD

- NHPA issues – reinitiation of the Section 106 consultation process by USFWS and NPPD
- ESA issues – preparation of an updated HCP by NPPD; preparation of a new/revised biological opinion by USFWS

- Other issues to be addressed during the remand process
- Re-engagement of the third-party NEPA contractor
- Establishment of periodic status update calls

Mark, please send me the names of the individuals from the Service who will participate in this kick off call, and we will send out a doodle poll to find a date for the call in the next two to three weeks.

We look forward to working with you to move this critical infrastructure project to conclusion as expeditiously as possible.

From: Porath, Mark T
To: Jeff Runge (Jeff_Runge@fws.gov)
Subject: FW: [EXTERNAL] Kick Off For The Remand Process
Date: Friday, August 6, 2021 2:56:00 PM

Let's set some time aside to chat next week.

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Thursday, August 5, 2021 3:53 PM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Jenniges, James J. <jjjenni@nppd.com>; Ben Bainbridge <bbainbridge@powereng.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] Kick Off For The Remand Process

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

NPPD appreciates the feedback the Service was able to provide on our call on August 3, 2021. Based on that feedback, NPPD has determined that it cannot rely on what we thought were established Service approaches to ABB sampling and conservation measures to modify construction impacts in a manner that would allow NPPD to pursue a take-avoidance approach for the R-Project. Thus, NPPD has decided to once again seek an incidental take permit for the Project.

Therefore, we would like to schedule a call with the Service to kick off the remand process for addressing the issues that the court found with respect to the original issuance of the R-Project incidental take permit. On this call, we would like to discuss the following topics:

- Project staffing and points of contact
  - NPPD's team will consist of Jim Jenniges (biologist), Ben Bainbridge (outside consultant), Sandi Snodgrass (outside counsel), and Bonnie Hostetler (coordinator) , with support from other specialists as needed
- Steps required to address the issues remanded by the court and the party or parties responsible for those steps
  - NEPA issues – preparation of a supplemental EIS by USFWS and third-party contractor with support from NPPD

- NHPA issues – reinitiation of the Section 106 consultation process by USFWS and NPPD
- ESA issues – preparation of an updated HCP by NPPD; preparation of a new/revised biological opinion by USFWS

- Other issues to be addressed during the remand process
- Re-engagement of the third-party NEPA contractor
- Establishment of periodic status update calls

Mark, please send me the names of the individuals from the Service who will participate in this kick off call, and we will send out a doodle poll to find a date for the call in the next two to three weeks.

We look forward to working with you to move this critical infrastructure project to conclusion as expeditiously as possible.

From: Skorupa, Joseph
To: Runge, Jeff; Stubbs, Kevin; Porath, Mark T
Subject: Re: Today"s call.
Date: Thursday, August 5, 2021 3:00:37 PM

Hey Guys,

One other thing that has occurred to me that I should have commented on, because it is very relevant, is the fact that the most extreme examples of variability in the ABB data set for captures (i.e. relative abundance), **does not** translate into comparable variability in an occupancy analysis. Since any 5-day result that exceeds 13 beetles captured leads to an occupancy probability estimate of 1.0, those trapping sessions that produce the outlier numbers, i.e., 20+ beetles captured do not proportionately add any additional uncertainty for estimates of occupancy probability. It does add a lot of uncertainty for estimating abundance of the beetles, but the occupancy question is very different, and its answer is much less sensitive to the variability in the counts. Think of the influence of variability being truncated for an occupancy analysis versus an abundance analysis (because once occupancy is satisfied, adding any number of additional beetles doesn't add any new information to the analysis). If we were asking the occupancy question for a size of disturbance substantively lower than 35 acres, then the occupancy analysis would be sensitive to the full spread of variability we see in this particular ABB data set.

So, if folks are intuitively thinking those confidence intervals I presented couldn't be capturing all the variability in the data, you're right, they don't... **but they do capture all the variability in the data that is relevant to the occupancy question we are asking.**

Cheers,

Joe

From: Skorupa, Joseph
Sent: Thursday, August 5, 2021 2:04 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Subject: Today's call.

My apologies guys... Maria and I lost our home internet connection.

I hustled into my office as fast as I could to use the FWS internet connection but looks like you all tied things up before I could reconnect.

In any case, attached is the Excel table I shared today.

Cheers,

Joe

Joseph P. Skorupa, PhD
Environmental Contaminants Specialist
U.S. Fish and Wildlife Service
Denver Regional Office
e-mail: joseph_skourpa@fws.gov
phone: 303-236-4251

From: Skorupa, Joseph
To: Runge, Jeff; Stubbs, Kevin; Porath, Mark T
Subject: Today"s call.
Date: Thursday, August 5, 2021 2:04:07 PM
Attachments: ABB Gateway Analysis.xlsx

My apologies guys... Maria and I lost our home internet connection.

I hustled into my office as fast as I could to use the FWS internet connection but looks like you all tied things up before I could reconnect.

In any case, attached is the Excel table I shared today.

Cheers,

Joe

Joseph P. Skorupa, PhD
Environmental Contaminants Specialist
U.S. Fish and Wildlife Service
Denver Regional Office
e-mail: joseph_skourpa@fws.gov
phone: 303-236-4251

From: Porath, Mark T
To: Powell, Tyson H; DeBerry, Drue
Subject: RE: NPPD call?
Date: Tuesday, August 3, 2021 8:32:00 AM

Nothing with NPPD other than confirming we got their data. Just pinged Joe to see if he had any insights from the early analysis steps, if so will share

---

From: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Sent: Tuesday, August 3, 2021 9:27 AM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Re: NPPD call?

Thanks Mark. Yes, I have that too. I wondered if there were further discussions with NPPD last week. I guess not.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, August 3, 2021 8:24 AM
To: Powell, Tyson H <Tyson.Powell@sol.doi.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: NPPD call?

This is what I have on the calendar

> ***om:*** *Jenniges, James J. <jjjenni@nppd.com>*
> ***Sent:*** *Thursday, July 29, 2021 3:30 PM*
> ***To:*** *Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>*
> ***Subject:*** *[EXTERNAL] Tuesday call agenda*

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi all,

Below is a short agenda for our call next Tuesday (August 3, 2021) at 1:30-3:30 CDT (12:30-2:30 MDT).

AT&T Dial-In Number: 888-446-7584
Access Code: 4631527

- *Introduction*
- *Recognition that the R-Project is critical infrastructure*

- *Recap of discussions between NPPD and USFWS to date*
- *Discussion of key open issues and USFWS' position on the issues*
    - *Use of project-specific ABB survey results to calculate density*
    - *Use of May 2018 ABB range-wide presence/absence survey guidance*
    - *What constitutes incidental take*
- *Next steps*

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732
:30

From: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Sent: Tuesday, August 3, 2021 9:19 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Subject: NPPD call?

Is call with NPPD still on for today?

Tyson Powell
Attorney-Advisor
U.S. Department of the Interior
Rocky Mountain Regional Solicitor's Office
755 Parfet Street, Suite 151
Lakewood, CO 80215
Main: 303.445.0610
Direct: 303.445.0629*
Cell: 720-926-4335*
tyson.powell@sol.doi.gov
*Please send text or leave message and I will respond.

From: Porath, Mark T
To: Runge, Jeff
Subject: RE: Email Request on Matting
Date: Thursday, July 29, 2021 2:40:47 PM

It looks fine and I think it's a good idea. Send away

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 29, 2021 3:38 PM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: Email Request on Matting

Mark,

I am running out of time for this week, so I wanted to share my thoughts about an email request to the group asking for their best professional judgement on matting and ABB. Please review and edit as you see fit. No need to send this out if you do not think this is a good idea.

Jeff

Jeff Runge

U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Office: (308) 218-0049

Cell: (308) 216-0384

From: Jenniges, James J.
To: Porath, Mark T; DeBerry, Drue; Powell, Tyson H; Hostetler, Bonnie J.; "Sandi Snodgrass"
Subject: [EXTERNAL] Tuesday call agenda
Date: Thursday, July 29, 2021 2:31:00 PM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi all,

Below is a short agenda for our call next Tuesday (August 3, 2021) at 1:30-3:30 CDT (12:30-2:30 MDT).

AT&T Dial-In Number: 888-446-7584
Access Code: 4631527

- Introduction
- Recognition that the R-Project is critical infrastructure
- Recap of discussions between NPPD and USFWS to date
- Discussion of key open issues and USFWS' position on the issues
    - Use of project-specific ABB survey results to calculate density
    - Use of May 2018 ABB range-wide presence/absence survey guidance
    - What constitutes incidental take
- Next steps

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foreseable future is 308-627-6732
:30

From:	Porath, Mark T
To:	Skorupa, Joseph
Cc:	Runge, Jeff; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; DeBerry, Drue; Powell, Tyson H; Boroja, Maria T
Subject:	FW: [EXTERNAL] FW: ABB Survey Data
Date:	Wednesday, July 28, 2021 5:38:38 AM
Attachments:	Total data 2020.xlsx Total data 2019.xlsx Total data 2018.xlsx Total data 2017.xlsx Full 2016 ABB data.xlsx

---

Good morning Joe, attached are the NPPD data sets by year. I believe the first tab has the individual trap data by each day information you requested.
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, July 27, 2021 5:34 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Hostetler, Bonnie J. <bjhoste@nppd.com>
Subject: [EXTERNAL] FW: ABB Survey Data

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Mark,

Here is all our ABB data. If you have any questions as to what is on the data sheets or in the work booklet me know. After you look at this if it is going to take a few weeks to a month to do the analysis you wish to do let us know. Based on the description of the analysis of this data you wish to do I do not think anybody in NPPD has those capabilities, but there are statistical consulting firms that could help if you would provide scope of work.

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Tuesday, July 27, 2021 2:47 PM
To: Jenniges, James J. <jjjenni@nppd.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>
Subject: ABB Survey Data

This email is from prvs=2842bee2ad=ben.bainbridge@powereng.com. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Attached is the survey data from 2016 – 2020.

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [powereng.com]

From: Runge, Jeff
To: Porath, Mark T
Subject: Re: for your review
Date: Tuesday, July 27, 2021 2:23:33 PM

The below bullets capture our data needs. One additional item to request is the base spreadsheet for the 2020 season. We have detailed spreadsheets for years prior but not 2020.

Judging by the earlier email, you may have already talked with Jim. Sorry for not getting back to you sooner as I was working on other items and just getting into my list of emails.

Jeff

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, July 27, 2021 10:47 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: for your review

Morning Jim,
We are in the process of running some additional analyses of the ABB trap data collected by NPPD for the R-project since 2016. I have the final reports (2016-2020) which provide a nice summary of the results from the 5-night trapping efforts through the survey years. But we are seeking two additional pieces of information from this survey work.

1. In order to more accurately estimate confidence intervals around catch rates, having the daily data from each individual trap would be more powerful (i.e., trap x; day 1 captures, day 1 recaptures, day 2 captures, day 2 recaptures……etc.).

2. Also for each ABB recaptured during the standardized surveys, knowing whether the original/previous capture was at the same trap or not would be useful in understanding frequency of errant flyers.

I'm pretty sure this information was originally collected and recorded in an amenable manner, but please let me know if that is not the case.

Thanks,
Mark

From: Runge, Jeff
To: Stubbs, Kevin; Skorupa, Joseph; Porath, Mark T; Burgess, Angela; DeBerry, Drue; Powell, Tyson H; Bessken, Charlene; Boroja, Maria T
Subject: Re: R-Project
Date: Tuesday, July 27, 2021 1:53:31 PM

Kevin,

Your response is timely as I was investigating NPPD's capture efficiency. NPPD had estimated population size using mark/recapture for their 5-years of survey. NPPD's reports included information for the following columns (unique ABB trapped; recaptured ABB; estimated population; and +- 95% confidence). NPPD installed 79 traps annually (with below exception), and with a 0.5-mile (500 acre) trap radius, NPPD calculated 39,500 acres annually. I developed the last three columns by dividing the number of acres sampled (i.e., 39,500) by the mark/recapture estimates.

			Mark/Recap Pop Est			**Acres Sampled per ABB Caught**		
Year	**# Trapped**	**Recap**	**Low 95% CI**	**Est**	**Hi 95% CI**	**Low 95% CI**	**Est**	**High 95% CI**
2016	491	102	1,073	1,281	1,589	25	31	37
2017*	294	68	695	714	736	53	55	56
2018	227	31	987	1,017	1,049	38	39	40
2019	112	14	231	233	235	168	170	171
2020**	163	10	806	842	881	45	47	49

* 39,000 acres were sampled in 2017 because one Brewster trap was removed for all five nights per landowner request.
** Note - one Brewster trap only had four nights of survey because trap was pulled per landowner request. I kept all data in tables and total acres were not adjusted.

The below capture efficiencies were calculated by taking the number of unique ABB individuals and dividing by the lower/upper bounds of NPPD's estimated mark/recapture population. Capture efficiency is much less than 90%. Even after 9 days of trapping Backlund et al. could only capture 31 to 45 percent of the total estimated population. It is reasonable to conclude that 90% efficiency is an unrealistic number even when considering all the caveats in methods and results.

Good comment about open and closed populations. I will need to think more about this because it makes me question whether NPPD's mark/recapture population should be calculated if individual traps are spaced beyond the effect trap radius of 0.5 miles (with many trap areas spaced tens of miles apart).

	Capture Efficiency	
Year	**Low 95% CI**	**High 95% CI**

2016	0.31	0.46
2017	0.40	0.42
2018	0.22	0.23
2019	0.48	0.48
2020	0.19	0.20

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Tuesday, July 27, 2021 8:42 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

We have several mark/recapture surveys we can use if you want to see some others. The more important issues related to all of them are your assumptions. Unless you are on Block Island, the populations are not closed and you are only sampling a small portion of a much larger population. When we tried to remove all ABBs from an area (the trap and relocate research), they trapped until they had multiple days of zero captures but then caught additional ABBs 2 weeks later. So far my conversations with species experts indicate they are not comfortable with the 90 percent capture of all ABBs that came from the tent study for use in estimating abundance in a natural setting and we may be able to use some mark and recapture data to estimate a different assumption. I am waiting on some data to try and come up with something defensible.

Kevin
918-695-6769

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 22, 2021 10:42 AM
To: Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Charlie alerted me to an interesting paper (see attached). This is a successful attempt at estimating population size using mark/recapture. Because trapping methods are quite different and we do not have individual trap data, I am not sure if we can make any comparison of capture statistics between R-Project and this effort (will defer to others on this). I understand the study occurs in a slightly different area and a different time period, but we may be able to use ABB population/density estimates as a rough validation of R-Project results/conclusions.

A summary of methods/results are below. While they estimated populations in June and August. I focused on August data/results.

Jeff

Backlund et al. 2008

- 54,363-acre study site in South Dakota
- 50 traps for 9 nights in August 2005
    - 1 trap per 1087 acres
    - Used 1 gallon bucket with beef kidney (R-Project uses 5-gallon bucket w/ rat)
    - Traps spaced from 0.12 to 2 miles apart (R-Project spaced ~1 mile apart)
- 323 Unique ABB Captured; 51 Recaptures
    - 0.72 ABB/trap/night
    - 714-1,177 population size (95% CI)
    - 46 to 76 acres per ABB, or 0.013-0.021 ABB/acre
- Estimated probabilities of capture were 0.04, 0.09, 0.04, 0.01, 0.01, 0.07, 0.06, 0.10, and 0.02 in days 1-9, respectively.

From: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Sent: Wednesday, July 21, 2021 2:07 PM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Kevin,

Excellent work digging this up!!

Sorry to put you thru the trouble, but I feel much more informed now and greatly thank you for that!!

All best,

Joe

Joseph P. Skorupa, PhD
Environmental Contaminants Specialist
U.S. Fish and Wildlife Service
Denver Regional Office

Phone: 303-236-4251

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, July 21, 2021 8:31 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

I did find our justification for the .5 mile radius that was implemented in 2009. We can probably add to this but this is what we put out on our website when we changed it to .5 miles.

Kevin
918-695-6769

Survey effort radius (Spatial Scale)

A survey is valid for a 0.5 mile radius. Considering ABBs mobility, small size, recorded movement distances, and distance from which they can detect carrion, a presence/absence survey was effective only over 0.5 miles and that this erred on the side of the species.

An ABB may move as little as 0.15 mile per night to a maximum of 6.2 miles in 6 nights (1.03 miles per night), with a mean movement distance of 0.52 mile per night (Schnell and Hiott 1995, 2003). Bedick *et al.* (2004) reported average nightly movements of 0.62 mile with the large proportion (85%) of recaptures moving distances of 0.31 mile per night. Creighton *et al.* (1992) reported that individual ABBs moved over 4 miles in only a few days. Creighton and Schnell (1998) reported an average nightly movement of 0.76 mile, and maximum distances of four miles in five nights (0.8 mile per night) and 6.2 miles in 6 nights (1.03 miles per night), a minimum distance of 0.15 mile in one night, and a mean nightly movement of 1.67 miles.

While this data could be interpreted to imply that an ABB could move 95 miles [0.62 (mean nightly movement) X 154 days (May 20 – September 20)] during the active season, the Service does not believe this is an accurate interpretation. Mark and recapture data at Camp Gruber and Fort Chaffee did not find any ABBs that moved between these installations, a distance of about 54 miles (Schnell and Hiott, 1997-2003). Even if ABBs moved such long distances, the Service assumes it is unlikely ABBs move in such a consistently linear direction.

The group of ABBs at Camp Gruber has persisted for at least 11 years. While the numbers and high density areas of ABBs have changed annually or biennially, indicating ABBs are typically a cyclic species (Schnell and Hiott, 2003), they appear to be self-sustaining. The Service assumed it was not likely that all, the majority, or even a single ABB on these installations moved from 54 to 95 miles away from Camp Gruber. Further, for a species to survive it cannot exert more energy than it consumes and would only expend the minimal amount of energy needed to secure necessary resources.

Survey data for ABBs in Oklahoma has documented both positive and negative ABB survey results in the same calendar year and even the same ABB active season within a 5 mile radius. Given this data, the previous effective survey radius of 5 miles is now deemed insufficient because it is too large an area to provide accurate ABB presence or absence data. The Service has re-evaluated the published literature, new and old, describing ABB movement in conjunction with the Oklahoma ESFO survey data in determining a new effective survey radius. A 0.5 mile radius is deemed an effective survey radius and provides much greater confidence in ABB survey results.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 3:47 PM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Attached are my comments/considerations on the proposed analyses. I may have more considerations before our meeting next Tuesday, but I wanted to send some comments out for early consumption. I look forward to meeting with everyone next week.

Jeff

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 9:14 AM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: R-Project
When: Tuesday, July 20, 2021 3:00 PM-4:30 PM.
Where:

I know that we have not heard back from everyone, but there is a need to keep moving on our evaluation of the R-Project. The meeting is a follow-up discussion about Joe's proposed methods (attached). Please copy this group on any comments/questions by the end of this week, so we will be better prepared for the meeting.

Jeff

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Learn More | Meeting options

From: Porath, Mark T
To: Stubbs, Kevin; Runge, Jeff; Skorupa, Joseph; Burgess, Angela; DeBerry, Drue; Powell, Tyson H; Bessken, Charlene; Boroja, Maria T
Subject: RE: R-Project
Date: Tuesday, July 27, 2021 1:15:00 PM

As an FYI, I have requested the daily trap information from NPPD and they should be sending it shortly.

Also, regarding our questions on knowing which recaptures may have come from a different trap location. It sounds like that is not going to be readily discernable, as the same marking method was used across all trap locations.

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Tuesday, July 27, 2021 8:43 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

We have several mark/recapture surveys we can use if you want to see some others. The more important issues related to all of them are your assumptions. Unless you are on Block Island, the populations are not closed and you are only sampling a small portion of a much larger population. When we tried to remove all ABBs from an area (the trap and relocate research), they trapped until they had multiple days of zero captures but then caught additional ABBs 2 weeks later. So far my conversations with species experts indicate they are not comfortable with the 90 percent capture of all ABBs that came from the tent study for use in estimating abundance in a natural setting and we may be able to use some mark and recapture data to estimate a different assumption. I am waiting on some data to try and come up with something defensible.

Kevin
918-695-6769

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 22, 2021 10:42 AM
To: Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Charlie alerted me to an interesting paper (see attached). This is a successful attempt at estimating population size using mark/recapture. Because trapping methods are quite

different and we do not have individual trap data, I am not sure if we can make any comparison of capture statistics between R-Project and this effort (will defer to others on this). I understand the study occurs in a slightly different area and a different time period, but we may be able to use ABB population/density estimates as a rough validation of R-Project results/conclusions.

A summary of methods/results are below. While they estimated populations in June and August. I focused on August data/results.

Jeff

Backlund et al. 2008

- 54,363-acre study site in South Dakota
- 50 traps for 9 nights in August 2005
    - 1 trap per 1087 acres
    - Used 1 gallon bucket with beef kidney (R-Project uses 5-gallon bucket w/ rat)
    - Traps spaced from 0.12 to 2 miles apart (R-Project spaced ~1 mile apart)
- 323 Unique ABB Captured; 51 Recaptures
    - 0.72 ABB/trap/night
    - 714-1,177 population size (95% CI)
    - 46 to 76 acres per ABB, or 0.013-0.021 ABB/acre
- Estimated probabilities of capture were 0.04, 0.09, 0.04, 0.01, 0.01, 0.07, 0.06, 0.10, and 0.02 in days 1-9, respectively.

From: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Sent: Wednesday, July 21, 2021 2:07 PM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Kevin,

Excellent work digging this up!!

Sorry to put you thru the trouble, but I feel much more informed now and greatly thank you

for that!!

All best,

Joe

Joseph P. Skorupa, PhD
Environmental Contaminants Specialist
U.S. Fish and Wildlife Service
Denver Regional Office
Phone: 303-236-4251

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, July 21, 2021 8:31 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

I did find our justification for the .5 mile radius that was implemented in 2009. We can probably add to this but this is what we put out on our website when we changed it to .5 miles.

Kevin
918-695-6769

Survey effort radius (Spatial Scale)

A survey is valid for a 0.5 mile radius. Considering ABBs mobility, small size, recorded movement distances, and distance from which they can detect carrion, a presence/absence survey was effective only over 0.5 miles and that this erred on the side of the species.

An ABB may move as little as 0.15 mile per night to a maximum of 6.2 miles in 6 nights (1.03 miles per night), with a mean movement distance of 0.52 mile per night (Schnell and Hiott 1995, 2003). Bedick *et al.* (2004) reported average nightly movements of 0.62 mile with the large proportion (85%) of recaptures moving distances of 0.31 mile per night. Creighton *et al.* (1992) reported that individual ABBs moved over 4 miles in only a few days. Creighton and Schnell (1998) reported an average nightly movement of 0.76 mile, and maximum distances of four miles in five nights (0.8 mile per night) and 6.2 miles in 6 nights (1.03 miles per night), a minimum distance of 0.15 mile in one night, and a mean nightly movement of 1.67 miles.

While this data could be interpreted to imply that an ABB could move 95 miles [0.62 (mean nightly movement) X 154 days (May 20 – September 20)] during the active season, the Service does not believe this is an accurate interpretation. Mark and recapture data at Camp Gruber and Fort Chaffee did not find any ABBs that moved between these installations, a distance of about 54 miles (Schnell and Hiott, 1997-2003). Even if ABBs moved such long distances, the Service assumes it is unlikely

ABBs move in such a consistently linear direction.

The group of ABBs at Camp Gruber has persisted for at least 11 years. While the numbers and high density areas of ABBs have changed annually or biennially, indicating ABBs are typically a cyclic species (Schnell and Hiott, 2003), they appear to be self-sustaining. The Service assumed it was not likely that all, the majority, or even a single ABB on these installations moved from 54 to 95 miles away from Camp Gruber. Further, for a species to survive it cannot exert more energy than it consumes and would only expend the minimal amount of energy needed to secure necessary resources.

Survey data for ABBs in Oklahoma has documented both positive and negative ABB survey results in the same calendar year and even the same ABB active season within a 5 mile radius. Given this data, the previous effective survey radius of 5 miles is now deemed insufficient because it is too large an area to provide accurate ABB presence or absence data. The Service has re-evaluated the published literature, new and old, describing ABB movement in conjunction with the Oklahoma ESFO survey data in determining a new effective survey radius. A 0.5 mile radius is deemed an effective survey radius and provides much greater confidence in ABB survey results.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 3:47 PM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Attached are my comments/considerations on the proposed analyses. I may have more considerations before our meeting next Tuesday, but I wanted to send some comments out for early consumption. I look forward to meeting with everyone next week.

Jeff

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 9:14 AM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: R-Project
When: Tuesday, July 20, 2021 3:00 PM-4:30 PM.
Where:

I know that we have not heard back from everyone, but there is a need to keep moving on our evaluation of the R-Project. The meeting is a follow-up discussion about Joe's proposed

methods (attached). Please copy this group on any comments/questions by the end of this week, so we will be better prepared for the meeting.

Jeff

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Learn More | Meeting options

From: Porath, Mark T
To: Jeff Runge (Jeff_Runge@fws.gov)
Subject: for your review
Date: Tuesday, July 27, 2021 9:47:00 AM

Morning Jim,
We are in the process of running some additional analyses of the ABB trap data collected by NPPD for the R-project since 2016. I have the final reports (2016-2020) which provide a nice summary of the results from the 5-night trapping efforts through the survey years. But we are seeking two additional pieces of information from this survey work.

1. In order to more accurately estimate confidence intervals around catch rates, having the daily data from each individual trap would be more powerful (i.e., trap x; day 1 captures, day 1 recaptures, day 2 captures, day 2 recaptures……etc.).

2. Also for each ABB recaptured during the standardized surveys, knowing whether the original/previous capture was at the same trap or not would be usefull in understanding frequency of errant flyers.

I'm pretty sure this information was originally collected and recorded in an amenable manner, but please let me know if that is not the case.

Thanks,
Mark

From: Porath, Mark T
To: Jenniges, James J.
Subject: RE: [EXTERNAL] RE: R-Project discussion
Date: Monday, July 26, 2021 6:53:00 AM

I am in meetings till after 3:30 today

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Thursday, July 22, 2021 3:28 PM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: RE: [EXTERNAL] RE: R-Project discussion

Thanks Mark, that and I have a couple other things for you. Discuss ABB trapping and who to take some fish to for verification. If you have a chance tomorrow give me a call. I am tied up the rest of today.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 22, 2021 3:13 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: RE: [EXTERNAL] RE: R-Project discussion

This email is from mark_porath@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim, I got your voice mail but have been stuck on calls all day. If you were calling about the poll, I did make some time over lunch to fill it out.
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, July 21, 2021 7:28 AM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Small, Stephen M <stephen_small@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] RE: R-Project discussion

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good Morning all,

I have had limited response to the doodle poll below looking for a time to discuss the R-Project. I know we get busy and things get buried in the inbox or people may be out of the office. However, even if you can not make any of the times please indicate that by putting your name on the poll and if you can make a time but for a shorter time frame please let me know.

Thank you

From: Jenniges, James J.
Sent: Thursday, July 15, 2021 3:15 PM
To: 'Porath, Mark T' <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; 'Tyson.Powell@sol.doi.gov' <Tyson.Powell@sol.doi.gov>; 'Stephen_Small@fws.gov' <Stephen_Small@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: R-Project discussion

Hi all,

Over the past year there have been several electrical situations that have highlighted the limitations of the transmission grid and the need to complete the R-Project 345 kV transmission project. NPPD needs to move forward with the Project and is requesting that we find a couple hour time frame to summarize what has happened over the past year since the permit was vacated, outstanding issues and potential paths forward. Below is a link to a doodle poll with multiple two hour time slots the last week of July and the first week of August. Please respond to it and we will pick the time that works best for everyone. If you believe others should also be included please copy them.

https://doodle.com/poll/gxgbpytupfqbxwfn?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com]

Thank You

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Porath, Mark T
To: Stubbs, Kevin
Subject: RE: R-Project
Date: Monday, July 26, 2021 6:45:00 AM

Excellent documentation Kevin, thanks.

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, July 21, 2021 9:31 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

I did find our justification for the .5 mile radius that was implemented in 2009. We can probably add to this but this is what we put out on our website when we changed it to .5 miles.

Kevin
918-695-6769

Survey effort radius (Spatial Scale)

A survey is valid for a 0.5 mile radius. Considering ABBs mobility, small size, recorded movement distances, and distance from which they can detect carrion, a presence/absence survey was effective only over 0.5 miles and that this erred on the side of the species.

An ABB may move as little as 0.15 mile per night to a maximum of 6.2 miles in 6 nights (1.03 miles per night), with a mean movement distance of 0.52 mile per night (Schnell and Hiott 1995, 2003). Bedick *et al.* (2004) reported average nightly movements of 0.62 mile with the large proportion (85%) of recaptures moving distances of 0.31 mile per night. Creighton *et al.* (1992) reported that individual ABBs moved over 4 miles in only a few days. Creighton and Schnell (1998) reported an average nightly movement of 0.76 mile, and maximum distances of four miles in five nights (0.8 mile per night) and 6.2 miles in 6 nights (1.03 miles per night), a minimum distance of 0.15 mile in one night, and a mean nightly movement of 1.67 miles.

While this data could be interpreted to imply that an ABB could move 95 miles [0.62 (mean nightly movement) X 154 days (May 20 – September 20)] during the active season, the Service does not believe this is an accurate interpretation. Mark and recapture data at Camp Gruber and Fort Chaffee did not find any ABBs that moved between these installations, a distance of about 54 miles (Schnell and Hiott, 1997-2003). Even if ABBs moved such long distances, the Service assumes it is unlikely ABBs move in such a consistently linear direction.

The group of ABBs at Camp Gruber has persisted for at least 11 years. While the numbers and high density areas of ABBs have changed annually or biennially, indicating ABBs are typically a cyclic species (Schnell and Hiott, 2003), they appear to be self-sustaining. The Service assumed it was not likely that all, the majority, or even a single ABB on these installations moved from 54 to 95 miles away from Camp Gruber. Further, for a species to survive it cannot exert more energy than it

consumes and would only expend the minimal amount of energy needed to secure necessary resources.

Survey data for ABBs in Oklahoma has documented both positive and negative ABB survey results in the same calendar year and even the same ABB active season within a 5 mile radius. Given this data, the previous effective survey radius of 5 miles is now deemed insufficient because it is too large an area to provide accurate ABB presence or absence data. The Service has re-evaluated the published literature, new and old, describing ABB movement in conjunction with the Oklahoma ESFO survey data in determining a new effective survey radius. A 0.5 mile radius is deemed an effective survey radius and provides much greater confidence in ABB survey results.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 3:47 PM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Attached are my comments/considerations on the proposed analyses. I may have more considerations before our meeting next Tuesday, but I wanted to send some comments out for early consumption. I look forward to meeting with everyone next week.

Jeff

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 9:14 AM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: R-Project
When: Tuesday, July 20, 2021 3:00 PM-4:30 PM.
Where:

I know that we have not heard back from everyone, but there is a need to keep moving on our evaluation of the R-Project. The meeting is a follow-up discussion about Joe's proposed methods (attached). Please copy this group on any comments/questions by the end of this week, so we will be better prepared for the meeting.

Jeff

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Learn More | Meeting options

From: Porath, Mark T
To: Jenniges, James J.
Subject: RE: [EXTERNAL] RE: R-Project discussion
Date: Thursday, July 22, 2021 2:12:00 PM

Jim, I got your voice mail but have been stuck on calls all day. If you were calling about the poll, I did make some time over lunch to fill it out.
Mark

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, July 21, 2021 7:28 AM
To: Porath, Mark T <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Small, Stephen M <stephen_small@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] RE: R-Project discussion

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good Morning all,

I have had limited response to the doodle poll below looking for a time to discuss the R-Project. I know we get busy and things get buried in the inbox or people may be out of the office. However, even if you can not make any of the times please indicate that by putting your name on the poll and if you can make a time but for a shorter time frame please let me know.

Thank you

From: Jenniges, James J.
Sent: Thursday, July 15, 2021 3:15 PM
To: 'Porath, Mark T' <mark_porath@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; 'Tyson.Powell@sol.doi.gov' <Tyson.Powell@sol.doi.gov>; 'Stephen_Small@fws.gov' <Stephen_Small@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: R-Project discussion

Hi all,

Over the past year there have been several electrical situations that have highlighted the limitations of the transmission grid and the need to complete the R-Project 345 kV transmission project. NPPD

needs to move forward with the Project and is requesting that we find a couple hour time frame to summarize what has happened over the past year since the permit was vacated, outstanding issues and potential paths forward. Below is a link to a doodle poll with multiple two hour time slots the last week of July and the first week of August. Please respond to it and we will pick the time that works best for everyone. If you believe others should also be included please copy them.

https://doodle.com/poll/gxgbpytupfqbxwfn?utm_source=poll&utm_medium=link [doodle.com]

Thank You

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From:	Runge, Jeff
To:	Skorupa, Joseph; Stubbs, Kevin; Porath, Mark T; Burgess, Angela; DeBerry, Drue; Powell, Tyson H; Bessken, Charlene; Boroja, Maria T
Subject:	Re: R-Project
Date:	Thursday, July 22, 2021 9:42:19 AM
Attachments:	Backlund et al (2008) SD population estimate.pdf

Charlie alerted me to an interesting paper (see attached). This is a successful attempt at estimating population size using mark/recapture. Because trapping methods are quite different and we do not have individual trap data, I am not sure if we can make any comparison of capture statistics between R-Project and this effort (will defer to others on this). I understand the study occurs in a slightly different area and a different time period, but we may be able to use ABB population/density estimates as a rough validation of R-Project results/conclusions.

A summary of methods/results are below. While they estimated populations in June and August. I focused on August data/results.

Jeff

Backlund et al. 2008

- 54,363-acre study site in South Dakota
- 50 traps for 9 nights in August 2005
    - 1 trap per 1087 acres
    - Used 1 gallon bucket with beef kidney (R-Project uses 5-gallon bucket w/ rat)
    - Traps spaced from 0.12 to 2 miles apart (R-Project spaced ~1 mile apart)
- 323 Unique ABB Captured; 51 Recaptures
    - 0.72 ABB/trap/night
    - 714-1,177 population size (95% CI)
    - 46 to 76 acres per ABB, or 0.013-0.021 ABB/acre
- Estimated probabilities of capture were 0.04, 0.09, 0.04, 0.01, 0.01, 0.07, 0.06, 0.10, and 0.02 in days 1-9, respectively.

From: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Sent: Wednesday, July 21, 2021 2:07 PM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Kevin,

Excellent work digging this up!!

Sorry to put you thru the trouble, but I feel much more informed now and greatly thank you for that!!

All best,

Joe

Joseph P. Skorupa, PhD
Environmental Contaminants Specialist
U.S. Fish and Wildlife Service
Denver Regional Office
Phone: 303-236-4251

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, July 21, 2021 8:31 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

I did find our justification for the .5 mile radius that was implemented in 2009. We can probably add to this but this is what we put out on our website when we changed it to .5 miles.

Kevin
918-695-6769

Survey effort radius (Spatial Scale)

A survey is valid for a 0.5 mile radius. Considering ABBs mobility, small size, recorded movement distances, and distance from which they can detect carrion, a presence/absence survey was effective only over 0.5 miles and that this erred on the side of the species.

An ABB may move as little as 0.15 mile per night to a maximum of 6.2 miles in 6 nights (1.03 miles per night), with a mean movement distance of 0.52 mile per night (Schnell and Hiott 1995, 2003). Bedick *et al.* (2004) reported average nightly movements of 0.62 mile with the large proportion (85%) of recaptures moving distances of 0.31 mile per night. Creighton *et al.* (1992) reported that individual ABBs moved over 4 miles in only a few days. Creighton and Schnell (1998) reported an average nightly movement of 0.76 mile, and maximum distances of four miles in five nights (0.8 mile per night) and 6.2 miles in 6 nights (1.03 miles per night), a minimum distance of 0.15 mile in one night, and a mean nightly movement of 1.67 miles.

While this data could be interpreted to imply that an ABB could move 95 miles [0.62 (mean nightly movement) X 154 days (May 20 – September 20)] during the active season, the Service does not believe this is an accurate interpretation. Mark and recapture data at Camp Gruber and Fort Chaffee did not find any ABBs that moved between these installations, a distance of about 54 miles (Schnell and Hiott, 1997-2003). Even if ABBs moved such long distances, the Service assumes it is unlikely ABBs move in such a consistently linear direction.

The group of ABBs at Camp Gruber has persisted for at least 11 years. While the numbers and high density areas of ABBs have changed annually or biennially, indicating ABBs are typically a cyclic species (Schnell and Hiott, 2003), they appear to be self-sustaining. The Service assumed it was not likely that all, the majority, or even a single ABB on these installations moved from 54 to 95 miles away from Camp Gruber. Further, for a species to survive it cannot exert more energy than it consumes and would only expend the minimal amount of energy needed to secure necessary resources.

Survey data for ABBs in Oklahoma has documented both positive and negative ABB survey results in the same calendar year and even the same ABB active season within a 5 mile radius. Given this data, the previous effective survey radius of 5 miles is now deemed insufficient because it is too large an area to provide accurate ABB presence or absence data. The Service has re-evaluated the published literature, new and old, describing ABB movement in conjunction with the Oklahoma ESFO survey data in determining a new effective survey radius. A 0.5 mile radius is deemed an effective survey radius and provides much greater confidence in ABB survey results.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 3:47 PM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Attached are my comments/considerations on the proposed analyses. I may have more considerations before our meeting next Tuesday, but I wanted to send some comments out for early consumption. I look forward to meeting with everyone next week.

Jeff

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 9:14 AM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: R-Project
When: Tuesday, July 20, 2021 3:00 PM-4:30 PM.
Where:

I know that we have not heard back from everyone, but there is a need to keep moving on our evaluation of the R-Project. The meeting is a follow-up discussion about Joe's proposed methods (attached). Please copy this group on any comments/questions by the end of this week, so we will be better prepared for the meeting.

Jeff

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Learn More | Meeting options

From: Runge, Jeff
To: Porath, Mark T
Subject: Fw: R-Project - ABB Data Request
Date: Wednesday, July 21, 2021 1:44:21 PM

FYI, I have not heard back from Kevin, but I wanted to provide you Joe's response in case you need to communicate this with NPPD sooner than later.

Jeff

From: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Sent: Wednesday, July 21, 2021 2:02 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>
Subject: Re: R-Project - ABB Data Request

Hi Jeff,

That captures it perfectly.

All best,

Joe

Joseph P. Skorupa, PhD
Environmental Contaminants Specialist
U.S. Fish and Wildlife Service
Denver Regional Office
Phone: 303-236-4251

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Wednesday, July 21, 2021 8:47 AM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Subject: R-Project - ABB Data Request

Mark wanted me to check with you about the specifications for ABB data before we send to NPPD. Please review the below bullets and let me know if changes are needed. Also as an FYI, NPPD's survey reports state that the bait was placed on the bottom of the bucket, so bait is available to captured ABBs.

Jeff

- ABB capture data for every trap for each night of survey.
- ABB recapture data for each night at individual traps. If available, would also like data on

individuals initially captured in one trap but then recaptured in a different trap.

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 216-0384

From:	Stubbs, Kevin
To:	Runge, Jeff; Porath, Mark T; Burgess, Angela; Skorupa, Joseph; DeBerry, Drue; Powell, Tyson H; Bessken, Charlene; Boroja, Maria T
Subject:	Re: R-Project
Date:	Wednesday, July 21, 2021 8:31:05 AM
Attachments:	rangewide Surveys Protocol 12-30-2010 justification.doc

I did find our justification for the .5 mile radius that was implemented in 2009. We can probably add to this but this is what we put out on our website when we changed it to .5 miles.

Kevin
918-695-6769

Survey effort radius (Spatial Scale)

A survey is valid for a 0.5 mile radius. Considering ABBs mobility, small size, recorded movement distances, and distance from which they can detect carrion, a presence/absence survey was effective only over 0.5 miles and that this erred on the side of the species.

An ABB may move as little as 0.15 mile per night to a maximum of 6.2 miles in 6 nights (1.03 miles per night), with a mean movement distance of 0.52 mile per night (Schnell and Hiott 1995, 2003). Bedick *et al.* (2004) reported average nightly movements of 0.62 mile with the large proportion (85%) of recaptures moving distances of 0.31 mile per night. Creighton *et al.* (1992) reported that individual ABBs moved over 4 miles in only a few days. Creighton and Schnell (1998) reported an average nightly movement of 0.76 mile, and maximum distances of four miles in five nights (0.8 mile per night) and 6.2 miles in 6 nights (1.03 miles per night), a minimum distance of 0.15 mile in one night, and a mean nightly movement of 1.67 miles.

While this data could be interpreted to imply that an ABB could move 95 miles [0.62 (mean nightly movement) X 154 days (May 20 – September 20)] during the active season, the Service does not believe this is an accurate interpretation. Mark and recapture data at Camp Gruber and Fort Chaffee did not find any ABBs that moved between these installations, a distance of about 54 miles (Schnell and Hiott, 1997-2003). Even if ABBs moved such long distances, the Service assumes it is unlikely ABBs move in such a consistently linear direction.

The group of ABBs at Camp Gruber has persisted for at least 11 years. While the numbers and high density areas of ABBs have changed annually or biennially, indicating ABBs are typically a cyclic species (Schnell and Hiott, 2003), they appear to be self-sustaining. The Service assumed it was not likely that all, the majority, or even a single ABB on these installations moved from 54 to 95 miles away from Camp Gruber. Further, for a species to survive it cannot exert more energy than it consumes and would only expend the minimal amount of energy needed to secure necessary resources.

Survey data for ABBs in Oklahoma has documented both positive and negative ABB survey results in the same calendar year and even the same ABB active season within a 5 mile radius. Given this data, the previous effective survey radius of 5 miles is now deemed insufficient because it is too large an area to provide accurate ABB presence or absence data. The Service has re-evaluated the published literature, new and old, describing ABB movement in conjunction with the Oklahoma ESFO survey data in determining a new effective survey radius. A 0.5 mile radius is deemed an effective survey radius and provides much greater confidence in ABB survey results.

From: Runge, Jeff <jeff_runge@fws.gov>

Sent: Thursday, July 15, 2021 3:47 PM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: R-Project

Attached are my comments/considerations on the proposed analyses. I may have more considerations before our meeting next Tuesday, but I wanted to send some comments out for early consumption. I look forward to meeting with everyone next week.

Jeff

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 15, 2021 9:14 AM
To: Porath, Mark T <mark_porath@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: R-Project
When: Tuesday, July 20, 2021 3:00 PM-4:30 PM.
Where:

I know that we have not heard back from everyone, but there is a need to keep moving on our evaluation of the R-Project. The meeting is a follow-up discussion about Joe's proposed methods (attached). Please copy this group on any comments/questions by the end of this week, so we will be better prepared for the meeting.

Jeff

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Learn More | Meeting options

From: Ciurej, Amanda K
To: Porath, Mark T; Runge, Jeff
Subject: Re: KMZ Re: FWS-NPPD Data Compare
Date: Monday, July 19, 2021 10:46:10 AM

To add - Per Mark and I's quick TEAMs chat this morning, I created the .kmz in lieu of a map so that a person can zoom in and out to view the surrounding habitat, which is a limitation of a map pdf. I'm not going to create a pdf map anymore.

The attributes (columns of information in the spreadsheets) was carried over, so a friendly reminder that you can click on each of the individual points in Google Earth to view the attributes for the points.

Thanks,
Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Monday, July 19, 2021 11:33 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: KMZ Re: FWS-NPPD Data Compare

Hello,

Attached is a kmz of the 2016 - 2019 NPPD survey data as requested. The kmz does not include the 2020 data, but if we are able to get that information from NPPD, it can be added.

Let me know if you have any questions.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Friday, July 16, 2021 11:03 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: FWS-NPPD Data Compare

All,

Attached is a workbook containing NPPD's 2016-2020 ABB Survey Data. While the workbook includes 2016-2020, I couldn't add the 2020 data into its tab because I don't have the spreadsheet (all I have is the 2020 report). It wasn't in the folder Jeff shared with me and I couldn't locate it on the idrive in the ABB folders either. We have it, I just don't know where it is located.

The attached only contains 2016-2019 with a placeholder for the 2020 data.

This workbook is saved on the idrive, here: R:\D_ES\SPECIES\ABB\ABB survey data

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office

9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 2:57 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Ok. Thank you.

I will combine the NPPD datasets into an excel workbook with 2016-2020 data in their own tabs / map the GPS coordinates in ArcMap. I will provide the workbook tomorrow and I can get the map done on Monday, by COB or earlier.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 2:00 PM
To: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Subject: RE: FWS-NPPD Data Compare

The NPPD trapping locations. Should be ~80 points although I'm sure they aren't perfect from year to year.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 12:25 PM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Can you remind me which locations you are referring to that you want on a map?

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 12:10 PM
To: Ciurej, Amanda K <amanda_ciurej@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: FWS-NPPD Data Compare

Can we get all that into a single workbook? I'd like to get that to Joe ahead of our Tuesday meeting. Also Amanda, if you could pull together a quick map of those locations that would be very useful as well.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 11:58 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Hi Mark,

We actually do have tabular data from 2019 and 2020 from NPPD. Jeff has that data. I misspoke during my one-on-one with you this morning and am realizing that now. I was so emersed in cross-checking the 2016-2018 data that I forgot about the 2019 and 2020 data Jeff had shared with me on Thursday because I didn't look at those - I know they need to be added to our database.

We (Jeff) do have 2019 and 2020 tabular data.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 8:42 AM
To: Ciurej, Amanda K <amanda_ciurej@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: FWS-NPPD Data Compare

Do we have similar tabular data for 2019 and 2020?

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Wednesday, July 14, 2021 5:14 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Subject: FWS-NPPD Data Compare

Jeff and Mark,

In the attached workbook (i.e. spreadsheet), I identify what data of NPPD's we have already included in our master dataset. There are three tabs: 2018 NPPD, 2017, and 2016 NPPD tabs. The first two columns in the tabs tell you what we have and what we need to add.

Moving forward, I think we would benefit from standardizing how permitees submit their ABB data to us and provide a recommended data form for permittees to follow. That would help make data merging easier in the future, especially if it is submitted electronically as a workbook already. I have some suggestions if you are soliciting (one e.g. ... format similar to the attributes table in the master dataset). In addition, we could also provide criteria for submissions to avoid receiving / screening for duplicative data like I was doing here. If NPPD and both Wyatt have recovery permits, I wouldn't think they both have to submit that data to us - only one of them (do paper...scissor...rock?).

Please let me know if you have any questions,

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K
To: Porath, Mark T; Runge, Jeff
Subject: KMZ Re: FWS-NPPD Data Compare
Date: Monday, July 19, 2021 10:33:23 AM
Attachments: 2016-2019 NPPD ABB Survey Data.kmz

Hello,

Attached is a kmz of the 2016 - 2019 NPPD survey data as requested. The kmz does not include the 2020 data, but if we are able to get that information from NPPD, it can be added.

Let me know if you have any questions.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Friday, July 16, 2021 11:03 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: FWS-NPPD Data Compare

All,

Attached is a workbook containing NPPD's 2016-2020 ABB Survey Data. While the workbook includes 2016-2020, I couldn't add the 2020 data into its tab because I don't have the spreadsheet (all I have is the 2020 report). It wasn't in the folder Jeff shared with me and I couldn't locate it on the idrive in the ABB folders either. We have it, I just don't know where it is located.

The attached only contains 2016-2019 with a placeholder for the 2020 data.

This workbook is saved on the idrive, here: R:\D_ES\SPECIES\ABB\ABB survey data

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 2:57 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Ok. Thank you.

I will combine the NPPD datasets into an excel workbook with 2016-2020 data in their own tabs / map the GPS coordinates in ArcMap. I will provide the workbook tomorrow and I can get the map done on Monday, by COB or earlier.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883

Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 2:00 PM
To: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Subject: RE: FWS-NPPD Data Compare

The NPPD trapping locations. Should be ~80 points although I'm sure they aren't perfect from year to year.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 12:25 PM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Can you remind me which locations you are referring to that you want on a map?

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 12:10 PM

To: Ciurej, Amanda K <amanda_ciurej@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: FWS-NPPD Data Compare

Can we get all that into a single workbook? I'd like to get that to Joe ahead of our Tuesday meeting. Also Amanda, if you could pull together a quick map of those locations that would be very useful as well.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 11:58 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Hi Mark,

We actually do have tabular data from 2019 and 2020 from NPPD. Jeff has that data. I misspoke during my one-on-one with you this morning and am realizing that now. I was so emersed in cross-checking the 2016-2018 data that I forgot about the 2019 and 2020 data Jeff had shared with me on Thursday because I didn't look at those - I know they need to be added to our database.

We (Jeff) do have 2019 and 2020 tabular data.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 8:42 AM
To: Ciurej, Amanda K <amanda_ciurej@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>

Subject: RE: FWS-NPPD Data Compare

Do we have similar tabular data for 2019 and 2020?

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Wednesday, July 14, 2021 5:14 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Subject: FWS-NPPD Data Compare

Jeff and Mark,

In the attached workbook (i.e. spreadsheet), I identify what data of NPPD's we have already included in our master dataset. There are three tabs: 2018 NPPD, 2017, and 2016 NPPD tabs. The first two columns in the tabs tell you what we have and what we need to add.

Moving forward, I think we would benefit from standardizing how permitees submit their ABB data to us and provide a recommended data form for permittees to follow. That would help make data merging easier in the future, especially if it is submitted electronically as a workbook already. I have some suggestions if you are soliciting (one e.g. ... format similar to the attributes table in the master dataset). In addition, we could also provide criteria for submissions to avoid receiving / screening for duplicative data like I was doing here. If NPPD and both Wyatt have recovery permits, I wouldn't think they both have to submit that data to us - only one of them (do paper...scissor...rock?).

Please let me know if you have any questions,

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K
To: Porath, Mark T; Runge, Jeff
Subject: Re: FWS-NPPD Data Compare
Date: Friday, July 16, 2021 10:03:41 AM
Attachments: 2016-2020 NPPD ABB Survey Data.xlsx

All,

Attached is a workbook containing NPPD's 2016-2020 ABB Survey Data. While the workbook includes 2016-2020, I couldn't add the 2020 data into its tab because I don't have the spreadsheet (all I have is the 2020 report). It wasn't in the folder Jeff shared with me and I couldn't locate it on the idrive in the ABB folders either. We have it, I just don't know where it is located.

The attached only contains 2016-2019 with a placeholder for the 2020 data.

This workbook is saved on the idrive, here: R:\D_ES\SPECIES\ABB\ABB survey data

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 2:57 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Ok. Thank you.

I will combine the NPPD datasets into an excel workbook with 2016-2020 data in their own tabs / map the GPS coordinates in ArcMap. I will provide the workbook tomorrow and I can get the map done on Monday, by COB or earlier.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 2:00 PM
To: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Subject: RE: FWS-NPPD Data Compare

The NPPD trapping locations. Should be ~80 points although I'm sure they aren't perfect from year to year.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 12:25 PM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Can you remind me which locations you are referring to that you want on a map?

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road

Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 12:10 PM
To: Ciurej, Amanda K <amanda_ciurej@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: FWS-NPPD Data Compare

Can we get all that into a single workbook? I'd like to get that to Joe ahead of our Tuesday meeting. Also Amanda, if you could pull together a quick map of those locations that would be very useful as well.

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Thursday, July 15, 2021 11:58 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: FWS-NPPD Data Compare

Hi Mark,

We actually do have tabular data from 2019 and 2020 from NPPD. Jeff has that data. I misspoke during my one-on-one with you this morning and am realizing that now. I was so emersed in cross-checking the 2016-2018 data that I forgot about the 2019 and 2020 data Jeff had shared with me on Thursday because I didn't look at those - I know they need to be added to our database.

We (Jeff) do have 2019 and 2020 tabular data.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883

Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Thursday, July 15, 2021 8:42 AM
To: Ciurej, Amanda K <amanda_ciurej@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: RE: FWS-NPPD Data Compare

Do we have similar tabular data for 2019 and 2020?

From: Ciurej, Amanda K <amanda_ciurej@fws.gov>
Sent: Wednesday, July 14, 2021 5:14 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Subject: FWS-NPPD Data Compare

Jeff and Mark,

In the attached workbook (i.e. spreadsheet), I identify what data of NPPD's we have already included in our master dataset. There are three tabs: 2018 NPPD, 2017, and 2016 NPPD tabs. The first two columns in the tabs tell you what we have and what we need to add.

Moving forward, I think we would benefit from standardizing how permitees submit their ABB data to us and provide a recommended data form for permittees to follow. That would help make data merging easier in the future, especially if it is submitted electronically as a workbook already. I have some suggestions if you are soliciting (one e.g. ... format similar to the attributes table in the master dataset). In addition, we could also provide criteria for submissions to avoid receiving / screening for duplicative data like I was doing here. If NPPD and both Wyatt have recovery permits, I wouldn't think they both have to submit that data to us - only one of them (do paper...scissor...rock?).

Please let me know if you have any questions,

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist

U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K
To: Runge, Jeff; Porath, Mark T
Subject: FWS-NPPD Data Compare
Date: Wednesday, July 14, 2021 4:13:39 PM
Attachments: ABB NPPD-FWS Data Comparison 14JUL2021.xlsx

Jeff and Mark,

In the attached workbook (i.e. spreadsheet), I identify what data of NPPD's we have already included in our master dataset. There are three tabs: 2018 NPPD, 2017, and 2016 NPPD tabs. The first two columns in the tabs tell you what we have and what we need to add.

Moving forward, I think we would benefit from standardizing how permitees submit their ABB data to us and provide a recommended data form for permittees to follow. That would help make data merging easier in the future, especially if it is submitted electronically as a workbook already. I have some suggestions if you are soliciting (one e.g. ... format similar to the attributes table in the master dataset). In addition, we could also provide criteria for submissions to avoid receiving / screening for duplicative data like I was doing here. If NPPD and both Wyatt have recovery permits, I wouldn't think they both have to submit that data to us - only one of them (do paper...scissor...rock?).

Please let me know if you have any questions,

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K
To: Runge, Jeff; Porath, Mark T
Subject: For today"s call Fw: ABB Master Database Background
Date: Tuesday, July 13, 2021 7:41:16 AM
Attachments: Outlook-qtfr02nw.png

Some background information on the ABB Database. Glean what information you would like. However, my intent for providing it was to give you an idea who merged the data 1996-2015 and 2016-2018 into the 1996-2015 datasets to form the larger database, and who had their hand in formulating the data user agreement for the ABB database. Then there is my question about unprovisionalizing the dataset - I can figure that out unless one of you knows the answer.

I wanted to provide this information now, because I do not anticipate spending a whole lot of time on the background on today's call unless that is the direction we decide to go in.

Last Jeff and I briefly spoke about the database, there was interest in better understanding the attributes table in the database shapefile (i.e. various data collected during ABB presences/absence surveys) and some questions about the data user agreement. I can share my screen and talk through these items during our call.

I figured that first we would begin the call with you guys telling me how you want to prioritize the information we cover on today's call based on where we are at on the R-Project ABB discussion.

Amanda

Amanda Ciurej (Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: Mon - Fri, 8:00am - 4:30pm (Central Time Zone)

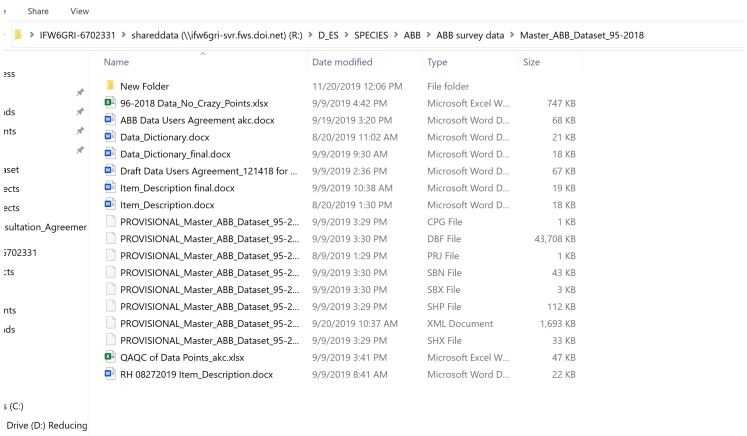
Please email all technical assistance and consultation requests to: nebraskaes@fws.gov.

From: Ciurej, Amanda K

Sent: Tuesday, December 22, 2020 9:12 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: ABB Master Database Background

Hi Jeff,

In 2019, I worked with Bob and merged the data. I did the GIS work and if I had questions about the data points (data collection history, why attributes table looks the way it does, who contributed, etc...) I breached that to Bob and he emailed that to Wyatt. The data 2015 and prior, Roger merged it. The data collected by Wyatt under his recovery permit received 2016 - 2018, I merged that data in ArcGIS with the 2015-1995 dataset to get the now, PROVISIONAL_Master_ABB_Dataset_95-2018. The provisional dataset files are located on the idrive in the folder below (you mentioned you moved the shapefile, but it was still in the original folder so made me think you moved the wrong file):



Note: the provisional dataset has detailed metadata built into it. I will send another email regarding that.

I also worked with Bob on the development of the data user agreement. I worked with Bob and then Eliza as she is the signatory. Both the dataset and agreement were completed in 2019. Bob and Eliza told me the next step was they were then going to give NGPC an opportunity to review the dataset. That is why the dataset is still PROVISIONAL. The goal was to also have them look at and that Rachel Simpson had done so, but I don't know what Bob said to her specifically. Bob and Eliza provided the dataset and agreement to NGPC, I was not involved.

Throughout this year I have been working with Rachel Simpson to answer her questions on the database. I still need to send her data sources for some points that NGPC did not originally have in the Heritage Database. I have the sources from Wyatt, just need to provide them to Rachel. Tried connecting before Thanksgiving and then time got away from me.

What I don't know, is how to officially make a dataset officially unprovisional. Since I started working on the ABB Database, it became part of my responsibilities to make sure the database be maintained year after year. However, this year, I didn't get the 2019 data in there. I talked to Scott about that August - September and decided that it could wait because while it is new data, it wouldn't change what we already know about the range. So, I was going to hold off until next year. The metadata speaks to routine maintenance of the dataset.

That is the information I have on the dataset.

Amanda

Amanda Ciurej (pronounced Chur-ray)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service, Interior Region 5
Nebraska Ecological Services Field Office
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 382-6468, extension 211
Mobile: (308) 379-6592
Email: amanda_ciurej@fws.gov

Typical Work Hours: 8:00 am - 5:00 pm (Central Time Zone)

COVID-19 Status: I am teleworking from home until further notice.
The best way to reach me is by calling my cell, email, or Microsoft TEAMS.

Submit all technical assistance and consultation requests to: *nebraskaes@fws.gov*

From: Skorupa, Joseph
To: Runge, Jeff
Subject: Re: Slides from today"s call.
Date: Thursday, July 8, 2021 3:11:46 PM

Hi Jeff,

I'm fine either way, with addressing questions on the fly during the call or receiving something in writing prior to the call. If folks have the time to prepare written comments I'm guessing if I received them 3-4 days before the call, I'd have enough time to at least absorb the core thoughts/concerns.

I don't have any planned leave for the weeks of the 19th or 26th, so good to go there.

All best,

Joe

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, July 8, 2021 2:15 PM
To: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Subject: Re: Slides from today's call.

I appreciate your time on the call. I am looking to schedule a follow-up group discussion the week of July 19 or 26. Would you like to have questions/comments prior to the meeting, and if so, how much time in advance of the meeting day would you need? Also, would it be of benefit if questions/comments are collated prior to sending to you?

Jeff

From: Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Sent: Thursday, July 8, 2021 2:13 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Slides from today's call.

See attached file.

Joseph P. Skorupa, PhD
Environmental Contaminants Specialist
U.S. Fish and Wildlife Service
Denver Regional Office
e-mail: joseph_skourpa@fws.gov
phone: 303-236-4251

From: Pergats, Mark T
To: Shukla, Kevin; Bessken, Charlene; Skorupa, Joseph; Burgess, Angela; Powell, Tyson H; Runge, Jeff; DeBerry, Drue
Cc: Borgia, Maria T; Backsen, Sarah
Subject: ABB R-project Discussion

Joe to present outputs of analysis, and insight on how to proceed via estimations

Initially the primary date, but several conflicts have since arisen. This is now the back-up date, and the 8th our primary calendar slot.

Microsoft Teams meeting

Join on your computer or mobile app

Click here to join the meeting <https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2FP%2Fmeetup-join%2F19%253ameeting_MTk4ZjJjZWUtZGE3NC00ZjRjLWE0OTAtMzg2NjExZmY1ODk4%2540thread.v2%2F0%3Fcontext%3D%2576b%2522TId%2522%253a%25220693b5ba-4b18-4d7b-9341-f32f400a5494%2522%252c%2522Oid%2522%253a%252238796fc9-ad54-4fa7-b072-75dd58337ae%2522%257d&data=04%7C01%7Cjeff_range%40ftw.gov%7Cc5a6a6b4adbda4c8876b308d93ce30c7c%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637607630687151760%7CUnknown%7CTWFpbGZsb3dfeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd%3D%7C1000&sdata=zJQZqs4vP2%2FM%2FqrQAIALWSnpPQ8wFTInnIInaRuBwsV%3D&reserved=0>

Learn More <https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Faka.ms%2FJoinTeamsMeeting&data=04%7C01%7Cjeff_range%40ftw.gov%7Cc5a6a6b4adbda4c8876b308d93ce30c7c%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637607630687151760%7CUnknown%7CTWFpbGZsb3dfeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd%3D%7C1000&sdata=o4S1Gln7CpbrzO4oGKqcAEAIQXLYOmsCQr%2F7frHFRfE%3D&reserved=0>
| Meeting options <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fteams.microsoft.com%2Fmeetingoptions%2F%3ForganizerId%3D38796fc9-ad54-46e7-b072-75dd58337ae%26tenantId%3D0693b5ba-4b18-4d7b-9341-f32f400a5494%26threadId%3D19_meeting_MTk4ZjJjZWUtZGE3NC00ZjRjLWE0OTAtMzg2NjExZmY1ODk4%40thread.v2%26messageId%3D0%26language%3Den-US&data=04%7C01%7Cjeff_range%40ftw.gov%7Cc5a6a6b4adbda4c8876b308d93ce30c7c%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637607630687151760%7CUnknown%7CTWFpbGZsb3dfeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mmd%3D%7C1000&sdata=Ibc5fL9uEvvBlk7bsm6GJprSgVIJS7%2fGgw9BhHuO0HjMk%3D&reserved=0>

From:	Porath, Mark T
To:	Stubbs, Kevin; Bessken, Charlene; Skorupa, Joseph; Burgess, Angela; Powell, Tyson H; Runge, Jeff; DeBerry, Drue
Cc:	Boroja, Maria T; Backsen, Sarah
Subject:	ABB R-project Discussion

Joe to present outputs of analysis, and insight on how to proceed via estimations

---

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTk4ZjljZWUtZGE3NC00ZjRjLWE0OTAtMzg2NjExZmY1ODhk%40thread.v2/0?context=%7b%22Tid%22%3a%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2c%22Oid%22%3a%2238796fc9-ad54-4fa7-b072-75dd5837f7ae%22%7d>
Learn More <https://aka.ms/JoinTeamsMeeting> | Meeting options <https://teams.microsoft.com/meetingOptions/?organizerId=38796fc9-ad54-4fa7-b072-75dd5837f7ae&tenantId=0693b5ba-4b18-4d7b-9341-f32f400a5494&threadId=19_meeting_MTk4ZjljZWUtZGE3NC00ZjRjLWE0OTAtMzg2NjExZmY1ODhk@thread.v2&messageId=0&language=en-US>

From: Burgess, Angela
To: Dell, David
Subject: Cumulative effects - HCP Intra-Service BiOps
Date: Wednesday, June 16, 2021 2:25:25 PM

Hey David -
I know it's been a while since you brought up the question about cumulative effects in our HCP Intra-Service BiOps, but I just got around to looking at how we dealt with it for wind development coming from R-Project Transmission line HCP. Here's the language, thought I'd pass it along in case it's still relevant for your issue:

> CUMULATIVE EFFECTS
> Cumulative effects "...are those effects of future State, tribal, local, or private activities, not involving Federal activities that are reasonably certain to occur in the action area of the Federal action subject to consultation." Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to Section 7 of the ESA.
>
> One project purpose of the R-Project is to provide additional opportunities for future renewable energy projects. If proposed, these projects would be likely to occur under certain specific circumstances. They would be in areas with suitable wind resources that are close enough to be connected to the R-Project, and these projects would require property owners that are willing to sell or lease their lands for such purposes. While future projects have the potential to impact ABB habitat, the intensity of impacts and whether or not it causes effects to ABB would depend on the number of wind energy projects built, presence or absence of ABB at the site, geographic location, and other site and project-specific characteristics. If ABB were exposed to impacts, the resulting effects would also depend on the number and types of avoidance, minimization, and mitigation measures that would be implemented for each project.
>
> For example, in the EIS, the Service identified the Thunderhead Wind Energy Project under the cumulative effects section as reasonably foreseeable. The information that we could find on this project indicates that Thunderhead is proposing 171 total turbine locations, 137 in Antelope County and 34 in Wheeler County. The Wheeler County portion of the project is the only part of the proposed plan that may occur in the action area; however, we could not locate any detailed information on whether Wheeler County permits were issued, on the specific locations of the turbines, or on whether these turbines would be built in ABB habitat. While recognizing the potential for this project and other new wind energy projects in the action area, the Service knows of no projects reasonably certain to occur in the action area for which the Service has the level of detail necessary to identify and analyze specific effects. Any future projects built in potential ABB habitat would need to work with the Service to comply with the ESA.

The court ruled that we should have included Thunderhead as an indirect effect, but I believe they agreed that the other wind energy that wasn't farther along in development was appropriately put in cumulative effects. Though I should probably refresh my memory and make sure I'm not mixing up the ruling on NEPA vs. Section 7.

I'll be interested to see how you handle it for your HCP, as it may relate to how we deal with R-Project in the future.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Runge, Jeff
To: Burgess, Angela
Subject: Re: [EXTERNAL] Question about ABB mitigation projects
Date: Wednesday, June 16, 2021 12:33:55 PM
Attachments: Olsson_RGB_email_94ba0249-5a99-420a-a915-1e2621d00f2d.png

---

Angela,

Thanks for checking in with our solicitor. It would be helpful to avoid any missteps.

To what extent would you like to be involved with the review of the draft document? Mitigation is one aspect of HCPs, but we do not have outstanding HCPs at this time (NPPD has separate mitigation bank for R-Project if needed). We are aware of proposed solar projects that could be located in ABB habitats, but it is too early in the review process to confirm this.

I would like your review given your experience with ABB and HCPs, but I understand if your plate is full or if this is outside of your work duties. I want to make sure that, when I discuss document review with Mark, we consider your availability if there is an interest.

Jeff

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, June 16, 2021 1:19 PM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burge, Vanessa <Vanessa_Burge@fws.gov>
Cc: Fenner, Daniel <daniel_fenner@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>
Subject: Re: [EXTERNAL] Question about ABB mitigation projects

Thanks for sharing! I'm not super familiar with the pros/cons of a Deed Restriction over Conservation Easement, but I think I've previously heard some concerns over deed restrictions raised by our solicitors. I'll have to dig into that further to see if there's any specific issues with deed restrictions that we can avoid.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, June 16, 2021 12:14 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Burge, Vanessa <Vanessa_Burge@fws.gov>
Cc: Fenner, Daniel <daniel_fenner@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>
Subject: Re: [EXTERNAL] Question about ABB mitigation projects

I don't know if SD has the same state laws about the county approval of easements but we are happy to include the SDFO. The bankers suggested alternative for an easement is attached for your review. Let me know if have any concerns with this option.

Kevin
918-695-6769

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, June 15, 2021 7:41 AM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Burge, Vanessa <Vanessa_Burge@fws.gov>
Cc: Fenner, Daniel <daniel_fenner@fws.gov>
Subject: Re: [EXTERNAL] Question about ABB mitigation projects

There has been a lot of negative news about conservation easements recently, so it is great that you are looking into alternatives for long-term protection. One consideration is including the South Dakota field office into the conversation as they may have interest in the bank. I will discuss with my supervisor as we will need to establish an internal review process with R6 and/or SDFO.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 216-0384

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Friday, June 11, 2021 9:14 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Burge, Vanessa <Vanessa_Burge@fws.gov>
Cc: Fenner, Daniel <daniel_fenner@fws.gov>
Subject: Re: [EXTERNAL] Question about ABB mitigation projects

The Bow and Arrow Conservation Bank in Nebraska has run into issues with getting the county to approve the easement for the bank property. Apparently a state law requires approval by the county commissioners. This could be an issue for other banks in Nebraska in the future. The banker (Preston Smith) is drafting an alternative option for long-term protection through the deed. With the limited market for credits in OK (due to the 4(d) rule), I would suggest modifying the language for the banking agreement to allow impacts in Nebraska to use the bank. If R6 wanted to do this, they would have to be okay with whatever alternative we come up with for long-term protection of the bank property. I will send the draft alternative language to you all when I get it.

Kevin
918-695-6769

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, June 11, 2021 6:23 AM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>
Subject: Re: [EXTERNAL] Question about ABB mitigation projects

Thanks Kevin. Sorry for deflecting her to you initially as I saw she was from Oklahoma. I will take care of this and will keep you copied.

Jeff

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Thursday, June 10, 2021 3:50 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: [EXTERNAL] Question about ABB mitigation projects

Jeff, I spoke with Claire about mitigation and conservation banks. It was an OK company but their project is in Nebraska. Apparently a very large project. The Bow and Arrow bank is currently approved for impacts in OK and would need to be amended to allow credits to be sold for Nebraska impacts but the banker (wildwoodcredits) would still be a good source for potential mitigation options. If you could come up with standard ratios for mitigation based on acres of impacts and if those impacts were temporary or permanent, I think it would help you calculate mitigation recommendations for entities that don't have time to do several years of surveys to get a density estimate. As you just saw with recent surveys, densities can be highly variable. Then you just need a permit for them like a GCP to streamline permits and mitigation over time. Claire will probably contact you for more information on how you would determine mitigation for their proposed project.

Let me know if you have questions.

Kevin
918-695-6769

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, June 8, 2021 9:27 AM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>
Subject: Fw: [EXTERNAL] Question about ABB mitigation projects

Hello Kevin,

I received this email yesterday. Would it be more appropriate if you could contact Claire directly because of your familiarity with existing mitigation? I can certainly be involved with any meetings/conference calls.

Also, I think we have turned the corner with low ABB production. I was with NGPC and Ohio contingent near Rose yesterday, and I believe we captured somewhere near 150 ABB in one day with 12 traps. Also, the highest count was around 48 in one trap. I was not the one recording numbers, so I may be off. However, I believe numbers are close to what I have reported. Given the numbers observed, I think they will try for the full 30 pair. They released many ABB early on, then trap numbers dwindled, so they need to go back out today with only 3 traps.

Jeff

From: Claire Burch <cburch@olsson.com>
Sent: Monday, June 7, 2021 3:36 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: [EXTERNAL] Question about ABB mitigation projects

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Dear Mr. Runge,

I was wondering if the Nebraska FWS field office has any mitigation projects or banks related to the American Burying Beetle in process at the moment? I haven't been able to find existing mitigation banks with available credits in the state of Nebraska specifically related to ABB and am reaching out to gauge the possibility of getting involved with a project for credit purposes?

Thank you in advance for your time! If it would make more sense to have a conversation via phone or virtual conferencing, please let me know and I'm happy to schedule a time for us to chat.

I would also appreciate any additional resources or options you may be aware of if this is not something your organization typically does.

Best regards,

Claire Burch
Intern / Power

C 618.541.6168

11600 Broadway Extension, Suite 300
Oklahoma City, OK 73114
O 405.242.6600

Follow Us: Facebook / Twitter / Instagram / LinkedIn / YouTube
View Legal Disclaimer

From: Runge, Jeff
To: Porath, Mark T
Subject: Re: Plank matting
Date: Wednesday, June 16, 2021 8:00:51 AM

Probably from NPPD's contractors last year. They started work at the Thedford substation east of the Hwy 83/2 junction. Work was completed at the substation around the time when the court vacated the permit.

Jeff

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Wednesday, June 16, 2021 8:48 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Plank matting

Saw this along Hwy 2 just E of Thedford. Don't know how long it's been there
Get Outlook for iOS

From:	Porath, Mark T
To:	Porath, Mark T; Runge, Jeff
Subject:	Plank matting
Date:	Wednesday, June 16, 2021 7:48:59 AM
Attachments:	IMG_0008.jpg IMG_0010.jpg IMG_0012.jpg IMG_0013.jpg

---

Saw this along Hwy 2 just E of Thedford. Don't know how long it's been there
Get Outlook for iOS

From: Porath, Mark T
To: Runge, Jeff
Subject: FW: Attached Image
Date: Monday, June 7, 2021 12:18:55 PM
Attachments: 4376_001.pdf

FYI, I did file here R:\D_ES\ENERGY

From: Walton, Annette J <annette_walton@fws.gov>
Sent: Monday, June 7, 2021 10:29 AM
To: Porath, Mark T <mark_porath@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: FW: Attached Image

FYI

From: Walton, Annette J
Sent: Thursday, June 3, 2021 7:44 AM
To: Marjorie Nelson (Marjorie_Nelson@fws.gov) <Marjorie_Nelson@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; DeBerry, Drue <Drue_DeBerry@fws.gov>
Cc: Gilbert J Varela (gilbert_varela@fws.gov) <gilbert_varela@fws.gov>
Subject: FW: Attached Image

From: FW6Scan2Email@fws.gov <FW6Scan2Email@fws.gov>
Sent: Thursday, May 27, 2021 3:46 PM
To: Walton, Annette J <annette_walton@fws.gov>
Subject: Attached Image

From: Rabbe, Matt
To: DeBerry, Drue; Porath, Mark T
Cc: Runge, Jeff; Burgess, Angela
Subject: RE: R-project WC impacts?
Date: Tuesday, May 11, 2021 7:37:44 AM

Yeah, we aren't able to update the calculation because "total mortality" (i.e. the rest of known mortality) isn't available. However, I did a sensitivity analysis and feel pretty confident that because the original calculation used Stehn and Harralson Strobel 2014 estimate of 60% of mortality being caused by power line strikes (heavily biased), the risk will actually go down once all the data becomes available from telemetry. I can go over the specifics more on a call but there is nothing related to WC that should be expected to change course related to R-line.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, May 11, 2021 8:31 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: R-project WC impacts?

Hey Matt,
I don't recall that you wrote up anything... But it might be me not remembering. I recall that because the HCP said 0.3 WC, and the telemetry data lessened the likelihood, we qualitatively said take was even less likely to occur.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Rabbe, Matt <Matt_Rabbe@fws.gov>
Sent: Tuesday, May 11, 2021 7:26 AM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: R-project WC impacts?

I looked into this last fall with Drue. I don't remember if I wrote anything up- if I did, Drue could you forward that on? I can discuss today on a quick call if you'd like as that may be easiest to explain. The short of it is it won't change the previous WC analysis that was peer reviewed and passed the eye test in court.

Matt Rabbe
Wildlife Biologist

U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, May 11, 2021 8:07 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-project WC impacts?

Morning Matt,

Jeff, may have already hit you up on this. If not, this is a heads up. Yesterday in our R-project update meeting, we asked the question "What impacts are there other than ABB?". The first thought was to WC, and whether some recent strikes had been incorporated into the science/decisions etc. There is probably some urgency to get some of your thoughts before your extended time off. I'm more than willing to sit in on any discussions/updates, but working around my schedule is less important than getting stuff to Jeff.

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Porath, Mark T
To: Rabbe, Matt
Cc: Runge, Jeff; DeBerry, Drue
Subject: RE: R-project WC impacts?
Date: Tuesday, May 11, 2021 7:30:00 AM

I think "the short of it" describes it sufficiently enough for our purposes, as whether it would change the earlier analysis results was the question we asked. Appreciate the prompt reply

---

From: Rabbe, Matt <Matt_Rabbe@fws.gov>
Sent: Tuesday, May 11, 2021 8:26 AM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: R-project WC impacts?

I looked into this last fall with Drue. I don't remember if I wrote anything up- if I did, Drue could you forward that on? I can discuss today on a quick call if you'd like as that may be easiest to explain. The short of it is it won't change the previous WC analysis that was peer reviewed and passed the eye test in court.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Porath, Mark T <mark_porath@fws.gov>
Sent: Tuesday, May 11, 2021 8:07 AM
To: Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: R-project WC impacts?

Morning Matt,
Jeff, may have already hit you up on this. If not, this is a heads up. Yesterday in our R-project update meeting, we asked the question "What impacts are there other than ABB?". The first thought was to WC, and whether some recent strikes had been incorporated into the science/decisions etc. There is probably some urgency to get some of your thoughts before your extended time off. I'm more than willing to sit in on any discussions/updates, but working around my schedule is less important than getting stuff to Jeff.

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077

mark_porath@fws.gov
nebraskaes@fws.gov

From: Porath, Mark T
To: Matt Rabbe NE ES
Cc: Runge, Jeff
Subject: R-project WC impacts?
Date: Tuesday, May 11, 2021 7:06:00 AM

Morning Matt,
Jeff, may have already hit you up on this. If not, this is a heads up. Yesterday in our R-project update meeting, we asked the question "What impacts are there other than ABB?". The first thought was to WC, and whether some recent strikes had been incorporated into the science/decisions etc. There is probably some urgency to get some of your thoughts before your extended time off. I'm more than willing to sit in on any discussions/updates, but working around my schedule is less important than getting stuff to Jeff.

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Porath, Mark T
To: jjenni@nppd.com
Cc: DeBerry, Drue; Darnall, Nathan; Runge, Jeff
Subject: FW: [EXTERNAL] RE: Service review of the While Paper
Date: Monday, May 3, 2021 12:41:19 PM

Good afternoon Jim,
I wanted to reach out and let you know that I'm in the process of coming on-board, and will be pitching in to help with this review going forward. Thanks to all the hard work already completed by Nathan and Jeff, this should be a fairly smooth transition. Here is my contact information below, and I look forward to working with you.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, May 3, 2021 10:12 AM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: Re: [EXTERNAL] RE: Service review of the While Paper

Mark,

FYI, we can discuss specifics at some point in time.

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, April 30, 2021 9:21 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Nathan and others,

We met with the contractors this week to discuss some of the questions in your email as well as some conceptual additional measures that we may be able to implement, including measures that may address the brood-chamber concerns you have raised. The contractors are going to do some field work to evaluate the feasibility of implementing some of these other measures, and we are working with Dr. Hoback on their potential to avoid take of ABB. While the concepts are very much just concepts at this point, we would like to have a call to discuss these possible additional measures with the FWS in the near future. We are also gathering additional information to respond to your questions about the spatial distribution of soil disturbance. We think it would be useful for our next call to include the larger group, including attorneys, as some of these concepts touch on issues of legal interpretation.

James Jenniges

Senior Environmental Specialist

jjjenni@nppd.com

Phone for the foreseable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Friday, April 23, 2021 1:49 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with us last week to discuss efforts to reduce the likelihood of take of the American burying beetle for the R-Line project. We appreciated your willingness to entertain additional ideas. Over the past week, we've had numerous internal meetings and calls to discuss various points you and others raised.

At present, we are exploring ways to address the 35 acres of soil disturbance, which we understand is primarily due to grading. One of our assumptions is that the 35 acres will be evenly distributed across the project. Because that might not be true, do you have any information about the spatial distribution of soil disturbance, i.e., where it is more likely to occur, perhaps related to areas of "rougher" topography? If more soil disturbance occurs in areas of higher beetle density, it would increase the probability of take; however, the opposite would also be true. Knowing where grading is expected to occur would help us evaluate this risk.

During our meeting last week, someone suggested it might be possible to further reduce the effects to brood chambers by avoiding certain activities in ABB habitat during (roughly) June and July. How much flexibility is there for avoiding work (or certain activities) (certain locations) during the timeframe when brood chambers might be present? An example might be no activities in any ABB habitat during June and July; another example might be avoiding placing/removing mats in ABB habitat; and so on. While much of our collective evaluations have focused on adult beetles (e.g., trapping and density estimates), brood chambers are difficult to detect and disturbing one brood chamber could result in the take of multiple beetles. Including measures to further reduce the potential take of beetles in brood chambers might be beneficial.

Thanks again for the continued dialogue. We will continue our analysis and we expect to provide a more comprehensive response shortly. In the meantime, we would welcome any information about the questions above. Thank you,

Nathan Darnall, Acting Field Supervisor (through April 23)

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, April 13, 2021 1:28 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Good Afternoon All,

Just a friendly reminder that we have a call scheduled to discuss the R-Project at 9:00 am CDT tomorrow. I have attached a proposed agenda to help facilitate the discussion. If anyone feels there should be additional items please share with the group.

Thanks again for your time.

Jim

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:35 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.

Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are

some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.

https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com] [gcc02.safelinks.protection.outlook.com]

If anyone has questions please feel free to call.

James Jenniges

Senior Environmental Specialist

jjjenni@nppd.com

Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.

Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge

Kevin Stubbs

Charlene (Charlie) Bessken

Angela Burgess

Melissa Marinovich

Shaun Dunn

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>

Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points

identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of

considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important

consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Porath, Mark T
To: jjenni@nppd.com
Cc: Drue DeBerry FWS ; Darnall, Nathan; Runge, Jeff
Subject: FW: [EXTERNAL] RE: Service review of the While Paper
Date: Monday, May 3, 2021 12:41:00 PM

Good afternoon Jim,
I wanted to reach out and let you know that I'm in the process of coming on-board, and will be pitching in to help with this review going forward. Thanks to all the hard work already completed by Nathan and Jeff, this should be a fairly smooth transition. Here is my contact information below, and I look forward to working with you.
Thanks,
Mark

Mark Porath
Nebraska Project Leader/Field Supervisor
Ecological Services, Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 308-382-6468
Cell: 308-216-2077
mark_porath@fws.gov
nebraskaes@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, May 3, 2021 10:12 AM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: Re: [EXTERNAL] RE: Service review of the While Paper

Mark,

FYI, we can discuss specifics at some point in time.

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, April 30, 2021 9:21 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Nathan and others,

We met with the contractors this week to discuss some of the questions in your email as well as some conceptual additional measures that we may be able to implement, including measures that may address the brood-chamber concerns you have raised. The contractors are going to do some field work to evaluate the feasibility of implementing some of these other measures, and we are working with Dr. Hoback on their potential to avoid take of ABB. While the concepts are very much just concepts at this point, we would like to have a call to discuss these possible additional measures with the FWS in the near future. We are also gathering additional information to respond to your questions about the spatial distribution of soil disturbance. We think it would be useful for our next call to include the larger group, including attorneys, as some of these concepts touch on issues of legal interpretation.

James Jenniges

Senior Environmental Specialist

jjjenni@nppd.com

Phone for the foreseable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Friday, April 23, 2021 1:49 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with us last week to discuss efforts to reduce the likelihood of take of the American burying beetle for the R-Line project. We appreciated your willingness to entertain additional ideas. Over the past week, we've had numerous internal meetings and calls to discuss various points you and others raised.

At present, we are exploring ways to address the 35 acres of soil disturbance, which we understand is primarily due to grading. One of our assumptions is that the 35 acres will be evenly distributed across the project. Because that might not be true, do you have any information about the spatial distribution of soil disturbance, i.e., where it is more likely to occur, perhaps related to areas of "rougher" topography? If more soil disturbance occurs in areas of higher beetle density, it would increase the probability of take; however, the opposite would also be true. Knowing where grading is expected to occur would help us evaluate this risk.

During our meeting last week, someone suggested it might be possible to further reduce the effects to brood chambers by avoiding certain activities in ABB habitat during (roughly) June and July. How much flexibility is there for avoiding work (or certain activities) (certain locations) during the timeframe when brood chambers might be present? An example might be no activities in any ABB habitat during June and July; another example might be avoiding placing/removing mats in ABB habitat; and so on. While much of our collective evaluations have focused on adult beetles (e.g., trapping and density estimates), brood chambers are difficult to detect and disturbing one brood chamber could result in the take of multiple beetles. Including measures to further reduce the potential take of beetles in brood chambers might be beneficial.

Thanks again for the continued dialogue. We will continue our analysis and we expect to provide a more comprehensive response shortly. In the meantime, we would welcome any information about the questions above. Thank you,

Nathan Darnall, Acting Field Supervisor (through April 23)

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, April 13, 2021 1:28 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Good Afternoon All,

Just a friendly reminder that we have a call scheduled to discuss the R-Project at 9:00 am CDT tomorrow. I have attached a proposed agenda to help facilitate the discussion. If anyone feels there should be additional items please share with the group.

Thanks again for your time.

Jim

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:35 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.

Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are

some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.

https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com] [gcc02.safelinks.protection.outlook.com]

If anyone has questions please feel free to call.

James Jenniges

Senior Environmental Specialist

jjjenni@nppd.com

Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.

Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge

Kevin Stubbs

Charlene (Charlie) Bessken

Angela Burgess

Melissa Marinovich

Shaun Dunn

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>

Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points

identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of

considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important

consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: DeBerry, Drue
To: Powell, Tyson H; Porath, Mark T
Cc: Runge, Jeff; Burgess, Angela
Subject: Re: [EXTERNAL] Request for a Call
Date: Monday, May 3, 2021 11:22:58 AM

Will the action include soil disturbance of suitable ABB habitat, including but not limited to the use of vehicles or heavy equipment, vegetation removal, use of herbicides, pesticides, other hazardous chemicals that may impact soil or vegetation or otherwise impact ABB habitat?

If Yes – Any Incidental take from the proposed project is prohibited take and based on your answers in Steps A-F is not excepted under the 4(d) Rule. Please contact the closest U.S. Fish and Wildlife Service Ecological Services Field Office for further guidance. Office contact information is provided at the end of this key

https://www.fws.gov/southwest/es/oklahoma/documents/abb/listing/abbinterim4dkey_19nov2020finalforms_reduced.pdf

Determination Key to the American Burying Beetle 4(d) Rule for Federal and Non-Federal Activities - FWS

ABB 4d Key Version 11/19/20 1 . Determination Key to the American Burying Beetle 4(d) Rule . for Federal and Non-Federal Activities . This key will help you determine if your proposed project is excepted from prohibited take of the

www.fws.gov

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Sent: Monday, May 3, 2021 11:01 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Fw: [EXTERNAL] Request for a Call

Any thoughts on Sandi's point below?

From: Sandi Snodgrass <SSnodgrass@hollandhart.com>
Sent: Monday, May 3, 2021 10:55 AM
To: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: [EXTERNAL] Request for a Call

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi, Tyson. I hope you are doing well. I am reaching out to see if you might have some availability this week to discuss American burying beetle issues related to the R-Project. NPPD sent the attached documents to the USFWS and Nebraska Game and Parks prior to a technical meeting last month. At the meeting, it became apparent that there is still some misunderstanding about what the ABB 4(d) rule means. I would appreciate the opportunity to discuss that issue with you. NPPD's understanding of the rule is described in one of

the attached documents. The USFWS field personnel still seem to be under the impression that all soil disturbance in suitable ABB habitat is prohibited, regardless of whether that soil disturbance causes take. This disconnect is making it difficult to move forward with discussions about viable options for constructing the R-Project while avoiding ABB take. It appears that USFWS is still open to further discussions; resolving this issue would help ensure that those further discussions are useful.

I am pretty open this week, so let me know if there is a time that you and I could chat. Thanks.

Sandi

From: DeBerry, Drue
To: Powell, Tyson H; Porath, Mark T
Cc: Runge, Jeff; Burgess, Angela
Subject: Re: [EXTERNAL] Request for a Call
Date: Monday, May 3, 2021 11:22:58 AM

Will the action include soil disturbance of suitable ABB habitat, including but not limited to the use of vehicles or heavy equipment, vegetation removal, use of herbicides, pesticides, other hazardous chemicals that may impact soil or vegetation or otherwise impact ABB habitat?

If Yes – Any Incidental take from the proposed project is prohibited take and based on your answers in Steps A-F is not excepted under the 4(d) Rule. Please contact the closest U.S. Fish and Wildlife Service Ecological Services Field Office for further guidance. Office contact information is provided at the end of this key

https://www.fws.gov/southwest/es/oklahoma/documents/abb/listing/abbinterim4dkey_19nov2020finalforms_reduced.pdf

Determination Key to the American Burying Beetle 4(d) Rule for Federal and Non-Federal Activities - FWS

ABB 4d Key Version 11/19/20 1 . Determination Key to the American Burying Beetle 4(d) Rule . for Federal and Non-Federal Activities . This key will help you determine if your proposed project is excepted from prohibited take of the

www.fws.gov

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Sent: Monday, May 3, 2021 11:01 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Porath, Mark T <mark_porath@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Fw: [EXTERNAL] Request for a Call

Any thoughts on Sandi's point below?

From: Sandi Snodgrass <SSnodgrass@hollandhart.com>
Sent: Monday, May 3, 2021 10:55 AM
To: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: [EXTERNAL] Request for a Call

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi, Tyson. I hope you are doing well. I am reaching out to see if you might have some availability this week to discuss American burying beetle issues related to the R-Project. NPPD sent the attached documents to the USFWS and Nebraska Game and Parks prior to a technical meeting last month. At the meeting, it became apparent that there is still some misunderstanding about what the ABB 4(d) rule means. I would appreciate the opportunity to discuss that issue with you. NPPD's understanding of the rule is described in one of

the attached documents. The USFWS field personnel still seem to be under the impression that all soil disturbance in suitable ABB habitat is prohibited, regardless of whether that soil disturbance causes take. This disconnect is making it difficult to move forward with discussions about viable options for constructing the R-Project while avoiding ABB take. It appears that USFWS is still open to further discussions; resolving this issue would help ensure that those further discussions are useful.

I am pretty open this week, so let me know if there is a time that you and I could chat. Thanks.

Sandi

From:	Powell, Tyson H
To:	DeBerry, Drue; Porath, Mark T
Cc:	Runge, Jeff; Burgess, Angela
Subject:	Fw: [EXTERNAL] Request for a Call
Date:	Monday, May 3, 2021 11:01:14 AM
Attachments:	NPPD Responses to USFWS"s Comments on the Take-Avoidance Approach (3.30.21).pdf ABB 4(d) Rule Legal Analysis.pdf

---

Any thoughts on Sandi's point below?

From: Sandi Snodgrass <SSnodgrass@hollandhart.com>
Sent: Monday, May 3, 2021 10:55 AM
To: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: [EXTERNAL] Request for a Call

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi, Tyson. I hope you are doing well. I am reaching out to see if you might have some availability this week to discuss American burying beetle issues related to the R-Project. NPPD sent the attached documents to the USFWS and Nebraska Game and Parks prior to a technical meeting last month. At the meeting, it became apparent that there is still some misunderstanding about what the ABB 4(d) rule means. I would appreciate the opportunity to discuss that issue with you. NPPD's understanding of the rule is described in one of the attached documents. The USFWS field personnel still seem to be under the impression that all soil disturbance in suitable ABB habitat is prohibited, regardless of whether that soil disturbance causes take. This disconnect is making it difficult to move forward with discussions about viable options for constructing the R-Project while avoiding ABB take. It appears that USFWS is still open to further discussions; resolving this issue would help ensure that those further discussions are useful.

I am pretty open this week, so let me know if there is a time that you and I could chat. Thanks.

Sandi

From: Runge, Jeff
To: Burgess, Angela; DeBerry, Drue; Porath, Mark T; Powell, Tyson H
Subject: R-Project Catch Up

Edit: We have a conflict, but next Monday afternoon looks open. I extended the meeting to an hour.

I wanted to have a quick meeting with Mark onboard. The purpose of the meeting is to have a brief introduction, summarize recent activities, and discuss lines of communication with NPPD. Because of limited availability this week, we may need to target next week if the proposed time does not work.

Jeff

_____

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://teams.microsoft.com/l/meetup-join/19%3ameeting_NTQyYWYwMDQtMWFjNi00MDc0LWExYjctYmUxNzUwMTMwZDA5%40thread.v2/0?context=%7b%22Tid%22%3a%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2c%22Oid%22%3a%220db18f88-aeb5-438b-90f2-d52134b7f960%22%7d>
Learn More <https://aka.ms/JoinTeamsMeeting> | Meeting options <https://teams.microsoft.com/meetingOptions/?organizerId=0db18f88-aeb5-438b-90f2-d52134b7f960&tenantId=0693b5ba-4b18-4d7b-9341-f32f400a5494&threadId=19_meeting_NTQyYWYwMDQtMWFjNi00MDc0LWExYjctYmUxNzUwMTMwZDA5@thread.v2&messageId=0&language=en-US>

_____

From: Porath, Mark T
To: Runge, Jeff
Subject: RE: [EXTERNAL] RE: Service review of the While Paper
Date: Monday, May 3, 2021 9:13:00 AM

Appreciate it

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, May 3, 2021 10:12 AM
To: Porath, Mark T <mark_porath@fws.gov>
Subject: Re: [EXTERNAL] RE: Service review of the While Paper

Mark,

FYI, we can discuss specifics at some point in time.

Jeff

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, April 30, 2021 9:21 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Nathan and others,

We met with the contractors this week to discuss some of the questions in your email as well as some conceptual additional measures that we may be able to implement, including measures that may address the brood-chamber concerns you have raised. The contractors are going to do some field work to evaluate the feasibility of implementing some of these other measures, and we are working with Dr. Hoback on their potential to avoid take of ABB. While the concepts are very much just concepts at this point, we would like to have a call to discuss these possible additional measures with the FWS in the near future. We are also gathering additional information to respond to your questions about the spatial distribution of soil disturbance. We think it would be useful for our next call to include the larger group, including attorneys, as some of these concepts touch on issues of legal interpretation.

James Jenniges

Senior Environmental Specialist

jjjenni@nppd.com

Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Friday, April 23, 2021 1:49 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with us last week to discuss efforts to reduce the likelihood of take of the American burying beetle for the R-Line project. We appreciated your willingness to entertain additional ideas. Over the past week, we've had numerous internal meetings and calls to discuss various points you and others raised.

At present, we are exploring ways to address the 35 acres of soil disturbance, which we understand is primarily due to grading. One of our assumptions is that the 35 acres will be evenly distributed across the project. Because that might not be true, do you have any information about the spatial distribution of soil disturbance, i.e., where it is more likely to occur, perhaps related to areas of "rougher" topography? If more soil disturbance occurs in areas of higher beetle density, it would increase the probability of take; however, the opposite would also be true. Knowing where grading is expected to occur would help us evaluate this risk.

During our meeting last week, someone suggested it might be possible to further reduce the effects to brood chambers by avoiding certain activities in ABB habitat during (roughly) June and July. How much flexibility is there for avoiding work (or certain activities) (certain locations) during the timeframe when brood chambers might be present? An example might be no activities in any ABB habitat during June and July; another example might be avoiding placing/removing mats in ABB habitat; and so on. While much of our collective evaluations have focused on adult beetles (e.g., trapping and density estimates), brood chambers are difficult to detect and disturbing one brood chamber could result in the take of multiple beetles. Including measures to further reduce the potential take of beetles in brood chambers might be beneficial.

Thanks again for the continued dialogue. We will continue our analysis and we expect to provide a more comprehensive response shortly. In the meantime, we would welcome any information about the questions above. Thank you,

Nathan Darnall, Acting Field Supervisor (through April 23)

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, April 13, 2021 1:28 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Good Afternoon All,

Just a friendly reminder that we have a call scheduled to discuss the R-Project at 9:00 am CDT tomorrow. I have attached a proposed agenda to help facilitate the discussion. If anyone feels there should be additional items please share with the group.

Thanks again for your time.

Jim

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:35 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.

https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com] [gcc02.safelinks.protection.outlook.com]

If anyone has questions please feel free to call.

James Jenniges

Senior Environmental Specialist

jjjenni@nppd.com

Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge

Kevin Stubbs

Charlene (Charlie) Bessken

Angela Burgess

Melissa Marinovich

Shaun Dunn

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited

take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB

from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Porath, Mark T
To: DeBerry, Drue
Cc: Powell, Tyson H
Subject: RE: [EXTERNAL] RE: Service review of the While Paper
Date: Monday, May 3, 2021 8:54:00 AM

Agreed, thanks Drue.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, April 30, 2021 1:59 PM
To: Porath, Mark T <mark_porath@fws.gov>
Cc: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Fw: [EXTERNAL] RE: Service review of the While Paper

Hey Mark,

Once we have our strategy for the meeting identified, you and I should run it past Tyson (our Solicitor on this project). I also have new direction from the RD to share on the project.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, April 30, 2021 8:21 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Nathan and others,

We met with the contractors this week to discuss some of the questions in your email as well as some conceptual additional measures that we may be able to implement, including measures that

may address the brood-chamber concerns you have raised. The contractors are going to do some field work to evaluate the feasibility of implementing some of these other measures, and we are working with Dr. Hoback on their potential to avoid take of ABB. While the concepts are very much just concepts at this point, we would like to have a call to discuss these possible additional measures with the FWS in the near future. We are also gathering additional information to respond to your questions about the spatial distribution of soil disturbance. We think it would be useful for our next call to include the larger group, including attorneys, as some of these concepts touch on issues of legal interpretation.

James Jenniges

Senior Environmental Specialist

jjjenni@nppd.com

Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Friday, April 23, 2021 1:49 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with us last week to discuss efforts to reduce the likelihood of take of the American burying beetle for the R-Line project. We appreciated your willingness to

entertain additional ideas. Over the past week, we've had numerous internal meetings and calls to discuss various points you and others raised.

At present, we are exploring ways to address the 35 acres of soil disturbance, which we understand is primarily due to grading. One of our assumptions is that the 35 acres will be evenly distributed across the project. Because that might not be true, do you have any information about the spatial distribution of soil disturbance, i.e., where it is more likely to occur, perhaps related to areas of "rougher" topography? If more soil disturbance occurs in areas of higher beetle density, it would increase the probability of take; however, the opposite would also be true. Knowing where grading is expected to occur would help us evaluate this risk.

During our meeting last week, someone suggested it might be possible to further reduce the effects to brood chambers by avoiding certain activities in ABB habitat during (roughly) June and July. How much flexibility is there for avoiding work (or certain activities) (certain locations) during the timeframe when brood chambers might be present? An example might be no activities in any ABB habitat during June and July; another example might be avoiding placing/removing mats in ABB habitat; and so on. While much of our collective evaluations have focused on adult beetles (e.g., trapping and density estimates), brood chambers are difficult to detect and disturbing one brood chamber could result in the take of multiple beetles. Including measures to further reduce the potential take of beetles in brood chambers might be beneficial.

Thanks again for the continued dialogue. We will continue our analysis and we expect to provide a more comprehensive response shortly. In the meantime, we would welcome any information about the questions above. Thank you,

Nathan Darnall, Acting Field Supervisor (through April 23)

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, April 13, 2021 1:28 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Good Afternoon All,

Just a friendly reminder that we have a call scheduled to discuss the R-Project at 9:00 am CDT tomorrow. I have attached a proposed agenda to help facilitate the discussion. If anyone feels there should be additional items please share with the group.

Thanks again for your time.

Jim

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:35 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully

request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.

https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com] [gcc02.safelinks.protection.outlook.com]

If anyone has questions please feel free to call.

James Jenniges

Senior Environmental Specialist

jjjenni@nppd.com

Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge

Kevin Stubbs

Charlene (Charlie) Bessken

Angela Burgess

Melissa Marinovich

Shaun Dunn

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in

prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil

moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J.
To: Darnall, Nathan
Cc: Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; Dunn, Shaun; DeBerry, Drue; Hostetler, Bonnie J.; Ben Bainbridge
Subject: RE: [EXTERNAL] RE: Service review of the While Paper
Date: Friday, April 30, 2021 8:21:28 AM

Nathan and others,

We met with the contractors this week to discuss some of the questions in your email as well as some conceptual additional measures that we may be able to implement, including measures that may address the brood-chamber concerns you have raised. The contractors are going to do some field work to evaluate the feasibility of implementing some of these other measures, and we are working with Dr. Hoback on their potential to avoid take of ABB. While the concepts are very much just concepts at this point, we would like to have a call to discuss these possible additional measures with the FWS in the near future. We are also gathering additional information to respond to your questions about the spatial distribution of soil disturbance. We think it would be useful for our next call to include the larger group, including attorneys, as some of these concepts touch on issues of legal interpretation.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Friday, April 23, 2021 1:49 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with us last week to discuss efforts to reduce the likelihood of take of the American burying beetle for the R-Line project. We appreciated your willingness to entertain additional ideas. Over the past week, we've had numerous internal meetings and calls to discuss various points you and others raised.

At present, we are exploring ways to address the 35 acres of soil disturbance, which we understand is primarily due to grading. One of our assumptions is that the 35 acres will be evenly distributed across the project. Because that might not be true, do you have any information about the spatial distribution of soil disturbance, i.e., where it is more likely to occur, perhaps related to areas of "rougher" topography? If more soil disturbance occurs in areas of higher beetle density, it would increase the probability of take; however, the opposite would also be true. Knowing where grading is expected to occur would help us evaluate this risk.

During our meeting last week, someone suggested it might be possible to further reduce the effects to brood chambers by avoiding certain activities in ABB habitat during (roughly) June and July. How much flexibility is there for avoiding work (or certain activities) (certain locations) during the timeframe when brood chambers might be present? An example might be no activities in any ABB habitat during June and July; another example might be avoiding placing/removing mats in ABB habitat; and so on. While much of our collective evaluations have focused on adult beetles (e.g., trapping and density estimates), brood chambers are difficult to detect and disturbing one brood chamber could result in the take of multiple beetles. Including measures to further reduce the potential take of beetles in brood chambers might be beneficial.

Thanks again for the continued dialogue. We will continue our analysis and we expect to provide a more comprehensive response shortly. In the meantime, we would welcome any information about the questions above. Thank you,

Nathan Darnall, Acting Field Supervisor (through April 23)
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, April 13, 2021 1:28 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Good Afternoon All,

Just a friendly reminder that we have a call scheduled to discuss the R-Project at 9:00 am CDT tomorrow. I have attached a proposed agenda to help facilitate the discussion. If anyone feels there

should be additional items please share with the group.

Thanks again for your time.
Jim

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:35 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.
https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com] [gcc02.safelinks.protection.outlook.com]

If anyone has questions please feel free to call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foreseable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or

issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look

again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of

ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction

of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Darnall, Nathan
To: Jenniges, James J.
Cc: Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; Dunn, Shaun; DeBerry, Drue; Hostetler, Bonnie J.; Ben Bainbridge
Subject: RE: [EXTERNAL] RE: Service review of the While Paper
Date: Friday, April 23, 2021 12:48:42 PM

Jim,
Thank you for meeting with us last week to discuss efforts to reduce the likelihood of take of the American burying beetle for the R-Line project. We appreciated your willingness to entertain additional ideas. Over the past week, we've had numerous internal meetings and calls to discuss various points you and others raised.

At present, we are exploring ways to address the 35 acres of soil disturbance, which we understand is primarily due to grading. One of our assumptions is that the 35 acres will be evenly distributed across the project. Because that might not be true, do you have any information about the spatial distribution of soil disturbance, i.e., where it is more likely to occur, perhaps related to areas of "rougher" topography? If more soil disturbance occurs in areas of higher beetle density, it would increase the probability of take; however, the opposite would also be true. Knowing where grading is expected to occur would help us evaluate this risk.
During our meeting last week, someone suggested it might be possible to further reduce the effects to brood chambers by avoiding certain activities in ABB habitat during (roughly) June and July. How much flexibility is there for avoiding work (or certain activities) (certain locations) during the timeframe when brood chambers might be present? An example might be no activities in any ABB habitat during June and July; another example might be avoiding placing/removing mats in ABB habitat; and so on. While much of our collective evaluations have focused on adult beetles (e.g., trapping and density estimates), brood chambers are difficult to detect and disturbing one brood chamber could result in the take of multiple beetles. Including measures to further reduce the potential take of beetles in brood chambers might be beneficial.

Thanks again for the continued dialogue. We will continue our analysis and we expect to provide a more comprehensive response shortly. In the meantime, we would welcome any information about the questions above. Thank you,

Nathan Darnall, Acting Field Supervisor (through April 23)
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, April 13, 2021 1:28 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess,

Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Good Afternoon All,

Just a friendly reminder that we have a call scheduled to discuss the R-Project at 9:00 am CDT tomorrow. I have attached a proposed agenda to help facilitate the discussion. If anyone feels there should be additional items please share with the group.

Thanks again for your time.
Jim

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:35 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>

Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.
https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com]

If anyone has questions please feel free to call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foreseable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look

again!

Use the "Report Phishing" button if you think this is a phishing email.

Phishing is the #1 threat to NPPD. You are our best defense!!

Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis

might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high

densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From:	Burgess, Angela
To:	Runge, Jeff; Darnall, Nathan; Powell, Tyson H; DeBerry, Drue
Subject:	Region 5 ITP guidance
Date:	Thursday, April 22, 2021 10:40:46 AM
Attachments:	Guidance regarding ESA Technical Assistance Letters for non-Federal projects 20210128_Final (1).pdf 20190502_R5 Implementation Guidance on ITP Trigger Memo.docx

---

Hi All,
The docs I mentioned on our call yesterday from Region 5 is attached. It's pretty general, but it may be helpful in thinking through our process of coordinating/responding to NPPD.

Thanks,
Angela

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From:	Jenniges, James J.
To:	Darnall, Nathan
Cc:	Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; Dunn, Shaun; DeBerry, Drue; Hostetler, Bonnie J.; Ben Bainbridge
Subject:	RE: [EXTERNAL] RE: Service review of the While Paper
Date:	Tuesday, April 13, 2021 1:33:29 PM
Attachments:	R-Project Technical Meeting Agenda.docx

Good Afternoon All,

Just a friendly reminder that we have a call scheduled to discuss the R-Project at 9:00 am CDT tomorrow. I have attached a proposed agenda to help facilitate the discussion. If anyone feels there should be additional items please share with the group.

Thanks again for your time.
Jim

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:35 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.
https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com]

If anyone has questions please feel free to call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foreseable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to

commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis

might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Runge, Jeff
To: Burgess, Angela; DeBerry, Drue; Powell, Tyson H; Darnall, Nathan
Subject: R-Project pre- and post-meeting coordination
Date: Wednesday, April 7, 2021 12:58:07 PM

I wanted to coordinate with everyone about the busy week ahead with the R-Project. I had the opportunity to discuss with Nathan, and we wanted to share our thoughts on the week's activities.

In regard to the Service's pre-meeting rescheduled for next Monday, it would be helpful to get feedback on the below agenda items. Supplemental text after hyphen will be discussed verbally in our Service meeting. Text will be removed before distributing the agenda by email.

1. Background Info – Provide overview of recent discussions with NPPD, purpose of white paper, and circumstances that led to Service comments on NPPD's white paper. Discuss desired end point with NPPD/R-Project.
2. Scope of Meeting with NPPD – The NPPD meeting is intended to be an open discussion amongst NPPD, NGPC, and Service biologists to improve science and reduce scientific uncertainty. It would be helpful to keep discussion focused on the science and avoid policy discussions such as NPPD's different interpretations of the 4(d) rule. The NEFO will avoid issuing any conclusions/determinations about the project during the meeting. Conclusions/determinations will be addressed through other channels.
3. Open discussion about NPPD's responses to comments - discuss comments/concerns from reviewing Service biologists
4. Develop main talking points for meeting with NPPD - identify main themes from comments/concerns

After the NPPD meeting, we also thought it would be beneficial to have a post-meeting wrap up within this smaller group. This discussion would address two topics: 1) next steps with NPPD; and 2) proposed steps for revisiting Service policies: 4(d) rule and avoidance/minimization measures. Regarding the latter, we have a process in mind for next steps and would like feedback from the group.

We were hoping that everyone has the willingness (and energy) to participate after the NPPD call. I will set up a calendar invite, but hopefully, the NPPD's call will not last two hours so we can start earlier. Knowing that Tyson will not be on the NPPD call, we can communicate by Teams chat about when to start the post-meeting. We will try to keep it brief to minimize Teams fatigue (or R-Project fatigue).

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Note: New Cell Number
Cell: (308) 216-0384

From: ben.bainbridge@powereng.com
To: Jennigs, James L; Darnell, Nathan; Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Reasken, Charlene; Burgess, Angela; Dunn, Shaun
Cc: DeMerry, Dryer; Hostetter, Bonnie J.
Subject: [EXTERNAL] NPPD R-Project ABB discussion
Start: Wednesday, April 14, 2021 8:00:00 AM
End: Wednesday, April 14, 2021 10:00:00 AM
Location: Microsoft Teams Meeting
Attachments: NPPD Responses to USFWS Comments on the Take-Avoidance Approach (3.30.21).pdf
ABB IEIS Risk Level Analysis.pdf

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

As per Jim's email, additional technical meeting to review the information provided in the response document to USFWS comments. See the attached documents previously provided.

This is an MS Teams meeting for screen sharing, if necessary, and an associated call-in number for those that don't have the Teams app on their computer.

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2F+3%2F__https%3A%2F%2Fteams.microsoft.com%2F0%2Fmeetup-join%2F19*3ameeting_MDI4OTU3ODItYmNjYi00OWJhLWFkM2UtZGE5NmVlZWMxMmQ0*40thread.v2%2F0%3Fcontext%3D*7b*22Tid*222*3a*22f07ff0f5-bf71-4ed8-b274-173ea27956dc*222*2c*220Id*222*3a*22c8d9646f-7463-482c-bfec-6e2d96d1ed72*7d__%3BSU3SU3SU3SU3SU3TNPPZ64ewXccAw9zU!__SrvFuccHqTbLWmJBybyNpp-
rD74eVOEZhfEpWRVAoYav3JjrcT7SOTp5MKTBCvQ%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C704e1ef7ac884bbd82ea08d8f8915de9%7C0693b5ba4b184d7b9341f32400a5494%7C0%7C0%7C637532650601623944%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=5dQBTuzznMj%2FmVxRCBoR0K%2Bjy%2FLSeLBjgPLARJZgXE%3D&reserved=0>
Or call in (audio only)
+1 208-996-2916,,322605660# <tel:+12089962916,,322605660> United States, Boise
(833) 426-0163,,322605660# <tel:8334260163,,322605660> United States (Toll-free)
Phone Conference ID: 322 605 660#
Find a local number [dialin.teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2F+3%2F__https%3A%2F%2Fdialin.teams.microsoft.com%2F180897ac-039d-44e0-9b6c-c2e2cfd8cdf%3Fid%3D32260560__%3B!!NPPZ64ewXccAw9zU!__SrvFuccHqTbLWmJBybyNpp-
rD74eVOEZhfEpWRVAoYav3JjrcT7SOTp5pNyXtow%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C704e1ef7ac884bbd82ea08d8f8915de9%7C0693b5ba4b184d7b9341f32400a5494%7C0%7C0%7C637532650601633899%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=SnHHeaZ7B1Li84vJSBJ8eSDwlvzfBwSUZH7Br7MHnc%3D&reserved=0> | Reset PIN
[mysettings.lync.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2F+3%2F__https%3A%2F%2Fmysettings.lync.com%2Fpinconfirmencrg__%3B!!NPPZ64ewXccAw9zU!__SrvFuccHqTbLWmJBybyNpp-
rD74eVOEZhfEpWRVAoYav3JjrcT7SOTp5hNlK_94%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C704e1ef7ac884bbd82ea08d8f8915de9%7C0693b5ba4b184d7b9341f32400a5494%7C0%7C0%7C637532650601633899%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=EFFPY9rr%2Bndn3ZnHF2KK549rFxGHkpVA7JU1rYJL2A%3D&reserved=0>
Learn More [aka.ms] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2F+3%2F__https%3A%2F%2Faka.ms%2FJoinTeamsMeeting__%3B!!NPPZ64ewXccAw9zU!__SrvFuccHqTbLWmJBybyNpp-
rD74eVOEZhfEpWRVAoYav3JjrcT7SOTp5vvGn711%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C704e1ef7ac884bbd82ea08d8f8915de9%7C0693b5ba4b184d7b9341f32400a5494%7C0%7C0%7C637532650601643858%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=xHNV2aiKBOTgKDlRQVeBXg0AGSc2mcjz%2BZCLCFDu%2Fkc%3D&reserved=0> |
Meeting options [teams.microsoft.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2F+3%2F__https%3A%2F%2Fteams.microsoft.com%2Ftmeetingoptions%3FmeetingId%3Da8b9b4d6-7463-482c-bfec-6e2d96d1ed72%26messageId%3D07ff0f05-bf71-4ed8-b274-
173ea27956dc%26threadId%3D19_meeting_MDI4OTU3ODItYmNjYi00OWJhLWFkM2UtZGE5NmVlZWMxMmQ0%40thread.v2%26messageId%3D0%26language%3Den-US__%3B!!NPPZ64ewXccAw9zU!__SrvFuccHqTbLWmJBybyNpp-rD74eVOEZhfEpWRVAoYav3JjrcT7SOTp5l-
xy2gg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C704e1ef7ac884bbd82ea08d8f8915de9%7C0693b5ba4b184d7b9341f32400a5494%7C0%7C0%7C637532650601643858%7CUnknown%7CTWFpbGZsb3dkeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=ghVbUR24rzTOyqb2f13O04Cs7HBBcIFMbEk6fgEj4%3D&reserved=0>

From: Jenniges, James J.
To: Darnall, Nathan
Cc: Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; Dunn, Shaun; DeBerry, Drue; Hostetler, Bonnie J.; Ben Bainbridge
Subject: RE: [EXTERNAL] RE: Service review of the While Paper
Date: Monday, April 5, 2021 9:07:30 AM

Good Morning all,

I have heard back from most people and it looks like Wednesday April 14 qt 9:00 central daylight time (8:00 MDT) is the clear winner. Please hold that date and time slot and you will be seeing a meeting notice from Ben.

Thank you for participating in the doodle poll.

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:35 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>

Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.
https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com] [gcc02.safelinks.protection.outlook.com]

If anyone has questions please feel free to call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look

again!

Use the "Report Phishing" button if you think this is a phishing email.

Phishing is the #1 threat to NPPD. You are our best defense!!

Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of

these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Stubbs, Kevin
To: Darnall, Nathan; Runge, Jeff
Cc: Fenner, Daniel
Subject: Re: [EXTERNAL] RE: Service review of the While Paper
Date: Friday, April 2, 2021 2:43:45 PM

We should probably have a call to discuss this when everyone has had time to read their documents. In general, I think they are missing the point of our comments. The bar of having zero take is pretty high with a project of this scale and we are willing to give them incidental take coverage that would make the project much easier to implement.

1. Even if they are averaging prime habitat instead of all habitat, it still is averaging and does not account for risks of take in areas of very high density. Their average over 5 years is .014 and the average of the highway 7 transect in 2016 was .0460. Thirty five acres at this level is 1.61 ABBs. Even 10 acres of disturbance at this rate is about half an ABB. Some portions of that transect are probably much higher than the average. I would like to see all of their survey data for Highway 7, Brewster and Highway 11/844 transects to see how high densities really could be. If you don't have that data, we should request it.
2. Mowing can have soil disturbance. It certainly has some compaction and some ruts depending on the equipment, slopes, vegetation, and soil moisture/types. Drying the soil can also be soil disturbance and can affect the soil properties like chemistry and structure. Mowing would be a land use change if it previously was not being mowed.
3. Moving carrion could harm ABBs and be considered intentional take. We require a permit to do it in our region.
4. They claim that the average brood chamber depth is 4-5 inches and equipment driving over them would not impact the brood chamber, but there is no data on the effects of compaction or equipment driving over the chambers to support their claim. If the bottom of the chamber is 4-5 inches then the top is only a few inches from the surface. I don't think it would take much pressure to collapse 2 inches of sandy soil over a chamber. Collapsing just one brood chamber would result in the take of multiple ABBs.

Kevin
918-695-6769

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 31, 2021 2:34 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.
https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com]

If anyone has questions please feel free to call.

James Jenniges
Senior Environmental Specialist

jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and

operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending

on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper

designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From:	Darnall, Nathan
To:	Jenniges, James J.
Cc:	Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; Dunn, Shaun; DeBerry, Drue; Hostetler, Bonnie J.; Ben Bainbridge
Subject:	RE: [EXTERNAL] RE: Service review of the While Paper
Date:	Wednesday, March 31, 2021 1:34:59 PM

Jim,

Thank you for the response and the documents. I filled out the poll, but please prioritize others over my availability. If for some reason, we our any of our partners are unable to review the two documents over the next week or two, I'll let you know ASAP and we can discuss options. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Wednesday, March 31, 2021 9:07 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.
https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com]

If anyone has questions please feel free to call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate

acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an

ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were

already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Runge, Jeff
To: Stubbs, Kevin
Subject: Re: [EXTERNAL] R-Project
Date: Wednesday, March 31, 2021 9:57:26 AM

After discussing with Nathan, he suggested that NPPD update the entire Service group from an efficiency perspective. From discussion and Q&A, everyone gets the same information. This would be helpful to biologists who may not have a comprehensive understanding of the project.

Jeff

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, March 30, 2021 9:00 AM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>
Subject: Re: [EXTERNAL] R-Project

Thanks for the copy. For me, I do not see an issue with listening to Jim, so I would not necessarily have to be on if that is the case. However, I remember Nathan providing names of several individuals that should be copied. While Angela and NGPC are familiar with the project, Charlie Bessken is not, so I am thinking it would be easier to have one call with the Service.

If it is okay with you, I would like to discuss with Nathan tomorrow morning in my supervisor check in.

Jeff

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Tuesday, March 30, 2021 8:35 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Fw: [EXTERNAL] R-Project

I'm happy to talk to James but checking with you to see if you want to do that via a conf call instead of just me calling him myself.

Kevin
918-695-6769

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, March 30, 2021 8:00 AM
To: Stubbs, Kevin <kevin_stubbs@fws.gov>
Subject: [EXTERNAL] R-Project

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Kevin,

The NEFO has asked that you be involved in technical review of approaches to construct the R-Project while avoiding take of ABB. I would like to discuss the project and give you some background on our development of an HCP as well as some of the things we have learned in the past 6 years or so. If you could give me a call when you have a few free minutes I would appreciate it. My number is 308-627-6732.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732-
-

From:	Jenniges, James J.
To:	Darnall, Nathan
Cc:	Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; Dunn, Shaun; DeBerry, Drue; Hostetler, Bonnie J.; Ben Bainbridge
Subject:	RE: [EXTERNAL] RE: Service review of the While Paper
Date:	Wednesday, March 31, 2021 9:22:20 AM
Attachments:	NPPD Responses to USFWS"s Comments on the Take-Avoidance Approach (3.30.21).pdf ABB 4(d) Rule Legal Analysis.pdf

Hi all,

Attached are NPPD's responses to the comments that the Service provided on March 4, 2021, regarding NPPD's take-avoidance approach for the R-Project. Included in the responses are some clarifying points, our thoughts to help facilitate discussion, some photographs of the matting and a Habitat Assessment Methods to provide more detail. While not necessarily something this technical group needs to address we have also provided a separate legal analysis of the ABB 4(d) rule. We believe that additional technical discussion of the information provided in the response document would be beneficial, so we respectfully request a follow-up call with the Service and Nebraska Game and Parks Commission regarding this information. Please complete this Doodle poll (link is below) to indicate your availability for that follow-up call.
https://doodle.com/poll/m2e6u43sxd7wi3e2?utm_source=poll&utm_medium=link [doodle.com]

If anyone has questions please feel free to call.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foreseable future is 308-627-6732

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!

Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>

Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated

using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From:	Jenniges, James J.
To:	Darnall, Nathan
Cc:	Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; Dunn, Shaun; DeBerry, Drue; Ben Bainbridge
Subject:	RE: [EXTERNAL] RE: Service review of the While Paper
Date:	Wednesday, March 10, 2021 1:51:21 PM

Thanks Nathan we are putting together some clarifying information based on your points and I will send out some times for a possible call, once we have a better handle on completion of that.

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, March 10, 2021 10:27 AM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Stubbs, Kevin <kevin_stubbs@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: [EXTERNAL] RE: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the

evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5

years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor

Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Darnall, Nathan
To: Jenniges, James J.
Cc: Runge, Jeff; Marinovich, Melissa; Stubbs, Kevin; Bessken, Charlene; Burgess, Angela; Dunn, Shaun; DeBerry, Drue
Subject: RE: [EXTERNAL] RE: Service review of the While Paper
Date: Wednesday, March 10, 2021 9:26:40 AM

Jim,

Thank you for your patience. We recommend the following individuals participate in the discussions, although their level of involvement could wax or wane depending on the topic or issue being discussed. I recognize it could be difficult to schedule meetings that work for everyone's calendars at times, but we can certainly coordinate internally if needed when people are unable to attend. Please let me know if you have additional questions, and we look forward to continued discussion with NPPD. Thank you,

Jeff Runge
Kevin Stubbs
Charlene (Charlie) Bessken
Angela Burgess
Melissa Marinovich
Shaun Dunn

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example,

captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than

what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Darnall, Nathan
To: DeBerry, Drue; Burgess, Angela; Runge, Jeff
Subject: FW: [EXTERNAL] RE: Service review of the While Paper
Date: Monday, March 8, 2021 10:53:01 AM

Anyone in addition to Jeff and Kevin? Charlie? Angela? Anyone from KS? Thanks,

Nathan

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Friday, March 5, 2021 2:47 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: [EXTERNAL] RE: Service review of the While Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are

more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in

prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also

be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Jenniges, James J.
To: Darnall, Nathan
Cc: Runge, Jeff; Marinovich, Melissa
Subject: [EXTERNAL] RE: Service review of the While Paper
Date: Friday, March 5, 2021 2:47:16 PM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Nathan thanks for sending this along.

Who would be the appropriate people to have involved a discussion of the FWS points?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Thursday, March 4, 2021 1:04 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Subject: Service review of the While Paper

This email is from nathan_darnall@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and

operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending

on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper

designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service

9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From:	Darnall, Nathan
To:	jjjenni@nppd.com
Cc:	Runge, Jeff; Marinovich, Melissa
Subject:	Service review of the While Paper
Date:	Thursday, March 4, 2021 12:03:46 PM

Jim,

Thank you for meeting with the U.S. Fish and Wildlife Service (Service) on February 17, 2021, to discuss the Nebraska Public Power District's (NPPD) approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) related to the construction and operation of the R-Project. This email attempts to summarize a number of the questions we identified in our review; however, many of the questions or issues are intertwined with each other, so while it may be easy to pinpoint a few "easy" items, some are more complex. It may be worthwhile to have an additional call among the biologists to clarify any questions you have and to consider possible approaches to work through the points identified below.

Background

On January 15, 2021, the Nebraska Public Power District (NPPD) provided the U.S. Fish and Wildlife Service (Service) with a revised version of NPPD's approach to avoiding prohibited take of the American burying beetle (ABB) (*Nicrophorus americanus*) from construction and operation of the R-Project (White Paper). The Service briefly summarized its review of the White Paper in our meeting on February 17, 2021, and stated that the White Paper contains a number of uncertainties, and these uncertainties could increase the likelihood of prohibited take. After the meeting, NPPD expressed a willingness to continue working with the Service to address uncertainties in the White Paper.

The Service is willing to assist NPPD in reducing uncertainties and has proposed the following multi-step process. The initial step, Point1, is to improve and clarify the description of the proposed action -- NPPD's construction of the R-project transmission line in Nebraska. Point 2 is to clarify the methods for delineating ABB habitat. Once there is greater certainty for Points 1 and 2, the Service will then conduct a thorough scientific and technical review, which is Point 3. The Service must complete a number of tasks under Point 4, but many of the tasks are not dependent on Points 1 through 3, so Service review of avoidance and minimization measures can be conducted in parallel with the remaining points. The Service is unable to commit to timelines for these steps, because they require coordination from available staff from multiple Service field offices, Nebraska Game and Parks Commission, and ABB subject matter experts.

The four Points are further described as follows:

- **Point 1**: Develop a thorough project description.

The White Paper estimates 35 acres of soil disturbance within ABB habitat from the construction of the R-project, but the White Paper does not specify where the soil disturbance

is expected to occur; therefore, it is unknown whether soil disturbance will occur in areas with high or low densities of ABB. The likelihood of prohibited take depends on the density of ABB in areas of soil disturbance.

The White Paper indicated NPPD intends to use large, wooden mats to reduce soil compaction from heavy vehicles, but additional details are needed about timing and methods to place and remove the matting, and how long the matting will be in place, which could disturb the soil or impact vegetation and soil moisture.

The White Paper provided no information or logistics on whether (or how) NPPD would use matting to complete emergency repairs resulting from tornados, ice storms, or other events where the application of matting may be limited or constrained by a need to respond quickly. While emergencies—especially those resulting in structure collapse—should be rare, the location and response measures could increase the likelihood of soil disturbance and result in prohibited take over the life of the project.

- **Point 2**: Develop a thorough description of the methods used to delineate and calculate acres of ABB habitat**.**

The White Paper described in general terms how ABB habitat was reduced from the estimated 1,075 acres in the 2018 Habitat Conservation Plan to 574 acres of ABB habitat based on the evaluation of new information. However, the reduction in acres was based on methods and results that were not available for Service review. There are similar uncertainties about the methods used to reduce the estimated 35 acres of soil disturbance to ABB habitat. Depending on the methods and the assumptions, the White Paper may have excluded acres of ABB habitat, and any additional acres of ABB habitat may increase the likelihood of prohibited take.

The White Paper described a desktop ABB habitat assessment using spatial data (i.e., aerial imagery, the National Hydrographic Dataset, and National Wetlands Inventory) to rate each square-mile section that was proposed to contain R-Project infrastructure (page 6). The White Paper did not describe methods where GIS data were linked to either habitat criteria or survey records. No results of the desktop habitat assessment were presented, so it is difficult for the Service to verify how areas of habitat and non-habitat were calculated. Similarly, the White Paper describes a habitat classification scheme where multiple biologists rated areas based on habitat condition (i.e., prime, good, fair, marginal, or poor)(page 4), but no results were provided in the White Paper. The likelihood of prohibited take could be higher depending on the assumptions underlying the desktop assessment and classification scheme. For example, captured numbers of ABB could qualify an area as good ABB habitat, but the desktop analysis might categorize that same area as fair habitat. There were no methods described on how this circumstance would be reconciled.

In addition to the desktop analysis, the White Paper applied ABB survey (trap) data to delineate habitat and non-habitat areas within the proposed area of construction. It is unclear which ABB trap lines (or individual traps) correspond to which areas of project construction, and thus, there is no clear explanation how break points in habitat/non-habitat were delineated using survey data. For example, a segment between the Highway 7 and Calamus River survey sites is designated as non-habitat, even though it occurs within a much broader area designated

as habitat. Because the White Paper does not contain clear, well-defined criteria to delineate habitat from non-habitat areas, it is not clear why this segment was designated non-habitat while the adjacent segment only one mile away was designated as habitat.

- **Point 3**. The Service must conduct an extensive review of White Paper methods (which delineate habitat, quantify habitat, and estimate take) and ensure methods reflect the best scientific and commercial data available.

The Service has conducted an initial review of the White Paper and has identified a number of considerations described below. Note that that these examples may not capture the full extent of considerations as more could be identified as Points 1 and 2 are addressed.

The ABB were captured in traps placed in areas identified as non-habitat in the White Paper. The White Paper defined ABB habitat as areas with vegetative cover and adequate soil moisture, and with soils cohesive enough and of a particle size to allow the formation of an ABB brood chamber. This definition of habitat does not consider information in the SSA and in the literature that ABB will use carrion as a non-breeding food resource, a source of water, and for sheltering even in the absence of vegetative cover and soil moisture. The presence of ABB in baited traps indicate ABB would be similarly attracted to carrion at that same location. Therefore, areas identified as non-habitat could still be used by ABB if carcasses were present.

The White Paper uses an average density of ABB from 5 years of surveys (2016 to 2020) to evaluate risk. The population and density of ABB fluctuate over time, and it appears all 5 years of data from 2016 through 2020 represent atypical years of lower ABB abundance, which could lead to an underestimate of risk in future years. As one example, the White Paper designated the segment along Highway 83 as non-ABB habitat based on the absence of ABB from 2016 to 2020; however, the White Paper also noted that ABB were collected along Highway 83 in 2014. It is reasonable to assume ABB populations will rebound and densities will increase; therefore, the White Paper could underestimate the likelihood of take if ABB density at the time of construction is higher than the average applied in the White Paper. If construction occurs during years with more beetles and higher densities, there will be a greater likelihood of prohibited take.

The White Paper evaluates the potential for prohibited take of ABB based on an average density of ABB across the entire spatial extent of the project. Using the average density from the entire project area could dilute the risk in areas of high ABB density. For example, the average density of ABB for the entire project area from 2016 (the year with highest average) is 0.018, and when applied to 35 acres of soil disturbance equals 0.63 ABB which is higher than what was presented in the White Paper. Additionally, soil disturbance in areas of high densities will increase the likelihood of prohibited take.

- **Point 4.** The Service must revisit policies on avoidance and minimization measures. The Service needs to conduct a thorough evaluation of all proposed avoidance and minimization measures before establishing a range-wide policy on the application of these measures for individual projects. This requires coordination with field offices across the species range, with the Nebraska Game and Parks Commission, and with

subject matter experts.

The Service must assess whether the avoidance and minimization measures proposed in the White Paper (mowing and residue removal, matting, and carrion removal) will reduce or avoid the prohibited take of ABB in light of the 4(d) rule and in relation to practices and guidance throughout the rest of the species' range. The White Paper indicated NPPD intends to use large, wooden mats, to reduce soil compaction from heavy vehicles during initial construction of the R-Project. While matting should distribute the weight of equipment and minimize soil compaction, it is not clear whether placement and removal of the matting could result in soil compaction, nor is it clear how long the matting will be in place, which could affect the vegetation and soil moisture. Timing of when matting is installed could be an important consideration for brood chambers near the surface or in sandy soils. An assessment must also be conducted as to whether mowing could result in direct soil disturbance and/or nonphysical alteration of soil. As described earlier, ABB can use carcasses even in areas designated as non-habitat in the White Paper. Carrion removal could result in prohibited take if beetles were already in or under the carcass, especially if a court invalidated the 4(d) rule.

In addition, the Service received a Notice of Intent to Sue on the 4(d) rule from the Center for Biological Diversity in January 2021. If CBD files a lawsuit, the Service's rule downlisting ABB from endangered to threatened could eventually be vacated. Likewise, the 4(d) rule may be invalidated too, including any Service conclusions about prohibited take under the 4(d) rule.

We appreciate your efforts to conserve the American burying beetle. If you have any questions regarding this email, please feel free to contact me at (307) 286-1334. Sincerely,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: DeBerry, Drue
To: Darnall, Nathan; Runge, Jeff; Burgess, Angela
Subject: Re: Draft response to Sen Brewer
Date: Monday, March 1, 2021 8:31:03 AM

Usually on this type of thing her default is to have the person contact the ARD if they have further questions.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Monday, March 1, 2021 8:28 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: RE: Draft response to Sen Brewer

No comment, other than do we (does she) want the state senator to contact her directly? I'm not familiar with Noreen's preferences, hence the question. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, February 26, 2021 1:52 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Draft response to Sen Brewer

Folks,

FYSA - Brewer's letter and my draft response. If you can let me know if you have any thoughts by midday Monday, I'd like to ship it to Tyson Monday afternoon and get the response out (hopefully) next week.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Burgess, Angela
To: DeBerry, Drue; Darnall, Nathan; Runge, Jeff
Subject: Re: Draft response to Sen Brewer
Date: Monday, March 1, 2021 7:24:06 AM

I don't have any comments. Thanks, Drue.

Angela Burgess
Conservation Plans and Section 6 Grants Coordinator
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, February 26, 2021 1:52 PM
To: Darnall, Nathan <nathan_darnall@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Draft response to Sen Brewer

Folks,

FYSA - Brewer's letter and my draft response. If you can let me know if you have any thoughts by midday Monday, I'd like to ship it to Tyson Monday afternoon and get the response out (hopefully) next week.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From:	DeBerry, Drue
To:	Darnall, Nathan; Runge, Jeff; Burgess, Angela
Subject:	Draft response to Sen Brewer
Date:	Friday, February 26, 2021 1:52:13 PM
Attachments:	Senator Tom Brewer Letter.pdf 2021-02-25 ltr Response to State Senator Tom Brewer.docx

---

Folks,

FYSA - Brewer's letter and my draft response. If you can let me know if you have any thoughts by midday Monday, I'd like to ship it to Tyson Monday afternoon and get the response out (hopefully) next week.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Darnall, Nathan
To: Powell, Tyson H
Cc: DeBerry, Drue; Runge, Jeff; Burgess, Angela
Subject: RE: Letter for NPPD
Date: Wednesday, February 24, 2021 4:00:18 PM

Drue,

We meet with NPPD last week to discuss our high-level review of the White Paper, and we committed to follow up our conversation with a short letter. You intended to send the letter the next day, but then I received a call from Jim Jenniges, asking that we not send the letter summarizing our review of the White Paper. Instead, NPPD would prefer to work with us to address our concerns. I reiterated to Jim that this effort could take considerable time, but it sounds like NPPD is willing to invest in this effort, and Jim requested a list of our concerns, which I said we would provide. Shortly after my call with Jim, I shared this information with you, and we agreed to hold off sending the letter. I am now sharing this with the larger group to keep everyone in the loop, and confirming our intent to send a separate letter to NPPD with a list of our concerns. Please let me know if you have any questions. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Darnall, Nathan
Sent: Wednesday, February 17, 2021 12:06 PM
To: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Cc: DeBerry, Drue <Drue_DeBerry@fws.gov>; Runge, Jeff <Jeff_Runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: RE: Letter for NPPD

Via email. But good catch regardless.

Drue,
If not sent yet, I added a company name to this one.

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Sent: Wednesday, February 17, 2021 11:45 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: Letter for NPPD

I noticed there is no company name on the corporate address. Are you sending it via email or U.S. mail?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, February 17, 2021 11:37 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Letter for NPPD

Drue,

Attached is the signed letter responding to the White Paper from NPPD. Thanks for sending to the cc's and others.

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Darnall, Nathan
To: Powell, Tyson H
Cc: DeBerry, Drue; Runge, Jeff; Burgess, Angela
Subject: RE: Letter for NPPD
Date: Wednesday, February 17, 2021 12:06:19 PM
Attachments: RProject ABB White Paper Response_signed.pdf

Via email. But good catch regardless.

Drue,
If not sent yet, I added a company name to this one.

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Sent: Wednesday, February 17, 2021 11:45 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: Letter for NPPD

I noticed there is no company name on the corporate address. Are you sending it via email or U.S. mail?

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Wednesday, February 17, 2021 11:37 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Powell, Tyson H <Tyson.Powell@sol.doi.gov>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Letter for NPPD

Drue,

Attached is the signed letter responding to the White Paper from NPPD. Thanks for sending to the cc's and others.

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From:	Darnall, Nathan
To:	DeBerry, Drue
Cc:	Powell, Tyson H; Runge, Jeff; Burgess, Angela
Subject:	Letter for NPPD
Date:	Wednesday, February 17, 2021 11:37:19 AM
Attachments:	RProject ABB White Paper Response_signed.pdf

Drue,

Attached is the signed letter responding to the White Paper from NPPD. Thanks for sending to the cc's and others.

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: Darnall, Nathan
To: Runge, Jeff
Subject: FW: TPs for letter on white paper -- pre-decisional / confidential
Date: Monday, February 8, 2021 2:22:22 PM

Jeff,

I'll send a draft letter based on Drue's talking points from his email. Any edits or thoughts on the draft letter? There are a few highlighted sections to add text. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334
Email: nathan_darnall@fws.gov

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, February 8, 2021 11:41 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: TPs for letter on white paper

Can you and Jeff still draft the letter and share with Tyson by Wednesday?

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Darnall, Nathan <nathan_darnall@fws.gov>
Sent: Monday, February 8, 2021 11:39 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: RE: TPs for letter on white paper

Drue,

That covers the key points. Nothing more to add. Thanks,

Nathan Darnall, Acting Field Supervisor
Nebraska Field Office, U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Cell: 307.286.1334

Email: nathan_darnall@fws.gov

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, February 8, 2021 11:35 AM
To: Darnall, Nathan <nathan_darnall@fws.gov>
Subject: TPs for letter on white paper

Nathan,

I agree with Jeff, short and simple is better. The notes below cover my thoughts on what we should cover. Sorry I didn't get this to you earlier. Too many Monday meetings.

Points for letter:

In (YEAR) NPPD chose conservative approach, assumed density of x and sought ITP for x beetles. In 2021 NPPD has presented the Service with a White Paper (cite) that provides a different interpretation of risk. The Service does not agree with the conclusion of the White Paper that take of ABB will not occur, as there are too many uncertainties in the assumptions.

We would be happy to work with NPPD to try to discuss and refine the White Paper, however given the complexity involved we do not foresee this coming to quick resolution. It is also not clear that even if we were able to reduce uncertainties, that we could agree with NPPD's conclusion that take of ABB will not occur.

If NPPD wants to again seek and ITP, we'll work with them on HCP.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Stubbs, Kevin
To: Runge, Jeff
Subject: ABB density information
Date: Friday, January 22, 2021 2:17:35 PM

I would suggest requesting the survey data for all 5 years and all sites so we can see what the catch rates are for all areas of the project without any averaging.

Kevin
918-695-6769

From: Runge, Jeff
To: Stubbs, Kevin
Cc: Burgess, Angela; DeBerry, Drue; Darnall, Nathan; Powell, Tyson H
Subject: NPPD White Paper
Date: Wednesday, January 20, 2021 6:20:20 AM
Attachments: NPPD ABB White Paper 1.15.21.pdf

Hello Kevin,

Attached is NPPD's white paper. It would be beneficial to get your thoughts on the following topics for the call this Friday. First is NPPD's methods for delineating suitable/unsuitable habitat using survey data and aerial imagery (with emphasis on the exclusion of areas with dry soils). Because total ABB within the project footprint is based on Acres of Suitable Habitat * ABB Density, it would be important to verify how suitable habitat was delineated.

The second topic for discussion is mowing, thatch removal, carrion removal, and matting as it relates to soil disturbance in the 4(d) rule. We had NPPD address these topics in their white paper with consideration on soil compaction, soil moisture, or other soil-related impacts.

Thank you for your review of this document and for your participation on the call. For others copied in the email, please copy the group on any additional topics.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Hostetler, Bonnie J.
To: "vigil@fws.cov"; Burgess, Angela; Runge, Jeff; "Tyson.Powell@sol.doi"; Darnall, Nathan; DeBerry, Drue; Boroja, Maria T; "Marinovich, Melissa"; "Sandi Snodgrass"; Murray Feldman; Jenniges, James J.; ben.bainbridge@powereng.com
Subject: [EXTERNAL] NPPD"s Approach to Avoiding Take of the American Burying Beetle
Date: Friday, January 15, 2021 2:48:16 PM
Attachments: NPPD ABB White Paper 1.15.21.pdf

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Attached is a revised version of NPPD's approach to avoiding take of the American burying beetle from construction and operation of the R-Project. This version responds to feedback we received from the Service on the first version. Recognizing that your team is usually available on Mondays, we would like to schedule a call for January 25, 2021 to discuss this version and hopefully come to a conclusion on this matter. I expect that we will need an hour on the call to sufficiently address all remaining issues.

If I have missed anyone on the list of people above, I apologize, and would ask you to forward to anyone that I may have missed.

From: Runge, Jeff
To: Darnall, Nathan
Subject: Coordination with OKFO
Date: Wednesday, January 13, 2021 2:27:48 PM

Nathan,

The three bullet points below is where we would request assistance from the OKFO for evaluation of the R-Project. We may not be able to come to a conclusion on the call, but the call should give us some understanding of the OKFO level of involvement in these tasks. NPPD is revising their white paper, so we would need the final paper before reaching final conclusion.

Drue mentioned specific discussion topics on our call. By that point of our call, I was fading, and may have missed some of the points discussed. It may be helpful to check back with Drue.

Jeff

- Review NPPD's assessment of R-Project effects to ABB.
- Determine if the R-Project will result in incidental take and whether described take is prohibited (emphasis on matting, mowing, and carrion removal).
- If applicable, discuss how to address incidental take that is not prohibited and was not evaluated in the BO for the 4(d) rule.

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Runge, Jeff
To: Burgess, Angela; DeBerry, Drue; Darnall, Nathan
Subject: R-Project Update

I was hoping we could have a quick, half hour call to discuss R-Project. I talked with Matt Wray of the Corps and wanted to share with the group. I also wanted to have a quick discussion about the 4(d) rule as well. Hopefully, the day/time works for everyone.

Jeff

_____

Microsoft Teams meeting
Join on your computer or mobile app
Click here to join the meeting <https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZGRjN2Q0NTktZjVhMC00YzM1LTkyZmYtOTc0NGI4Yzk4MGE3%40thread.v2/0?context=%7b%22Tid%22%3a%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2c%22Oid%22%3a%220db18f88-aeb5-438b-90f2-d52134b7f960%22%7d>
Learn More <https://aka.ms/JoinTeamsMeeting> | Meeting options <https://teams.microsoft.com/meetingOptions/?organizerId=0db18f88-aeb5-438b-90f2-d52134b7f960&tenantId=0693b5ba-4b18-4d7b-9341-f32f400a5494&threadId=19_meeting_ZGRjN2Q0NTktZjVhMC00YzM1LTkyZmYtOTc0NGI4Yzk4MGE3@thread.v2&messageId=0&language=en-US>

_____

From: Jenniges, James J.
To: Burgess, Angela; "Marinovich, Melissa"; Dunn, Shaun; ben.bainbridge@powereng.com; Runge, Jeff
Subject: RE: [EXTERNAL] RE: phone call to discuss mowing effects on soil
Date: Thursday, January 7, 2021 11:26:52 AM

Hi all,

Here are couple of papers on the effects of haying on abiotic characteristics of soils. Our conclusion is that haying (mowing and residual removal) has little to no impact on soils when compared to control sites and definitely is miniscule compared to annual and even daily fluctuation in things like temperature and soil moisture.

1. This article discusses mowing have no effect on soil moisture in grassland in Inner Mongolia. I included it because it has hyperlinks to references if you want to read additional papers.
    a. https://academic.oup.com/jpe/article/5/2/219/883423 [academic.oup.com]
2. This one is a technical note out of MN. https://conservancy.umn.edu/bitstream/handle/11299/910/200320.pdf?sequence=1&isAllowed=y [conservancy.umn.edu]

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, January 4, 2021 9:06 AM
To: Jenniges, James J. <jjjenni@nppd.com>; 'Marinovich, Melissa' <melissa.marinovich@nebraska.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; ben.bainbridge@powereng.com; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: [EXTERNAL] RE: phone call to discuss mowing effects on soil

This email is from Angela_Burgess@fws.gov. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Hi All,
Hope everyone had a good holiday season and happy new year. I'm available either of those times, with a slight preference for Thursday, 1/7 at 9:30 cst.

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive [doimspp-my.sharepoint.com] or Headquarters' Briefing Paper Template Sharepoint [doimspp.sharepoint.com].

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, December 22, 2020 10:53 AM
To: 'Marinovich, Melissa' <melissa.marinovich@nebraska.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>; Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: [EXTERNAL] RE: phone call to discuss mowing effects on soil

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Based on responses keep the following two time slots open so that when Angela gets back she can let us know which works the best:
January 7, 2021 9:30-10:30 (cst)
January 8, 2021 9:00-10:00 (cst)

Thanks Jim

From: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Sent: Monday, December 21, 2020 12:35 PM
To: Dunn, Shaun <shaun.dunn@nebraska.gov>; ben.bainbridge@powereng.com; Jenniges, James J. <jjjenni@nppd.com>; Runge, Jeff <jeff_runge@fws.gov>; 'Burgess, Angela' <Angela_Burgess@fws.gov>
Subject: RE: phone call to discuss mowing effects on soil

This email is from melissa.marinovich@nebraska.gov. Do you know them and are you expecting this?
- Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

The 5th does not work for me, but I am available any time before 4:00 PM on the 7th and 8th.

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Planning and Programming Division
Nebraska Game and Parks Commission | 2200 N. 33rd St. | Lincoln, NE 68503
Office: (402) 471-5422 | Email: melissa.marinovich@nebraska.gov

---

From: Dunn, Shaun <shaun.dunn@nebraska.gov>
Sent: Monday, December 21, 2020 12:31 PM
To: ben.bainbridge@powereng.com; Jenniges, James J. <jjjenni@nppd.com>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Runge, Jeff <jeff_runge@fws.gov>; 'Burgess, Angela' <Angela_Burgess@fws.gov>
Subject: RE: phone call to discuss mowing effects on soil

All of those times work for me as well.

Take care,

Shaun

Shaun Dunn
Natural Heritage Zoologist
Nebraska Game and Parks Commission
2200 N. 33rd Street
Lincoln, NE 68503
Office: 402.471.5419
shaun.dunn@nebraska.gov

From: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Sent: Monday, December 21, 2020 11:48 AM
To: Jenniges, James J. <jjjenni@nppd.com>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Runge, Jeff <jeff_runge@fws.gov>; 'Burgess, Angela' <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>
Subject: RE: phone call to discuss mowing effects on soil

Any of those times work for me.
Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com [gcc02.safelinks.protection.outlook.com] [gcc02.safelinks.protection.outlook.com]

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Monday, December 21, 2020 10:16 AM
To: 'Marinovich, Melissa' <melissa.marinovich@nebraska.gov>; Runge, Jeff <jeff_runge@fws.gov>;

'Burgess, Angela' <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; Bainbridge, Ben <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] RE: phone call to discuss mowing effects on soil

CAUTION: This Email is from an **EXTERNAL** source. **STOP**. **THINK** before you CLICK links or OPEN attachments.

Hi all,

Angela is unavailable for the remainder of the year. Hopefully enjoying the holidays and unwinding a little. I talked with Jeff and he looked at Angela's calendar for available times. I am looking for an hours' time (it may not take that long) in the following time slots, central standard time.

January 5, 2021 3:30-5:00
January 7, 2021 9:00-11:00 and 12:00-3:00
January 8, 2021 8:00-10:00 and 12:00-4:30

If none of those times work please include what times are available the first two weeks of January.

Thank You

Jim

From: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Sent: Wednesday, December 16, 2020 9:29 AM
To: Jenniges, James J. <jjjenni@nppd.com>; Runge, Jeff <jeff_runge@fws.gov>; 'Burgess, Angela' <Angela_Burgess@fws.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: RE: phone call to discuss mowing effects on soil

This email is from melissa.marinovich@nebraska.gov. Do you know them and are you expecting this?
- Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Here is my availability for the next 2.5 weeks (in Central Time):

12/17 – 9:30 AM – 12:00 PM
12/18 – 9:00 AM – 12:00 PM
12/21 – 1:00 PM – 4:00 PM
12/22 – 1:00 PM – 4:00 PM
12/28 – 11:00 AM – 4:30 PM
12/29 – 9:00 AM – 4:30 PM
12/31 – 9:30 AM – 4:30 PM

Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Planning and Programming Division
Nebraska Game and Parks Commission | 2200 N. 33rd St. | Lincoln, NE 68503
Office: (402) 471-5422 | Email: melissa.marinovich@nebraska.gov

---

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, December 15, 2020 4:13 PM
To: Runge, Jeff <jeff_runge@fws.gov>; 'Burgess, Angela' <Angela_Burgess@fws.gov>; Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: phone call to discuss mowing effects on soil

Hi all,

NPPD has reviewed all the documents that were suggested we review on the call last Monday, we still believe the conservation measures supported by the FWS and NGPC for a long time now are still valid and that it may even be possible to estimate the amount of benefit to ABB. We have also looked into the literature and spoke with some soils people and have not been able to find anything that would indicate that mowing affects the abiotic characteristics of the soil other than right at the soil/air interface. We are revising our white paper and want to make sure we understand the issue with mowing and address based on the best available information.

I am looking for an hour or so for a conference call as soon as we can so that we can discuss this revise the white paper and get it back to the FWS. Due to the end of the year people being gone and lack of family gatherings due to covid-19 concerns my schedule is pretty flexible and I am available pretty much any time over the next week or two, short of Christmas day. So if some one has a full schedule please throw out your open times out and see if we can get together.

Thanks

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: ben.bainbridge@powerengi.com
To: Jennigss, James J. (jlenni@gpd.com); Burgess, Angela; Runge, Jeff; "Marinovich, Melissa"; Dunn, Shaun
Subject: [EXTERNAL] R-Project technical discussion

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Web-Ex conference call to discuss technical aspects of NPPD's white paper on American burying beetle and the R-Project.

1. Application of matting
2. Application of mowing, vegetation removal, carrion removal.

-- Do not delete or change any of the following text. --

When it's time, join your Webex meeting here.

Join meeting [powerengineers.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fpowerengineers.webex.com%2Fpowerengineers%2Fj.php%3FMTID%3Dm10020be22677ba1cbf229565c7e7793f__%3B!!NPIPZ64awXccAw!7b7-kPMLMJzSqGwpUNcr9egCFsiRxqWGG-fi1bY9zfrV6bqTV4NzlcTvWRqOTkAU8f%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Ccf20c597ecf442d471c708d8b0d63590%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637453781374826764%7CUnknown%7CTWFpbGZsb3dBeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=%2B5smT%2FHE469wDJRrWCJKEg3%2FFjxclPYBYJJRdTDzRM%3D&reserved=0>

More ways to join:

Join from the meeting link
https://powerengineers.webex.com/powerengineers/j.php?MTID=m10020be22677ba1cbf229565c7e7793f [powerengineers.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fpowerengineers.webex.com%2Fpowerengineers%2Fj.php%3FMTID%3Dm10020be22677ba1cbf229565c7e7793f__%3B!!NPIPZ64awXccAw!7b7-kPMLMJzSqGwpUNcr9egCFsiRxqWGG-fi1bY9zfrV6bqTV4NzlcTvWRqOTkAU8f%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Ccf20c597ecf442d471c708d8b0d63590%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637453781374836719%7CUnknown%7CTWFpbGZsb3dBeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=ZHQMz5xXCN9c5Y61qEDTv2jqE%2BeNVN3t94bm2E9U%3D&reserved=0>

Join by meeting number
Meeting number (access code): 132 895 8974
Meeting password: deTmGre2qm47

Tap to join from a mobile device (attendees only)
1-866-469-3239,,132895897 4##<tel:1-866-469-3239,,*01*132895897 4%23%23*01*> USA Toll Free
+1-650-429-3300,,132895897 4##<tel:%2B1-650-429-3300,,*01*132895897 4%23%23*01*> USA Toll

Join by phone
+1-650-429-3300 USA Toll
1-866-469-3239 USA Toll Free
Global call-in numbers [powerengineers.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fpowerengineers.webex.com%2Fpowerengineers%2Fglobalcallin.php%3FMTID%3Dm47d03b22df544996274426d24D3256c__%3B!!NPIPZ64awXccAw!7b7-kPMLMJzSqGwpUNcr9egCFsiRxqWGG-fi1bY9zfrV6bqTV4NzlcTvWRqFpCqlbQ%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Ccf20c597ecf442d471c708d8b0d63590%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637453781374836719%7CUnknown%7CTWFpbGZsb3dBeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=0Mf02w%2FFpnJFfnIHQ1kPUvcxsIf%2BAME%2FV0O95sP2o%3D&reserved=0>
| Toll-free calling restrictions [webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fwww.webex.com%2Ffaq%2Ftollfree_restrictions.pdf__%3B!!NPIPZ64awXccAw!7b7-kPMLMJzSqGwpUNcr9egCFsiRxqWGG-fi1bY9zfrV6bqTV4NzlcTvWRqyvxuOgg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Ccf20c597ecf442d471c708d8b0d63590%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637453781374836719%7CUnknown%7CTWFpbGZsb3dBeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=fw8o5shMPMcfuz5wALI7mFXc7z577KvvVcD5Atsio%3D&reserved=0>

Join by video system, application or Skype for business
Dial 132895897 4@webex.com <sip:132895897 4@webex.com>
You can also dial 173.243.2.68 and enter your meeting number.

If you are a host, click here [powerengineers.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fpowerengineers.webex.com%2Fpowerengineers%2Fj.php%3FMTID%3Dm610be266286f8b6307783034455c235__%3B!!NPIPZ64awXccAw!7b7-kPMLMJzSqGwpUNcr9egCFsiRxqWGG-fi1bY9zfrV6bqTV4NzlcTvWRqfsPmCk%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Ccf20c597ecf442d471c708d8b0d63590%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637453781374846675%7CUnknown%7CTWFpbGZsb3dBeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=QmBnWw%2FSjB%2Fj8p8phdBRHTTbr%2FEHAaJb6MTlxSMR3Q%3D&reserved=0>
to view host information.

Need help? Go to https://help.webex.com [help.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fhelp.webex.com__%3B!!NPIPZ64awXccAw!7b7-kPMLMJzSqGwpUNcr9egCFsiRxqWGG-fi1bY9zfrV6bqTV4NzlcTvWRqZE6vYJw%24&data=04%7C01%7Cjeff_runge%40fws.gov%7Ccf20c597ecf442d471c708d8b0d63590%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637453781374846675%7CUnknown%7CTWFpbGZsb3dBeyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=14Y8qTAfE%2BQmmu6Ln6d4qg%2FN5I911R9RRWAjSsQX%2Fs%3D&reserved=0>

From: Burgess, Angela
To: Boroja, Maria T; Runge, Jeff; Sandi Snodgrass; Hostetler, Bonnie J.; Murray Feldman; DeBerry, Drue
Subject: Re: Call w NPPD
Date: Monday, January 4, 2021 9:42:04 AM

Hi All,
Drue asked me to send an email to cancel today's regular call. I believe the biologists are still planning to discuss some of the technical issues towards the end of this week, so hopefully we can convene again following that call.

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Vigil, Trina F
Sent: Tuesday, July 21, 2020 7:56 AM
To: Vigil, Trina F <trina_vigil@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Runge, Jeff <jeff_runge@fws.gov>; Sandi Snodgrass <SSnodgrass@hollandhart.com>; Hostetler, Bonnie J. <bjhoste@nppd.com>; Murray Feldman <MFeldman@hollandhart.com>; DeBerry, Drue <drue_deberry@fws.gov>
Subject: Call w NPPD
When: Monday, January 4, 2021 11:00 AM-11:30 AM.
Where:

#1 Conf Call# 866-916-4854 Participant # 49134589

From: Jenniges, James J.
To: Runge, Jeff; melissa.marinovich@nebraska.gov
Cc: jlcitta@nppd.com; Linder, Larry D.; Hostetler, Bonnie J.
Subject: [EXTERNAL] R-Project summary reoprt
Date: Tuesday, December 22, 2020 11:15:55 AM
Attachments: 119-2602_R-Project 2020 Summary Report.pdf
166-1874_2020_ABB_Survey_Report_REV2_2020-10-20.pdf
Whooping Crane Survey Data_Master.xlsx
Whooping Crane Survey Data_Masterfall2020.xlsx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Jeff and Melissa,

Please find the 2020 activities summary report. I have also included the ABB survey report and the spring and fall whooping crane monitoring spreadsheets. You have received the ABB and whooping cranes reports previously but I have included them here so that all reports are included in this single email.

If you have any question please call.

Thank you and wishing everyone is have a safe and happy holiday season.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: DeBerry, Drue
To: Runge, Jeff; Burgess, Angela; Larson, Scott; Darnall, Nathan
Subject: Re: [EXTERNAL] For Your Information
Date: Monday, December 21, 2020 9:13:46 AM

Jeff,

I agree, that's a good idea.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, December 21, 2020 9:09 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: [EXTERNAL] For Your Information

Drue,

While I think we are fully staffed to evaluate the ABB, should our internal memo also evaluate whooping crane? My thoughts on what would be included in a whooping crane evaluation would include: 1) information available after final decision documents were issued, 2) effects of Thunderhead wind farm, and 3) coordination with NGPC similar to what is occurring with ABB. I do not know if we currently have the expertise to address this or if we need to pull in others.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, December 21, 2020 9:49 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: [EXTERNAL] For Your Information

I'll send an email letting NPPD know that we're cancelling today's call and that another call with biologists to discuss mowing has been requested. Jeff can you set up that call?

After we've had that call and NPPD provides the white paper, we can complete our internal memo on our assessment of their analysis. Our internal memo should also include our assessment of Thunderhead and include the fact that Thunderhead is the only known wind energy project at this time.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, December 17, 2020 2:11 PM
To: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: [EXTERNAL] For Your Information

Everyone,

I just received a call from Jim Jenniges about the below email request for a meeting.

There is no confusion about the references we provided. However, they are having difficulty in linking results/conclusions from the references to the conclusion that mowing converts habitat from suitable to unsuitable. Jim wanted to have a meeting among biologists to discuss their interpretation of the references in as well as provide new information they found in relation to mowing, soil moisture, and habitat suitability.

Jim wanted a meeting among biologists because an open discussion typically does not occur when the lawyers are on the call. Jim said that NPPD thinks the uncertainty around mowing could have legal implications regardless of whether the choose to mow (or not mow) prior to mat installation. He also stated that NPPD will have future projects within the range of ABB, and it is because of the above reasons why NPPD wants a meeting to address mowing prior to finalizing their white paper.

I told Jim that I would forward his request up the chain of command, but I said it is unlikely that we would be able to meet this calendar year.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Wednesday, December 16, 2020 8:16 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: [EXTERNAL] For Your Information

I'm wondering if it would be easier if we send them an email clarifying the issues that we recommended they address/ questions that arose from their white paper?

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Tuesday, December 15, 2020 3:08 PM
To: DeBerry, Drue <drue_deberry@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: [EXTERNAL] For Your Information

Agreed, Drue - sounds like there was some confusion on our suggestion. I believe the citations we suggested be reviewed were about soil compaction and use of equipment, in addition to matting - and if there was any research on impacts of matting on soil.

We also mentioned that the purpose of mowing, as described in NGPC's guidance, is to modify the soil moisture as to make it unsuitable for ABB use, and if done extensively, could result in prohibited take. But that's a different topic, unrelated to the soil compaction/matting issue.

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, December 15, 2020 2:56 PM

To: Burgess, Angela <Angela_Burgess@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Fw: [EXTERNAL] For Your Information

I thought the research paper we recommended to them was relative to the matting???

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Tuesday, December 15, 2020 2:31 PM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: [EXTERNAL] For Your Information

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Jim Jenniges and Ben Bainbridge have looked at the papers FWS suggested that we look at on the last phone call and are unable to find any information to verify the interpretation suggested by some folks at FWS, that mowing may somehow affect the abiotic characteristics of the soil, especially to the point of causing harm to ABB. Therefore, Jim will be setting up a technical phone call with Ben, Jeff, and Angela, and Shaun and Melissa, from Game and Parks, so the biologists can discuss this item to determine if there is documentation that we are missing that would confirm this interpretation of mowing in beetle territory. Hopefully, based on the results of this technical discussion, NPPD will be able to complete the revisions in our white paper and get it back to FWS for a second review. If we hit some snag and need another conference call with the entire group, I will be in touch.

From: DeBerry, Drue
To: Murray Feldman; Sandi Snodgrass; Bonnie Hostetler; Larson, Scott; Runge, Jeff; Darnall, Nathan; Boroja, Maria T; Burgess, Angela; Powell, Tyson H
Subject: Cancelling Todays 11 AM MT/ Noon CT meeting
Date: Monday, December 21, 2020 8:54:16 AM

Folks,

It sounds like NPPD biologists want to have further discussion with Service biologists on mowing and ABB prior to completing the white paper. In light of that, I don't see a need for our call today with the legal folks.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Jenniges, James J.
To: Runge, Jeff; melissa.marinovich@nebraska.gov
Subject: [EXTERNAL] FW: Whooping Crane Data--Fall Migration
Date: Thursday, December 17, 2020 12:31:42 PM
Attachments: Whooping Crane Survey Data_Master.xlsx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Jeff and Melissa here is our fall whooping crane survey data.

From: Linder, Larry D. <l1linde@nppd.com>
Sent: Thursday, December 17, 2020 12:52 PM
To: Jenniges, James J. <jjjenni@nppd.com>
Subject: FW: Whooping Crane Data--Fall Migration

FYI. Not sure what we are to do. In the Spring, you sent spreadsheet to Jeff and Melissa.

From: Kulseth-Iverson,, Shannon - POWER Engineers, Inc. <Shannon.kulseth@outlook.com>
Sent: Thursday, December 17, 2020 12:07 PM
To: Linder, Larry D. <l1linde@nppd.com>; Barnett, Emma M. <embarne@nppd.com>
Cc: ben.bainbridge@powereng.com; DeWitt,, Mike <mike.dewitt@powereng.com>; Kezer,, David-Power Engineers Inc. <David.kezer@powereng.com>
Subject: Whooping Crane Data--Fall Migration

This email is from shannon.kulseth@outlook.com. Do you know them and are you expecting this? - Look again!
Use the "Report Phishing" button if you think this is a phishing email.
Phishing is the #1 threat to NPPD. You are our best defense!!
Stay Vigilant!

Good morning, spreadsheet has been updated to include information on survey forms completed for fall migration.

Have a great day!

Shannon Kulseth Iversen
Environmental Compliance Manager
R-Project

605-295-2296 cell

POWER Engineers, Inc.
www.powereng.com [powereng.com]

From: Runge, Jeff
To: Burgess, Angela
Cc: Larson, Scott; DeBerry, Drue; Darnall, Nathan
Subject: Re: [EXTERNAL] phone call to discuss mowing effects on soil
Date: Wednesday, December 16, 2020 6:02:13 AM

My understanding of these topics is based on the SSA and BOs that summarized studies/reports. I think a thorough review of studies/reports are needed not just for the R-Project but also for the numerous projects in the northern populations. To have a meaningful conversation with NPPD about these topics, I would have to read all documents, and this will take time. I would need the remainder of this year for review.

Jeff

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Tuesday, December 15, 2020 4:21 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Larson, Scott <scott_larson@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Re: [EXTERNAL] phone call to discuss mowing effects on soil

FYI - I'm going to be on use or lose leave starting Thursday, so I won't be able to meet with NPPD for this request before Jan. 4. I'll leave it to you all to decide whether or not we'd prefer to ask them to push it to the new year or if Jeff has availability to meet before then.

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Jenniges, James J. <jjjenni@nppd.com>
Sent: Tuesday, December 15, 2020 3:12 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; melissa.marinovich@nebraska.gov <melissa.marinovich@nebraska.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>; Ben Bainbridge <ben.bainbridge@powereng.com>
Subject: [EXTERNAL] phone call to discuss mowing effects on soil

This email has been received from outside of DOI - Use caution before clicking on

links, opening attachments, or responding.

Hi all,

NPPD has reviewed all the documents that were suggested we review on the call last Monday, we still believe the conservation measures supported by the FWS and NGPC for a long time now are still valid and that it may even be possible to estimate the amount of benefit to ABB. We have also looked into the literature and spoke with some soils people and have not been able to find anything that would indicate that mowing affects the abiotic characteristics of the soil other than right at the soil/air interface. We are revising our white paper and want to make sure we understand the issue with mowing and address based on the best available information.

I am looking for an hour or so for a conference call as soon as we can so that we can discuss this revise the white paper and get it back to the FWS. Due to the end of the year people being gone and lack of family gatherings due to covid-19 concerns my schedule is pretty flexible and I am available pretty much any time over the next week or two, short of Christmas day. So if some one has a full schedule please throw out your open times out and see if we can get together.

Thanks

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Jenniges, James J.
To: Runge, Jeff; Burgess, Angela; melissa.marinovich@nebraska.gov; Dunn, Shaun; Ben Bainbridge
Subject: [EXTERNAL] phone call to discuss mowing effects on soil
Date: Tuesday, December 15, 2020 3:15:59 PM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi all,

NPPD has reviewed all the documents that were suggested we review on the call last Monday, we still believe the conservation measures supported by the FWS and NGPC for a long time now are still valid and that it may even be possible to estimate the amount of benefit to ABB. We have also looked into the literature and spoke with some soils people and have not been able to find anything that would indicate that mowing affects the abiotic characteristics of the soil other than right at the soil/air interface. We are revising our white paper and want to make sure we understand the issue with mowing and address based on the best available information.

I am looking for an hour or so for a conference call as soon as we can so that we can discuss this revise the white paper and get it back to the FWS. Due to the end of the year people being gone and lack of family gatherings due to covid-19 concerns my schedule is pretty flexible and I am available pretty much any time over the next week or two, short of Christmas day. So if some one has a full schedule please throw out your open times out and see if we can get together.

Thanks

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From:	Burgess, Angela
To:	Runge, Jeff
Cc:	DeBerry, Drue; Larson, Scott
Subject:	Info for R-line talking points
Date:	Thursday, December 3, 2020 2:09:06 PM
Attachments:	KXL_Final_BO_Signed_1223019.pdf

Hi Jeff - I think this covers everything I mentioned, but let me know if you need anything else.

KXL BO - attached

- Reference to ABB reproduction densities on p. 31; "The estimate also factors in potential reproductive output, typically around 15 offspring per two adults (Service 2019a, p. 19)."
- Citations on soil compaction:
    - Hoback, W. 2016. Effects of Compaction and Soil Moisture on American Burying Beetles. Nebraska Department of Roads and the Federal Highway Administration. Report No. SPR-P1(15) M049.
    - Willemssens, K.A. 2015. Soil preferences of Nicrophorus beetles and effects of compaction on burying behavior. University of Nebraska-Lincoln. Dissertations & Theses in Natural Resources. Paper 112. http://digitalcommons.unl.edu/natresdiss/112.

Guidance on When to Seek an Incidental Take Permit https://www.fws.gov/endangered/esa-library/pdf/Guidance-on-When-to-Seek-an-Incidental-Take-Permit.pdf

(www.fws.govend/ angered/esa-1 i brary/pdf/G uidance-on-When-to-Seek-an-Incidental-Take

QUESTIONNAIRE FOR POTENTIAL APPLICANTS FOR INCIDENTAL TAKE AUTHORIZATION UNDER SECTION 10(a)(1)(B) of the ENDANGERED SPECIES ACT . Respond to these questions to help decide if you need an Endangered Species Act (ESA)

www.fws.gov

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Runge, Jeff
To: Burgess, Angela
Subject: Re: [EXTERNAL] ABB dKey
Date: Wednesday, November 25, 2020 5:25:47 AM

Hi Angela,

Plants can deplete soil moisture which is why crops frequently need to be irrigated because their higher water consumption. I do not know what that means for the ABB regarding favorable/unfavorable, but it is difficult to conclude with the data that mowing dries out the soil. In theory, ABB prefer soils with a higher moisture content, so drying could be beneficial or detrimental depending on starting condition of soil.

Jeff

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Tuesday, November 24, 2020 5:54 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: [EXTERNAL] ABB dKey

This is really helpful, Jeff, thank you!

This is a stupid question: How does vegetation consumptive use of water generally relate to soil moisture? Does higher vegetative consumptive use result in dryer soil, thereby making it less favorable for ABB use, or the opposite?

Just want to make sure I have it straight.

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, November 24, 2020 2:17 PM
To: Larson, Scott <scott_larson@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Re: [EXTERNAL] ABB dKey

Couple of thoughts. First is to follow up with the reference to soil disturbance making habitat unsuitable. The definition of "suitable" in the 4(d) rule: *areas where suitable soils contain the appropriate abiotic elements (e.g., soil temperature, soil moisture, particle size, etc.) that are favorable for excavation and formation of brood chambers and where appropriate carrion for reproduction is available*. In my interpretation, to make an area unsuitable consists of two parts. There must be a change in an abiotic element of the soil. Then, the change to the abiotic element must either inhibit the excavation or formation of brood chamber or reduce availability of carrion. I do not see this as an all or none situation. Certain actions could change the abiotic element of soil, but not to the extent that it would affect brood chambers or carrion. Other actions may have an effect. As the Service, do we need to define this threshold?

NPPD said on our conference call that they could install matting without mowing. That said, I would like to address mowing on our call as it is a practice still used by our office. I am still struggling with the concept that mowing makes an area unsuitable due to increased drying. There are two aspects to drying: evaporation and transpiration. Mowing by itself would create a thatch layer that should reduce evaporation. This is addressed by the Nebraska protocol (enclosed with NPPD's white paper) through the removal of residual vegetation. However, the mowing of vegetation should reduce transpiration from plants, and transpiration can have a much greater effect on soil moisture based on my experience with Platte River consultations.

Attached are the results from a consumptive use calculator developed by NRCS for Platte River consultations. In the calculator, I evaluated the consumptive use for the following land cover types in the Nebraska Sandhills: a) mid cool season grass; b) short cool season grass; c) tall warm season grass; d) mid warm season grass; e) short warm season grass; and f) bare soil. The following is the annual consumptive water use for one acre of each land cover type: a) 2.59; b) 2.52; c) 2.34; d) 2.24; e) 2.04; and f) 1.45 consumptive use in acre-feet. We can discuss more on the call, but annual consumptive water use is less for bare soil and short grass. However, land cover types are highly variable throughout the year. In certain times of the year, short grasses and bare soil have lower monthly consumptive water use compared to mid and tall grasses. Other times of the year short grasses and bare soil have higher monthly consumptive use.

Jeff

From: Larson, Scott <scott_larson@fws.gov>
Sent: Tuesday, November 24, 2020 1:21 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Re: [EXTERNAL] ABB dKey

Thanks Angela,

An important definition included in the dKey is the definition of soil disturbance:

"Soil disturbance" Soil disturbance means movement or alteration of soil associated with modifying the existing land use. Soil disturbance includes actions such as grading, filling, soil excavating or topsoil stripping. Soil disturbance also includes non-physical alterations such as chemical treatment, including ground or soil sterilizers, and pesticides that would make the habitat unsuitable.

Thus it appears modification of the existing land use is an important component of soil disturbance that may result in prohibited incidental take. I've attached parts of the 4(d) rule with highlighted phrases that seem to reinforce the idea that intent to modify land use is part of the "prohibited" take the 4d rule seemed to intend to regulate.

Thank You
Scott Larson
North and South Dakota Field Supervisor
Ecological Services
U.S. Fish and Wildlife Service, Interior Region 5
Suite 400, 420 South Garfield Avenue
Pierre, South Dakota 57501

Phone: 605-224-8693 ext. 224
Cell: 605-222-0228
Fax: 605-224-1416
Email: scott_larson@fws.gov

____
From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Tuesday, November 24, 2020 12:46 PM
To: DeBerry, Drue; Larson, Scott; Runge, Jeff; Boroja, Maria T; Powell, Tyson H
Subject: Re: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

Hi All,
This may also be helpful for our conversation tomorrow - it's posted on Oklahoma FO website for project proponents across the ABB range to use to determine if potential take would be prohibited:
https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Flisting%2Fabbinterim4dkey_19nov2020finalforms_reduced.pdf&data=04%7C01%7Cjeff_runge%40fws.gov%7C697d96e2f34b4610ff2708d890ae31d3%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637418425134217226%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=F%2Fwlrcu%2F%2BoF2FZKa%2B4fbIGRD6K2JwhunU6c%2BKVZm%2B3w%3D&reserved=0<https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Flisting%2Fabbinterim4dkey_19nov2020finalforms_reduced.pdf&data=04%7C01%7Cjeff_runge%40fws.gov%7C697d96e2f34b4610ff2708d890ae31d3%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637418425134227176%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=e5h9A5VIxEcd5WB6DYIoPiyRnK7vlG3Bv1BxFSHL2LI%3D&reserved=0>

My understanding is that R-line would go to Step F and then Step G, where the question is "Will the action include soil disturbance of suitable ABB habitat, including but not limited to the use of vehicles or heavy equipment, vegetation removal, use of herbicides, pesticides, other hazardous chemicals that may impact soil or vegetation or otherwise impact ABB habitat?" If the answer is "yes" it states "Any Incidental take from the proposed project is prohibited take and based on your answers in Steps A-F is not excepted under the 4(d) Rule. Please contact the closest U.S. Fish and Wildlife Service Ecological Services Field Office for further guidance."
Determination Key to the American Burying Beetle 4(d) Rule for Federal and Non-Federal Activities<https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Flisting%2Fabbinterim4dkey_19nov2020finalforms_reduced.pdf&data=04%7C01%7Cjeff_runge%40fws.gov%7C697d96e2f34b4610ff2708d890ae31d3%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637418425134227176%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=e5h9A5VIxEcd5WB6DYIoPiyRnK7vlG3Bv1BxFSHL2LI%3D&reserved=0>
ABB 4d Key Version 11/19/20 1 . Determination Key to the American Burying Beetle 4(d) Rule . for Federal and Non-Federal Activities . This key will help you determine if your proposed project is excepted from prohibited take of the
https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.fws.gov%2F&data=04%7C01%7Cjeff_runge%40fws.gov%7C697d96e2f34b4610ff2708d890ae31d3%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637418425134227176%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=1KG6wyiFktfcFLuz4gY3CtAEHLLS09gnPwIdKvWp%2BhE%3D&reserved=0

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive<https://doimspp-my.sharepoint.com/:f:/g/personal/gilbert_varela_fws_gov1/EiBmVUDiS-JOs-4kMRl-FQUBXDAWQaWLqXQUkfLa1L3u7Q?e=sw3n9K> or Headquarters' Briefing Paper Template Sharepoint<https://doimspp.sharepoint.com/sites/fws-FF09X00000/SitePages/Briefing-papers.aspx?CT=1592234498488&OR=OWA-NT&CID=ffd51f3a-d895-a957-b04d-234ca246486d>.

____
From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, November 24, 2020 11:25 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Fw: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

Folks,

Written responses to the questions we posed to NPPD in the attachment.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

____
From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Tuesday, November 24, 2020 9:55 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, prior to our call on November 18, you provided a few questions that the Service had about NPPD's ABB white paper. While we discussed most of those questions during the call, we wanted to provide written responses for your consideration, which are in the attached document. We also discussed the ABB 4(d) rule on the call. NPPD would welcome the opportunity to discuss that issue further at the Service's convenience. Please distribute the attached document as you see fit, and let us know if you have any further questions from us.

From: Runge, Jeff
To: Larson, Scott; Burgess, Angela; DeBerry, Drue; Boroja, Maria T; Powell, Tyson H
Subject: Re: [EXTERNAL] ABB dKey
Date: Tuesday, November 24, 2020 2:17:13 PM
Attachments: [illegible]

Couple of thoughts. First is to follow up with the reference to soil disturbance making habitat unsuitable. The definition of "suitable" in the 4(d) rule: *areas where suitable soils contain the appropriate abiotic elements (e.g., soil temperature, soil moisture, particle size, etc.) that are favorable for excavation and formation of brood chambers and where appropriate carrion for reproduction is available*. In my interpretation, to make an area unsuitable consists of two parts. There must be a change in an abiotic element of the soil. Then, the change to the abiotic element must either inhibit the excavation or formation of brood chamber or reduce availability of carrion. I do not see this as an all or none situation. Certain actions could change the abiotic element of soil, but not to the extent that it would affect brood chambers or carrion. Other actions may have an effect. As the Service, do we need to define this threshold?

NPPD said on our conference call that they could install matting without mowing. That said, I would like to address mowing on our call as it is a practice still used by our office. I am still struggling with the concept that mowing makes an area unsuitable due to increased drying. There are two aspects to drying: evaporation and transpiration. Mowing by itself would create a thatch layer that should reduce evaporation. This is addressed by the Nebraska protocol (enclosed with NPPD's white paper) through the removal of residual vegetation. However, the mowing of vegetation should reduce transpiration from plants, and transpiration can have a much greater effect on soil moisture based on my experience with Platte River consultations.

Attached are the results from a consumptive use calculator developed by NRCS for Platte River consultations. In the calculator, I evaluated the consumptive use for the following land cover types in the Nebraska Sandhills: a) mid cool season grass; b) short cool season grass; c) tall warm season grass; d) mid warm season grass; e) short warm season grass; and f) bare soil. The following is the annual consumptive water use for one acre of each land cover type: a) 2.59; b) 2.52; c) 2.34; d) 2.24; e) 2.04; and f) 1.45 consumptive use in acre-feet. We can discuss more on the call, but annual consumptive water use is less for bare soil and short grass. However, land cover types are highly variable throughout the year. In certain times of the year, short grasses and bare soil have lower monthly consumptive water use compared to mid and tall grasses. Other times of the year short grasses and bare soil have higher monthly consumptive use.

Jeff

From: Larson, Scott <scott_larson@fws.gov>
Sent: Tuesday, November 24, 2020 1:21 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Re: [EXTERNAL] ABB dKey

Thanks Angela,

An important definition included in the dKey is the definition of soil disturbance:

"Soil disturbance" Soil disturbance means movement or alteration of soil associated with modifying the existing land use. Soil disturbance includes actions such as grading, filling, soil excavating or topsoil stripping. Soil disturbance also includes non-physical alterations such as chemical treatment, including ground or soil sterilizers, and pesticides that would make the habitat unsuitable.

Thus it appears modification of the existing land use is an important component of soil disturbance that may result in prohibited incidental take. I've attached parts of the 4(d) rule with highlighted phrases that seem to reinforce the idea that intent to modify land use is part of the "prohibited" take the 4d rule seemed to intend to regulate.

Thank You
Scott Larson
North and South Dakota Field Supervisor
Ecological Services
U.S. Fish and Wildlife Service, Interior Region 5
Suite 400, 420 South Garfield Avenue
Pierre, South Dakota 57501

Phone: 605-224-8693 ext. 224
Cell: 605-222-0228
Fax: 605-224-1416
Email: scott_larson@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Tuesday, November 24, 2020 12:46 PM
To: DeBerry, Drue; Larson, Scott; Runge, Jeff; Boroja, Maria T; Powell, Tyson H
Subject: Re: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

Hi All,
This may also be helpful for our conversation tomorrow - it's posted on Oklahoma FO website for project proponents across the ABB range to use to determine if potential take would be prohibited:
https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Flisting%2Fabbinterim4dkey_19nov2020finalforms_reduced.pdf&data=04%7C01%7Cjeff_runge%40fws.gov%7C697d96e2f34b4610ff2708d890ae31d3%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637418425134217226%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=F%2Fwlrcu%2F%2BoF2FZKa%2B4fbIGRD6K2JwhunU6c%2BKVZm%2B3w%3D&reserved=0<https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Flisting%2Fabbinterim4dkey_19nov2020finalforms_reduced.pdf&data=04%7C01%7Cjeff_runge%40fws.gov%7C697d96e2f34b4610ff2708d890ae31d3%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637418425134227176%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=e5h9A5VIxEcd5WB6DYIoPiyRnK7vlG3Bv1BxFSHL2LI%3D&reserved=0>

My understanding is that R-line would go to Step F and then Step G, where the question is "Will the action include soil disturbance of suitable ABB habitat, including but not limited to the use of vehicles or heavy equipment, vegetation removal, use of herbicides, pesticides, other hazardous chemicals that may impact soil or vegetation or otherwise impact ABB habitat?" If the answer is "yes" it states "Any Incidental take from the proposed project is prohibited take and based on your answers in Steps A-F is not excepted under the 4(d) Rule. Please contact the closest U.S. Fish and Wildlife Service Ecological Services Field Office for further guidance."
Determination Key to the American Burying Beetle 4(d) Rule for Federal and Non-Federal Activities<https://gcc02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Flisting%2Fabbinterim4dkey_19nov2020finalforms_reduced.pdf&data=04%7C01%7Cjeff_runge%40fws.gov%7C697d96e2f34b4610ff2708d890ae31d3%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637418425134227176%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=e5h9A5VIxEcd5WB6DYIoPiyRnK7vlG3Bv1BxFSHL2LI%3D&reserved=0>
ABB 4d Key Version 11/19/20 1 . Determination Key to the American Burying Beetle 4(d) Rule . for Federal and Non-Federal Activities . This key will help you determine if your proposed project is excepted from prohibited take of the
https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.fws.gov%2F&data=04%7C01%7Cjeff_runge%40fws.gov%7C697d96e2f34b4610ff2708d890ae31d3%7C0693b5ba4b184d7b9341f32f400a5494%7C0%7C0%7C637418425134227176%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=1KG6wyiFktfcFLuz4gY3CtAEHLLS09gnPwIdKvWp%2BhE%3D&reserved=0

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive<https://doimspp-my.sharepoint.com/:f:/g/personal/gilbert_varela_fws_gov1/EiBmVUDiS-JOs-4kMRI-FQUBXDAWQaWLqXQUkfLa1L3u7Q?e=sw3n9K> or Headquarters' Briefing Paper Template Sharepoint<https://doimspp.sharepoint.com/sites/fws-FF09X00000/SitePages/Briefing-papers.aspx?CT=1592234498488&OR=OWA-NT&CID=ffd51f3a-d895-a957-b04d-234ca246486d>.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, November 24, 2020 11:25 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Fw: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

Folks,

Written responses to the questions we posed to NPPD in the attachment.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Tuesday, November 24, 2020 9:55 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, prior to our call on November 18, you provided a few questions that the Service had about NPPD's ABB white paper. While we discussed most of those questions during the call, we wanted to provide written responses for your consideration, which are in the attached document. We also discussed the ABB 4(d) rule on the call. NPPD would welcome the opportunity to discuss that issue further at the Service's convenience. Please distribute the attached document as you see fit, and let us know if you have any further questions from us.

From: Bergeon, Angela
To: Dolberry, Drew; Larson, Scott; Bunge, Jeff; Bowyn, Maria T.; Powell, Tyson H.
Subject: Re: [EXTERNAL] NPPD Response to USFWS Questions on the ABB White Paper
Date: Tuesday, November 24, 2020 12:12:10 PM
Attachments: 2020-11-16 scale-institutional-sections.xlsx

Thanks Angela,

An important definition included in the dKey is the definition of soil disturbance:

"Soil disturbance" Soil disturbance means movement or alteration of soil associated with modifying the existing land use. Soil disturbance includes actions such as grading, filling, soil excavating or topsoil stripping. Soil disturbance also includes non-physical alterations such as chemical treatment, including ground or soil sterilizers, and pesticides that would make the habitat unsuitable.

There it appears modification of the existing land use is an important component of soil disturbance that may result in prohibited incidental take. I've attached parts of the 4(d) rule with highlighted phrases that seem to reinforce the idea that intent to modify land use is part of the "prohibited" take the 4d rule seemed to intend to regulate.

Thank You
Scott Larson
North and South Dakota Field Supervisor
Ecological Services
U.S. Fish and Wildlife Service, Interior Region 5
Suite 400, 420 South Garfield Avenue
Pierre, South Dakota 57501

Phone: 605-224-8693 ext. 224
Cell: 605-280-7146
Fax: 605-224-1416
Email: scott_larson@fws.gov

From: Bergeon, Angela <Angela_Bergeon@fws.gov>
Sent: Tuesday, November 24, 2020 12:46 PM
To: Dolberry, Drew; Larson, Scott; Bunge, Jeff; Bowyn, Maria T.; Powell, Tyson H.
Subject: Re: [EXTERNAL] NPPD Response to USFWS Questions on the ABB White Paper

Hi All,
This may also be helpful for our conversation tomorrow - it's posted on Oklahoma FO website for project proponents across the ABB range to use to determine if potential take would be prohibited:
https://gcx02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Elisting%2Fabbinstrumentlikely_19nov2020usefilewrw_noheat.pdf&data=04%7C01%7Cjeff_bunge%40fws.gov%7C3f5d9ea2f34e4c1f0f2708d4f90ea1a1%7Ce58d68890ac14a1f9c3e4e8c1b6d7b04x1f32180dca5b49%7C0%7C0%7C637618425134227126%7CUnknown%7CTWFpbGZsb3dzIjp7IlYiOiAiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltYWwiLCJXVCI6Mn0%3D%7C1000&sdata=0%2Fwkxw%2F%2Bu2F2FZKu7x2bBfb8ERD8K2c3w6mG3u7c%2BK2VZm5%2B7x%3D&reserved=0> https://gcx02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Elisting%2Fabbinstrumentlikely_19nov2020usefilewrw_noheat.pdf&data=04%7C01%7Cjeff_bunge%40fws.gov%7C3f5d9ea2f34e4c1f0f2708d4f90ea1a1%7Ce58d68890ac14a1f9c3e4e8c1b6d7b04x1f32180dca5b49%7C0%7C0%7C637618425134227126%7CUnknown%7CTWFpbGZsb3dzIjp7IlYiOiAiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltYWwiLCJXVCI6Mn0%3D%7C1000&sdata=5bt6ASVEuLzPW8tDYEuPyRuK%3U1Rr1Bu5SIEJL2PA%3D&reserved=0>

My understanding is that B-line would go to Step F and then Step G, where the question is "Will the action include soil disturbance of suitable ABB habitat, including but not limited to the use of vehicles or heavy equipment, vegetation removal, use of herbicides, pesticides, other hazardous chemicals that may impact soil or vegetation or otherwise impact ABB habitat?" If the answer is "yes" it states "Any Incidental take from the proposed project is prohibited take and hereof.on you answers in Steps A-F is not excepted under the 4(d) Rule. Please contact the closest U.S. Fish and Wildlife Service Ecological Services Field Office for further guidance."
Determination Key to the American Burying Beetle 4(d) Rule for Federal and Non-Federal Activities<https://gcx02.safelinks.protection.outlook.com/?
url=https%3A%2F%2Fwww.fws.gov%2Fsouthwest%2Fes%2Foklahoma%2Fdocuments%2Fabb%2Elisting%2Fabbinstrumentlikely_19nov2020usefilewrw_noheat.pdf&data=04%7C01%7Cjeff_bunge%40fws.gov%7C3f5d9ea2f34e4c1f0f2708d4f90ea1a1%7Ce58d68890ac14a1f9c3e4e8c1b6d7b04x1f32180dca5b49%7C0%7C0%7C637618425134227126%7CUnknown%7CTWFpbGZsb3dzIjp7IlYiOiAiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltYWwiLCJXVCI6Mn0%3D%7C1000&sdata=5bt6ASVEuLzPW8tDYEuPyRuK%3U1Rr1Bu5SIEJL2PA%3D&reserved=0>
ABB 4d Key Version 11/19/20 1- Determination Key to the American Burying Beetle 4(d) Rule for Federal and Non-Federal Activities - This key will help you determine if your proposed project is excepted from prohibited take of the
https://gcx02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.fws.gov%2Ffloridaecos%2Fdocuments%2Fabb%2Ed4%2Ftemplates%2Fabb%2Ed4key.docx&data=04%7C01%7Cjeff_bunge%40fws.gov%7C3f5d9ea2f34e4c1f0f2708d4f90ea1a1%7Ce58d68890ac14a1f9c3e4e8c1b6d7b04x1f32180dca5b49%7C0%7C0%7C637618425134227126%7CUnknown%7CTWFpbGZsb3dzIjp7IlYiOiAiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltYWwiLCJXVCI6Mn0%3D%7C1000&sdata=0LG6wcyZEzfLFLsc6qT3CtAEHLL80Ipo9vEdRc9ep%2B6%3D&reserved=0

Angela Bergeon
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_bergeon@fws.gov

For FWS IR SkTEA employees: For correspondence templates and resources, please see Interior Region 5 and 7's Correspondence OneDrive<https://doimspp.sharepoint.com/:f:/r/sites/nsd/adhoc_vaulis_fws_ses/LEdbnVUDE0-IOx-tKMBEzFOUEIXDJAWGhW1-eQOXdE_g1LTq7Gv-ss3wfK> or Hoodquarters' Briefing Paper Template Sharepoint<https://doimspp.sharepoint.com/sites/fws/ES/SSO0008/SitePages/BriefingPapers.aspx?CT=1702214498488&OR=OWA-NT&CID=f5d515a-4895-d977-b04d-218ea28d38a1>.

From: Dolberry, Drew <drew_dolberry@fws.gov>
Sent: Tuesday, November 24, 2020 11:25 AM
To: Bergeon, Angela <Angela_Bergeon@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Bunge, Jeff <jeff_bunge@fws.gov>; Bowyn, Maria T <maria_bowyn@fws.gov>; Powell, Tyson H <Tyson.Powell@ipd.doi.gov>
Subject: Fw: [EXTERNAL] NPPD Response to USFWS Questions on the ABB White Paper

Folks,

Written responses to the questions we posed to NPPD on the attachment.

Drew Dolberry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4578
Cell: 303-432-7777
drew_dolberry@fws.gov

From: Hostefler, Bonnie J. <bjhostel@nppd.com>
Sent: Tuesday, November 24, 2020 9:55 AM
To: Dolberry, Drew <drew_dolberry@fws.gov>
Subject: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drew, prior to our call on November 18, you provided a few questions that the Service had about NPPD's ABB white paper. While we discussed most of those questions during the call, we wanted to provide written responses for your consideration, which are in the attached document. We also discussed the ABB 4(d) rule on the call. NPPD would welcome the opportunity to discuss that issue further at the Service's convenience. Please distribute the attached document as you see fit, and let us know if you have any further questions from us.

From: Burgess, Angela
To: DeBerry, Drue; Larson, Scott; Runge, Jeff; Boroja, Maria T; Powell, Tyson H
Subject: Re: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper
Date: Tuesday, November 24, 2020 11:46:21 AM

Hi All,
This may also be helpful for our conversation tomorrow - it's posted on Oklahoma FO website for project proponents across the ABB range to use to determine if potential take would be prohibited:
https://www.fws.gov/southwest/es/oklahoma/documents/abb/listing/abbinterim4dkey_19nov2020finalforms_reduced.pdf

My understanding is that R-line would go to Step F and then Step G, where the question is "Will the action include soil disturbance of suitable ABB habitat, including but not limited to the use of vehicles or heavy equipment, vegetation removal, use of herbicides, pesticides, other hazardous chemicals that may impact soil or vegetation or otherwise impact ABB habitat?" If the answer is "yes" it states "Any Incidental take from the proposed project is prohibited take and based on your answers in Steps A-F is not excepted under the 4(d) Rule. Please contact the closest U.S. Fish and Wildlife Service Ecological Services Field Office for further guidance."

Determination Key to the American Burying Beetle 4(d) Rule for Federal and Non-Federal Activities

ABB 4d Key Version 11/19/20 1 . Determination Key to the American Burying Beetle 4(d) Rule . for Federal and Non-Federal Activities . This key will help you determine if your proposed project is excepted from prohibited take of the

www.fws.gov

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, November 24, 2020 11:25 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Fw: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

Folks,

Written responses to the questions we posed to NPPD in the attachment.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Tuesday, November 24, 2020 9:55 AM
To: DeBerry, Drue <drue_deberry@fws.gov>

Subject: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, prior to our call on November 18, you provided a few questions that the Service had about NPPD's ABB white paper. While we discussed most of those questions during the call, we wanted to provide written responses for your consideration, which are in the attached document. We also discussed the ABB 4(d) rule on the call. NPPD would welcome the opportunity to discuss that issue further at the Service's convenience. Please distribute the attached document as you see fit, and let us know if you have any further questions from us.

From: DeBerry, Drue
To: Burgess, Angela; Larson, Scott; Runge, Jeff; Boroja, Maria T; Powell, Tyson H
Subject: Fw: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper
Date: Tuesday, November 24, 2020 11:25:44 AM
Attachments: NPPD Responses to USFWS Questions on the ABB White Paper.pdf

---

Folks,

Written responses to the questions we posed to NPPD in the attachment.

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Tuesday, November 24, 2020 9:55 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: [EXTERNAL] NPPD Responses to USFWS Questions on the ABB White Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, prior to our call on November 18, you provided a few questions that the Service had about NPPD's ABB white paper. While we discussed most of those questions during the call, we wanted to provide written responses for your consideration, which are in the attached document. We also discussed the ABB 4(d) rule on the call. NPPD would welcome the opportunity to discuss that issue further at the Service's convenience. Please distribute the attached document as you see fit, and let us know if you have any further questions from us.

From: ben.bainbridge@powereng.com
To: DeBerry, Drue; Burgess, Angela; Boroja, Maria T; Larson, Scott; Runge, Jeff; Powell, Tyson H; "Marinovich, Melissa"; Dunn, Shaun; Hostetler, Bonnie J. (bjhoste@nppd.com); Jenniges, James J. (jjjenni@nppd.com); "Sandi Snodgrass"; Murray Feldman
Subject: [EXTERNAL] ABB Avoidance 2020 Summary slides
Date: Wednesday, November 18, 2020 11:15:52 AM
Attachments: ABB Avoidance 2020 summaryjjj(sas).pptx

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Attached is the PowerPoint presentation that I will be sharing via screenshare on WebEx for today's call at 11:30 MST.
Ben

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From:	ben.bainbridge@powereng.com
To:	Runge, Jeff
Cc:	Jenniges, James J. (jjjenni@nppd.com)
Subject:	RE: [EXTERNAL] FW: RESCHEDULED: NPPD"s Proposed Approach to Avoiding ABB Take for the R-Project
Date:	Monday, November 16, 2020 9:53:10 AM

Scheduled for Wednesday at 12:30 central time. I'll try forwarding the invite again on Wednesday morning. Here is the meeting invite in an email form. I don't know if the "Join Meeting" link will work like this but the call-in number and access code are below.

Update for the full hour.
Rescheduled: Discussion regarding the NPPD paper "Nebraska Public Power District's Proposed Approach to Avoiding American Burying Beetle Take for the R-Project (October 14, 2020)". A brief PowerPoint will be included to facilitate discussion.

-- Do not delete or change any of the following text. --

When it's time, join your Webex meeting here.

Meeting number (access code): 132 657 5623
Meeting password: MpQ7GVQf3n3

Join meeting [powerengineers.webex.com]

Tap to join from a mobile device (attendees only)
1-866-469-3239,,1326575623## USA Toll Free
+1-650-429-3300,,1326575623## USA Toll

Join by phone
+1-650-429-3300 USA Toll
1-866-469-3239 USA Toll Free
Global call-in numbers [powerengineers.webex.com] | Toll-free calling restrictions [webex.com]

Join by video system, application or Skype for business
Dial 1326575623@webex.com
You can also dial 173.243.2.68 and enter your meeting number.

If you are a host, click here [powerengineers.webex.com] to view host information.

Need help? Go to http://help.webex.com [help.webex.com]

Ben Bainbridge
Biologist

208-788-0391
208-309-4059 cell

POWER Engineers, Inc.
www.powereng.com

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, November 16, 2020 9:48 AM
To: Bainbridge, Ben <ben.bainbridge@powereng.com>
Subject: Re: [EXTERNAL] FW: RESCHEDULED: NPPD's Proposed Approach to Avoiding ABB Take for the R-Project

Sorry to bother you again. I accepted the calendar invite, but it does not show up on the calendar. Maybe is it an issue with forwarding.

Jeff

From: Runge, Jeff
Sent: Monday, November 16, 2020 10:44 AM
To: ben.bainbridge@powereng.com <ben.bainbridge@powereng.com>
Subject: Accepted: [EXTERNAL] FW: RESCHEDULED: NPPD's Proposed Approach to Avoiding ABB Take for the R-Project
When: Wednesday, November 18, 2020 12:30 PM-1:30 PM.
Where: Webex

From: ben.bainbridge@powereng.com
To: Runge, Jeff
Subject: [EXTERNAL] FW: RESCHEDULED: NPPD's Proposed Approach to Avoiding ABB Take for the R-Project

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

-----Original Appointment-----
From: Bainbridge, Ben
Sent: Monday, November 09, 2020 9:55 AM
To: Bainbridge, Ben; Drue_deberry@fws.gov; angela_burgess@fws.gov; Boroja, Maria T; scott_larson@fws.gov; jeff_runge@fws.com; tyson.powell@sol.doi.gov; 'Marinovich, Melissa'; Dunn, Shaun; Bonnie Hosteller; James J. Jenniges; 'Sandi Snodgrass'
Cc: Murray Feldman
Subject: RESCHEDULED: NPPD's Proposed Approach to Avoiding ABB Take for the R-Project
When: Wednesday, November 18, 2020 11:30 AM-12:30 PM (UTC-07:00) Mountain Time (US & Canada).
Where: Webex

Update for the full hour.
Rescheduled: Discussion regarding the NPPD paper "Nebraska Public Power District's Proposed Approach to Avoiding American Burying Beetle Take for the R-Project (October 14, 2020)". A brief PowerPoint will be included to facilitate discussion.

-- Do not delete or change any of the following text. --

When it's time, join your Webex meeting here.

Meeting number (access code): 132 657 5623
Meeting password: MpQ7GVQfta3

Join meeting [powerengineers.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fpowerengineers.webex.com%2Fpowerengineers%2Fj.php%3FMTID%3Dm2758887962c71592f2331649d255f9e__%3B!!NPIPZ64uwXccAw!9kKuK4kaKzcHT36WfWm9qRbR1ofe_S34by7eoxxoAT-8Pwen22cZ2rvwoe90QO2ghl%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0cb31170fefc8402dbf40008d88a486fb8%7C0693b5ba4b184d7b93415f2f400a5494%7C0%7C0%7C637411390779904647%7CUnknown%7CTWFpbGZsb3dReyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltaWwiLCJXVCI6Mmf0%3D%7C1000&sdata=FBfAxXLX3IEBIjSDiZbmvmulLzzycdNTsT4R9VW0%2FY8%3D&reserved=0>

Tap to join from a mobile device (attendees only)
1-866-469-3239,,132657562 3#,,,,*01*132657562 3%23%23*01*> USA Toll Free
+1-650-429-3300,,132657562 3#,,,,*01*132657562 3%23%23*01*> USA Toll

Join by phone
+1-650-429-3300 USA Toll
1-866-469-3239 USA Toll Free
Global call-in numbers [powerengineers.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fpowerengineers.webex.com%2Fpowerengineers%2Fglobalcallin.php%3FMTID%3Dm0b5353642031 3bda2589c4cdd5c0f189__%3B!!NPIPZ64uwXccAw!9kKuK4kaKzcHT36WfWm9qRbR1ofe_S34by7eoxxoAT-8Pwen22cZ2rvwoe9ty-ofE%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0cb31170fefc8402dbf40008d88a486fb8%7C0693b5ba4b184d7b93415f2f400a5494%7C0%7C0%7C637411390779914603%7CUnknown%7CTWFpbGZsb3dReyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltaWwiLCJXVCI6Mmf0%3D%7C1000&sdata=zSeXNGTVYQ7IxzOzOAjU%2FJNEkb5NQNke30h%2FP1eouZg%3D&reserved=0> | Toll-free calling restrictions [webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fwww.webex.com%2Fpdf%2Fnoffree_restrictions.pdf__%3B!!NPIPZ64uwXccAw!9kKuK4kaKzcHT36WfWm9qRbR1ofe_S34by7eoxxoAT-8Pwen22cZ2rvwoe9dRe6Nm1%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0cb31170fefc8402dbf40008d88a486fb8%7C0693b5ba4b184d7b93415f2f400a5494%7C0%7C0%7C637411390779914603%7CUnknown%7CTWFpbGZsb3dReyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltaWwiLCJXVCI6Mmf0%3D%7C1000&sdata=Ez Vpfu%2BQ7Ke3DQBOXgxpZ7%2Bit2r9yEwBYAtgryOs4N4%3D&reserved=0>

Join by video system, application or Skype for business
Dial 132657562 3@webex.com <sip:132657562 3@webex.com>
You can also dial 173.243.2.68 and enter your meeting number.

If you are a host, click here [powerengineers.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__https%3A%2F%2Fpowerengineers.webex.com%2Fpowerengineers%2Fj.php%3FMTID%3Dm5f0238ce60b63777c273e1c1dd5021c8__%3B!!NPIPZ64uwXccAw!9kKuK4kaKzcHT36WfWm9qRbR1ofe_S34by7eoxxoAT-8Pwen22cZ2rvwoe9sK_sLxg%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0cb31170fefc8402dbf40008d88a486fb8%7C0693b5ba4b184d7b93415f2f400a5494%7C0%7C0%7C637411390779924563%7CUnknown%7CTWFpbGZsb3dReyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltaWwiLCJXVCI6Mmf0%3D%7C1000&sdata=HE3 10G2dibGdSvuz2ZTsIuPcEkPZ33N%2BtS2Qw8qD4ac%3D&reserved=0> to view host information.

Need help? Go to http://help.webex.com [help.webex.com] <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.com%2Fv3%2F__http%3A%2F%2Fhelp.webex.com__%3B!!NPIPZ64uwXccAw!9kKuK4kaKzcHT36WfWm9qRbR1ofe_S34by7eoxxoAT-8Pwen22cZ2rvwoe9DKdaUbv%24&data=04%7C01%7Cjeff_runge%40fws.gov%7C0cb31170fefc8402dbf40008d88a486fb8%7C0693b5ba4b184d7b93415f2f400a5494%7C0%7C0%7C637411390779924563%7CUnknown%7CTWFpbGZsb3dReyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IkltaWwiLCJXVCI6Mmf0%3D%7C1000&sdata=p5dISUyxuRcCSJPyIeZmtAvhu6KlusoMXpyfGlKj3Y8k%3D&reserved=0>

From: Burgess, Angela
To: Larson, Scott; DeBerry, Drue; Rabbe, Matt; Runge, Jeff
Subject: Fw: Biological Opinion for ABB 4(d) rule
Date: Monday, November 9, 2020 12:30:23 PM
Attachments: BP035713 20201008_BO_ABB4(d) with Signature.pdf

FYI - the BiOp for the ABB 4(d).

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Wednesday, October 28, 2020 8:45 AM
To: Harms, Robert <robert_harms@fws.gov>; Davidson, Chris <chris_davidson@fws.gov>; McNulty, Michele <michele_mcnulty@fws.gov>; Corsair, Cynthia L <Cynthia_Corsair@fws.gov>; Boyer, Angela <angela_boyer@fws.gov>; Hamilton, Scott B <Scott_Hamilton@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Hines, Eliza B <eliza_hines@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Fenner, Daniel <daniel_fenner@fws.gov>
Subject: Re: Biological Opinion for ABB 4(d) rule

Hi team, We have a signed BO for the 4(d) rule and have drafted a step by step process or Dkey for other agencies to use the BO through IPaC. The BO is attached and I will send a draft of the Dkey when we get input from HQ.

Kevin
918-695-6769

From: Stubbs, Kevin
Sent: Tuesday, September 15, 2020 12:46 PM
To: Harms, Robert <robert_harms@fws.gov>; Davidson, Chris <chris_davidson@fws.gov>; McNulty, Michele <michele_mcnulty@fws.gov>; Corsair, Cynthia L <Cynthia_Corsair@fws.gov>; Boyer, Angela <angela_boyer@fws.gov>; Hamilton, Scott B <Scott_Hamilton@fws.gov>; Bessken, Charlene <charlene_bessken@fws.gov>; Hines, Eliza B <eliza_hines@fws.gov>
Cc: Fenner, Daniel <daniel_fenner@fws.gov>
Subject: Biological Opinion for ABB 4(d) rule

We have drafted a programmatic BO for the ABB 4(d) rule that all federal agencies could use if

they want to (similar to the BO for the NLEB). It would streamline the consultation process for any agencies wanting to use the exemptions under the 4(d) rule. The BO would be on our OKESFO website with a step by step process for agencies to follow. Considering the exemptions are limited to grazing in northern portions of the range, there probably will not be many agencies using it outside of OK, AR, and KS. I can send the draft out for your review if you want to see it, but we need comments quickly (like within a week) if we want to have it ready around the time the rule would go into effect. Please let me know if you have any desire to review it and I can send it as soon as tomorrow when I get a revised draft back from Daniel's review.

Thanks

Kevin
918-695-6769

From: Runge, Jeff
To: DeBerry, Drue; Burgess, Angela; Boroja, Maria T; Powell, Tyson H
Subject: Re: R-line presentation
Date: Monday, November 9, 2020 10:14:05 AM

Hi Drue,

I was out last week, so I could not respond to your request for discussion topics. In addition to ABB, it would be helpful to have NPPD describe their approach for whooping cranes in light of new information since our final decision. Hopefully there is time available to discuss.

Also, would it be beneficial if I were to call Melissa to briefly describe ABB considerations discussed on our last internal call? This would provide context for the upcoming call with NPPD.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, November 9, 2020 10:30 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: R-line presentation

Folks,

I've asked NPPD to move the meeting until next week, hoping that Tyson will be able to attend then. I think we need SOL on given the situation. NPPD will send out a new invite. Also, Melissa Marinovich (NEGPC) will also be joining. And once NPPD knows folks will attend, they will send us the presentation.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: DeBerry, Drue
To: Bonnie Hostetler
Cc: Burgess, Angela; Boroja, Maria T; Larson, Scott; Runge, Jeff; Powell, Tyson H
Subject: Meeting Monday - time ok and questions
Date: Friday, November 6, 2020 7:51:45 AM

Bonnie,

It looks like folks can make the Monday time - can you send out an invite to the folks cc'd with the Zoom link?

Here are a few questions that we'd be interested in covering:

1) how long of a duration, and in what portion of the year (ABB active season, inactive season), would matting be used?
2) how long of a duration, and in what portion of the year (ABB active season, inactive season), would mowing and carrion removal be used?

1. How many acres of ABB habitat where matting will be used? What are the ABB habitat ratings (prime, good, fair, marginal, and poor) in those acres?
2. How many acres of ABB habitat where mowing/carrion removal is proposed? What are the ABB habitat ratings (prime, good, fair, marginal, and poor) in those acres? It broken out by habitat suitability rating, but it would be good to see total acres, not just acres rated as prime and good.
3. Have the maintenance and operations changed? How will that impact ABB?

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Burgess, Angela
To: DeBerry, Drue; Runge, Jeff; Boroja, Maria T; Larson, Scott; Powell, Tyson H
Subject: Re: NPPD call Monday
Date: Thursday, November 5, 2020 11:42:51 AM

A few more questions:
1) how long of a duration, and in what portion of the year (ABB active season, inactive season), would matting be used?
2) how long of a duration, and in what portion of the year (ABB active season, inactive season), would mowing and carrion removal be used?

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Thursday, November 5, 2020 11:26 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Re: NPPD call Monday

Folks,

Absent any objections I hear by COB today, I'll let NPPD know tomorrow morning that we can meet from 11-12 MT on MOnday.

Angela raised a few questions and I've added one. Let me know if there are any other questions or issues you want addressed in Mondays' presentation by COB today.

1. How many acres of ABB habitat where matting will be used? What are the ABB habitat ratings (prime, good, fair, marginal, and poor) in those acres?
2. How many acres of ABB habitat where mowing/carrion removal is proposed? What are the ABB habitat ratings (prime, good, fair, marginal, and poor) in those acres? It broken out by habitat suitability rating, but it would be good to see total acres, not just acres rated as prime and good.
3. Have the maintenance and operations changed? How will that impact ABB?

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, November 4, 2020 1:31 PM
To: DeBerry, Drue <drue_deberry@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: Re: NPPD call Monday

Hi Drue,
I think it would be helpful for them to summarize how many acres of ABB habitat they're proposing to use matting on and how many acres of ABB habitat they're proposing to do mowing/carrion removal. And for them to include all ABB habitat ratings (prime, good, fair, marginal, and poor) in those acres. They can have it broken out by habitat suitability rating, but it would be good to see total acres, not just the ones they've rated as prime and good.

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Wednesday, November 4, 2020 1:19 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Powell, Tyson H <Tyson.Powell@sol.doi.gov>
Subject: NPPD call Monday

Folks,

Can we add a half hour to Mondays call - so total of an hour? NPPD wants to present what they're thinking in a Zoom call to us.

Also any concerns our questions we want to give them in advance?

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Burgess, Angela
To: Runge, Jeff; Bessken, Charlene
Cc: DeBerry, Drue; Boroja, Maria T
Subject: Fw: American burying beetle (ABB) 4d DKey
Date: Thursday, October 29, 2020 1:21:39 PM
Attachments: ABB Key ALLOutcomes 29Oct2020_CRK.xlsx

FYI - see the attached for what R2 is discussing as a step down on 4(d) and needs for consultation/permitting.

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Stubbs, Kevin <kevin_stubbs@fws.gov>
Sent: Thursday, October 29, 2020 12:09 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Fenner, Daniel <daniel_fenner@fws.gov>
Subject: Fw: American burying beetle (ABB) 4d DKey

Angela, after our discussion today, You can look at this draft Dkey and let us know if there are any concerns for the Northern Plains or we could add you to the call on Monday. We were going to share the draft with other offices after we got more input from the IPaC experts.

Kevin
918-695-6769

From: Kilheffer, Chellby R <chellby_kilheffer@fws.gov>
Sent: Thursday, October 29, 2020 10:40 AM
To: Fenner, Daniel <daniel_fenner@fws.gov>
Cc: Stubbs, Kevin <kevin_stubbs@fws.gov>; Scofield, Brian <brian_scofield@fws.gov>
Subject: Re: American burying beetle (ABB) 4d DKey

Good morning, Daniel!

After looking at our calendars, I sent a calendar invite for Monday, Nov 2. This is a well-

organized key! I added a few comments to the attached Excel sheet for us to discuss on Monday. We can also go over the questions on the "Questions to Address" sheet - I added a few others to this list from elsewhere in the spreadsheet.

I look forward to working with you,

Chellby Kilheffer (she, her)
Biologist, Information for Planning and Consultation
U.S. Fish and Wildlife Service, Ecological Services
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office: (703) 358-2312
See IPaC's new features: https://ecos.fws.gov/ipac

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Scofield, Brian <brian_scofield@fws.gov>
Sent: Thursday, October 29, 2020 11:10
To: Fenner, Daniel <daniel_fenner@fws.gov>
Cc: Stubbs, Kevin <kevin_stubbs@fws.gov>; Kilheffer, Chellby R <chellby_kilheffer@fws.gov>
Subject: Re: American burying beetle (ABB) 4d DKey

Hi Daniel,

My co-worker Chellby Kiheffer is going to be the lead on this project for IPaC, but I will be assisting her. Chellby has a conflict for the proposed meeting time today, so we will need to move that meeting to next week. Chellby is going to look at our calendars and schedule a meeting.

-Brian

From: Scofield, Brian <brian_scofield@fws.gov>
Sent: Wednesday, October 28, 2020 3:33 PM
To: Fenner, Daniel <daniel_fenner@fws.gov>
Cc: Stubbs, Kevin <kevin_stubbs@fws.gov>
Subject: Re: American burying beetle (ABB) 4d DKey

Hi Daniel,

My calendar is open to view, please pick a date and time that works best for you to discuss this key. I addressed your questions below and we can discuss them further when we meet.

1. You'll be able to add any field in TAILS into your dkey report. So, you can add the State and County fields. In addition, you can go to the TAILS record from a link in the report and download a shape-file of the project location.
2. All projects will be an event under the overarching TAILS project (under the BO), but each will have its own TAILS number as well. All the data entry is automated.
3. Project proponents will be able to generate concurrence letters for the NLEB and ABB before they complete consultation on any other species that may be in their project area. However, in the Dkey letter it will list any other species that were intersected by the project and let the user know that consultation is not complete for those species.
4. Questions in the qualification interview can trigger specific survey questions.
5. I do have some standard NLAA language that can be incorporated into your output letter.

Please send me the shape-files associated with questions E1 through E5 and sharing files through email works best for me.

I'll send you some comments on the key early next week.

Thanks,
Brian

From: Fenner, Daniel <daniel_fenner@fws.gov>
Sent: Wednesday, October 28, 2020 10:46 AM
To: Scofield, Brian <brian_scofield@fws.gov>
Cc: Stubbs, Kevin <kevin_stubbs@fws.gov>
Subject: American burying beetle (ABB) 4d DKey

Good morning Brian,

I just completed the online form 'Request for Support in Creating an IPaC Determination Key (DKey)'. I've attached our key for your review. And we'd be happy to set up a call with you to walk through it, when convenient for you.

Also, we have some questions that we'd like to discuss with you, when you have a chance....

- How will mapping exercise (Find Area, Define Location, Confirm) data entry by the project proponent affect the dkey report? For example, when we run the Dkey report (based on our Dkey questions), will it also provide information on location, county, shapefile, area (acres), and other information that they enter into IPaC? Or instead, do we need to add those questions into our dkey questionnaire?

- How will each project be tracked in TAILS? Under one BO or separate TAILS entries? Will it require any manual TAILS entries on FWS's side, or will everything be automated?
- What about consultation on other species? Our preference is to have a key for ABB and the existing NLEB, but then require federal agencies to complete their consultation on other species before being able to print out their letter for ABB. Is that possible?
- What triggers the questionnaire?
- Do you have standard language for NLAA outcomes? See NLAA exit points

This project is our highest priority, so anything else you need from us, we'll turn it around quickly. The 4d Rule becomes effective November 16, so that's our target if at all possible. Please let me know how we can share the additional documents/GIS shapefile you'll need. I think we have most of them ready to go.

Thanks and we look forward to working with you on this.

Daniel

Daniel Fenner
Supervisory Fish and Wildlife Biologist
Oklahoma Ecological Services Field Office
U.S. Fish and Wildlife Service
9014 East 21st Street
Tulsa, OK 74129
(918) 260-8149

From: Jenniges, James J.
To: Runge, Jeff; melissa.marinovich@nebraska.gov
Cc: jlcitta@nppd.com; Linder, Larry D.; Barnett, Emma M.; Hostetler, Bonnie J.
Subject: [EXTERNAL] ABB Report
Date: Thursday, October 29, 2020 10:34:12 AM
Attachments: 166-1874_2020_ABB_Survey_Report_REV2_2020-10-20.pdf

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Jeff and Melissa,

Attached is the ABB report for 2020. This report will be included in the annual report for the ITP when it is figured out just what that is. However, I thought you might like to see prior to that.

James Jenniges
Senior Environmental Specialist
jjjenni@nppd.com
Phone for the foresable future is 308-627-6732

From: Runge, Jeff
To: Burgess, Angela; DeBerry, Drue; Jacobsen, Dana E; Powell, Tyson H
Cc: Boroja, Maria T
Subject: R-Project - Discussion with NGPC
Date: Thursday, October 22, 2020 2:49:09 PM

I called Melissa Marinovich, Nebraska Game and Parks Commission, and we were able to discuss NPPD's white paper on ABB. After summarizing NPPD's conclusion over the phone, Melissa provided the following response. NGPC would like to review the methods that led to the reductions in habitat and ABB density before making a judgement. Melissa did say that NPPD's avoidance measures are consistent with NGPC policy. Specifically, the construction contractor will implement the clear-and-maintain protocol and the use of construction matting. From what is reported by NPPD, matting will not result in compaction and will not create ruts. For us, the 4(d) rule clearly addresses grazing and ground disturbance, but not construction matting. We would need to have a closer review of NPPD's measures to avoid temporary impacts and their rationale for no permanent impacts.

I also wanted forward Melissa's request for a copy of the white paper, but I do not know if this is an appropriate topic for next Monday's call with NPPD.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Burgess, Angela
To: Runge, Jeff; DeBerry, Drue
Subject: Fw: [EXTERNAL] RE: Time to meet Thursday
Date: Thursday, October 22, 2020 12:26:24 PM
Attachments: DRAFT American Burying Beetle Mowing-Carrion Removal Protocol - 5.31.19 MLM.docx

---

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Sent: Friday, September 13, 2019 3:20 PM
To: DeBerry, Drue <Drue_DeBerry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Rabbe, Matt <Matt_Rabbe@fws.gov>; =SMTP:michelle.stryker@nebraska.gov
Subject: RE: [EXTERNAL] RE: Time to meet Thursday

Drue and Angela,
Thank you again for looping me in yesterday. After discussing things with our staff beetle expert, we really feel very strongly about maintaining the mowing and carrion removal protocol as a condition for this project, in addition to the mitigation ratios. We are also in favor of the increased temporary impact ratios. As requested, attached is our latest Mowing/Carrion Removal Protocol document. We are in the process of revising it, so it's still in draft form, but should be useful for you. Please let me know if you have any questions!
Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Planning and Programming Division
Nebraska Game and Parks Commission | 2200 N. 33rd St. | Lincoln, NE 68503
Office: (402) 471-5422 | Email: melissa.marinovich@nebraska.gov

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Wednesday, September 11, 2019 12:56 PM
To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Cc: Angela Burgess <angela_burgess@fws.gov>; Matt Rabbe <matt_rabbe@fws.gov>; Stryker, michelle <michelle.stryker@nebraska.gov>
Subject: Re: [EXTERNAL] RE: Time to meet Thursday

Melissa,
Can we plan on 2pm CT (1 PM MT)?
I've attached the draft HCP. I'll also give you a call after I finish my noon call.
Thanks,

Drue DeBerry
Colorado and Nebraska Field Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
134 Union Blvd., Suite 670
Lakewood, Colorado 80228
Office: 303 236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

On Wed, Sep 11, 2019 at 7:40 AM Marinovich, Melissa <melissa.marinovich@nebraska.gov> wrote:

> Hi Drue,
> I have time available on Thursday in the afternoon, if that works for you all. What is the status of the HCP? Do you have a working draft that I could review?
> Thanks,
> Melissa
>
> **Melissa Marinovich**
> Assistant Division Administrator – E & T Species | Wind & Energy | Planning and Programming Division
> Nebraska Game and Parks Commission | 2200 N. 33rd St. | Lincoln, NE 68503
> Office: (402) 471-5422 | Email: melissa.marinovich@nebraska.gov
>
> **From:** DeBerry, Drue <drue_deberry@fws.gov>
> **Sent:** Tuesday, September 10, 2019 5:00 PM
> **To:** Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Angela Burgess <angela_burgess@fws.gov>; Matt Rabbe <matt_rabbe@fws.gov>
> **Subject:** Time to meet Thursday
>
> Hi Melissa,
> Sorry I missed you on the phone. We're hoping that you will have 30 to 60 minutes to discuss Keystone XL and ABB this Thursday. If you do, we'll clear our schedule for the meeting. We want to make sure that we're incorporating NEGPC's recommendations into the HCP development. If Thursday doesn't work, we could also try to meet next Monday morning.
> Thanks,
> Drue DeBerry
> Colorado and Nebraska Field Supervisor
> U.S. Fish and Wildlife Service/ Ecological Services
> 134 Union Blvd., Suite 670
> Lakewood, Colorado 80228
> Office: 303 236-4774
> Cell: 703-472-7777
> drue_deberry@fws.gov

From: Burgess, Angela
To: Runge, Jeff; DeBerry, Drue
Subject: Fw: Question about ABB carrion removal/mowing for power lines
Date: Thursday, October 22, 2020 12:22:52 PM

FYI - previous input from NGPC on carrion removal/mowing conservation measure for power lines.

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Marinovich, Melissa <melissa.marinovich@nebraska.gov>
Sent: Friday, November 8, 2019 11:33 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; =SMTP:shaun.dunn@nebraska.gov
Cc: Rabbe, Matt <Matt_Rabbe@fws.gov>; DeBerry, Drue <Drue_DeBerry@fws.gov>
Subject: [EXTERNAL] RE: Question about ABB carrion removal/mowing for power lines

Hi Angela,
We are most concerned with the impacts from soil disturbance and repetitive travel that could cause extensive compaction, so we typically recommend mowing and carrion removal of any areas where soil disturbance would occur for pole installation, as well as repetitive travel temporary access roads.
Thanks,
Melissa

Melissa Marinovich
Assistant Division Administrator – E & T Species | Wind & Energy | Planning and Programming Division
Nebraska Game and Parks Commission | 2200 N. 33rd St. | Lincoln, NE 68503
Office: (402) 471-5422 | Email: melissa.marinovich@nebraska.gov

From: Burgess, Angela <angela_burgess@fws.gov>
Sent: Tuesday, November 5, 2019 3:51 PM
To: Marinovich, Melissa <melissa.marinovich@nebraska.gov>; Dunn, Shaun <shaun.dunn@nebraska.gov>
Cc: Matt Rabbe <matt_rabbe@fws.gov>; Drue DeBerry <Drue_DeBerry@fws.gov>
Subject: Question about ABB carrion removal/mowing for power lines

Hi Melissa and Shaun,
Quick question about implementation of the mowing and carrion removal conservation measures as they are applied to power line construction in Nebraska:

> If the only ground disturbance from power line construction is at the location of pole installation, do you recommend mowing and carrion removal from the entire power line ROW, or just the locations of the power pole?

Any thoughts/current recommendations from NGPC on implementation of these CMs for the power line installation would be greatly appreciated.
Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist - Ecological Services
Mountain-Prairie Regional Office
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov
Teleworking Mondays and Wednesdays - Phone forwarded to above number

From: Runge, Jeff
To: DeBerry, Drue; Burgess, Angela; Jacobsen, Dana E
Subject: Re: [EXTERNAL] NPPD Beetle White Paper
Date: Thursday, October 22, 2020 6:48:17 AM

I received another request for information from Jim Ducey via phone call earlier this week. It would be helpful to briefly discuss this request on the call.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Thursday, October 15, 2020 12:48 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: Fw: [EXTERNAL] NPPD Beetle White Paper

Folks,

I'll send out an invite to discuss the white paper and other issues not mentioned next week.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Thursday, October 15, 2020 9:04 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] NPPD Beetle White Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue: Attached above is our ABB White Paper. As soon as you are ready, we will be available to

start the discussions about the proposed approach described in this paper.

From: Burgess, Angela
To: Runge, Jeff
Subject: Fw: Mail in RO
Date: Monday, October 19, 2020 2:24:11 PM
Attachments: 4213_001.pdf

FYI

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: For correspondence templates and resources, please see Interior Regions 5 and 7's Correspondence OneDrive or Headquarters' Briefing Paper Template Sharepoint.

From: Naylon, Annette J <annette_naylon@fws.gov>
Sent: Monday, October 19, 2020 2:20 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Subject: Mail in RO

From: Naylon, Annette J
Sent: Monday, October 19, 2020 2:11 PM
To: Alt, Nicole <Nicole_Alt@fws.gov>
Subject: FW: Attached Image

Please let me know who this should be forwarded to? Thanks

From: FW6Scan2Email@fws.gov [mailto:FW6Scan2Email@fws.gov]
Sent: Monday, October 19, 2020 2:48 PM
To: Naylon, Annette J <annette_naylon@fws.gov>
Subject: Attached Image

From: DeBerry, Drue
To: Burgess, Angela; Runge, Jeff; Jacobsen, Dana E
Subject: Fw: [EXTERNAL] NPPD Beetle White Paper
Date: Thursday, October 15, 2020 11:48:12 AM
Attachments: NPPD ABB White Paper.pdf

Folks,

I'll send out an invite to discuss the white paper and other issues not mentioned next week.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Thursday, October 15, 2020 9:04 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: 'Sandi Snodgrass' <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] NPPD Beetle White Paper

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue: Attached above is our ABB White Paper. As soon as you are ready, we will be available to start the discussions about the proposed approach described in this paper.

From:	Andrew DeWitt
To:	Burgess, Angela; DeBerry, Drue; Rabbe, Matt
Cc:	Steve Koster; Samuel Guffey
Subject:	[EXTERNAL] RE: Keystone XL EA - preliminary comment themes for Service input
Date:	Tuesday, October 6, 2020 2:19:08 PM
Attachments:	image001.png

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Angela,

Sam was able to take a deeper dive into a couple of the themes that we discussed on our call last week based on the direction you provided. We were able to supplement a couple of our draft responses as a result. The new draft text is highlighted below for your review and consideration. To avoid version control issues, I thought it best to provide this text via email rather than resending the entire document.

Please note, for the record, that this is draft text for your initial consideration only.

Looking forward to our discussion tomorrow.

Thanks!

Alternatives

Synopsis:

Commenters stated the Service failed to consider any alternative other than the proposed action and the No Action Alternative. Commenters stated that the EA should consider route changes to minimize impacts to the ABB, and suggested that the ESA does not allow the Service to defer consideration of possible route changes to the decisions of an applicant or a state agency, such as the Nebraska Public Service Commission.

Response:

Keystone proposed alternative routes in the Nebraska Public Service Commission process, and the Commission found that the route discussed in the HCP was the best alternative considering all factors (NE PSC 2017); the Commission declined to approve any other route. Similarly, the Department of State (DOS) dismissed the other alternatives, as they did not minimize impacts on environmentally sensitive areas (see the 2014 Keystone XL Final SEIS Section 2.2.5 and the 2019 Keystone XL Final SEIS Section 2.3). In the present analysis of whether to grant the requested ITP, the Service is constrained by the ESA Section 10(a)2(B) requirement that "the Secretary shall issue the permit" as long as the other requirements of Section 10(a) are satisfied. Any information that the NEPA process may provide with respect to alternatives, such as other routes for the proposed

pipeline and power lines, cannot constitute a sufficient basis for the Service to decline to issue the requested ITP. Therefore, the Service did not give further consideration to alternative routes.

Mitigation Lands

Synopsis:

Commenters requested additional information on the specific mitigation lands proposed and questioned the adequacy of the proposed approach, including requests that mitigation lands meet the Service's criteria for ABB Conservation Priority Areas. Comments questioned whether the area of mitigation lands would be sufficient and why the mitigation ratios differ from those in the 2018 HCP for the R-Project transmission line in Nebraska. In addition, comments questioned whether the proposed parcels contain sufficient amounts and quality of ABB habitats to provide adequate mitigation. Comments also questioned whether preservation of existing ABB habitat that is not at risk of degradation would provide any real benefit to the ABB.

Response:

The Service has not identified ABB Conservation Priority Areas in Nebraska. However, ABB Conservation Priority Areas in Oklahoma "include areas with recent (within 10 years) documented ABB presence that the Service believes are likely to contain important elements for ABB conservation, such as documented presence over multiple years, relatively high density populations, suitable breeding, feeding, and sheltering habitat, and carrion resources." (Service 2014, p. 7). Based on the information presented to the Service during the development of the HCP, the Service has determined that the proposed mitigation lands meet these criteria. Furthermore, Jurzenski et al. (2014) attempted to identify locations in the Nebraska sand hills ecoregion that may be suitable as ABB Conservation Priority Areas. According to the results of that model (Jurzenski et al. 2014, p. 156), which were included in modified form in the 2019 Keystone XL BA (p. 103), indicate that the proposed mitigation lands would fall within an area expected to have a 45 to 81.9 percent probability of ABB occurrence. Likewise, the results of Leasure and Hoback (2017, p. 83), which were included in modified form in the 2019 Keystone XL BA (p. 95), indicate that the proposed mitigation lands would fall within an area expected to have a 53 to 100 percent probability of ABB occurrence.

The recent HCP for the R-Project (NPPD 2018, p. 121) included mitigation ratios of 3 acres conserved for 1 acre of ABB habitat permanently affected and, effectively, 0.3 acres conserved for 1 acre of ABB habitat temporarily affected; NPPD assumed that all disturbed acres were high-quality ABB habitat (NPPD 2018, p. 121). The present HCP uses the same mitigation ratio for permanent impacts on high-quality ABB habitat as did NPPD (2018) and uses a more conservative ratio (0.75 acres conserved for 1 acre temporarily affected) for temporary impacts to high-quality ABB habitat than NPPD (2018). Unlike NPPD (2018), Keystone determined that ABB habitat along the proposed pipeline and power line routes was not exclusively of high quality, and Keystone provided data supporting the rating of each route segment as prime, good, fair, marginal or poor ABB habitat. The Service considers it reasonable to assume that lower-quality habitat may, over long periods of time, support fewer individual ABBs than higher-quality habitat and therefore allows discounted mitigation ratios for habitat that is demonstrated to be of less than high quality. As shown in Table 2 of the EA, the Service is requiring preservation of at least 1,035 acres of high-quality ABB habitat to mitigate the proposed take; Keystone's HCP proposes to preserve 1,280 acres, which is more than the Service's requirement and more than the total area for which the ITP was requested (1,249 acres).

The *Habitat Conservation Planning and Incidental Take Permit Processing Handbook* states that "The statutory standard of minimizing and mitigating the impacts of the take 'to the maximum extent practicable' under ESA Section 10(a)(2)(B)(ii) will always be met if the applicant demonstrates that the impacts of the taking will be fully offset by the measures incorporated into the plan." (Service and NMFS 2016 p. 9-28). In the present case, the Service found that Keystone would fully offset the

impacts of the taking because Keystone has an option to purchase, and has committed to purchase, 1,280 acres of high-quality beetle habitat (which is more than the 1,035.25 acres the Service required). Therefore, mitigation has been maximized.

The ABB population that overlaps the proposed mitigation lands is part of the "Sand Hills analysis area", which is predicted to be the most resilient analysis area in the Great Plains under future climate conditions and land use changes (Service 2019a, pp. 170 and 171). The proposed mitigation lands are near the Valentine National Wildlife Refuge, which "is the only large block of protected lands in this analysis area with relatively good numbers of ABBs" (Service 2019a, p. 95). These factors support the Service's determination that the HCP, including the proposed mitigation actions, would advance long-term species and ecosystem conservation objectives at ecologically appropriate scales and would occur within an area capable of supporting species mitigation projects over the long-term.

Andrew DeWitt
Senior Consultant, Project Management

ERM
3352 128th Avenue | Holland, Michigan | 49424
T 616-738-7394 | **M** 616-443-8634
E Andrew.DeWitt@erm.com | **W** www.erm.com

ERM *The business of sustainability*

From: Andrew DeWitt
Sent: Wednesday, September 30, 2020 2:11 PM
To: 'Burgess, Angela' <Angela_Burgess@fws.gov>; 'DeBerry, Drue' <drue_deberry@fws.gov>; 'Rabbe, Matt' <Matt_Rabbe@fws.gov>
Cc: Steve Koster (steve.koster@erm.com) <steve.koster@erm.com>; Samuel Guffey <Samuel.Guffey@erm.com>
Subject: RE: Keystone XL EA - preliminary comment themes for Service input

Hi, Angela, Drue, and Matt,

Two draft documents are attached to this email for your review and comment. One is the comment theme and response document, and the other is an excel file listing the unique substantive comments that we identified and used to generate the themes. Please note that these are preliminary drafts and there are several items that will require your specific input and feedback (called out as comment bubbles in the response document). To facilitate our call today, a listing of potential discussion topics is also included below. We may not be able to get resolution on all of these on our call, but we thought it would be helpful to bring them to your attention in advance and

see if we can identify a path forward to resolve them.

- Purpose and Need: How to address a challenge to the template NEPA language from the HCP Handbook?
- Alternatives: Currently, we refer to the alternatives analyses in the 2019 and 2014 FSEISs, but comments suggested that the ESA does not allow the Service to defer consideration of possible route changes to the decisions of an applicant or a state agency.
- Climate Change Impacts on the ABB: Comments suggested an ITP should be of shorter duration (e.g., 10 to 15 years) or provide for adaptive management and additional mitigation, as appropriate.
- ABB Density Estimates: Commenters compared the Draft EA's take estimate methodology to that used in the 2018 R-Project HCP, which estimated density based on the 99th percentile of the available data, and questioned why the methodology had changed. ERM has internal notes comparing and contrasting the methodologies, but we are not aware of the Service's justification for why it chose to use mean values rather than adopting some sort of more conservative approach based on the upper end of the distribution.
- ESA Process: How to address comments alleging that Keystone/TC Energy violated the ESA? How to handle complaints regarding the HCP, not the EA?
- Factual Corrections or Clarifications regarding electrical power infrastructure: WAPA recommends coordinating with the RUS to confirm their actions relating to power lines and power line infrastructure. WAPA also suggests contacting the power providers directly to discuss their intent to submit an Incidental Take Permit application or not.
- Mitigation Lands: Discuss any updates to the HCP and mitigation plans.
- Tribal Lands: The submission from the Rosebud Tribe stated "TransCanada has now admitted that the Pipeline will cross Rosebud lands that are held in trust in Tripp County". Should we submit a Data Request?
- Sovereignty and Treaty Rights: Comments claimed an obligation of the U.S. government to protect tribal resources from depredations and to obtain the consent of the tribe before building a pipeline, taking an endangered species, or taking any wildlife on tribal trust land. Discuss how to address these claims.

Talk to you soon!

Thanks,
Andrew

Andrew DeWitt
Senior Consultant, Project Management

ERM
3352 128th Avenue | Holland, Michigan | 49424
T 616-738-7394 | **M** 616-443-8634
E Andrew.DeWitt@erm.com | **W** www.erm.com

ERM The business of sustainability

From: Andrew DeWitt
Sent: Wednesday, September 23, 2020 2:03 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Steve Koster (steve.koster@erm.com) <steve.koster@erm.com>; Samuel Guffey <Samuel.Guffey@erm.com>
Subject: Keystone XL EA - preliminary comment themes for Service input

Angela, Drue, and Matt,

We are continuing to review the comment submissions provided on the Draft EA, parsing out individual unique substantive comments, and generating themes and initial responses to themes. Although our review and QA/QC process is not yet complete, we have identified some themes below that we wanted to flag for your early review. We have drafted some initial responses to the first and third item below, and we will certainly provide as much as we can in response for your review and feedback next week as we discussed.

Synopsis (Alternatives):

Commenters stated the Service failed to consider any alternative other than the Proposed Action and the No Action Alternative. Commenters stated that the EA should consider route changes to minimize impacts to the ABB, and suggested that the ESA does not allow the Service to defer consideration of possible route changes to the decisions of an applicant or a state agency, such as the Nebraska Public Service Commission.

Synopsis (Mitigation Lands):

Commenters requested additional information on the specific mitigation lands proposed and questioned the adequacy of the proposed approach, including requests that mitigation lands meet the Service's criteria for ABB Conservation Priority Areas. Comments questioned whether the area of mitigation lands would be sufficient and why the mitigation ratios differ from those in the 2018 HCP for the R-Project transmission line in Nebraska. In addition, comments questioned whether the proposed parcels contain sufficient amounts and quality of ABB habitats to provide adequate mitigation. Comments also questioned whether preservation of existing ABB habitat that is not at risk of degradation would provide any real benefit to the ABB.

Synopsis (NEPA Process):

Commenters expressed that the level of significance of the impacts on the ABB necessitates an Environmental Impact Statement (EIS), not an Environmental Assessment (EA). One commenter expressed frustration with the time required to obtain federal approvals for the proposed pipeline. Other comments expressed opposition to or support for the proposed pipeline without providing additional information to consider in the EA.

We will likely have more of these items to bounce off you as we continue to develop themes and responses, particularly around some of the comments from tribes (including Rosebud stating that TC

has admitted that the pipeline would cross Rosebud lands in Tripp County). We will pass those along to you as they are developed and reviewed.

Talk to you soon.

Thanks,
Andrew

Andrew DeWitt
Senior Consultant, Project Management

ERM
3352 128th Avenue | Holland, Michigan | 49424
T 616-738-7394 | **M** 616-443-8634
E Andrew.DeWitt@erm.com | **W** www.erm.com

ERM *The business of sustainability*

This message contains information which may be confidential, proprietary, privileged, or otherwise protected by law from disclosure or use by a third party. If you have received this message in error, please contact us immediately and take the steps necessary to delete the message completely from your computer system. Thank you.

Please visit ERM's web site: http://www.erm.com. To find out how ERM manages personal data, please review our Privacy Policy

From: Rabbe, Matt
To: Burgess, Angela
Subject: FW: [EXTERNAL] RE: Keystone XL EA - preliminary comment themes for Service input
Date: Wednesday, September 30, 2020 2:58:03 PM
Attachments: image001.png

I've made it through many of these and will get through the remaining by early/mid-morning Monday. I will be on AL the rest of this week. If you would like to have a call early next week I should be available anytime my calendar doesn't have meetings scheduled.

Matt Rabbe
Wildlife Biologist
U.S. Fish and Wildlife Service
Office (308) 382-6468 x205
Cell (308) 379-5562

From: Andrew DeWitt <Andrew.DeWitt@erm.com>
Sent: Wednesday, September 30, 2020 1:11 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Steve Koster <steve.koster@erm.com>; Samuel Guffey <Samuel.Guffey@erm.com>
Subject: [EXTERNAL] RE: Keystone XL EA - preliminary comment themes for Service input

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi, Angela, Drue, and Matt,

Two draft documents are attached to this email for your review and comment. One is the comment theme and response document, and the other is an excel file listing the unique substantive comments that we identified and used to generate the themes. Please note that these are preliminary drafts and there are several items that will require your specific input and feedback (called out as comment bubbles in the response document). To facilitate our call today, a listing of potential discussion topics is also included below. We may not be able to get resolution on all of these on our call, but we thought it would be helpful to bring them to your attention in advance and see if we can identify a path forward to resolve them.

- Purpose and Need: How to address a challenge to the template NEPA language from the HCP Handbook?
- Alternatives: Currently, we refer to the alternatives analyses in the 2019 and 2014 FSEISs, but comments suggested that the ESA does not allow the Service to defer consideration of

possible route changes to the decisions of an applicant or a state agency.

- Climate Change Impacts on the ABB: Comments suggested an ITP should be of shorter duration (e.g., 10 to 15 years) or provide for adaptive management and additional mitigation, as appropriate.
- ABB Density Estimates: Commenters compared the Draft EA's take estimate methodology to that used in the 2018 R-Project HCP, which estimated density based on the 99th percentile of the available data, and questioned why the methodology had changed. ERM has internal notes comparing and contrasting the methodologies, but we are not aware of the Service's justification for why it chose to use mean values rather than adopting some sort of more conservative approach based on the upper end of the distribution.
- ESA Process: How to address comments alleging that Keystone/TC Energy violated the ESA? How to handle complaints regarding the HCP, not the EA?
- Factual Corrections or Clarifications regarding electrical power infrastructure: WAPA recommends coordinating with the RUS to confirm their actions relating to power lines and power line infrastructure. WAPA also suggests contacting the power providers directly to discuss their intent to submit an Incidental Take Permit application or not.
- Mitigation Lands: Discuss any updates to the HCP and mitigation plans.
- Tribal Lands: The submission from the Rosebud Tribe stated "TransCanada has now admitted that the Pipeline will cross Rosebud lands that are held in trust in Tripp County". Should we submit a Data Request?
- Sovereignty and Treaty Rights: Comments claimed an obligation of the U.S. government to protect tribal resources from depredations and to obtain the consent of the tribe before building a pipeline, taking an endangered species, or taking any wildlife on tribal trust land. Discuss how to address these claims.

Talk to you soon!

Thanks,
Andrew

Andrew DeWitt
Senior Consultant, Project Management

ERM
3352 128th Avenue | Holland, Michigan | 49424
T 616-738-7394 | **M** 616-443-8634
E Andrew.DeWitt@erm.com | **W** www.erm.com

ERM *The business of sustainability*

From: Andrew DeWitt

Sent: Wednesday, September 23, 2020 2:03 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Steve Koster (steve.koster@erm.com) <steve.koster@erm.com>; Samuel Guffey <Samuel.Guffey@erm.com>
Subject: Keystone XL EA - preliminary comment themes for Service input

Angela, Drue, and Matt,

We are continuing to review the comment submissions provided on the Draft EA, parsing out individual unique substantive comments, and generating themes and initial responses to themes. Although our review and QA/QC process is not yet complete, we have identified some themes below that we wanted to flag for your early review. We have drafted some initial responses to the first and third item below, and we will certainly provide as much as we can in response for your review and feedback next week as we discussed.

Synopsis (Alternatives):

Commenters stated the Service failed to consider any alternative other than the Proposed Action and the No Action Alternative. Commenters stated that the EA should consider route changes to minimize impacts to the ABB, and suggested that the ESA does not allow the Service to defer consideration of possible route changes to the decisions of an applicant or a state agency, such as the Nebraska Public Service Commission.

Synopsis (Mitigation Lands):

Commenters requested additional information on the specific mitigation lands proposed and questioned the adequacy of the proposed approach, including requests that mitigation lands meet the Service's criteria for ABB Conservation Priority Areas. Comments questioned whether the area of mitigation lands would be sufficient and why the mitigation ratios differ from those in the 2018 HCP for the R-Project transmission line in Nebraska. In addition, comments questioned whether the proposed parcels contain sufficient amounts and quality of ABB habitats to provide adequate mitigation. Comments also questioned whether preservation of existing ABB habitat that is not at risk of degradation would provide any real benefit to the ABB.

Synopsis (NEPA Process):

Commenters expressed that the level of significance of the impacts on the ABB necessitates an Environmental Impact Statement (EIS), not an Environmental Assessment (EA). One commenter expressed frustration with the time required to obtain federal approvals for the proposed pipeline. Other comments expressed opposition to or support for the proposed pipeline without providing additional information to consider in the EA.

We will likely have more of these items to bounce off you as we continue to develop themes and responses, particularly around some of the comments from tribes (including Rosebud stating that TC has admitted that the pipeline would cross Rosebud lands in Tripp County). We will pass those along to you as they are developed and reviewed.

Talk to you soon.

Thanks,

Andrew

Andrew DeWitt
Senior Consultant, Project Management

ERM
3352 128th Avenue | Holland, Michigan | 49424
T 616-738-7394 | **M** 616-443-8634
E Andrew.DeWitt@erm.com | **W** www.erm.com

ERM *The business of sustainability*

This message contains information which may be confidential, proprietary, privileged, or otherwise protected by law from disclosure or use by a third party. If you have received this message in error, please contact us immediately and take the steps necessary to delete the message completely from your computer system. Thank you.

Please visit ERM's web site: http://www.erm.com. To find out how ERM manages personal data, please review our Privacy Policy

From:	Andrew DeWitt
To:	Burgess, Angela; DeBerry, Drue; Rabbe, Matt
Cc:	Steve Koster; Samuel Guffey
Subject:	[EXTERNAL] RE: Keystone XL EA - preliminary comment themes for Service input
Date:	Wednesday, September 30, 2020 12:13:37 PM
Attachments:	image001.png DRAFT_KXL EA_Comment Response Document20200930.docx DRAFT_KXL_EA_Comments_All_20200930.xlsx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi, Angela, Drue, and Matt,

Two draft documents are attached to this email for your review and comment. One is the comment theme and response document, and the other is an excel file listing the unique substantive comments that we identified and used to generate the themes. Please note that these are preliminary drafts and there are several items that will require your specific input and feedback (called out as comment bubbles in the response document). To facilitate our call today, a listing of potential discussion topics is also included below. We may not be able to get resolution on all of these on our call, but we thought it would be helpful to bring them to your attention in advance and see if we can identify a path forward to resolve them.

- Purpose and Need: How to address a challenge to the template NEPA language from the HCP Handbook?
- Alternatives: Currently, we refer to the alternatives analyses in the 2019 and 2014 FSEISs, but comments suggested that the ESA does not allow the Service to defer consideration of possible route changes to the decisions of an applicant or a state agency.
- Climate Change Impacts on the ABB: Comments suggested an ITP should be of shorter duration (e.g., 10 to 15 years) or provide for adaptive management and additional mitigation, as appropriate.
- ABB Density Estimates: Commenters compared the Draft EA's take estimate methodology to that used in the 2018 R-Project HCP, which estimated density based on the 99th percentile of the available data, and questioned why the methodology had changed. ERM has internal notes comparing and contrasting the methodologies, but we are not aware of the Service's justification for why it chose to use mean values rather than adopting some sort of more conservative approach based on the upper end of the distribution.
- ESA Process: How to address comments alleging that Keystone/TC Energy violated the ESA? How to handle complaints regarding the HCP, not the EA?
- Factual Corrections or Clarifications regarding electrical power infrastructure: WAPA recommends coordinating with the RUS to confirm their actions relating to power lines and power line infrastructure. WAPA also suggests contacting the power providers directly to

discuss their intent to submit an Incidental Take Permit application or not.

- Mitigation Lands: Discuss any updates to the HCP and mitigation plans.
- Tribal Lands: The submission from the Rosebud Tribe stated "TransCanada has now admitted that the Pipeline will cross Rosebud lands that are held in trust in Tripp County". Should we submit a Data Request?
- Sovereignty and Treaty Rights: Comments claimed an obligation of the U.S. government to protect tribal resources from depredations and to obtain the consent of the tribe before building a pipeline, taking an endangered species, or taking any wildlife on tribal trust land. Discuss how to address these claims.

Talk to you soon!

Thanks,
Andrew

Andrew DeWitt
Senior Consultant, Project Management

ERM
3352 128th Avenue | Holland, Michigan | 49424
T 616-738-7394 | **M** 616-443-8634
E Andrew.DeWitt@erm.com | **W** www.erm.com

ERM *The business of sustainability*

From: Andrew DeWitt
Sent: Wednesday, September 23, 2020 2:03 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>; Rabbe, Matt <Matt_Rabbe@fws.gov>
Cc: Steve Koster (steve.koster@erm.com) <steve.koster@erm.com>; Samuel Guffey <Samuel.Guffey@erm.com>
Subject: Keystone XL EA - preliminary comment themes for Service input

Angela, Drue, and Matt,

We are continuing to review the comment submissions provided on the Draft EA, parsing out individual unique substantive comments, and generating themes and initial responses to themes. Although our review and QA/QC process is not yet complete, we have identified some themes below that we wanted to flag for your early review. We have drafted some initial responses to the first and third item below, and we will certainly provide as much as we can in response for your review and feedback next week as we discussed.

Synopsis (Alternatives):

Commenters stated the Service failed to consider any alternative other than the Proposed Action and the No Action Alternative. Commenters stated that the EA should consider route changes to minimize impacts to the ABB, and suggested that the ESA does not allow the Service to defer consideration of possible route changes to the decisions of an applicant or a state agency, such as the Nebraska Public Service Commission.

Synopsis (Mitigation Lands):

Commenters requested additional information on the specific mitigation lands proposed and questioned the adequacy of the proposed approach, including requests that mitigation lands meet the Service's criteria for ABB Conservation Priority Areas. Comments questioned whether the area of mitigation lands would be sufficient and why the mitigation ratios differ from those in the 2018 HCP for the R-Project transmission line in Nebraska. In addition, comments questioned whether the proposed parcels contain sufficient amounts and quality of ABB habitats to provide adequate mitigation. Comments also questioned whether preservation of existing ABB habitat that is not at risk of degradation would provide any real benefit to the ABB.

Synopsis (NEPA Process):

Commenters expressed that the level of significance of the impacts on the ABB necessitates an Environmental Impact Statement (EIS), not an Environmental Assessment (EA). One commenter expressed frustration with the time required to obtain federal approvals for the proposed pipeline. Other comments expressed opposition to or support for the proposed pipeline without providing additional information to consider in the EA.

We will likely have more of these items to bounce off you as we continue to develop themes and responses, particularly around some of the comments from tribes (including Rosebud stating that TC has admitted that the pipeline would cross Rosebud lands in Tripp County). We will pass those along to you as they are developed and reviewed.

Talk to you soon.

Thanks,
Andrew

Andrew DeWitt
Senior Consultant, Project Management

ERM
3352 128th Avenue | Holland, Michigan | 49424
T 616-738-7394 | **M** 616-443-8634
E Andrew.DeWitt@erm.com | **W** www.erm.com

ERM *The business of sustainability*

This message contains information which may be confidential, proprietary, privileged, or otherwise protected by law from disclosure or use by a third party. If you have received this message in error, please contact us immediately and take the steps necessary to delete the message completely from your computer system. Thank you.

Please visit ERM's web site: http://www.erm.com. To find out how ERM manages personal data, please review our Privacy Policy

From:	Andrew DeWitt
To:	Burgess, Angela; DeBerry, Drue; Rabbe, Matt
Cc:	Steve Koster; Samuel Guffey
Subject:	[EXTERNAL] Keystone XL EA - preliminary comment themes for Service input
Date:	Wednesday, September 23, 2020 12:03:38 PM
Attachments:	image001.png

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Angela, Drue, and Matt,

We are continuing to review the comment submissions provided on the Draft EA, parsing out individual unique substantive comments, and generating themes and initial responses to themes. Although our review and QA/QC process is not yet complete, we have identified some themes below that we wanted to flag for your early review. We have drafted some initial responses to the first and third item below, and we will certainly provide as much as we can in response for your review and feedback next week as we discussed.

Synopsis (Alternatives):

Commenters stated the Service failed to consider any alternative other than the Proposed Action and the No Action Alternative. Commenters stated that the EA should consider route changes to minimize impacts to the ABB, and suggested that the ESA does not allow the Service to defer consideration of possible route changes to the decisions of an applicant or a state agency, such as the Nebraska Public Service Commission.

Synopsis (Mitigation Lands):

Commenters requested additional information on the specific mitigation lands proposed and questioned the adequacy of the proposed approach, including requests that mitigation lands meet the Service's criteria for ABB Conservation Priority Areas. Comments questioned whether the area of mitigation lands would be sufficient and why the mitigation ratios differ from those in the 2018 HCP for the R-Project transmission line in Nebraska. In addition, comments questioned whether the proposed parcels contain sufficient amounts and quality of ABB habitats to provide adequate mitigation. Comments also questioned whether preservation of existing ABB habitat that is not at risk of degradation would provide any real benefit to the ABB.

Synopsis (NEPA Process):

Commenters expressed that the level of significance of the impacts on the ABB necessitates an Environmental Impact Statement (EIS), not an Environmental Assessment (EA). One commenter expressed frustration with the time required to obtain federal approvals for the proposed pipeline. Other comments expressed opposition to or support for the proposed pipeline without providing additional information to consider in the EA.

We will likely have more of these items to bounce off you as we continue to develop themes and

responses, particularly around some of the comments from tribes (including Rosebud stating that TC has admitted that the pipeline would cross Rosebud lands in Tripp County). We will pass those along to you as they are developed and reviewed.

Talk to you soon.

Thanks,
Andrew

Andrew DeWitt
Senior Consultant, Project Management

ERM
3352 128th Avenue | Holland, Michigan | 49424
T 616-738-7394 | **M** 616-443-8634
E Andrew.DeWitt@erm.com | **W** www.erm.com

ERM *The business of sustainability*

This message contains information which may be confidential, proprietary, privileged, or otherwise protected by law from disclosure or use by a third party. If you have received this message in error, please contact us immediately and take the steps necessary to delete the message completely from your computer system. Thank you.

Please visit ERM's web site: http://www.erm.com. To find out how ERM manages personal data, please review our Privacy Policy

From: Runge, Jeff
To: DeBerry, Drue; Burgess, Angela; Jacobsen, Dana E; Larson, Scott
Subject: Re: Internal Call - Path Forward on R-Project Remand
Date: Tuesday, September 22, 2020 5:24:26 AM
Attachments: Thunderhead Wind Timeline USFWS (2020Sep21).docx

---

Hello everyone,

A number discussion topics are included below that will be helpful in our meeting tomorrow. Attached is a Thunderhead wind timeline using the records in our possession (see attached). I am expecting a call from the Nebraska Game and Parks Commission point of contact and am hoping that she can fill in some of the gaps in the timeline. I look forward to meeting with everyone again.

Jeff

Discussion Topics

1. Thunderhead update
2. Working groups – whoopers, ABB, cultural resources, HCP, Tribal consultation, records
3. Records management
4. ABB talking points
5. Actions occurring post-final decision

From: DeBerry, Drue
Sent: Monday, September 14, 2020 2:49 PM
To: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Runge, Jeff <jeff_runge@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: Internal Call - Path Forward on R-Project Remand
When: Wednesday, September 23, 2020 11:00 AM-12:00 PM.
Where:

Meeting purpose develop plan of action to respond to remand and NPPDs whitepaper.

By the 23rd, we'll have NPPDs thoughts on moving forward in their white paper.

Jeff has raised some good points for us on moving forward and trying to get ahead of the game (e.g. Admin Record moving forward) to the degree we can.

Once we have this on the calendar, I'll shop dates for a 1.5 hour call with NPPD the week of Sept 28.

Join Microsoft Teams Meeting

Learn more about Teams | Meeting options

From: Burgess, Angela
To: Kritz, Kevin
Subject: R-line Mig Bird Conservation Plan
Date: Wednesday, September 16, 2020 2:51:25 PM
Attachments: R-Project Final Mig Bird Conservation Plan.pdf

Hi Kevin,
Here's what we have as the "final" MBCP for the R-line, from when we finalized it in late 2018/early 2019.

Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

From: Larson, Scott
To: DeBerry, Drue; Boroja, Maria T; Burgess, Angela; Alt, Nicole; Nelson, Marjorie; Small, Stephen M; Runge, Jeff
Subject: Re: Wind Energy Programmatic EIS with WAPA in LR6?
Date: Wednesday, September 2, 2020 12:49:06 PM
Attachments: WAPA UGP map area 284.pdf

Drue,

The link to the WAPA Upper Great Plains wind EIS below:

https://www.wapa.gov/regions/UGP/Environment/Pages/ProgrammaticWindEIS.aspx

Importantly it only included the east half of NE (map attached).

Thank You
Scott Larson
North and South Dakota Field Supervisor
Ecological Services
U.S. Fish and Wildlife Service, Interior Region 5
Suite 400, 420 South Garfield Avenue
Pierre, South Dakota 57501

Phone: 605-224-8693 ext. 224
Cell: 605-222-0228
Fax: 605-224-1416
Email: scott_larson@fws.gov

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Wednesday, September 2, 2020 12:52 PM
To: Boroja, Maria T; Burgess, Angela; Alt, Nicole; Nelson, Marjorie; Larson, Scott; Small, Stephen M; Runge, Jeff
Subject: Re: Wind Energy Programmatic EIS with WAPA in LR6?

Thanks Maria!!!

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Wednesday, September 2, 2020 11:51 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Alt, Nicole <Nicole_Alt@fws.gov>; Nelson, Marjorie <marjorie_nelson@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: Wind Energy Programmatic EIS with WAPA in LR6?

It was done a few years back with Refuges as the lead. Here is a link to it.

https://www.fws.gov/mountain-prairie/pressrel/2015/04222015_FinalProgrammaticEnvironmentalImpactStatementAvailableforWindEnergyProjectsintheUpperGreatPlains.php

Maria T. Boroja (she/her/hers)
Chief, Landscape Conservation & Restoration
Regional NEPA Coordinator
Regional Environmental Contaminants Coordinator
U.S. Fish and Wildlife Service
Interior Regions 5 & 7
134 Union Blvd. Ste. 645
Lakewood, CO 80228
Telework (720)638-3036
Office (303)236-4518

Inclusion is...

A sense of belonging:

Feeling respected, valued and seen for who we are as individuals.

There is a level of supportive energy and commitment from leaders, colleagues and others so that we - individually and collectively - can do our best work.

Excerpted from "The Path from Exclusive Club to Inclusive Organization: A Developmental Process" The Kaleel Jamison Consulting Group

_____
From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Wednesday, September 2, 2020 11:45 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Alt, Nicole <Nicole_Alt@fws.gov>; Nelson, Marjorie <marjorie_nelson@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Small, Stephen M <stephen_small@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Wind Energy Programmatic EIS with WAPA in LR6?

Hey there,

Is anyone familiar with an Wind Energy Programmatic EIS with WAPA in LR6?

I ask because Invenergy (Proponent for Thunderhead) is seeking to have WAPA allow them to connect to a different line than the R-Project and saying that it would be expedited by a Wind Energy Programmatic EIS with WAPA in LR6.

I've never heard of a Wind Energy Programmatic EIS with WAPA in LR6.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Jacobsen, Dana E
To: Runge, Jeff; DeBerry, Drue
Cc: Burgess, Angela
Subject: RE: [EXTERNAL] RE: ABB talking points
Date: Tuesday, September 1, 2020 8:25:34 AM

Hey there!

The revised language looks good!

Dana

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, September 1, 2020 5:47 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: [EXTERNAL] RE: ABB talking points

I reviewed the bullet and revised the discussion on compliance (see attached talking points). Let me know if this reads better. Also, I wanted to let Dana and Angela know that the purpose of my email yesterday morning was to alert Drue to NPPD's review of the talking points prior to the call. Sorry for not copying everyone on the email as I did not intend to keep you out of the review process.

Also know that I have searched the office for our Thunderhead correspondence. I looked into the shared drive where files on wind energy projects are stored. With permission from Scott, I went into the office and searched our office files with no luck finding a hardcopy. The Nebraska Game and Parks Commission point of contact, Melissa Marinovich, said that we had issued correspondence and Bob was the office lead. When talking with Scott, we may need to wait until Eliza and Bob return to the office to get a copy of our correspondence. Let me know if we would need the letter asap, and I can investigate other options.

Jeff

Jeff Runge

U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Office: (308) 218-0049

Cell: (308) 379-8553

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, August 31, 2020 7:52 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: [EXTERNAL] RE: ABB talking points

Jeff,

Thank you, I was. It was at the top so good idea. I think all the changes look ok. I want to double check with Dana and Angela to make sure there isn't any concern with the use of "comply with the Service's" in the second bullet.

Should we change that to "in response to the Service's recommended..."?

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, August 31, 2020 6:41 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: Fw: [EXTERNAL] RE: ABB talking points

Hello Drue,

It looked like you may have been out of the office last week. I wanted to resend this prior to our call this morning, so it is on top of your email. The changes are helpful, and I would suggest accepting all track changes.

Jeff

Jeff Runge

U.S. Fish and Wildlife Service

9325 South Alda Road

Wood River, Nebraska 68883

Office: (308) 218-0049

Cell: (308) 379-8553

From: Sandi Snodgrass <SSnodgrass@hollandhart.com>
Sent: Tuesday, August 25, 2020 11:32 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Bonnie Hostetler <bjhoste@nppd.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: [EXTERNAL] RE: ABB talking points

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, thanks for the opportunity to review these. The attached version has our suggested edits. Some of our revisions are intended to eliminate the references that appear to tie the Section 10(a)(1)(A) permit to the HCP to avoid landowner confusion. Some landowners may be under the mistaken impression that the court's vacatur of the Service's approval of the HCP also affected the validity of additional survey work that may be associated with that HCP. Focusing on the validity of the Section 10(a)(1)(A) permit as an information-gathering tool rather than its connection to any HCP effort will minimize those issues.

Please let us know if you have any questions.

Sandi

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, August 21, 2020 7:30 AM
To: Bonnie Hostetler <bjhoste@nppd.com>; Sandi Snodgrass <SSnodgrass@hollandhart.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: ABB talking points

Bonnie, Sandi and Murray,

Jeff has drafted the attached talking points to help us respond to inquiries we've gotten about ABB trapping in conjunction with the R-Project. We want to make sure that we will be accurately conveying information as it pertains to NPPD and so we are hoping you can review the attached and let us know.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From:	DeBerry, Drue
To:	Burgess, Angela; Runge, Jeff
Subject:	Fw: [EXTERNAL] FW: NGPC correspondence to Thunderhead Wind and consultation with NDEE
Date:	Tuesday, September 1, 2020 6:56:44 AM
Attachments:	CSW-201903648 Thunderhead Wind Project, Antelope & Wheeler Co.pdf CSW-201904280 TH Substation, Antelope & Wheeler Co.pdf NGPC_Response_to_Committments_2019_0805_TH.pdf

---

fyi

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Monday, August 31, 2020 12:55 PM
To: DeBerry, Drue <drue_deberry@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Cc: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Sandi Snodgrass <SSnodgrass@hollandhart.com>
Subject: [EXTERNAL] FW: NGPC correspondence to Thunderhead Wind and consultation with NDEE

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue and Jeff: Please forward to anyone else who needs to see these documents, not remembering who else you mentioned.

From: Runge, Jeff
To: DeBerry, Drue
Cc: Jacobsen, Dana E; Burgess, Angela
Subject: Re: [EXTERNAL] RE: ABB talking points
Date: Tuesday, September 1, 2020 5:46:52 AM
Attachments: 2020_08_31 Draft ABB Talking Points (NPPD comments).docx

---

I reviewed the bullet and revised the discussion on compliance (see attached talking points). Let me know if this reads better. Also, I wanted to let Dana and Angela know that the purpose of my email yesterday morning was to alert Drue to NPPD's review of the talking points prior to the call. Sorry for not copying everyone on the email as I did not intend to keep you out of the review process.

Also know that I have searched the office for our Thunderhead correspondence. I looked into the shared drive where files on wind energy projects are stored. With permission from Scott, I went into the office and searched our office files with no luck finding a hardcopy. The Nebraska Game and Parks Commission point of contact, Melissa Marinovich, said that we had issued correspondence and Bob was the office lead. When talking with Scott, we may need to wait until Eliza and Bob return to the office to get a copy of our correspondence. Let me know if we would need the letter asap, and I can investigate other options.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, August 31, 2020 7:52 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: [EXTERNAL] RE: ABB talking points

Jeff,

Thank you, I was. It was at the top so good idea. I think all the changes look ok. I want to double check with Dana and Angela to make sure there isn't any concern with the use of "comply with the Service's" in the second bullet.

Should we change that to "in response to the Service's recommended..."?

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, August 31, 2020 6:41 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: Fw: [EXTERNAL] RE: ABB talking points

Hello Drue,

It looked like you may have been out of the office last week. I wanted to resend this prior to our call this morning, so it is on top of your email. The changes are helpful, and I would suggest accepting all track changes.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Sandi Snodgrass <SSnodgrass@hollandhart.com>
Sent: Tuesday, August 25, 2020 11:32 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Bonnie Hostetler <bjhoste@nppd.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: [EXTERNAL] RE: ABB talking points

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, thanks for the opportunity to review these. The attached version has our suggested edits. Some of our revisions are intended to eliminate the references that appear to tie the

Section 10(a)(1)(A) permit to the HCP to avoid landowner confusion. Some landowners may be under the mistaken impression that the court's vacatur of the Service's approval of the HCP also affected the validity of additional survey work that may be associated with that HCP. Focusing on the validity of the Section 10(a)(1)(A) permit as an information-gathering tool rather than its connection to any HCP effort will minimize those issues.

Please let us know if you have any questions.

Sandi

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, August 21, 2020 7:30 AM
To: Bonnie Hostetler <bjhoste@nppd.com>; Sandi Snodgrass <SSnodgrass@hollandhart.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: ABB talking points

Bonnie, Sandi and Murray,

Jeff has drafted the attached talking points to help us respond to inquiries we've gotten about ABB trapping in conjunction with the R-Project. We want to make sure that we will be accurately conveying information as it pertains to NPPD and so we are hoping you can review the attached and let us know.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Burgess, Angela
To: Jacobsen, Dana E; DeBerry, Drue; Runge, Jeff
Subject: Re: [EXTERNAL] RE: ABB talking points
Date: Monday, August 31, 2020 9:52:21 AM

I think "recommend" would be fine, but we should probably be careful in the language moving forward, since if surveys are being done, the survey protocol must be used for the 10(A)(1)(a) permittee to be in compliance with their permit. Whereas the decision on whether or not to do surveys is a recommendation. Clear as mud?

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Sent: Monday, August 31, 2020 7:24 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: RE: [EXTERNAL] RE: ABB talking points

I like your "recommended" language, Drue. I'm not sure what word is used in the survey protocol—but I'd recommend that the bullet points capture any point (recommend v. comply) that are in the protocol.

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, August 31, 2020 6:53 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: [EXTERNAL] RE: ABB talking points

Jeff,

Thank you, I was. It was at the top so good idea. I think all the changes look ok. I want to double check with Dana and Angela to make sure there isn't any concern with the use of "comply with the Service's" in the second bullet.

Should we change that to "in response to the Service's recommended..."?

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services

Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, August 31, 2020 6:41 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: Fw: [EXTERNAL] RE: ABB talking points

Hello Drue,

It looked like you may have been out of the office last week. I wanted to resend this prior to our call this morning, so it is on top of your email. The changes are helpful, and I would suggest accepting all track changes.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Sandi Snodgrass <SSnodgrass@hollandhart.com>
Sent: Tuesday, August 25, 2020 11:32 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Bonnie Hostetler <bjhoste@nppd.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: [EXTERNAL] RE: ABB talking points

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, thanks for the opportunity to review these. The attached version has our suggested edits. Some of our revisions are intended to eliminate the references that appear to tie the Section 10(a)(1)(A) permit to the HCP to avoid landowner confusion. Some landowners may be under the mistaken impression that the court's vacatur of the Service's approval of the HCP

also affected the validity of additional survey work that may be associated with that HCP. Focusing on the validity of the Section 10(a)(1)(A) permit as an information-gathering tool rather than its connection to any HCP effort will minimize those issues.

Please let us know if you have any questions.

Sandi

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, August 21, 2020 7:30 AM
To: Bonnie Hostetler <bjhoste@nppd.com>; Sandi Snodgrass <SSnodgrass@hollandhart.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: ABB talking points

Bonnie, Sandi and Murray,

Jeff has drafted the attached talking points to help us respond to inquiries we've gotten about ABB trapping in conjunction with the R-Project. We want to make sure that we will be accurately conveying information as it pertains to NPPD and so we are hoping you can review the attached and let us know.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff
To: DeBerry, Drue
Subject: Fw: [EXTERNAL] RE: ABB talking points
Date: Monday, August 31, 2020 6:41:45 AM
Attachments: 2020_08_21 Draft ABB Talking Points (NPPD comments).docx

---

Hello Drue,

It looked like you may have been out of the office last week. I wanted to resend this prior to our call this morning, so it is on top of your email. The changes are helpful, and I would suggest accepting all track changes.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Sandi Snodgrass <SSnodgrass@hollandhart.com>
Sent: Tuesday, August 25, 2020 11:32 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Bonnie Hostetler <bjhoste@nppd.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: [EXTERNAL] RE: ABB talking points

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, thanks for the opportunity to review these. The attached version has our suggested edits. Some of our revisions are intended to eliminate the references that appear to tie the Section 10(a)(1)(A) permit to the HCP to avoid landowner confusion. Some landowners may be under the mistaken impression that the court's vacatur of the Service's approval of the HCP also affected the validity of additional survey work that may be associated with that HCP. Focusing on the validity of the Section 10(a)(1)(A) permit as an information-gathering tool rather than its connection to any HCP effort will minimize those issues.

Please let us know if you have any questions.

Sandi

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, August 21, 2020 7:30 AM
To: Bonnie Hostetler <bjhoste@nppd.com>; Sandi Snodgrass <SSnodgrass@hollandhart.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: ABB talking points

Bonnie, Sandi and Murray,

Jeff has drafted the attached talking points to help us respond to inquiries we've gotten about ABB trapping in conjunction with the R-Project. We want to make sure that we will be accurately conveying information as it pertains to NPPD and so we are hoping you can review the attached and let us know.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Sandi Snodgrass
To: DeBerry, Drue; Bonnie Hostetler; Murray Feldman
Cc: Runge, Jeff; Burgess, Angela; Boroja, Maria T; Jacobsen, Dana E
Subject: [EXTERNAL] RE: ABB talking points
Date: Tuesday, August 25, 2020 10:33:54 AM
Attachments: 2020_08_21 Draft ABB Talking Points (NPPD comments).docx

---

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Drue, thanks for the opportunity to review these. The attached version has our suggested edits. Some of our revisions are intended to eliminate the references that appear to tie the Section 10(a)(1)(A) permit to the HCP to avoid landowner confusion. Some landowners may be under the mistaken impression that the court's vacatur of the Service's approval of the HCP also affected the validity of additional survey work that may be associated with that HCP. Focusing on the validity of the Section 10(a)(1)(A) permit as an information-gathering tool rather than its connection to any HCP effort will minimize those issues.

Please let us know if you have any questions.

Sandi

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, August 21, 2020 7:30 AM
To: Bonnie Hostetler <bjhoste@nppd.com>; Sandi Snodgrass <SSnodgrass@hollandhart.com>; Murray Feldman <MFeldman@hollandhart.com>
Cc: Runge, Jeff <jeff_runge@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Subject: ABB talking points

Bonnie, Sandi and Murray,

Jeff has drafted the attached talking points to help us respond to inquiries we've gotten about ABB trapping in conjunction with the R-Project. We want to make sure that we will be accurately conveying information as it pertains to NPPD and so we are hoping you can review the attached and let us know.

Thanks,

Drue DeBerry

Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From:	DeBerry, Drue
To:	Bonnie Hostetler; Sandi Snodgrass; Murray Feldman
Cc:	Runge, Jeff; Burgess, Angela; Boroja, Maria T; Jacobsen, Dana E
Subject:	ABB talking points
Date:	Friday, August 21, 2020 7:30:04 AM
Attachments:	2020_08_21 Draft ABB Talking Points.docx

Bonnie, Sandi and Murray,

Jeff has drafted the attached talking points to help us respond to inquiries we've gotten about ABB trapping in conjunction with the R-Project. We want to make sure that we will be accurately conveying information as it pertains to NPPD and so we are hoping you can review the attached and let us know.

Thanks,

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From:	Runge, Jeff
To:	Jacobsen, Dana E
Cc:	DeBerry, Drue; Burgess, Angela; Larson, Scott
Subject:	Fw: R-Project ABB Trapping Draft Talking Points
Date:	Wednesday, August 19, 2020 2:02:08 PM
Attachments:	Draft ABB Talking Points (2020Aug18) ddedits.docx

---

Hello Dana,

Attached are the draft talking points that addresses ABB trapping for the R-Project. The draft talking points are now ready for your review and comment. Once we have received your comments, then the next step is to send to NPPD for their review. Thank you for your help on this.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, August 18, 2020 11:22 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: Re: R-Project ABB Trapping Draft Talking Points

Trying saving and attaching a second time...

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From:	Burgess, Angela
To:	Runge, Jeff; DeBerry, Drue
Cc:	Larson, Scott
Subject:	Re: R-Project ABB Trapping Draft Talking Points
Date:	Tuesday, August 18, 2020 11:01:19 AM

Hi Jeff,
Looks good to me - nothing to add!

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 18, 2020 10:35 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: Re: R-Project ABB Trapping Draft Talking Points

Angela and Scott,

I wanted to see if you had time and interest in reviewing Drue's edited draft talking points before they are sent to Dana. Please forward any edits to me, or let me know that, based on our earlier discussion, you are comfortable with forwarding the talking points to Dana.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, August 18, 2020 11:22 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: Re: R-Project ABB Trapping Draft Talking Points

Trying saving and attaching a second time...

From: Runge, Jeff <jeff_runge@fws.gov>

Sent: Tuesday, August 18, 2020 9:42 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: R-Project ABB Trapping Draft Talking Points

Hello Drue,

Not sure what your responsibilities are with your new position but attached are the draft talking points that I revised since our conference call. Not sure if we wold want another round of internal review or SOL review before the talking points are sent to NPPD for their review.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: DeBerry, Drue
To: Runge, Jeff
Subject: Re: R-Project ABB Trapping Draft Talking Points
Date: Tuesday, August 18, 2020 10:24:42 AM

Jeff,

I agree Angela, Dana, NPPD and keep Scott in the loop on each version too unless he wants to review at just one point (final version).

Drue DeBerry
Deputy Assistant Regional Director, Ecological Services
Mountain-Prairie Region
U.S. Fish and Wildlife Service
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 18, 2020 10:19 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: Re: R-Project ABB Trapping Draft Talking Points

Drue,

Did you attach the correct document? I checked original and your revised and they look the same. Also, let me know about next steps (Angela, Dana, NPPD review?).

Great news about the R-Project. It is helpful to hold on to the institutional knowledge, and see this project to completion.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, August 18, 2020 10:59 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: Re: R-Project ABB Trapping Draft Talking Points

Jeff,

Looks good to me. I made a few edits and suggestions in the attached. The edit online approach wasn't allowing me to save/attach for some reason so I saved it and reattached.

I'm still going to be the lead for the R-Project, so part of the loop!

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 18, 2020 9:42 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: R-Project ABB Trapping Draft Talking Points

Hello Drue,

Not sure what your responsibilities are with your new position but attached are the draft talking points that I revised since our conference call. Not sure if we wold want another round of internal review or SOL review before the talking points are sent to NPPD for their review.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From:	DeBerry, Drue
To:	Runge, Jeff
Cc:	Burgess, Angela; Larson, Scott
Subject:	Re: R-Project ABB Trapping Draft Talking Points
Date:	Tuesday, August 18, 2020 10:22:56 AM
Attachments:	Draft ABB Talking Points (2020Aug18) ddedits.docx

---

Trying saving and attaching a second time...

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 18, 2020 9:42 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: R-Project ABB Trapping Draft Talking Points

Hello Drue,

Not sure what your responsibilities are with your new position but attached are the draft talking points that I revised since our conference call. Not sure if we wold want another round of internal review or SOL review before the talking points are sent to NPPD for their review.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: DeBerry, Drue
To: Runge, Jeff
Cc: Burgess, Angela; Larson, Scott
Subject: Re: R-Project ABB Trapping Draft Talking Points
Date: Tuesday, August 18, 2020 9:59:05 AM
Attachments: Draft ABB Talking Points (2020Aug18).docx

Jeff,

Looks good to me. I made a few edits and suggestions in the attached. The edit online approach wasn't allowing me to save/attach for some reason so I saved it and reattached.

I'm still going to be the lead for the R-Project, so part of the loop!

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 18, 2020 9:42 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: R-Project ABB Trapping Draft Talking Points

Hello Drue,

Not sure what your responsibilities are with your new position but attached are the draft talking points that I revised since our conference call. Not sure if we wold want another round of internal review or SOL review before the talking points are sent to NPPD for their review.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Runge, Jeff
To: DeBerry, Drue
Cc: Burgess, Angela; Larson, Scott
Subject: R-Project ABB Trapping Draft Talking Points
Date: Tuesday, August 18, 2020 9:42:48 AM
Attachments: Draft ABB Talking Points (2020Aug18).docx

Hello Drue,

Not sure what your responsibilities are with your new position but attached are the draft talking points that I revised since our conference call. Not sure if we wold want another round of internal review or SOL review before the talking points are sent to NPPD for their review.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Konishi, Kathy G
To: Runge, Jeff; Burgess, Angela
Subject: Fw: [EXTERNAL] FW: ABB Data for 2018.
Date: Friday, August 14, 2020 10:22:17 AM
Attachments: 2018 ABB report- HobackFinal.xlsx

Here ya go! Just received Hoback's 2018 report.

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Hoback, Wyatt <whoback@okstate.edu>
Sent: Friday, August 14, 2020 10:18 AM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: [EXTERNAL] FW: ABB Data for 2018.

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good morning Kathy,

Here is a copy of the 2018 ABB report sent to Bob Harms on 12/31/2018.

Thank you for the update on the permit.

All the best,

Wyatt

From: Hoback, Wyatt
Sent: Monday, December 31, 2018 4:48 PM
To: Robert Harms <robert_harms@fws.gov>
Subject: ABB Data for 2018.

Hi Bob,

Attached are the ABB data for Nebraska collected under my permit. 176 locations, 496 ABB captured. Sex ratios were pretty close to 50:50 but numbers were generally down in Holt County compared to previous years.

Hope you had a good Christmas and will have a great 2019

All the best,

Wyatt

From: Runge, Jeff
To: DeBerry, Drue; Burgess, Angela
Cc: Konishi, Kathy G; Larson, Scott
Subject: Re: ABB Permit for Power Engineers (Hoback Discussion)
Date: Wednesday, August 12, 2020 5:22:56 AM

Jim Jenniges returned my call yesterday and confirmed that Dr. Hoback and staff were conducting surveys this year for NPPD.

Jeff

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 11, 2020 7:06 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Konishi, Kathy G <kathy_konishi@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: Fw: ABB Permit for Power Engineers (Hoback Discussion)

Angela and Drue,

There are problems with one of NPPD's contractors. Through my digging, I found that the area covered for surveys was so extensive that they needed two contractors: Power Engineers and Wyatt Hoback. As you can see below, Hoback does not have a valid permit. I need to check to make sure that Hoback was surveying this year, and that it was not entirely covered by Power Engineers. I will get back to everyone as soon as I can. If Hoback was surveying this year, then I would suggest that the three of us have a discussion prior to this Thursday meeting as this could influence the talking points.

Thanks to Kathy as she has been helpful in getting information to me quickly. No problem with missing the meeting this Thursday. We can follow up with you if we have any questions.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Monday, August 10, 2020 8:47 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Jeff,

Hoback's recovery permit is multi-regional and issued in coordination with R2 & R4. Hoback

failed to submit a 2018 report and failed to renew on time when his permit expired 4/1/2020. He is currently without a valid permit until we receive his report for 2018 and receive the R2 comments and their terms and conditions. I only have the 2017 and 2019 attached reports for you.

I was just scheduled for an ePermitting session late this afternoon that overlaps the ABB meeting you put together. Unfortunately, I cannot miss the ePermitting meeting as we are in a critical time. I would be happy to meet another time or catch up with you following your scheduled meeting, if that would help. Sorry!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, August 10, 2020 2:45 PM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

I feel bad to ask you for additional documents, but after reading the Power Engineers annual report, it is clear that NPPD had hired two consultants to conduct ABB surveys. Is it possible to have a copy of the permit for Hoback Associates as well as the annual reports for the last two years? I have been reassigned to work on the R-Project, so I do not have much institutional history with the project. It is truly learning as I go.

It is good to have you on the conference call this Thursday as the talking points are related to ABB trapping and the consultant's recovery permits.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 4:33 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Here ya go!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 1:16 PM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Kathy,

Did Power Engineers submit annual reports for 2108 and 2019, and if so, may I have a copy of the reports? I looked on the shared drive on Teams and did not see reports. I left a message with your voicemail, but I then remembered that it is best to contact you by email. Any assistance you could provide would be greatly appreciated.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 9:01 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Jeff,

I've attached the permit for Power Engineers for ABB along with the LAI issued 2/3/2020 that updates the lists of authorized individuals for the permit. It replaces the list in the permit.

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>

Sent: Friday, August 7, 2020 7:08 AM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: ABB Permit for Power Engineers

Hello Kathy,

Is it possible to get a copy of a permit issued to Power Engineers for ABB? I have been asked to assist with the R-Project late in the process, and I believe Power Engineers is the company conducting the ABB surveys but am not 100 percent sure. Let me know if you do not have a permit for Power Engineers, and I can identify other search options.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Konishi, Kathy G
To: Runge, Jeff
Cc: Burgess, Angela
Subject: Additional Background | ABB Permit Issuance
Date: Tuesday, August 11, 2020 12:29:35 PM
Attachments: Subverting Congress Intent- The Recent Misapplication of Section 10.pdf

---

Hi Jeff,

The attached article specifically addresses Hoback's recovery permit issued in 2001 when he was with University of NE at Kearney. This was before my time with the Service, so I have little additional information other than it created some issues for the Recovery Permits Program nationally. However, it may be useful for reference and context.

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

From: Konishi, Kathy G
To: Runge, Jeff; DeBerry, Drue; Burgess, Angela
Cc: Larson, Scott
Subject: Re: ABB Permit for Power Engineers (Hoback Discussion)
Date: Tuesday, August 11, 2020 6:11:28 AM
Attachments: TE045150-3 Oklahoma State University Permit.PDF

Just to ensure you have a copy of Hoback's recently expired permit, I've attached it for your information.

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Tuesday, August 11, 2020 6:06 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Konishi, Kathy G <kathy_konishi@fws.gov>; Larson, Scott <scott_larson@fws.gov>
Subject: Fw: ABB Permit for Power Engineers (Hoback Discussion)

Angela and Drue,

There are problems with one of NPPD's contractors. Through my digging, I found that the area covered for surveys was so extensive that they needed two contractors: Power Engineers and Wyatt Hoback. As you can see below, Hoback does not have a valid permit. I need to check to make sure that Hoback was surveying this year, and that it was not entirely covered by Power

Engineers. I will get back to everyone as soon as I can. If Hoback was surveying this year, then I would suggest that the three of us have a discussion prior to this Thursday meeting as this could influence the talking points.

Thanks to Kathy as she has been helpful in getting information to me quickly. No problem with missing the meeting this Thursday. We can follow up with you if we have any questions.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Monday, August 10, 2020 8:47 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Jeff,

Hoback's recovery permit is multi-regional and issued in coordination with R2 & R4. Hoback failed to submit a 2018 report and failed to renew on time when his permit expired 4/1/2020. He is currently without a valid permit until we receive his report for 2018 and receive the R2 comments and their terms and conditions. I only have the 2017 and 2019 attached reports for you.

I was just scheduled for an ePermitting session late this afternoon that overlaps the ABB meeting you put together. Unfortunately, I cannot miss the ePermitting meeting as we are in a critical time. I would be happy to meet another time or catch up with you following your scheduled meeting, if that would help. Sorry!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS **Internal FWS LINKS**

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, August 10, 2020 2:45 PM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

I feel bad to ask you for additional documents, but after reading the Power Engineers annual report, it is clear that NPPD had hired two consultants to conduct ABB surveys. Is it possible to have a copy of the permit for Hoback Associates as well as the annual reports for the last two years? I have been reassigned to work on the R-Project, so I do not have much institutional history with the project. It is truly learning as I go.

It is good to have you on the conference call this Thursday as the talking points are related to ABB trapping and the consultant's recovery permits.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 4:33 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Here ya go!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration

134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 1:16 PM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Kathy,

Did Power Engineers submit annual reports for 2108 and 2019, and if so, may I have a copy of the reports? I looked on the shared drive on Teams and did not see reports. I left a message with your voicemail, but I then remembered that it is best to contact you by email. Any assistance you could provide would be greatly appreciated.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 9:01 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Jeff,

I've attached the permit for Power Engineers for ABB along with the LAI issued 2/3/2020 that updates the lists of authorized individuals for the permit. It replaces the list in the permit.

~Kathy

Kathy Konishi

On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 7:08 AM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: ABB Permit for Power Engineers

Hello Kathy,

Is it possible to get a copy of a permit issued to Power Engineers for ABB? I have been asked to assist with the R-Project late in the process, and I believe Power Engineers is the company conducting the ABB surveys but am not 100 percent sure. Let me know if you do not have a permit for Power Engineers, and I can identify other search options.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Runge, Jeff
To: DeBerry, Drue; Burgess, Angela
Cc: Konishi, Kathy G; Larson, Scott
Subject: Fw: ABB Permit for Power Engineers (Hoback Discussion)
Date: Tuesday, August 11, 2020 6:06:30 AM
Attachments: 2017 report.xlsx
2019 ALL ABB Nebraska.xlsx

Angela and Drue,

There are problems with one of NPPD's contractors. Through my digging, I found that the area covered for surveys was so extensive that they needed two contractors: Power Engineers and Wyatt Hoback. As you can see below, Hoback does not have a valid permit. I need to check to make sure that Hoback was surveying this year, and that it was not entirely covered by Power Engineers. I will get back to everyone as soon as I can. If Hoback was surveying this year, then I would suggest that the three of us have a discussion prior to this Thursday meeting as this could influence the talking points.

Thanks to Kathy as she has been helpful in getting information to me quickly. No problem with missing the meeting this Thursday. We can follow up with you if we have any questions.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Monday, August 10, 2020 8:47 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Jeff,

Hoback's recovery permit is multi-regional and issued in coordination with R2 & R4. Hoback failed to submit a 2018 report and failed to renew on time when his permit expired 4/1/2020. He is currently without a valid permit until we receive his report for 2018 and receive the R2 comments and their terms and conditions. I only have the 2017 and 2019 attached reports for you.

I was just scheduled for an ePermitting session late this afternoon that overlaps the ABB meeting you put together. Unfortunately, I cannot miss the ePermitting meeting as we are in a critical time. I would be happy to meet another time or catch up with you following your scheduled meeting, if that would help. Sorry!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, August 10, 2020 2:45 PM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

I feel bad to ask you for additional documents, but after reading the Power Engineers annual report, it is clear that NPPD had hired two consultants to conduct ABB surveys. Is it possible to have a copy of the permit for Hoback Associates as well as the annual reports for the last two years? I have been reassigned to work on the R-Project, so I do not have much institutional history with the project. It is truly learning as I go.

It is good to have you on the conference call this Thursday as the talking points are related to ABB trapping and the consultant's recovery permits.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 4:33 PM

To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Here ya go!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 1:16 PM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Kathy,

Did Power Engineers submit annual reports for 2108 and 2019, and if so, may I have a copy of the reports? I looked on the shared drive on Teams and did not see reports. I left a message with your voicemail, but I then remembered that it is best to contact you by email. Any assistance you could provide would be greatly appreciated.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 9:01 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Jeff,

I've attached the permit for Power Engineers for ABB along with the LAI issued 2/3/2020 that updates the lists of authorized individuals for the permit. It replaces the list in the permit.

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 7:08 AM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: ABB Permit for Power Engineers

Hello Kathy,

Is it possible to get a copy of a permit issued to Power Engineers for ABB? I have been asked to assist with the R-Project late in the process, and I believe Power Engineers is the company conducting the ABB surveys but am not 100 percent sure. Let me know if you do not have a permit for Power Engineers, and I can identify other search options.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Konishi, Kathy G
To: Runge, Jeff
Subject: Re: ABB Permit for Power Engineers
Date: Monday, August 10, 2020 7:48:03 PM
Attachments: 2017 report.xlsx
2019 ALL ABB Nebraska.xlsx

Hi Jeff,

Hoback's recovery permit is multi-regional and issued in coordination with R2 & R4. Hoback failed to submit a 2018 report and failed to renew on time when his permit expired 4/1/2020. He is currently without a valid permit until we receive his report for 2018 and receive the R2 comments and their terms and conditions. I only have the 2017 and 2019 attached reports for you.

I was just scheduled for an ePermitting session late this afternoon that overlaps the ABB meeting you put together. Unfortunately, I cannot miss the ePermitting meeting as we are in a critical time. I would be happy to meet another time or catch up with you following your scheduled meeting, if that would help. Sorry!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, August 10, 2020 2:45 PM

To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

I feel bad to ask you for additional documents, but after reading the Power Engineers annual report, it is clear that NPPD had hired two consultants to conduct ABB surveys. Is it possible to have a copy of the permit for Hoback Associates as well as the annual reports fro the last two years? I have been reassigned to work on the R-Project, so I do not have much institutional history with the project. It is truly learning as I go.

It is good to have you on the conference call this Thursday as the talking points are related to ABB trapping and the consultant's recovery permits.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 4:33 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Here ya go!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional

Correspondence Fishnet
Site

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 1:16 PM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Kathy,

Did Power Engineers submit annual reports for 2108 and 2019, and if so, may I have a copy of the reports? I looked on the shared drive on Teams and did not see reports. I left a message with your voicemail, but I then remembered that it is best to contact you by email. Any assistance you could provide would be greatly appreciated.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 9:01 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Jeff,

I've attached the permit for Power Engineers for ABB along with the LAI issued 2/3/2020 that updates the lists of authorized individuals for the permit. It replaces the list in the permit.

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the

- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Interior, and Federal Register: HQ Briefing Paper Templates

- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 7:08 AM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: ABB Permit for Power Engineers

Hello Kathy,

Is it possible to get a copy of a permit issued to Power Engineers for ABB? I have been asked to assist with the R-Project late in the process, and I believe Power Engineers is the company conducting the ABB surveys but am not 100 percent sure. Let me know if you do not have a permit for Power Engineers, and I can identify other search options.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From:	Runge, Jeff
To:	Burgess, Angela; DeBerry, Drue; Skorupa, Joseph; Konishi, Kathy G
Cc:	Jacobsen, Dana E
Subject:	R-Project ABB Talking Points

Hello everyone: We will review the draft talking points for NPPD's ABB surveys. We have received public inquiries/comments about recent surveys, so talking points will explain the purpose and need for surveys. Talking points will be sent by email in advance of the meeting.

Dana: If you are not able to attend, then we can provide a final draft by email.

Join Microsoft Teams Meeting <https://teams.microsoft.com/l/meetup-join/19%3ameeting_N2NiMmM5ODEtZmY4Mi00ZWE1LWE1MzAtYmFkNDYyZDY3ZTQ0%40thread.v2/0?context=%7b%22Tid%22%3a%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2c%22Oid%22%3a%220db18f88-aeb5-438b-90f2-d52134b7f960%22%7d>
Learn more about Teams <https://aka.ms/JoinTeamsMeeting> | Meeting options <https://teams.microsoft.com/meetingOptions/?organizerId=0db18f88-aeb5-438b-90f2-d52134b7f960&tenantId=0693b5ba-4b18-4d7b-9341-f32f400a5494&threadId=19_meeting_N2NiMmM5ODEtZmY4Mi00ZWE1LWE1MzAtYmFkNDYyZDY3ZTQ0@thread.v2&messageId=0&language=en-US>

From: Runge, Jeff
To: Burgess, Angela; DeBerry, Drue
Subject: Re: R-Project ABB Draft Talking Points
Date: Monday, August 10, 2020 11:06:40 AM
Attachments: 199-1665_2018_End_of_year_ABB_report_2018-11-7.pdf
20180402_TE237960-3 Power Engineers permit_SIGNED.pdf
LAI TE237960-3.pdf
R-Project 2018 survey summary report.xls
TE237960-3 R-Project 2019 survey summary report.xls

Thanks Angela. I heard back from Kathy about NPPD's permit and annual report (for assessing any trapping-related take). All files are attached. FYI, Kathy said the consultants did not submit a full report for 2019, just a spreadsheet.

In consideration of a quick turn around for the public, it might be helpful to have coordination call this week to discuss talking points and possibly to prepare for our call with NPPD next week.

Jeff

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, August 10, 2020 11:22 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: R-Project ABB Draft Talking Points

Hi Jeff,
Looks good - I've attached my suggested edits and comments on background info.

Happy to discuss any of the comments further. I can also look at the permit for consistency with other permits, but I'll need more info (see my comments on that).

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, August 7, 2020 2:01 PM

To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: R-Project ABB Draft Talking Points

Jeff,

This looks great. I've made a few minor edits but you've done a great job.

For developing TPs, you want to do just what you have: anticipate and address questions, criticisms, etc.

I anticipate that Angela will also have edits then you can run it by Dana, EA, and NPPD.

Thanks and have a great weekend!

Drue

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 1:46 PM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: R-Project ABB Draft Talking Points

Hello Drue,

I have not developed talking points before, but I think I am on the right track. Draft talking points are attached. I do not this it is ready for distribution to the broader Service group, but I would be interested in your initial thoughts.

It would be helpful to get Angela's input on certain bullets. I sent a request to Kathy for the annual reports developed by NPPD's consultants as we may incorporate information from these reports in the talking points. It would also be beneficial to know from these reports if any beetles have died from trapping or other potential forms of harm. In summary, I think we have made good progress, but additional work is needed before it is final.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Burgess, Angela
To: DeBerry, Drue; Runge, Jeff
Subject: Re: R-Project ABB Draft Talking Points
Date: Monday, August 10, 2020 10:22:34 AM
Attachments: Draft ABB Talking Points (2020Aug07) (DeBerry, Drue) (Burgess, Angela).docx

---

Hi Jeff,
Looks good - I've attached my suggested edits and comments on background info.

Happy to discuss any of the comments further. I can also look at the permit for consistency with other permits, but I'll need more info (see my comments on that).

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Friday, August 7, 2020 2:01 PM
To: Runge, Jeff <jeff_runge@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: Re: R-Project ABB Draft Talking Points

Jeff,

This looks great. I've made a few minor edits but you've done a great job.

For developing TPs, you want to do just what you have: anticipate and address questions, criticisms, etc.

I anticipate that Angela will also have edits then you can run it by Dana, EA, and NPPD.

Thanks and have a great weekend!

Drue

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 1:46 PM

To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: R-Project ABB Draft Talking Points

Hello Drue,

I have not developed talking points before, but I think I am on the right track. Draft talking points are attached. I do not this it is ready for distribution to the broader Service group, but I would be interested in your initial thoughts.

It would be helpful to get Angela's input on certain bullets. I sent a request to Kathy for the annual reports developed by NPPD's consultants as we may incorporate information from these reports in the talking points. It would also be beneficial to know from these reports if any beetles have died from trapping or other potential forms of harm. In summary, I think we have made good progress, but additional work is needed before it is final.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Konishi, Kathy G
To: Runge, Jeff
Subject: Re: ABB Permit for Power Engineers
Date: Friday, August 7, 2020 3:33:15 PM
Attachments: TE237960-3 R-Project 2019 survey summary report.xls
199-1665_2018_End_of_year_ABB_report_2018-11-7.pdf
R-Project 2018 survey summary report.xls

Here ya go!

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 1:16 PM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Kathy,

Did Power Engineers submit annual reports for 2108 and 2019, and if so, may I have a copy of the reports? I looked on the shared drive on Teams and did not see reports. I left a message with your voicemail, but I then remembered that it is best to contact you by email. Any assistance you could provide would be greatly appreciated.

Jeff

From: Konishi, Kathy G <kathy_konishi@fws.gov>
Sent: Friday, August 7, 2020 9:01 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: ABB Permit for Power Engineers

Hi Jeff,

I've attached the permit for Power Engineers for ABB along with the LAI issued 2/3/2020 that updates the lists of authorized individuals for the permit. It replaces the list in the permit.

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 7:08 AM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: ABB Permit for Power Engineers

Hello Kathy,

Is it possible to get a copy of a permit issued to Power Engineers for ABB? I have been asked to

assist with the R-Project late in the process, and I believe Power Engineers is the company conducting the ABB surveys but am not 100 percent sure. Let me know if you do not have a permit for Power Engineers, and I can identify other search options.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From:	DeBerry, Drue
To:	Runge, Jeff
Cc:	Burgess, Angela
Subject:	Re: R-Project ABB Draft Talking Points
Date:	Friday, August 7, 2020 2:01:46 PM
Attachments:	Draft ABB Talking Points (2020Aug07) (DeBerry, Drue).docx

---

Jeff,

This looks great. I've made a few minor edits but you've done a great job.

For developing TPs, you want to do just what you have: anticipate and address questions, criticisms, etc.

I anticipate that Angela will also have edits then you can run it by Dana, EA, and NPPD.

Thanks and have a great weekend!

Drue

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 1:46 PM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: R-Project ABB Draft Talking Points

Hello Drue,

I have not developed talking points before, but I think I am on the right track. Draft talking points are attached. I do not this it is ready for distribution to the broader Service group, but I would be interested in your initial thoughts.

It would be helpful to get Angela's input on certain bullets. I sent a request to Kathy for the annual reports developed by NPPD's consultants as we may incorporate information from these reports in the talking points. It would also be beneficial to know from these reports if any beetles have died from trapping or other potential forms of harm. In summary, I think we have made good progress, but additional work is needed before it is final.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Runge, Jeff
To: DeBerry, Drue
Cc: Burgess, Angela
Subject: R-Project ABB Draft Talking Points
Date: Friday, August 7, 2020 1:46:56 PM
Attachments: Draft ABB Talking Points (2020Aug07).docx

Hello Drue,

I have not developed talking points before, but I think I am on the right track. Draft talking points are attached. I do not this it is ready for distribution to the broader Service group, but I would be interested in your initial thoughts.

It would be helpful to get Angela's input on certain bullets. I sent a request to Kathy for the annual reports developed by NPPD's consultants as we may incorporate information from these reports in the talking points. It would also be beneficial to know from these reports if any beetles have died from trapping or other potential forms of harm. In summary, I think we have made good progress, but additional work is needed before it is final.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Runge, Jeff
To: Burgess, Angela
Cc: DeBerry, Drue
Subject: R-Project ABB Questions
Date: Friday, August 7, 2020 10:39:29 AM
Attachments: 20180402_TE237960-3 Power Engineers permit_SIGNED.pdf

---

Hello Angela,

As you know, I am working on the talking points, but I ran into a couple of snags that I thought you could assist. Attached is the recovery permit for NPPD's consultants. Could you review the permit to see if anything in the permit that is atypical of permits we issue? Given your familiarity with ABB, I thought that any discrepancies would be much easier to find. If you do not have time, then I can sort through the Mega BO to find out.

The second issue is the rationale for the 0.5-mile effective trap radius for ABB. In my review of the ABB presence/absence protocol referenced in the permit, they identify the 0.5 mile radius, but they do not cite a study that supports this standard. Do you know the origins of the 0.5-mile trap radius? Any insight you can provide for either of these questions is greatly appreciated.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: Konishi, Kathy G
To: Runge, Jeff
Subject: Re: ABB Permit for Power Engineers
Date: Friday, August 7, 2020 8:01:10 AM
Attachments: LAI TE237960-3.pdf
20180402_TE237960-3 Power Engineers permit_SIGNED.pdf

Hi Jeff,

I've attached the permit for Power Engineers for ABB along with the LAI issued 2/3/2020 that updates the lists of authorized individuals for the permit. It replaces the list in the permit.

~Kathy

Kathy Konishi
On Special Assignment - ePermits Modernization Project
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service | DOI Regions 5/7
Ecological Services | Branch of Landscape Conservation & Restoration
134 Union Blvd., Suite 670
Lakewood, CO 80228
Phone: (303) 236-4224
Email: kathy_konishi@fws.gov

Recovery Permitting-related LINKS

- Recovery Permit Application (3-200-59)
- Recovery Permit Regulations CFR Part 13
- Recovery Permit Regulations CFR Part 17
- General Permitting Information
- IPAC – Planning tool | Explore species and habitat in your project area
- Region 6 Species Protocols

Internal FWS LINKS

- Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates
- Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Friday, August 7, 2020 7:08 AM
To: Konishi, Kathy G <kathy_konishi@fws.gov>
Subject: ABB Permit for Power Engineers

Hello Kathy,

Is it possible to get a copy of a permit issued to Power Engineers for ABB? I have been asked to assist with the R-Project late in the process, and I believe Power Engineers is the company conducting the ABB surveys but am not 100 percent sure. Let me know if you do not have a

permit for Power Engineers, and I can identify other search options.

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: DeBerry, Drue
To: Larson, Scott
Cc: Runge, Jeff
Subject: Re: Wind information needed for R-Project
Date: Monday, July 27, 2020 10:00:40 AM

Scott,

Good point. If we can please get anything that might relate to any energy projects that might have a connection to the R-project.

Drue DeBerry
Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Larson, Scott <scott_larson@fws.gov>
Sent: Monday, July 27, 2020 9:42 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: Wind information needed for R-Project

Drue,

Likely all renewables including solar as well? or just wind?

Thank You
Scott Larson
North and South Dakota Field Supervisor
Ecological Services
U.S. Fish and Wildlife Service, Interior Region 5
Suite 400, 420 South Garfield Avenue
Pierre, South Dakota 57501

Phone: 605-224-8693 ext. 224
Cell: 605-222-0228
Fax: 605-224-1416
Email: scott_larson@fws.gov

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, July 27, 2020 10:32 AM
To: Larson, Scott
Cc: Runge, Jeff
Subject: Wind information needed for R-Project

Morning Scott,

Can you ask Eliza and Bob to provide all wind energy information that might be related to R-project to Jeff? We know there is information for Thunderhead and Grand Prairie but there might be others.

Thanks,

Drue DeBerry
Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From:	Salata, Larry
To:	Boroja, Maria T; Laye, Doug; Brown, Daniel; Smith, Glenn S; Paul, Keith; Myers, Karen; Delphey, Phil; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc:	Smith, Kimberly; Burgess, Angela; Adams, Trish; Bulavinetz, Richard; Hein, Eric; Skorupa, Joseph
Subject:	Re: opinion: R-Project / ABB and whooping crane
Date:	Tuesday, July 21, 2020 4:29:20 PM
Attachments:	Outlook-Picture7.png Outlook-Picture7.png

Some additional thoughts to help inform a future internal discussion on the matter of giving the benefit of the doubt to listed species in consultations involving data gaps and/or uncertainty:

As a practical matter, when best available information is insufficient to support definitive findings regarding the status of the listed species in the action area, the effects of the proposed action on listed species, and the jeopardy determination, either delay completion of the consultation until that information is available or apply the benefit of the doubt principle in the following manner:

1. If listed species presence in the action area is unknown, consider if the habitat conditions in the action area are suitable for any listed species known or expected to occur in the area and within the range of natural movement of individuals from the closest known population of a listed species over the term of the proposed action. If so, assume species presence and the potential for exposure to stressors caused by the proposed action.

2. If you don't know the status of the species in the action area, rely on the role of the action area in the conservation of the species to explain the species' status (in terms of its reproduction, numbers, and distribution) that is needed over the term of the proposed action to insure that role can be maintained/achieved. Discuss if this role is expected to change over the term of the proposed action due to climate change effects or other factors influencing the species' rangewide condition.

3. Based on the above context, in the Effects of the Action analysis, determine if the effects of the action on habitat conditions in the action area are likely to undermine, support, or enhance the role of the action area in the survival and recovery of the listed species over the term of the proposed action.

4. Based on the above context, in the Cumulative Effects analysis, determine if the effects of future, non-Federal actions reasonably certain to occur in the action area on habitat conditions in the action area are likely to undermine, support, or enhance the role of the action area in the survival and recovery of the listed species over the term of the proposed action.

5. In the Conclusion section, take into account the range-wide condition of the listed species and the effects of the action, taken together with cumulative effects, to determine if the species is likely to survive and retain the potential to recover with implementation of the proposed action.

Larry

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Monday, June 29, 2020 8:51 AM
To: Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>; Skorupa, Joseph <Joseph_Skorupa@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Thanks for your thoughts and input, this is a very thorough decision with a lot dicta. I would love to talk about this decision and would be happy to set up a call to discuss. Let me know if you are interested and I will put something together.

From: Laye, Doug <Doug_Laye@fws.gov>
Sent: Monday, June 29, 2020 9:42 AM
To: Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: RE: opinion: R-Project / ABB and whooping crane

Quoted Language is from page **45006 Federal Register** / Vol. 84, No. 166 / Tuesday, August 27, 2019 / Rules and Regulations

Doug Laye National Section 7 Policy Lead U.S. Fish and Wildlife Service 303 236 4046

From: Brown, Daniel <daniel_brown@fws.gov>
Sent: Monday, June 29, 2020 9:33 AM
To: Salata, Larry <larry_salata@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>;

Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

HI all,

I asked Doug about benefit of the doubt recently, and this was his response.

We do not read the legislative history from the 1979 amendments to section 7 that included the phrase "benefit of the doubt to the species" to require a different outcome that the standards set forth in 402.17. Relevant to section 7, those amendments changed the statutory text at section 7(a)(2) from "will not jeopardize" to the current wording of "is not likely to jeopardize." The Conference Report explained that the change in the statutory language was necessary to prevent the Services from having to issue jeopardy determinations whenever an action agency could not "guarantee with certainty" that their action would not jeopardize listed species. The Conference Report sought to explain that this change in language would not have a negative impact on species: "This language continues to give the benefit of the doubt to the species, and it would continue to place the burden on the action agency to demonstrate to the consulting agency that its action will not violate Section 7(a)(2)." H. Conf. Rep. No. 96–697, 96th Cong., 1st. Sess. 12, reprinted in [1979] U.S. Code Cong. & Ad. News, 2572, 2576. The use of the words "benefit of the doubt to the species" in the Conference Report appears intended to provide reassurance that the statutory language, as amended, would remain protective of the species. ***At most, the language seems to indicate that the statutory language "is not likely to jeopardize" continues to provide protections to listed species by requiring action agencies to insure that their actions are not likely to jeopardize listed species. (emphasis added)***

This assessment seems to appropriately point to focusing our efforts on ensuring proper implementation and emphasis on the regulations at 402.17 to resolve issues of uncertainty. The revised regs at 402.17 focus on the two part test of "but for" (a factual causation standard) and "reasonably certain to occur" (an explicit foreseeability test). Noting that we view "reasonably certain to occur" to be a higher threshold that "reasonably foreseeable", the latter being a NEPA term.

db

Daniel R. Brown
Columbia-Pacific Northwest (IR09)
Pacific Islands (IR12)
U.S. Fish and Wildlife Service, Ecological Services
Branch of Consultation, Conservation Planning and Hydropower
911 NE 11th Avenue
Portland, OR 97232-4181
office: (503) 231-6281
fax: (503) 231-6243
email: daniel_brown@fws.gov

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 8:23 AM
To: Laye, Doug <Doug_Laye@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M

<elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Doug: Thanks. Should I look forward to reading the Cape Sable court opinion?

Larry

From: Laye, Doug <Doug_Laye@fws.gov>
Sent: Monday, June 29, 2020 7:06 AM
To: Salata, Larry <larry_salata@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: RE: opinion: R-Project / ABB and whooping crane

Attached is the conference report. BOD is on page 12. The draft handbook will include a short discussion regarding benefit of the doubt. Also see the attached excerpt from a court case for a judges pretty good review of the thought process regarding Congress' intent. Highlighted at page 15-17. To date this Cape Sable court opinion is the most comprehensive overview of subject.

Doug Laye National Section 7 Policy Lead U.S. Fish and Wildlife Service 303 236 4046

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 7:57 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

The Court's finding that the congressional directive to give the benefit of the doubt to listed species in consultations involving data gaps and uncertainty is ambiguous can be resolved via

a better explanation. Relying on the 1979 House conference report cited in the Handbook, the purposes of the ESA, and the proceedings of the 1975 oversight hearings of the subcommittee on Fisheries and Wildlife Conservation and the Environment of the committee on Merchant Marine and Fisheries should provide ample context for that better explanation. Retention of this tool is very important and entirely consistent with the spirit and intent of the ESA. The updated Handbook should include the "better explanation."

I've asked NCTC (Richard B.) to find the 1979 House conference report and to distribute it to this group; I cannot find this document.

Larry

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Tuesday, June 23, 2020 9:20 AM
To: Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a “best available science” standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the “benefit of the doubt” (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners’ argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners’ argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project’s lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn’t properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn’t have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn’t fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it’s impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid’s capacity, and turbines’ impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we’d appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant’s preferred route meets the permit-issuance criteria. Petitioners don’t challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our

consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our “shall-issue” position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn’t a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we’d considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents’ ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	DeBerry, Drue
To:	Runge, Jeff
Subject:	Re: [EXTERNAL] FW: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court"s Decision, No.19-cv-1945-WLM
Date:	Monday, July 20, 2020 8:17:30 AM

Jeff,

I agree 100%. I had a call with Steve, Nicole, Marj, Maria, and Scott on July 10 to try to get agreement on how we'll approach this additional workload. The RO did not want to make any decisions at that time. We have some time before things start - parties have 60 days from the ruling to decide if they will appeal or not.

Drue DeBerry
Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, July 20, 2020 8:13 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: Re: [EXTERNAL] FW: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court's Decision, No.19-cv-1945-WLM

It would be beneficial to establish roles, responsibilities, and POCs for the Service: section 106, monitoring, NEPA, s7, etc. We may have different people leading different activities.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, July 20, 2020 9:08 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Re: [EXTERNAL] FW: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court's Decision, No.19-cv-1945-WLM

Hi Jeff,

The call is still on. I was on leave last week, just catching up on emails now.

I'll report that I'm the POC at the management level, we're still trying to figure out who will be POC at staffing level. NPPD should also have a few updates for us.

Drue DeBerry

Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Monday, July 20, 2020 8:04 AM
To: DeBerry, Drue <drue_deberry@fws.gov>
Subject: Re: [EXTERNAL] FW: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court's Decision, No.19-cv-1945-WLM

Thanks Drue. I see there is a call at noon central. Do you know if the call is still on? I have not heard much lately about the project.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Monday, July 20, 2020 8:57 AM
To: Runge, Jeff <jeff_runge@fws.gov>
Subject: Fw: [EXTERNAL] FW: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court's Decision, No.19-cv-1945-WLM

Jeff,

Just noticed you weren't included on this email.

Drue DeBerry
Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Thursday, July 16, 2020 3:29 PM
To: DeBerry, Drue <drue_deberry@fws.gov>; 'nicole' <alt@fws.gov>; 'dana.' <jacobsen@sol.doi.gov>
Subject: [EXTERNAL] FW: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court's Decision, No.19-cv-1945-WLM

This email has been received from outside of DOI - Use caution before clicking on

links, opening attachments, or responding.

I am sending this e-mail again, because I received a message showing that it may not have been received by Dana.

From: Hostetler, Bonnie J.
Sent: Thursday, July 16, 2020 2:49 PM
To: DeBerry, Drue (drue_deberry@fws.gov) <drue_deberry@fws.gov>
Cc: 'nicole' <alt@fws.gov>; 'dana.' <jacobsen@sol.doi.gov>
Subject: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court's Decision, No.19-cv-1945-WLM

Please contact me if you have any questions or concerns.

From:	DeBerry, Drue
To:	Runge, Jeff
Subject:	Fw: [EXTERNAL] FW: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court"s Decision, No.19-cv-1945-WLM
Date:	Monday, July 20, 2020 7:57:57 AM
Attachments:	2407_001.pdf

Jeff,

Just noticed you weren't included on this email.

Drue DeBerry
Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Hostetler, Bonnie J. <bjhoste@nppd.com>
Sent: Thursday, July 16, 2020 3:29 PM
To: DeBerry, Drue <drue_deberry@fws.gov>; 'nicole' <alt@fws.gov>; 'dana.' <jacobsen@sol.doi.gov>
Subject: [EXTERNAL] FW: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court's Decision, No.19-cv-1945-WLM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

I am sending this e-mail again, because I received a message showing that it may not have been received by Dana.

From: Hostetler, Bonnie J.
Sent: Thursday, July 16, 2020 2:49 PM
To: DeBerry, Drue (drue_deberry@fws.gov) <drue_deberry@fws.gov>
Cc: 'nicole' <alt@fws.gov>; 'dana.' <jacobsen@sol.doi.gov>
Subject: NPPD Actions Addressing Work in Progress on the R-Project in Light of the Court's Decision, No.19-cv-1945-WLM

Please contact me if you have any questions or concerns.

From:	DeBerry, Drue
To:	Runge, Jeff; Jacobsen, Dana E
Subject:	Fw: [EXTERNAL] Amendment #1 to the Programmatic Agreement Regarding the R-Project Transmission Line in North-Central Nebraska within the Mountain-Prairie Region
Date:	Friday, July 10, 2020 6:56:28 AM
Attachments:	ne.fws.multiple counties.r-project transmission line.amendment.con.9jul20.pdf

---

Dana and Jeff,

I was thinking that things were essentially on hold until we knew how all the parties were going to respond to the court decision. Should that be our update to the parties and should we tell them to hold off on reviewing the proposed amendment until then? Or is there a better approach?

Thanks,

Drue DeBerry
Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Office of Federal Agency Programs <ofap@achp.gov>
Sent: Thursday, July 9, 2020 9:08 PM
To: DeBerry, Drue <drue_deberry@fws.gov>
Cc: Alexis Clark <aclark@achp.gov>; Bonnie J. Hostetler <bjhoste@nppd.com>; Runge, Jeff <jeff_runge@fws.gov>; Jill Dolberg <jill.dolberg@nebraska.gov>; Kreutzer, Lee <Lee_Kreutzer@nps.gov>; Sandra Snodgrass <ssnodgrass@hollandhart.com>
Subject: [EXTERNAL] Amendment #1 to the Programmatic Agreement Regarding the R-Project Transmission Line in North-Central Nebraska within the Mountain-Prairie Region

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

From: Office of Federal Agency Programs

Advisory Council on Historic Preservation

Attached is our letter on the subject undertaking (in Adobe Acrobat PDF format)

If you have any questions concerning our letter, please contact

Alexis Clark

202-517-0208
aclark@achp.gov
Case # 015509

e106-online section 106 documentation submittal system
now available to all federal agencies
http://www.achp.gov/work106.html

From:	Office of Federal Agency Programs
To:	DeBerry, Drue
Cc:	Alexis Clark; Bonnie J. Hostetler; Runge, Jeff; Jill Dolberg; Kreutzer, Lee; Sandra Snodgrass
Subject:	[EXTERNAL] Amendment #1 to the Programmatic Agreement Regarding the R-Project Transmission Line in North-Central Nebraska within the Mountain-Prairie Region
Date:	Thursday, July 9, 2020 9:09:26 PM
Attachments:	ne.fws.multiple counties.r-project transmission line.amendment.con.9jul20.pdf

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

From: Office of Federal Agency Programs

Advisory Council on Historic Preservation

Attached is our letter on the subject undertaking (in Adobe Acrobat PDF format)

If you have any questions concerning our letter, please contact

Alexis Clark
202-517-0208
aclark@achp.gov
Case # 015509

e106-online section 106 documentation submittal system
now available to all federal agencies
http://www.achp.gov/work106.html

From: Runge, Jeff
To: DeBerry, Drue; Jacobsen, Dana E; Boroja, Maria T; Burgess, Angela
Subject: R-Project, Discussion with Corps
Date: Thursday, July 2, 2020 7:29:50 AM

As a follow up to our call yesterday, I had the opportunity to talk with the Corps about the R-Project. Matt Wray is the project manager and POC for the R-Project. NPPD was issued a NWP 12 for the project. Matt said that the court ruling for NWP 12 only applies to oil and gas and would not apply to power lines. The Corps will likely suspend permit and copy the Service. I said Drue is the field office POC for the project.

Matt's contact info is below. They are currently working form home, but they plan to transition back to the office sometime in July.
Matt Wray <matt.t.wray@usace.army.mil>
Environmental Resources Specialist
Omaha District--Nebraska Regulatory Office
Mobile: 402-214-2498
Office: 402-896-0896

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From:	Delphey, Phil
To:	Laye, Doug; Salata, Larry; Adams, Trish; Boroja, Maria T; Smith, Glenn S; Brown, Daniel; Paul, Keith; Myers, Karen; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc:	Smith, Kimberly; Burgess, Angela; Bulavinetz, Richard; Hein, Eric; Nuss, John; Freund, Kate; Frederick, Terry M; Defreese, Amy; Bulavinetz, Richard
Subject:	RE: opinion: R-Project / ABB and whooping crane
Date:	Monday, June 29, 2020 2:56:36 PM
Attachments:	image001.png

Sorry – I think that Doug already sent this earlier – just now making my way back through this entire string.

Phil

Phil Delphey
Division of Ecological Services
U.S. Fish and Wildlife Service
Bloomington, MN 55425
612.285-1064 (mobile)

From: Delphey, Phil
Sent: Monday, June 29, 2020 3:43 PM
To: Laye, Doug <Doug_Laye@fws.gov>; Salata, Larry <Larry_Salata@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <Glenn_S_Smith@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <Keith_Paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Higgins, Damian <Damian_Higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <Michelle_Durflinger@fws.gov>
Cc: Smith, Kimberly <Kimberly_Smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <Eric_Hein@fws.gov>; Nuss, John <John_Nuss@fws.gov>; Freund, Kate <kate_freund@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>
Subject: RE: opinion: R-Project / ABB and whooping crane

I think that this is the document that Larry said that he could not find – the (Congressional) Conference Report from 1979 that provides an interesting backdrop with respect to the adequacy of information on which a biological opinion should be based. See the discussion beginning on p. 1442.

I added Rich Bulavinetz to this email so that he could grab this doc.

Phil Delphey
Division of Ecological Services
U.S. Fish and Wildlife Service
Bloomington, MN 55425
612.285-1064 (mobile)

From: Laye, Doug <Doug_Laye@fws.gov>
Sent: Monday, June 29, 2020 11:25 AM
To: Salata, Larry <larry_salata@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>; Nuss, John <john_nuss@fws.gov>; Freund, Kate <kate_freund@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>
Subject: RE: opinion: R-Project / ABB and whooping crane

Just as a nuance/reminder. Benefit of the doubt is not a standard and is not a stand-alone rationale for a conclusion. The Act's standard for information and rationale used in our consultation documents is "best scientific and commercial data available". When our work is challenged in court under the Administrative Procedures Act (APA) we will be judged by the Act's standard. Any assumption, rationale, data choice, conclusion, etc. will be judged by that standard, so those aspects must be supported by the best scientific and commercial data available – even if that data is scant or must be extrapolated from work not specifically related to the species or habitat being evaluated.

Doug Laye National Section 7 Policy Lead U.S. Fish and Wildlife Service 303 236 4046

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 10:01 AM
To: Adams, Trish <trish_adams@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>; Nuss, John <john_nuss@fws.gov>; Freund, Kate <kate_freund@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Trish: The Consultation Handbook contains the following text on page 1-7:

"…an overriding factor in carrying out consultations should always be the use of best available scientific and commercial data to make findings regarding the status of the species, the effects of a proposed action on the species or critical habitat, and the determination of

jeopardy/no jeopardy to listed species or **adverse modification/no** destruction or **adverse modification** to designated critical habitats."

On page 1-7, the Consultation Handbook further states two options for completing consultations where significant data gaps exist: (1) if the action agency concurs, extend the date for issuance of a BiOp until sufficient information is developed for a more complete analysis; or (2) develop the BiOp w/ available information giving the benefit of the doubt to the species.

Based on the above text, perhaps the HCP Handbook can include the following discussion if it doesn't already:

An overriding factor in developing the HCP should always be the use of best available scientific and commercial data to inform findings regarding: the status of each covered species; the role of the HCP-covered area in the survival and recovery of each covered species; and the effects of covered activities on covered species. In situations involving significant data gaps or uncertainty, two options for completing development of a HCP exist: (1) if the applicant concurs, extend the date for completion of the HCP until sufficient information is developed for a more complete analysis; or (2) develop the HCP w/ available information giving the benefit of the doubt to the covered species.

Larry

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 29, 2020 7:43 AM
To: Salata, Larry <larry_salata@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Hi Larry,

Thank you for the insights. In your email, I'm assuming you are referring to the HCP Handbook? If so, I don't recall these concerns being raised by the solicitors or staff during internal FWS/NMFS review the draft of the HCP Handbook. The HCP Handbook is intended to be a living document. We are currently compiling a list of corrections and clarifications for the next update to the HCP Handbook. If you can point out the specific areas in the HCP

Handbook that you feel are confusing or are in error and provided revised language, it would be welcomed.

Thanks again!
Trish

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning

Ecological Services, MS: ES

5275 Leesburg Pike

Falls Church, VA 22041-3803

Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 9:56 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

The Court's finding that the congressional directive to give the benefit of the doubt to listed species in consultations involving data gaps and uncertainty is ambiguous can be resolved via a better explanation. Relying on the 1979 House conference report cited in the Handbook, the purposes of the ESA, and the proceedings of the 1975 oversight hearings of the subcommittee on Fisheries and Wildlife Conservation and the Environment of the committee on Merchant Marine and Fisheries should provide ample context for that better explanation. Retention of this tool is very important and entirely consistent with the spirit and intent of the ESA. The updated Handbook should include the "better explanation."

I've asked NCTC (Richard B.) to find the 1979 House conference report and to distribute it to this group; I cannot find this document.

Larry

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Tuesday, June 23, 2020 9:20 AM
To: Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning

Ecological Services, MS: ES

5275 Leesburg Pike

Falls Church, VA 22041-3803

Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It

next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the “benefit of the doubt” (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners’ argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners’ argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project’s lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn’t properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn’t have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn’t fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it’s impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid’s capacity, and turbines’ impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we’d appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant’s preferred route meets the permit-issuance criteria. Petitioners don’t challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our “shall-issue” position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The

petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	Delphey, Phil
To:	Laye, Doug; Salata, Larry; Adams, Trish; Boroja, Maria T; Smith, Glenn S; Brown, Daniel; Paul, Keith; Myers, Karen; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc:	Smith, Kimberly; Burgess, Angela; Bulavinetz, Richard; Hein, Eric; Nuss, John; Freund, Kate; Frederick, Terry M; Defreese, Amy; Bulavinetz, Richard
Subject:	RE: opinion: R-Project / ABB and whooping crane
Date:	Monday, June 29, 2020 2:42:42 PM
Attachments:	image001.png H.R. Report No. 96-697 (Conf. Report).pdf

---

I think that this is the document that Larry said that he could not find – the (Congressional) Conference Report from 1979 that provides an interesting backdrop with respect to the adequacy of information on which a biological opinion should be based. See the discussion beginning on p. 1442.

I added Rich Bulavinetz to this email so that he could grab this doc.

Phil Delphey
Division of Ecological Services
U.S. Fish and Wildlife Service
Bloomington, MN 55425
612.285-1064 (mobile)

From: Laye, Doug <Doug_Laye@fws.gov>
Sent: Monday, June 29, 2020 11:25 AM
To: Salata, Larry <larry_salata@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>; Nuss, John <john_nuss@fws.gov>; Freund, Kate <kate_freund@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>
Subject: RE: opinion: R-Project / ABB and whooping crane

Just as a nuance/reminder. Benefit of the doubt is not a standard and is not a stand-alone rationale for a conclusion. The Act's standard for information and rationale used in our consultation documents is "best scientific and commercial data available". When our work is challenged in court under the Administrative Procedures Act (APA) we will be judged by the Act's standard. Any assumption, rationale, data choice, conclusion, etc. will be judged by that standard, so those aspects must be supported by the best scientific and commercial data available – even if that data is scant or must be extrapolated from work not specifically related to the species or habitat being evaluated.

Doug Laye National Section 7 Policy Lead U.S. Fish and Wildlife Service 303 236 4046

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 10:01 AM
To: Adams, Trish <trish_adams@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>; Nuss, John <john_nuss@fws.gov>; Freund, Kate <kate_freund@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Trish: The Consultation Handbook contains the following text on page 1-7:

"…an overriding factor in carrying out consultations should always be the use of best available scientific and commercial data to make findings regarding the status of the species, the effects of a proposed action on the species or critical habitat, and the determination of **jeopardy/no jeopardy** to listed species or **adverse modification/no** destruction or **adverse modification** to designated critical habitats."

On page 1-7, the Consultation Handbook further states two options for completing consultations where significant data gaps exist: (1) if the action agency concurs, extend the date for issuance of a BiOp until sufficient information is developed for a more complete analysis; or (2) develop the BiOp w/ available information giving the benefit of the doubt to the species.

Based on the above text, perhaps the HCP Handbook can include the following discussion if it doesn't already:

An overriding factor in developing the HCP should always be the use of best available scientific and commercial data to inform findings regarding: the status of each covered species; the role of the HCP-covered area in the survival and recovery of each covered species; and the effects of covered activities on covered species. In situations involving significant data gaps or uncertainty, two options for completing development of a HCP exist: (1) if the applicant concurs, extend the date for completion of the HCP until sufficient information is developed for a more complete analysis; or (2) develop the HCP w/ available information giving the benefit of the doubt to the covered species.

Larry

From: Adams, Trish <trish_adams@fws.gov>

Sent: Monday, June 29, 2020 7:43 AM
To: Salata, Larry <larry_salata@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Hi Larry,

Thank you for the insights. In your email, I'm assuming you are referring to the HCP Handbook? If so, I don't recall these concerns being raised by the solicitors or staff during internal FWS/NMFS review the draft of the HCP Handbook. The HCP Handbook is intended to be a living document. We are currently compiling a list of corrections and clarifications for the next update to the HCP Handbook. If you can point out the specific areas in the HCP Handbook that you feel are confusing or are in error and provided revised language, it would be welcomed.

Thanks again!
Trish

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning

Ecological Services, MS: ES

5275 Leesburg Pike

Falls Church, VA 22041-3803

Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 9:56 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith

<keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

The Court's finding that the congressional directive to give the benefit of the doubt to listed species in consultations involving data gaps and uncertainty is ambiguous can be resolved via a better explanation. Relying on the 1979 House conference report cited in the Handbook, the purposes of the ESA, and the proceedings of the 1975 oversight hearings of the subcommittee on Fisheries and Wildlife Conservation and the Environment of the committee on Merchant Marine and Fisheries should provide ample context for that better explanation. Retention of this tool is very important and entirely consistent with the spirit and intent of the ESA. The updated Handbook should include the "better explanation."

I've asked NCTC (Richard B.) to find the 1979 House conference report and to distribute it to this group; I cannot find this document.

Larry

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Tuesday, June 23, 2020 9:20 AM
To: Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning

Ecological Services, MS: ES

5275 Leesburg Pike

Falls Church, VA 22041-3803

Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an

ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development.

The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	Salata, Larry
To:	Adams, Trish; Boroja, Maria T; Smith, Glenn S; Laye, Doug; Brown, Daniel; Paul, Keith; Myers, Karen; Delphey, Phil; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc:	Smith, Kimberly; Burgess, Angela; Bulavinetz, Richard; Hein, Eric; Nuss, John; Freund, Kate; Frederick, Terry M; Defreese, Amy
Subject:	Re: opinion: R-Project / ABB and whooping crane
Date:	Monday, June 29, 2020 10:13:29 AM

Trish: If the status of a covered species does not meet the criteria in the Consultation Handbook for the survival condition, that should be fully considered in the development of a HCP.

Larry

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 9:01 AM
To: Adams, Trish <trish_adams@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>; Nuss, John <john_nuss@fws.gov>; Freund, Kate <kate_freund@fws.gov>; Frederick, Terry M <teresa_frederick@fws.gov>; Defreese, Amy <Amy_Defreese@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Trish: The Consultation Handbook contains the following text on page 1-7:

"…an overriding factor in carrying out consultations should always be the use of best available scientific and commercial data to make findings regarding the status of the species, the effects of a proposed action on the species or critical habitat, and the determination of **jeopardy/no jeopardy** to listed species or **adverse modification/no** destruction or **adverse modification** to designated critical habitats."

On page 1-7, the Consultation Handbook further states two options for completing consultations where significant data gaps exist: (1) if the action agency concurs, extend the date for issuance of a BiOp until sufficient information is developed for a more complete analysis; or (2) develop the BiOp w/ available information giving the benefit of the doubt to the species.

Based on the above text, perhaps the HCP Handbook can include the following discussion if it doesn't already:

An overriding factor in developing the HCP should always be the use of best available scientific

and commercial data to inform findings regarding: the status of each covered species; the role of the HCP-covered area in the survival and recovery of each covered species; and the effects of covered activities on covered species. In situations involving significant data gaps or uncertainty, two options for completing development of a HCP exist: (1) if the applicant concurs, extend the date for completion of the HCP until sufficient information is developed for a more complete analysis; or (2) develop the HCP w/ available information giving the benefit of the doubt to the covered species.

Larry

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 29, 2020 7:43 AM
To: Salata, Larry <larry_salata@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Hi Larry,

Thank you for the insights. In your email, I'm assuming you are referring to the HCP Handbook? If so, I don't recall these concerns being raised by the solicitors or staff during internal FWS/NMFS review the draft of the HCP Handbook. The HCP Handbook is intended to be a living document. We are currently compiling a list of corrections and clarifications for the next update to the HCP Handbook. If you can point out the specific areas in the HCP Handbook that you feel are confusing or are in error and provided revised language, it would be welcomed.

Thanks again!
Trish

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike

Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 9:56 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

The Court's finding that the congressional directive to give the benefit of the doubt to listed species in consultations involving data gaps and uncertainty is ambiguous can be resolved via a better explanation. Relying on the 1979 House conference report cited in the Handbook, the purposes of the ESA, and the proceedings of the 1975 oversight hearings of the subcommittee on Fisheries and Wildlife Conservation and the Environment of the committee on Merchant Marine and Fisheries should provide ample context for that better explanation. Retention of this tool is very important and entirely consistent with the spirit and intent of the ESA. The updated Handbook should include the "better explanation."

I've asked NCTC (Richard B.) to find the 1979 House conference report and to distribute it to this group; I cannot find this document.

Larry

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Tuesday, June 23, 2020 9:20 AM
To: Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue

was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that

we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	Salata, Larry
To:	Adams, Trish; Boroja, Maria T; Smith, Glenn S; Laye, Doug; Brown, Daniel; Paul, Keith; Myers, Karen; Delphey, Phil; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc:	Smith, Kimberly; Burgess, Angela; Bulavinetz, Richard; Hein, Eric; Skorupa, Joseph
Subject:	Re: opinion: R-Project / ABB and whooping crane
Date:	Monday, June 29, 2020 9:19:59 AM

Does the current status of the whooping crane meet the definition of the "survival" condition in the Consultation Handbook? If not, giving the benefit of the doubt to the species in the 7(a)(2) analysis takes on much more significance.

Larry

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 8:14 AM
To: Adams, Trish <trish_adams@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Hi Trish: I was referring to the Consultation Handbook. Sorry for not being more clear.

Larry

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 29, 2020 7:43 AM
To: Salata, Larry <larry_salata@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Hi Larry,

Thank you for the insights. In your email, I'm assuming you are referring to the HCP

Handbook? If so, I don't recall these concerns being raised by the solicitors or staff during internal FWS/NMFS review the draft of the HCP Handbook. The HCP Handbook is intended to be a living document. We are currently compiling a list of corrections and clarifications for the next update to the HCP Handbook. If you can point out the specific areas in the HCP Handbook that you feel are confusing or are in error and provided revised language, it would be welcomed.

Thanks again!
Trish

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 9:56 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

The Court's finding that the congressional directive to give the benefit of the doubt to listed species in consultations involving data gaps and uncertainty is ambiguous can be resolved via a better explanation. Relying on the 1979 House conference report cited in the Handbook, the purposes of the ESA, and the proceedings of the 1975 oversight hearings of the subcommittee on Fisheries and Wildlife Conservation and the Environment of the committee on Merchant Marine and Fisheries should provide ample context for that better explanation. Retention of this tool is very important and entirely consistent with the spirit and intent of the ESA. The updated Handbook should include the "better explanation."

I've asked NCTC (Richard B.) to find the 1979 House conference report and to distribute it to this group; I cannot find this document.

Larry

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Tuesday, June 23, 2020 9:20 AM
To: Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning

Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could

not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the

Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	Laye, Doug
To:	Salata, Larry; Boroja, Maria T; Smith, Glenn S; Brown, Daniel; Paul, Keith; Myers, Karen; Delphey, Phil; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc:	Smith, Kimberly; Burgess, Angela; Adams, Trish; Bulavinetz, Richard; Hein, Eric
Subject:	RE: opinion: R-Project / ABB and whooping crane
Date:	Monday, June 29, 2020 8:06:49 AM
Attachments:	Benefit of doubt Congress Conference Report_1979.pdf Cape Sable ITS case.pdf image002.png

Attached is the conference report. BOD is on page 12. The draft handbook will include a short discussion regarding benefit of the doubt. Also see the attached excerpt from a court case for a judges pretty good review of the thought process regarding Congress' intent. Highlighted at page 15-17. To date this Cape Sable court opinion is the most comprehensive overview of subject.

Doug Laye National Section 7 Policy Lead U.S. Fish and Wildlife Service 303 236 4046

From: Salata, Larry <larry_salata@fws.gov>
Sent: Monday, June 29, 2020 7:57 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>; Bulavinetz, Richard <richard_bulavinetz@fws.gov>; Hein, Eric <eric_hein@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

The Court's finding that the congressional directive to give the benefit of the doubt to listed species in consultations involving data gaps and uncertainty is ambiguous can be resolved via a better explanation. Relying on the 1979 House conference report cited in the Handbook, the purposes of the ESA, and the proceedings of the 1975 oversight hearings of the subcommittee on Fisheries and Wildlife Conservation and the Environment of the committee on Merchant Marine and Fisheries should provide ample context for that better explanation. Retention of this tool is very important and entirely consistent with the spirit and intent of the ESA. The updated Handbook should include the "better explanation."

I've asked NCTC (Richard B.) to find the 1979 House conference report and to distribute it to this group; I cannot find this document.

Larry

From: Boroja, Maria T <maria_boroja@fws.gov>

Sent: Tuesday, June 23, 2020 9:20 AM
To: Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning

Ecological Services, MS: ES

5275 Leesburg Pike

Falls Church, VA 22041-3803

Office Phone:703-358-2120
Office Fax: 703-358-1800

Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	Salata, Larry
To:	Boroja, Maria T; Smith, Glenn S; Laye, Doug; Brown, Daniel; Paul, Keith; Myers, Karen; Delphey, Phil; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc:	Smith, Kimberly; Burgess, Angela; Adams, Trish
Subject:	Re: opinion: R-Project / ABB and whooping crane
Date:	Saturday, June 27, 2020 7:53:59 AM

Note: As I'm sure you appreciate, delineation of the action area also informs identification of proposed species or CH that should be addressed in the BA to determine if conferencing is required per 402.10.

Larry

From: Salata, Larry <larry_salata@fws.gov>
Sent: Saturday, June 27, 2020 6:44 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

Maria: An interesting decision that I'm just starting to digest. In terms of defining the action area, I hope everyone appreciates the clear distinction originally set forth in the 1986 regulations that the action area be defined as a prerequisite for the Federal action agency to request a species list; see 402.12(c). On that basis, the action area is truly (as the regulatory definition of this term states) the area likely to be affected by the proposed Federal action, not the area associated with the effects of the action on listed species or CH. Please note the regulatory definition of action area is devoid of any reference to effects of the action on listed species or CH. As contemplated in the regulations, the sole purpose of delineating the action area is to inform the identification of listed species and CH known or expected to occur w/in the affected area that should be evaluated in the BA to determine if formal consultation is required. Again, the effects of the action on listed species and CH are not relevant to defining the action area. Unfortunately, the Handbook has muddled this discussion and our customary practice. I hope the Court has not perpetuated that error.

Larry

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Tuesday, June 23, 2020 9:20 AM
To: Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel

<daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM

To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and

take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From: Smith, Kimberly
To: Burgess, Angela; Boroja, Maria T
Subject: Re: Questions for NPPD
Date: Thursday, June 25, 2020 11:08:51 AM

Looks good - I don't have anything to add.

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Thursday, June 25, 2020 11:04 AM
To: Smith, Kimberly <kimberly_smith@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: Questions for NPPD

Maria and Kim - any additional thoughts on questions for NPPD below? Figured I'd try to get the questions to the group around noon, unless you need more time to think about it.

- Are there any other wind projects with interconnection agreements to the R-project?
- What is NPPD's position on the potential of re-routing around historic properties to avoid or minimize adverse effects?
- What is NPPD's current timeline for construction given the court decision?
- If an SEIS is required, would NPPD be willing to provide similar resources (consultant work) for that effort?

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, June 25, 2020 7:34 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: Questions for NPPD

Hello Angela,

You did a good job of including all questions mentioned on the call. I revised one question, so rerouting would consider minimization or avoidance (see below). I cannot think of additional questions to ask for this call. However, I do have questions and considerations when we go

into detailed NEPA/HCP discussions.

Jeff

- What is NPPD's position on the potential of re-routing around historic properties to avoid or minimize adverse effects?

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Wednesday, June 24, 2020 3:52 PM
To: Runge, Jeff <jeff_runge@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Questions for NPPD

Here's the list of questions for DOJ to provide to NPPD - is there anything missing? Not sure if the last question is necessary at this point, but it could help answer questions we'll likely soon be getting about timeline.

- Are there any other wind projects with interconnection agreements to the R-project?
- What is NPPD's position on the potential of re-routing around historic properties?
- What is NPPD's current timeline for construction given the court decision?
- If an SEIS is required, would NPPD be willing to provide similar resources (consultant work) for that effort?

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

From:	Burgess, Angela
To:	Runge, Jeff; Smith, Kimberly; Boroja, Maria T
Cc:	DeBerry, Drue
Subject:	Re: Additional R-Project Thoughts
Date:	Thursday, June 25, 2020 10:54:34 AM

Thanks for your thoughts, Jeff, those will be very helpful moving forward. I'm flagging for the future and also cc'ing Drue so we'll have another person looped in to help us remember.

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Thursday, June 25, 2020 10:18 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Additional R-Project Thoughts

I wanted to share several thoughts with the group as we move forward with R-Project planning. I have a number of documents that we can include in our files:

- draft PA amendment that addresses mitigation for cultural resources impacts
- draft PA amendment to address concerns from the Cherokee Nation
- annual monitoring and compliance reports
- minor HCP amendments

In our annual compliance meeting, NPPD proposed several amendments to the HCP which were categorized as minor amendments. I coordinated with Drue and Angela to finalize these amendments. I want to share this with the group, so these amendments can be incorporated into future documents.

We should have a discussion about record management. As you know, our administrative record was massive, and I am concerned that we will be adding more records. If there is any way we can treat this as a new decision with a new starting point for record keeping. For example, I hope we do not have to maintain all all seven of the whooping crane risk analyses

(and all of the deliberations with these documents). I also saw numerous problems with multiple filing systems (project consultant, field office, regional office, Meg's files), and it would be helpful to have an organized, centralized system for records versus records scattered in several locations.

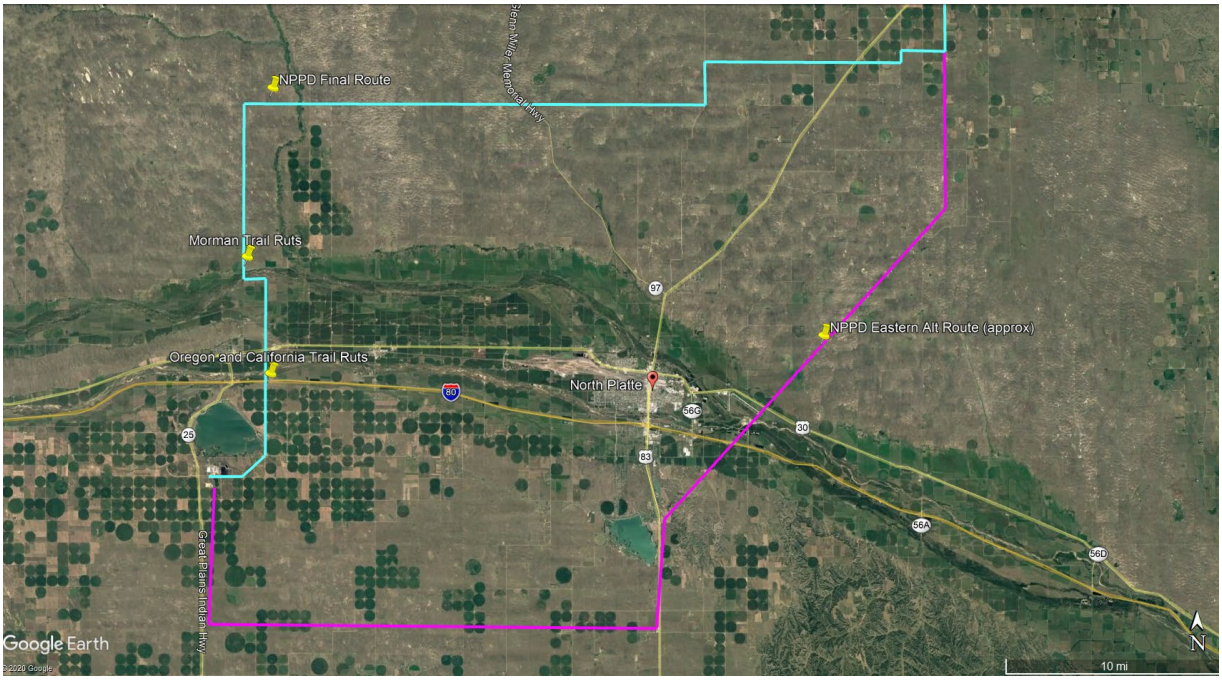
One last thought is that NPPD had started work at the Thedford Substation, and there were impacts from construction at the site. There was also a non-compliance event near the Thedford site where compliance managers found a contractor heading in the wrong direction. The contractor placed soil in 0.29 acres of ABB habitat which we considered a permanent habitat impact because the site is being developed as a residential property. It may be important to consider these activities once we restart NEPA and s7.

I wanted to share this information in advance, so we can include these considerations into our planning (where applicable).

Jeff

Jeff Runge
U.S. Fish and Wildlife Service
9325 South Alda Road
Wood River, Nebraska 68883
Office: (308) 218-0049
Cell: (308) 379-8553

From: VanNess, Meg
To: Burgess, Angela
Subject: R-Line: Map of Route and Trails
Date: Wednesday, June 24, 2020 12:54:34 PM
Attachments: image.png



Margaret (Meg) Van Ness
Regional Historic Preservation Officer
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103
303.319.1229

From: Jacobsen, Dana E
To: Burgess, Angela
Subject: FW: [EXTERNAL] FW: OCTA v. Walsh, 1:19-cv-1945 (D. Colo.)
Date: Wednesday, June 24, 2020 8:08:11 AM

FYI.

From: McNeil, Bridget (ENRD) <Bridget.McNeil@usdoj.gov>
Sent: Wednesday, June 24, 2020 7:57 AM
To: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>
Cc: Izfar, Sarah (ENRD) <Sarah.Izfar@usdoj.gov>
Subject: [EXTERNAL] FW: OCTA v. Walsh, 1:19-cv-1945 (D. Colo.)

fyi

From: Murray Feldman <MFeldman@hollandhart.com>
Sent: Tuesday, June 23, 2020 4:00 PM
To: Bill Eubanks <bill@eubankslegal.com>
Cc: McNeil, Bridget (ENRD) <BMcNeil@ENRD.USDOJ.GOV>; Izfar, Sarah (ENRD) <SIzfar@ENRD.USDOJ.GOV>
Subject: RE: OCTA v. Walsh, 1:19-cv-1945 (D. Colo.)

Bill:

Thank you for your emails yesterday and for forwarding the two article examples.

We wanted to provide you with some initial, high-level information on the status of the R-Project construction activities (those activities that were taking place during the pendency of the district court litigation consistent with the Stipulation of the parties as amended).

At the present time, all of the work identified in the Stipulation is currently paused, with the exception of the Thedford Substation, where NPPD is using a water truck to continue to wet down the worksite as an environmental control method for containing blowing dust. All other work under the Stipulation was paused following entry of Judge Martinez's decision and order. No construction activity work that was occurring consistent with the Stipulation is being done.

NPPD is working on approaches to stabilize and secure, for an extended holding period, those sites were work was occurring, such as substation sites, storage yards, access areas, and other areas as identified in the Stipulation. NPPD must determine and address how to button up those areas, to secure and stabilize the sites for safety, environmental protection, and security reasons.

If you have any questions prior to the call with DOJ counsel (Bridget and Sarah), please let me know.

—Murray Feldman

From: Bill Eubanks <bill@eubankslegal.com>
Sent: Monday, June 22, 2020 8:00 AM
To: Murray Feldman <MFeldman@hollandhart.com>
Cc: McNeil, Bridget (ENRD) <Bridget.McNeil@usdoj.gov>; Izfar, Sarah (ENRD) <Sarah.Izfar@usdoj.gov>
Subject: Re: OCTA v. Walsh, 1:19-cv-1945 (D. Colo.)

External Email

There are quite a few, but since they seem to be quoting Tom Kent from a single source I will pass this one along as a representative example: https://www.nptelegraph.com/news/nebraska-public-power-district-says-r-project-route-won-t-change-after-federal-judge-vacates/article_dd14fade-b1e1-11ea-9cb4-2f4762f34ce7.html

Attached is another from a local paper in Nebraska.

Thanks,

Bill

On Mon, Jun 22, 2020 at 9:54 AM Murray Feldman <MFeldman@hollandhart.com> wrote:

> Bill:
>
> Please provide me with copies of the "several" statements and articles you reference below.
>
> Thank you.
>
> —Murray Feldman
>
>
> > On Jun 22, 2020, at 7:31 AM, Bill Eubanks <bill@eubankslegal.com> wrote:
> >
> > **External Email**
> >
> > Hi all -- as part of our conference call (I can be available at your convenience), my clients have asked me to inquire (to Murray) about several statements that NPPD officials have made in news articles suggesting that despite vacatur of the ITP, NPPD intends to stockpile materials, upgrade substations, clear vegetation along the project route, and conduct other site preparation work. I would appreciate any information Murray can provide in response to that inquiry.

Thanks,

Bill

On Fri, Jun 19, 2020 at 4:49 PM Bill Eubanks <bill@eubankslegal.com> wrote:

> Bridget, Sarah, and Murray,
>
> I hope my email finds you doing well. In light of the Court's ruling earlier this week, I thought it might be prudent for counsel to set up a conference call to discuss next steps in terms of either an appeal or the Service's new decisionmaking process (as well as the status of project construction), so that we are all working from the same information. I recognize that some of this information might be preliminary at this stage, but my clients nevertheless asked me to reach out since there is no harm in a conference call to understand where each party is at the moment. Please let me know if there are dates and times next week that work best for you. Have a good weekend.
>
> Thanks,
>
> Bill
>
> --
> Bill Eubanks
> Eubanks & Associates, LLC
> 1331 H Street NW, Suite 902
> Washington, DC 20005
> (970) 703-6060
> www.eubankslegal.com

--
Bill Eubanks
Eubanks & Associates, LLC
1331 H Street NW, Suite 902
Washington, DC 20005
(970) 703-6060
www.eubankslegal.com

--
Bill Eubanks
Eubanks & Associates, LLC
1331 H Street NW, Suite 902
Washington, DC 20005

(970) 703-6060
www.eubankslegal.com

From: Laye, Doug
To: Boroja, Maria T; Smith, Glenn S; Brown, Daniel; Salata, Larry; Paul, Keith; Myers, Karen; Delphey, Phil; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc: Smith, Kimberly; Burgess, Angela; Adams, Trish
Subject: RE: opinion: R-Project / ABB and whooping crane
Date: Tuesday, June 23, 2020 10:25:07 AM
Attachments: image003.png

I agree. It also has some interesting views on what our HCP "causes" as an effect of the action. The judge gave voice to one on my continuing "brain twitches" regarding discretion and section 10 ITPs.

Doug Laye National Section 7 Policy Lead U.S. Fish and Wildlife Service 303 236 4046

From: Boroja, Maria T <maria_boroja@fws.gov>
Sent: Tuesday, June 23, 2020 10:20 AM
To: Smith, Glenn S <glenn_s_smith@fws.gov>; Laye, Doug <Doug_Laye@fws.gov>; Brown, Daniel <daniel_brown@fws.gov>; Salata, Larry <larry_salata@fws.gov>; Paul, Keith <keith_paul@fws.gov>; Myers, Karen <karen_myers@fws.gov>; Delphey, Phil <Phil_Delphey@fws.gov>; Higgins, Damian <damian_higgins@fws.gov>; Duran, Elizabeth M <elizabeth_duran@fws.gov>; Durflinger, Michelle <michelle_durflinger@fws.gov>
Cc: Smith, Kimberly <kimberly_smith@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Adams, Trish <trish_adams@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning

Ecological Services, MS: ES

5275 Leesburg Pike

Falls Church, VA 22041-3803

Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only

on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance

criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	Boroja, Maria T
To:	Smith, Glenn S; Laye, Doug; Brown, Daniel; Salata, Larry; Paul, Keith; Myers, Karen; Delphey, Phil; Higgins, Damian; Duran, Elizabeth M; Durflinger, Michelle
Cc:	Smith, Kimberly; Burgess, Angela; Adams, Trish
Subject:	Fw: opinion: R-Project / ABB and whooping crane
Date:	Tuesday, June 23, 2020 10:20:25 AM
Attachments:	DENVER-#680851-v1-R_Line_mixed_SJ_decision.PDF

FYI - this is an interesting decision on one our recent HCP's that has a lot of nuance with regard to the interface of section 7 and 10, in a number of areas - especially delineating the action area. I would love to have a discussion on a future section 7 coordinators call, or an ad hoc call to get your thoughts.

Please let me know if you have any questions.

Maria

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy,

Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-

Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in

our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	VanNess, Meg
To:	Burgess, Angela
Cc:	DeBerry, Drue; Boroja, Maria T
Subject:	R-Project: Some Maps of Interest
Date:	Monday, June 22, 2020 2:57:55 PM
Attachments:	16-NE-ESX-001 (R-Project) Alternative Routes Map.pdf 16-NE-ESX-001 (R-Project) Google Earth 1 - Oregon Trail Ruts.jpg

---

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103
303.319.1229

From: VanNess, Meg <Meg_VanNess@fws.gov>
Sent: Monday, June 22, 2020 10:20 AM
To: Burgess, Angela <Angela_Burgess@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Re: opinion: R-Project / ABB and whooping crane

I'm free this afternoon after about 1:30 if that works for you.

Margaret (Meg) Van Ness
Regional Historic Preservation Officer
134 Union Blvd.
Lakewood, Colorado 80228

303.236.8103
303.319.1229

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Monday, June 22, 2020 10:18 AM
To: VanNess, Meg <Meg_VanNess@fws.gov>
Cc: DeBerry, Drue <drue_deberry@fws.gov>; Boroja, Maria T <maria_boroja@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

Morning Meg,
I believe Drue already shared the court opinion for R-line with you, but thought this summary was also helpful.

It's likely we'll have discussions with solicitors and DOJ about next steps sometime this week. It would be helpful to get your initial take on the NHPA part of the decision prior to that call. Any chance you have some time today or tomorrow?

Thanks,

Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within

the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From:	Burgess, Angela
To:	VanNess, Meg
Cc:	DeBerry, Drue; Boroja, Maria T
Subject:	Fw: opinion: R-Project / ABB and whooping crane
Date:	Monday, June 22, 2020 10:18:29 AM
Attachments:	DENVER-#680851-v1-R_Line_mixed_SJ_decision.PDF

Morning Meg,
I believe Drue already shared the court opinion for R-line with you, but thought this summary was also helpful.

It's likely we'll have discussions with solicitors and DOJ about next steps sometime this week. It would be helpful to get your initial take on the NHPA part of the decision prior to that call. Any chance you have some time today or tomorrow?

Thanks,
Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Adams, Trish <trish_adams@fws.gov>
Sent: Monday, June 22, 2020 9:59 AM
To: Boroja, Maria T <maria_boroja@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>; Smith, Kimberly <kimberly_smith@fws.gov>
Subject: Fw: opinion: R-Project / ABB and whooping crane

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C

Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program
U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From: Adams, Trish
To: Boroja, Maria T; Burgess, Angela; Smith, Kimberly
Subject: Fw: opinion: R-Project / ABB and whooping crane
Date: Monday, June 22, 2020 9:59:30 AM
Attachments: DENVER-#680851-v1-R_Line_mixed_SJ_decision.PDF

FYI.. this summary is from Parks Gilbert our HQ ESA Litigation Specialist. Thought Joe might find it useful too.

Thanks for the great conversation this morning!

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Gilbert, Parks <parks_gilbert@fws.gov>
Sent: Monday, June 22, 2020 11:39 AM
To: Frazer, Gary D <gary_frazer@fws.gov>; Shultz, Gina <Gina_Shultz@fws.gov>; Shaughnessy, Michelle <Michelle_Shaughnessy@fws.gov>; Ellis, Lisa A <Lisa_Ellis@fws.gov>; Fahey, Bridget <bridget_fahey@fws.gov>; Galst, Carey <carey_galst@fws.gov>; Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; Backsen, Sarah <Sarah_Backsen@fws.gov>; Chen, Linus Y <Linus.Chen@sol.doi.gov>; Romanik, Peg A <PEG.ROMANIK@sol.doi.gov>
Cc: Adams, Trish <trish_adams@fws.gov>; Elbert, Daniel C <daniel_elbert@fws.gov>
Subject: opinion: R-Project / ABB and whooping crane

All,

On 6/17, the District of Colorado issued an opinion in a case challenging the R-Project under the APA, ESA Secs. 7 & 10, NEPA, and NHPA. The R-Project is a 200+ mile long transmission line in Nebraska. The plaintiffs are the Oregon-California Trails Association, Western Nebraska Resources Council, Hanging H East, and Whitetail Farms East; we and the local Power District are defendants. We issued an ITP to the local Power District, which applied for the permit to allow it to build the line. The ITP applies to American burying beetles only.

The court first focused on the plaintiffs' arguments that the Project will illegally take whooping cranes, piping plovers, and interior least terns. As a preliminary matter, the court dug into whether we can issue a permit for one species, but not all of the species, that are likely to be incidentally taken by an action, and leave take of the other species to be addressed through enforcement actions. And on the other hand, if

we can deny a permit when the application only focuses on one species and leaves out other listed species. It thinks that our position is that we could deny a permit if the application was sufficient for the applied for species, but we thought that another species would be taken. Neither party focused on this threshold issue, but rather only on whether whooping cranes should've been covered because they were likely to be taken.

Regarding take of whooping cranes, the court applied a "best available science" standard as to whether take was likely to occur from crane collision with the power lines. It noted the large amount of competing information, ultimately finding that we thoroughly considered all available information and made a reasonable decision. It next considered whether, given the large amount of uncertainly about the likelihood of take, we had to give the crane the "benefit of the doubt" (from a 1979 House Conference Report). It concluded that the language was too ambiguous, that it could not create a rule, and that we had taken uncertainty into account. It next turned to take of cranes from habitat and behavioral disturbances (p. 53), but noted that petitioners' argument was undeveloped and did not show that we erred in our analysis on this issue.

Next, the court looked at impacts on interior least terns and piping plovers, noting also that the petitioners' argument on this point was undeveloped. It found that nothing in the record supported their assertion that one or more of these birds would collide with the power lines over the Project's lifespan.

The court turned to whether wind power projects built in the area as a result of the R-Project will pose a collision threat to the bird species. Petitioners argue that we didn't properly analyze the effects of potential wind power development, violating ESA Secs. 7 & 10 and NEPA. For Secs. 7 & 10, we shouldn't have issued an ITP for the beetle because it also should have covered the bird species; and for NEPA, that we didn't fully analyze the effects. The EIS analyzes impacts on the birds as a cumulative effect, which the BiOp incorporates. We limited the analysis regarding wind energy to the action area, which here was the area adjacent to the Project; petitioners argue was error.

The court first examined whether we improperly classified the wind power development as a cumulative effect rather than an indirect effect; indirect effects help define the scope of the action area. Because one of the purposes of the R-Project was to provide transmission to wind projects, the court found that wind was actually an indirect effect. It then had to determine whether this was prejudicial error, noting that we did consider some wind development, but not all of the possible development. The court noted that we explained that it's impossible to predict with certainty how much wind power would be developed because it depends on the entire power grid's capacity, and turbines' impact on birds depends on their siting. It accepted our reasoning and did not find prejudicial error as to possible wind development in the action area. But it did find error in our excluding other possible wind development, in Antelope County, so it remanded the BiOp and EIS to address this.

Next, the court examined whether we'd appropriately considered alternative routes under Sec. 10 and NEPA. The court started with NEPA. In the EIS, one of the alternatives we analyzed was an alternate route for the Project, the Central Route, which we found to be better, but we did not pick it because we stated that we had to issue the Sec. 10 permit for the applicant's preferred route meets the permit-issuance criteria. Petitioners don't challenge this, so the court deemed their further arguments about our analysis of the Central route to be moot. They also challenge our consideration of different alternatives regarding power line towers (lattice towers vs. monopole towers), but because they do not challenge our "shall-issue" position, their argument fails. The court then turned to Sec. 10. It considered whether we had appropriately concluded that the R-Project applicants would meet the standard for permit issuance (minimize and mitigate to the maximum extent practicable). The petitioners specifically argued that we should have considered the Central Route as part of that analysis. The court disagreed, as we made a rational finding that the Central Route wasn't a practicable alternative, the R-Project proponents will fully mitigate by buying beetle habitat, and the Central Route as an alternative does not compare favorably with how cited precedent conceives of alternatives; it would be like telling a housing developer to go build somewhere else and come back with a new application.

The court then turned to our analysis specific to the beetle and whether we'd considered the best available science on how the R-Project would directly impact it. In particular, petitioners argue that we did not consider detailed comments from a researcher that we underestimated potential population density, take by crushing, and take by disturbing feeding patterns. But the court found that we did address these in our response to public comments, and that we did not need to so in the ITP. It then looked at whether our analysis regarding the indirect impacts on beetles from wind power development. As above, with impacts on listed birds from possible wind power development outside the action area, we needed to consider those impacts on beetles.

Lastly, the court considered whether we had complied with the NHPA. It found that we had not properly considered alternatives, some of which might have been within the proponents' ability to adopt or at least would have been useful for comparison purposes in the analysis. It also found that we should have done an NHPA analysis on the possible wind farm developments that we did not consider to be in the action area.

The court vacated the ITP and vacated our BiOp and EIS in part, also affirming them in part.

Thank you,

Parks

Parks Gilbert (he/him)
ESA Litigation Specialist
Ecological Services Program

U.S. Fish and Wildlife Service
5275 Leesburg Pike MS:ES
Falls Church, VA 22041
703/358-1758
parks_gilbert@fws.gov

From: Adams, Trish
To: Burgess, Angela
Subject: Re: R-line Remand
Date: Monday, June 22, 2020 5:38:13 AM

Hi Angela,

No apologies necessary. I look forward to talking with you all this morning.

Thanks! Trish

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Sunday, June 21, 2020 4:39 PM
To: Adams, Trish <trish_adams@fws.gov>
Subject: Re: R-line Remand

Hi Trish,
Apologies for not getting the decision to you right away - it was a bit chaotic and then I was off on Friday. Just put a call on the calendar for Monday morning, with Kim and Maria if they can make it. Talk to you then!

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov
Teleworking Mondays and Wednesdays - Phone forwarded to above number

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Adams, Trish <trish_adams@fws.gov>
Sent: Friday, June 19, 2020 6:29 AM

To: Burgess, Angela <Angela_Burgess@fws.gov>
Subject: R-line Remand

Hi Angela,

Linus shared with me the remand order from the courts yesterday. I've been reading through it and have asked to have a conversation with Linus and some of the other solicitors in HQ and of course it would be great to have you participate as well. Linus also suggested that Dana who I believe is your regional SOL participate as well.

It would be good if we could touch base before this call with the SOL (I haven't set that up yet) ... would you have time today or Monday?

Thanks! Trish

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From:	Adams, Trish
To:	Cox, Dan; Dell, David; Connally, Kevin; Horton, Andrew M; Burgess, Angela; Tuegel, Marty; Durflinger, Michelle; Freund, Kate; Nuss, John
Cc:	Murnane, Amanda M; Ellis, Lisa A
Subject:	R-Line ITP law suit
Date:	Friday, June 19, 2020 8:08:14 AM
Attachments:	DENVER-#680851-v1-R_Line_mixed_SJ_decision.PDF

Hi All,

You may have heard about Colorado District Court's decision to vacate the R-line Transmission Line ITP (R6). There is a lot to unpack in the 116 page Order. I'm reading through it, have lots of questions, and hope to meet with SOL and R6 to get a better understanding of what this means for the program in general and some of the HCPs currently in development. Specifically, it said we failed under NHPA (partly) and excluded consideration of effects due to potential wind turbine development, which had a domino effect in our analysis under ESA, NEPA, and NHPA.

In the meantime, I'm sharing it with you all. As it will likely generate lots of questions, this will be one of the key agenda items for our July 1 HCP Call. I apologize for not sending it out yesterday. If you have any other agenda items, please let me or Amanda know.

Thanks, Trish

Trish Adams
National Habitat Conservation Planning Coordinator
U.S. Fish and Wildlife Service Headquarters
Branch of Recovery and Conservation Planning
Ecological Services, MS: ES
5275 Leesburg Pike
Falls Church, VA 22041-3803
Office Phone:703-358-2120
Office Fax: 703-358-1800
Office location: 2W010C
Email: trish_adams@fws.gov

From:	DeBerry, Drue
To:	Szuszwalak, Joseph A; Burgess, Angela
Cc:	Alt, Nicole; Small, Stephen M
Subject:	Re: Reporter on deadline: Comment re: ABB ITP / R-line lawsuit decision
Date:	Friday, June 19, 2020 6:34:38 AM

Great job Angela!

Drue DeBerry
Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: Szuszwalak, Joseph A <joseph_szuszwalak@fws.gov>
Sent: Thursday, June 18, 2020 2:53 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Cc: Alt, Nicole <Nicole_Alt@fws.gov>; Small, Stephen M <stephen_small@fws.gov>
Subject: Re: Reporter on deadline: Comment re: ABB ITP / R-line lawsuit decision

Updated with Angela's suggestion:

- USFWS (the Service) is reviewing the recent decision in this case. The Service used the best available science in granting an incidental take permit to the Nebraska Public Power District (NPPD) for its R-Project transmission line and in approving NPPD's habitat conservation plan (HCP) for the American burying beetle.
- An Incidental Take Permit, as authorized under the Endangered Species Act, allows for the take of a listed species as a result of otherwise lawful activities. An HCP must accompany the application for the ITP to outline steps to minimize and mitigate harm to the listed species during a project.

Please let me know any other feedback by 3:30pm if possible, thanks for your time in advance I know this is last minute!

Joe Szuszwalak
Public Affairs Specialist
U.S. Fish & Wildlife Service | Interior Regions 5 & 7
joseph_szuszwalak@fws.gov | 303-236-4336
He/Him/His

From: Burgess, Angela <Angela_Burgess@fws.gov>
Sent: Thursday, June 18, 2020 2:48 PM
To: Szuszwalak, Joseph A <joseph_szuszwalak@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Cc: Alt, Nicole <Nicole_Alt@fws.gov>; Small, Stephen M <stephen_small@fws.gov>

Subject: Re: Reporter on deadline: Comment re: ABB ITP / R-line lawsuit decision

My only comment is that the last sentence of the second bullet, "The HCP prepared..." may be unnecessary, as it provides some details of the HCP commitments without additional important details (such as ABB mitigation lands).

Thanks for your work on this, Joe!

Angela

Angela Burgess
Fish and Wildlife Biologist
Ecological Services
U.S. Fish and Wildlife Service
134 Union Blvd., Lakewood, Colorado 80228
303-236-4263
angela_burgess@fws.gov
Teleworking Mondays and Wednesdays - Phone forwarded to above number

For FWS IR 5&7 ES employees: Headquarters SharePoint site with Briefing Paper Templates for the Service Director, Secretary of the Interior, and Federal Register: HQ Briefing Paper Templates; Unified Interior Regions 5 and 7 Correspondence Fishnet site for other templates: Regional Correspondence Fishnet Site

---

From: Szuszwalak, Joseph A <joseph_szuszwalak@fws.gov>
Sent: Thursday, June 18, 2020 2:32 PM
To: Burgess, Angela <Angela_Burgess@fws.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Cc: Alt, Nicole <Nicole_Alt@fws.gov>; Small, Stephen M <stephen_small@fws.gov>
Subject: Re: Reporter on deadline: Comment re: ABB ITP / R-line lawsuit decision

Apologies for the auto-suggestion mix-up. +@DeBerry, Drue - Scott Becker

Joe Szuszwalak
Public Affairs Specialist
U.S. Fish & Wildlife Service | Interior Regions 5 & 7
joseph_szuszwalak@fws.gov | 303-236-4336
He/Him/His

From: Szuszwalak, Joseph A
Sent: Thursday, June 18, 2020 2:27 PM
To: Becker, Drew N <Drew_Becker@fws.gov>; Burgess, Angela <Angela_Burgess@fws.gov>
Cc: Alt, Nicole <Nicole_Alt@fws.gov>; Small, Stephen M <stephen_small@fws.gov>
Subject: Reporter on deadline: Comment re: ABB ITP / R-line lawsuit decision

Good afternoon -

HQ has directed us to respond to a reporter asking for comment on the recent court decision

regarding the ITP for American burying beetle on the R-Line Project. We have proposed the following, please let me know ASAP (within the next hour if possible) your thoughts and if any edits/additions/changes are needed:

- USFWS (the Service) is reviewing the recent decision in this case. The Service used the best available science in granting an incidental take permit to the Nebraska Public Power District (NPPD) for its R-Project transmission line and in approving NPPD's habitat conservation plan (HCP) for the American burying beetle.
- An Incidental Take Permit, as authorized under the Endangered Species Act, allows for the take of a listed species as a result of otherwise lawful activities. An HCP must accompany the application for the ITP to outline steps taken to minimize and mitigate harm to the listed species during a project. The HCP prepared by NPPD includes a land restoration plan that details the measures they will voluntarily implement to restore beetle habitat, fragile sandy soils, and other habitats disturbed by R-Project activities.

I will move this to SOL once ES is good with it. Thanks!

Joe Szuszwalak
Public Affairs Specialist
U.S. Fish & Wildlife Service | Interior Regions 5 & 7
joseph_szuszwalak@fws.gov | 303-236-4336
He/Him/His

From:	DeBerry, Drue
To:	Burgess, Angela; Runge, Jeff; Smith, Kimberly
Subject:	Fw: [EXTERNAL] FW: Activity in Case 1:19-cv-01945-WJM Oregon-California Trails Association et al v. Walsh et al Order on Motion to File Amicus Brief
Date:	Wednesday, June 17, 2020 3:14:12 PM
Attachments:	DENVER-#680851-v1-R_Line_mixed_SJ_decision.PDF

R-project - court invalidated our ITP

The Court agrees with Petitioners, however, as to the following:
• the Service inadequately considered the effects of the R-Project on the O'Fallon's Bluff segment of the Oregon and California Trail;

• the Service unlawfully excluded potential wind turbine development in Antelope County, Nebraska, from its analysis (an error which infects various other analyses under the ESA, NEPA, and the NHPA); and

• one portion of a "programmatic agreement" entered into to address NHPA matters is arbitrary and capricious, at least on this record.

As a consequence, the Court will set aside the Service's decision to grant the June 12, 2019 incidental take permit, meaning said permit will be vacated

Drue DeBerry
Colorado and Nebraska Field Offices Supervisor
U.S. Fish and Wildlife Service/ Ecological Services
Office: 303-236-4774
Cell: 703-472-7777
drue_deberry@fws.gov

From: McNeil, Bridget (ENRD) <Bridget.McNeil@usdoj.gov>
Sent: Wednesday, June 17, 2020 3:06 PM
To: Jacobsen, Dana E <Dana.Jacobsen@sol.doi.gov>; DeBerry, Drue <drue_deberry@fws.gov>
Cc: Izfar, Sarah (ENRD) <Sarah.Izfar@usdoj.gov>
Subject: [EXTERNAL] FW: Activity in Case 1:19-cv-01945-WJM Oregon-California Trails Association et al v. Walsh et al Order on Motion to File Amicus Brief

Just in. Haven't read it yet. ITP invalidated.

From: COD_ENotice@cod.uscourts.gov <COD_ENotice@cod.uscourts.gov>
Sent: Wednesday, June 17, 2020 2:58 PM
To: COD_ENotice@cod.uscourts.gov
Subject: Activity in Case 1:19-cv-01945-WJM Oregon-California Trails Association et al v. Walsh et al Order on Motion to File Amicus Brief

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

U.S. District Court - District of Colorado
District of Colorado

Notice of Electronic Filing

The following transaction was entered on 6/17/2020 at 2:57 PM MDT and filed on 6/17/2020
Case Name: Oregon-California Trails Association et al v. Walsh et al
Case Number: 1:19-cv-01945-WJM
Filer:
Document Number: 53
Docket Text:
ORDER Affirming in Part and Vacating in Part Agency Action. Denying [26] The Center for Biological Diversity et al.'s Motion to File Amicus Brief in Support of Petitioners. Denying [27] Sen. Tom Brewer's Motion for Leave to File Proposed Brief Amicus Curiae. Entered by Judge William J. Martinez on 6/17/2020.(afran)

1:19-cv-01945-WJM Notice has been electronically mailed to:

Michael A. Saul msaul@biologicaldiversity.org, jmargolis@biologicaldiversity.org

Murray Dov Feldman mfeldman@hollandhart.com, boiseintaketeam@hollandhart.com, cdart@hollandhart.com, etwoods@hollandhart.com, scbordelon@hollandhart.com

Bridget Kennedy McNeil bridget.mcneil@usdoj.gov, EFILE_WMRS.ENRD@usdoj.gov

William Stewart Eubanks, II bill@eubankslegal.com

Andrew Gibson Ogden aogden@indra.com

Sarah Izfar sarah.izfar@usdoj.gov, efile_nrs.enrd@usdoj.gov

Elizabeth Leigh Lewis lizzie@eubankslegal.com

Jared Michael Margolis jmargolis@biologicaldiversity.org

1:19-cv-01945-WJM Notice has been mailed by the filer to:
The following document(s) are associated with this transaction:
Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1071006659 [Date=6/17/2020] [FileNumber=7620126-0] [4fed1554644082efa0522599644bcd4f40bca5ce8d791b9f5e39ad9da759b7d760c 22573d0e12f6173da26dee786faf389929fe40b07a09045ea0b3290159247]]