



— BUREAU OF —
RECLAMATION

Appendix E

Comments and Responses Report

Final Environmental Assessment
Dry-Redwater Rural Water Project, Montana
Montana Area Office – Missouri Basin Region

Appendix E

Comments and Responses Report

Final Environmental Assessment
Dry-Redwater Rural Water Project, Montana
Montana Area Office – Missouri Basin Region

prepared by:

**United States Department of the Interior
Bureau of Reclamation
Montana Area Office**

April 2025

MTAO-EA-2024-003

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Abbreviations and Acronyms

DRWA	Dry-Redwater Regional Water Authority
EA	environmental assessment
NEPA	National Environmental Policy Act
NRCS	Natural Resource Conservation Service
Project	Dry-Redwater Rural Water Project
Reclamation	U.S. Department of the Interior, Bureau of Reclamation
USACE	United States Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
WAPA	Western Area Power Administration

Appendix E – Comments and Responses Report

Introduction

The Dry-Redwater Regional Water Authority (DRWA) was formed by its constituent team members as a regional water authority in 2005 to provide water and sewer services across its service area in eastern Montana. DRWA has since constructed infrastructure projects primarily in areas south of Sidney, Montana. Individual or community groundwater wells with poor water quality currently serve the majority of the DRWA service area. DRWA is proposing a regional water system to provide high quality water to meet the current and future demands of rural towns and individual homes.

DRWA is seeking federal authorization and appropriation to construct the regional water system that will serve five counties in eastern Montana. DRWA previously worked with the U.S. Department of the Interior Bureau of Reclamation (Reclamation) to complete a regional water system feasibility study under Reclamation’s now ended Rural Water Supply Program. Congress authorized and funded Reclamation to continue work on the feasibility study in Public Law 116-260, enacted December 27, 2020. Reclamation’s fiscal year 2022 Spend Plan allocated additional funding to complete the Dry-Redwater Rural Water Feasibility Study.

Pursuant to National Environmental Policy Act (NEPA) requirements, Reclamation prepared an Draft Environmental Assessment (Draft EA) to support its feasibility study. This document summarizes the public and agency comments received during the review period for the Draft EA. Reclamation serves as NEPA lead agency for the Dry-Redwater Rural Water Project (Project). Three federal agencies—Natural Resources Conservation Service (NRCS), U.S. Army Corps of Engineers (USACE) and Western Area Power Administration (WAPA)—have formally accepted the role as a cooperating agencies and have recognized Reclamation as lead federal agency.

Noticing

The 30-day Draft EA public review period was October 11, 2024 to November 9, 2024. Notices of availability for review of the Draft EA were submitted by DRWA to the following local newspapers:

- Garfield Gazette September 23, 2024
- Circle Banner September 23, 2024
- Northern Plains Independent September 23, 2024
- Miles City Star September 23, 2024

Additionally, public notices were submitted to the following local radio stations by DRWA:

- 95.5 FM KDZN – Glendive September 23, 2024
- 92.7 FM KVCK – Wolf Point September 23, 2024
- 660 AM KEYZ – Williston September 23, 2024

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- 770 AM KATL – Miles City September 23, 2024

In addition to the above-described newspaper and radio public notices, public notices were posted on the Reclamation and DRWA websites. Federal, state, and local agencies, and tribal governments identified by Reclamation were notified of the Draft EA review process via email by Reclamation.

Public Meetings

Public meetings were held to solicit public comments on Draft EA. The meetings were held at the following dates and locations:

- | | |
|------------------|--|
| Meeting 1 | October 15, 2024 – 4:00 p.m. to 6:00 p.m.
Bureau of Reclamation Office
2900 Fourth Avenue North, Billings, Montana |
| Meeting 2 | October 16, 2024 – 10:00 a.m. to 12:00 p.m.
VFW Post
7886 Main Street
Jordan, MT 59337 |
| Meeting 3 | October 16, 2024 – 4:00 p.m. to 6:00 p.m.
McCone County Extension Building
Fairgrounds Road
Circle, MT 59215 |

The public meetings were held to provide information on the Project and to accept comments on the Draft EA. The meetings began with a presentation by Reclamation and consultant staff on the Project alternatives, environmental effects, and schedule; the NEPA environmental review process; and the process for submitting comments. Upon conclusion of the presentation, the meetings were opened for attendees to provide written comments.

Summary of Comments

Reclamation and DRWA received comments from ten individuals and two government agencies/officeholders during the 30-day Draft EA review period. Copies of the written comment submittals are in Attachment A. Table 1 summarizes the comments received during the Draft EA process in order of date of submittal.

**Dry-Redwater Rural Water Project
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Table 1. Draft EA Comment Summary

Format	Date	Commenter	Summary of Comments	Response
Private Individuals				
Written Comment	October 16, 2024	Alan Stempel, Individual	Support of the Project, with comments on benefits to economy and public health.	Received. Thank you for your input.
Email	October 30, 2024	Ken Ehli, Individual	Support of the Project, with comments on access to water quality and quantity.	Received. Thank you for your input.
Email	October 31, 2024	Ken Ehli, Individual	Support of the Project, with comment on cost-sharing and affordability.	Received. Thank you for your input.
Email	October 31, 2024	Ken Ehli, Individual	Support of the Project with statement that individual is not affiliated with DRWA.	Received. Thank you for your input.
Email	October 31, 2024	Cary Phillips, Individual	Support of the Project, particularly with respect to the Circle area.	Received. Thank you for your comment.
Email	November 4, 2024	Dick Iverson, Individual	Support of the Project, with comments on affordability and water quality.	Received. Thank you for your comment.
Email	November 5, 2024	Charley J. Huseby, Individual	Support of the Project, with comments on future availability of clean tap water not currently available.	Received. Thank you for your comment.
Email	November 5, 2024	Susanne Labrenz, Individual	Support of the Project, with comments on water quality and affordability.	Received. Thank you for your comment.
Email	November 5, 2024	Tavis Renner, Individual	Support of the Project, with comments on water quality and affordability.	Received. Thank you for your comment.
Email	November 5, 2024	Veronica J. Miles, Individual	Support of the Project, with comments on water quality and affordability.	Received. Thank you for your comment.

Appendix E – Comments and Responses Report

Format	Date	Commenter	Summary of Comments	Response
Government Agencies and Officeholders				
Email, Memorandum	November 5, 2024	Amity Bass, Office Supervisor, U.S. Fish and Wildlife Service, Montana Ecological Services	Requests formal Endangered Species Act Section 7 consultation for listed species that the Project “may affect, is likely to adversely affect.” Provides a list of such species. Recommends water intake and power line construction measures for reducing potential adverse effects on pallid sturgeon and whooping cranes.	See below.
Letter	November 9, 2024	Greg Gianforte, Montana Governor	Support for the Project, including comments on health benefits and continued support from State government. Request for FONSI rather than EIS.	No response required.

Response to U.S. Fish and Wildlife Service Memorandum

The U.S. Fish and Wildlife Service (USFWS) provided comments that are summarized below and responded to in the order that they are presented in the memorandum.

Comment: Federally listed species that might be adversely affected by the project include Pallid Sturgeon, Whooping Crane, Northern Long-eared Bat, Western Regal Fritillary, and Monarch Butterfly. USFWS suggested additional sources of information and recommendations for conservation measures.

Response: Reclamation and DRWA will review and incorporate into the Final EA USFWS recommended conservation measures for minimizing adverse effects to these species.

Comment: If a Federal agency authorizes, funds, or carries out a proposed action, the responsible Federal agency, or its delegated agent, is required to evaluate whether the action “may affect” listed species or critical habitat. If the Federal agency or its designated agent determines the action “may affect, is likely to adversely affect” listed species or critical habitat, the responsible Federal agency shall request formal section 7 consultation with this office.

Response: Reclamation and DRWA are currently in the first phase of the federal planning process for major water development projects. At this initial phase the NEPA facet of this process is in support of the federal feasibility study. If the feasibility study finds that the Project is feasible, the Project advances to Congress for authorization

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and consideration of funding for design and construction. There is a second NEPA process in parallel at this second phase of the Project. During this second phase, Reclamation would begin the permitting and consultation process, including Endangered Species Act Section 7 consultation. It is premature to do so unless and until Congressional authorization and funding is provided.

Attachment A Written Comment Submittals

**DRY-REDWATER RURAL WATER PROJECT
DRAFT ENVIRONMENTAL ASSESSMENT
COMMENT CARD**



— BUREAU OF —
RECLAMATION

Meeting Date: ☐ October 15, 2024 (Billings, MT)
(Please Check One) ☐ October 16, 2024 (Jordan, MT)
☒ October 16, 2024 (Circle, MT)

Please check your affiliation below:

- ☐ Individual (no affiliation)
☐ Private Organization
☒ Federal, State, or Local Government
☐ Citizen's Group
☐ Elected Representative
☐ Regulatory Agency

Name: Alan Stempel

Organization (if applicable): McCone County Commission

Street Address (optional):

City/State/Zip (optional):

Email (optional): Stempelal@comcast.net

☒ I would like to be added to the mailing list.

If you wish to provide written comments, please write your comments below (use back of sheet if needed). Written comments may be submitted using this card, via e-mail, or any other written format sent to the address below within the comment period, by November 9, 2024.

Comments: This project would be a
tremendous help to the local
economy and will definitely
improve health for (continued on back)

Please submit today or via U.S. mail to: Cody Hendrix, Bureau of Reclamation, 2900 4th Avenue N. Suite 50, Billings, MT 59101

E-mail: chendrix@usbr.gov

For more information and maps please visit:

<https://www.usbr.gov/gp/mtao/dry-redwater/>

Comments continued:

00 residents.

Re: [EXTERNAL] Dry-Redwater Regional Water Authority Project

From Hendrix, Cody B <CHendrix@usbr.gov>

Date Thu 10/31/2024 7:50 AM

To Ken Ehli <76ksehli@gmail.com>

Received. Thank you for your input.

Cody Hendrix

Natural Resource Specialist

Bureau of Reclamation – Montana Area Office

Ph: 406-247-7351 | Email: chendrix@usbr.gov

2900 4th Avenue North, Ste. 501

Billings, MT 59101



From: Ken Ehli <76ksehli@gmail.com>

Sent: Wednesday, October 30, 2024 4:33 PM

To: Hendrix, Cody B <CHendrix@usbr.gov>

Subject: [EXTERNAL] Dry-Redwater Regional Water Authority Project

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

A rural water project would allow everyone to share expenses, making quality water cost effective to everyone.

Re: [EXTERNAL] Dry-Redwater Regional Water Authority Project

From Hendrix, Cody B <CHendrix@usbr.gov>

Date Thu 10/31/2024 7:50 AM

To Ken Ehli <ksehli@midrivers.com>

Received. Thank you for your input.

Cody Hendrix

Natural Resource Specialist

Bureau of Reclamation – Montana Area Office

Ph: 406-247-7351 | Email: chendrix@usbr.gov

2900 4th Avenue North, Ste. 501

Billings, MT 59101



From: Ken Ehli <ksehli@midrivers.com>

Sent: Wednesday, October 30, 2024 4:29 PM

To: Hendrix, Cody B <CHendrix@usbr.gov>

Subject: [EXTERNAL] Dry-Redwater Regional Water Authority Project

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

People living in rural eastern Montana do not have ample access to a quality water source in adequate quantity. Thank you

Re: [EXTERNAL] Dry-Redwater Regional Water Authority Project

From Hendrix, Cody B <CHendrix@usbr.gov>

Date Thu 10/31/2024 7:49 AM

To Ken Ehli <kde@midrivers.com>

Received. Thank you for your input.

Cody Hendrix

Natural Resource Specialist

Bureau of Reclamation – Montana Area Office

Ph: 406-247-7351 | Email: chendrix@usbr.gov

2900 4th Avenue North, Ste. 501

Billings, MT 59101



From: Ken Ehli <kde@midrivers.com>

Sent: Wednesday, October 30, 2024 4:26 PM

To: Hendrix, Cody B <CHendrix@usbr.gov>

Subject: [EXTERNAL] Dry-Redwater Regional Water Authority Project

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

I am not affiliated with Dry-Redwater, I am a proponent of the project, and believe it would be beneficial to our area. Thank you,

Re: [EXTERNAL] DRWA comment

From Hendrix, Cody B <CHendrix@usbr.gov>

Date Thu 10/31/2024 1:21 PM

To cary phillips <phillips Cary@yahoo.com>

Received. Thank you for your comment.

Cody Hendrix

Natural Resource Specialist

Bureau of Reclamation – Montana Area Office

Ph: 406-247-7351 | Email: chendrix@usbr.gov

2900 4th Avenue North, Ste. 501

Billings, MT 59101



From: cary phillips <phillips Cary@yahoo.com>

Sent: Thursday, October 31, 2024 1:18 PM

To: Hendrix, Cody B <CHendrix@usbr.gov>

Subject: [EXTERNAL] DRWA comment

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

Hello. I would like to voice my wholehearted support for the DRWA project that is hopefully coming to eastern Montana and specifically, the Circle area. I believe this would be a phenomenal improvement to our area.

Thank you for your time and efforts towards the DRWA project.

Sincerely,

Cary Phillips

Circle, MT

Re: [EXTERNAL] DRWA

From Hendrix, Cody B <CHendrix@usbr.gov>

Date Tue 11/5/2024 7:05 AM

To rji@midrivers.com <rji@midrivers.com>

Received. Thank you for your comment.

Cody Hendrix

Natural Resource Specialist

Bureau of Reclamation – Montana Area Office

Ph: 406-247-7351 | Email: chendrix@usbr.gov

2900 4th Avenue North, Ste. 501

Billings, MT 59101



From: rji@midrivers.com <rji@midrivers.com>

Sent: Monday, November 4, 2024 10:35 PM

To: Hendrix, Cody B <CHendrix@usbr.gov>

Subject: [EXTERNAL] DRWA

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

Cody Hendrix

Please accept my support of DRWA to provide clean affordable rural water to the residents of the DRWA service area.

Thanks

Dick Iversen

Resident of Richland County

Re: [EXTERNAL]

From Hendrix, Cody B <CHendrix@usbr.gov>

Date Tue 11/5/2024 9:03 AM

To Arwen Trow <kitsunesprite@gmail.com>

Received. Thank you for your comment.

Cody Hendrix

Natural Resource Specialist

Bureau of Reclamation – Montana Area Office

Ph: 406-247-7351 | Email: chendrix@usbr.gov

2900 4th Avenue North, Ste. 501

Billings, MT 59101



From: Arwen Trow <kitsunesprite@gmail.com>

Sent: Tuesday, November 5, 2024 8:53 AM

To: Hendrix, Cody B <CHendrix@usbr.gov>

Subject: [EXTERNAL]

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

To Whom It May Concern:

I am in full support of Dry-Redwater Regional Water Authority. Regionalizing the water source in our area will lower the cost to every person in the area by sharing the expenses. At Full Build Out, Dry-Redwater will provide area residents with access to a clean, safe water source. For many people in our area, this will be the first time they have access to safe water directly from their tap.

Please accept this letter of support for DRWA.

Thank you,

Charley J Huseby

Re: [EXTERNAL] Water

From Hendrix, Cody B <CHendrix@usbr.gov>
Date Tue 11/5/2024 8:29 AM
To Susanne Labrenz <slabrenz@yahoo.com>

Received. Thank you for your comment.

Cody Hendrix
Natural Resource Specialist
Bureau of Reclamation – Montana Area Office
Ph: 406-247-7351 | Email: chendrix@usbr.gov
2900 4th Avenue North, Ste. 501
Billings, MT 59101



From: Susanne Labrenz <slabrenz@yahoo.com>
Sent: Tuesday, November 5, 2024 8:25 AM
To: Hendrix, Cody B <CHendrix@usbr.gov>
Subject: [EXTERNAL] Water

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

To Whom It May Concern:

I am in full support of Dry-Redwater Regional Water Authority. Regionalizing the water source in our area will lower the cost to every person in the area by sharing the expenses. At Full Build Out, Dry-Redwater will provide area residents with access to a clean, safe water source. For many people in our area, this will be the first time they have access to safe water directly from their tap.

Please accept this letter of support for DRWA.

Thank you,
Susanne Labrenz

[Sent from Yahoo Mail on Android](#)

Re: [EXTERNAL] DRWA

From Hendrix, Cody B <CHendrix@usbr.gov>

Date Tue 11/5/2024 9:03 AM

To Tavis Renner <tavisrenner@yahoo.com>

Received. Thank you for your comment.

Cody Hendrix

Natural Resource Specialist

Bureau of Reclamation – Montana Area Office

Ph: 406-247-7351 | Email: chendrix@usbr.gov

2900 4th Avenue North, Ste. 501

Billings, MT 59101



From: Tavis Renner <tavisrenner@yahoo.com>

Sent: Tuesday, November 5, 2024 8:57 AM

To: Hendrix, Cody B <CHendrix@usbr.gov>

Subject: [EXTERNAL] DRWA

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

To Whom It May Concern:

I am in full support of Dry-Redwater Regional Water Authority. Regionalizing the water source in our area will lower the cost to every person in the area by sharing the expenses. At Full Build Out, Dry-Redwater will provide area residents with access to a clean, safe water source. For many people in our area, this will be the first time they have access to safe water directly from their tap.

Please accept this letter of support for DRWA.

Thank you,

Sent from my iPhone

Re: [EXTERNAL] DRWA

From Hendrix, Cody B <CHendrix@usbr.gov>
Date Tue 11/5/2024 9:57 AM
To Veronica Miles <vmiles406@yahoo.com>

Received. Thank you for your comment.

Cody Hendrix
Natural Resource Specialist
Bureau of Reclamation – Montana Area Office
Ph: 406-247-7351 | Email: chendrix@usbr.gov
2900 4th Avenue North, Ste. 501
Billings, MT 59101



From: Veronica Miles <vmiles406@yahoo.com>
Sent: Tuesday, November 5, 2024 9:39 AM
To: Hendrix, Cody B <CHendrix@usbr.gov>
Subject: [EXTERNAL] DRWA

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

To Whom It May Concern:

I am in full support of Dry-Redwater Regional Water Authority. Regionalizing the water source in our area will lower the cost to every person in the area by sharing the expenses. At Full Build Out, Dry-Redwater will provide area residents with access to a clean, safe water source. For many people in our area, this will be the first time they have access to safe water directly from their tap.

Please accept this letter of support for DRWA.

Thank you,

Veronica J Miles


Comments regarding BOR Draft EA for Dry-Redwater Rural Water Project

From Martin, Jacob <jacob_martin@fws.gov>

Date Tue 11/5/2024 2:23 PM

To Hendrix, Cody B <CHendrix@usbr.gov>

Cc Berglund, Jeff <jeff_berglund@fws.gov>

 1 attachments (319 KB)

20241105_MM_DryRedwaterDraftEA_Comments.pdf;

Dear Mr. Hendrix:

The attached memorandum is in response to your October 2024 publication of the subject public draft Environmental Assessment (EA) and 30-day solicitation of public comment. This response is provided by the U.S. Fish and Wildlife Service (Service) under the authority of, and in accordance with, the provisions of the Endangered Species Act (ESA; 16 U.S.C. 1531 et. seq.), Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 et seq.), Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668-668d, 54 Stat. 250), and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).

The Service appreciates your efforts to incorporate fish and wildlife resource concerns into your project planning. Should you have any questions or comments related to this correspondence, please contact Jeff Berglund at jeff_berglund@fws.gov.

Sincerely,

Jacob M. (Jake) Martin
Deputy Field Supervisor
Montana Ecological Services Office
585 Shephard Way, Suite 1
Helena, Montana 59601
(406) 430-9007



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Montana Ecological Services Office
585 Shephard Way, Suite 1
Helena, Montana 59601




In Reply Refer to:
FWS/R6
File: M04 BOR
Project: 2025-0015310 BOR Dry-Redwater Rural Water Project

November 5, 2024

Memorandum

To: Cody Hendrix, NEPA Coordinator, Bureau of Reclamation, Montana Area Field Office

From: Office Supervisor, U.S. Fish and Wildlife Service, Montana Ecological Services  for Amity Bass

Subject: Comments regarding Public Draft Environmental Assessment, Dry-Redwater Rural Water Project, MTAO-EA-2024-003

This memorandum is in response to your October 2024 publication of the subject public draft Environmental Assessment (EA) and 30-day solicitation of public comment. This response is provided by the U.S. Fish and Wildlife Service (Service) under the authority of, and in accordance with, the provisions of the Endangered Species Act (ESA; 16 U.S.C. 1531 et. seq.), Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 et seq.), Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668-668d, 54 Stat. 250), and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.). We offer the following comments for your consideration.

The Montana Conservation Districts in McCone, Dawson, Richland, and Garfield Counties created the Dry-Redwater Regional Water Authority (DRWA). Under the proposed action, DRWA would receive Federal authorization and funding (with Bureau of Reclamation [BOR] as the lead Federal agency) to construct a regional water system that would provide clean drinking water to residents of eastern Montana. The DRWA would be responsible for the financial administration of the system, operation and maintenance, billing and collection, and all other duties and or items required for operations. The proposed action includes approximately 1,335 miles of pipelines, 116 miles of electrical lines, intake structures, water treatment plants (WTP), pump stations, and storage tanks. Intake options include Fort Peck Reservoir and three potential locations along the Missouri River downstream of Fort Peck Reservoir. Intake structures and corresponding treatment plants along the Missouri River are satellite facilities and may be used with or in place of the intake at Fort Peck Reservoir after further cost effectiveness evaluations are completed. Whether or not to include any of the satellite facilities would be determined in

final design. The types and general locations of all proposed infrastructure are described in the subject draft EA.

Threatened and Endangered Species

The EA acknowledges the potential presence of the endangered pallid sturgeon, endangered whooping crane, endangered northern long-eared bat (NLEB), threatened piping plover (and designated critical habitat), threatened red knot, and candidate monarch butterfly in the project area. Please note that the recently (August 6, 2024) proposed threatened western regal fritillary may also occur in the eastern portion of the project area. Additional information and a project-specific species list may be obtained using the Service's Information for Planning and Consultation (IPaC) project-planning tool, at <https://ipac.ecosphere.fws.gov/>. ESA section 7 consultation has not yet been conducted for the project.

- Pallid Sturgeon: Our most recent (July 31, 2023) water intake recommendations for minimizing effects to pallid sturgeon are attached. Note that items 1-5 apply to the Missouri River intakes (adults, juveniles, free embryos, larvae) and items 2 and 5 apply to the Fort Peck Reservoir intake (adults and juveniles). The Missouri River intakes likely have higher potential to result in adverse effects to pallid sturgeon.
- Whooping Crane: We recommend that overhead powerlines associated with the project adhere to the Service Region 6 *Guidance for Minimizing Effects from Power Line Projects Within the Whooping Crane Migration Corridor*, February 4, 2010, Memorandum (attached) where applicable.
- Northern Long-Eared Bat: If NLEB surveys are proposed as stated in the EA, please note they will need to be conducted with Service approval and in compliance with the Range-wide Indiana Bat and Northern Long-eared Bat Survey Guidelines. The survey guidelines and final online NLEB consultation tools and guidance (including a range map) released on October 23, 2024, are available here and should be reviewed with regard to NLEB range, surveys, and consultation: <https://www.fws.gov/species/northern-long-eared-bat-myotis-septentrionalis>
- Western Regal Fritillary: Information regarding this species is available at <https://ecos.fws.gov/ecp/species/8145>
- Monarch Butterfly: February 2023, Service Western Monarch Butterfly Conservation Recommendations are available at https://xerces.org/sites/default/files/publications/21-015_03.pdf

If a Federal agency authorizes, funds, or carries out a proposed action, the responsible Federal agency, or its delegated agent, is required to evaluate whether the action “may affect” listed species or critical habitat. If the Federal agency or its designated agent determines the action “may affect, is likely to adversely affect” listed species or critical habitat, the responsible Federal agency shall request formal section 7 consultation with this office. If the evaluation shows a “may affect, not likely to adversely affect” determination, concurrence from this office is required. If the evaluation shows a “no effect” determination for listed species or critical habitat, further consultation is not necessary. If a private entity receives Federal funding for a construction project, or if any Federal permit or license is required, the Federal agency may designate the fund recipient or permittee as its agent for purposes of informal section 7

consultation. The funding, permitting, or licensing Federal agency is responsible to ensure that its actions comply with the ESA, including obtaining concurrence from the Service for any action that may affect a threatened or endangered species or designated critical habitat.

Regarding proposed species, section 7(a)(4) of the ESA only requires Federal agencies to confer with the Service on any action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. However, action agencies may voluntarily confer with the Service on actions that may affect species proposed for listing or critical habitat proposed to be designated. In the event that the subject species is listed or the relevant critical habitat is designated, a conference opinion or concurrence may, as appropriate, be adopted as a biological opinion or consultation concurrence and serve as compliance with section 7(a)(2) of the Act.

Candidate species are those placed on the candidate list for future action, meaning those species do not receive statutory protection under the ESA. They are reviewed annually by the Service to determine if they continue to warrant listing or to reassess their listing priority. Ideally, sufficient threats can be removed to eliminate the need for listing. If threats are not addressed or the status of the species declines, a candidate species can move up in priority for a listing proposal. Federal agencies can voluntarily conference with the Service pursuant to section 7(a)(4) of ESA to ensure that their actions do not negatively impact candidate species.

We recommend that a project-specific biological assessment or other such evaluation be prepared that includes the following:

1. A description of the project.
2. A description of the specific area that may be affected by the action.
3. The current status, habitat use, and behavior of listed and proposed threatened and endangered species and status of listed and proposed critical habitat in the project area.
4. Discussion of the methods used to determine the information in Item 3.
5. An effects analysis of the action for listed and proposed species and critical habitat, including cumulative effects.
6. Coordination/mitigation measures that will reduce or eliminate adverse impacts to listed/proposed threatened/endangered species and critical habitat.
7. The expected status of listed and proposed threatened and endangered species and critical habitat in the future (short and long term) during and after project completion.
8. A determination of "May affect, likely to adversely affect", "May affect, not likely to adversely affect", or "No effect" for listed species and critical habitat.
9. A determination of "is likely to jeopardize" or "is not likely to jeopardize" for proposed (or candidate) species and critical habitat.
10. Citation of literature and personal contacts used in developing the assessment.

Migratory Birds

The MBTA prohibits the taking, killing, possession, and transportation, (among other actions) of migratory birds, their eggs, parts, and nests, except when specifically permitted. If work is proposed to take place in migratory bird habitats that may result in take of migratory birds, their eggs, or active nests, the Service recommends that the project proponent take all practicable measures to avoid and minimize take, such as maintaining adequate buffers, to protect the birds until the young have fledged. Active nests may not be removed. The Service has developed, and continues to revise and develop, general and industry-specific conservation measures for avoiding and minimizing impacts to birds (<https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>) including nationwide conservation measures (<https://www.fws.gov/media/nationwide-standard-conservation-measures>). We recommend that proposed projects consider and incorporate these measures into project design, construction, and documentation as appropriate.

The EA indicates that any newly constructed above-ground power lines or power lines that may need to be modified or reconstructed due to the project will be designed and built to the Avian Power Line Interaction Committee (APLIC) standards in the 2006 Suggested Practices for Avian Protection on Power Lines document. To increase power line visibility and reduce bird fatalities resulting from collisions with power lines, the Service also recommends that all new power lines that are proposed to be located in known raptor or water bird concentration areas or daily movement routes, or in major diurnal migratory bird movement routes or stopover sites, should include daytime visual markers on the wires to prevent collisions by these diurnally moving species per techniques outlined in Reducing Avian Collisions with Power Lines: The State of the Art in 2012. Both publications can be obtained by visiting www.eei.org.

Certain activities may require a permit from the Service's Migratory Bird Management Division. Please contact the Region 6 Migratory Bird Permits Office if you are uncertain if activities may result in unauthorized take of migratory birds. Additional information about permits can be found at <https://fwsepermits.servicenowservices.com/fws>.

Bald and Golden Eagles

According to the EA, no eagle nests have been observed directly in the project study area, although eagles are known to nest in the vicinity of the project study area. Project-specific eagle nest surveys have not been conducted within the project study area. We recommend surveys to detect eagle nests within at least 1 mile of the proposed project in order to facilitate avoidance, minimization, and permitting (if unavoidable and necessary), of project-related eagle nest disturbance.

The bald eagle and golden eagle are protected from a variety of harmful actions via take prohibitions in both the MBTA (16 U.S.C. 703-712) and the BGEPA. The BGEPA, enacted in 1940 and amended several times, prohibits take of bald eagles and golden eagles, including their parts, nests, young or eggs, except where otherwise permitted pursuant to Federal regulations. Incidental take of eagles from actions such as electrocutions from power lines or wind turbine

strikes are prohibited unless specifically authorized via an eagle incidental take permit from the Service.

BGEPA provides penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The BGEPA defines take to include the following actions: "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." The Service expanded this definition by regulation to include the term "destroy" to ensure that "take" also encompasses destruction of eagle nests. Also, the Service defined the term disturb which means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

The Service has developed guidance for the public regarding means to avoid take of bald and golden eagles:

- The 2007 National Bald Eagle Management Guidelines serve to advise landowners, land managers, and others who share public and private lands with bald eagles when and under what circumstances the protective provisions of BGEPA may apply. They provide conservation recommendations to help people avoid and/or minimize such impacts to bald eagles, particularly where they may constitute "disturbance," which is prohibited by the BGEPA.
https://www.fws.gov/sites/default/files/documents/national-bald-eagle-management-guidelines_0.pdf

The Service also has promulgated permit regulations under BGEPA:

- Eagle permit regulations, as allowed under BGEPA, were promulgated by the Service in 2009 (74 FR 46836; Sept. 11, 2009) and revised in 2016 (81 FR 91494; Dec. 16, 2016) and most recently in 2024 (89 FR 9920; Feb. 12, 2024). The regulations authorize the limited take/disturbance of bald and golden eagles where the take/disturbance to be authorized is associated with otherwise lawful activities. These regulations also establish permit provisions for intentional take of eagle nests where necessary to ensure public health and safety, in addition to other limited circumstances. The revisions in 2024 included several changes to clarify, improve implementation and increase compliance while still protecting eagles.
See: <https://www.federalregister.gov/documents/2024/02/12/2024-02182/permits-for-incidental-take-of-eagles-and-eagle-nests> and also: <https://www.fws.gov/program/eagle-management> for additional technical resources, guidance, and FAQs.

The Service's Office of Law Enforcement carries out its mission to protect eagles through investigations and enforcement, as well as by fostering relationships with individuals, companies, industries and agencies that have taken effective steps to avoid take, including incidental take of these species, and encouraging others to implement measures to avoid take. The Office of Law Enforcement focuses its resources on investigating individuals and entities

that take eagles without identifying and implementing all reasonable, prudent and effective measures to avoid that take. Those individuals and entities are encouraged to work closely with Service biologists to identify available protective measures, and to implement those measures during all activities or situations where their action or inaction may result in the take of an eagle(s).

The Service appreciates your efforts to incorporate fish and wildlife resource concerns into your project planning. Should you have any questions or comments related to this correspondence, please contact Jeff Berglund at jeff_berglund@fws.gov.

Recommended water intake conservation measures for pallid sturgeon in Montana

On September 6, 1990, pallid sturgeon (*Scaphirhynchus albus*) were listed as endangered throughout their range under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), due to habitat modification, an apparent lack of natural reproduction, commercial harvest, and hybridization in parts of their range (55 FR 36641). Critical habitat was not designated for the species.

The distribution of pallid sturgeon in Montana encompasses the range of two isolated populations, which are bisected by Fort Peck Dam (Figure 1). The population upstream of Fort Peck Dam occurs in the Missouri River upstream to Morony Dam (river miles ~1,898–2,106), near the town of Great Falls, Montana, the Marias River from its confluence with the Missouri River upstream to potentially Tiber Dam (river miles 0–80), and occasionally in Fort Peck Reservoir. The population downstream of Fort Peck Dam occurs in the Missouri River downstream to the state boundary (river miles 1,587–1,762), the Milk River from its confluence with the Missouri River upstream to potentially Vandalia Dam (river miles 0–117), and the Yellowstone River watershed. Occupancy in the Yellowstone River watershed extends in the Yellowstone River from the mouth upstream to the Cartersville Diversion Dam (river miles 0–237), the Powder River from its confluence with the Yellowstone River upstream to the state boundary (river miles 0–218), and the Tongue River from its mouth upstream to the Tongue and Yellowstone Rivers Diversion Dam (river miles 0–20). Whereas pallid sturgeon may occupy these habitats in Montana year-round, individual movements during the putative spawning season (April 15–July 1) tend to be more expansive and frequently extend into the periphery of their range, particularly into large river tributaries (i.e., Marias, Milk, Powder, and Tongue rivers), relative to other times of the year.

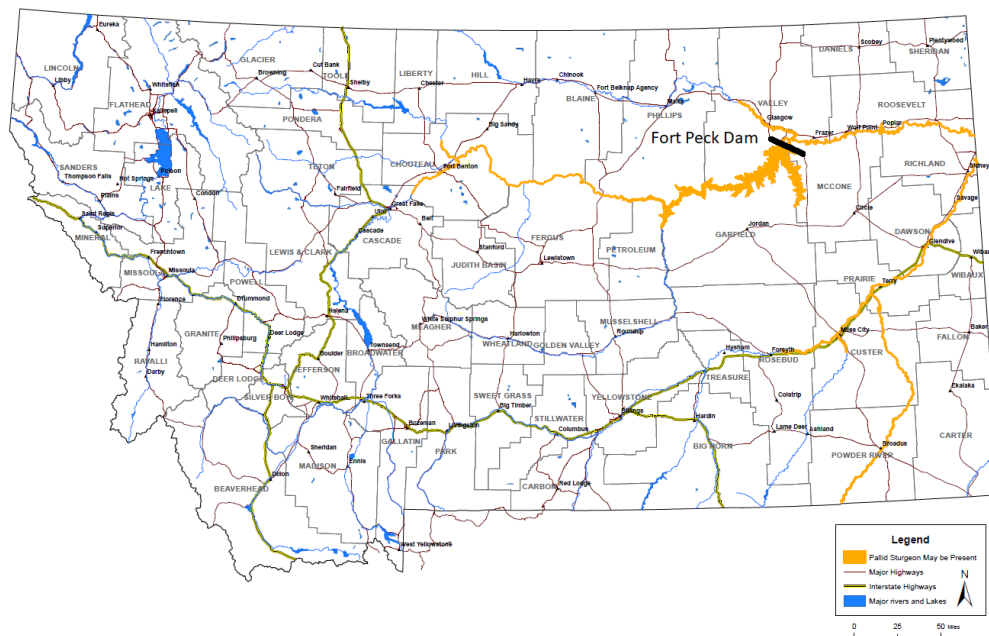


Figure 1. The distribution of pallid sturgeon in Montana.

Water intakes can injure or kill pallid sturgeon by impinging or entraining individuals (USFWS 2014). Impingement occurs when a fish becomes trapped against a water intake screen and cannot swim away, typically because the flow velocity immediately upstream of the intake exceeds the swimming capability of the fish (NMFS 2022). Entrainment occurs when a fish is diverted into an unsafe area (e.g., intake pump) or passage route (e.g., irrigation ditch; NMFS 2022).

Whereas water intakes can adversely affect pallid sturgeon of all life-stages (USFWS 2014), the potential for such effects varies by life stage due to changes in swimming capabilities and habitat use throughout their life cycle. Adult and juvenile pallid sturgeon are capable swimmers in swift currents and typically use benthic habitats in the main channel, channel border, or secondary channels of large rivers (Jordan et al. 2016). In contrast, early pallid sturgeon life stages (i.e., < age 1) have limited swimming capabilities. Free embryos enter the water column immediately upon hatch and drift downstream with the water current, predominately in the river thalweg (i.e., deepest part of the river) and near the channel bottom (i.e., the lower meter of the water column; Braaten et al. 2012). At approximately 9–11 days post-hatch, free embryos develop into non-drifting larvae that settle into benthic habitats and can volitionally maintain their position in a river, although the swimming capabilities of larval pallid sturgeon are still limited (Jordan et al. 2016).

Because adult and juvenile pallid sturgeon are capable swimmers, use of screens on water intakes can minimize or eliminate the potential for adverse effects to these life stages, if flow velocity upstream of the intake does not cause impingement. Placing water intakes above the lower 25% of the water column can further reduce the potential for adverse effects to adult and juvenile individuals (Jordan et al. 2016). However, pallid sturgeon free embryos and larvae lack adequate swimming capabilities to move away from intake screens, making these life-stages particularly vulnerable to entrainment or impingement at water intake sites for hundreds of kilometers downstream of spawning sites (Jordan et al. 2016). Additionally, pallid sturgeon free embryos are small (<20 mm; Jordan et al. 2006), such that the size of screen mesh size required for preventing entrainment would likely be too small to support water intake function. As such, water intake placement away from the thalweg and off the channel bottom is considered the best option to mitigate the potential for entrainment or impingement of these early life-stages.

A headworks structure, constructed in 2012, at the Lower Yellowstone Project Intake Diversion Dam on the Yellowstone River provides an example of water intake screening criteria that appear to effectively mitigate adverse effects to pallid sturgeon and other fish species. In the absence of water intake screening criteria for pallid sturgeon, the U.S. Bureau of Reclamation incorporated anadromous juvenile salmonid screening criteria (NMFS 2011) in the design of the new headworks structure (USBOR and USACE 2016). Specifically, the headworks screens have a mesh size of 1.75 millimeters (mm; profile bar of 2.38 mm), and a maximum approach velocity of 0.4 feet per second (USBOR and USACE 2016). Additionally, the headworks screens are mounted one meter above the channel bed and as far from the river thalweg as was possible (100–150 feet; USBOR and USACE 2016). Incorporation of these criteria into the headworks

structure design have resulted in a significant reduction in the total number of fish, including sturgeon species, that are entrained annually into the main canal relative to pre-project entrainment rates. Additionally, fish impingement has not been detected during routine monitoring of the new headworks structure.

After considering the ecological requirements of pallid sturgeon at various life-stages and the apparent success of the design criteria used for the Lower Yellowstone Project headworks structure to minimize the entrainment and impingement of pallid sturgeon and other fish species in the Yellowstone River, we recommend the following general conservation measures in waters known or potentially occupied by pallid sturgeon (see above) to reduce the potential for adverse effects of water intakes to pallid sturgeon:

1. In-water construction and other in-water work activities should not occur from April 15 – July 1.
2. Water intakes should be screened with a maximum mesh size of 6.35 mm (¼-inch), although 1.75 mm (2.38 mm profile bar) is preferred.
3. Maximum flow velocity upstream of and across the water intake screen should be 0.12 meters per second (0.4 feet per second) or less.
4. Water intakes should be installed outside of the river thalweg and as far away from the thalweg as practicable.
5. Water intakes should operate above the lower 25% of the water column and at least one meter above the channel bed throughout the year.

Additional project-specific intake measures may be appropriate and recommended by the Service relative to local habitat, pallid sturgeon use, and project-specific considerations.

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IN REPLY REFER TO:
FWS/R6
ES

United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



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FEB 04 2010

Memorandum

To: Field Office Project Leaders, Ecological Services, Region 6
Montana, North Dakota, South Dakota, Nebraska, Kansas

From: Assistant Regional Director, Ecological Services, Region 6

Subject: Region 6 Guidance for Minimizing Effects from Power Line Projects Within the Whooping Crane Migration Corridor

This document is intended to assist Region 6 Ecological Services (ES) biologists in power line (including generation lines, transmission lines, distribution lines, etc.) project evaluation within the whooping crane migration corridor. The guidance contained herein also may be useful in planning by Federal action agencies, consultants, companies, and organizations concerned with impacts to avian resources, such as the Avian Power Line Interaction Committee (APLIC). We encourage action agencies and project proponents to coordinate with their local ES field office early in project development to implement this guidance.

The guidance includes general considerations that may apply to most, but not every, situation within the whooping crane migratory corridor. Additional conservation measures may be considered and/or discretion may be applied by the appropriate ES field office, as applicable. We believe that in most cases the following measures, if implemented and maintained, could reduce the potential effects to the whooping crane to an insignificant and/or discountable level. Where a Federal nexus is lacking, we believe that following these recommendations would reduce the likelihood of a whooping crane being taken and resulting in a violation of Endangered Species Act (ESA) section 9. If non-Federal actions cannot avoid the potential for incidental take, the local ES field office should encourage project proponents to develop a Habitat Conservation Plan and apply for a permit pursuant to ESA section 10(a)(1)(B).

Finally, although this guidance is specific to impacts of power line projects to the whooping crane within the migration corridor, we acknowledge that these guidelines also may benefit other listed and migratory birds.

If you have any questions, please contact Sarena Selbo, Section 7 Coordinator, at (303) 236-4046.

Region 6 Guidance for Minimizing Effects from Power Line Projects Within the Whooping Crane Migration Corridor

- 1) Project proponents should avoid construction of overhead power lines within 5.0 miles of designated critical habitat and documented high use areas (these locations can be obtained from the local ES field office).
- 2) To the greatest extent possible, project proponents should bury all new power lines, especially those within 1.0 mile of potentially suitable habitat¹.
- 3) If it is not economically or technically feasible to bury lines, then we recommend the following conservation measures be implemented:
 - a) Within the 95-percent sighting corridor (see attached map)
 - i) Project proponents should mark² new lines within 1.0 mile of potentially suitable habitat and an equal amount of existing line within 1.0 mile of potentially suitable habitat (preferably within the 75-percent corridor, but at a minimum within the 95-percent corridor) according to the U.S. Fish and Wildlife Service (USFWS) recommendations described in APLIC 1994 (or newer version as updated).
 - ii) Project proponents should mark replacement or upgraded lines within 1.0 mile of potentially suitable habitat according to the USFWS recommendations described in APLIC 1994 (or newer version as updated).
 - b) Outside the 95-percent sighting corridor within a State's borders

Project proponents should mark new lines within 1.0 mile of potentially suitable habitat at the discretion of the local ES field office, based on the biological needs of the whooping crane.
 - c) Develop compliance monitoring plans

Field offices should request written confirmation from the project proponent that power lines have been or will be marked and maintained (i.e., did the lines recommended for marking actually get marked? Are the markers being maintained in working condition?)

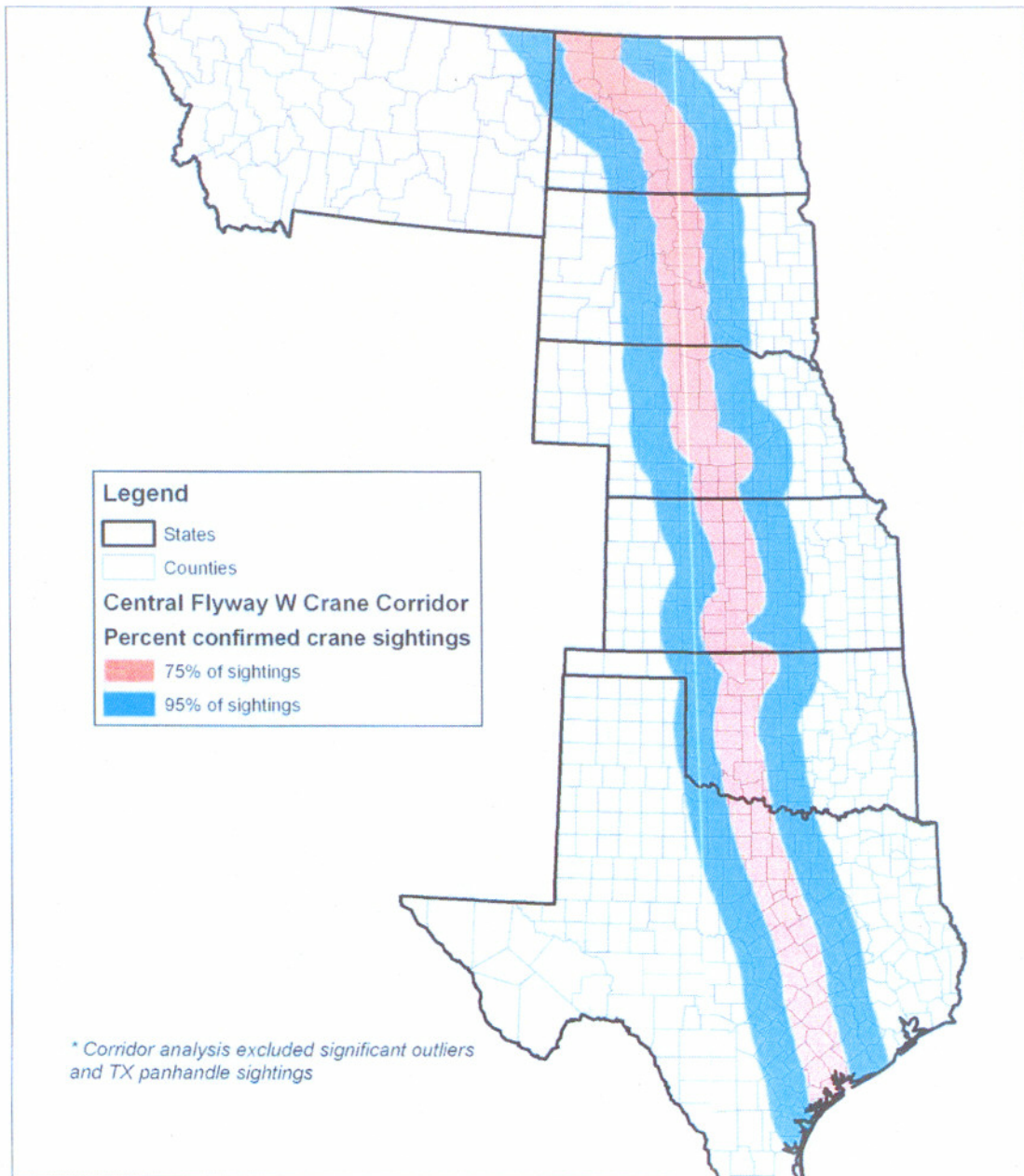
¹ Potentially suitable migratory stop over habitat for whooping cranes includes wetlands with areas of shallow water without visual obstructions (i.e., high or dense vegetation) (Austin & Richert 2001; Johns et al. 1997; Lingle et al. 1991; Howe 1987) and submerged sandbars in wide, unobstructed river channels that are isolated from human disturbance (Armbruster 1990). Roosting wetlands are often located within 1 mile of grain fields. As this is a broad definition, ES field office biologists should assist action agencies/applicants/companies in determining what constitutes potentially suitable habitat at the local level.

² Power lines are cited as the single greatest threat of mortality to fledged whooping cranes. Studies have shown that marking power lines reduces the risk of a line strike by 50 to 80 percent (Yee 2008; Brown & Drewien 1995; Morkill & Anderson 1991). Marking new lines and an equal length of existing line in the migration corridor maintains the baseline condition from this threat.



U.S. Fish & Wildlife Service

United States Central Flyway Whooping Crane Migration Corridor *



Produced for Ecological Services
Grand Island, NE
Current to: 2008
Basemap (Date): U.S. Counties
Meridian:
File:

0 70 140 280 420 560 Miles



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OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

November 9, 2024

Cody Hendrix
Bureau of Reclamation, Montana Area Field Office
2900 4th Ave North
Billings, MT

RE: Draft Environmental Assessment (EA) for the proposed Dry-Redwater Rural Water Project (DRWP).

Mr. Hendrix:

The State of Montana appreciates the opportunity to submit comments on the draft EA for the Bureau of Reclamation's (BOR's) DRWP. This project will provide needed water supplies to northeast Montana and this draft EA is an important step towards the construction and completion of this vital project. I fully support the DRWP and the State of Montana is ready to work together with the BOR to complete this project.

I applaud the Dry-Redwater Regional Water Authority (DRWA), formed by the McCone, Dawson, Garfield, and Richland County Conservation Districts, for their efforts in moving this project forward. Since 2005, the DRWA has worked tirelessly to achieve its goal of providing clean, accessible drinking and livestock water for the residents of the area.

The State of Montana has also worked to advance this project to completion. Since 2006, Montana has invested over \$10 million from the Montana Coal Endowment Program and from funds received from American Rescue Plan Act. The approval of this project will bring much-needed clean drinking water to northeastern Montana.

As outlined in the draft EA, the DRWP will provide significant benefits for the residents of northeast Montana with limited impacts on the environment. I would encourage the BOR to finalize this EA as soon as possible and seriously consider issuing a Finding of No Significant Impact. There appears to be no reason to pursue a full Environmental Impact Statement, and the sooner this project is completed, the sooner its benefits will be realized.

The DRWP has the potential to dramatically improve the lives of Montanans. I thank the BOR Montana Field Office for their efforts to date and stand ready to work together with our federal partners to see this project to completion.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg", followed by a large, stylized blue star.

Greg Gianforte
Governor