

NRR-DMPSPEm Resource

From: Ciurej, Amanda <amanda_ciurej@fws.gov>
Sent: Tuesday, March 20, 2018 4:09 PM
To: Quintero, Jessie
Cc: Grange, Briana
Subject: [External_Sender] Fwd: Marsland Section 7 Consultation

Hi Jessie,

I doubled checked our Whooping Crane Database for historic sightings in and near the proposed Marsland Expansion Area as well as conducted another search for suitable habitat areas. The proposed project area let alone all of Dawes County is outside of the Whooping Crane migration corridor through Nebraska. We do have records of the species in Dawes County, but none in the proposed project area or buffer. Whooping cranes prefer large, shallow wetlands and wide rivers with large, unobstructed views. Based off my review, the proposed project area doesn't contain these habitats. The proposed project area is very upland with northern half being more obstructed and ridged then the southern half. The southern half there are some potential stopover sites, but they are low very quality. There is no designated critical habitat for the species in this county, which you accurately depicted in your EA. With that said, the Service would not require the NRC hold the applicant to avoid construction during the species' spring (March 6 - April 29) and fall (October 9 - November 5) migration. Instead, we require that if whooping cranes be observed within a 0.5 mile of construction, that construction cease and the Service and Nebraska Game and Parks Commission be contacted for further coordination. We require the same for decommissioning activities as well.

Something to note: On page 4-32 of your EA - the Whooping Crane section - you reference the old migration dates. The new spring and fall migration dates are March 6 - April 29 and October 9 - November 5, respectfully. Please fix this.

Let me know if you have anymore questions.

Thanks,
Amanda

Amanda Ciurej
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----- Forwarded message -----

From: **Ciurej, Amanda** <amanda_ciurej@fws.gov>
Date: Mon, Feb 26, 2018 at 12:20 PM
Subject: Re: Marsland Section 7 Consultation
To: "Quintero, Jessie" <Jessie.Quintero@nrc.gov>
Cc: "Grange, Briana" <Briana.Grange@nrc.gov>

Hi Jessie,

Below are comments that will help the NRC complete the effects analysis in a Biological Assessment (BA), that the NRC agreed to complete as a standalone document and not integrate it into their Environmental Assessment (EA) of the Marsland Expansion Project. As we discussed, I provide comments and resources for your team to assess impacts to the rufa red knot and black-footed ferret. I also had some addition comments regarding the Northern-long eared bat and whooping crane. Below are my comments.

Comments:

Rufa Red Knot (*Calidris canutus rufa*)

The NRC did not evaluate effects to the rufa red knot in their EA. The rufa red knot was listed as a threatened species under the Endangered Species Act (ESA) on December 11, 2014 with no designated critical habitat. The species is rare migrant in Nebraska although it has been observed at least twice during its spring and fall migration across the state using mud flats and shorelines at rainwater basin wetlands, rivers, and large impoundments where they feed and rest during their migration. Lake McConaughy is the only site in Nebraska where this species has been recorded more than three times. Multiple observations have also been recorded from Lakes North and Babcock in Platte County in 1986, 1991, and 1998 and Lake Minatare in Scotts Bluff County in 1998 and 2002. The red knot can be identified by its Rufus breast, belly, and flanks during breeding season. Climate change, loss of habitat, coastal development, and the reduction in horseshoe crab eggs due to overharvesting has led to population declines.

The latest record of red knots in Dawes County is September 1975 (Rosche 1992; Bray et al. 1986). Potential foraging and roosting sites for this species include, the sandy shoreline of the Niobrara River to the south, wetlands, and lakes. The NRC needs to consider the potential effects to this species in their EA. The NRC also needs to consider these potential effects in the effects analysis of the BA, make a determination, and provide the Service that determination for further review.

References:

Rosche, R.R. 1992. *Birds of Northwestern Nebraska and Southwestern South Dakota, an Annotated Checklist*. Cottonwood Press, Crawford, Nebraska.

Bray, T.E., B.K. Padelford and W.R. Silcock. 1986. *The Birds of Nebraska: a Critically Evaluated List*. Published by the authors, Bellevue, Nebraska.

Black-footed ferret (*Mustela nigripes*)

The black-footed ferret was listed as federally endangered species on March 11, 1967 under the Endangered Species Preservation Act of 1966. It was “grandfathered” into the more expansive, ESA passed by Congress in 1973. Ferrets solely depend on prairie dogs for food and their burrow for shelter and denning. The historical range of the ferret in Nebraska coincides with the range of the black-tailed prairie dog (*Cynomys ludovicianus*; Cahalane 1954). The last confirmed sighting in the state occurred in Overton, Nebraska in 1949 (Fichter and Jones 1953). Conversion of native grassland to agriculture and considerable amount of prairie dog poisoning that has occurred since the late 1800’s has led to a decline in the ferret. Plague (*Yersinia pestis*) may also be a contributing factor to the species’ decline, but the NEFO does not have confirmation this is the case.

The Service considers the black-footed ferret as extirpated in Nebraska, including Dawes County. Recovery of the species depends on the conservation of prairie dog habitat adequate enough to sustain ferrets in several populations distributed throughout their home range (USFWS 2003). Your EA indicated that a 2011 survey identified prairie dog colonies occurred along project area boundary and within the 2.5 mile buffer of the project area. In Google Earth, tried located these colonies, but could not find them. Regardless, these colonies do not contain black-footed ferrets and there are no reintroduction sites (prairie dog colonies). The NRC should consider the potential effects to this species in their EA. The NRC also needs to consider these potential effects in their BA, make a determination, and provide the Service that determination for further review.

References:

Calahane, V.H. 1954. Status of the black-footed ferret. *Journal of Mammalogy*. 35: 418-424.

Fichter, E.J. and K. Jones. 1953. The occurrence of the black-footed ferret in Nebraska. *Journal of Mammalogy*. 34: 385-389.

U.S. Fish and Wildlife Service. 2013. Recovery plan for the black-footed ferret (*Mustela nigripes*). U.S. Fish and Wildlife Service, Denver, Colorado. 157 pp.

Whooping Cranes (*Grus americana*)

The whooping crane migration dates have changed to March 6 – April 29 (spring) and October 9 – November 5 (fall). The migration dates in the EA are incorrect. The NRC needs to change the dates in the EA and reassess alternatives, if needed, based on the new migration dates. In the BA, the NRC needs to assess impacts to whooping cranes in their effect analysis and submit an effects determination to the Service for further review.

In the BA, the NRC needs to determine if effects to whooping cranes would occur and discuss the conservation measures that will be implemented to avoid/ minimize impacts. For instance, the Service will require daily surveys be conducted during the spring and fall migrations during construction and decommissioning of the mine site. If whooping cranes are spotted within 0.5 mile of construction or decommissioning, work must cease until the birds move on. Then, the NRC needs to submit an effects determination to the Service for further review.

Northern-Long eared Bat (NLEB; *Myotis septentrionalis*)

In the Environmental Impact section of the EA, the NRC mentioned surveys were conducted to determine the presence/absence of the NLEB. Not only are the surveys now dated, but EA does not discuss the methods these surveys followed and who completed them. If more recent surveys were completed, I would reference those instead.

In the BA, the NRC needs to determine if effects to the NLEB would occur and discuss the conservation measures that will be implemented to avoid/ minimize impacts. Tree clearing was identified in the EA. Please note, the Service will not provide concurrence unless the NRC agrees to avoid tree clearing activities during the NLEB mating season (June 1 – July 31). Once the determination is made, the NRC needs to submit it to the Service for further review.

More information on the Service's Section 7 consultation for projects within the NLEB can be found here: <https://www.fws.gov/Midwest/endangered/mammals/nleb/s7.html>

Once a BA is available, you may submit your written request for concurrence to me via email. Should you have any questions, please do not hesitate to call.

Thanks,

Amanda

Amanda Ciurej

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On Tue, Feb 13, 2018 at 9:26 AM, Quintero, Jessie <Jessie.Quintero@nrc.gov> wrote:

Amanda,
Purpose of the call would be to continue discussions about the Section 7 consultation for the Marsland Expansion site. Let me know if this time doesn't work for you and I will reschedule.
Thanks,
Jessie

----- Forwarded message -----

From: "Quintero, Jessie" <Jessie.Quintero@nrc.gov>
To: "Ciurej, Amanda" <amanda_ciurej@fws.gov>
Cc: "Grange, Briana" <Briana.Grange@nrc.gov>
Bcc:
Date: Thu, 8 Feb 2018 21:09:10 +0000
Subject: RE: Record of Friday, 2-2-2018 Telephone Conversation

Hi Amanda,

Thanks for that email. In advance of our call next week, I wanted to provide some additional information.

I'll send you a scheduler for next week. If the day/time doesn't work, let me know a more convenient time and I'll reschedule. The ecologist, Briana, will be in training next week but if she is able to call in during a break or lunch, she will try.

Thanks,

Jessie

From: Ciurej, Amanda [mailto:amanda_ciurej@fws.gov]
Sent: Monday, February 05, 2018 11:38 AM
To: Quintero, Jessie <Jessie.Quintero@nrc.gov>
Subject: [External_Sender] Record of Friday, 2-2-2018 Telephone Conversation

Hi Jessie,

Here are the take away messages from our telephone conversation last Friday (2 FEB 2018) regarding the comments I made on the NRC's Marsland Expansion Area Project.

1. To comply with Section 7, the NRC needs to complete a Biological Assessment (BA) for this project and it needs to include the contents mentioned in 50 CFR § 402.12(f). The Service has no reservations on whether the BA is a standalone document or integrated as part of another document like an Environmental Assessment (EA) just as long as all the information is there for us to adequately assess the project's impacts to listed species and/or critical habitat to make a determination. Format is something we typically work with the federal

action agency on during early coordination. Based on my review of the draft EA, a majority of the required contents for a BA are already included in the draft document. My recommendation to the NRC is to review the draft EA to ensure it includes the contents I referenced above and resubmit the draft EA to the Service for review. The name of the document should clearly indicate whether or not the BA is integrated or not.

When we talk next week, let's discuss the options for submitting a stand-alone Biological Evaluation (BE) or a revised Draft EA. One factor for us is maintaining the project schedule. In order to stay on track, we would need to have the documentation to you by the end of this month – assuming you would need another 30 days to concur (or not) on our submittal.

Also, since this is an expansion of an existing project, I was curious as to whether the NRC had already assessed environmental impacts of in situ mining in an EIS or programmatic EA document and if so, what the BA covered. Do you know?

The NRC prepared a generic (or programmatic) environmental impact statement (GEIS) for in situ uranium recovery (ISR), which can be found here → <https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1910/>, Volume 1 and 2. There was no consultation prepared for that GEIS since they would be completed for each specific site. The Marsland Expansion Area is an expansion of the Crow Butte ISR site. The Crow Butte site was licensed awhile back but we recently completed an EA for the license renewal of the Crow Butte site. That EA is available here → <https://www.nrc.gov/docs/ML1428/ML14288A517.pdf>. The FWS concurred, based on the EA, that there would be no effect to listed species because none occurred within the project area. FWS's letter can be found here → <https://www.nrc.gov/docs/ML1504/ML15044A080.pdf>. The Crow Butte site and Marsland Expansion area are not contiguous, they are ~11 miles away.

2. In regards to migratory birds and eagles, since the mining is being done in situ and no storage or disposal of waste water or waste material will occur on site does reduce impacts to birds from exposure to any contaminants introduced during the ore extraction process. I need another read-through to better understand your mining operation and opportunity to ask questions to be sure though.

In the ISR GEIS, and as referenced in the Marsland Draft EA, the primary impacts from ISR activities to species are habitat alteration, incremental habitat fragmentation, displacement/stress from human activity, direct/indirect mortalities from project construction and operation. Sections 2.1 and 2.2 of the Draft EA provide a basic description of the ISR process but we can definitely answer any questions you might have about ISR operations during our call.

Also, in the draft EA, the assessment on eagles is based on literature from 2014. I recommend NRC update this section using more recent literature that is available. I attached the Nebraska Game and Parks Commission's 2016 Annual Eagle Nesting Report to get you started (2017 report still in lit review). Please note this is specific to bald eagle nesting in Nebraska. Given your project is located in western Nebraska, golden eagles are also likely to occur in the project area. Your draft EA should discuss whether the mining operation would have an on impact, if any, on golden eagle activity and nesting. From my first read through, I did not get the impression that golden eagles were even considered. I will do an assessment of eagle (bald and golden) nest locations in the project area and get back to you.

I didn't see an attachment to your email but I think I found the report online → http://magazine.outdoornebraska.gov/wp-content/uploads/2018/02/2017_Bald_Eagle_Nesting_Report.pdf. We will update the Final EA with this latest report. Section 4.4.2.5 (p4-33) of the Draft EA includes both the golden and bald eagle, although it points to Section 4.4.1.2 on raptors for the potential impacts. Ultimately, the NRC concluded that the impacts to both eagles would be SMALL. We can also make revisions in the Final EA with any information you're able to provide regarding nest locations.

3. In addition to the Northern Long-eared bat and Whooping Crane, the NRC needs to evaluate the effects of the project to the federally listed Rufa Red Knot in their BA. The Rufa Red Knot was listed as a threatened species under ESA on December 11, 2014 with no designated critical habitat. This species is a rare migrant in Nebraska, although it has been observed across the state using mud flats and shorelines at rainwater basin wetlands, rivers, and large impoundments in the State where they feed and rest during their migration. The NRC needs to assess the potential effects of the project to Rufa Red Knot, make a determination, and provide the Service that determination for further review.

We'll add both species to our analysis. Do you have any additional references or information about the presence of the Rufa Red Knot in this area? NGPC conducted a site visit in 2013 and they did not mention the Rufa Red Knot, but it had been listed yet (2014).

Another species that needs to be included in the NRC's effects analysis is the black-footed ferret (ferret). The ferret is a federally endangered species that historically occurred in large black-tailed prairie dog towns Nebraska. The Service considers the ferret to be extirpated, but the conservation of the species is heavily dependent upon the acres of prairie dog towns available for reintroduction. The NRC needs to assess the potential impacts to black-footed ferret conservation, make a determination, and provide the Service that determination for further review. Please note, discussion on potential impacts is dependent upon on the presence of prairie dog towns in the proposed project area and if impacts (i.e., removal) to towns will occur.

Do you have any additional references or information about the ferret conservation in this area?

These are my initial comments. Take these to your team meeting and we can reconvene when I am back in the office sometime next week or whenever we can set up our next meeting.

Take care,

Amanda

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Amanda Ciurej

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"Grange, Briana" <Briana.Grange@nrc.gov>
Tracking Status: None
"Quintero, Jessie" <Jessie.Quintero@nrc.gov>
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