

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

ATTACHMENT 4

LAND PLAN

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December 7, 2005

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I. PURPOSE

The purpose of the Land Plan is to provide guidance in implementing the land component of the First Increment of the Platte River Recovery Implementation Program (Program). To aid in the understanding of the Land Plan, excerpts from other relevant Program documents are included as Tabs. The “initial focus” of the Program is to acquire interests in lands¹ between Lexington and Chapman, Nebraska, to restore them where appropriate, to maintain them, and otherwise to manage them so that they provide benefits to the target species based on the individual features of the land while using some or all of the characteristics of “habitat complexes” as discussed in Section II.B.1 below. The initial focus on habitat complexes is subject to change during the First Increment through investigations in the Adaptive Management Plan (Attachment 3 and Section III.B of the Program Document). This Plan also allows the Governance Committee to consider non-complex lands that provide demonstrable benefits to the species and have or could potentially have the characteristics described in Section II.B.2 below. The Governance Committee may also agree to undertake, fund or give credit for activities outside the Lexington to Chapman reach to provide biological benefit to the target species. Habitat acquisition is to be on a willing seller/willing lessor basis. All land acquisition and management decisions will take into account the costs, the relative benefit to the target species, and contribution toward fulfilling the Program’s objectives. The Program will manage its lands in accordance with a “good neighbor policy” as described in Section IV below.

Responsibility for implementing the Land Plan lies ultimately with the Governance Committee, but a number of activities will be carried out by the Land Advisory Committee, the Program’s Executive Director, or both working collaboratively. Activities assigned to the Executive Director in the Land Plan may be carried out by the Executive Director personally or, under his or her supervision, by Program staff, contractors or other Program participants. The relationships among the Governance Committee, Land Advisory Committee, Executive Director and other Program participants are described in the Program’s Organizational Structure document (Program Attachment 6). Land Advisory Committee membership and responsibilities are described in the Land Advisory Committee Charter (TAB 4; Organizational Structure, Program Attachment 6). The Land Advisory Committee provides advice and recommendations to the Governance Committee related to land acquisition, management and other land-related issues. A Land Interest Holding Entity will hold the Program’s real property interests, and in some circumstances sponsorship arrangements will allow Program use of lands without transfer of the property rights.

II. LAND ACQUISITION

A. Process for Identifying and Evaluating Potential Program Lands

Particular parcels of land to be considered for Program acquisition will generally be identified in one of two ways. First, the Program will identify potential parcels for acquisition based on location, existing habitat, land uses, and/or potential for restoration and may approach owners of such land parcels, either through “open house” public meetings or on a one-to-one basis.

¹ “Acquire” includes purchase, lease, easement or other arrangements (Appendix E).

Second, landowners who are seeking to market or to dedicate their property to the Program may contact representatives of the Program. The Executive Director will be responsible for approaching landowners, coordinating activities to approach landowners, responding to landowner inquiries and cataloguing all potential offers received.

The Executive Director, working with the Land Advisory Committee, will evaluate all parcels of property that have been identified for possible acquisition. The evaluation process will provide the information necessary for the Governance Committee to decide which lands to acquire. The Executive Director will have a process or processes to work with the Land Advisory Committee to evaluate a parcel of property, and to provide information to the Governance Committee when quick action is needed to secure that parcel of property.

The Executive Director, working with the Land Advisory Committee, will complete the Land Evaluation Worksheet (Appendix A), which requires the evaluators to answer a series of questions about each potential parcel of land and its nearby land and water features. As part of that process, the Executive Director will obtain or develop maps showing the proposed property boundaries, habitat types, and the location of nearby “conservation lands” owned by the National Audubon Society, the Platte River Whooping Crane Critical Habitat Maintenance Trust, The Nature Conservancy or others. Initial maps identifying some of these features available to the Program are found in Appendix F. If warranted, the Land Advisory Committee will conduct a site visit. To ensure consistent landowner contact, the Executive Director will accompany the Land Advisory Committee on any visits to the proposed parcel of property. While informal and preliminary discussions will likely take place between the landowner and the Executive Director or Program Staff and/or Land Advisory Committee representatives during the initial evaluation of a parcel of property, formal negotiations and commitments must be carried out by or under the direction of the Executive Director, and require Governance Committee approval.

The Executive Director will compile all information related to the parcel of land under consideration (i.e., Land Evaluation Worksheet, maps, and results of the site visit) in a report for review by the Land Advisory Committee. The report will describe how each parcel of land fits with the Program’s goals and objectives.² The Land Advisory Committee will develop recommendations on whether the Program should or should not pursue acquiring a particular parcel of property, and any recommended acquisition terms. If the Land Advisory Committee is not able to reach agreement on whether to recommend pursuing the acquisition of a parcel, it will identify all viewpoints raised by Land Advisory Committee representatives without identifying majority or minority views. The Executive Director will transmit each evaluation report, along with the Land Advisory Committee’s recommendations or viewpoints to the Governance Committee.

After receipt of the evaluation report and Land Advisory Committee’s recommendations or concerns regarding a particular parcel of property, the Governance Committee has several options to pursue. For instance, the Governance Committee may reject the parcel, defer any

² Specifically, the completed worksheet will describe how the parcel under consideration fits with Section II.B Table 1 or 2 target characteristics, the preferences listed in Sections II.B.1 and II.B.2 below and with any habitat complex being formed. The worksheet also calls for non-complex lands to be identified in the evaluation process so it is clear if they are being counted against any acreage cap.

decision until a later time, approve initiating formal negotiations and provide instructions regarding acceptable terms, or approve bidding on the parcel up to a pre-determined maximum purchase price. If the Governance Committee decides to pursue acquiring an interest in a property, it will assign the negotiations or bidding to the Executive Director (who may work with Program Staff, a contractor negotiating agent, Land Advisory Committee representatives or other Program participants) to negotiate or bid on the Program's behalf consistent with the Governance Committee's instructions. If negotiation or bidding is successful, the Governance Committee will act a second time to approve the final acquisition agreement or arrangements.

B. Land Acquisition Decision Process for the Program

The Governance Committee retains the authority to decide whether to acquire an interest in any particular parcel of land. Unless changed through the Adaptive Management Plan (Program Attachment 3), the Governance Committee will be guided by the considerations described below.

1. Habitat Complexes

The "initial focus" of the acquisition process is on habitat complexes.³ A "habitat complex" consists of wet meadows, channel areas, and buffers. "Channel area" is the portion of the river that conducts flow and is bounded on either side by stable banks or permanent islands with vegetation that obstructs view. At low flows it includes interconnected small channels and exposed sand or gravel bars and non-permanent islands. "Wet meadows" are areas with a generally level or low-lying undulating surface consisting of a mosaic of swales with wetland soils and vegetation and ridges with upland native or restored grasslands. "Buffer" is used to shield wet meadow or channel habitat areas from potential disturbances.

The Program will use its best efforts to acquire lands that approximate or have the potential to approximate through restoration the target habitat complex characteristics in Table 1, Target Habitat Complex Guidelines.⁴ Among other things, the realities of budget, geography and the Program's willing seller/lessor policy mean that it may be difficult to acquire contiguous lands meeting the size and physical characteristics described in Table 1. For these and other reasons, the dimensions and proportions of the target habitat complex are not required for land acquisitions to be considered habitat complexes for the Program. The Governance Committee has the flexibility to acquire complex lands that do not have all of the types of habitat and habitat characteristics described in Table 1⁵, at the end of the Land Plan.

³ The duration of the "initial focus" on habitat complexes is not fixed. Based on the information available at Program inception, the parties expected that "initial" would refer to the entire First Increment. The Governance Committee may modify this focus early, based on investigations in the Adaptive Management Plan.

⁴ The parties have agreed to use these habitat complex characteristics as an initial acquisition, restoration and maintenance target. The states and July 1997 Cooperative Agreement Land Committee continue to disagree that these characteristics represent the "best" habitat or necessary habitat for the target species, or that the Program will be able to sustain the characteristics solely with flow management. The states and July 1997 Cooperative Agreement Land Committee believe that an approach based on acquiring and developing habitat with a range of characteristics is justified.

⁵ For example, after considering the available lands, the Governance Committee may decide that the greatest biological benefit would be from acquiring a habitat complex with a wide channel area but little or no nearby wet meadow habitat, or a wet meadow area near a narrow channel area. Generally, riverine habitat will be considered habitat complex land.

The target habitat complex characteristics in Table 1 will be examined through the Adaptive Management Plan during the First Increment. The Adaptive Management Plan (Program Attachment 3) includes activities that will be used to assess species use and habitat as related to the Table 1 characteristics and other management options.

While the “best case” acquisition is a single parcel of land of the size and with the characteristics described in Table 1, land ownership patterns in the central Platte River area suggest that habitat complexes will generally be formed from lands acquired through multiple transactions over a period of time. The Program may acquire land for one or more complexes or partial complexes during the First Increment that it intends to add to during subsequent increments. The Governance Committee has the flexibility and responsibility to exercise its judgment in choosing among the parcels actually available to best implement the First Increment of the Program within practical constraints.

The Governance Committee will consider many factors when deciding whether to acquire a particular parcel of land, including but not limited to the following:

- The relative potential benefits to the target species from individual parcels of property alone and/or in combination with nearby parcels of property.
- The type of interest in land, including fee simple ownership, leases, easements or other arrangements agreed to by the Governance Committee. It is anticipated that a mix of interests will be acquired during the First Increment. The length of the interest should be long enough to provide a good return of benefits given the costs of acquisition, restoration and management. In furtherance of the long-term objective of perpetual protection of land, the interests acquired during the First Increment should be for as long a term as feasible.
- The location of the parcel of property. It is preferred to space habitat complexes with no more than one per “bridge segment” (river reach between two bridges) in ten bridge segments between Lexington and Chapman, Nebraska. Preferred bridge segments for the First Increment are:
 - those bridge segments located near the upstream end of the associated habitats,
 - those with habitat that can be most reasonably improved and that is not already being protected for target species purposes by another entity,
 - those bridge segments with existing habitat that is not already being protected for target species purposes by another entity and that appears likely to be lost or degraded without Program protections, and
 - those bridge segments that do not currently have any protected habitat.
- Generally a larger parcel of property is preferred over a smaller one to provide greater unobstructed view and protection from disturbance. A smaller parcel (even less than 40 acres) may be of interest, however, if it adjoins or is near already protected lands or has habitat characteristics that would allow the already-protected lands to more closely approximate Table 1 characteristics, would improve the habitat value of the land already under protection for the target species, or has a recent history of species use.
- The potential for combining an individual parcel of property with other adjoining or nearby parcels of properties to function, or potentially function, as a habitat complex. Parcels that can function as a habitat complex with adjoining or nearby lands that are

already protected are preferred over those that could function as a habitat complex when considered with adjoining or nearby lands that are unprotected.

- Wet meadows that are contiguous with or close by channel areas are preferred over wet meadows further away.
- The potential to form a habitat complex managing both sides of the river.
- The potential success of restoration efforts.
- The relative costs of acquisition, restoration and maintenance activities, and other cost considerations.

2. Non-Complex Habitat Lands

While the “initial focus” of the First Increment is on the “habitat complex” approach, focus does not mean entirety. The Governance Committee will consider non-complex habitat lands that provide demonstrable benefits to the target species such as sandpits and existing or restorable non-riparian wetlands and wet meadows within the Program’s area of interest consistent with Table 2. It is foreseen that some of the Land Component’s resources will be used for such habitat, but no more than 800 acres of the 10,000 acres to be acquired during the First Increment will be non-complex habitat unless it is determined through the Adaptive Management Plan that additional non-complex habitat lands should be acquired.

Non-complex habitat with demonstrable benefits includes sandpits for tern and plover nesting and non-riparian wetlands and wet meadows for whooping crane roosting and foraging that currently or potentially have the characteristics described in Table 2, Non-Complex Habitat Guidelines. In addition to acquiring interests in existing sandpits, the Governance Committee has the flexibility to enter into arrangements with sand and gravel operators so that habitat areas with suitable characteristics become available to the Program in the future. Implementation of the Adaptive Management Plan may lead the Governance Committee later to identify additional types of non-complex habitat with demonstrable benefits for the species, but at Program inception, wetland, wet meadow and sandpit “non-complex” habitat will be sought. The Adaptive Management Plan identifies a process that will be used to assess species uses and habitat as related to non-complex types of habitat.

The Governance Committee will consider many factors when deciding whether to acquire a particular parcel of non-complex habitat land, including, but not limited to, the following:

- The relative potential benefits to the target species from individual parcels of property alone and/or in combination with nearby parcels of property.
- The type of interest in land, including fee simple ownership, leases, easements or other arrangements agreed to by the Governance Committee. It is anticipated that a mix of interests will be acquired during the First Increment. The length of the interest should be long enough to provide a good return of benefits given the costs of acquisition, restoration and management. In furtherance of the long-term objective of perpetual protection of land, the interests acquired during the First Increment should be for as long a term as feasible.
- The location of the parcel of property relative to other types of habitat or habitat complexes. The scarcity of habitat serving similar species needs in an area may increase the desirability of a particular parcel of property.

- Generally a larger parcel of property is preferred over a smaller one to provide greater unobstructed view and protection from disturbance.
- The recent use by the target species of a particular parcel of property. For those sandpits that possess the characteristics described in Table 2, recent nesting activity (within the last 5 years) is generally preferred over those that do not have such use. This preference does not apply when evaluating opportunities to work with sand and gravel operators to provide areas with the characteristics described in Table 2 in the future.
- The potential success of restoration efforts. Functioning wetlands and those requiring minimal restoration efforts are preferred.
- The likelihood that used or useful habitat will be lost if not protected by the Program.
- The potential for obtaining useful data regarding land management options under the Adaptive Management Plan.
- The relative costs of acquisition, restoration and maintenance activities, and other cost considerations.

C. Process for Acquiring, Holding and Disposing of Interests in Program Lands

The Governance Committee may approve acquiring property interests in land through lease, easement, purchase or any other arrangement that it chooses. Any property interest or other arrangement must provide sufficient interest or control for lands to become part of the Program. The Governance Committee may approve disposing of some or all of the Program's interest in lands if not needed for Program purposes.

1. Holding Interests in Program Lands

a. Land Interest Holding Entity

Because the Governance Committee and Program are not legal entities that can enter into contracts or hold property, the Program will use a Land Interest Holding Entity to hold title to Program lands, or to enter into leases, easements, and other contractual arrangements for Program lands. All purchases, leases, easements, and other land-holding transactions will be made at the direction of the Governance Committee, working through contractual arrangements with the Land Interest Holding Entity (see Organizational Structures document, Program Attachment 6, Section VIII.B). The Land Interest Holding Entity will be a non-government entity, and will be identified through a search or bid process. To avoid any potential conflicts of interest, the Land Interest Holding Entity will be prohibited from managing Program lands.

b. Sponsors of Program Lands

Sponsors of Program lands are entities or individuals who dedicate the use of such lands to the Program, but retain ownership of the property rights that allow Program use of the lands. Sponsored lands must be protected by other federal, state or local programs, managed under regulatory oversight as habitat, or protected by non-profit conservation groups or government agencies.

A Signatory (Colorado, Nebraska, Wyoming or the federal government) may sponsor Program lands. To do so, it must identify a responsible agency and provide plans for land management,

Program access and/or Program coordination to provide appropriate assurances of management consistent with the Program's goals and objectives. A non-Signatory may also sponsor Program lands. To do so, it must enter into arrangements such as management and/or access agreements with the Land Interest Holding Entity, a Program Signatory or Signatories or a conservation organization, or must have a management plan in place that is required by a regulatory agency. Any agreements, management plans or other arrangements must be satisfactory to the Governance Committee and assure Program access and management consistent with the Program's goals and objectives.

Program lands owned by Sponsors include the Nebraska Public Power District's (NPPD's) Cottonwood Ranch Property (2650 acres), lands acquired by Wyoming (470 acres), and any lands acquired in the associated habitat by the National Fish and Wildlife Foundation using funds contributed prior to the Program as a result of ESA consultations. NPPD's tern and plover islands and sandpits may also be sponsored. Examples of lands which might be considered for inclusion in the Program in future sponsorship arrangements include those owned, leased or under easements held by the Nebraska Game and Parks Commission, the Platte River Whooping Crane Maintenance Trust, Inc., the National Audubon Society, The Nature Conservancy, and The Central Nebraska Public Power and Irrigation District (CNPPID). Lands managed by these entities prior to July 1, 1997 for the benefit of endangered and threatened species, and CNPPID's Jeffrey Island Habitat Area may be credited to the Program's long-term objective, but not toward the First Increment objectives of the Program without prior approval of the Governance Committee and the Sponsor. Other lands acquired by these entities after July 1, 1997 could contribute toward First Increment objectives, and are more likely to come into the Program under sponsorship arrangements during the First Increment. See Appendix B for a partial list of federal, state, and local programs that could also provide lands to the extent consistent with the law and policy governing such programs.

A parcel of sponsored land may be included in the Program only if approved by the Governance Committee consistent with the Land Plan. All sponsorship arrangements will be developed on a case-by-case basis considering the Program's investment in the project. Section II.C.2 below describes provisions to be addressed in sponsorship arrangements.

2. Controlling Program Lands

All Program lands will be managed and controlled pursuant to management plans as described in Section III below. If the Program acquires less than a fee simple interest in a parcel of property, other individuals or entities will hold property interests in that parcel. For each such parcel, the Governance Committee must have assurances at the time of acquisition that the Program will have adequate control of activities on the land to implement a management plan. These assurances may be provided through the terms of leases, easement agreements or other written agreements with such individuals or entities. For Sponsored Program lands, these assurances may be provided through the management plans that are required by a regulatory agency (such as the Federal Energy Regulatory Commission-approved plan in place for NPPD's Cottonwood Ranch Property) or prepared by a Signatory Project Sponsor's designated responsible agency. The same agreement or plan will also make clear the rights retained by the landowner and any assurances given to the landowner by the Program about how Program activities will be carried out or coordinated with the landowner. When the Governance Committee acquires less than a

fee simple interest in land, agreements or plans must include at least the following information:

- A description of the access to be allowed to Program participants for the purpose of habitat restoration, management, maintenance, monitoring and research, to the extent such activities are necessary on the property.
- A description of land uses and management to assure that non-Program and Program uses of the land are compatible. Appendix C contains broad descriptions of the types of provisions that the Program might negotiate to assure compatible use of Program land. Not all types of provisions will be needed on all parcels. Due to variability in land uses, physical characteristics of a parcel of property, and interests of the landowner, provisions that address compatible use of that property will be negotiated on a case-by-case basis when the agreement or plan is drafted. When parcel-specific provisions are negotiated, they will explicitly identify land uses that are allowed, allowed with prior coordination, restricted in time or place, or prohibited so that both the landowner and the Program have clear expectations.
- The right for the Program and/or Project Sponsor to carry out agreed-upon management plans for that property. Management plans and agreements providing details and defining management flexibility may be included in a lease, easement or other written agreement.
- A requirement that the agreement provide sufficient notice of expiration/termination, if applicable, so that Program lands can likely be replaced while the protections are still in place on those lands that will be taken out of the Program.
- A description of how any property interest in land held by the Program will be dealt with if the Program ends.
- A description of any conditions that limit Program activities on the parcel.
- A description of the rights that are retained by the landowner (e.g., hunting rights, mineral rights).
- A description of the conditions of public access, if any.
- A description of the required communications between the Program and landowner.

3. Leasing or Selling Interests in Program Lands⁶

If the Program acquires lands through fee simple purchase, the Governance Committee may decide to minimize Program costs by establishing conservation easements on the lands, and then reselling that property. Such conservation easements would subject the purchaser to conditions and limitations as described in Section II.C.2 above to assure that the use of the land remains compatible with Program objectives. Similarly, Program lands may be leased for uses that are compatible with Program objectives.

The Governance Committee may also choose to acquire a parcel of land only part of which would serve Program purposes, as described in Section II.C.4 below. The Governance Committee subsequently may request that the Land Interest Holding Entity lease or sell the property interest in those acres that do not count toward the Program objectives. The Governance Committee may determine the best means to dispose of some or all of its interests in such lands.

⁶ Leasing or selling interests in Program lands must comply with any applicable federal and state law.

Finally, through the Adaptive Management Plan (Program Attachment 3) the Governance Committee may find that lands previously counted toward habitat objectives have become of limited benefit to the Program, and decide to sell or lease interests in such lands. In such an event, the Governance Committee has an obligation to acquire replacement lands, if needed, to meet Program objectives.

4. Crediting Lands Acquired Toward Program Objectives

If the Program acquires an interest in a parcel of land for a habitat complex or non-complex habitat, it will count toward the 10,000 acre First Increment objective. Lands that are part of a habitat complex or are non-complex habitat, and that are used to evaluate management options, will count toward the 10,000-acre objective. The Governance Committee may choose to acquire a parcel of land only part of which would serve Program purposes. Before acquisition, the Governance Committee will identify those acres that will not be counted toward the Program objectives.

The Governance Committee will also determine prior to acquisition whether a parcel of land will count against the 800-acre cap on non-complex habitat. The Governance Committee may acquire certain non-riverine wetlands or sandpits within a reasonable distance from a habitat complex that function with that complex, and may, on a case-by-case basis, consider those lands as habitat complex lands. Non-complex lands may be reclassified as complex lands if a habitat complex is later developed in the area.

5. Disposition of Land Upon Ending the Program

Each lease, easement or written agreement for Program lands not held in fee title will address disposition of the Program's interest in those lands if the Program is terminated. The Program's Finance Document (Program Attachment 1) addresses the disposition of Program lands held in fee, and crediting for land benefits among Program participants.

III. HABITAT RESTORATION, MAINTENANCE AND OTHER MANAGEMENT

The Governance Committee, working through the Executive Director, will assure that habitat restoration, maintenance and management efforts are coordinated among the parcels of land. The Governance Committee may elect to use Program staff or a land management contractor under the direction of Program Staff for this purpose.

A. Process for Addressing Habitat Restoration, Maintenance and Management

The Program will use management plans to describe the appropriate restoration, maintenance, and other management activities for each parcel of land acquired for the Program. The Executive Director will draft the management plans for review and approval. The Executive Director will coordinate with the Land Advisory Committee during the drafting process to provide for early exploration of any recommendations or concerns. The Executive Director will also coordinate with the Program's Technical Advisory Committee and those carrying out aspects of the Adaptive Management Plan to explore any research or data collection needs that

might be accommodated as part of the management plan. Any draft management plan submitted to the Governance Committee for approval will be accompanied by a recommendation and/or comments by the Land Advisory Committee, and any comments by the Technical Advisory Committee. Management plans must be approved by the Governance Committee.

A management and restoration plan specific to each parcel of land protected will be prepared within one year of acquisition and implemented as provided in the plan.

B. Guidance for Developing Management Plans

The parcel-specific management plans will describe the following:

- the existing habitats, including maps/aerial photographs;
- the amounts of each type of existing habitat and the types of habitat to be created or restored;
- management goals and objectives;
- methods for restoration, maintenance and management, including noxious weed and pest control measures;
- parcel-specific monitoring and research;
- the land management contractor or Sponsor's flexibility in day-to-day implementation of the management plan, contrasted with plan modifications needing Governance Committee approval;
- integration of the parcel into an existing or planned habitat complex (if appropriate);
- access to carry out restoration, maintenance, research and monitoring where the Program does not own a parcel of Program land in fee;
- coordination and communication with the landowner or Sponsor (if any);
- an assessment of pre-existing conditions to use in evaluating potential adverse impacts on neighbors as a result of the management plan;
- public access for recreation and education;
- schedule for restoration and maintenance activities;
- budget; and
- future communications with neighboring landowners.

Unless changed through the Adaptive Management Plan, the following guidance will be used in developing parcel-specific management plans.

1. Restoration and Maintenance

Habitat complex lands will be restored if appropriate, and maintained to benefit the target species pursuant to parcel-specific management plans developed based on individual features rather than strict adherence to Table 1. To the extent practical, however, the characteristics described in Table 1 will guide development of the restoration component of a parcel's management plan. Management plans for non-complex habitat lands will be developed with the purpose of achieving at least the characteristics described in Table 2. Management plans will take into account the availability of Program resources to accomplish restoration measures and to maintain conditions after restoration.

Management plans will generally select methodologies from “Habitat Management Methods for Least Terns, Piping Plovers, and Whooping Cranes” developed by the July 1997 Cooperative Agreement’s Habitat Criteria Subcommittee (available from the Program’s Executive Director). The Adaptive Management Plan includes investigations of additional experimental management practices, including but not limited to those related to the channel. As the Governance Committee determines that any such practice is effective through the Adaptive Management Plan’s phased investigations, it will identify that practice as being available, in addition to those described in Management Methods document, to select as a restoration or maintenance measure in a management plan.

2. Public Access

The Program will provide public access to fee title Program lands for recreation and educational purposes, when and where it is consistent with Program objectives and land use. On Program lands where other property interests continue to be privately held, landowners may be requested, but not required, to provide similar public access. The Program may encourage agencies and organizations to provide non-Program incentives to landowners for providing such public access to Program lands that are acquired through leases or easements.

Specific guidelines for allowing public access will be established in the management plans for each parcel to describe appropriate conditions, times of the year, and uses that are consistent with the goals of the Program. Any public access to Program lands that are privately owned will be closely coordinated with and only permitted with the landowner’s prior permission.

3. Benefits to “Other Species of Concern”

In developing parcel-specific management plans, the Program will where practical select restoration, maintenance and other management measures for the target species that do not harm or may benefit other “species of concern,” when such activities are consistent with the needs of the target species and are within the Program budget. An initial list of “species of concern” as related to land management is found in Appendix D. The Governance Committee may delete species from that list, or add species if they are (1) known to occur or have the potential to occur naturally in the associated habitats within the central Platte River valley; and (2) are listed by the state or federal government as endangered, threatened or candidate species; were delisted and are in an initial five-year monitoring period; are ranked as G1, G2, or G3 by Nebraska Natural Heritage Program; or use habitat within the associated habitats in the central Platte River valley that is essential to species survival.

4. Monitoring and Research on Program Lands

All Program monitoring and research will be conducted under the Program’s Integrated Monitoring and Research Plan (Program Attachment 3, Section V). The Integrated Monitoring and Research Plan’s biological response (habitat and species) monitoring and research program provides: 1) integrated monitoring and research data to evaluate the effectiveness of the Program in providing habitat for target species, 2) data supporting Adaptive Management Plan decisions regarding management activities during the First Increment of the Program, and 3) scientifically defensible data that allow the determination of future milestones for the Program. The

integration of monitoring and research will provide information for the Adaptive Management Plan, which may lead to adjustments in how Program lands are evaluated or managed under this Land Plan.

The Program's Integrated Monitoring and Research Plan includes monitoring of species use and conditions at the Program's managed complex and non-complex habitat areas, and in areas not managed for the Program, looking for species use preferences. The management plans for each parcel of Program land will accommodate access for data collection as appropriate under the Integrated Monitoring and Research Plan to observe the response of the target bird species and environment and other species of concern to Program activities and to track the conditions of habitats.

As part of the research effort, it is foreseen that some land and resources will be managed for research purposes, including a portion of the lands within habitat complexes and non-complex habitat lands. Non-Program lands may also be used. As parcels are acquired and/or as management plans are developed, the Executive Director, coordinating with the Land Advisory Committee and other committees advising the Governance Committee, will identify what research under the Integrated Monitoring and Research Plan might be appropriate on that parcel. Such research measures might include (1) testing Table 1 characteristics and alternative management options to those characteristics; (2) testing Table 2 characteristics; and (3) carrying out investigations of experimental management practices related to the channel. These and other monitoring and research measures are included in the Adaptive Management Plan. The Executive Director's evaluation of a parcel will take into account various factors, including the amount of time remaining in the Program increment, growing knowledge of the real estate available, and the physical characteristics of the parcel. In evaluating potential research sites on habitat complex lands, the Executive Director will identify whether it is possible to schedule the research without introducing a deliberate delay in overall completion. For example, the Executive Director might consider whether a portion of the land could be managed in a "test" configuration, allowing data to be acquired over a fixed term while restoration work is carried out on the remaining portion, with restoration then completed in the test area.

When the Executive Director identifies potential research activities on a parcel of Program land, they will be addressed in the draft management plan, reviewed by the Land Advisory Committee and other committees as assigned by the Governance Committee, and ultimately will be implemented only with Governance Committee approval. Any approved research will be carried out under the Integrated Monitoring and Research Plan as part of the Adaptive Management Plan, but must also be accommodated in the management plans adopted for the affected parcel of Program land.

Research results will be used in the Adaptive Management Plan, and may lead to adjustments in the management practices described in the Program's "Habitat Management Methods for Least Terns, Piping Plovers, and Whooping Cranes."

C. Implementation of Management Plans

Under the direction of the Executive Director, Program staff and/or Program contractors (or Sponsors on sponsored Program lands) will carry out restoration, maintenance and management

tasks as called for in the management plans, and participate in monitoring and research. Sponsors managing Program lands pursuant to a required management plan, such as the Cottonwood Ranch Property management plan, may implement their management plans directly, in accordance with their approved plans. Any land management contracts or Sponsorship arrangements will require periodic progress and status reports by the contractor or Sponsor. These reports will be provided to the Executive Director. The Executive Director will provide these status reports to the Land Advisory Committee for review, and then submit them to the Governance Committee accompanied by any recommendations and/or comments agreed upon by the Land Advisory Committee or made by individual Land Advisory Committee representatives. Copies will also be provided to those implementing the Adaptive Management Plan.

D. Land Acquisition and Restoration Tracking

Program staff will use GIS, maps, and aerial photographs to track lands acquired by the Program. When a new parcel is acquired, Program staff will log the land into the GIS database and record the change on hard copy maps and/or aerial photographs. The tracking will include not only the total number of acres acquired and their location, but will summarize each major vegetation type (e.g., forest, grassland, etc) in the GIS and on maps or photographs. These materials will be available to the Land Advisory Committee and Governance Committee when considering progress and status reports from land management contractors.

IV. ADDRESSING POTENTIAL ADVERSE IMPACTS OF THE LAND COMPONENT

The Program is to avoid shifting tax burdens to adjacent landowners or communities. When land is acquired by the Program and held by the Land Interest Holding Entity, regardless of whether the landowner thereafter is a tax exempt entity, the Program shall pay or provide for the payment of real property taxes or an equivalent amount. Such taxes or equivalent amount shall be determined each year using the assessments and levies in effect at the time such taxes are due or would be due if the property were owned by a tax paying entity

The Governance Committee intends to conduct Program activities in accordance with the following good neighbor policy.

All activities of the Governance Committee, its committees and subcommittees and other persons implementing, operating, and maintaining the Program shall be carried out in such a way that the Program will be viewed as a “good neighbor” by the residents of central Nebraska and any others who might be affected by Program activities. The Program will comply with applicable local, state, and federal laws and to the extent permitted by such laws, will be responsible for its actions to the same extent as a private individual under like circumstances. The following principles shall guide the Program to be a good neighbor.

- The Program will emphasize the prevention, as opposed to the correction, of actions that cause adverse effects on adjacent landowners or others. Program representatives will talk with neighboring landowners and tenants and others as appropriate, and attempt to document pre-existing conditions and carefully monitor the effects of Program activities.

- If, notwithstanding all efforts to avoid causing adverse effects, concerns are raised that such effects are nevertheless occurring, the Program will have local representatives readily accessible so that the nature and cause of any problem can be quickly determined and needed corrective actions can be taken in a timely manner.
- The Program will require its contractors to carry appropriate insurance to cover documented damage claims resulting from their actions. The Program will make provisions to cover on a case-by case basis other documented damages resulting from unintended consequences of the Program.

V. FIRST INCREMENT LAND COMPONENT BUDGET

A First Increment land budget of \$39,131,000 (not including cash equivalent credits) in 2005 dollars is set forth in the Program budget (Program Attachment 1). Budget estimates are an approximation of the funding necessary for the acquisition of property rights, restoration and maintenance of Program lands during the first Program increment. The costs will also include tax payments and potential mitigation of adverse impacts. Budget estimates do not include calculations of inflation over the Program First Increment.

The Program will seek out federal, state, and local programs that may provide cost sharing for restoration or management activities on Program lands.

The following considerations were used in the development of the budget:

1. A First Increment length of 13 years;
2. Taxes (or an equivalent amount) will be paid on lands acquired for the Program⁷;
3. All monitoring and research activities on Program lands are included in other budgets; and
4. No cost sharing.

⁷ Taxes or their equivalent cannot be paid by the federal government directly to the counties but will be paid by the Program through a financial management entity (see Organizational Structure, Program Attachment 6).

Table 1. Target Habitat Complex Guidelines⁸

1. Riverine Habitat	Characteristics
Location	Between Lexington and Chapman, NE
Channel area	Approximately 2 miles long, 1,150 feet wide and includes both sides of the river. "Channel area" represents the portion of the river that conducts flow and is bounded either by stable banks or permanent islands that obstruct view. At low flows, the channel area includes interconnected small channels and exposed sand or gravel bars and non-permanent islands.
Water depth	A range of depths with approximately 40 percent of the channel area less than 0.7-foot deep during whooping crane migration periods.
Wetted width	90 - 100 percent of channel area inundated during migration periods.
Water velocity	Velocity is variable with depth. During whooping crane migration and least tern and piping plover nesting seasons, velocity should be less than 4 mph in shallow areas.
Sandbars and Channel Morphology	Non-permanent sandbars and low, non-permanent islands throughout the channel area, high enough to provide dry sand during the tern/plover nesting season and free of vegetation that inhibits nesting or creates visual obstructions to whooping cranes. Diverse channel morphology providing a variety of submerged sand bars and other macrohabitats, including backwater areas and side channels inundated by discharge.
Proximity to wet meadow forage habitat	Within 2 miles, but contiguous is preferred.
Distance from disturbance	<u>For whooping cranes:</u> In general, not less than 0.5-mile distant or appropriately screened from potential disturbances. Potential disturbances may include roads, railroads, occupied dwellings, bridges or other activities that would disturb whooping cranes from using a site. <u>For least tern/piping plover:</u> Potential disturbances should be evaluated case-by-case. In general, not less than 0.25 mile distant, or appropriately protected from human disturbances.
Unobstructed View	Good visibility upstream, downstream, and across the channel.
Flight Hazards	Overhead lines should be avoided, if possible. Overhead lines within 0.5 mile of complex boundaries should be evaluated during the screening process to determine whether marking would be appropriate.
Security	Sufficient control to avoid human disturbance to target species.

⁹The Parties have agreed to use these habitat complex characteristics as an initial acquisition, restoration and maintenance target. The states and July 1997 Cooperative Agreement Land Committee continue to disagree that these characteristics represent the "best" habitat or necessary habitat for the target species, or that the Program will be able to sustain the characteristics solely with flow management. The states and July 1997 Cooperative Agreement Land Advisory Committee believe that an approach based on acquiring and developing habitat with a range of characteristics is justified.

2. Wet Meadow Habitat	Characteristics
Location	Within 2 miles of the above-described channel area.
Size	Approximately 640 contiguous acres or more.
Distance from Disturbance	In general, not less than 0.5-mile distant or appropriately screened from potential disturbance. Potential disturbances may include roads, railroads, occupied dwellings, bridges or other activities that would disturb target species from using a site.
Vegetation Composition	Native prairie grasses and herbaceous vegetation, lacking or mostly lacking sizable trees and shrubs, occurring in a mosaic of wetland (hydrophytic) and upland (non-hydrophytic) plants.
Hydrology	Swales subirrigated by ground water seasonally near the soil surface and by precipitation and surface water, with the root zone of the soil continuously saturated for at least 5 - 12.5% of the growing season. Except immediately following precipitation events, higher areas may remain dry throughout the year.
Topography and Soils	The topography is generally level or low undulating surface, dissected by swales and depressions. Mosaic of wetland soils with low salinity in swales and non-wetland soils occurring in uplands.
Food Sources	Capable of supporting aquatic, semi-aquatic, and terrestrial fauna and flora characteristic of wet meadows; especially aquatic invertebrates, beetles, insect larvae, and amphibians.
3. Buffer	Characteristics
	That portion of a complex used to isolate channel areas and wet meadows from potential disturbances. In general, it is up to 0.5 miles wide, but is variable depending on topography, screening, and other factors. Buffer areas may include an extended wet meadow or channel area, upland grassland, pasture, hay land, cropland, palustrine wetland, woodland, managed sandpits, or a combination of these and other compatible land features.

Table 2. Non-Complex Habitat Guidelines

Sandpit Habitat for Terns and Plovers	Characteristics
Location	Within 2 miles of a river channel, between Lexington and Chapman, Nebraska.
Size	Approximately 3 acres or greater of nesting substrate, that may be extended to include a management zone surrounding the nesting area.
Topography and soils	Open expanse of bare or sparsely vegetated (<25%) homogeneous sandy or sand and gravel substrate that provides dry substrate during the nesting season. Scattered small stones, twigs, pieces of wood and other debris may be present.
Security	Sufficient control to avoid human disturbance to terns and plovers.
Non-riparian Habitat for Whooping Cranes	Characteristics
Location	Off-channel but within 3.5 miles of the centerline of the channel area, between Lexington and Chapman, Nebraska.
Type of habitat	Wetland area, wet meadow area or both.
Wetlands	Depressional wetlands with semi-permanent, permanent or seasonal shallow body(ies) of water (palustrine wetlands) that are typically wet during the crane migration season and consist of heavy, depressional soils, such as Fillmore, Massie, Scott, and Marsh soils. Water depths should be primarily less than 18 inches and banks should be low. Generally the wetted portion of the habitat area should be greater than approximately 5 acres in size. The habitat area also includes the surrounding areas that protect or enhance the functioning of the ecosystem and/or habitat area. The habitat areas should be lacking trees or tall shrubs. During the migration season, emergent vegetation should either be absent, loosely scattered, or low enough to not restrict whooping crane use.
Wet Meadows	A generally level or low and undulating surface, dissected by swales and depressions. The area consists of a mosaic of wetland soils with low salinity in swales and non-wetland soils occurring in uplands. The area has native prairie grasses and herbaceous vegetation, occurring in a mosaic of wetland (hydrophytic) and upland (non-hydrophytic) plants, and is lacking or mostly lacking sizable trees and shrubs. The area is capable of supporting aquatic, semi-aquatic, and terrestrial fauna and flora characteristic of wet meadows; especially aquatic invertebrates, beetles, insect larvae, and amphibians. Swales wetted by groundwater, surface water or precipitation with the root zone of the soil saturated for at least 7 days during the growing season.

Distance from disturbance	In general, not less than 0.25-mile distant or appropriately screened from potential disturbance. Potential disturbances include paved roads, railroads, occupied dwellings, bridges or other activities that would disturb target species from using a site.
Unobstructed View	Good visibility in all directions.
Security	Sufficient control to avoid human disturbance to target species.

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Attachment 4
Appendix A

Platte River Program Land Evaluation Worksheet
December 7, 2005

Sections II-III should be completed as much as possible prior to a site visit for use in determining if a site visit is warranted.

I. Evaluation Team and Schedule

- 1) Evaluation Team Members

- 2) Date of Evaluation _____

II. Geographic Considerations

- 1) Does the tract lie within the Lexington to Chapman, NE reach of the Platte River and within 3.5 miles of the main channel or 2 miles of a side channel? If no, the tract is not eligible for inclusion in the Program, unless otherwise specified by the Governance Committee.
- 2) In what bridge segment does the tract lie?
- 3) Is the tract contiguous to or near to existing lands protected for conservation purposes that are compatible with Program objectives?
- 4) How many acres are in the tract? _____ acres
- 5) Is the tract to be considered as “non-complex habitat”?
- 6) Legal description (SEC, TNP, RNG), Attach map showing property boundaries.

III. Land Use Considerations

- 1) What are the current land cover types on the property? (if available, attach 1998 aerial CIR photographs, land use overlay, NWI maps, Farm Service Agency maps and annual aerial survey, most recent aerial photographs, soil maps, and a report from the Program database providing a list of land uses and acreages from within the property boundary).
- 2) If the tract currently includes land uses that are incompatible with target species habitat, can these land uses be modified or changed? If yes, describe the modifications and estimate costs.

3) If existing land uses are modified or changed to make the tract suitable habitat for the target species, will there likely be quantifiable direct positive or negative impacts on neighbors? If yes, describe the impacts and estimate the cost of mitigating or avoiding negative impacts pursuant to the Program's good neighbor policy (Land Plan Section IV)?

4) Are there land uses on neighboring properties that are incompatible with target species habitat? If so, is it feasible to provide buffer area to protect or enhance habitat on the subject tract? If yes, describe the modifications and estimate costs. Do adjacent land uses limit management options on the land? If yes, list and indicate the significance of the limitations to future management.

5) Is there present or past documented use of the property by the target species or any other federally or state listed threatened or endangered species or species of concern? If yes, indicate the source of the information, the species using the property, the date observations were made, and indicate how current land cover conditions compare to those at the time of use?

6) Is there present or past use of the property that raises potential environmental concerns?

IV. Target Species Habitat Considerations (To be completed on a site visit if further investigation is warranted)

1) What types of habitat currently exist on the property (include photographs)?

A) Estimate the acres of non-riverine surface water and describe (e.g., depth, permanency, source of water, flow).

B) Average width, median width and range of widths of active channel(s) measured at ¼-mile intervals; include all channels, measured using Technical Advisory Committee protocols for use with aerial photography.

C) Length of river frontage.

D) Acres of contiguous sand substrates with less than 25% vegetative cover (potential reproductive habitat for least terns and piping plovers) at time of visit (estimate separately for each barren bar).

E) Estimated height of island and river channel banks relative to the water surface at the time of the visit and provide the contemporaneous data from the nearest USGS gauge.

F) Are there power/transmission lines on the property? If yes, describe and record on the property map.

G) Estimate depth to groundwater based on plants, soils, etc. If groundwater information from the site is available include with evaluation. Use information from existing groundwater wells and other data available (e.g., records from the NRD).

H) Is there evidence of temporary surface inundation in non-wetland areas? If yes, describe the boundary of the inundation and potential source.

I) Describe any man-made groundwater drains, reuse pits, or other features effecting groundwater on the property or within 0.5-mile of property boundary.

2) How many acres of the parcel under consideration can contribute to a habitat complex? Delineate these areas on the attached aerial photo.

- A. Total acres of land contributing to habitat complex
 - a. Active channel width _____
 - b. Wet meadow acres _____
 - c. Backwater acres _____
 - d. Grassland acres _____
 - e. In-channel bare sand acres _____
 - f. Sloughs, number and acres _____
 - g. Buffer _____

- B. How many acres can be considered non-complex habitat?
 - a. Wetland acres
 - b. Wet meadow acres
 - c. Acres of sand or gravel substrate with <25% vegetation
 - d. Management area acres

- C. Number of excess acres (land not contributing to a habitat complex or non-complex habitat area) _____

- D. What type of habitat restoration is needed for the parcel (e.g., tree clearing), and at what estimated cost?

- E. What buffer is available?

V. Property Management Considerations

- 1) Are there existing liens, leases, easements, outstanding judgments or other encumbrances on the property? If so, specify.

- 2) Determine if an environmental audit has been completed. If so, attach the audit to the worksheet.

- 3) What protection options will the landowner consider?
 - A) Sale
 - B) Perpetual easement
 - C) Lease
 - D) Other (specify)
 - E) Offered Price _____
 - F) Market Appraisal _____

Total Acres in Tract _____

Current Land Use Modification or Cessation Costs _____
Third Party Impact Mitigation Costs _____
Adjacent Incompatible Land Use Mitigation Costs _____
Total Extraneous Costs _____

Known Encumbrances to Property Management

Estimated operations and maintenance costs, annual and for the First Increment.

Other Considerations

Recommendation of Evaluation Team

Recommendation of LAC

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
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Appendix B

**Examples of Federal, State, and Local Programs that may Contribute Protected Land
or Funds toward Habitat Restoration during the Program**
December 7, 2005

Federal Programs (source: *Catalog of Federal Funding Sources for Watershed Protection*, USEPA 1999.)

Bring Back the Natives Grant Program (FWS) - provides funds to restore damaged or degraded riverine habitats and their associated native aquatic species. (Restoration option)

Conservation Reserve Program (USDA) - provides annual payments to landowners who set aside existing cropland for a minimum of ten years for wildlife habitat. (Protection option)

Environmental Quality Incentives Program (USDA) - provides “cost-share” assistance to landowners who implement certain land and water management practices that help conserve natural resources. (Restoration option)

Land and Water Conservation Fund Grants to States (NPS) - provides funds to support acquisition and development of state and local recreation areas that guarantee perpetual public access. (Protection and Restoration option)

North American Wetlands Conservation Act Grants Program (FWS, NAWWO) - provides matching grants to carry out wetlands conservation projects that benefit waterfowl and other migratory birds. (Restoration option)

Partners for Wildlife (FWS) - provides incentive payments to landowners to implement land and water management practices that provide wildlife habitat benefits. (Restoration option)

Pesticide Environmental Stewardship Grants (USEPA) - provides seed money for pesticide users to develop voluntary programs that reduce pollution and safety risks associated with agricultural pesticide use. (Restoration option)

Rainwater Basin Joint Venture (FWS, others) - a cooperative partnership established to facilitate protection and restoration of wetlands for migratory waterfowl in the Rainwater Basin wetlands of south-central Nebraska. This organization may be able to provide technical assistance or partner contacts for wetland restoration activities in the Platte valley. (Restoration option)

Wetland Reserve Program (USDA) - provides annual or lump-sum payments to landowners who set aside farmed wetlands. Land can be set aside with permanent or 30-year easements, or funds can be provided for restoration. (Restoration and Protection option)

State and Local Programs:

Natural Resources Districts - local government agencies that are responsible for preserving and enhancing wildlife habitat on private lands in Nebraska. Programs and technical assistance capabilities vary from district to district. (Restoration and Protection option)

NE Buffer Strip Program (NDA) - provides annual payments for up to ten years to landowners who plant grass strips adjacent to streams. (Protection option)

Nebraska WILD (NGPC) - provides assistance for a variety of wildlife habitat improvement and restoration practices. This program will also provide transition payments to landowners who convert cropland to wildlife habitat. (Restoration and Protection option)

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
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Appendix C

Compatible Use of Program Lands
December 7, 2005

The following are examples of land use activities that may be allowed, prohibited, restricted, or required on Program lands that the Program does not hold in fee simple. Due to variability in land uses, physical characteristics of a property, and interests of the landowner, these are broad descriptions of the types of provisions that the Program might negotiate to assure compatible use of Program land. Not all types of provisions will be needed on all parcels. Actual provisions of the agreement or other arrangements with the landowner will explicitly describe activities that are allowed, allowed with prior coordination, restricted in time or place, or prohibited, so that both the landowner and the Program have clear expectations. Compatible use activities will be negotiated on a case-by-case basis at the time the agreement or other arrangement is developed.

I. Compatible Land Use Activities

The following land use activities may be compatible with Program land use on all or part of a parcel of Program land. Restrictions may be needed on a case-by-case basis depending on the characteristics and Program use of the parcel of property.

- A. Grazing, haying, and prescribed burns on grassland areas, and normal agricultural practices on cropland areas, are generally compatible with Program land use. To assure compatible land use, on a case-by-case basis the Program may need limits on the place, time, or extent that these activities occur, or may ask for prior notice.
- B. Recreational use of the property (e.g., boating, fishing, hunting, trapping, hiking, horseback riding, wildlife viewing, mushroom picking) is generally compatible with Program land use. However, some types of recreational activities may be restricted when federally listed species are present during nesting and migration periods. Recreational use of motorized vehicles (e.g., ATVs, motorcycles, snowmobiles, etc.) is generally incompatible with Program land use during nesting or migration periods, when federally listed threatened and endangered species may be present.
- C. Harvesting of firewood for personal use is generally compatible with Program land use.

II. Incompatible Land Use Activities

The following land use activities may be considered incompatible with Program land use on all or part of a parcel of Program land. Depending on the characteristics and Program use of the parcel of property, they may be prohibited altogether or allowed to occur subject to certain restrictions.

- A. Filling, ditching, or draining of wetlands (jurisdictional or non-jurisdictional) on the property is generally incompatible with Program land use.

B. Drilling and use of any new irrigation wells on the property is incompatible with Program land use if such activity results in the loss and/or degradation of wetland functions and values due to depletion of the alluvial aquifer.

C. Depending on the characteristics and Program use of the parcel of property, the use of chemicals and the application of pesticides on the property may be incompatible with Program land use. Some chemicals and pesticides may be prohibited, or they may be subject to case-by-case restrictions on place, time, or extent of use, or they may require notice or approval by the Program before use. Consistent with the Program's good neighbor policy and Nebraska law, any restrictions sought by the Program will also consider needs for noxious weed control and insect-borne disease.

D. Construction of stream/river bank stabilization structures (e.g., armoring, jetties, hard points, revetments, bendable weirs, etc.) is generally incompatible with Program land use except to prevent damage to existing houses, building structures, wells, bridges, and other such facilities.

E. Construction of new permanent structures, facilities, or other such features on the property (e.g., industrial/commercial facilities, bridges, irrigation wells, residential buildings, utility lines, roads, etc) is incompatible with Program land use if the structure would create a visual intrusion or cause some disturbance to federally listed species and thus inhibit or preclude such species use of habitat areas.

F. Depending on the characteristics and Program use of the parcel of property, construction of flood or water control structures (e.g., levees, dikes, ditches, etc.) on the property may be incompatible with Program land use. As indicated above, such structures are generally incompatible with Program land use in areas that impact wetlands, the streambed, the riverbanks, or the stream/river flow.

G. Depending on the characteristics and Program use of the parcel of property, public access to the property may be incompatible with Program land use. To assure compatible land use, the Program may need restrictions on the place, time, or extent of access offered, or may ask for prior notice or approval.

H. A change in land use from that described in the landowner's agreement with the Program or the Project Sponsor's plan may be incompatible with Program land use and will require prior notice or approval by the Program.

I. Destruction or removal of any state or federally listed threatened or endangered plants from the property is prohibited.

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Attachment 4
Appendix D

Species of Concern - Initial List
December 7, 2005

SPECIES	CRITERIA (PRIORITY)	HABITAT
Bald eagle	Federal Threatened State Threatened	Riparian woodlands
Sandhill cranes	Area essential to species survival	In-channel, meadows, agricultural lands
River otter	State Threatened	Riparian/river channels
American burying beetle	Federal Endangered State Endangered	Grasslands Open woodlands
Platte River stonefly	Endemic to Central Platte River	Sloughs
Regal fritillary	G3 rank	Wet meadows, grasslands
Western prairie fringed orchid	Federal Threatened State Threatened	Wet meadows
Saltwort	State Endangered	Saline wetlands
Mussels ¹	FWS Concern	River channels

¹ Species known to be in the central Platte River: *Anodota imbecilis* (paper floater), *Anodota g. grandis* (giant floater), *Lasmigona c. complanata* (white heel-splitter), *Potamilus ohiensis* (pink paper shell), *Quadrula quadrula* (maple leaf), *Quadrula pustules* (pimple back), *Strophitus u. undulates* (squaw foot), *Leptodea fragilis* (fragile paper shell), *Anodontoides ferussacianus* (cylindrical paper shell), *Uniomereus tetralasmus* (pond horn), *Corbicula fluminea* (Asiatic clam), *Toxolasma parvus* (lilliput), *Lampsilis ventricosa* (pocketbook)

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
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Appendix E

Land Plan Glossary
December 7, 2005

Acquire includes purchase, lease, easement or other arrangements.

Adaptive Management Plan is Attachment 3 of the Program Document and describes a systematic process administered by the Governance Committee for continually improving Program management by: 1) designing certain Program management activities to test alternative hypotheses and 2) applying information learned from research and monitoring of Program management. The process also includes the flexibility to use information and experience from all sources. The Adaptive Management Plan describes experiments that have uncertain outcomes. Changes in adaptive management activities and the Adaptive Management Plan are expected.

Associated Habitats are, with respect to the interior least tern, whooping crane, and piping plover, the Platte River Valley beginning at the junction of U.S. Highway 283 and Interstate 80 near Lexington, Nebraska, and extending eastward to Chapman, Nebraska, including designated critical habitat for the whooping crane and that portion of designated critical habitat for piping plover within that Lexington to Chapman reach. With respect to the pallid sturgeon, the term “associated habitat” means the Lower Platte River between its confluence with the Elkhorn River and its confluence with the Missouri River. “Associated habitats” may, to the extent approved by the Governance Committee, include any critical habitat in the Lexington to Chapman reach of the Platte River Basin which is subsequently designated by the U.S. Fish and Wildlife Service for the target species.

Buffer may be one component of a “habitat complex.” Buffer is used to shield wet meadow or channel habitat areas from potential disturbances.

Channel (see **River Channel Area** below).

Easements, as the Program seeks them, are voluntary restrictions in perpetuity or for a term of years that limit development or use of a parcel of land to protect conservation values. The easement is a recorded restriction in the property deed and therefore applies to all subsequent owners and to lessors. The non-profit or other entity that is granted the easement can monitor and enforce its terms.

Executive Director is the head of the Program’s paid staff and reports to the Program’s Governance Committee. See Organizational Structure document, Attachment 6 of the Program Document, for responsibilities.

Fee Simple means ownership of all rights in a piece of real estate.

First Increment. The Program will be implemented in increments. The First Increment of the Program begins with the signing of the Program Agreement by DOI and the three states, and shall continue for thirteen years from that date or until any later date agreed upon by the Governance Committee in approval of an extension, subject to appropriations.

GIS is Geographic Information System, which typically refers to a database integrated with an electronic mapping system.

Governance Committee is the group of Signatory and non-Signatory members that makes Program decisions and policy. See Organizational Structure document, Attachment 6, for membership and responsibilities.

Habitat Complexes consist of wet meadows, channel areas, and buffers. See *Land Plan* Section II.B.1.

Integrated Monitoring and Research Plan is a section in the Adaptive Management Plan (Attachment 3, Section V) that provides for the Program's biological response (habitat and species) monitoring and research to provide: 1) integrated monitoring and research data to evaluate the effectiveness of the Program in providing habitat for target species, 2) data supporting adaptive management decisions regarding management activities during the First Increment of the Program, and 3) scientifically defensible data that allow the determination of future milestones for the Program.

Land Advisory Committee is a standing Advisory Committee established by the Governance Committee to provide advice on land-related Program activities. Committee membership and responsibilities are described in its charter (Attachment 6, Appendix F).

Land Component is the portion of the Program that relates to the acquisition and management of land as habitat for the target species.

Land Interest Holding Entity is a non-government entity that holds title to Program lands, or enters into leases, easements, and other contractual arrangements for Program Lands. The Land Interest Holding Entity is retained through contracts with the Signatories, and works at the direction of the Governance Committee.

Lease is a short or long-term rental of land for specific purposes. A lease gives the lessee use or access rights to a property for a set period of time.

Maintenance is the physical effort made throughout the term of the Program to sustain vegetation or topography of a parcel of Program land in the condition described in the Program's management plan for that parcel of land, after any initial

restoration has taken place. Examples include burning vegetation, repairing fences and reshaping bank areas.

Management of a parcel of Program land includes all Program activities related to that parcel. Examples include restoration, maintenance, research and monitoring, controlling access and coordination with neighbors.

Management Plan is the parcel-specific plan for all Program activities on or related to that parcel of Program land. Management plans are discussed in the *Land Plan*, Section III.

Monitoring is the collection and analysis of repeated observations or measurements over a long period of time to document the status or trend in the items of interest. The Program's monitoring is focused on estimating trends in species and habitat and therefore measures factors that directly relate to the condition/status of the species or its habitat according to protocols in the Integrated Monitoring and Research Plan section of the Adaptive Management Plan that takes place on Program lands and non-Program lands.

Non-Complex Habitats are lands that provide demonstrable benefits to the target species such as sandpits and existing or restorable non-riparian wetlands and wet meadows within 3.5 miles of the centerline of the main channel area, or 2 miles of the banks of a side channel, in the area from Lexington to Chapman, Nebraska.

Noxious Weed Control is the measures necessary to contain and/or eradicate plants identified as noxious weeds by the State of Nebraska, consistent with Nebraska law.

Program is the Platte River Recovery and Implementation Program.

Program Goals. The Program's long-term goal is to improve and maintain the associated habitats. This goal and its components are in the Program Document.

Program or First Increment Objective The Program has long-term and First Increment objectives in the Program Document.

Research is designed to establish cause and effect relationships among variables and management actions by manipulating variables thought to be influential in these relationships in combination with randomization, replication, and experimental controls. Research will generally be short term with most studies lasting on the order of 3 to 5 years. Research projects typically use the latest technology and methods and have specific study objectives.

Restoration is the initial effort after acquisition to alter vegetation or topography of a parcel of Program land to the condition described in the Program's management plan for that parcel of land.

River Channel Area is the portion of the river which conducts flow and is bounded on either side by stable banks or permanent islands with vegetation that obstructs view. At low flows it includes interconnected small channels and exposed sand or gravel bars and non-permanent islands.

Signatory is Colorado, Nebraska, Wyoming or the Department of the Interior (DOI), each of which signs the agreement creating the Program. See Organizational Structure document, Attachment 6, for responsibilities.

Sponsors of Program lands are entities or individuals who dedicate the use of such lands to the Program, but retain ownership of the property rights that allow Program use of the lands. Sponsored lands must be protected by other federal, state or local programs, managed under regulatory oversight as habitat, or protected by non-profit conservation groups or government agencies.

Target Characteristics are those described in the target habitat complex guidelines in Table 1 or the non-complex habitat guidelines in Table 2 of the Land Plan. They are used to evaluate potential acquisitions and plan for restoration and maintenance of Program lands along with other considerations in the manner described in the Land Plan, Section II.B.1 and Section III.B.

Target Species are the interior least tern, whooping crane, piping plover and pallid sturgeon.

Wet Meadows are areas with a generally level or low-lying undulating surface consisting of a mosaic of swales with wetland soils and vegetation and ridges with upland native or restored grasslands.

Wetlands are depressional areas with semi-permanent, permanent or seasonal shallow body(ies) of water (palustrine wetlands) that are typically wet during the whooping crane migration and consist of heavy, depressional soils, such as Fillmore, Massie, Scott, and Marsh soils.

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Attachment 4
Appendix F

Map List and Source
December 7, 2005

The following is a list of maps that have been prepared on land use/land cover and general land ownership type in the area prior to a Program.

1998 Land Cover/Use by Bridge Segment in the Central Platte River. Bureau of Reclamation, Platte River EIS Team.

1998 Land Ownership, Central Platte River, Nebraska. Bureau of Reclamation, Platte River EIS Team.

Land Plan

TAB 1

**PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM EXCERPT
PROGRAMS GOALS AND OBJECTIVES**

Platte River Recovery Implementation Program Excerpt – Programs Goals and Objectives

The following are excerpts from the draft Platte River Recovery Implementation Program dated December 7, 2005, describing the Program’s goals and the objectives of the Program’s land component.

Section II. (Program Goals)

PROGRAM GOALS

The Program’s long-term goal is to improve and maintain the associated habitats. This goal includes: (1) improving and maintaining migrational habitat for whooping cranes, and reproductive habitat for least terns and piping plovers; (2) reducing the likelihood of future listings of other species found in this area; and (3) testing the assumption that managing flow in the central Platte River also improves the pallid sturgeon’s lower Platte River habitat.⁵

⁵ The Integrated Monitoring and Research Plan (Attachment 3, Section V) addresses how the assumption is to be tested, including steps that will be taken to determine habitat needs of the pallid sturgeon.

Section III. (Program Elements), Subsection A. (General Description), 3. (Objectives)

- a. Long term Objectives. The long-term objectives for the Program are:
- (2) to perpetually protect, restore where appropriate, and maintain approximately 29,000 acres of suitable habitat primarily in habitat complexes in the central Platte River area located between Lexington and Chapman, Nebraska.⁶
- b. First Increment Objectives. DOI and the states commit to achieving the following objectives by the end of the First Increment of the Program:
- (2) protecting, restoring where appropriate, and maintaining at least 10,000 acres of habitat in the central Platte River area between Lexington and Chapman, Nebraska. The Governance Committee may agree to undertake, fund or give credit for land activities outside this area to provide biological benefits to the target species.

⁶ Non-complex habitat approved for acquisition by the Governance Committee will count toward the 29,000 acre objective because it will provide demonstrable benefits to target species. The definitions of complex and non-complex habitat may be changed by the Governance Committee but are initially set forth in the Land Plan (Attachment 4).

Land Plan

TAB 2

**PLATTE RIVER IMPLEMENTATION PROGRAM EXCERPT
LAND COMPONENT**

Platte River Implementation Program Excerpt - Land Component

The following is an excerpt from the draft Platte River Recovery Implementation Program dated December 7, 2005, Section III. (Program Elements) describing the Program's land component.

Section III. D. (Land)

D. Land

The Governance Committee will meet Program objectives for habitat through land interest acquisition, restoration, management, and maintenance. Annual progress will be dependent upon market conditions and availability of willing participants. Habitat acquisition is to be on a willing seller/willing lessor basis. The land component of the Program is described in greater detail in the Land Plan (Attachment 4). The Organizational Structure Document (Attachment 6) and Land Advisory Committee (LAC) Charter (Attachment 6, Appendix F) describe the responsibilities for carrying out the land component of the Program assigned to the Governance Committee, Land Advisory Committee, a Land Interest Holding Entity, cooperators and contractors.

1. Acquisition of Interests in Land

a. Program lands will be selected using the Land Plan (Attachment 4), subject to modification by the Governance Committee as appropriate per Section III.C.1 above. The initial focus will be on obtaining interests in and protecting wet meadow and channel habitat between Lexington and Chapman, Nebraska which are suitable for development into "habitat complexes" as described in the Land Plan, but acquisition of non-complex lands is also expected to occur to the extent permitted in the Land Plan (Attachment 4).

b. Acquisition may be in the form of purchase, lease, easement or other arrangement, as described in the Land Plan. The Governance Committee, with the advice of the Land Advisory Committee, shall determine the type of interest in land appropriate to particular situations, subject to any applicable limitations on ownership of land acquired with federal/state funds.

c. Because local support is essential to the success of the Land Plan, the Land Plan has been developed and will be modified as appropriate to assure that local opinions are heard, that land interest acquisition and development are coordinated with local landowners, and that information on acquisitions and on management plans will be available to all interested parties. Where applicable, the expertise of the University of Nebraska and other local organizations and individuals may be used. The Program will develop incentive programs as needed to encourage participation in the Program.

d. The Program is to avoid shifting tax burdens to adjacent landowners or communities. When land is acquired by the Program and held by the Land Interest Holding Entity or the acquired land is owned by another tax-exempt entity, the Program shall pay or provide for the payment of real property taxes or an equivalent amount. Such taxes or equivalent amount shall be determined each year using the assessments and levies in effect at the time such taxes are due or would be due if the property were owned

by a tax paying entity.

e. A legal entity or entities will, on behalf of the Program, hold title or other interests in land acquired by or contributed to the Program as set forth in the Land Plan (Attachment 4). In the case of lands dedicated to the Program on behalf of a state, the entity dedicating such lands may continue to hold title or other interests in those lands, provided that sufficient access is granted to the Program's representatives to permit Program restoration and management of the lands, or the lands are otherwise protected for Program purposes.

2. Restoration and Protection. Restoration and protection of Program lands will be carried out consistent with the Land Plan (Attachment 4), subject to modification by the Governance Committee. Plans for managing each parcel of Program land will be prepared consistent with the Land Plan. Plans are initially expected to include identifying the habitat baseline for the parcel in question, adapting the appropriate recommendations of the Land Plan for the specific characteristics of the land, and developing site-specific monitoring and maintenance requirements. Habitat management practices will be evaluated as part of the Program Adaptive Management Plan.

3. Credit Toward Program Objectives

a. Land protected and managed prior to July 1, 1997 for the benefit of endangered and threatened species by the Platte River Whooping Crane Critical Habitat Maintenance Trust, the National Audubon Society, and the Nature Conservancy within the associated habitats and the Central Nebraska Public Power and Irrigation District (CNPPID) (Jeffrey Island) will be credited to the Program's long-term objectives if such land meets criteria established by the Governance Committee, but not toward the objectives of the first Program increment without the prior approval of the Governance Committee and the managing entity. Lands acquired by these entities after July 1, 1997 may be contributed to the Program and counted toward First Increment objectives with the approval of the Governance Committee and the managing entity.

b. Land acquired by or on behalf of existing water related activities completing Section 7 consultation of the ESA prior to or during the term of the July 1997 Cooperative Agreement (as described in Section VII of that Agreement), including Nebraska Public Power District's (NPPD) Cottonwood Ranch Property habitat lands, tern and plover islands and sandpits, lands acquired by Wyoming and any lands acquired in the associated habitats using funds contributed prior to the Program as a result of ESA consultation, will be credited to both the Program's long-term objective of 29,000 acres and the First Increment objective of 10,000 acres.

Land Plan

TAB 3

**PLATTE RIVER IMPLEMENTATION PROGRAM EXCERPT
PROGRAM ADAPTIVE MANAGEMENT**

Platte River Implementation Program Excerpt – Program Adaptive Management

The following are the land-related excerpts from the draft Platte River Recovery Implementation Program dated December 7, 2005, Section III (Program Elements) describing aspects of the Program that can only be changed by the Secretary of the Interior and the Governors, and describing how all other aspects of the Program can be changed through Program Adaptive Management.

Section B (Modification of the Program) and Section C (Flexibility and Change During the First Increment Through Program Adaptive Management).

B. Modification of the Program

1. Amendments by the Secretary of the Interior and Governors of Colorado, Nebraska, and Wyoming during the First Increment.

The following changes to the Program will require unanimous consent of the Secretary of the Interior and the Governors of Colorado, Nebraska and Wyoming, and will require a formal amendment of the Program Agreement and this Program Document:

- a. Change of the First Increment objectives of providing water capable of reducing the shortage to target flows by an average of 130,000 to 150,000 acre feet per year and of protecting, restoring where appropriate, and maintaining 10,000 acres of habitat for the target species;
- b. Change to Section IV of the Program Document regarding regulatory certainty afforded under the Program;
- c. Change to underlying principles of the Program that limit it to acquiring interest in land only from willing participants (Section III.D), that provide that the Program will pay taxes or their equivalent (per Section III.D.1.c), and that define July 1, 1997 as the date for new and existing water-related activities;
- d. Increase of signatories' funding responsibilities under the Program; or
- e. Establishment of a subsequent increment of the Program.

2. Modifications by the Governance Committee. Changes to the Program not reserved to the signatories above may be made by the Governance Committee.

C. Flexibility and Change During the First Increment.

The Governance Committee will administer the Program during the First Increment using a flexible and incremental approach. To further the First Increment objectives, the Program Document and its attachments describe certain activities and criteria such as Milestones, Adaptive Management Plan, Land Plan,

and Water Plan, land and water acquisition and management criteria, management actions, and others. These activities and criteria were based on the information available at the time the Program was established. Changes to Program activities and criteria may be justified by new information. This includes: 1) information learned as the result of implementation of the Land, Water, and Adaptive Management Plans; 2) information from other sources including relevant data from non-Program sources on target species and habitats; and, 3) practical considerations such as land availability, economics, budgetary and time constraints, and the ability or inability, notwithstanding good faith efforts of the participants, to achieve predicted outcomes of Program management hypotheses. Accordingly, except as noted in Section III.B.1 above, the Governance Committee may change the Program's First Increment Milestones and other activities and criteria, provided such changes are consistent with accomplishing the First Increment Objectives. These changes may be made and the Program will continue to provide ESA compliance during the First Increment, so long as the First Increment Milestones, as may be amended, are being met.

1. Adaptive Management Plan. The Adaptive Management Plan, set forth in Attachment 3, describes a systematic process administered by the Governance Committee for continually improving Program management by: 1) designing certain Program management activities to test alternative hypotheses and 2) applying information learned from research and monitoring of Program management. The process also includes the flexibility to use information and experience from all sources.

The Adaptive Management Plan describes experiments that have uncertain outcomes. Changes in adaptive management activities and the Adaptive Management Plan are expected. Achieving particular results through implementation of the Adaptive Management Plan is not the basis for determining ESA compliance during the First Increment.

The Adaptive Management Plan will be implemented within the existing Program defined contributions of money, land, and water unless amended in accordance with Section III.B.1 above. The Governance Committee recognizes the importance of the Adaptive Management Plan.

- a. Habitat and Species Baseline. The Program uses a 1997 starting point, where possible, to assess its effects. This baseline (Baseline Document for Fulfillment of Platte River Cooperative Agreement Milestone R1-1, (Baseline Document)) provides a summary of information available prior to the Program about the target species and their habitat. Where data are sufficient and methodologies are replicable, this information may be used to assess First Increment activities and criteria. The information available at Program inception did not provide a complete summary of the condition of the species or a comprehensive summary of the habitat available for the target species. Where data were not sufficient or replicable or disagreement exists as to then-current hypotheses regarding the

species and their habitats, the Integrated Monitoring and Research Plan (Attachment 3, Section V) includes measures to fill data gaps and assess trends in species and habitat conditions. Historic information, models, and conceptions of the species and their habitat will be rigorously evaluated and modified as data and information become available.

- b. Integrated Monitoring and Research Plan and Protocols. Adaptive management requires systematic observation and evaluation of the target species and the associated habitats to observe their response to the different Program activities. The Governance Committee will use the Integrated Monitoring and Research Plan (Attachment 3, Section V) to monitor and evaluate the impacts of the activities implemented in the First Increment of the Program on Program lands and the associated habitats and the response of the target species to those impacts. The monitoring and research protocols may be modified by the Governance Committee per Section III.B.2 above.

2. Assessments of Activities and Criteria During the First Increment. Program activities and criteria that guide such Program activities shall be periodically evaluated by the Governance Committee. The Governance Committee evaluations will: (1) assess whether the Program activity and criteria being examined is working as originally envisioned; (2) recommend modifications justified by new information; (3) determine whether there are other or better uses for the resources committed to this activity and criteria; (4) assess whether success or failure could be determined by monitoring over the time period evaluated and (5) develop alternative activities and criteria in accordance with the Program Adaptive Management Plan. Evaluations will consider experience, new information, and the results of monitoring and/or research. Opinions of independent peer reviewers, if any, will also be compiled and summarized as part of the evaluation process. Changes to planned activities and their implementation schedule should be peer reviewed as appropriate under the Scientific Peer Review Guidelines (Attachment 3, Appendix A) prior to action by the Governance Committee.
3. Target Flows. During the First Increment, the FWS' species and annual pulse target flows serve as an initial reference point for determining periods of excess and shortage in the operation of Program reregulation and water conservation/supply projects. The target flows are subject to Program peer review (during the First Increment or later) and review through the Adaptive Management Plan, and may be modified by FWS accordingly. If those target flows are modified, the Governance Committee will determine whether to revise use of those species and annual pulse target flows as a reference point and whether any such revisions also require revisions in the First Increment Milestones. Any changes to the target flows will not impact the ability of the Program to

continue to provide ESA compliance during the First Increment as long as the Milestones, as found in Attachment 2, or as revised, are being met.

4. Program Peer Review. The Governance Committee may submit any Program activity or criteria, and the FWS's recommended flows for peer review. Such peer review shall be conducted pursuant to the Peer Review Guidelines (Attachment 3, Appendix A).
5. Day-to-Day Flexibility. Documents implementing the Program provide the flexibility for day-to-day management (e.g., decisions related to weed control or grazing on a particular parcel of land). This type of management will typically not require Governance Committee approval unless they implicate a change in Program policy, increase the budget, or impact the ability of the Program to provide the offsetting measures for ESA compliance purposes.

Land Plan

TAB 4

**ORGANIZATIONAL STRUCTURE FOR PLATTE RIVER RECOVERY
IMPLEMENTATION PROGRAM EXCERPT**

DRAFT LAND ADVISORY COMMITTEE CHARTER

Organizational Structure for Platte River Recovery Implementation Program Excerpt - Draft Land Advisory Committee Charter

The following Land Advisory Committee Charter is Appendix F of Draft Organizational Structure for the Platte River Recovery Implementation Program (Attachment 6) dated December 7, 2005.

Land Advisory Committee Charter December 7, 2005

I. PURPOSE

Section VII.A of the Organizational Structure for the Platte River Recovery Implementation Program (Program) calls for the Governance Committee to establish a standing Land Advisory Committee (LAC) to provide advice on Program activities to accomplish the purposes specified in this charter, as it may be amended by the Governance Committee.

Ultimate responsibility for implementing the Program's Land Plan lies with the Governance Committee, including approval of all acquisitions, management plans, budgets and expenditures. A number of activities will be carried out by the LAC to assist in the Land Plan's implementation (as described in Section IV below), generally coordinated or in collaboration with the Program's Executive Director (as described in Section III below). The LAC will also provide meaningful local input into decisions about operations of the land component, including making recommendations to the Governance Committee about how the Program can both be a "good neighbor" and effectively further the purposes of the Program.

II. COMMITTEE STRUCTURE

A. The representation to the LAC is as follows:

1. One (1) representative of the State of Colorado
2. One (1) representative of the State of Nebraska
3. One (1) representative of the State of Wyoming
4. One (1) representative of the U.S. Bureau of Reclamation
5. One (1) representative of the U.S. Fish and Wildlife Service
6. One (1) representative of the environmental Governance Committee representatives.
7. One (1) representative of the Central Nebraska Public Power and Irrigation District and the Nebraska Public Power District (the Districts).
8. Three (3) representatives of local Nebraskans.

B. For the representatives identified in items 1-6 above, Governance Committee representatives will appoint their respective representatives to the LAC and alternates to serve in the representative's absence (e.g., State

of Colorado Governance Committee member will appoint Colorado's LAC member and alternate). At any time after the initial representatives are selected, the Governance Committee representatives may appoint replacement representatives or alternates.

- C. For the representative identified in item 7 above, both Districts together will choose one representative and alternate, and may subsequently appoint a replacement representative or alternate at any time.
- D. For the representatives identified in item 8 above, the three local Nebraska representatives, and alternates to serve in each respective representative's absence, will be selected by the local Natural Resource Districts (NRDs) with one representative and alternate chosen by the Central Platte NRD, one representative and alternate chosen by the Tri-Basin NRD, and one representative and alternate chosen by both NRD's to represent an area not already represented. Local Nebraska representatives will serve three-year terms that rotate so only one member is either renewed or replaced each year. Initial appointments will be for one, two, or three years to insure proper rotation, with the initial terms of appointment to be worked out by the two NRDs. The appropriate NRD or NRDs may appoint a replacement or alternate as needed to complete the term of a local representative or alternate who is unable or unwilling to do so.
- E. The LAC shall select a Chairperson, Vice Chairperson, and Recording Secretary during the first meeting following the creation of the committee and each year thereafter.
- F. The Program's Executive Director shall maintain an official membership list and record the Chairperson, Vice Chairperson, and Recording Secretary designations.
- G. Non-committee members may be requested by the LAC to serve on subgroups, workgroups, etc. However, non-committee members will not be included in final determination of consensus.

III. COORDINATION WITH THE GOVERNANCE COMMITTEE AND EXECUTIVE DIRECTOR

In addition to carrying out assigned tasks, the LAC can raise an issue to the Governance Committee for its consideration and for potential action.

The Governance Committee will assign a Governance Committee representative to sponsor the LAC. This sponsorship will serve to provide the coordination, advice, and input from the LAC to the Governance Committee in an efficient and effective manner.

As described in the Organizational Structure document, the LAC is not supervised or directed by the Program's Executive Director, nor does the LAC supervise or give direction to the Executive Director. As a practical matter, the two entities must closely

cooperate and coordinate their activities because the Program's Executive Director will implement many aspects of the Land Plan that the LAC is to review to offer comments and advice. In carrying out its responsibilities, the LAC may work with the Executive Director as follows:

- A. The LAC may request the Executive Director to arrange facilities, maintain documentation of LAC meetings and agendas, and provide other administrative assistance.
- B. The LAC may work directly with the Executive Director to provide advice on land evaluations or draft plans or budgets early in the development process, to assure meaningful and timely opportunities for the Executive Director to make adjustments. This cooperation is in addition to the LAC's recommendations and/or comments to the Governance Committee at a later stage.
- C. Because the Executive Director also provides administrative support to the Governance Committee, when the LAC prepares advice, recommendations and comments for the Governance Committee, the LAC will work with the Executive Director on meeting the Governance Committee's schedule, coordinating with other committees, scheduling time on the agenda, arranging for distribution of materials, etc.
- D. The LAC may request the Executive Director to facilitate the development of consensus.
- E. The LAC may request Program staff assistance for specific tasks from the Executive Director, who may provide such assistance or refer the request to the Governance Committee.
- F. When the Governance Committee assigns a task to the LAC, the LAC should anticipate that the Executive Director will provide information about the task and schedule to the LAC. This may include providing LAC assistance in a task assigned to the Executive Director.

IV. COMMITTEE RESPONSIBILITIES

Specific LAC functions and responsibilities are:

- A. Working through the Executive Director using the evaluation process and Worksheet in the Land Plan, evaluating potential acquisitions and providing recommendations and advice to the Governance Committee regarding whether to pursue an acquisition;
- B. If approached by landowners regarding a potential acquisition, passing the information on to the Executive Director for evaluation, and, if requested

by the Executive Director, working with the Executive Director in any further discussions with the landowner;

- C. If requested by the Governance Committee and/or Executive Director, working with the Executive Director in approaching a landowner and/or assisting in negotiating a potential acquisition the Governance Committee has decided to pursue;
- D. Reviewing negotiated potential acquisitions and recommending acquisition actions to the Governance Committee for approval;
- E. Reviewing and providing advice to the Executive Director during the Executive Director's development of parcel-specific land management plans and identification of monitoring, research and data collection needs related to those parcels of land;
- F. Providing comments and/or recommendations to the Governance Committee regarding adoption of each parcel-specific management plan, including management plans provided by Program sponsors;
- G. If requested by the Governance Committee, providing advice to the Executive Director regarding any issues arising during implementation of the Program's land management plans;
- H. Reviewing and providing comments and/or recommendations on periodic progress and status reports by land management contractors or Sponsors for consideration by the Governance Committee along with the progress and status reports;
- I. Reviewing the results of management and monitoring of Program lands, peer review and other activities related to the Land Plan, and, if warranted, providing comments and/or recommendations (potentially in coordination with the Technical Advisory Committee, U.S. Fish and Wildlife Service, or other committees as appropriate) regarding Governance Committee revisions to management plans consistent with the Adaptive Management Plan;
- J. Providing advice to the Executive Director in the development of budgets for Land Plan activities, and subsequently providing comments and/or recommendations to the Governance Committee regarding the adoption of proposed land-related budgets;
- K. Reviewing and providing comments to the Executive Director and/or the Governance Committee on the Executive Director's records and status reports regarding land-related Program milestones;

- L. Participating in Program outreach efforts to neighbors, stakeholders and the community regarding the Program's plans and practices on Program lands;
- M. Providing an opportunity for local input and questions as recommendations are being formulated, as approved plans are implemented, or as local concerns arise, and raising issues to the Governance Committee as appropriate;
- N. If the Program is terminated in a way that the Governance Committee and LAC remain active, monitoring implementation of Governance Committee approved "exit" activities if requested to do so by the Governance Committee.

V. COMMITTEE PROCEDURES

- A. The LAC will meet as needed to accomplish the responsibilities outlined in Section IV of this charter and the Program.
- B. LAC meetings will be open to the public except when discussing confidential matters, as the LAC deems necessary. Meetings attended by interested members of the public will include an open comment period.
- C. Agendas, meeting minutes, reports, and other information will be furnished to LAC members prior to scheduled meetings and to participating nonmembers and the public upon request. Agendas, meeting minutes, reports, and other information related to confidential land acquisition or personnel or contract matters will be made available to only LAC representatives and their designated alternates.
- D. A quorum shall be required for the LAC to conduct business. A quorum shall be present if the meeting is attended by the representatives of each of the three states, a representative of the U.S. Fish and Wildlife Service, and by three other members or alternates, at least one of which shall be a local Nebraska representative.
- E. The decisions of the committee, including those regarding recommendations to the Governance Committee, must be by consensus during a meeting in which a quorum is present. Any issue that cannot be resolved with consensus agreement shall be elevated to the Governance Committee. The LAC will present all viewpoints on such unresolved issues to the Governance Committee without identifying majority or minority views.
- F. The LAC may elect to use subcommittees to carry out some of its tasks under the Land Plan.

- G. LAC may rotate the location of meetings among the three states and may use teleconferencing or other alternatives to attending meetings.

- H. Local Nebraska representatives to the LAC who do not have a duty to participate in LAC activities as part of their employment or under a contract with an NRD may request reimbursement of actual expenses and per diem associated with attending LAC meetings or other activities as directed by the LAC or Governance Committee. The Finance Committee will develop the procedure for payment of reimbursement requests.