

# Protected Species Memorandum

NWO-2023-00518-WEH

Nebraska Department of Water, Energy, and  
Environment

*Sedgwick County, Colorado; Deuel and Keith Counties,  
Nebraska*

December 2025



**Contents**

- 1.0 Introduction ..... 1
- 2.0 Regulatory Background ..... 1
  - 2.1 Federal Regulations ..... 1
  - 2.2 State Regulations ..... 2
    - 2.2.1 Colorado Regulations ..... 2
    - 2.2.2 Nebraska Regulations ..... 3
- 3.0 Study Area and Existing Conditions ..... 3
- 4.0 References ..... 3

**Tables**

- Table 3-1 Potential Protected Species in the Study Area ..... 1

**Figures**

- Figure 1 Project Location ..... 1

**Appendices**

- Appendix A USFWS IPaC
- Appendix B NGPC CERT

## 1.0 Introduction

The information contained in this document has been prepared by the Nebraska Department of Water, Energy, and Environment (DWEE) to support the United States Army Corps of Engineers, Omaha District Regulatory Branch (USACE), in their preparation an environmental impact statement (EIS) for the Perkins County Canal Project (Project).

The purpose of this memorandum is to characterize the existing conditions and potential occurrence of federally and state protected species within the Study Area.

## 2.0 Regulatory Background

Protected species and their habitat are protected under both federal and state laws, as described in Sections 2.1 and 2.2.

### 2.1 Federal Regulations

The Endangered Species Act of 1973 (ESA; 16 United States Code [USC] 1531 et seq.) protects federally listed threatened and endangered species and the ecosystems upon which they depend. The ESA defines an endangered species as “a species in danger of becoming extinct throughout all or a large portion of its range” and a threatened species as “a species likely to become endangered in the foreseeable future” (50 Code of Federal Regulations [CFR] 17.3). Section 4 of the ESA prohibits “take” of any federally listed species. Take is defined by the ESA as follows: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect” wildlife. The US Fish and Wildlife Service (USFWS) has the authority of the federal government to administer the protection of such species. In addition, consideration of federal species of concern and former candidate species is required under the Wild and Scenic Rivers Act (16 USC 1271–1287).

Specifically, Section 7 of the ESA, called Interagency Cooperation, is the mechanism by which federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the existence of any listed species. Under Section 7 of the ESA, federal agencies must consult with USFWS when any action the agency carries out, funds, or authorizes (such as through a permit) may affect a listed threatened or endangered species. This process usually begins as informal consultation. A federal agency, in the early stages of project planning, approaches USFWS and requests informal consultation. Discussions between the two agencies may include what types of listed species may occur in the project area, and what effect the project may have on those species. A series of revisions to interagency cooperation were published in 84 Federal Register [FR] 44976, effective September 26, 2019.

If the federal agency, after discussions with USFWS, determines that the project is not likely to affect any listed species in the project area, and if USFWS concurs, the informal consultation is complete, and the proposed project moves ahead. If it appears that the agency’s action may affect a listed species, that agency may then prepare a biological assessment to assist in its determination of the project’s effect on a species (USFWS 2015a).

The Fish and Wildlife Coordination Act (FWCA) requires consultation with USFWS and the applicable state agency(ies) for the purpose of preventing loss of and damage to fish and wildlife

resources in the planning, implementation, and operation of federal and federally funded, permitted, or licensed water resource development projects. This statute requires that federal agencies take into consideration the effect that the water related project would have on fish and wildlife resources, to take action to prevent loss or damage to these resources, and to provide for the development and improvement of these resources. In order to determine whether the effects to fish and wildlife resources from the proposed project are being considered under FWCA, the lead federal agency must notify USFWS in writing of how the comments and recommendations from the state agency(ies) are being considered into the proposed project.

The federal Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668-668c) provides for the protection of the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*). Under the Eagle Act, “take” of eagles, their parts, nests or eggs is prohibited. Disturbance resulting in injury to an eagle or a decrease in productivity or nest abandonment by substantially interfering with normal breeding, feeding, or sheltering behavior is a form of “take.”

The Migratory Bird Treaty Act (16 U.S.C. 703-712: Ch. 128 as amended) (MBTA) implements international treaties to protect migratory birds. It makes it illegal to pursue, hunt, capture, kill, or possess migratory birds, or their parts, nests, or eggs, without a permit from the USFWS. The MBTA covers over 1,000 native bird species and aims to ensure their long-term conservation by preventing unregulated harm and exploitation. Although the provisions of the MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10. If development is planned to occur during the primary nesting season or at any other time which may result in impacts to birds, their nests or eggs protected under these laws, a qualified biologist should conduct a field survey of the affected habitats to determine the absence or presence of nesting migratory birds. If a field survey identifies the existence of one or more active bird nests that cannot be avoided by the planned construction activities, the USFWS and state agencies should be contacted immediately.

## 2.2 State Regulations

Both Colorado and Nebraska afford state protections to listed species. Sections 2.2.1 and 2.2.2 detail each state’s respective regulations.

### 2.2.1 Colorado Regulations

Colorado’s threatened and endangered species protections are primarily governed by Colorado Revised Statutes (C.R.S.) Title 33, Article 2, Nongame and Endangered Species Conservation (CO Rev Stat § 33-2), which is administered by Colorado Parks and Wildlife (CPW). C.R.S. § 33-2-102 directs the state to protect and conserve rare plants, invertebrates, and threatened or endangered wildlife to prevent their decline. C.R.S. § 33-2-105 makes it unlawful to take, possess, transport, sell, or ship any species listed as endangered or threatened within Colorado. C.R.S § 33-2-106 allows for the removal or destruction of threatened/endangered species for property or health reasons, but only after receiving a permit from CPW. C.R.S. § 33-2 requires county and state agencies to consult with CPW and take the action necessary to ensure that actions authorized, funded, or carried out by the entities do not jeopardize the continued existence of listed threatened or endangered species or

result in the destruction or modification of habitat of such species that are determined by CPW to be critical.

### 2.2.2 Nebraska Regulations

The state of Nebraska has established the Nebraska Nongame and Endangered Species Conservation Act (NESCA; Nebraska Revised Statutes [Neb. Rev. Stat.] §37-806), which is administered by the Nebraska Game and Parks Commission (NGPC). NESCA states that any species listed under the ESA shall also be state listed (Neb. Rev. Stat. §37-801-11). NGPC has the authority to list any species of wildlife or plants normally occurring in the state as threatened or endangered and subject to NESCA (Neb. Rev. Stat. §37-806-2). NESCA requires state agencies to consult with NGPC and take the action necessary to ensure that actions authorized, funded, or carried out by the agencies do not jeopardize the continued existence of listed threatened or endangered species or result in the destruction or modification of habitat of such species that are determined by NGPC to be critical (Neb. Rev. Stat. §37-807-3).

Additionally, the Nebraska Revised Statute §37-540 prohibits the take and destruction of nests or eggs of protected birds (as defined in Nebraska Revised Statute §37-237.01).

## 3.0 Study Area and Existing Conditions

The Project's Study Area was generated based on the Project's anticipated limits of grading. The Study Area comprises of two segments; the first segment begins at the South Platte River southwest of Ovid, Colorado, and extends north and east approximately 25 miles to southeast of Big Springs, Nebraska. The second segment begins southwest of Ogallala, Nebraska and extends approximately 15 miles before terminating southeast of Ogallala (see Figure 1).

The Study Area spans through the High Plains Ecoregion of eastern Colorado and the Western High Plains Ecoregions of western Nebraska (Chapman et al. 2006; Chapman et al. 2001). The High Plains of Colorado is comprised of smooth to slightly irregular plains with a high percentage rangeland and lesser percentage of cropland. Silty and clayey loams to sandy soils support sandsage prairie as well as a variety of shortgrass and midgrass prairie species. Blue grama-buffalograss, sand sagebrush, rabbitbrush, sand bluestem, prairie sandreed, and Indian ricegrass are typical herbaceous plants. The Western High Plains comprises of a smooth to slightly irregular plain with a mosaic of dryland agriculture, rangeland, and irrigate agriculture. Natural vegetation is dominated by drought-tolerant sandsage, shortgrass, and mixedgrass prairie species.

The Project Study Area begins and ends at the South Platte River. The perennial waterway displays braided features, characterized by broad, shallow, muddy channels interspersed with sandbars and vegetated islands. The river supports a wide, wooded riparian corridor. The diversity of features within the riverine corridor provides vital habitat for migratory birds and bald eagles. Outside the South Platte River corridor, the Study Area largely spans through rangeland and row crop agricultural fields paralleling US Interstates 76 and 80. Scattered farmsteads are located near the Study Area within the surrounding rural landscape. While the Study Area intersects, or immediately abuts, numerous National Hydrography Dataset (NHD)-mapped waterways, including South Reservation Ditch and Western Irrigation District Canal, wetland delineations did not identify any relatively permanent waterways exhibiting an ordinary high water mark beyond the South Platte River.

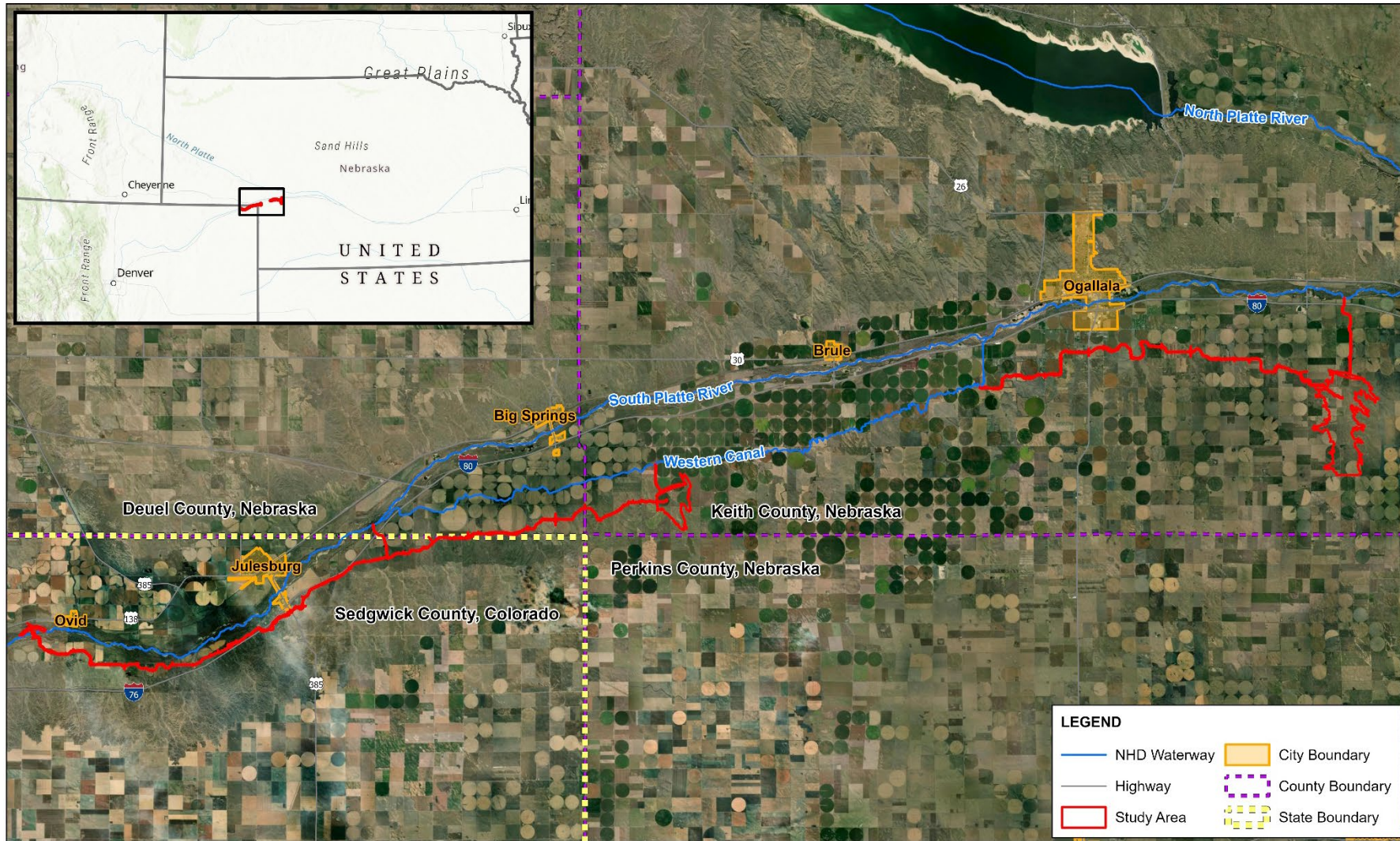


Figure 1 Project Location

Based on information provided by federal and state agencies, several threatened or endangered species may exist in the Study Area. The US Fish and Wildlife Service (USFWS) Information for Planning and Consultation Tool (IPaC) was utilized to develop a list of potential federal species that may be present or affected by the Project in both Colorado and Nebraska. The NGPC’s Conservation and Environmental Review Tool (CERT) was utilized to determine potential state listed species that may be present within the Study Area while the CPW’s threatened and endangered species lists were consulted for potential state listed species within Colorado. The USFWS IPaC output is provided in Appendix A. The NGPC CERT report is provided in Appendix B.

The bald eagle has been removed from the USFWS federal list of threatened and endangered species but maintains an at-risk species status in Nebraska as well as a special of special concern status in Colorado. The bald eagle is still protected under the USFWS Bald and Golden Eagle Protect Act and the USFWS Migratory Bird Treaty Act.

Table 3-1 lists the species identified by USFWS, CPW, and NGPC as potentially occurring within the Study Area, as well as their status, typical habitat, and their occurrence. Subsequent sections provide detailed information regarding each species.

**Table 3-1 Potential Protected Species in the Study Area**

Common Name	Scientific Name	Status	Typical Habitat	Occurrence
<b>Birds</b>				
Burrowing Owl	<i>Athene cunicularia</i>	CO State Threatened	Dry, open areas with short grass and no trees. Nest and live in underground burrows created by prairie dogs, ground squirrels, and badgers.	Rangeland and prairie areas in Colorado.
Eastern Black Rail	<i>Laterallus jamaicensis</i>	Federally Threatened NE Threatened	Salt and freshwater marshes.	Wetlands within the Study Area. No known occurrence within the Study Area.
Eskimo Curlew	<i>Numenius borealis</i>	Federal Threatened NE State Threatened	Wet meadows, burned over prairies, or newly plowed fields.	Potential infrequent migrant through Study Area. No known occurrence within the Study Area.
Interior Least Tern	<i>Sterna antillarum athalassos</i>	CO and NE State Endangered	Sparsely vegetated sandbars, sand and gravel shorelines of rivers, and alkali wetlands.	Migration, summer breeding, and nesting within the South Platte River.
Piping Plover	<i>Charadrius melodus</i>	Federally Threatened CO and NE State Threatened	Sparsely vegetated sandbars, sand and gravel shorelines of rivers, and alkali wetlands.	Migration, summer breeding, and nesting within the South Platte River.
Plains Sharp-tailed Grouse	<i>Tympanuchus phasianellus jamesii</i>	CO State Endangered	Medium to tall grasslands for nesting, loafing, and night-roosting cover.	Rangeland and prairie areas in Colorado.

Common Name	Scientific Name	Status	Typical Habitat	Occurrence
Rufa Red Knot	<i>Calidris canutus rufa</i>	Federally Threatened NE State Threatened	Migratory stopovers include sandflats or mudflats	Migration on South Platte River is possible, no known occurrences in Study Area.
Whooping Crane	<i>Grus americana</i>	Federally Endangered CO and NE State Endangered	Spring and fall migration through central flyway, along Missouri and Niobrara Rivers, cropland and pasture, wet meadows, shallow marshes, and shallow areas in rivers, lakes, reservoirs, and stock ponds	Along South Platte River corridor within the Study Area in Nebraska. Unlikely occurrence in Colorado.
<b>Insects</b>				
Monarch Butterfly	<i>Danaus plexippus plexippus</i>	Under federal review for listing	Prairies, meadows, roadsides, and grasslands with milkweed	Throughout Study Area.
Regal Fritillary	<i>Argynnis idalia</i>	Under federal review for listing	Tall grass prairie and prairie pasture specialist.	Throughout Nebraska and Study Area.
Suckley's Cuckoo Bumble Bee	<i>Bombus suckleyi</i>	Under federal review for listing	Prairies, meadows, grasslands, and mountainous regions.	Throughout Study Area.
<b>Fish</b>				
Brassy Minnow	<i>Hybognathus hankinsoni</i>	CO State Threatened	Stream channels (particularly pools), back waters, and beaver ponds.	Along the South Platte River in Colorado.
Pallid Sturgeon	<i>Scaphirhynchus albus</i>	Endangered	Main channel of turbid free-flowing rivers, backwaters, chutes, and edges of sandbars.	Missouri River, lower reaches of Platte River in Nebraska; no known occurrences in the Study Area.
Plains Minnow	<i>Hybognathus placitus</i>	CO State Endangered	Shallow river channels with sand/gravel bottoms with deeper pools during low flows.	Along the South Platte River in Colorado.
Suckermouth Minnow	<i>Phenacobius mirabilis</i>	CO State Endangered	Shallow river channels with sand/gravel bottoms with deeper pools during low flows.	Along the South Platte River in Colorado.
<b>Mammals</b>				
Black Footed Ferret	<i>Mustela nigripes</i>	Federal Endangered	Grasslands or shrublands that support prairie dog.	Rangeland and prairie areas throughout the Study Area. No known occurrences in Study Area.

Common Name	Scientific Name	Status	Typical Habitat	Occurrence
Gray Wolf	<i>Canis lupus</i>	Federal Endangered CO and NE State Endangered	Habitat generalist	Extirpated from Nebraska. Potential migrant through Study Area. No known occurrences in Study Area.
River Otter	<i>Lontra canadensis</i>	CO State Threatened	Riparian habitat and major streams in Colorado	Along the South Platte River in Colorado.
Swift Fox	<i>Vulpes velox</i>	NE State Endangered	Rangeland and shortgrass prairie	Rangeland and prairie areas in Nebraska.
Tricolored Bat	<i>Perimyotis subflavus</i>	Under federal review for listing	Woodlands and forests (riparian, conifer, mixed, and hardwood), grassland, and cliffs.	Unlikely but potentially within wooded areas in Study Area.
Plants				
Western Prairie Fringed Orchid	<i>Platanthera praeclara</i>	Federal Threatened NE State Threatened	Wet-mesic to mesic tallgrass prairie; unplowed sedge meadows	Along the South Platte River in Colorado and Nebraska. No known occurrences in Study Area.

Sources: CPW n.d.; NGPC 2025; USFWS 2025.

## 4.0 References

- Chapman, S.S., Griffith, G.E., Omernik, J.M., Price, A.B., Freeouf, J., and Schrupp, D.L., 2006, Ecoregions of Colorado (color poster with map, descriptive text, summary tables, and photographs): Reston, Virginia, U.S. Geological Survey (map scale 1:1,200,000).
- Chapman, Shannen S., Omernik, James M., Freeouf, Jerry A., Huggins, Donald G., McCauley, James R., Freeman, Craig C., Steinauer, Gerry, Angelo, Robert T., and Schlepp, Richard L., 2001, Ecoregions of Nebraska and Kansas (color poster with map, descriptive text, summary tables, and photographs): Reston, Virginia, U.S. Geological Survey (map scale 1:1,950,000).
- Colorado Parks and Wildlife (CPW). n.d.-a. Endangered Species Act. Accessed December 9, 2025. <https://cpw.state.co.us/threatened-and-endangered-wildlife>.
- NGPC (Nebraska Game and Parks Commission). 2025. Conservation and Environmental Review Tool (CERT). Accessed December 9, 2025. <https://cert.outdoornebraska.gov/>.
- USFWS (US Fish and Wildlife Service). 2025. Information for Planning and Consultation (IPaC). Accessed December 9, 2025. <https://ipac.ecosphere.fws.gov/>.



# Appendix A

IPaC

# IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

## Location

Colorado and Nebraska



## Local offices

Colorado Ecological Services Field Office

☎ (303) 236-4773

📠 (303) 236-4005

MAILING ADDRESS

Denver Federal Center

P.O. Box 25486

Denver, CO 80225-0486

PHYSICAL ADDRESS

1 Denver Federal Center

Bldg 53 Room Fw100}

Denver, CO 80225-0001

Nebraska Ecological Services Field Office

☎ (308) 382-6468

📠 (308) 384-8835

MAILING ADDRESS

9325 B South Alda Rd., Ste B

Wood River, NE 68883-9565

PHYSICAL ADDRESS

9325 South Alda Rd., Ste B

Wood River, NE 68883-9565

# Endangered species

**This resource list is for informational purposes only and does not constitute an analysis of project level impacts.**

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species<sup>1</sup> and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries<sup>2</sup>).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information. IPaC only shows species that are regulated by USFWS (see FAQ).
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

## Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat. <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a>	Threatened
Whooping Crane <i>Grus americana</i> There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat. <a href="https://ecos.fws.gov/ecp/species/758">https://ecos.fws.gov/ecp/species/758</a>	Endangered

# Fishes

NAME	STATUS
<p>Pallid Sturgeon <i>Scaphirhynchus albus</i></p> <p>Wherever found</p> <p>This species only needs to be considered if any of the following conditions apply:</p> <ul style="list-style-type: none"><li>• Water use or contamination may adversely affect the species. Within the Platte River basin, depletions may adversely affect the species. These affects must be considered even outside occupied range. See local FWS office for more information.</li><li>• Water use or contamination may adversely affect the species. Within the Platte River basin, depletions may adversely affect the species. These affects must be considered even outside occupied range. See local FWS office for more information.</li></ul> <p>No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/7162">https://ecos.fws.gov/ecp/species/7162</a></p>	Endangered

# Insects

NAME	STATUS
<p>Monarch Butterfly <i>Danaus plexippus</i></p> <p>Wherever found</p> <p>There is <b>proposed</b> critical habitat for this species. Your location does not overlap the critical habitat. <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a></p>	Proposed Threatened
<p>Suckley's Cuckoo Bumble Bee <i>Bombus suckleyi</i></p> <p>No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/10885">https://ecos.fws.gov/ecp/species/10885</a></p>	Proposed Endangered

# Flowering Plants

NAME	STATUS
<p>Western Prairie Fringed Orchid <i>Platanthera praeclara</i></p> <p>Wherever found</p> <p>No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/1669">https://ecos.fws.gov/ecp/species/1669</a></p>	Threatened

# Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.

You are still required to determine if your project(s) may have effects on all above listed species.

# Bald & Golden Eagles

Bald and Golden Eagles are protected under the Bald and Golden Eagle Protection Act <sup>2</sup> and the Migratory Bird Treaty Act (MBTA) <sup>1</sup>. Any person or organization who plans or conducts activities that may result in impacts to Bald or Golden Eagles, or their habitats, should follow appropriate regulations and consider implementing appropriate avoidance and minimization measures, as described in the various links on this page.

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>

- Nationwide avoidance and minimization measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

There are Bald Eagles and/or Golden Eagles in your [project](#) area.

### Measures for Proactively Minimizing Eagle Impacts

For information on how to best avoid and minimize disturbance to nesting bald eagles, please review the [National Bald Eagle Management Guidelines](#). You may employ the timing and activity-specific distance recommendations in this document when designing your project/activity to avoid and minimize eagle impacts. For bald eagle information specific to Alaska, please refer to [Bald Eagle Nesting and Sensitivity to Human Activity](#).

The FWS does not currently have guidelines for avoiding and minimizing disturbance to nesting Golden Eagles. For site-specific recommendations regarding nesting Golden Eagles, please consult with the appropriate Regional [Migratory Bird Office](#) or [Ecological Services Field Office](#).

If disturbance or take of eagles cannot be avoided, an [incidental take permit](#) may be available to authorize any take that results from, but is not the purpose of, an otherwise lawful activity. For assistance making this determination for Bald Eagles, visit the [Do I Need A Permit Tool](#). For assistance making this determination for golden eagles, please consult with the appropriate Regional [Migratory Bird Office](#) or [Ecological Services Field Office](#).

### Ensure Your Eagle List is Accurate and Complete

If your project area is in a poorly surveyed area in IPaC, your list may not be complete and you may need to rely on other resources to determine what species may be present (e.g. your local FWS field office, state surveys, your own surveys). Please review the [Supplemental Information on Migratory Birds and Eagles](#), to help you properly interpret the report for your specified location, including determining if there is sufficient data to ensure your list is accurate.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to bald or golden eagles on your list, see the "Probability of Presence Summary" below to see when these bald or golden eagles are most likely to be present and breeding in your project area.

### Review the FAQs

The FAQs below provide important additional information and resources.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1626">https://ecos.fws.gov/ecp/species/1626</a>	Breeds Oct 15 to Jul 31
Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1680">https://ecos.fws.gov/ecp/species/1680</a>	Breeds Dec 1 to Aug 31

## Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "[Supplemental Information on Migratory Birds and Eagles](#)", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

### Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

#### Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

#### Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

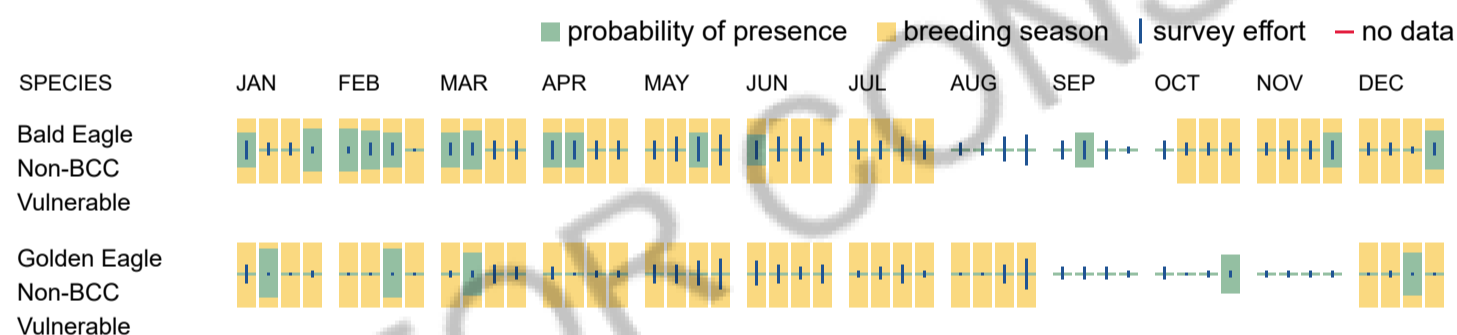
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

#### No Data (-)

A week is marked as having no data if there were no survey events for that week.

#### Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



## Bald & Golden Eagles FAQs

### What does IPaC use to generate the potential presence of bald and golden eagles in my specified location?

The potential for eagle presence is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are an eagle ([Bald and Golden Eagle Protection Act](#) requirements may apply).

### Proper interpretation and use of your eagle report

On the graphs provided, please look carefully at the survey effort (indicated by the black vertical line) and for the existence of the "no data" indicator (a red horizontal line). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort line or no data line (red horizontal) means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list and associated information help you know what to look for to confirm presence and helps guide you in knowing when to implement avoidance and minimization measures to eliminate or reduce potential impacts from your project activities or get the appropriate permits should presence be confirmed.

### How do I know if eagles are breeding, wintering, or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating, or resident), you may query your location using the [RAIL Tool](#) and view the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If an eagle on your IPaC migratory bird species list has a breeding season associated with it (indicated by yellow vertical bars on the phenology graph in your "IPaC PROBABILITY OF PRESENCE SUMMARY" at the top of your results list), there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

### Interpreting the Probability of Presence Graphs

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. A taller bar indicates a higher probability of species presence. The survey effort can be used to establish a level of confidence in the presence score.

**How is the probability of presence score calculated? The calculation is done in three steps:**

The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.

To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .

The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

**Breeding Season ()**

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

**Survey Effort ()**

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

**No Data ()**

A week is marked as having no data if there were no survey events for that week.

**Survey Timeframe**

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

## Migratory birds

The Migratory Bird Treaty Act (MBTA) <sup>1</sup> prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service (Service).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide avoidance and minimization measures for birds
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

### Measures for Proactively Minimizing Migratory Bird Impacts

Your IPaC Migratory Bird list showcases [birds of concern](#), including [Birds of Conservation Concern \(BCC\)](#), in your project location. This is not a comprehensive list of all birds found in your project area. However, you can help proactively minimize significant impacts to all birds at your project location by implementing the measures in the [Nationwide avoidance and minimization measures for birds](#) document, and any other project-specific avoidance and minimization measures suggested at the link [Measures for avoiding and minimizing impacts to birds](#) for the birds of concern on your list below.

### Ensure Your Migratory Bird List is Accurate and Complete

If your project area is in a poorly surveyed area, your list may not be complete and you may need to rely on other resources to determine what species may be present (e.g. your local FWS field office, state surveys, your own surveys). Please review the [Supplemental Information on Migratory Birds and Eagles document](#), to help you properly interpret the report for your specified location, including determining if there is sufficient data to ensure your list is accurate.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the "Probability of Presence Summary" below to see when these birds are most likely to be present and breeding in your project area.

## Review the FAQs

The FAQs below provide important additional information and resources.

NAME	BREEDING SEASON
<b>Bald Eagle</b> <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1626">https://ecos.fws.gov/ecp/species/1626</a>	Breeds Oct 15 to Jul 31
<b>Broad-tailed Hummingbird</b> <i>Selasphorus platycercus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 25 to Aug 21
<b>Chimney Swift</b> <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Mar 15 to Aug 25
<b>Ferruginous Hawk</b> <i>Buteo regalis</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA <a href="https://ecos.fws.gov/ecp/species/6038">https://ecos.fws.gov/ecp/species/6038</a>	Breeds Mar 15 to Aug 15
<b>Golden Eagle</b> <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1680">https://ecos.fws.gov/ecp/species/1680</a>	Breeds Dec 1 to Aug 31
<b>Grasshopper Sparrow</b> <i>Ammodramus savannarum perpallidus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA <a href="https://ecos.fws.gov/ecp/species/8329">https://ecos.fws.gov/ecp/species/8329</a>	Breeds Jun 1 to Aug 20
<b>Lesser Yellowlegs</b> <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/9679">https://ecos.fws.gov/ecp/species/9679</a>	Breeds elsewhere
<b>Long-billed Curlew</b> <i>Numenius americanus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA <a href="https://ecos.fws.gov/ecp/species/5511">https://ecos.fws.gov/ecp/species/5511</a>	Breeds Apr 1 to Jul 31
<b>Long-eared Owl</b> <i>asio otus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/3631">https://ecos.fws.gov/ecp/species/3631</a>	Breeds Mar 1 to Jul 15
<b>Northern Harrier</b> <i>Circus hudsonius</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA <a href="https://ecos.fws.gov/ecp/species/8350">https://ecos.fws.gov/ecp/species/8350</a>	Breeds Apr 1 to Sep 15
<b>Red-headed Woodpecker</b> <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10

## Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "[Supplemental Information on Migratory Birds and Eagles](#)", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

### Probability of Presence (■)





## Migratory Bird FAQs

**Tell me more about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds.**

[Nationwide Avoidance & Minimization Measures for Birds](#) describes measures that can help avoid and minimize impacts to all birds at any location year-round. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is one of the most effective ways to minimize impacts. To see when birds are most likely to occur and breed in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

**What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?**

The Migratory Bird Resource List is comprised of [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location, such as those listed under the Endangered Species Act or the [Bald and Golden Eagle Protection Act](#) and those species marked as "Vulnerable". See the FAQ "What are the levels of concern for migratory birds?" for more information on the levels of concern covered in the IPaC migratory bird species list.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) with which your project intersects. These species have been identified as warranting special attention because they are BCC species in that area, an eagle ([Bald and Golden Eagle Protection Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, and to verify survey effort when no results present, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

**Why are subspecies showing up on my list?**

Subspecies profiles are included on the list of species present in your project area because observations in the AKN for **the species** are being detected. If the species are present, that means that the subspecies may also be present. If a subspecies shows up on your list, you may need to rely on other resources to determine if that subspecies may be present (e.g. your local FWS field office, state surveys, your own surveys).

**What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?**

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

**How do I know if a bird is breeding, wintering, or migrating in my area?**

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating, or resident), you may query your location using the [RAIL Tool](#) and view the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your IPaC migratory bird species list has a breeding season associated with it (indicated by yellow vertical bars on the phenology graph in your "IPaC PROBABILITY OF PRESENCE SUMMARY" at the top of your results list), there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

**What are the levels of concern for migratory birds?**

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Bald and Golden Eagle Protection Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially BCC species. For more information on avoidance and minimization measures you can implement to help avoid and minimize migratory bird impacts, please see the FAQ

"Tell me more about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds".

### **Details about birds that are potentially affected by offshore projects**

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review.

Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

### **Proper interpretation and use of your migratory bird report**

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please look carefully at the survey effort (indicated by the black vertical line) and for the existence of the "no data" indicator (a red horizontal line). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list does not represent all birds present in your project area. It is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list and associated information help you know what to look for to confirm presence and helps guide implementation of avoidance and minimization measures to eliminate or reduce potential impacts from your project activities, should presence be confirmed. To learn more about avoidance and minimization measures, visit the FAQ "Tell me about avoidance and minimization measures I can implement to avoid or minimize impacts to migratory birds".

### **Interpreting the Probability of Presence Graphs**

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. A taller bar indicates a higher probability of species presence. The survey effort can be used to establish a level of confidence in the presence score.

#### ***How is the probability of presence score calculated? The calculation is done in three steps:***

The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.

To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .

The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

### **Breeding Season ()**

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

### **Survey Effort ()**

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

### **No Data ()**

A week is marked as having no data if there were no survey events for that week.

### **Survey Timeframe**

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

## Facilities

### National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

There are no refuge lands at this location.

# Fish hatcheries

There are no fish hatcheries at this location.

## Wetlands in the National Wetlands Inventory (NWI)

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

This location overlaps the following wetlands:

### FRESHWATER

#### EMERGENT WETLAND

[PEM1A](#)

[PEM1C](#)

[PEM1Ah](#)

[PEM1F](#)

[PEM1Ch](#)

### FRESHWATER

#### FORESTED/SHRUB

#### WETLAND

[PSSA](#)

[PFOA](#)

### FRESHWATER POND

[PUBG](#)

[PUSAh](#)

[PABFh](#)

[PUSCh](#)

### RIVERINE

[R2UBH](#)

[R4SBC](#)

[R4SBA](#)

[R2USC](#)

[R2USA](#)

[R2UBFx](#)

[R5UBH](#)

[R5UBFx](#)

[R4SBCx](#)

[R2UBF](#)

A full description for each wetland code can be found at the [National Wetlands Inventory website](#)

**NOTE:** This initial screening does **not** replace an on-site delineation to determine whether wetlands occur. Additional information on the NWI data is provided below.

#### Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

#### **Data exclusions**

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

#### **Data precautions**

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate Federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION



# Appendix B

NGPC CERT



# Environmental Review Report

## Project Information

Report Generation Date: 12/5/2025 03:08:52 PM  
Project Title: Perkins Canal  
User Project Number(s): N/A  
System Project ID: NE-CERT-015978  
State Nexus: NDWEE - Department of Water, Energy, and Environment  
Project Type: Agriculture, Irrigation Canal - construct new canal, major repair or replacement  
Project Activities: None Selected  
Project Size: 497.49 acres  
County(s): Keith  
Watershed(s): South Platte  
Watershed(s) HUC 8: Lower South Platte  
Watershed(s) HUC 12: 101900180501; 101900180601; Happy Hollow; Lower Roscoe Draw +  
Biologically Unique Landscape(s): None  
Township/Range and/or Section(s): 013N037W; 013N038W; 013N039W  
Latitude/Longitude: 41.094217 / -101.732751

## Contact Information

Organization: HDR  
Contact Name: Emily Schmit  
Contact Phone: 402.399.1340  
Contact Email: Emily.Schmit@hdrinc.com  
Contact Address: 1917 S 67th Street Omaha NE 68106  
Prepared By:  
Submitted On Behalf Of:

### Previous Environmental Review

None specified

### Project Description

Perkins County Canal Project. New diversion, reservoir, and canal system.

### Project Duration

Undetermined at this time.

**Existing Land Use**

The Project Study Area begins and ends at the South Platte River. The perennial waterway displays braided features, characterized by broad, shallow, muddy channels interspersed with sandbars and vegetated islands. The river supports a wide, wooded riparian corridor. The diversity of features within the riverine corridor provides vital habitat for migratory birds and bald eagles. Outside the South Platte River corridor, the Study Area largely spans through rangeland and row crop agricultural fields paralleling US Interstates 76 and 80. Scattered farmsteads are located near the Study Area within the surrounding rural landscape. While the Study Area intersects, or immediately abuts, numerous National Hydrography Dataset (NHD)-mapped waterways, including South Reservation Ditch and Western Irrigation District Canal, wetland delineations did not identify any relatively permanent waterways exhibiting an ordinary high water mark beyond the South Platte River.

**Waterbodies**

South Platte River.

# The Nebraska Nongame and Endangered Species Conservation Act (NESCA)

The Nebraska Game and Parks Commission (Commission or NGPC) has responsibility for protecting state-listed endangered and threatened species under authority of the Nongame and Endangered Species Conservation Act (NESCA) (Neb. Rev. Stat. § 37-801 to 37-814). Pursuant to §37-807 (3)(c) of NESCA, **all state agencies shall, in consultation with the Commission, ensure projects they authorize (i.e., issue a permit for), fund or carry out do not jeopardize the continued existence of state-listed endangered or threatened species or result in the destruction or modification of habitat of such species which is determined by the Commission to be critical. If a proposed project may affect state-listed species or designated critical habitat, further consultation with the Commission is required.**

**Informal consultation pursuant to NESCA can be completed by using the Conservation and Environmental Review Tool (CERT).** The CERT analyzes the project type and location, and based on the analysis, provides information about potential impacts to listed species, habitat questions and/or conservation measures.

- If project proponent agrees to implement conservation measures, as outlined in the report and applicable to the project type, then this document serves as documentation of consultation with the Commission and the following actions can be taken to move forward with the project:
  - Sign the Environmental Review Report (ERR) in the designated areas, and
  - Upload the signed and dated report into the project within CERT, and
  - Change the edit status to Final from Draft status.
  - When these actions are completed, no additional coordination (i.e., contacting the Commission) is required.
- If the report indicates further review is required in the Overall Results section and/or conservation measures cannot be met, then the following actions must be taken:
  - Project proponent is required to contact and consult with the Commission. Contact information can be found under the Additional Considerations section.
  - The further review process is complete when the Commission indicates so or provides a concurrence letter to the project proponent. This letter should be used in combination with the CERT ERR associated with the project in order to constitute a complete environmental review.
  - When these actions are completed, no additional coordination with the Commission is required.

**Review the Overall Results section on the following page for further instructions.**

## Disclaimer

The U.S. Fish and Wildlife Service has responsibility for conservation and management of fish and wildlife resources for the benefit of the American public under the following authorities: 1) Endangered Species Act; 2) Fish and Wildlife Coordination Act; 3) Bald and Golden Eagle Protection Act; and 4) Migratory Bird Treaty Act.

It is recommended that a project start with requesting an Official Species List via the Information for Planning and Consultation ([IPaC Tool](#)), to begin informal consultation with the U.S. Fish & Wildlife Service.

**The information generated in a CERT Environmental Review Report DOES NOT satisfy consultation obligations between the lead federal agency and the U.S. Fish and Wildlife Service pursuant to the Endangered Species Act (ESA).**

For the purposes of ESA, the information in this report should be considered as technical assistance, and does not serve as the U.S. Fish and Wildlife Service's concurrence letter, even if the user signs and agrees to implement conservation conditions in order to satisfy consultation requirements of NESCA.

**Review the Additional Considerations section for further information.**

## Overall Results

- Potential impacts on listed species may occur as a result of this project; further review is required. Sign and date the Certification section below, upload your signed report in CERT, and fill out the CERT Further Review Form located at <https://outdoornebraska.gov/conservation/environmental-review/cert-further-review-form/>.

## Additional Information

**Potential impacts on listed species may occur as a result of this project. Further consultation with the Nebraska Game and Parks Commission is required.**

## Certification

I certify that ALL the project information in this report (including project location, project size/configuration, project type, project activities, answers to questions) is true, accurate and complete. If the project type, activities, location, size, or configuration of the project change; if a species listing status is reclassified; if a new species is listed; or if any of the answers to any questions asked in this report change, then this document is no longer valid, and re-consultation with the Nebraska Game and Parks Commission is required.

\_\_\_\_\_  
Applicant/project proponent signature

\_\_\_\_\_  
Date

Please upload this signed and dated report into your project in CERT. For instructions, see the [Help tab](#).

## Additional Considerations

### Nebraska Game and Parks Commission

Environmental Review Team  
2200 North 33 Street  
Lincoln, NE 68503  
Phone: (402) 471-5423  
Email: [ngpc.envreview@nebraska.gov](mailto:ngpc.envreview@nebraska.gov)

### U.S. Fish and Wildlife Service

Nebraska Ecological Services  
9325 South Alda Road  
Wood River, NE 68883  
Phone: (308) 382-6468  
Email: [nebraskaes@fws.gov](mailto:nebraskaes@fws.gov)

### U.S. Army Corps of Engineers

Omaha Regulatory Office  
8901 South 154 Street  
Omaha, NE 68138  
Phone: (402) 896-0896  
Email: [NE404Reg@usace.army.mil](mailto:NE404Reg@usace.army.mil)

The following federal laws contribute to the conservation and management of fish and wildlife resources in the United States: Endangered Species Act, Bald and Golden Eagle Protection Act, Migratory Bird Treaty Act, Clean Water Act, and the Fish and Wildlife Coordination Act.

### **Bald and Golden Eagle Protection Act**

The federal Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668-668c) provides for the protection of the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*). Under the Eagle Act, “take” of eagles, their parts, nests or eggs is prohibited. Disturbance resulting in injury to an eagle or a decrease in productivity or nest abandonment by substantially interfering with normal breeding, feeding, or sheltering behavior is a form of “take.”

### *Nebraska Specific Information*

Bald eagles use mature, forested riparian areas near rivers, streams, lakes, and wetlands and occur along all the major river systems in Nebraska. The bald eagle southward migration begins as early as October and the wintering period extends from December-March. The golden eagle is found in arid open country with grassland for foraging in western Nebraska and usually near buttes or canyons which serve as nesting sites. Golden eagles are often a permanent resident in the Pine Ridge area of Nebraska. Additionally, many bald and golden eagles nest in Nebraska from mid-February through mid-July. Disturbances within 0.5-miles of an active nest or within line-of-sight of the nest could cause adult eagles to discontinue nest building or to abandon eggs. Both bald and golden eagles frequent river systems in Nebraska during the winter where open water and forested corridors provide feeding, perching, and roosting habitats, respectively. The frequency and duration of eagle use of these habitats in the winter depends upon ice and weather conditions. Human disturbances and loss of wintering habitat can cause undue stress leading to cessation of feeding and failure to meet winter thermoregulatory requirements. These affects can reduce the carrying capacity of preferred wintering habitat and reproductive success for the species.

To comply with the Eagle Act, it is recommended that the project proponent determine if the proposed project would impact bald or golden eagles or their habitats. This can be done by conducting a habitat assessment, surveying nesting habitat for active and inactive nests, and surveying potential winter roosting habitat to determine if it is being used by eagles. The area to be surveyed is dependent on the type of project; however for most projects we recommend surveying the project area and a ½ mile buffer around the project area. If it is determined that either species could be affected by the proposed project, the Commission recommends that the project proponent notify the Nebraska Game and Parks Commission as well as the Nebraska Field Office, U.S. Fish and Wildlife Service for recommendations to avoid “take” of bald and golden eagles.

### **Migratory Bird Treaty Act and Nebraska Revised Statute §37-540**

We recommend the project proponent comply with the Migratory Bird Treaty Act (16 U.S.C. 703-712: Ch. 128 as amended) (MBTA). The project proponent should also comply with Nebraska Revised Statute §37-540, which prohibits take and destruction of nests or eggs of protected birds (as defined in Nebraska Revised Statute §37-237.01). Construction activities in grassland, wetland, stream, woodland, and river bank habitats that would result in impacts on birds, their nests or eggs protected under these laws should be avoided. Although the provisions of these laws are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10. If development in this area

is planned to occur during the primary nesting season or at any other time which may result in impacts to birds, their nests or eggs protected under these laws, we request that the project proponent arrange to have a qualified biologist conduct a field survey of the affected habitats to determine the absence or presence of nesting migratory birds. If a field survey identifies the existence of one or more active bird nests that cannot be avoided by the planned construction activities, the Nebraska Game and Parks Commission and the Nebraska Field Office, U.S. Fish and Wildlife Service should be contacted immediately. For more information on avoiding impacts to migratory birds, their nests and eggs, or to report active bird nests that cannot be avoided by planned construction activities, please contact the U.S. Fish and Wildlife Service and/or the Nebraska Game and Parks Commission (contact information within report). Adherence to these guidelines will help avoid unnecessary impacts on migratory birds.

#### **Fish and Wildlife Coordination Act**

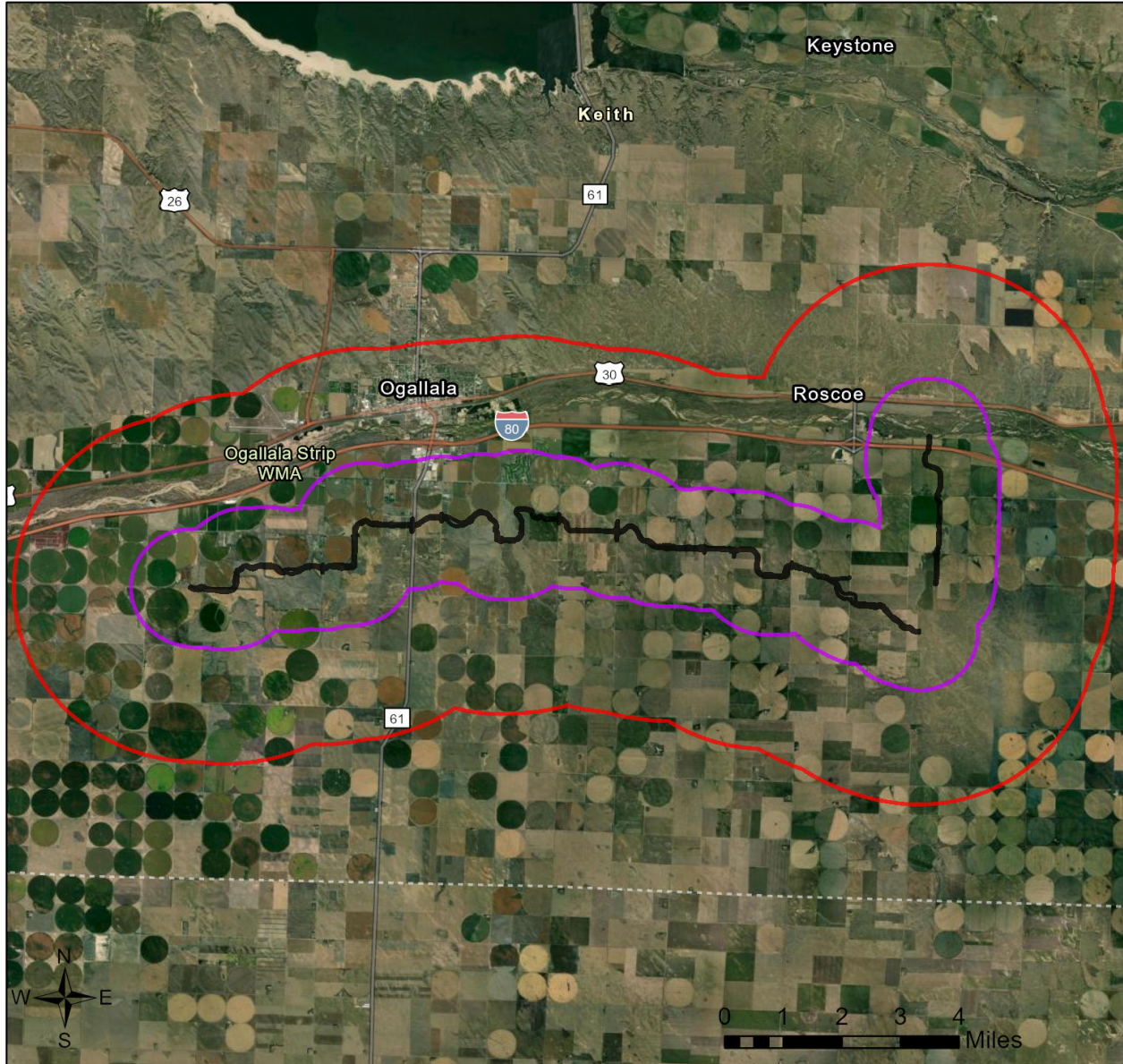
The Fish and Wildlife Coordination Act (FWCA) requires consultation with the U.S. Fish and Wildlife Service (Service) and the State fish and wildlife agency (i.e., Nebraska Game and Parks Commission) for the purpose of preventing loss of and damage to fish and wildlife resources in the planning, implementation, and operation of federal and federally funded, permitted, or licensed water resource development projects. This statute requires that federal agencies take into consideration the effect that the water related project would have on fish and wildlife resources, to take action to prevent loss or damage to these resources, and to provide for the development and improvement of these resources. The comments in this letter are provided as technical assistance only and are not the document required of the Secretary of the Interior pursuant to Section 2(b) of FWCA on any required federal environmental review or permit. This technical assistance is valid only for the described conditions and will have to be revised if significant environmental changes or changes in the proposed project take place. In order to determine whether the effects to fish and wildlife resources from the proposed project are being considered under FWCA, the lead federal agency must notify the Service in writing of how the comments and recommendations in this technical assistance letter are being considered into the proposed project.

#### **Section 404 of the Clean Water Act**

In general, the Nebraska Game and Parks Commission and the U.S. Fish and Wildlife Service have concerns for impacts to wetlands, streams and riparian habitats. We recommend that impacts to wetlands, streams, and associated riparian corridors be avoided and minimized, and that any unavoidable impacts to these habitats be mitigated. If any fill materials will be placed into waterways or wetlands, the U.S. Army Corps of Engineers Regulatory Office in Omaha should be contacted to determine if a 404 permit is needed.

# Perkins Canal

## Aerial Image Basemap With Locator Map



- 3-mile Information Buffer Boundary
- Project Review Boundary
- Project Boundary

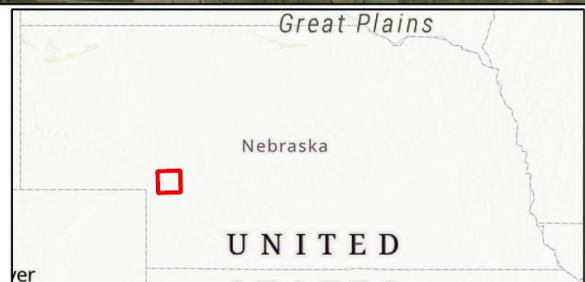
Project Size (acres): 497.49

Lat/Long (DD): 41.0942 / -101.7328

County(s): Keith

BUL(s):

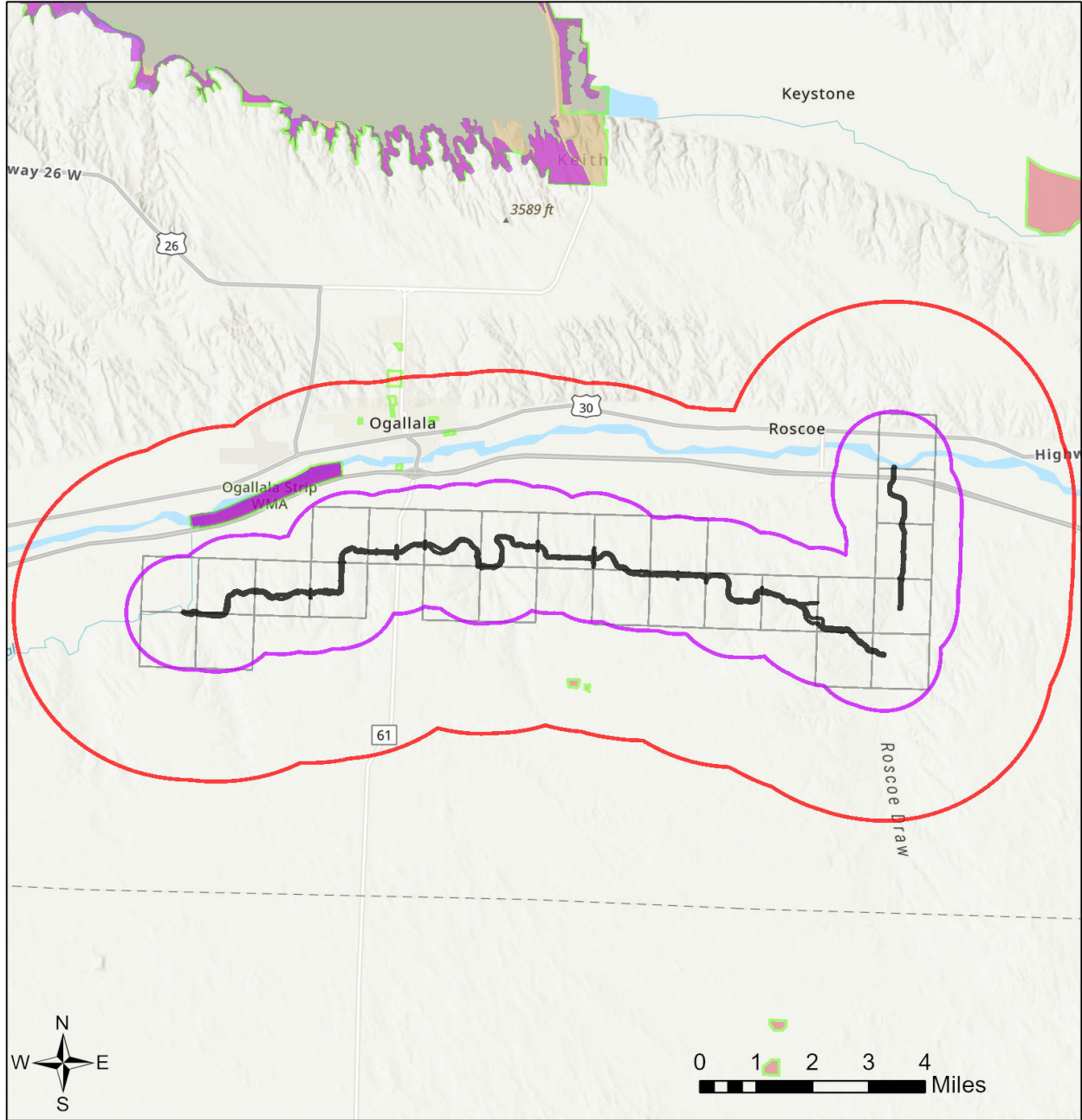
Township/Range/Section(s): T13R37WS03; T13R37WS10; T13R37WS15; T13R37WS19; T13R37WS20 +



Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS  
 Earthstar Geographics  
 Esri, USGS

# Perkins Canal

## Topographic Basemap With Sections and Protected Areas



- |   |   |  |
|---|---|--|
| <span style="border: 1px solid green; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> PAD (USGS) - boundaries         | <span style="background-color: blue; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Designation                  | <span style="background-color: purple; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> NGPC Properties                 |
| <span style="background-color: orange; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> U.S. Fish and Wildlife Service | <span style="background-color: brown; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Regional Agency             | <span style="border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Sections                         |
| <span style="background-color: green; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> U.S. Forest Service             | <span style="background-color: purple; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> State (NGPC)               | <span style="border: 2px solid red; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> 3-mile Information Buffer Boundary |
| <span style="background-color: yellow; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> National Park Service          | <span style="background-color: lightblue; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Other State             | <span style="border: 2px solid purple; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Project Review Boundary         |
| <span style="background-color: pink; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Bureau of Reclamation            | <span style="background-color: red; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> NGO or Private                | <span style="border: 2px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Project Boundary                 |
|   | <span style="background-color: lightorange; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Other (City, Unknown) |  |

Esri, NASA, NGA, USGS  
 Nebraska Game & Parks Commission, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS

**Table 1**  
**Protected Areas within Immediate Vicinity of Project Area**

This table has no results.

**Table 2**  
**Natural Communities and select Special Areas within Immediate Vicinity of Project Area**

Name	Other Information	SRank	GRank
Threadleaf Sedge Western Mixed-grass Prairie	Threadleaf Sedge Western Mixed-grass Prairie	S3S4	GNR
Large Intact Block of Habitat for At-risk Species			

**Table 3**  
**At-Risk Species Ranges within Project Area**

Scientific Name	Common Name	Data Type	USFWS	State	SGCN	SRank	GRank	Taxonomic Group
<a href="#">Argynnis idalia</a>	Regal Fritillary	Range			Tier 1	S3	G3?	
<a href="#">Asio flammeus</a>	Short-eared Owl	Range			Tier 1	S2	G5	
<a href="#">Athene cunicularia</a>	Burrowing Owl	Range			Tier 1	S2	G4	
<a href="#">Atrytone arogos iowa</a>	Iowa Skipper	Range			Tier 1	S1	G2G3T2T3	
<a href="#">Boloria myrina sabulocollis</a>	Kohler's Fritillary	Range			Tier 1	S1S2	G5?T3	
<a href="#">Catocala nuptialis</a>	Married Underwing	Range			Tier 1	SNR	G3	
<a href="#">Catocala whitneyi</a>	Whitney Underwing	Range			Tier 1	S1	G2G3	
<a href="#">Charadrius melodus</a>	Piping Plover	Model	T	T	Tier 1	S2	G3	
<a href="#">Cicindela limbata limbata</a>	Sandy Tiger Beetle	Range			Tier 1	S4	G5T3T4	
<a href="#">Coccyzus erythrophthalmus</a>	Black-billed Cuckoo	Range			Tier 1	S3	G5	
<a href="#">Dalea cylindriceps</a>	Large-spike Prairie-clover	Range			Tier 1	S2	G3	
<a href="#">Danaus plexippus</a>	Monarch	Range			Tier 1	S2	G4	
<a href="#">Ellipsoptera lepida</a>	Ghost Tiger Beetle	Range			Tier 1	S2	G3	
<a href="#">Euphyes bimacula illinois</a>	Two-spotted Skipper	Range			Tier 1	S3	G4T1T2	
<a href="#">Fossaria cockerelli</a>	Oxbow Snail	Range			Tier 1	S1	G3G4	
<a href="#">Fundulus sciadicus</a>	Plains Topminnow	Range			Tier 1	S3	G4	
<a href="#">Grus americana</a>	Whooping Crane	Range	E	E	Tier 1	S1	G1	
<a href="#">Haliaeetus leucocephalus</a>	Bald Eagle	Range			Tier 2	S3	G5	
<a href="#">Hesperia ottoe</a>	Ottoe Skipper	Range			Tier 1	S2	G3	
<a href="#">Hybognathus argyritis</a>	Western Silvery Minnow	Range			Tier 1	S2	G4	

**Table 3**  
**At-Risk Species Ranges within Project Area**

Scientific Name	Common Name	Data Type	USFWS	State	SGCN	SRank	GRank	Taxonomic Group
<a href="#">Hybognathus placitus</a>	Plains Minnow	Range			Tier 1	S2	G4	
<a href="#">Lanius ludovicianus</a>	Loggerhead Shrike	Range			Tier 1	S3	G4	
<a href="#">Lasiurus borealis</a>	Eastern Red Bat	Range			Tier 1	S3	G3G4	
<a href="#">Lasiurus cinereus</a>	Hoary Bat	Range			Tier 1	S3	G3G4	
<a href="#">Lethe eurydice fumosus</a>	Smoky-eyed Brown	Range			Tier 1	S3	G5T3T4	
<a href="#">Oxyloma haydeni</a>	Niobrara Ambersnail	Range			Tier 1	SNR	G3	
<a href="#">Perimyotis subflavus</a>	Tricolored Bat	Range			Tier 1	S3	G3G4	
<a href="#">Pica hudsonia</a>	Black-billed Magpie	Range			Tier 1	S2	G5	
<a href="#">Sternula antillarum athalassos</a>	Interior Least Tern	Model	E	E	Tier 1	S2	G4T3Q	
<a href="#">Trimerotropis saxatilis</a>	Lichen Grasshopper	Range			Tier 1	S1	G3	
<a href="#">Vulpes velox</a>	Swift Fox	Range		E	Tier 1	S2	G3	

**Table 4**  
**Threatened or Endangered Species Ranges within Project Area**

Scientific Name	Common Name	Data Type	USFWS	State	SGCN	SRank	GRank	Taxonomic Group
<a href="#">Charadrius melodus</a>	Piping Plover	Model	T	T	Tier 1	S2	G3	
<a href="#">Grus americana</a>	Whooping Crane	Range	E	E	Tier 1	S1	G1	
<a href="#">Sternula antillarum athalassos</a>	Interior Least Tern	Model	E	E	Tier 1	S2	G4T3Q	
<a href="#">Vulpes velox</a>	Swift Fox	Range		E	Tier 1	S2	G3	