

Written Testimony of Ann Bleed  
Director of the Nebraska Department of Natural Resources  
Before the United States House of Representatives Committee on Natural  
Resources, Water and Power Subcommittee  
In Support of H.R. 1462, Platte River Recovery Implementation Program  
and Pathfinder Modification Authorization Act  
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My name is Ann Bleed. I am the Director of the Nebraska Department of Natural Resources and am Nebraska Governor David Heineman's representative on the Governance Committee of the Platte River Recovery Program.

Thank you for this opportunity to provide testimony in support of Senate Bill 752 (House Resolution 1462) and its authorization of the Platte River Recovery Implementation Program.

The Platte River system arises in the mountains of Colorado and Wyoming, crosses the State of Nebraska, and empties into the Missouri River on Nebraska's eastern border. The Platte River and its tributaries irrigate millions of acres of farmland, provide water to cities such as Denver, Colorado, Casper, Wyoming, Lincoln and Omaha Nebraska, as well as numerous smaller cities and towns, and provide water for power plants that provide power throughout the western United States.

The Platte River in Nebraska also provides critical habitat to the endangered or threatened whooping crane, least tern, piping plover and pallid sturgeon, as well as habitat for numerous other species, and is a major staging area for migrating sandhill cranes. In the 1990's the State of Nebraska granted instream flow permits to protect fish and wildlife habitat along the Platte and put a moratorium on the issuance of new surface water permits on the western two-thirds of the Platte River and its tributaries.

Nevertheless, the importance of this river for so many competing interests led to conflicts not only among these interests, but also among the three states through which it flows. Exacerbating these conflicts was the need to comply with the federal Endangered Species Act. In an attempt to avoid costly litigation in 1994 the three states and their constituents and the U. S. Department of Interior signed a Memorandum of Understanding that after thirteen years of intense negotiations developed and approved the Platte River Recovery Implementation Program.

The goal of the Program is to use a basin-wide cooperative approach to assist in the conservation and recovery of habitat for the Platte's endangered and threatened species and help prevent the need to list more basin associated species pursuant to the

Endangered Species Act, while at the same time provide regulatory certainty to the people and industries that also rely on the flows of the river.

The Program has established an organizational structure that will ensure appropriate state and federal government and stakeholder involvement in the implementation of the Program. The Program will utilize an incremental approach to land and water management that places an appropriate and heavy reliance on the development of sound science through an adaptive management program. This adaptive management program has developed extensive protocols for testing hypotheses and management techniques to insure that the efforts of program participants will produce the desired results.

The States and other interests in the basin have committed substantial resources to the success of this effort including \$30 M, major land contributions and an average of 80,000 acre-feet of water. In addition each state has committed to reduce their consumptive use of water to 1997 levels and implement administrative procedures to hold water use at this limit.

Before closing I would like to address an amendment to Senate Bill 752 and House Resolution 1462 that has been proposed on behalf of the Upper North Platte Water Users in Wyoming relating to the Pathfinder Modification Project, which is part of the Platte River Recovery Implementation Program. The Bureau of Reclamation has a Wyoming water right to store 1,070,000 acre feet of water in Pathfinder Reservoir for the benefit of the North Platte Project, which includes irrigated land in Eastern Wyoming and Western Nebraska. Over the years, 53,493 acre feet of the storage capacity of the reservoir have been lost to sediment. The Pathfinder Modification Project would recapture this storage space.

The administration of the water rights for using this recaptured space was the subject of much negotiation among the United States and the States of Colorado, Nebraska, and Wyoming, all of whom were parties to the settlement of the Nebraska v. Wyoming law suit, which was approved by the U.S. Supreme Court in November, 2001. The results of these negotiations were codified in Appendix F to the Final Settlement Stipulation This appendix, which establishes the terms and conditions under which the Pathfinder Modification Project will be operated states in part:

The recaptured storage space would store water under the existing 1904 storage right for Pathfinder Reservoir and would enjoy the same entitlements as other uses in the reservoir with the exception that the recaptured storage space could not place regulatory calls on the existing water rights upstream of Pathfinder Reservoir other than the rights pertaining to Seminoe Reservoir.

The proposed amendment suggests that the Bureau of Reclamation should be restricted from seeking water rights administration on behalf of Pathfinder Reservoir during the irrigation season. It is Nebraska's view that the restrictions on calls for regulation for Pathfinder Reservoir during the irrigation season in the proposed amendment would be in violation of the Modified North Platte River Decree.

In summary, the negotiations to develop this program were long and arduous. The time, land, water and financial commitments by the States, water and power districts, environmental interests and the people in the basin are very substantial. There are a lot of future challenges that the Program must overcome. However, when the Governor's of all three States signed the Program agreement, the States attested to the premise that cooperation and collaboration will provide a much higher likelihood of protecting habitat and providing regulatory certainty for all involved than any other alternative. For this reason I urge you to enable the federal government to be a partner in this collaborative effort.

Thank you again for this opportunity to provide testimony.