

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AH96

**Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Northern Great Plains Breeding Population of the Piping Plover****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the northern Great Plains breeding population of the piping plover (*Charadrius melodus*), pursuant to the Endangered Species Act of 1973, as amended (Act). The proposed designation includes 16 critical habitat units comprised of 11 areas of prairie alkali wetlands, inland and reservoir lakes, totaling approximately 196,576.5 acres [79,553.1 hectares] and 5 areas found along portions of 4 rivers in the States of Minnesota, Montana, Nebraska, North Dakota, and South Dakota totaling approximately 1,338 river miles (2,153 kilometers).

Critical habitat would include prairie alkali wetlands and surrounding shoreline, including 200 feet (61 meters) of uplands above the high water mark; river channels and associated sandbars, and islands; reservoirs and their sparsely vegetated shorelines, peninsulas, and islands; and inland lakes and their sparsely vegetated shorelines and peninsulas. Section 7 of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify critical habitat. Section 4 of the Act requires that we consider economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat; we may exclude areas from the final critical habitat determination if we determine that the benefits of excluding these areas outweigh the benefits of including them in the final designation. As a result, the final designation may differ from this proposal.

**DATES:** Comments—We will accept comments until the close of business on August 13, 2001. Public Meetings—We have scheduled five public meetings for this proposal. These informal meetings will start at 6 p.m. and end at 9 p.m. See “Public Meetings” section for meeting dates and addresses.

**ADDRESSES:** You may submit written comments and information to Piping Plover Comments, South Dakota Ecological Services Field Office, U.S. Fish and Wildlife Service, 420 South Garfield Avenue, Suite 400, Pierre, South Dakota 57501 or by facsimile to 605-224-9974. You may hand-deliver written comments to our South Dakota Field Office at the address given above. You may send comments by electronic mail (e-mail) to FW6 PipingPlover@fws.gov. See the “Public Comments Solicited” section below for file format and other information on electronic filing. You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Nell McPhillips, at the above address or telephone 605-224-8693, extension 32.

**SUPPLEMENTARY INFORMATION:****Background***Description*

The piping plover (*Charadrius melodus*) is a small [(approximately 6.7 to 7.1 inches long) (17 to 18 centimeters) and 1.5 to 2.2 ounces (43 to 63 grams) in weight (Haig 1992)], migratory member of the shorebird family (Charadriidae). It is one of six species of belted plovers in North America. During the breeding season adults have single black bands across both the forehead and breast, orange legs and bill, and pale tan upper parts and are white below. The adults lose the black bands and their bill becomes grayish-black during the winter. The plumage of juveniles is similar to that of wintering adults.

*Geographic Range*

The breeding range of the piping plover extends throughout the northern Great Plains, the Great Lakes, and the Atlantic Coast in the United States and Canada. Three breeding populations of piping plovers have been described—the northern Great Plains population, the Great Lakes population, and the Atlantic Coast population.

Great Lakes piping plovers formerly nested throughout much of the Great Lakes region in the north-central United States and south-central Canada, but currently nest only in northern Michigan and at one site in northern Wisconsin. On the Atlantic Coast, piping plovers nest from Newfoundland, southeastern Quebec, and New Brunswick to North Carolina. Sixty-eight percent of all Atlantic

nesting pairs breed in Massachusetts, New York, New Jersey, and Virginia (Service 1999).

The northern Great Plains population's breeding range includes southern Alberta, southern Saskatchewan, and southern Manitoba, south to eastern Montana, North Dakota, South Dakota, southeastern Colorado, Iowa, Nebraska, and east to Lake of the Woods in north-central Minnesota. The majority of the United States' pairs are in the Dakotas, Nebraska, and Montana (Service 1994). Fewer birds nest in Minnesota, Iowa, and Colorado, with occasional nesting in Oklahoma and Kansas.

Historic data on the distribution of northern Great Plains piping plovers are somewhat scarce, with regular surveying efforts beginning after 1980. Some breeding records do exist for a majority of North Dakota counties (Service and North Dakota Game and Fish Department 1997); Lake of the Woods County, in Minnesota (Service 2000b); counties along the Missouri River, as well as Codington, Day, and Miner Counties in South Dakota (South Dakota Ornithologists' Union 1991); and counties along the Missouri, Loup, Niobrara, Elkhorn, and Platte River in Nebraska (Dinan et al. 1993, Nebraska Game and Parks Commission 1995). Plovers were first reported in Montana in 1967 in Phillips County and also were observed in Sheridan and Valley Counties during the 1970s (Carlson and Skaar 1976). Nesting was first observed in Colorado in 1949 and a few reports of non-nesting birds occurred during the 1950s and 1960s (Bailey and Niedrich 1965), but there are no reports of nesting between 1949 and 1989 (Colorado Department of Natural Resources 1994). In Iowa, nesting plovers were observed in Pottawattamie and Harrison Counties during the 1940s, 1950s, and 1960s (Stiles 1940, Brown 1971). Incidental records exist for Wyoming, as well as Eddy County, New Mexico, in 1964 (Bailey and Niedrich 1965).

The current breeding range of the northern Great Plains population is similar to the previous records, with the following exceptions—piping plovers have not been reported in Wyoming or New Mexico since their initial records, and since 1996, Kansas has reported nesting activity along the Kansas River due to newly available habitat after scouring flows in 1993 (Busby et al. 1997). Additionally, in 1987 and 1988 piping plovers nested at Optima Reservoir, Oklahoma (these are the only known nesting records for Oklahoma) (Boyd 1991). In North Dakota, plovers nest at various prairie alkali wetlands in Benson, Burke, Burleigh, Divide, Eddy,

Emmons, Kidder, Logan, McHenry, McIntosh, McLean, Mountrail, Pierce, Renville, Sheridan, Stutsman, Ward, and Williams Counties, as well as sandbars and reservoir shorelines along the Missouri River (K. Kreil, Service, pers. comm.). South Dakota nesting has generally been limited to the Missouri River, primarily below the Gavins Point and Fort Randall Dams and on Lake Oahe (C.D. Kruse, U.S. Army Corps of Engineers, pers. comm.). Occasionally plovers have nested on Lake Sharpe (Missouri River), and have additionally been sighted on Lake Francis Case (Missouri River) during the nesting season but nesting has not been documented. In Colorado, nesting has been observed on various reservoirs of the Arkansas River during the 1990s (Plissner and Haig 1997, Nelson unpubl. report). In Montana, plovers currently nest along the Missouri River, on Duck Creek Bay, Bear Creek Bay, Skunk Coulee, and the Big Dry Creek Arm of Fort Peck Reservoir, and alkali wetlands and reservoirs in Phillips and Sheridan Counties (G. Pavelka, U.S. Army Corps of Engineers, pers. comm., H. Pac, Montana Fish, Wildlife, and Parks, pers. comm.). In Nebraska, piping plovers can still be found on sandbars along the Niobrara, Loup, and Platte Rivers, but habitat has been reduced on the Platte River. After upstream dams were built, reduced flows allowed the establishment of woody vegetation on most islands, due to the lack of scouring, high spring flows (Ziewitz *et al.* 1992). Along the central reach of the Platte, this loss of habitat has forced most plovers to nest on sand and gravel mining spoil piles (Sidle and Kirsch 1993). Most nesting on the Platte River currently occurs on the lower Platte, where encroachment is least advanced (Ziewitz *et al.* 1992). Lake McConaughy in Nebraska also supports nesting plovers on its sandy beaches (Peyton and Matson 1999). In Iowa, Missouri River habitat has been lost due to channelization below Sioux City, leaving piping plovers to nest on industrial fly ash ponds in Woodbury and Pottawattamie Counties (D. Howell, Iowa Dept. of Natural Resources, pers. comm.). Plovers continue to nest in low numbers at Lake of the Woods, Minnesota (Minnesota Department of Natural Resources, 1999).

#### Population Status

Historical piping plover population trend data are generally nonexistent. However, Audubon and Wilson described plovers as a common resident of the Atlantic coast during the 1800s (Bent 1929). On September 21, 1804, the Lewis and Clark expedition was present

in the area of present day Lake Sharpe on the Missouri River, where William Clark wrote, “\* \* \* we observed an immense number of plover of Different kind Collecting and taking their flight southerly \* \* \*” (Moulton 1987). By 1900, the piping plover had been greatly reduced by over-harvesting. With the Federal protection of the Migratory Bird Treaty Act, the plover recovered by the 1920s and was reported as common (Bent 1929). Since that time, plover populations again declined throughout most of their range and have been extirpated from many states. Breeding surveys in the early 1980s reported 2,137 to 2,684 adult plovers in the northern Great Plains/Prairie region, 28 adults in the Great Lakes region, and 1,370 to 1,435 adults along the Atlantic Coast (Haig and Oring 1985). In 1991 the first International Piping Plover Census was carried out, with 2,032 adult piping plovers observed in the United States’ portion of the northern Great Plains (Haig and Plissner 1993). In 1996, during the second International Census, 1,597 adult piping plovers were observed in the same area (Plissner and Haig 1997); a reduction of almost 22 percent from 1991. Part of this reduction was likely an artifact of increased numbers of piping plovers nesting in Canada in 1996, due to high water levels in the United States (Plissner and Haig 1997).

Current estimates of piping plover survival rates are limited. Root *et al.* (1992) estimated a mean annual survival rate of 0.664 for adults in the northern Great Plains population from 1984 to 1990 using recapture and re-sighting data from plovers in North Dakota. Larson *et al.* (2000) reevaluated survival from this study, including some additional years of banding and resights. The new mean local annual survival rate was 0.737 for adults (Larson *et al.* 2000). Most plover mortality was thought to occur during migration or on wintering grounds (Root *et al.* 1992); however, a recent study on Padre Island, Texas, indicated over-wintering survival can be very high (Drake 1999).

Ryan *et al.* (1993) developed a stochastic population growth model using empirical, demographic data, which indicated the northern Great Plains plover population was declining 7 percent annually. They also used the simulation model to predict reproductive and survival rates necessary to stabilize and increase the population. Ryan *et al.* (1993) stated that if adult (0.66) and immature (0.60) survival rates were held constant, a 31 percent increase, from 0.86 to 1.13 chicks fledged per pair, was needed to stabilize the population. Annual

population increases of 1 and 2 percent required 1.16 and 1.19 chicks per pair, respectively. Such growth would result in the northern Great Plains population reaching the level needed for recovery and delisting from the Act in 53 and 30 years respectively. One- and 5-year delays in the initiation of 1 percent population growth caused 13- and 67-year delays respectively in reaching recovery. Model (Ryan *et al.* 1993) results indicated that the northern Great Plains population is declining substantially. However, using more recent survival estimates (Larson *et al.* (2000)) in the stochastic population growth model have shown that the feasibility of recovering the northern Great Plains population is more likely than previously determined (Ryan *et al.* 1993, Plissner and Haig 2000).

A population viability model, developed by Plissner and Haig (2000), used the metapopulation viability analysis package, VORTEX. Plissner and Haig (2000) found in the northern Great Plains and Great Lakes populations, if the adult and immature survival rates were held constant, it would require a 36 percent higher mean fecundity, or an increase from 1.25 to 1.7 chicks fledged per pair, to reach a significant probability of persisting for the next 100 years.

#### Ecology

Piping plover breeding habitat consists of open, sparsely vegetated areas with alkali or unconsolidated substrates. Piping plovers primarily breed in four habitat types in the northern Great Plains—alkali lakes and wetlands, inland lakes (Lake of the Woods), reservoirs, and rivers. Based on the International Piping Plover Census, most breeding occurs along alkali lakes and wetlands, and other small water bodies, with 59.6 percent and 78 percent observed on those sites in 1991 (Haig and Plissner 1993) and 1996 (Plissner and Haig 1997), respectively. For these areas, nesting sites are generally wide, gravelly, salt-encrusted beaches with minimal vegetation (Prindiville Gaines and Ryan 1988).

Piping plovers use barren to sparsely vegetated islands, beaches, and peninsulas at inland lake habitats (Nordstrom and Ryan 1996), such as Lake of the Woods, Minnesota. Sandbars and reservoir shorelines with similar features are the preferred nesting habitats of piping plovers along riverine systems (Schwalbach 1988, Kruse 1993). In 1991, approximately 38 percent of the population was observed on reservoirs, river shores, and sandbars. In 1996, 15.1 percent was observed at those areas; this was a high-water year and much of the

habitat along rivers was inundated, likely forcing birds to nest elsewhere. These data suggest that habitat use by piping plovers is dynamic and that the habitat necessary to support the northern Great Plains population is diverse.

Although the preference of piping plovers for open areas has been repeatedly noted in the literature, quantitative data on habitat characteristics, evidence of habitat selection, and information on the relative quality of inland habitats remain scarce. A survey of the research literature suggests that this lack of quantitative and qualitative data is a result of the dynamic nature of the habitat, climate, and hydrologic cycles of the northern Great Plains. Several studies have suggested that beach width may affect habitat use by piping plovers breeding on inland lakes. Whyte (1985) recorded minimum nest-to-water distances of 131.2 feet (40 meters) in Saskatchewan and suggested that beaches less than 65.6 to 98.4 feet wide (20 to 30 meters wide) were not likely to be used by piping plovers. However, in Alberta, Weseloh and Weseloh (1983) calculated a mean beach width of only 38.4 feet (11.7 meters) at nest sites. But they noted that these seemed to be the widest beaches available. Prindiville, Gaines, and Ryan (1988) reported mean beach width to be larger in occupied territories [ $\bar{x}$  = 108.3 feet (33 meters)] than in unoccupied sites [ $\bar{x}$  = 44.6 feet (13.6 meters)] in North Dakota. The amount and distribution of beach vegetation affect piping plover habitat selection and reproductive success. Prindiville, Gaines, and Ryan (1988) found no difference in vegetative cover between territories ( $\bar{x}$  = 3.4 percent) and unoccupied sites ( $\bar{x}$  = 3.8 percent). However, vegetation was more clumped in territories than in unoccupied sites. Furthermore, territories in which nests were successful had either less vegetation or more clumped vegetation than territories with unsuccessful nests (Prindiville 1986).

Substrate composition also may affect habitat selection by piping plovers and influence nest success. Cairns (1977) found 31 of 38 nests in Nova Scotia on mixed sand and gravel and stated that those nests were less conspicuous than those on sand alone. Whyte (1985) reported that piping plovers were more likely to establish nests on gravel than was expected by chance alone. In North Dakota, gravel was generally more evenly distributed and in greater concentration on piping plover territories than at unoccupied sites (Prindiville 1986).

Piping plovers nesting on the Missouri, Platte, Niobrara, Loup and other rivers, use reservoir shorelines and large dry, barren sandbars in wide, open channel beds. Along these rivers, plovers often nest in the vicinity of endangered interior least terns (*Sterna antillarum*). Vegetative cover on nesting islands is usually less than 25 percent (Ziewitz *et al.* 1992). Twenty-eight Platte River sandbars, occupied by nesting piping plovers, averaged 938 feet (286 meters) in length and 180 feet (55 meters) in width (Faanes 1983). Vegetative cover on those sandbars averaged 25.4 percent. Armbruster (1986) estimated the optimum range for vegetative cover on nesting habitat from 0–10 percent, and Schwalbach (1988) found that 89 percent of the plovers nested in areas of less than 5 percent vegetative cover. On the Missouri River, Schwalbach (1988) found that the average vegetation height ranged from 2 to 11 inches (6 to 29 centimeters) and the majority of the plovers (63 percent) nested in areas where vegetation was less than 4 inches (10 centimeters).

Average elevation of nests (least terns and piping plovers) above river level ranges from 7.4 inches (19 centimeters) below Gavins Point Dam to 12 inches (30 centimeters) below Garrison Dam (Schwalbach 1988, Dirks 1990). Schwalbach (1988) and Ziewitz *et al.* (1992) suggested that birds select a higher nest site, away from the water's edge, when available. For nesting, piping plovers evidently seek habitats with wide horizontal visibility, protection from terrestrial predators, isolation from human disturbance, low likelihood of inundation, and nearby feeding habitat.

Open, wet, sandy areas provide feeding habitat for plovers on river systems and throughout most of the species' nesting range. Piping plovers feed primarily on exposed substrates by pecking for invertebrates at or just below the surface (Cairns 1977, Whyte 1985). In Saskatchewan, Whyte (1985) noted that adults concentrated foraging efforts within 16.4 feet (5 meters) of the water's edge. He found broods also fed most often near the shore, but their use of upland beach habitats was greater than that of adults. Cairns (1977) reported that chicks tended to feed on firmer sand at greater distances from the shoreline than adults. At Lake of the Woods, Minnesota, and on Long Island-Chequamegon Point, Wisconsin, adult piping plovers seemed to prefer shoreline or beach pool edges (wet sand) over open beach (dry sand) as feeding sites (Wiens 1986, S. Matteson, Wisconsin Department of Natural Resources, pers. comm.). Studies

suggest that forage areas include the nesting island itself, as well as adjacent sandbar flats (Cairns 1977, Whyte 1985, Corn and Armbruster 1993). Spring/fen areas on the peripheries of some alkali lakes also are important feeding sites for plover chicks (Rabenberg *et al.* 1993).

Upland areas surrounding wetlands, such as the spring/fen areas, have also been noted in the scientific literature to be important to maximizing the effective period of time wetlands can provide critical functions (i.e., water quality, flood control, groundwater recharge, nutrient recycling, primary productivity, and wildlife habitat) within the agricultural landscape (Gleason and Eulis 1998). This is particularly important when considering wetlands within the agricultural landscape in the northern Great Plains. In addition appropriate upland widths are based on several variables, including—existing wetland functions, values, and sensitivity to disturbance; land-use impacts; and desired upland functions (Castelle *et al.* 1992). Critical functions to consider for piping plovers nesting on wetlands in the northern Great Plains include water quality, invertebrate abundance, and the lifespan of the wetland. To maintain water quality and maximize the effective period of time the wetland maintains critical functions, available research suggests upland buffers of 100 to 300 feet (30.5 to 91.4 meters) (Castelle *et al.* 1992, Lee *et al.* 1997, Gleason and Eulis 1998, NRCS 2000).

Conditions for nesting are highly variable in the Great Plains. Therefore, local population estimates may not always give an accurate description of the population as a whole, and success may depend on the availability of alternative habitat types (Plißner and Haig 1997). In addition to primary nesting habitat types, piping plovers also may use sand pits and ash ponds, which often mimic natural habitats (Service 1988, Corn and Armbruster 1993, Lackey 1994). These areas are only suitable for a limited period of time after their initial creation, as vegetation encroachment generally reduces habitat quality after a few years (Sidle and Kirsch 1993).

Breeding site fidelity (rate at which adults return to the same breeding sites in subsequent years) for piping plovers ranged from 4.5 percent in two studies combined in South Dakota (Schwalbach 1988, Dirks 1990) to 87.5 percent in Lake of the Woods, Minnesota (Haig and Oring 1987). Wiens (1986) found return patterns to specific breeding sites did not seem to be influenced by previous reproductive success. In Manitoba, Haig and Oring (1988) observed two patterns

of return by adults—(1) those that hatched chicks the year before returned to the same breeding site but changed territories, and (2) adults that experienced nest failure the year before generally changed sites. Adults have been known to use breeding sites as far as 339.1 miles (546 kilometers) apart in consecutive years (Haig 1987). The varying rates of site fidelity reported in these studies suggest that piping plovers need a variety of available nest sites. Sites used in 1 year may not be used in subsequent years; conversely, sites unoccupied by piping plovers may be used in the future.

Similar observations of chick returns further demonstrate the need for numerous nest sites in the Great Plains. The percentage of observed chicks returning to natal sites has ranged from 4.7 percent in New York (Wilcox 1959) to 1.3 to 50 percent in South Dakota (Schwalbach *et al.* 1993, Niver 2000) and 70 percent at Lake of the Woods, Minnesota (Haig and Oring 1987). Chick dispersal (movement from natal site to first breeding site) is difficult to characterize and few banding studies have been carried out in the Great Plains. But, long-range dispersal distances (3.1 to 169.5 miles (5 to 273 kilometers)) have been documented in piping plovers (Haig and Oring 1988) and similar distances were observed in two plovers on the Missouri River (R. Niver, Service, and C.D. Kruse, U.S. Army Corps of Engineers, pers. comm.).

The nesting season typically begins in late March to early April when plovers arrive on the breeding grounds. Breeding activities, including courtship flights, nest bowl scraping, territorial interactions, egg laying, incubating, and chick rearing, can be observed throughout the summer. Nests are shallow scrapes and are often lined with shell fragments, pebbles, or small sticks. Typical clutch size is 3 to 4 eggs and incubation lasts 27 to 31 days. Chicks can feed themselves after hatching (i.e., are precocial), and fledge at 18 to 25 days of age (Service 1988b). Fledging success varies by site and year. For example, between 1986 and 1999 along the Missouri River, there were 0.06 to 1.61 fledged chicks/pair (USACE unpubl. data). Between 1982 and 1987 Haig and Oring (1987) reported fledge ratios between 0.3 to 2.1 or 0.4 to 3.0 fledged chicks/pair, depending on 1987 data, for Lake of the Woods, Minnesota. In the United States Alkali Lake Core region, which includes parts of northwest North Dakota and northeast Montana, annual fledge ratios varied between 0.60 to 1.49 fledged chicks/pair from 1994 to 2000 (J. Knetter, University of Wisconsin-Madison, pers. comm.).

Nest and chick predation, weather, human disturbance, and hydrologic cycles influence fledging success. If nest loss occurs early in the season, piping plovers will often re-nest. After later nest loss, chick loss, or fledging chicks, plovers begin their southerly migration from mid-July through early September. Piping plovers that breed in the Great Plains generally winter along the Gulf Coast from Mexico to Florida, but some occasionally winter along the southern Atlantic Coast from North Carolina to Florida (Haig and Plissner 1993).

#### Previous Federal Actions

On December 30, 1982, we published a notice of review in the **Federal Register** (47 FR 58454) identifying native vertebrate taxa being considered for addition to the List of Endangered and Threatened Wildlife. We included the piping plover in that review list as a category two species, indicating that we believed the species might warrant listing as threatened or endangered, but that we had insufficient data to support a proposal to list at that time. Subsequent review of additional data indicated that the piping plover warranted listing, and in November 1984 we published a proposal in the **Federal Register** (49 FR 44712) to list the piping plover as endangered in the Great Lakes watershed and as threatened along the Atlantic Coast, the northern Great Plains, and elsewhere in their ranges. The proposed listing was based on the decline of the species and existing threats, including habitat destruction, disturbance by humans and pets, high levels of predation, and contaminants.

After a review of the best scientific data available and all comments received in response to the proposed rule, we published the final rule (50 FR 50726) on December 11, 1985, designating the Great Lakes population (Illinois, Indiana, Michigan, northeastern Minnesota, New York, Ohio, Pennsylvania, Wisconsin, and Ontario) as endangered; and listing piping plovers along the Atlantic coast (Quebec, New Foundland, Maritime Provinces, and States from Maine to Florida), and in the northern Great Plains (Iowa, northwestern Minnesota, Montana, Nebraska, North Dakota, South Dakota, Alberta, Manitoba, and Saskatchewan) as threatened. All piping plovers on migratory routes outside of the Great Lakes watershed or on their wintering grounds are considered threatened. The Service did not designate critical habitat for the species at that time.

After 1986, we formed two recovery teams, the Great Lakes/Northern Great

Plains Piping Plover Recovery Team and the Atlantic Coast Piping Plover Recovery Team. In 1988 the Great Lakes and northern Great Plains (Service 1988b) and Atlantic Coast (Service 1988a) Recovery Plans were published. In 1994 the Great Lakes/Northern Great Plains Recovery Team began to revise the Recovery plan for the Great Lakes/Northern Great Plains populations (Service 1994). The 1994 draft included updated information on the species and was distributed for public comment. Subsequently, we decided that the recovery of these two inland populations would benefit from separate recovery plans. Separate recovery plans for the Great Lakes and northern Great Plains populations are presently under development.

The final listing rule for the piping plover indicated that designation of critical habitat was not determinable. Thus, designation was deferred. No further action was taken to designate critical habitat for piping plovers. On December 4, 1996, Defenders of Wildlife (Defenders) filed a suit (Defenders of Wildlife and Piping Plover v. Babbitt, Case No. 96CV02965) against the Department of the Interior and the Service over the lack of designation of critical habitat for the Great Lakes population of the piping plover. Defenders filed a similar suit (Defenders of Wildlife and Piping Plover v. Babbitt, Case No. 97CV000777) for the northern Great Plains piping plover population in 1997. During November and December 1999 and January 2000, we began negotiating with Defenders on a schedule for piping plover critical habitat designation. On February 7, 2000, before the settlement negotiations were concluded, the United States District Court for the District of Columbia issued an order directing us to publish a proposed critical habitat designation for nesting and wintering areas of the Great Lakes breeding population of the piping plover by June 30, 2000, and for nesting and wintering areas of the northern Great Plains population of the piping plover by May 31, 2001. A subsequent order, after we requested the court to reconsider its original order relating to final critical habitat designation, directed us to finalize the critical habitat designations for the Great Lakes population by April 30, 2001, and for the northern Great Plains population by March 15, 2002. For biological and practical reasons, we chose to propose critical habitat for the Great Lakes breeding birds and for all wintering birds in two separate documents; the Great Lakes breeding birds final critical habitat was published

on May 7, 2001 (66 FR 22983), and we intend to publish the wintering birds final critical habitat by June 29, 2001.

### Critical Habitat

Critical habitat is defined in section 3 of the Act as (i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to conserve the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon determination that such areas are essential to conserve the species. "Conservation" means the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which listing under the Act is no longer necessary. Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences with the Service on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as "\* \* \* a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

To be included in a critical habitat designation, the habitat must first be "essential to the conservation of the species." Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Section 4 requires that we designate critical habitat at the time of listing and based on what we know at the time of designation. When we designate critical habitat at the time of listing or under short court-ordered deadlines, we will often not have sufficient information to identify all areas of critical habitat. We are required, nevertheless, to make a decision and thus must base our designations on what, at the time of designation, we know to be critical habitat.

Within the geographic area occupied by the species (or, in this case, a breeding population), we designate only areas currently known to be essential. Essential areas should already have the features and habitat characteristics that are necessary to conserve the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation. Within the geographic area occupied by the species, we will not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), that provide essential life cycle needs of the species.

Our regulations state, "The Secretary shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species," (50CFR424.12(e)). Accordingly, we do not designate critical habitat in areas outside the geographic area occupied by the species unless the best scientific and commercial data demonstrate that the unoccupied areas are essential for the conservation needs of the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, procedures, and guidance to ensure decisions made by the Service represent the best scientific and commercial data available. It requires Service biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained

from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States, Tribes, and counties, scientific status surveys and studies, and biological assessments or other unpublished materials, and expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize designation of critical habitat may not include all habitat eventually determined as necessary to recover the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1), and the regulatory protections afforded by the section 7 (a)(2) jeopardy standard and the section 9 take prohibition, as determined on the basis of the best available information at the time of the action. Federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in likely-to-jeopardize findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

### Methods

In determining areas essential to conserve the northern Great Plains breeding population of piping plovers, we used the best scientific and commercial data available. We have reviewed the overall approach to the conservation of the northern Great Plains breeding population of piping plovers undertaken by the local, State, Tribal, and Federal agencies operating within the species' range since its listing in 1986, and the identified steps necessary for recovery outlined in the Great Lakes and Northern Great Plains Piping Plover Recovery Plan (Service 1988b).

We also have reviewed available information that pertains to the habitat requirements of this species, including material received since completion of the recovery plan. The material included data in reports submitted during section 7 consultations and by biologists holding section 10(a)(1)(A) recovery permits; the 1994 Technical/ Agency Review Draft Revised Recovery

Plan for Piping Plovers Breeding on the Great Lakes and Northern Great Plains (Service 1994); research published in peer-reviewed articles and presented in academic theses and agency reports; annual survey reports; regional Geographic Information System (GIS) coverages; and personal communications with knowledgeable biologists.

### Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat determinations on the best scientific and commercial data available and to consider physical and biological features (primary constituent elements) that are essential to conservation of the species, and that may require special management considerations and protection. These include, but are not limited to—(1) space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing (or development) of offspring; and (5) habitats protected from disturbance or that are representative of the historic geographical and ecological distributions of a species.

Primary constituent elements for the northern Great Plains population of piping plovers are those habitat components essential for the biological needs of courtship, nesting, sheltering, brood-rearing, foraging, roosting, intraspecific communication, and migration. Proposed critical habitat for the northern Great Plains breeding population of piping plovers includes areas that—(1) are currently or recently used for breeding, or (2) were documented to have been occupied historically and still have most or all of the primary constituent elements, (3) are not specifically documented to have been occupied, but are deemed potential breeding habitat since these areas are part of a riverine system with documented nesting, and are within the historic geographic range and have recently developed primary constituent elements, or (4) include habitat complexes, including wetland and adjacent upland areas, essential to the conservation of this species (50 CFR 424.13(d)). Critical habitat is effective year-round. Therefore, an area that contains one or more of the primary constituent elements is considered to be critical habitat even if these elements

are temporarily obscured by snow, ice, or other temporary features.

Primary constituent elements are categorized by breeding habitat types found in the northern Great Plains, including mixosaline to hypersaline wetlands (Cowardin *et al.* 1979), rivers, reservoirs, and inland lakes. The habitat types and primary constituent elements necessary to sustain the northern Great Plains breeding population of piping plovers are described as follows:

On prairie alkali lakes and wetlands, the primary constituent elements include—(1) shallow, seasonally to permanently flooded, mixosaline to hypersaline wetlands with sandy to gravelly, sparsely vegetated beaches, salt-encrusted mud flats, and/or gravelly salt flats; (2) springs and fens along edges of alkali lakes and wetlands; and (3) adjacent uplands 200 feet (61 meters) above the high water mark of the alkali lake or wetland.

On rivers the primary constituent elements include—sparsely vegetated channel sandbars, sand and gravel beaches on islands, temporary pools on sandbars and islands, and the interface with the river.

On reservoirs the primary constituent elements include—sparsely vegetated shoreline beaches, peninsulas, islands composed of sand, gravel, or shale, and their interface with the water bodies.

On inland lakes (Lake of the Woods) the primary constituent elements include—sparsely vegetated and windswept sandy to gravelly islands, beaches, and peninsulas, and their interface with the water body.

The dynamic ecological processes that create and maintain piping plover habitat also are important primary constituent elements. These processes develop a mosaic of habitats on the landscape that provide the essential combination of prey, forage, nesting, brooding and chick-rearing areas. The annual, seasonal, daily, and even hourly availability of the habitat patches is dependent on local weather, hydrological conditions and cycles, and geological processes.

For example, periodic disturbance of alkali lakes and wetlands and adjacent upland vegetation is important to minimize vegetation encroachment on beaches and are ecological processes with which the piping plover evolved. Historically, bison (*Bison bison*) grazed vegetation and fire burned off vegetation and plant litter on and around alkali lake beaches. Today both fire and livestock grazing are used to manage for periodic disturbance. Lack of such disturbances degrades the attractiveness of beaches to piping plovers and,

potentially, the security of these habitats for breeding adults and chicks.

Furthermore, suitability of beaches, sandbars, shoreline, and flats on the above-mentioned habitat types also is based on a dynamic hydrological system of wet-to-dry cycles. Habitat area, abundance and availability of insect foods, brood and nesting cover, and prevalence of vegetation are linked to these water cycles. On rivers, one site becomes flooded and erodes away as another is created. This dynamic nature of rivers, as well as flow-management of rivers like the Missouri River, is important to habitat creation and maintenance for piping plovers. On alkali lakes, the complex of different wetland types is especially important for providing areas for plovers in all years, as site availability cannot be predicted or selected at a given time, due to varying water cycles. Although not well documented by specific scientific research, biologists have noted a relationship appears to exist between availability of breeding habitat and wet-to-dry cycles. During droughts, lack of water reduces habitat for breeding pairs on alkali lakes and wetlands, while reduced river flows tend to produce more available habitat on rivers and associated reservoirs. Additionally, if smaller tributaries or wetlands are flooded during the early part of the breeding season, piping plovers often move to larger rivers to reneest.

Because piping plovers evolved in this dynamic and complex system, and because they are dependent on it for their continued survival and eventual recovery, our proposed critical habitat boundaries incorporate natural processes inherent in the system and include sites that might not exhibit all appropriate habitat components in all years but have a documented history of such components. For example, in dry years, nesting areas lacking water may be unsuitable for piping plovers; conversely, in wet years, there may be a lack of exposed shoreline habitat for nesting plovers.

### Criteria Used To Identify Critical Habitat

The Recovery Plan for the Great Lakes and Northern Great Plains Piping Plover (Service 1988) and the Technical/ Agency Review Draft Revised Recovery Plan for Piping Plovers Breeding on the Great Lakes and Northern Great Plains (1994) identified the specific recovery needs of the northern Great Plains breeding population of the piping plover, and serve as starting points for identifying areas essential to its conservation.

Piping plovers are found in a variety of ecologically and geographically distinct areas within the northern Great Plains. In order to preserve this diversity, all of these areas are represented in either of the recovery plans. To recover the northern Great Plains breeding population of the piping plover to the point where it can be delisted, it is essential to preserve the population's genetic diversity as well as the habitat on which it persists. The areas identified in the recovery plans as necessary to achieve recovery of the population are generally reflected in this proposal.

However, the recovery plans did not include the most recent comprehensive breeding survey data for the northern Great Plains and did not identify all possible areas essential to the survival and recovery of the species. Thus, we identified additional areas in this proposal from surveys conducted in North Dakota from 1987 to 2000, in Montana from 1986 to 2000, in Minnesota from 1982 to 2000, on the Missouri River from 1986 to 2000, in Nebraska from 1986 to 2000, in Kansas from 1996 to 2000, in Colorado from 1990 to 2000, and in Iowa from 1986 to 2000; and data from the 1991 and 1996 International Piping Plover Censuses. We also removed some of the sites included in the 1994 draft recovery plan due to existing protection from current management practices or plans. Based on the primary constituent elements, we divided the habitat types used by the northern Great Plains breeding population of piping plovers into alkali lakes and wetlands, rivers, reservoirs, and inland lakes. We discuss our inclusions and exclusions of habitat below.

*Alkali Lakes and Wetlands*—We only mapped alkali lakes and wetlands that were observed with breeding pairs in at least 2 out of 10 survey years. The 10-year survey period encompassed both wet and dry cycles; therefore, the dynamic nature of prairie alkali lakes and wetlands, and the resulting shift in use by piping plovers of different habitat types, is reflected in the mapping. All alkali lakes and wetlands mapped exhibit one or more of the primary constituent elements. We did not include many areas that exhibited all of the primary constituent elements and periodically contained piping plovers because they did not meet the minimum 2 out of 10-year requirement. Our legal descriptions include all sections in which alkali lakes and wetlands and associated 200-foot (61-meter) upland habitat are found.

*Missouri River and Reservoirs*—We mapped the Missouri River from Fort

Peck Reservoir, Montana, to Ponca State Park, Nebraska. We identified two riverine reaches (a portion of Fort Peck riverine reach and the reach from Ponca State Park, Nebraska, to Plattsmouth, Nebraska), one reservoir reach (Lake Sharpe), and a portion of another reservoir (Fort Peck) on the Missouri River that we are not proposing as critical habitat, because they did not meet the definition of critical habitat. See discussion to follow.

The Fort Peck riverine reach of the Missouri River from the Fort Peck Dam to the confluence of the Milk River (RM 1712) is highly degraded and contains few sandbars due to sediments trapped behind the Fort Peck Dam. Sandbar formation begins further downstream due to sediments transported from the Milk River. The upstream section that we have not proposed does not contain, and is not likely to develop, the primary constituent elements needed for piping plover survival and recovery in the near future.

Although piping plovers have been documented as far south as Plattsmouth, Nebraska, on the Missouri River, very limited habitat currently exists for piping plovers below Ponca State Park, Nebraska. The Missouri River has little sandbar habitat in this reach due to the channelization of the river and bank stabilization projects which were created to support navigation. We are aware of efforts to restore some backwater areas along this reach which will likely create suitable habitat for the piping plover. We will continue to monitor these areas and may consider proposing them as critical habitat if they obtain the primary constituent elements needed for the piping plover in the future. Along the Iowa reach of the Missouri River, plovers exist on fly ash sites adjacent to the river, but these temporary habitats support few birds and, therefore, are not considered essential and do not meet the definition of critical habitat.

Lake Sharpe was not proposed because this reservoir reach has only supported a few pairs of birds on one beach since listing and, therefore, are not considered essential and do not meet the definition of critical habitat.

In Montana, piping plovers have been found on the Dry Arm, Duck Creek Bay, Bear Creek Bay, and Skunk Coulee of Fort Peck Reservoir. We are not proposing the entire Fort Peck Reservoir as plovers have never been reported on the western arm.

Including portions of the Missouri River that may not be occupied at this time is necessary because of the dynamic nature of the river. Sandbar/island habitats migrate up and down the

riverine sections of the river resulting in shifts in the location of primary constituent elements. Mainstem reservoir areas also change depending on water level management. Piping plovers opportunistically respond to these shifts from year to year. The entire length of mainstem reservoirs was included even though small areas of reservoirs may never contain the primary constituent elements due to high banks and steep slopes. We did not exclude these areas because it would require a minimum of 2 years to collect data necessary to map at that detail. However, Federal actions limited to these areas that do not contain the primary constituent elements would not trigger a section 7 consultation, unless they affect the species and/or the primary constituent elements in or adjacent to critical habitat.

In South Dakota, a 107.5-mile (172.9-kilometer) stretch from Big Bend Dam to Fort Randall (Lake Francis Case) was included despite the fact that nesting piping plovers have not been documented in this reach in recent times, as nesting surveys have not been conducted in this river since this habitat formed. We are including this area as proposed habitat because of the large delta forming at the confluence of the White River. This delta area recently (1999–2000) developed piping plover nesting habitat characteristics (C.D. Kruse, U.S. Army Corps of Engineers, pers. comm.) and primary constituent elements necessary for breeding piping plovers. In addition, this river reach, in combination with other Missouri River reaches, was identified as essential habitat to meet conservation and recovery goals for the northern Great Plains piping plover (Service 2000a).

*Inland Lakes (Lake of the Woods)*—In Minnesota, piping plovers appear to key in on sandy points or spits in large lakes. Although many sandy beach/large lakes exist, piping plovers are attracted to the rare combination of windswept islands or peninsulas with a lack of adjacent tree cover. Incidental observations have never yielded nesting observations on large lakes such as Upper and Lower Red Lakes or Lake Winnibigoshish. Therefore, we have limited our critical habitat proposal in Minnesota to three known sites on Lake of the Woods where the species has been observed nesting in more than 1 year. Zippel Bay on Lake of the Woods and Agassiz National Wildlife Refuge were not included because breeding pairs were only observed 1 year at these sites.

*Nebraska Rivers*—Portions of the Platte, Niobrara, and Loup Rivers were proposed where piping plover nesting

has been consistently documented since listing.

Similar to the Missouri River, portions of the Platte River that are included in the proposed critical habitat designation may not be occupied in a given year, but designation is necessary because of the dynamic nature of the river. Sandbar habitats migrate up and down the rivers resulting in shifts in the location of primary constituent elements.

The Elkhorn River was considered for this proposal but was not included at this time because there is limited documented nesting on this river. We do not consider the Elkhorn River to be essential at this time to the conservation and recovery of the northern Great Plains breeding population of the piping plover.

The shoreline along Lake McConaughy, Nebraska, has not been proposed for critical habitat due to the existence of two, draft conservation management plans developed by the Central Nebraska Public Power and Irrigation District to satisfy a Federal Energy Regulatory Commission (FERC) relicensing requirement for Project No. 1417. The "Land and Shoreline Management Plan" and the "Management Plan for Least Terns and Piping Plovers Nesting on the Shore of Lake McConaughy" were developed in coordination and in agreement with the Service and the Nebraska Game and Parks Commission. Both plans are being implemented on an interim basis while awaiting FERC approval. We believe that implementation of these conservation management plans is consistent with piping plover recovery. Therefore this area is not in need of special management and does not meet the definition of critical habitat. If conservation management plans are in place and meet the following three criteria, then we may exclude these areas from critical habitat. These conservation plans must—(1) provide a benefit to the species; (2) include implementation assurances; and (3) include features, such as an adaptive management plan, that will assure effectiveness. Therefore, despite the presence of nesting piping plovers at this site, it is eligible for exclusion from critical habitat on the basis of having conservation management plans that specifically address the conservation and recovery of the piping plover. However, if FERC should ultimately decide not to approve either or both of the aforementioned plans as currently drafted, we will need to reconsider whether the site should be excluded from the final rule for critical habitat designation.

*Colorado and Kansas Nesting Sites*—Nesting areas on the Kansas River in Kansas were considered for possible inclusion as critical habitat but were not included because at the present time these sites are not considered essential and, therefore, do not meet the requirements of critical habitat. The Kansas River nesting occurred for the first time in 1996 and is suspected to have occurred because of habitat created by historical flood events (1993 and 1995). We believe that a return to more normal flows will eliminate nesting habitat on this river. In 4 years of documented nesting on the Kansas River there was one pair of plovers the first year and never more than four pairs. Additionally, productivity has been very limited. However, the U.S. Army Corps of Engineers (Corps) and the Service will be monitoring the Kansas River for piping plovers during the nesting season (Service 2000a). If nesting birds persist on the Kansas River, then we may reevaluate this river's contribution to conservation and recovery of the northern Great Plains breeding population of piping plovers and the need to designate critical habitat in the future.

Six different reservoirs (Neenoshe, Neegrande, Neeskah, John Martin, Adobe Creek, and Verhoeff) in Bent, Otero, and Kiowa Counties, Colorado, have been monitored for 10 years (1990–2000) and have not been able to sustain a stable population. There was a high of nine pairs in 1994 and 1995 and only four pairs in 2000. Predation and water level fluctuations appear to be limiting factors affecting reproductive success. The Colorado Division of Wildlife is likely to continue monitoring the nesting plovers on the reservoir sites. In addition, the Colorado Department of Natural Resources approved a recovery plan for both the piping plover and interior least tern in 1994. Therefore, we are not proposing to include these areas in the critical habitat designation because at the present time we do not consider them to be essential and, therefore, do not meet the requirements of critical habitat.

To identify and map areas essential to the conservation of the species, we used the characteristics of essential habitat described above, data on known piping plover locations, and criteria in the recovery plans for reclassification of the species. We then evaluated areas based on survey and research data and the primary constituent elements, including hydrology, influences of ecological processes, and topographic features.

To map areas of critical habitat, we used the Service's National Wetland Inventory (NWI) digitized data and U.S.

Geological Survey public land surveys to develop regional GIS coverages; Environmental Systems Research Institute wetland data (where NWI data was unavailable); 1984 digital ortho quarter quads for all Nebraska River reaches, and Statewide and county maps for Nebraska; Central Public Power and Irrigation District Species Protection Zone maps of Lake McConaughy; and data from known piping plover breeding locations. We also solicited information from knowledgeable biologists and reviewed the available information pertaining to habitat requirements of the species.

We could not depend solely on federally owned lands from critical habitat designation as these lands are limited in geographic location, size, and habitat quality within the current range of the northern Great Plains breeding population of the piping plover. In addition to the federally owned lands, we are proposing critical habitat on non-Federal public lands and privately owned lands, including land owned by the States of Minnesota, Montana, Nebraska, North Dakota, and South Dakota.

We also are including a portion of the Assiniboine and Sioux of Fort Peck Tribe's Reservation because it contains areas of habitat within the Missouri River that are essential to the recovery of the piping plover. We also coordinated with 11 other Tribes with lands adjacent to the proposed critical habitat. We initiated coordination with these Tribes on this designation under the guidance of the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, which requires us to coordinate with federally recognized Tribes on a Government-to-Government basis. However, due to the short amount of time allowed under the court order for preparation of this proposed rule, our contact with the Tribes has been limited to a meeting with the Tribal Chair from the Assiniboine and Sioux Tribes of Fort Peck, through written correspondence which resulted in no comments and informational presentations before the Great Plains Inter-Tribal Fish and Wildlife Commission. We plan continued consultation with the affected Tribes, before making a final critical habitat decision.

Section 4(b)(2) of the Act requires us to consider the economic and other relevant impacts of designating areas as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such

exclusions outweigh the benefits of designating these areas as critical habitat. We cannot exclude areas from critical habitat when the exclusion will result in the extinction of the species. We will make available for public review an economic analysis of this proposal; this economic analysis will serve as the basis of our 4(b)(2) analysis and any exclusions. However, this economic analysis is not yet completed; as a result, we are not able to identify proposed exclusions under section 4(b)(2) in this proposed rule. We will complete our economic analysis and review public comments before making a final determination of critical habitat. This review, combined with our assessment of the benefits of designating areas as critical habitat, may identify certain proposed areas should be excluded from the final critical habitat designation, provided these exclusions will not result in the extinction of the species. As a result, the final critical habitat determination may differ from this proposal.

All non-Federal lands designated as critical habitat meet the definition of critical habitat under section 3 of the Act in that they are within the geographical area occupied by the species, are essential to the conservation of the species, and may require special management considerations or protection.

We described critical habitat as Township, Range, and Sections (TRS) for the legal descriptions because these are used and recognized locally. The maps depict the alkali lakes and wetlands and associated uplands, but they do not show the TRS boundaries. Due to time constraints and the use of TRS as our minimum mapping unit, in defining critical habitat boundaries, we were unable to exclude developed areas such as mainstem dam structures, buildings, marinas, boat ramps, bank stabilization and breakwater structures, row cropped or plowed agricultural areas, mines, roads and other lands (e.g., high bank bluffs along Missouri River reservoirs) unlikely to contain primary constituent elements essential for northern Great Plains piping plover conservation. In addition we included the entire length of mainstem reservoirs even though small areas of reservoirs may never contain the primary constituent elements due to high banks and steep slopes. We did not exclude these areas because it would require a minimum of 2 years to collect data necessary to map at that detail. These features will not themselves contain one or more of the primary constituent elements. Federal actions limited to those features, therefore, would not

trigger a section 7 consultation, unless they affect species and/or primary constituent elements in adjacent critical habitat.

#### **Proposed Critical Habitat Designation**

The proposed critical habitat contained within units discussed below constitutes our best evaluation of areas needed to conserve the northern Great Plains population of piping plovers. Proposed critical habitat may be revised should new information become available prior to the final rule, or may be revised through rule-making if new information becomes available after the final rule.

Table 1 provides a summary of land ownership and approximate acreage or river miles of proposed critical habitat for each State. Critical habitat for the northern Great Plains breeding population of the piping plover includes approximately 196,476.5 acres (79,553.1 hectares) of habitat in Minnesota, Montana, and North Dakota, and approximately 1,338 miles (2,152.9 kilometers) of river in Montana, North Dakota, South Dakota, and Nebraska. Table 2 provides land ownership and approximate acreage or river miles of proposed critical habitat for each critical habitat unit. Lands proposed as critical habitat are under private, Federal, Tribal, and State ownership. Estimates reflect the total area or river miles within critical habitat unit boundaries, without regard to the presence of primary constituent elements. Therefore, the area proposed for designation is less than indicated in Tables 1 and 2.

Lands proposed as critical habitat are divided into 16 critical habitat units containing one or more of the primary constituent elements for the northern Great Plains population of piping plovers. A brief description of each piping plover critical habitat unit is provided below and in Table 2.

#### **Minnesota**

*Unit MN-1, Rocky Point, Pine and Curry Island, and Morris Point*—This unit includes approximately 235.2 acres (95.1 hectares) of unique habitat, including sparsely vegetated wind-swept islands, peninsulas, and sandy points or spits that interface with Lake of the Woods in Lake of the Woods County. Although this unit is small in size, there have been up to 50 plovers found during the breeding season. Numbers have declined since the mid-1980s and there is a continued need for habitat and predator management. This unit represents the most eastern portion of the northern Great Plains population of breeding piping plovers and may be

an important link between the Great Lakes and northern Great Plains breeding populations. It is the only remaining breeding site for piping plovers in Minnesota. Approximately 100.4 acres (40.6 hectares) are designated within the 697-acre (282.3-hectare) Rocky Point Wildlife Management Area, which is in public ownership, managed by the Minnesota Department of Natural Resources. Rocky Point is located just east of Arneson on Lake of the Woods. Unit 1 also includes approximately 134.8 acres (54.5 hectares) within the Pine and Curry Island Scientific and Natural Area which is in public ownership, managed by the Minnesota Department of Natural Resources. Pine and Curry Island Scientific and Natural Area includes approximately 112.6 acres (45.6 hectares) of a sandy barrier island (Pine and Curry Island) and 22.2 acres (8.9 hectares) of an adjacent peninsula (Morris Point) located at the mouth of the Rainy River on Lake of the Woods.

#### **Montana**

*Unit MT-1, Sheridan County*—This unit includes approximately 19,445.7 acres (7,869.5 hectares) of 21 alkali lakes and wetlands in Sheridan County, located in the extreme northeast corner of Montana. These alkali lakes and wetlands are characterized as follows: shallow, seasonally to permanently flooded; mixosaline to hypersaline chemistry; sandy to gravelly, sparsely vegetated beaches, salt-encrusted mud flats, and/or gravelly salt flats; 200 feet (61 meters) of uplands above the wetlands' high water mark including springs and fens, which provide foraging and protective habitat for piping plovers. Sites included in this unit are occupied by piping plovers. This unit requires special management including increasing reproductive success through predator exclusion devices, such as nest cages and electric fences, and reducing vegetation encroachment on nesting beaches through prescribed burning or grazing. Essential breeding habitat is dispersed throughout this unit which represents the largest portion (approximately 66 percent) of the plovers surveyed in Montana. This unit also links similar habitat in Canada and North Dakota. Approximately 5,793.7 acres (2,344.7 hectares) are in private ownership and 13,651.9 acres (5,524.8 hectares) are in public ownership. Of the lands in public ownership, 13,356.8 acres (5,405.4 hectares) are in Federal ownership and 295.1 acres (119.4 hectares) are in State ownership. Federal lands designated include piping plover populations on Medicine Lake

National Wildlife Refuge and several Waterfowl Production Areas, both owned and managed by the Service. State lands designated include land owned and managed by the Montana Department of Natural Resources and Conservation.

*Unit MT-4, Nelson Reservoir and Bowdoin National Wildlife Refuge*—This unit encompasses approximately 3,341.7 acres (1,352.4 hectares) on Nelson Reservoir and 3,294.5 acres (1,333.3 hectares) on Bowdoin National Wildlife Refuge with sparsely vegetated shoreline beaches, peninsulas, and islands composed of sand gravel, or shale that interface with these water bodies. Both sites are located in east-central Phillips County, approximately 170.8 miles (275 kilometers) west of the North Dakota border and 37.3 miles (60 kilometers) south of Canada. This unit represents the western edge of the northern Great Plains breeding population of the piping plover and requires special management including water level and predator management. Bowdoin National Wildlife Refuge is in public ownership (Federal) and managed by the Service. Nelson Reservoir, a Bureau of Reclamation project, is an 4,559-acre (1,845-hectare) irrigation reservoir approximately 2.5 miles (4 kilometers) northeast of Bowdoin National Wildlife Refuge. Lake Bowdoin and Nelson Reservoir are off stream facilities receiving water from the Milk River.

### Nebraska

*Unit NE-1, Platte, Loup, and Niobrara Rivers*—This unit encompasses approximately 463 miles (745 kilometers) of river. The river habitat includes sparsely vegetated channel sandbars, sand and gravel beaches on islands for nesting, temporary pools on sandbars and islands, and the interface of sand and river where plovers forage. All three of these rivers are occupied by and provide essential habitat for the piping plover.

*Niobrara River*—The Niobrara River is a tributary of the Missouri River, originating in Wyoming and flowing through the northern part of the Nebraska Sandhills region. The portion of the Niobrara included in the proposed Critical Habitat starts a short distance east of the Cherry-Brown County line, and extends downstream approximately 129 miles (207.6 kilometers) to its confluence with the Missouri River. The Niobrara River is one of the most undeveloped rivers in the northern Great Plains and represents one of the last rivers with largely untouched piping plover habitat. The source of water for this river is largely

groundwater discharge which helps to provide a year-round base flow with few flood events which is essential to successful plover nesting. Essential nesting habitat is dispersed throughout this unit and this unit represents about 36 percent of Nebraska's plover population.

In 1991, the National Park Service designated 76 miles (122.3 kilometers) of the Niobrara River as a "National Scenic River," 50 miles (80.5 kilometers) of which are included in the proposed Critical Habitat designation. The National Scenic River reach ends where Highway 137 crosses the river. The Nature Conservancy owns and manages 9.5 miles (15.3 kilometers) along the Niobrara River which falls within both the National Scenic River reach and the proposed piping plover Critical Habitat. Other ownership and interests are principally private. The primary land use along the Niobrara River is farming (east along the river) and ranching (west along the river).

*Loup River*—The Loup River flows 68 miles (109.4 kilometers) to its confluence with the Platte River near Columbus. Ownership interests within this reach of proposed Critical Habitat are primarily private. Habitat on the Loup River proposed designation is part of the larger Platte River watershed and provides productive habitat for piping plovers. The Loup River is one of the Platte River's principal tributaries.

*Platte River*—The North and South Platte Rivers each originate in the Rocky Mountains of Colorado with snow melt, and flow east into Nebraska where they join forming the Platte River near the town of North Platte. The reach included in the proposed piping plover Critical Habitat begins near the town of Cozad and extends to the Platte's confluence with the Missouri River 266 miles (428 kilometers) downstream. About one-fourth of this part of the Platte is already designated as critical habitat for the whooping crane (*Grus americana*), including a 3-mile wide (4.8-kilometer) north-south buffer starting at a western boundary south of Lexington east to south of Shelton. Ownership is primarily private, including 28.5 miles (45.9 kilometers) which is managed as conservation land by The Nature Conservancy, Platte River Whooping Crane Habitat Maintenance Trust, Central Nebraska Public Power and Irrigation District, Nebraska Public Power District, and the National Audubon Society's Lillian Annette Rowe Sanctuary. The State of Nebraska owns 8 miles (12.9 kilometers) along the Platte River, which is primarily under the jurisdiction of the Nebraska Game and Parks Commission. Essential

nesting habitat is dispersed throughout this unit.

### North Dakota

Units 1-7 in North Dakota (described below) include prairie alkali lakes and wetlands. These alkali lakes and wetlands are characterized as follows—shallow; seasonally to permanently flooded; mixosaline to hypersaline chemistry; sandy to gravelly, sparsely vegetated beaches, salt-encrusted mudflats, and/or gravelly salt flats; 200 feet (61 meters) of uplands above the wetlands' high water mark, including springs and fens which provide foraging and protective habitat for piping plovers. Sites included in this unit are occupied (determined to have nesting piping plovers 2 out of 10 years) by piping plovers. This unit requires special management including increasing reproductive success through predator exclusion devices, such as nest cages and electric fences, and reducing vegetation encroachment on nesting beaches through prescribed burning or grazing.

These essential breeding habitats in North Dakota can support more than 50 percent of the current known population of the northern Great Plains Piping Plover. The proximity of Units 1-7 to the Missouri River provides an important ecological link that may allow birds extra protection from a severe drought that results in dry wetlands basins. As birds experience drought in these units biologists believe birds move to the river. Conversely, birds may move to these units when Missouri River flows are high.

*Unit ND-1*—This unit encompasses approximately 7,480.3 acres (3,027.2 hectares) of 13 alkali lakes and wetlands in Divide and Williams Counties, located in the extreme northwestern corner of North Dakota. Approximately 1,765.4 acres (714.4 hectares) are in public ownership and 5,715 acres (2,312.8 hectares) are in private ownership. Of the lands in public ownership 1,338 acres (541.5 hectares) are in Federal ownership (Waterfowl Production Areas managed by the Service) and 427.3 acres (172.9 hectares) are in State ownership. State lands designated include 3.1 acres (1.3 hectares) of Wildlife Management Areas owned and managed by the North Dakota Game and Fish Department and 424.2 acres (171.7 hectares) of school lands owned and managed by the North Dakota Land Department.

*Unit ND-2*—This unit encompasses approximately 23,147.1 acres (9,367.5 hectares) of 24 alkali lakes and wetlands in Burke, Renville, Mountrail, and Ward Counties, located in northwestern North

Dakota. Approximately 14,541.2 acres (5,884.7 hectares) are in public ownership and 8,605.9 acres (3,482.8 hectares) are in private ownership. Of the lands in public ownership, 13,806.3 acres (5,587.3 hectares) are in Federal ownership and 734.9 acres (297.4 hectares) are in State ownership. Federal lands designated include Lostwood and Upper Souris National Wildlife Refuges and Waterfowl Productions Areas, both owned and managed by the Service. State lands designated include 320.4 acres (129.7 hectares) of Wildlife Management Areas owned and managed by the North Dakota Game and Fish Department and 414.5 acres (167.7 hectares) of school lands owned and managed by the North Dakota Land Department.

*Unit ND-3*—This unit encompasses approximately 5,519.6 acres (2,233.8 hectares) of nine alkali lakes and wetlands in McLean County located in north-central North Dakota. Approximately 1,339.3 acres (542.1 hectares) are in public ownership and 4,180.3 acres (1,691.7 hectares) are in private ownership. Of the lands in public ownership, 798.8 acres (323.3 hectares) are in Federal ownership (Waterfowl Production Areas managed by the Service) and 540.5 acres (218.8 hectares) are in State ownership. State lands designated include 435.6 acres (176.3 hectares) of Wildlife Management Areas owned and managed by the North Dakota Game and Fish Department and 105 acres (42.5 hectares) of school lands owned and managed by the North Dakota Land Department. The John E. Williams Preserve, owned and managed by The Nature Conservancy (private), also is included in this unit.

*Unit ND-4*—This unit encompasses approximately 12,084.4 acres (4,890.4 hectares) of 24 alkali lakes and wetlands in McHenry, Pierce, Benson, and Sheridan Counties, located in north-central North Dakota. Approximately 1,563.1 acres (632.6 hectares) are in public ownership and 10,521.3 acres (4,257.8 hectares) are in private ownership. Of the lands in public ownership, 1,098.6 acres (444.6 hectares) are in Federal ownership (Waterfowl Production Areas managed by the Service) and 464.5 acres (188 hectares) are in State ownership. State lands designated include 370.4 acres (149.9 hectares) of Wildlife Management Area owned and managed by the North Dakota Game and Fish Department and 94.1 acres (38.1 hectares) of school lands owned and managed by the North Dakota Land Department.

*Unit ND-5*—This unit encompasses approximately 1,351.4 acres (546.9 hectares) of one alkali lake in Eddy

County, located in northeastern North Dakota. Approximately 202.8 acres (85.1 hectares) are in public ownership and 1,148.6 acres (461.8 hectares) are in private ownership. Of the lands in public ownership, 196.3 acres (82.5 hectares) are in Federal ownership. Camp Grafton, a North Dakota National Guard training facility, comprises 189.4 acres (79.7 hectares) of the habitat in Federal ownership and 6.9 acres (2.8 hectares) are Waterfowl Production Areas managed by the Service. The remaining 6.5 acres (2.6 hectares) of Public lands are in State ownership (Wildlife Management Area owned and managed by the North Dakota Game and Fish Department).

*Unit ND-6*—This unit encompasses approximately 40,221.1 acres (16,277.2 hectares) of 24 alkali lakes and wetlands in Sheridan, Burleigh, Kidder, and Stutsman Counties, located in south-central North Dakota. Approximately 24,231.4 acres (9,806.3 hectares) are in public ownership and 15,989.7 acres (6,470.9 hectares) are in private ownership. Of the lands in public ownership, 22,269.2 acres (9,012.2 hectares) are in Federal ownership and 1,962.2 acres (794.1 hectares) are in State ownership. Federal lands designated include Long Lake, Chase Lake, and Arrowwood National Wildlife Refuges and Waterfowl Production Areas, all owned and managed by the Service. State lands designated include 1,297.8 acres (525.2 hectares) of Wildlife Management Areas owned and managed by the North Dakota Game and Fish Department and 664.4 acres (268.9 hectares) of school lands owned and managed by the North Dakota Land Department.

*Unit ND-7*—This unit encompasses approximately 3,085.5 acres (1,248.7 hectares) of nine alkali lakes and wetlands in Emmons, Logan, and McIntosh Counties, located in south-central North Dakota. Approximately 786.5 acres (318.3 hectares) are in public ownership and 2,299 acres (930.4 hectares) are in private ownership. Of the lands in public ownership, 536.6 acres (217.2 hectares) are in Federal ownership (Waterfowl Production Areas managed by the Service) and 249.9 acres (101.1 hectares) are in State ownership. State lands designated include 234.8 acres (95 hectares) of Wildlife Management Areas owned and managed by the North Dakota Game and Fish Department and 15.2 acres (6.1 hectares) of school lands owned and managed by the North Dakota Land Department.

*Missouri River Units*—Missouri River units consist of riverine and reservoir (Fort Peck Lake, Lake Sakakawea and Lake Audubon, Lake Oahe, Lake Francis

Case, and Lewis and Clark Lake) reaches. All reservoirs except Lake Audubon are mainstem impoundments, constructed by dams, and regulated by the Corps. Lake Audubon is a sub-impoundment of Lake Sakakawea and is regulated by the Bureau of Reclamation through operation of the Snake Creek Pumping Plant. Overall the Missouri River has accounted for up to 31 percent of the northern Great Plains population of piping plovers. All of the units are occupied except Lake Francis Case. However, Lake Francis Case does contain the primary constituent elements.

Piping plover habitat within reservoir reaches is composed of shorelines, peninsulas, and islands, below the top of the maximum operating pool and is owned by the Federal government. These reservoir habitats include sparsely vegetated shoreline beaches, peninsulas, islands composed of sand, gravel, or shale, and their interface with the water. These reservoir reaches provide habitat for about 42 percent of the piping plovers on the Missouri River.

Piping plover habitat within riverine reaches consists of inter-channel islands and sandbars including their temporary pools and interface with the river. These habitats are sparsely vegetated and consist of sand and gravel substrates. Riverine reaches provide habitat for about 58 percent of the piping plovers on the Missouri River. Ownership of these sites varies by State. In Montana, islands and sandbars are recognized as owned by the State except along the reservation boundaries of the Assiniboine and Sioux Tribes of Fort Peck. The Assiniboine and Sioux Tribes of Fort Peck own land to the mid-channel of the Missouri River adjacent to the Reservation boundary.

In North Dakota and South Dakota, islands and sandbars are recognized as owned by the State. However, the Fort Laramie Treaty of 1868 recognizes the Missouri River's east bank as the boundary of the Great Sioux Reservation. The issues regarding treaties and litigation of property rights are beyond the scope of critical habitat designation but we recognize as their special importance to American Indian populations in the northern Great Plains.

In Nebraska, islands and sandbars are owned by the adjacent landowner. Fort Laramie Treaty issues also apply to tribes in Nebraska that were a part of the Great Sioux Nation.

#### Montana

*Unit MT-2, Fort Peck Reservoir*—This unit encompasses approximately 77,370

acres (31,311 hectares) of Fort Peck Reservoir, located entirely within the Charles M. Russell National Wildlife Refuge which is in Federal ownership, managed by the Service.

*Unit MT-3*—This unit encompasses approximately 125.4 miles (201.8 kilometers) of the Missouri River from just west of Wolf Point to the Montana/North Dakota border. The Missouri River in this unit flows through reservation lands of the Assiniboine and Sioux Tribes of Fort Peck (81.7 miles (131.5 kilometers)), State, and privately owned land.

**North Dakota**

*Unit ND-8*—This unit encompasses approximately 354.6 miles (570.6 kilometers) from the Montana/North Dakota border to the North Dakota/South Dakota border. Lake Sakakawea, Lake Audubon, and Lake Oahe are included in this unit, along with a free-

flowing stretch of the Missouri River from RM 1389 to 1302 (Garrison Reach). The North Dakota Game and Fish Department manages the north half of Audubon Reservoir and the Service manages the south half of Audubon Reservoir. The Missouri River and associated reservoirs in this unit are adjacent to reservation lands of the Three Affiliated Tribes of Fort Berthold and Standing Rock Sioux Tribe, State, and privately owned land.

**South Dakota**

*Unit SD-1*—This unit encompasses approximately 159.7 miles (257 kilometers) from the North Dakota/South Dakota border to RM 1072.3, just north of Oahe Dam (Oahe Reservoir). The Missouri River and associated reservoirs in this unit are adjacent to reservation lands of the Standing Rock Sioux and Cheyenne River Sioux Tribes, State, and privately owned land.

*Unit SD-2*—This unit encompasses approximately 235.3 miles (378.5 kilometers) from RM 987.5, just south of Big Bend Dam to RM 752.2 near Ponca, Nebraska. Two mainstem Missouri River reservoirs, Lake Francis Case and Lewis and Clark Lake, and two riverine reaches (Fort Randall and Gavins Point) are included in this unit. Approximately 120 miles (193.1 kilometers) of river border Nebraska; of that approximately 87 miles (140 kilometers) have shared ownership of sandbars and islands with adjacent private landowners in Nebraska (the other 33 miles (53.1 kilometers) are Lewis and Clark Lake). The Missouri River and associated reservoirs in this unit are adjacent to reservation lands of Lower Brule Sioux Tribe, Rosebud Sioux Tribe, Oglala Sioux Tribe, Santee Sioux Tribe, Crow Creek Sioux Tribe, and Yankton Sioux Tribe and privately owned land.

TABLE 1.—PROPOSED CRITICAL HABITAT UNITS FOR THE PIPING PLOVER IN UNITED STATES GREAT PLAINS STATES SUMMARIZED BY FEDERAL, STATE, COUNTY, PRIVATE, AND OTHER OWNERSHIP

	Ownership—linear river miles and acres (percentage within each State)				
	Federal	State	Tribal	Private	Total
Minnesota .....	0 .....	235.2 .....	0 .....	0 .....	235.2 ac (95.2 ha) (95.2 ha)
Montana .....	97,363.1 ac .....	295.1 ac .....	0 .....	5793.7 ac .....	103,451.9 ac (41,866.1 ha)
—Ft Peck Res- ervoir (Missouri River).	77,370 ac .....	(119.4 ha) (0.3%) .....		(2,344.7 ha) (5.6%) ...	
—All other habitat	19,993.1 ac .....				
North Dakota .....	40,043.8 ac .....	4,385.8 ac .....	0 .....	48,459.8 ac .....	92,889.4 ac (37,591.8 ha)
Missouri <sup>1</sup> .....	567.7 .....	307.3 mi .....	81.7 mi .....	0 .....	875 mi (1407.9 km)
Nebraska .....	0 .....	13 mi .....	0 .....	450 mi .....	463 mi (745 km)
		(20.9 km) (2.8%) .....	131.5 km) (0.09%) <sup>2</sup> ..	(724.1 km) (97.2%) ...	

<sup>1</sup> The Missouri River includes portions of Montana, North Dakota, South Dakota, and Nebraska. Ownership of these sites varies by State. The Federal government owns the reservoir shorelines below the maximum operating pool. In Montana, islands and sandbars are recognized as owned by the State except along the reservation boundaries of the Assiniboine and Sioux Tribes of Fort Peck. The Assiniboine and Sioux Tribes of Fort Peck own land to the mid-channel of the Missouri River adjacent to the Reservation boundary. In North Dakota and South Dakota, islands and sandbars are recognized as owned by the State. However, the Fort Laramie Treaty of 1868 recognizes the Missouri River's east bank as the boundary of the Great Sioux Reservation. The issues regarding treaties and litigation of property rights are beyond the scope of critical habitat designation, but are recognized as important to American Indian populations in the northern Great Plains. In Nebraska, islands and sandbars are owned by the adjacent landowner. Fort Laramie Treaty issues also apply to tribes in Nebraska that were a part of the Great Sioux Nation.

<sup>2</sup> 81.7 mi (131.5 km) of the Missouri River are shared with the State of Montana. Therefore, the percentages do not total 100 and the overall miles of river (875) is correct.

TABLE 2.—LOCATION, OWNERSHIP, AND ESTIMATED LENGTH (OR AREA) OF PIPING PLOVER CRITICAL HABITAT AREAS MAPPED WITHIN THE UNITED STATES GREAT PLAINS

Unit	Location	County	Land Ownership	Est Length (mi) or area (ac)
MN-1 .....	Rocky Point .....	Lake of the Woods .....	State .....	112.6 ac (45.6 ha)
	Morris Point .....	Lake of the Woods .....	State .....	22.2 ac (9 ha)
	Pine & Curry Island .....	Lake of the Woods .....	State .....	100.4 ac (40.6 ha)
MT-1 .....	Sheridan 1 .....	Sheridan .....	State, Private .....	734 ac (297 ha)

TABLE 2.—LOCATION, OWNERSHIP, AND ESTIMATED LENGTH (OR AREA) OF PIPING PLOVER CRITICAL HABITAT AREAS MAPPED WITHIN THE UNITED STATES GREAT PLAINS—Continued

Unit	Location	County	Land Ownership	Est Length (mi) or area (ac)
	Sheridan 2		Private	270.9 ac (109.6 ha)
	Sheridan 3		State, Private	280.9 ac (113.7 ha)
	Sheridan 4		Private	452.9 ac (183.3 ha)
	Sheridan 5		Private, Federal	107.1 ac (43.4 ha)
	Sheridan 6		State, Private	507.1 ac (205.2 ha)
	Sheridan 7		Private, Federal	100.1 ac (40.5 ha)
	Sheridan 8		State, Private, Federal	500.2 ac (202.4 ha)
	Sheridan 9		Private, Federal	88.1 ac (35.7 ha)
	Sheridan 10		State, Private, Federal	562.1 ac (227.5 ha)
	Sheridan 11	Sheridan	Private	222.7 ac (90.1 ha)
	Sheridan 12		Private	431.4 ac (174.6 ha)
	Sheridan 13		State, Private	375.8 ac (152.1 ha)
	Sheridan 14		State, Private, Federal	1327.2 ac (537.1 ha)
	Sheridan 15		Private, Federal	482.7 ac (195.4 ha)
	Sheridan 16		Private	362.7 ac (146.8 ha)
	Sheridan 17		Federal	112.1 ac (45.4 ha)
	Sheridan 18		Private, Federal	565.7 ac (228.9 ha)
	Sheridan 19		State, Federal	388.9 ac (157.4 ha)
	Sheridan 20		Federal	151.9 ac (61.5 ha)
	Sheridan 21		Private, Federal	11,421 ac (4,622 ha)
MT-2	Missouri River	McCone, Richland, Roosevelt	State, Tribal	125.4 mi (201.8 km)
MT-3	Fort Peck Reservoir	Garfield, McCone, Valley	Federal	77,370 ac (31,311 ha)
MT-4	Nelson Reservoir	Phillips	Federal	3341.7 ac (1,352.4 ha)
	Bowdoin NWR	Phillips	Federal	3294.5 ac (1,333.3 ha)
ND-1	Divide	Divide	Private	429.1 ac (174 ha)
	Divide 2		Private, Federal	355 ac (144 ha)
	Divide 3		Private, Federal	485.6 ac (197 ha)
	Divide 4		Private	526.7 ac (213 ha)
	Divide 5		Private	421.9 ac (171 ha)
	Divide 6	Divide	Private	1278 ac (517 ha)
	Divide 7		Private	543.1 ac (220 ha)
	Divide 8		Private, Federal	130.1 ac (23 ha)
	Divide 9		Private, Federal	1028.8 ac (416 ha)
	Divide 10		Private	865.5 ac (350 ha)
	Williams 1	Williams	Private	162 ac (66 ha)
	Williams 2		State, Private	586.1 ac (237 ha)
	Williams 3		Private, Federal	668.4 ac (271 ha)
ND-2	Burke 1	Burke	Private, Federal	505.6 ac (205 ha)
	Burke 2		Private, Federal	1017.5 ac (412 ha)
	Mountrail 1	Mountrail	Private, Federal	726.2 ac (294 ha)
	Mountrail 2		State, Private, Federal	1633.9 ac (661 ha)
	Mountrail 3		Private	2829 ac (1145 ha)
	Mountrail 4		Private, Federal	227.1 ac (92 ha)
	Mountrail 5		Private, Federal	475.4 ac (192 ha)
	Mountrail 6		State, Private, Federal	1122.9 ac (454 ha)
	Mountrail 7		State, Private, Federal	457.5 ac (185 ha)
	Mountrail 8		Private, Federal	362.8 ac (147 ha)
	Mountrail 9		Private, Federal	503 ac (204 ha)
	Mountrail 10		Private, Federal	289.2 ac (117 ha)
	Mountrail 11	Mountrail	Private, Federal	436.5 ac (177 ha)
	Renville	Renville	Federal	10,472.4 ac (4238 ha)
	Ward 1	Ward	Private	270.6 ac (110 ha)
	Ward 2		Private	287.1 ac (116 ha)
	Ward 3		Private	69.7 ac (28 ha)
	Ward 4		Private, Federal	138.2 ac (56 ha)
	Ward 5		State, Private, Federal	135.5 ac (55 ha)
	Ward 6		Private	446 ac (180 ha)
	Ward 7		Private	56.9 ac (23 ha)
	Ward 8		Private, Federal	235.1 ac (95 ha)
	Ward 9		Private	134.7 ac (5 ha)
	Ward 10		Private, Federal	314.2 (127 ha)
ND-3	McLean 1	McClean	Private, Federal	368. ac (149 ha)
	McLean 2		Private, Federal	310.9 ac (126 ha)
	McLean 3		Private	245.2 ac (99.2 ha)
	McLean 4		State, Private, Federal	542.5 ac (219.5 ha)
	McLean 5		Private, Federal	476.7 ac (192.9 ha)
	McLean 6		State, Private, Federal	2,705.2 ac (1,094.8 ha)
	McLean 7		State, Private, Federal	620 ac (250.9 ha)
	McLean 8		State, Private	62.1 ac (25.1 ha)
	McLean 9		Private, Federal	188.3 ac (76.2 ha)
ND-4	Benson 1	Benson	State, Private, Federal	500.4 ac (202.5 ha)

TABLE 2.—LOCATION, OWNERSHIP, AND ESTIMATED LENGTH (OR AREA) OF PIPING PLOVER CRITICAL HABITAT AREAS MAPPED WITHIN THE UNITED STATES GREAT PLAINS—Continued

Unit	Location	County	Land Ownership	Est Length (mi) or area (ac)
	Benson 2 .....	.....	Private, Federal .....	172 ac (69.6 ha)
	Benson 3 .....	.....	Private, Federal .....	282.9 ac (114.5 ha)
	Benson 4 .....	.....	State, Private, Federal .....	474.5 ac (192 ha)
	Benson 5 .....	.....	Private, Federal .....	92.9 ac (37.6 ha)
	Benson 6 .....	.....	Private, Federal .....	254.5 ac (103 ha)
	Benson 7 .....	.....	Private, Federal .....	1,899.6 ac (768.7 ha)
	McHenry 1 .....	McHenry .....	Private .....	1,152.3 ac (466.3 ha)
	McHenry 2 .....	.....	Private .....	690.9 ac (279.6 ha)
	McHenry 3 .....	.....	Private .....	400 ac (161.9 ha)
	McHenry 4 .....	.....	Private .....	149.5 ac (60.5 ha)
	McHenry 5 .....	.....	Private .....	238.8 ac (96.6 ha)
	Pierce 1 .....	Pierce .....	State, Private, Federal .....	566.6 ac (229.3 ha)
	Pierce 2 .....	.....	Private, Federal .....	173.1 ac (70 ha)
	Pierce 3 .....	.....	Private, Federal .....	323.9 ac (131.1 ha)
	Pierce 4 .....	.....	Private .....	546.5 ac (221.2 ha)
	Pierce 5 .....	.....	Private .....	443.2 ac (179.4 ha)
	Pierce 6 .....	.....	Private, Federal .....	1,084.9 ac (439.1 ha)
	Sheridan 1 .....	Sheridan .....	Private .....	488.2 ac (197.6 ha)
	Sheridan 2 .....	.....	Private, Federal .....	466.6 ac (188.8 ha)
	Sheridan 3 .....	.....	State .....	1,119.3 ac (453 ha)
	Sheridan 4 .....	.....	State .....	231.5 ac (93.7 ha)
	Sheridan 5 .....	Sheridan .....	Private .....	214.3 ac (86.7 ha)
	Sheridan 6 .....	.....	State .....	118.1 ac (47.8 ha)
ND-5 .....	Eddy 1 .....	Eddy .....	State, Private, Federal .....	1351.4 ac (546.9 ha)
ND-6 .....	Burleigh 1 .....	Burleigh .....	Private .....	144.8 ac (58.6 ha)
	Burleigh 2 .....	.....	Private .....	848.2 ac (343.3 ha)
	Burleigh 3 .....	.....	Private .....	39.9 ac (16.2 ha)
	Burleigh 4 .....	.....	State, Private, Federal .....	1,061 ac (429.4 ha)
	Burleigh 5 .....	.....	Private, Federal .....	285.4 ac (115.5 ha)
	Burleigh 6 .....	.....	Private, Federal .....	293.9 ac (118.9 ha)
	Burleigh 7 .....	.....	State, Private, Federal .....	2,162.1 ac (875 ha)
	Burleigh 8 .....	.....	Private .....	1,136.4 ac (459.9 ha)
	Burleigh 9 .....	.....	State, Private State .....	10,558.7 ac (4273.1 ha)
	Kidder 1 .....	Kidder .....	State, Private .....	5,375.1 ac (2,175.3 ha)
	Kidder 2 .....	.....	State, Private, Federal .....	629.2 ac (254.6 ha)
	Kidder 3 .....	.....	Private, Federal .....	1,251 ac (506.3 ha)
	Kidder 4 .....	.....	Private .....	265.7 ac (107.5 ha)
	Kidder 5 .....	.....	Private .....	2,36.2 ac (95.6 ha)
	Kidder 6 .....	.....	State, Private, Federal .....	7,658.9 ac (3099.5 ha)
	Kidder 7 .....	.....	Private, Federal .....	2,542.9 ac (1029.1 ha)
	Kidder 8 .....	.....	State, Private, Federal .....	1164.7 ac (471.3 ha)
	Kidder 9 .....	Kidder .....	Private .....	181.2 ac (73.4 ha)
	Kidder 10 .....	.....	Private, Federal .....	2.5 ac (1 ha)
	Kidder 11 .....	.....	Private, Federal .....	133.2 ac (53.9 ha)
	Sheridan 7 .....	.....	Private .....	193.1 ac (78.1 ha)
	Stutsman 1 .....	Sheridan .....	Federal .....	1,117.6 ac (452.3 ha)
	Stutsman 2 .....	Stutsman .....	Federal .....	2,370.2 ac (959.2 ha)
	Stutsman 3 .....	.....	State, Private, Federal .....	569 ac (230.3 ha)
ND-7 .....	Emmons 1 .....	Emmons .....	State, Private, Federal .....	427.5 ac (173 ha)
	Logan 1 .....	Logan .....	Private .....	295.1 ac (119.4 ha)
	Logan 2 .....	.....	Private, Federal .....	998.6 ac (404.1 ha)
	Logan 3 .....	.....	Private, Federal .....	254.4 ac (103 ha)
	Logan 4 .....	.....	State, Private .....	250.8 ac (101.5 ha)
	McIntosh 1 .....	McIntosh .....	Private, Federal .....	501.9 ac (203.1 ha)
	McIntosh 2 .....	.....	Private .....	357.2 ac (144.5 ha)
ND-8 .....	Missouri River.			
	—Fort Peck Reach .....	McKenzie, Williams .....	State .....	18.6 mi (29.9 km)
	—Lake Sakakawea & Lake Audubon.	Dunn, McKenzie, McLean .....	Federal .....	179 mi (288 km)
	—Garrison Reach .....	Mercer, Mountrial .....	State .....	87 mi (140 km)
	—Lake Oahe .....	Williams Burleigh, Mercer, Morton, Oliver Emmons, Morton, Sioux.	Federal .....	70 mi (112.6 km)
NE-1 .....	Platte River .....	Buffalo, Butler, Cass, Colfax, Dawson, Dodge, Douglas, Gosper, Hall, Hamilton, Kearney.	State, Private .....	266 mi (428 km)
	Loup River .....	Merrick, Phelps, Platte .....	State, Private .....	68 mi (109.4 km)

TABLE 2.—LOCATION, OWNERSHIP, AND ESTIMATED LENGTH (OR AREA) OF PIPING PLOVER CRITICAL HABITAT AREAS MAPPED WITHIN THE UNITED STATES GREAT PLAINS—Continued

Unit	Location	County	Land Ownership	Est Length (mi) or area (ac)
SD-1	Niobrara River	Polk, Sarpy, Saunders Howard, Nance, Platte Boyd, Brown, Holt, Keya Paha, Knox, Rock.	State, Private	129 mi (207.6 km)
	Missouri River. —Lake Oahe	Campbell, Corson, Dewey, Hughes, Potter, Stanley, Sully, Walworth.	Federal	159.7 mi (257 km)
SD-2 <sup>1</sup>	Missouri River. —Lake Francis Case	Brule, Buffalo, Lyman, Charles Mix, Gregory.	Federal	107.5 mi (172.9 km)
	—Fort Randall Reach	Bon Homme, Charles Mix	State	36 mi (57.9 km)
	—Lewis and Clark Lake	Gregory	Federal	32.9 mi (52.9 km)
	—Gavins Point Reach	Bon Homme, Yankton Clay, Yankton.	State	58.9 mi (94.8 km)

<sup>1</sup> Approximately 120 mi (193.1 km) of river border Nebraska; of that approximately 87 mi (140 km) have shared ownership of sandbars and islands with adjacent private landowners in Nebraska (the other 33 mi (53.1 km) are Lewis and Clark Lake).

**Effect of Critical Habitat Designation**

Designating critical habitat does not, in itself, lead to the recovery of a listed species. The designation does not establish a reserve, create a management plan, establish numerical population goals, prescribe specific management practices (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for areas designated as critical habitat are most appropriately addressed in recovery and management plans, and through section 7 consultation and section 10 permits.

However, designation of critical habitat can help focus conservation activities for listed species by identifying areas essential to conserve the species. Designation of critical habitat also alerts the public, as well as land-managing agencies, to the importance of these areas. As a result of critical habitat designation, Federal agencies may be able to prioritize landowner incentive programs such as Conservation Reserve Program enrollment, grassland easements, and private landowner agreements that benefit piping plovers. Critical habitat designation also may assist States and Tribes in prioritizing their conservation and land-management programs.

**Section 7 Consultation**

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the survival and recovery of

the species. Individuals, organizations, States, Tribes, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory. We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that actions they authorize, fund, or carry out are not

likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, we would ensure that the permitted actions do not destroy or adversely modify critical habitat

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. “Reasonable and prudent alternatives” are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, which are consistent with the scope of the Federal agency’s legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal

agencies may request reinitiation of consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat, or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect the northern Great Plains breeding population of piping plovers or its critical habitat will require section 7 consultation. Activities that, when carried out, funded, or authorized by a Federal agency, may destroy or adversely modify critical habitat include, but are not limited to:

(1) Any activity that results in changes in the hydrology of the unit, including activities associated with drainage activities, flowage control (e.g., changes in releases) and operations, flooding, hydropower, irrigation, sediment transfer changes or removal, construction or maintenance of dams, construction of bridges and marinas, dredging, and bank stabilization;

(2) Any activity that results in development or alteration of the landscape within or immediately adjacent to a hydrologic component of the unit including activities associated with construction for urban and industrial development, roads, marinas, bridges, or bank stabilization; agricultural activities (e.g., plowing adjacent to prairie wetland); off-road vehicle activity; mining; sale, exchange, or lease of Federal land that contains suitable habitat that is likely to result in the habitat being destroyed or appreciably degraded;

(3) Any activity that results in introducing significant amounts of emergent vegetation into the unit;

(4) Any activity that significantly and detrimentally alters water quality in the unit;

(5) Any activity that significantly and detrimentally alters the inputs of sediment and nutrients necessary for the maintenance of geomorphic and biologic processes that insure appropriately configured and productive systems; and

(6) Any activity that may reduce the value of a site by significantly and detrimentally disturbing plovers from such activities as foraging, brooding, and nesting.

Federal actions not affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

We may issue a formal conference report on proposed critical habitat if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is

prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no significant new information or changes in the Federal action alter the content of the opinion (see 50 CFR 402.10(d)).

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that appreciably reduce the value of critical habitat for both the survival and recovery of the northern Great Plains piping plover. Within critical habitat, this pertains only to those areas containing primary constituent elements. We note that such activities also may jeopardize the continued existence of the species.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from likely jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' recovery. Actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species.

Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. In those cases, critical habitat provides little additional protection to a species, and the ramifications of its designation are few or none. Designation of critical habitat in areas occupied by the northern Great Plains piping plover is not likely to result in a regulatory burden above that already in place due to the presence of the listed species. In addition, the Corps requires review of most or all projects requiring permits in hydrological systems, whether or not northern Great Plains piping plovers are known to be present.

Federal agencies already consult with us on activities in areas currently occupied by the species to ensure that their actions are not likely to jeopardize the continued existence of the species. These actions include, but are not limited to:

(1) Regulations of activities affecting waters of the United States by the Corps under section 404 of the Clean Water Act, and Section 10 of the Rivers and Harbors Act;

(2) Road and bridge construction and maintenance, right of way designation, and regulation of agricultural activities;

(3) Activities on Federal lands including but not limited to the Corps, Bureau of Reclamation, National Park Service, and Bureau of Land Management;

(4) Licensing of construction of communication sites by the Federal Communications Commission;

(5) Operations and maintenance of dams by the Corps and Bureau of Reclamation;

(6) Licensing/Relicensing of dams by the Federal Energy and Regulatory Commission;

(7) Funding of activities by the U.S. Environmental Protection Agency, Natural Resource Conservation Service, or any other Federal agency; and

(8) Water development projects by Federal agencies including the Bureau of Reclamation, Bureau of Indian Affairs, and other Federal agencies.

All lands designated as critical habitat are within the geographic range of the species. In addition, all but one site (Lake Francis Case) are considered occupied by the species and are likely to be used by the piping plover whether for foraging, breeding, chick rearing, dispersal, migration, genetic exchange, and sheltering. Federal agencies already consult with us on activities currently occupied by the species, as well as on Lake Francis Case, to ensure that their actions do not jeopardize the continued existence of the species. Thus, we do not anticipate additional regulatory protection will result from critical habitat designation.

If you have any questions regarding whether specific activities will likely constitute destruction or adverse modification of critical habitat, contact Pete Gober, Field Supervisor, South Dakota Field Office (see **ADDRESSES**). Requests for copies of regulations on listed wildlife and inquiries about prohibitions and permits may be addressed to U.S. Fish and Wildlife Service, Ecological Services, P.O. Box 25486, DFC, Denver, Colorado 80225-0486 (telephone 303-236-7400; facsimile 303-236-0027).

### Relationship to Habitat Conservation Plans

Section 10(a) of the Act authorizes us to issue permits for private actions which result in the taking of listed species incidental to otherwise lawful activities. Incidental take permit applications must be supported by a Habitat Conservation Plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. Currently, no approved HCPs cover the northern Great Plains piping plover or its habitat. In the event that HCPs covering the northern Great Plains piping plover are developed in the future within the proposed critical habitat, we will work with applicants to ensure the HCPs provide for protection and management of habitat areas essential for the conservation of the piping plover, while directing development and habitat modification to nonessential areas of lower habitat value. The HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the piping plover. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species.

### Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available, and to consider the economic and other relevant impacts of designating these areas as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of designating these areas as critical habitat. We cannot exclude areas from critical habitat when the exclusion will result in the extinction of the species. We will conduct an analysis of the economic impacts of designating these areas as critical habitat prior to a final determination. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and, if necessary, reopen the comment period at the time to accept comments on the economic analysis or further comments on the proposed rule. The economic analysis will be available at <http://mountain-prairie.fws.gov/pipingplover/ch>. This economic analysis will serve as the basis of our analysis under section 4(b)(2), and of any exclusions. As this economic analysis is not yet completed,

we are not yet able to identify proposed exclusions under section 4(b)(2) in this proposed rule. We will review this analysis, public comments on the analysis and this proposed rule, and the benefits of designating areas as critical habitat; we may identify certain proposed areas that should be excluded from the final critical habitat designation, provided these exclusions will not result in the extinction of the species. As a result, the final critical habitat determination may differ from this proposal.

### Public Comments Solicited

We intend that any final action resulting from this proposal to be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of piping plover (northern Great Plains region) habitat, and what habitat is essential to the conservation of the species and why;

(3) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families; and,

(5) Economic and other values associated with designating critical habitat for piping plover in the northern Great Plains region, such as those derived from non-consumptive uses (e.g., hiking, camping, birdwatching, enhanced watershed protection, improved air quality, increased soil retention, "existence values," and reductions in administrative costs).

(6) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES**). If you would like to submit comments by electronic format, please submit them in

ASCII file format and avoid the use of special characters and encryption. Please include your name and return e-mail address in your e-mail message. Please note that the e-mail address will be closed out at the termination of the public comment period. If you do not receive confirmation from the system that we have received your message, contact us directly by calling our South Dakota Field Office at (605) 224-8693.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home address, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this request prominently at the beginning of your comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

### Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and data received during the 60-day comment period on this proposed rule during preparation of a final rule making. Accordingly, the final decision may differ from this proposal.

### Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand including answers to questions such as the following—(1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain

technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposal? What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to Pete Gober, Field Supervisor, South Dakota Ecological Services Field Office, 420 S. Garfield, Suite 400, Pierre, South Dakota 57501.

**Public Meetings**

We have scheduled five informal public meetings at the following addresses on the dates indicated. Public meetings will run from 6–9 p.m., except for Yankton which will run from 5:30–8:30 p.m.

1. Cottonwood Inn Convention Center, U.S. Highway 2E, Glasgow, Montana, July 10, 2001.
2. Doublewood Inn, I-94 and Exit 159, Bismarck, North Dakota, July 12, 2001.
3. Pierre Chamber of Commerce, Community Room, 800 W. Dakota Avenue, Pierre, South Dakota, July 16, 2001.
4. Summit Activities Center, 1801 Summit Street, Yankton, South Dakota, July 17, 2001.

5. Central Community College, Main Building, Room 210, 3134 W. Highway 34, Grand Island, Nebraska, July 18, 2001.

*Required Determinations*

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and has been reviewed by the Office of Management and Budget (OMB), under Executive Order 12866. We are preparing a draft analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific areas as critical habitat. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comments.

(a) This rule is not expected to have an annual economic effect of \$100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government.

The northern Great Plains breeding population of piping plover was listed as a threatened species in 1986. In Fiscal Years 1992 through 2000, we conducted 90 formal section 7 consultations with other Federal agencies (88 of these included minor water depletion work done in Nebraska, Colorado, and Wyoming which involved

the Platte River) to ensure that their actions are not likely to jeopardize the continued existence of the piping plover. Approximately 107.5 miles (172.9 kilometers) (Lake Francis Case) of the areas encompassing proposed critical habitat for the northern Great Plains breeding population of piping plovers are presently unoccupied by nesting piping plovers. The remaining 1,230.5 miles (1,980 kilometers) and 196,576.5 acres (79,553.1 hectares) of the total designated critical habitat area are currently occupied by piping plovers.

Under the Act, critical habitat may not be adversely modified or destroyed by a Federal agency action; the Act does not impose any restrictions through critical habitat designations on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 3 below). Section 7 requires Federal agencies to ensure that they are not likely to jeopardize the continued existence of the species. Based upon our experience with the northern Great Plains breeding population of the piping plover, we concluded that any Federal action or authorized action that could potentially cause adverse modification of the proposed critical habitat would almost always be considered as “jeopardy” under the Act (see Table 2).

TABLE 3.—ACTIVITIES POTENTIALLY IMPACTED BY PIPING PLOVER LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only <sup>1</sup>	Additional activities potentially affected by critical habitat designation <sup>2</sup>
Federal Activities Potentially Affected. <sup>3</sup>	Direct take and activities such as removing or destroying piping plover breeding habitat, whether by mechanical, chemical, or other means (e.g., construction, wetland drainage (subsurface or surface) road building, boat launch, and marina construction or maintenance, dam construction and management, bank stabilization); regulation of water flows, damming, diversion, and channelization; recreational activities that significantly deter the use of suitable habitat areas by piping plovers or alter habitat through associated maintenance activities (e.g. recreational vehicle access, walking paths); any activity that results in changing the hydrology of habitat areas (e.g., dam construction, changes in releases and dam operations, dredging, draining); sale, exchange, or lease of Federal land that contains suitable habitat that may result in the habitat being destroyed or appreciably degraded (e.g., shoreline development, building of recreational facilities, road building); activities that may result in increased human activity and disturbance).	None in occupied habitat. In unoccupied habitat, no additional types of activities will be affected but consultation will be required on these activities in additional areas.
Private and other non-Federal Activities Potentially Affected. <sup>4</sup>	Direct take and activities such as removing or destroying piping plover habitat, whether by mechanical, chemical or other means (e.g., construction, wetland drainage (subsurface and surface) road building, boat launch and marina construction or maintenance, dam construction and management, bank stabilization); any activity that results in changing the hydrology of habitat areas (e.g., dam construction, changes in releases and dam operations, dredging, draining) regulation of water flows, damming, diversion, and channelization; recreational activities that significantly deter the use of suitable habitat areas by piping plovers and appreciably decreasing habitat value or quality (e.g. increased predation, invasion of exotic species, increased human presence or disturbance) that require a Federal action (permit, authorization, or funding).	None in occupied habitat. In unoccupied habitat, no additional types of activities will be affected but consultation will be required on these activities in additional areas.

<sup>1</sup> This column represents impacts of the final rule listing the piping plover (December 11, 1985) (50 FR 50726) under the Endangered Species Act.

<sup>2</sup>This column represents impact of the critical habitat designation above and beyond those impacts resulting from listing the species.

<sup>3</sup>Activities initiated by a Federal agency.

<sup>4</sup>Activities initiated by a private entity that may need Federal authorization or funding.

Accordingly, the designation of currently occupied areas as critical habitat are not anticipated to have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding. Non-Federal persons who do not have a Federal connection to their actions are not restricted by the designation of critical habitat; however, they continue to be bound by the provisions of the Act concerning "take" of the species. Designation of unoccupied areas as critical habitat may have impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding, but we expect little additional impact from designating these areas as critical habitat. The unoccupied areas exist on the Missouri River (Lake Francis Case) and all Federal activities on the Missouri River within the range of the northern Great Plains population of piping plovers are evaluated for potential impacts to the piping plovers. We will evaluate any potential impact through our economic analysis (see Economic Analysis section of this rule).

(b) This rule is not expected to create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions are not likely to jeopardize the continued existence of piping plovers since the listing in 1985. The prohibition against adverse modification of critical habitat is not expected to impose any restriction in addition to those that currently exist in occupied areas of proposed critical habitat. Additional restrictions may be imposed in unoccupied areas proposed as critical habitat. However the unoccupied areas exist on the Missouri River and all Federal activities on the Missouri River within the range of the northern Great Plains population of the piping plover are evaluated for potential impacts to the piping plovers. We will evaluate any possibility of additional restrictions through our economic analysis. Because of the potential for impacts on other Federal agency activities, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This rule is not expected to materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

Federal agencies are currently required to ensure that their activities are not likely to jeopardize the continued existence of the species, and, as discussed above, we do not anticipate that the adverse modification prohibition (resulting from critical habitat designation) will have any additional effects in areas of occupied habitat. The critical habitat designation may have some additional effects in the unoccupied areas of proposed critical habitat. We will review the effects of this proposed action on Federal agencies or non-Federal persons that receive Federal authorization or funding in the area of critical habitat with unknown occupancy.

(d) OMB has determined that this rule may raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

In the economic analysis, we will determine whether designation of critical habitat will have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is expected to result in few, if any, restrictions in addition to those currently in existence. As indicated on Table 1 (see "Critical Habitat Designation"), we designated property owned by Federal, State, and Tribal governments, and private entities.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are:

- (1) Regulation of activities affecting waters of the United States by Corps under section 404 of the Clean Water Act, and Section 10 of the Rivers and Harbors Act;
- (2) Regulation of water flows, water delivery, and diversion by Federal agencies;
- (3) Sale, exchange, or lease of lands owned by a Federal agency;
- (4) Road construction and maintenance and right-of-way designation;
- (5) Funding of low-interest loans to facilitate the construction of low-income housing by the Department of Housing and Urban Development;
- (6) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency;
- (7) Promulgation of air and water quality standards under the Clean Air Act and the Clean Water Act and the

cleanup of toxic waste and superfund sites under the Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation, and Liability Act by the U.S. Environmental Protection Agency;

(8) Issuance of Endangered Species Act section 10(a)(1)(B) permits by the Fish and Wildlife Service; and

(9) Activities funded, carried out, or authorized by any Federal agency.

Many of these activities sponsored by Federal agencies within the proposed critical habitat areas are carried out by small entities (as defined by the Regulatory Flexibility Act) through contract, grant, permit, or other Federal authorization. As discussed above, these actions are currently required to comply with the listing protections of the Act, and the designation of critical habitat is not anticipated to have any additional effects on these activities in areas of critical habitat occupied by the species. We expect little additional effect for the unoccupied areas of proposed critical habitat. In the economic analysis, we will evaluate whether designation of critical habitat in the unoccupied areas will have an effect on activities carried out by small entities.

For actions on non-Federal property that do not have a Federal connection (such as funding or authorization), the current restrictions concerning take of the species remain in effect, and this rule will have no additional restrictions.

*Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))*

In the economic analysis, we will determine whether designation of critical habitat will cause—(a) any effect on the economy of \$100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

*Executive Order 13211*

On May 18, 2001, the President issued an Executive Order (EO 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this proposed rule is not expected to

significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.):

(a) This rule, as proposed, will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that any of their actions involving Federal funding or authorization must not destroy or adversely modify the critical habitat. However, as discussed above, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated.

(b) This rule, as proposed, will not produce a Federal mandate of \$100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat for the piping plover imposes no obligations on State or local governments.

*Takings*

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This determination will not "take" private property and will not alter the long-term value of private property. As discussed above, the designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of piping plovers as defined in section 9 of the Act and its implementing regulations (50 FR 17.31). Due to current public knowledge of the species' protection, the prohibition against take of piping plovers both within and outside of the proposed areas, and the fact that critical habitat provides no incremental restrictions, we do not anticipate that property values will be affected by the critical habitat designation. While real estate market values may temporarily decline following designation, due to the perception that critical habitat designation may impose additional regulatory burdens on land use, we expect any such impacts to be short term. Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take

permits. Landowners in areas that are included in the designated critical habitat will continue to utilize their property in ways consistent with the conservation of the piping plover.

*Federalism*

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, the Service requested information from and coordinated development of this critical habitat proposal with appropriate State resource agencies in Minnesota, Montana, North Dakota, South Dakota, Nebraska, Iowa, Kansas, and Colorado as well as during the listing process. We will continue to coordinate any future designation of critical habitat for the northern Great Plains piping plover with the appropriate State agencies. The designation of critical habitat for the piping plover imposes few additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, doing so may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

*Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Act and plan public meetings on the proposed designation during the comment period. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the northern Great Plains breeding population of piping plover.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain any information collection requirements for which Office of Management and

Budget approval under the Paperwork Reduction Act is required. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

*National Environmental Policy Act*

Our position is that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the National Environmental Policy Act (NEPA) in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (Douglas County v. Babbitt, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996)). However, when the range of the species includes States within the Tenth Circuit, pursuant to the Tenth Circuit ruling in Catron County Board of Commissioners v. U.S. Fish and Wildlife Service, 75 F.3d 1429 (10th Cir. 1996), we will complete a NEPA analysis with an Environmental Assessment. The range of the northern Great Plains breeding population of the piping plover includes States within the Tenth Circuit, therefore, we are completing an Environmental Assessment and will announce its availability in the **Federal Register**.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We are required to assess the effects of critical habitat designation on tribal lands and tribal trust resources. We believe certain Tribal trust resources may be essential for the conservation of the piping plover. In Montana, plovers have nested on alkali wetlands within the Blackfeet Reservation. However, nesting on the Blackfeet Reservation is rare and none of this habitat was proposed for critical habitat.

Many Native American people live adjacent to the Missouri River and are dependent on the natural resources of the Missouri River Basin. However, proposed critical habitat on the Missouri River includes reservoir beaches below the top of the maximum operating pool and on sandbars and

islands in river reaches below dams. Land below the top of the maximum operating pool on the Missouri River reservoirs is in federal ownership and managed by the Corps. Therefore, no Tribal lands have been proposed as critical habitat on Missouri River reservoirs.

On the riverine reaches of the Missouri River, sandbars and islands in the river below the dams are claimed by the states of Montana, North Dakota, South Dakota and private landowners in Nebraska. However, the state of Montana recognizes that the Assiniboine and Sioux Tribes of Ft. Peck have ownership of sandbars and islands of the Missouri River from the north shoreline of the Missouri River to the mid-channel of the river where their Reservation borders the river. The Reservation borders the Missouri River for 81.7 miles (131.5 kilometers) in Missouri River Unit MT-3. Piping plovers nest on sandbars and islands of the Assiniboine and Sioux Tribes of Ft. Peck. We believe that these Tribal lands are essential for the conservation of the piping plover and we have proposed designating critical habitat for the piping plover on these lands of the Assiniboine and Sioux Tribes of Ft. Peck. Therefore, the only Tribe with lands within the proposed critical habitat designation for the northern Great Plains piping plover population are the Assiniboine and Sioux Tribes of Ft. Peck in Montana.

Other tribes recognizing the Ft. Laramie Treaty of 1868 or presently living adjacent to the Missouri River and proposed critical habitat designation include the Assiniboine and Sioux Tribes of Ft. Peck in Montana; the Three Affiliated Tribes and the Standing Rock Tribe in North Dakota, the Standing Rock Tribe, Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, Crow Creek Sioux Tribe, Pine Ridge Sioux Tribe, Rosebud Sioux Tribe, and Yankton Sioux Tribe in South Dakota and the Santee Sioux Tribe in Nebraska. The Tribes in the Missouri River Basin are involved with natural resource management and several are already involved with the management of federally listed species. Tribes have participated in both the Missouri River Basin Association and the Missouri

River Natural Resource Committee and many are actively involved with the Mni Sose Coalition.

Additionally, in 1999, the "Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, State of South Dakota Terrestrial Wildlife Habitat Restoration" was passed into law under Title VI of the Water Resources Development Act. This Act will transfer much of the Federal land and recreation areas in South Dakota managed by the Corps to the State and the Bureau of Indian Affairs (for the Cheyenne River and Lower Brule Sioux Tribes). Although land to be transferred in fee title is above the top of the maximum operating pool on Missouri River reservoirs, and not likely to have the primary constituent elements for piping plover critical habitat, under this legislation the Bureau of Indian Affairs will obtain, via easement, the management authority to the water's edge, an area which is likely to contain the primary constituent elements. This transfer of lands is proposed to occur by 2002. Only a small portion of land adjacent to the Lower Brule Sioux Tribe Reservation is proposed for critical habitat designation. This includes approximately a stretch of the Missouri River on Lake Francis Case from Big Bend Dam to about 10 miles downstream. Land adjacent to the Cheyenne River Sioux and Lower Brule Sioux Tribes above the top of the maximum operating pool will be transferred to the Bureau of Indian Affairs.

We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat according to section 4(b)(2) of the Act. However, we cannot exclude such areas from critical habitat if doing so will result in the extinction of the species. Due to the short amount of time allowed under the court order for preparation of this proposed rule, our contact with the Tribes has only been through written correspondence which resulted in no comments and informational presentations before the Great Plains Inter-Tribal Fish and Wildlife Commission. We plan continued consultation with the affected Tribes, before making a final critical habitat decision.

#### *Relationship to Canada*

In the 1988 Recovery Plan, one of our criteria for recovery and delisting of the piping plover is that the Canadian Recovery Objective must be met for the prairie region. Because of this, we have some joint conservation projects ongoing with Canada. However, according to CFR 402.12(h), "Critical habitat shall not be designated with foreign countries or in other areas outside of the United States jurisdiction." Since the areas of joint conservation do not fall within the United States jurisdiction, they are not included in this critical habitat proposal.

#### *References Cited*

A complete list of all references cited in this final rule is available upon request from the South Dakota Fish and Wildlife Service Field Office (see "ADDRESSES").

#### *Authors*

The primary author of this proposed rule is Nell McPhillips, Biologist, of the South Dakota Fish and Wildlife Service Field Office (see "ADDRESSES").

#### **List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

#### *Proposed Regulation Promulgation*

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

#### **PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h), revise the entry for "piping plover" under "BIRDS" to read as follows:

#### **§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * * * *							
BIRDS							
* * * * *							
Plover, piping .....	<i>Charadrius melodus</i>	U.S.A. (Great Lakes, northern Great Plains, Atlantic and Gulf Coasts, PR, VI) Canada, Mexico, Bahamas, West Indies.	Great Lakes, watershed in States of IL, IN, MI, MN, NY, OH, PA, and WI and Canada (Ont.).	E	211	17.95(b)	NA
Plover, piping .....	<i>Charadrius melodus</i>	U.S.A. (Great Lakes, northern Great Plains, Atlantic and Gulf Coasts, PR, VI) Canada, Mexico, Bahamas, West Indies.	Northern Great Plains in States of MN, MT, ND, NE, and SD.	T	211	17.95(b)	NA
Do .....	<i>Charadrius melodus</i>	.....do .....	Entire, except those areas where listed as endangered above..	T	211	NA	NA
* * * * *							

3. Amend § 17.95(b) by adding critical habitat for the northern Great Plains piping plover (*Charadrius melodus*) in the same alphabetical order as the species occurs in § 17.11(h) to read as follows:

**§ 17.95 Critical habitat—fish and wildlife.**

\* \* \* \* \*  
 (b) *Birds.*  
 \* \* \* \* \*

**Piping Plover (*Charadrius melodus*)—Northern Great Plains Breeding Population**

1. Critical habitat units are depicted for Minnesota, Montana, Nebraska, North Dakota, and South Dakota. Maps and description follow.

2. The primary constituent elements required to sustain the northern Great Plains breeding population of piping plovers are categorized by breeding habitat types found in the northern Great Plains. The habitat types and primary constituent elements necessary to sustain the northern Great Plains breeding population of piping plovers are described as follows:

i. On prairie alkali lakes and wetlands, the primary constituent elements include—(1) shallow, seasonally to permanently flooded, mixosaline to hypersaline wetlands with sandy to gravelly, sparsely

vegetated beaches, salt-encrusted mud flats, and/or gravelly salt flats; and (2) springs and fens along edges of alkali lakes and wetlands; and (3) adjacent uplands within 200 feet (61 meters) of the high water mark of the alkali lake or wetland.

ii. On rivers, the primary constituent elements include—sparsely vegetated channel sandbars, sand and gravel beaches on islands, temporary pools on sandbars and islands, and the interface with the river.

iii. On reservoirs, the primary constituent elements include—sparsely vegetated shoreline beaches, peninsulas, islands composed of sand, gravel, or shale, and their interface with the water bodies.

iv. On inland lakes (Lake of the Woods), the primary constituent elements include—sparsely vegetated and windswept sandy to gravelly islands, beaches, and peninsulas, and their interface with the water body.

v. The dynamic ecological processes that create and maintain piping plover habitat also are important primary constituent elements. Because piping plovers evolved in this dynamic and complex system, these processes develop a mosaic of habitats on the landscape that provide the essential combination of prey, forage, nesting,

brooding and chick-rearing areas for their continued survival and eventual recovery. The annual, seasonal, daily, and hourly availability of the habitat patches is dependent on local weather, hydrological conditions and cycles, and geological processes.

3. Critical habitat does not include existing developed areas such as mainstem dam structures, buildings, marinas, boat ramps, bank stabilization and breakwater structures, row cropped or plowed agricultural areas, roads and other lands (e.g., high bank bluffs along Missouri River) unlikely to contain primary constituent elements essential for northern Great Plains piping plover conservation.

**Minnesota**

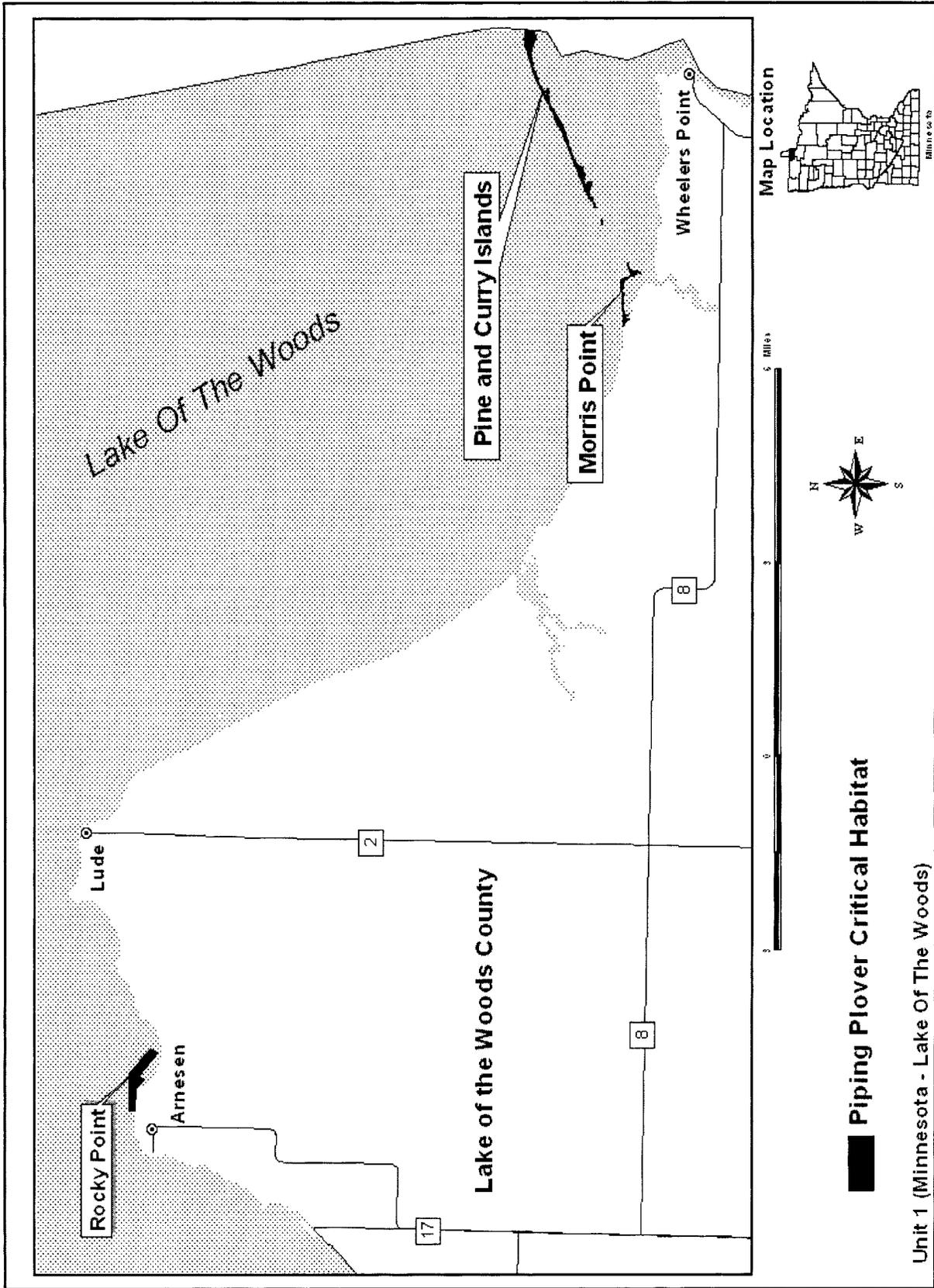
Projection: UTM Zone 15, NAD83, GRS 1980

Unit MN-1: Rocky Point, Morris Point, and Pine and Curry Island

This unit consists of the following Township, Range, and Sections:

Pine and Curry Islands: T. 162 N., R. 31 W., Sec. 1, T.162 N., R.32 W., Sec. 6, T.162 N., R.32 W., Sec. 10-12; Morris Point: T. 162 N., R. 32 W., Sec. 15-16; Rocky Point: T. 163 N., R. 34 W., Sec. 4-5, T.163 N., R.34 W., Sec. 9.

**BILLING CODE 4310-55-P**



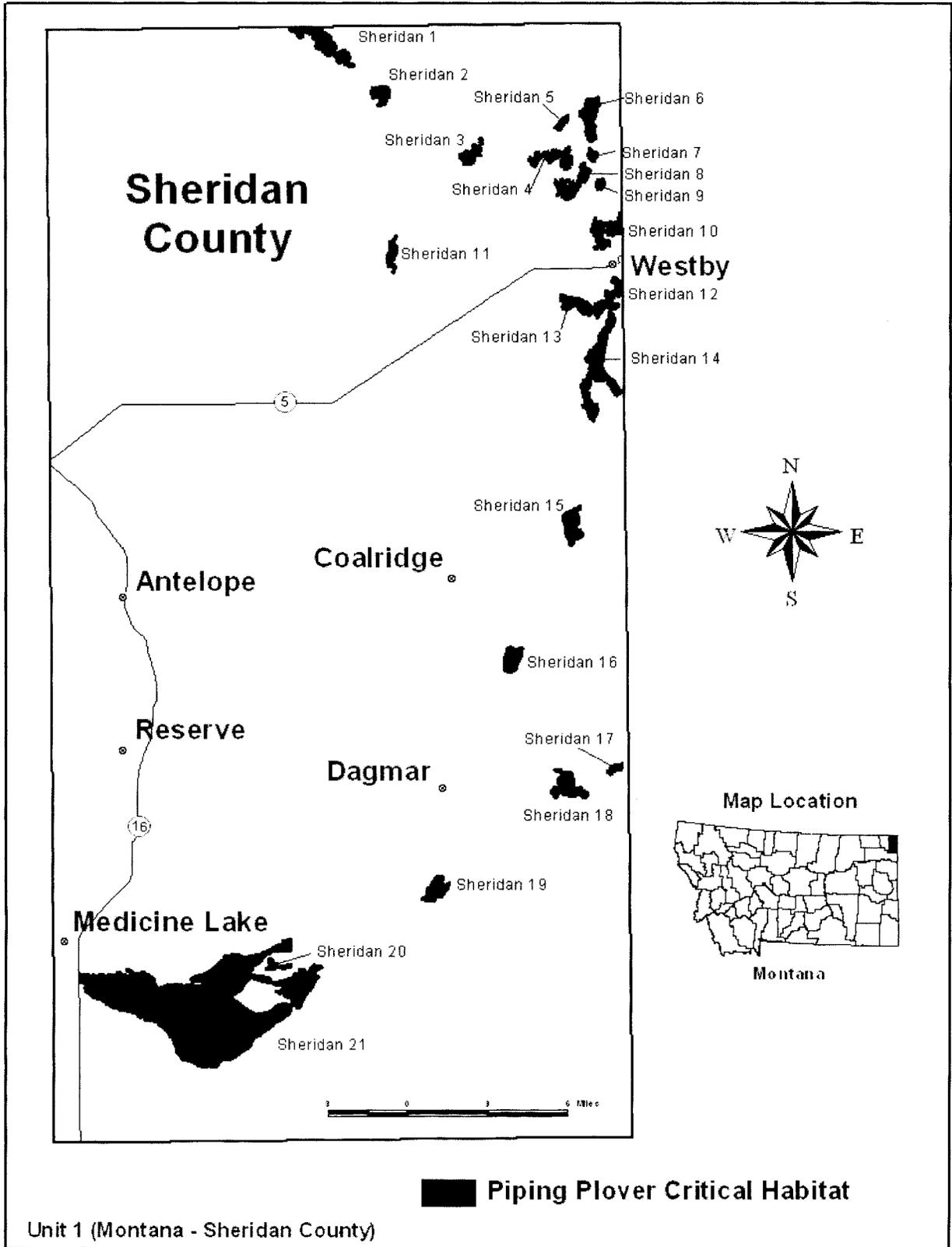
**BILLING CODE 4310-55-C**

Montana

Projection: UTM Zone 13, NAD27,  
Clarke 1866

Unit MT-1: Sheridan 1-21

This unit consists of the following  
Township, Range, and Sections:T. 31 N., R. 56 E., Sec. 1-2, T. 31 N.,  
R. 56 E., Sec. 4-6, T. 31 N., R. 56 E., Sec.  
8-15.T. 31 N., R. 56 E., Sec. 23-24, T. 31  
N., R. 56 E., Sec. 30, T. 31 N., R. 57 E.,  
Sec. 4-8.T. 31 N., R. 57 E., Sec. 18, T. 32 N.,  
R. 55 E., Sec. 36, T. 32 N., R. 56 E., Sec.  
25, T. 32 N., R. 56 E., Sec. 31-36, T. 32  
N., R. 57 E., Sec. 28-34, T. 32 N., R. 58  
E., Sec. 4, T. 32 N., R. 58 E., Sec. 8-10,  
T. 32 N., R. 58 E., Sec. 16-18, T. 32 N.,  
R. 58 E., Sec. 30, T. 33 N., R. 58 E., Sec.  
4-5, T. 33 N., R. 58 E., Sec. 22, T. 33  
N., R. 58 E., Sec. 24-27, T. 33 N., R. 58  
E., Sec. 34-35, T. 34 N., R. 58 E., Sec.  
2, T. 34 N., R. 58 E., Sec. 11, T. 34 N.,  
R. 58 E., Sec. 30, T. 34 N., R. 58 E., Sec.  
32-33, T. 35 N., R. 58 E., Sec. 1-2, T.  
35 N., R. 58 E., Sec. 11-14, T. 35 N., R.  
58 E., Sec. 35, T. 36 N., R. 57 E., Sec.10, T. 36 N., R. 57 E., Sec. 15, T. 36 N.,  
R. 57 E., Sec. 22, T. 36 N., R. 58 E., Sec.  
1-2, T. 36 N., R. 58 E., Sec. 12-13, T.  
36 N., R. 58 E., Sec. 22-27, T. 36 N., R.  
58 E., Sec. 30, T. 36 N., R. 58 E., Sec.  
36, T. 37 N., R. 56 E., Sec. 1-3, T. 37  
N., R. 56 E., Sec. 12, T. 37 N., R. 57 E.,  
Sec. 7-8, T. 37 N., R. 57 E., Sec. 17-18,  
T. 37 N., R. 57 E., Sec. 23, T. 37 N., R.  
57 E., Sec. 25-27, T. 37 N., R. 57 E., Sec.  
35, T. 37 N., R. 58 E., Sec. 15-16, T. 37  
N., R. 58 E., Sec. 20-22, T. 37 N., R. 58  
E., Sec. 27-34.**BILLING CODE 4310-55-P**



## Unit MT-2: Missouri River

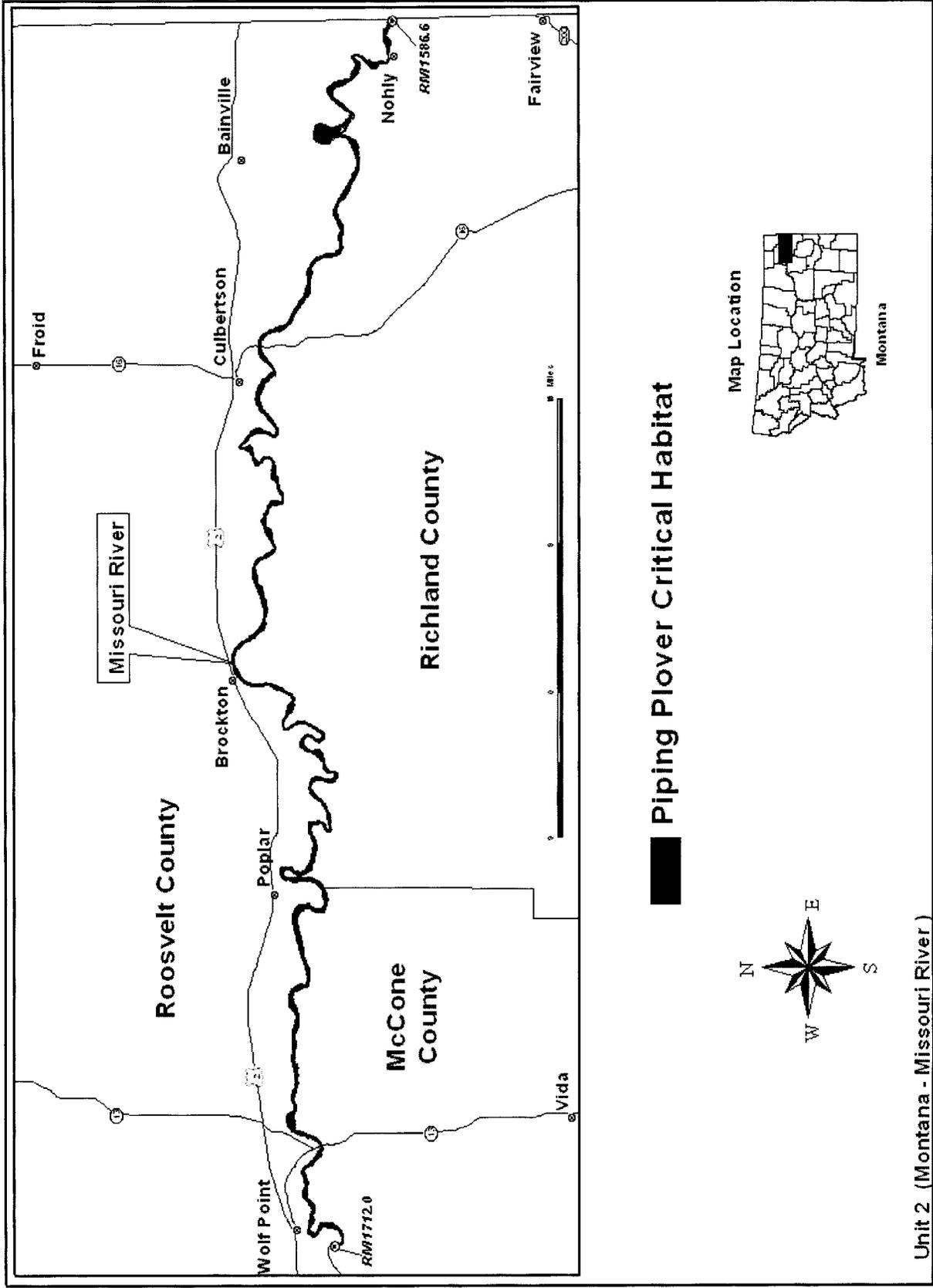
This unit consists of the following Township, Range, and Sections:

T. 26 N., R. 58 E., Sec. 1-6, T. 26 N., R. 59 E., Sec. 3-6, T. 26 N., R. 59 E., Sec. 9-10, T. 26 N., R. 59 E., Sec. 13-16, T. 26 N., R. 59 E., Sec. 22-24, T. 27 N., R. 47 E., Sec. 21-24, T. 27 N., R. 47 E., Sec. 27-28, T. 27 N., R. 47 E., Sec. 33-34, T. 27 N., R. 48 E., Sec. 13-16, T. 27 N., R. 48 E., Sec. 19-22, T. 27 N., R. 48 E., Sec. 28-29, T. 27 N., R. 49 E., Sec. 13-18, T. 27 N., R. 49 E., Sec. 24, T. 27 N., R. 50

E., Sec. 14-21, T. 27 N., R. 50 E., Sec. 23-26, T. 27 N., R. 51 E., Sec. 7-8, T. 27 N., R. 51 E., Sec. 17-27, T. 27 N., R. 51 E., Sec. 30, T. 27 N., R. 52 E., Sec. 10-16, T. 27 N., R. 52 E., Sec. 19, T. 27 N., R. 52 E., Sec. 21-23, T. 27 N., R. 52 E., Sec. 27-32, T. 27 N., R. 53 E., Sec. 1-3, T. 27 N., R. 53 E., Sec. 6-7, T. 27 N., R. 53 E., Sec. 18, T. 27 N., R. 54 E., Sec. 1-6, T. 27 N., R. 54 E., Sec. 9-12, T. 27 N., R. 55 E., Sec. 1-5, T. 27 N., R. 55 E., Sec. 7-11, T. 27 N., R. 56 E., Sec. 2-6, T. 27 N., R. 56 E., Sec. 8-9,

T. 27 N., R. 56 E., Sec. 11, T. 27 N., R. 56 E., Sec. 13-14, T. 27 N., R. 56 E., Sec. 24, T. 27 N., R. 57 E., Sec. 18-21, T. 27 N., R. 57 E., Sec. 27-28, T. 27 N., R. 57 E., Sec. 33-36, T. 27 N., R. 58 E., Sec. 23, T. 27 N., R. 58 E., Sec. 25-27, T. 27 N., R. 58 E., Sec. 31-32, T. 27 N., R. 58 E., Sec. 34-36, T. 27 N., R. 59 E., Sec. 29-32, T. 28 N., R. 53 E., Sec. 27-31, T. 28 N., R. 53 E., Sec. 33-34, T. 28 N., R. 54 E., Sec. 31-33, T. 28 N., R. 55 E., Sec. 33-35.

**BILLING CODE 4310-55-P**



## Unit MT-3: Fort Peck Reservoir

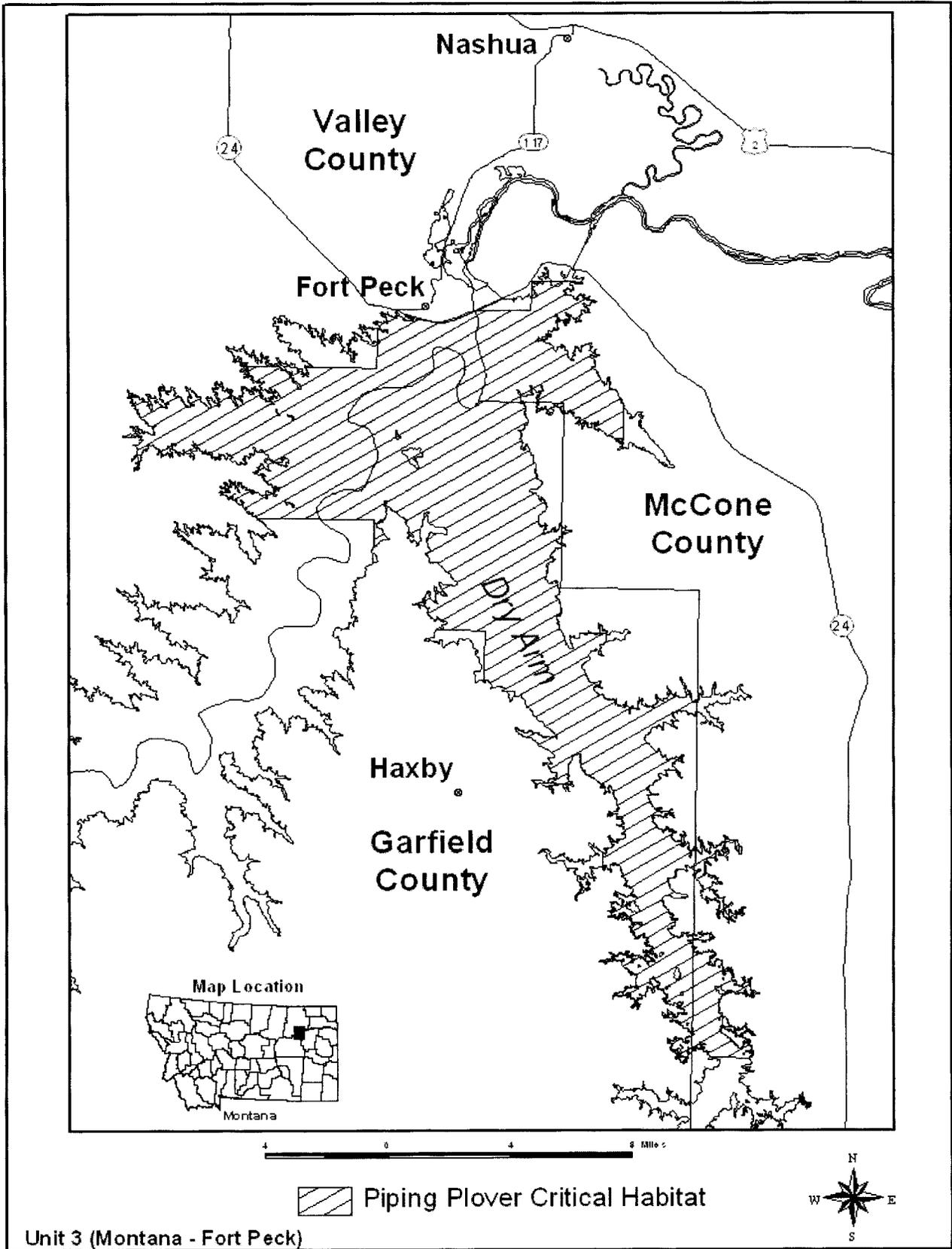
This unit consists of the following Township, Range, and Sections:

T. 22 N., R. 42 E., Sec. 1-3, T. 22 N., R. 42 E., Sec. 10-15, T. 22 N., R. 42 E., Sec. 24, T. 22 N., R. 43 E., Sec. 6-8, T. 22 N., R. 43 E., Sec. 18-20, T. 23 N., R. 42 E., Sec. 15, T. 23 N., R. 42 E., Sec. 10-15, T. 23 N., R. 42 E., Sec. 22-27, T.

23 N., R. 42 E., Sec. 34-36, T. 23 N., R. 43 E., Sec. 18-19, T. 23 N., R. 43 E., Sec. 30-31, T. 24 N., R. 41 E., Sec. 1-3, T. 24 N., R. 41 E., Sec. 10-13, T. 24 N., R. 41 E., Sec. 24, T. 24 N., R. 42 E., Sec. 5-8, T. 24 N., R. 42 E., Sec. 16-21, T. 24 N., R. 42 E., Sec. 25-36, T. 25 N., R. 39 E., Sec. 1-2, T. 25 N., R. 39 E., Sec. 11-12, T. 25 N., R. 40 E., Sec. 1-17, T.

25 N., R. 40 E., Sec. 20-24, T. 25 N., R. 41 E., Sec. 1-36, T. 25 N., R. 42 E., Sec. 5-6, T. 26 N., R. 39 E., Sec. 35-36, T. 26 N., R. 40 E., Sec. 31-36, T. 26 N., R. 41 E., Sec. 13-17, T. 26 N., R. 41 E., Sec. 19-36, T. 26 N., R. 41 E., Sec. 20-36, T. 26 N., R. 42 E., Sec. 17-19, T. 26 N., R. 42 E., Sec. 29-32.

**BILLING CODE 4310-55-P**



Unit 3 (Montana - Fort Peck)

Unit MT-4: Nelson Reservoir and  
Bowdoin NWR

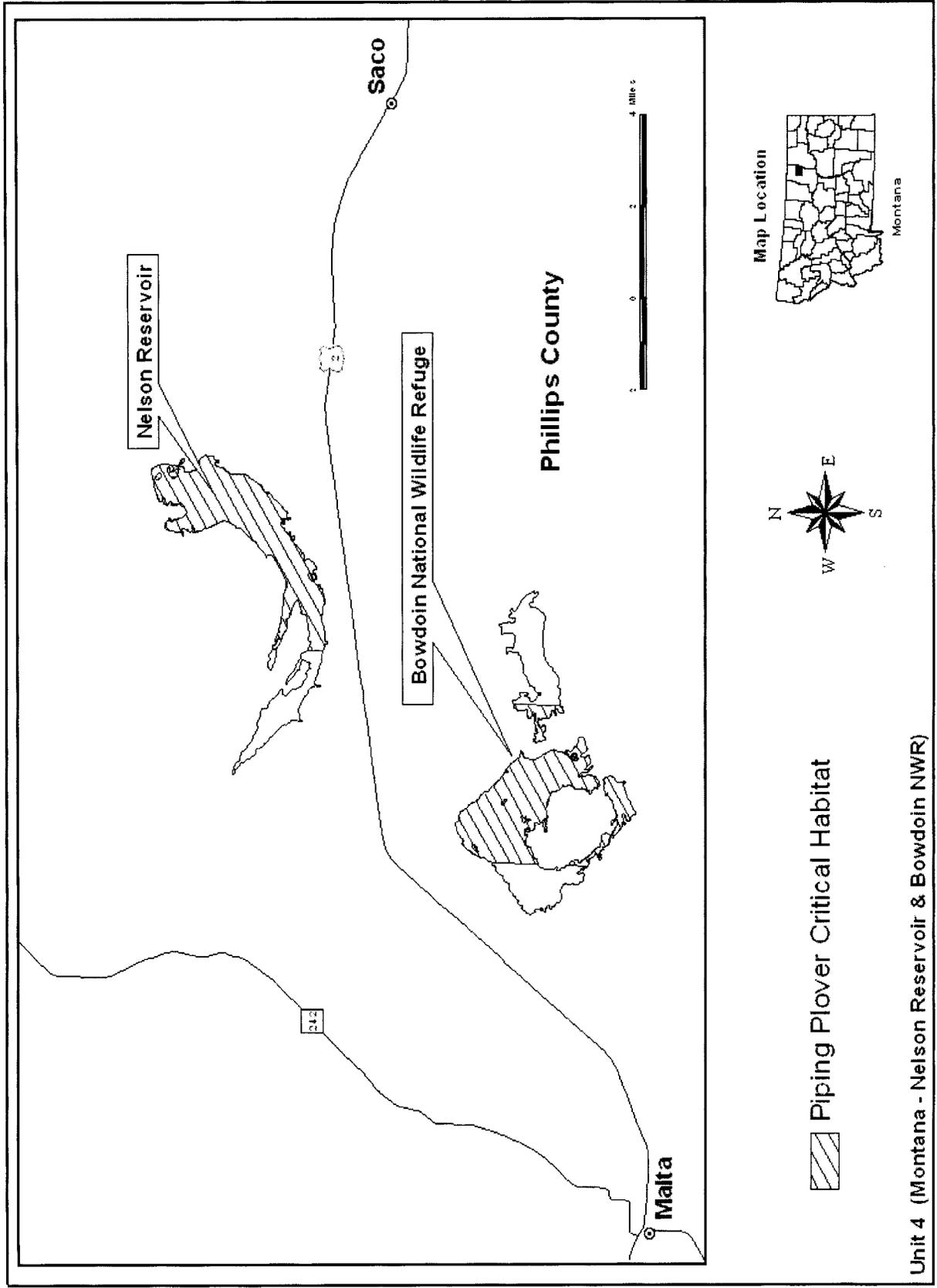
This unit consists of the following  
Township, Range, and Sections:

Bowdoin NWR: T. 30 N., R. 31 E., Sec.  
1-2, T. 30 N., R. 31 E., Sec. 4, T. 30 N.,

R. 31 E., Sec. 9-11, T. 31 N., R. 31 E.,  
Sec. 21-22, T. 31 N., R. 31 E., Sec. 25-  
28, T. 31 N., R. 31 E., Sec. 33-36; Nelson  
Reservoir: T. 31 N., R. 32 E. Sec. 3-5,  
T. 32 N., R. 32 E., Sec. 14-15, T. 32 N.,  
R. 32 E., Sec. 22-24, T. 32 N., R. 32 E.,

Sec. 26-27, T. 32 N., R. 32 E., Sec. 32-  
35.

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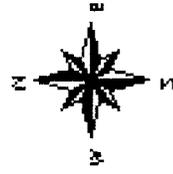
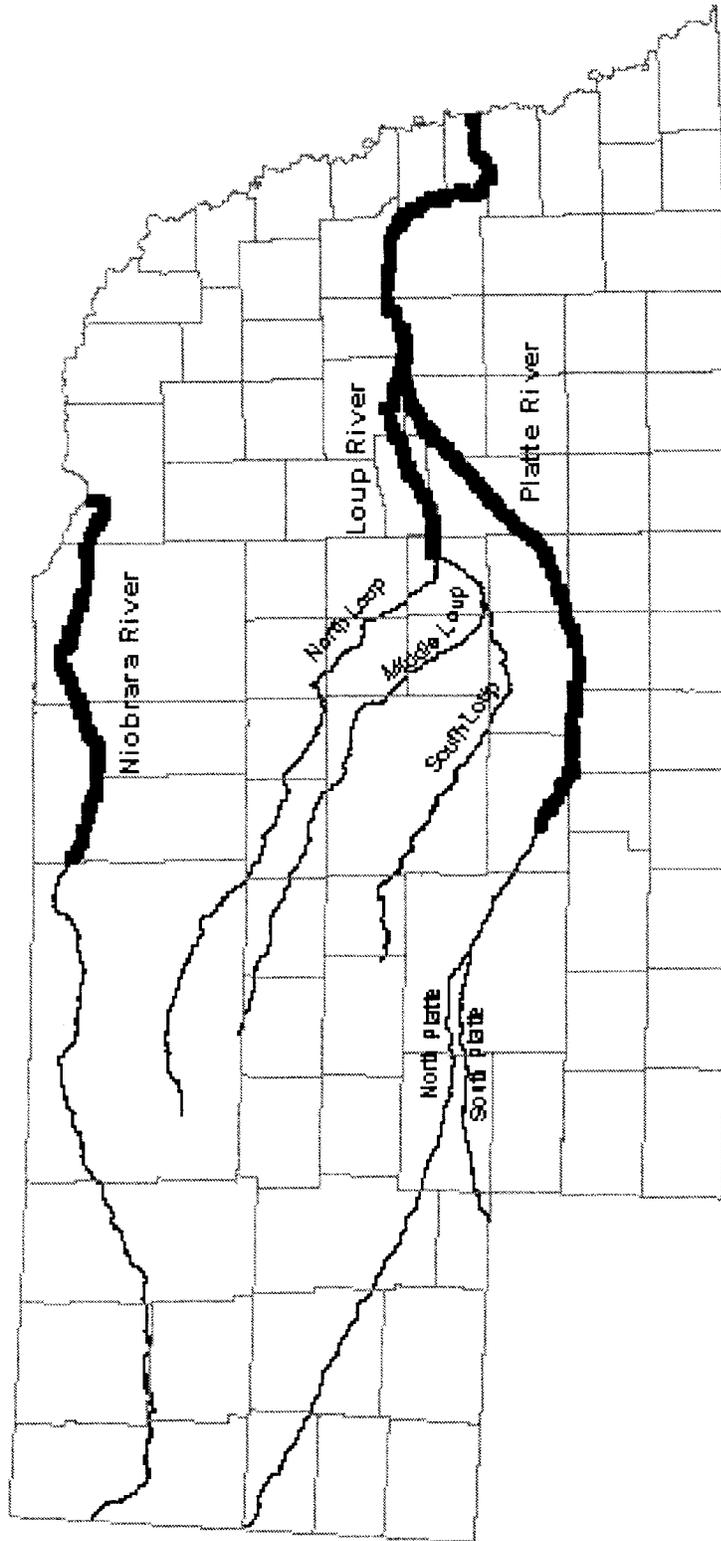
Sec. 25; T.13 N., R.12 E., Sec. 26; T.13 N., R.12 E., Sec. 27; T.13 N., R.12 E., Sec. 28; T.13 N., R.12 E., Sec. 31; T.13 N., R.12 E., Sec. 32; T.13 N., R.12 E., Sec. 33; T.13 N., R.12 E., Sec. 34; T.13 N., R.12 E., Sec. 36; T.13 N., R.13 E., Sec. 25; T.13 N., R.13 E., Sec. 26; T.13 N., R.13 E., Sec. 30; T.13 N., R.13 E., Sec. 31; T.13 N., R.13 E., Sec. 32; T.13 N., R.13 E., Sec. 33; T.13 N., R.13 E., Sec. 34; T.13 N., R.13 E., Sec. 35; T.13 N., R.13 E., Sec. 36; T.14 N., R.09 E., Sec. 01; T.14 N., R.09 E., Sec. 12; T.14 N., R.10 E., Sec. 06; T.14 N., R.10 E., Sec. 07; T.14 N., R.10 E., Sec. 08; T.14 N., R.10 E., Sec. 17; T.14 N., R.10 E., Sec. 18; T.14 N., R.10 E., Sec. 20; T.14 N., R.10 E., Sec. 29; T.14 N., R.10 E., Sec. 32; T.15 N., R.09 E., Sec. 01; T.15 N., R.09 E., Sec. 02; T.15 N., R.09 E., Sec. 03; T.15 N., R.09 E., Sec. 11; T.15 N., R.09 E., Sec. 12; T.15 N., R.09 E., Sec. 13; T.15 N., R.09 E., Sec. 24; T.15 N., R.09 E., Sec. 25; T.15 N., R.09 E., Sec. 36; T.15 N., R.10 E., Sec. 19; T.16 N., R.01 E., Sec. 01; T.16 N., R.01 E., Sec. 02; T.16 N., R.01 E., Sec. 04; T.16 N., R.01 E., Sec. 05; T.16 N., R.01 E., Sec. 06; T.16 N., R.01 E., Sec. 12; T.16 N., R.02 E., Sec. 01; T.16 N., R.02 E., Sec. 02; T.16 N., R.02 E., Sec. 03; T.16 N., R.02 E., Sec. 04; T.16 N., R.02 E.,

Sec. 05; T.16 N., R.02 E., Sec. 06; T.16 N., R.02 E., Sec. 07; T.16 N., R.02 E., Sec. 08; T.16 N., R.02 E., Sec. 09; T.16 N., R.02 E., Sec. 10; T.16 N., R.02 E., Sec. 11; T.16 N., R.02 E., Sec. 12; T.16 N., R.03 E., Sec. 04; T.16 N., R.03 E., Sec. 05; T.16 N., R.03 E., Sec. 06; T.16 N., R.08 E., Sec. 01; T.16 N., R.08 E., Sec. 02; T.16 N., R.08 E., Sec. 12; T.16 N., R.09 E., Sec. 06; T.16 N., R.09 E., Sec. 07; T.16 N., R.09 E., Sec. 08; T.16 N., R.09 E., Sec. 09; T.16 N., R.09 E., Sec. 16; T.16 N., R.09 E., Sec. 17; T.16 N., R.09 E., Sec. 21; T.16 N., R.09 E., Sec. 22; T.16 N., R.09 E., Sec. 27; T.16 N., R.09 E., Sec. 28; T.16 N., R.09 E., Sec. 33; T.16 N., R.09 E., Sec. 34; T.17 N., R.01 E., Sec. 29; T.17 N., R.01 E., Sec. 30; T.17 N., R.01 E., Sec. 31; T.17 N., R.01 E., Sec. 32; T.17 N., R.01 E., Sec. 33; T.17 N., R.01 E., Sec. 34; T.17 N., R.01 E., Sec. 35; T.17 N., R.01 E., Sec. 36; T.17 N., R.03 E., Sec. 25; T.17 N., R.03 E., Sec. 26; T.17 N., R.03 E., Sec. 27; T.17 N., R.03 E., Sec. 31; T.17 N., R.03 E., Sec. 32; T.17 N., R.03 E., Sec. 33; T.17 N., R.03 E., Sec. 34; T.17 N., R.04 E., Sec. 09; T.17 N., R.04 E., Sec. 10; T.17 N., R.04 E., Sec. 11; T.17 N., R.04 E., Sec. 12; T.17 N., R.04 E., Sec. 14; T.17 N., R.04 E., Sec. 15; T.17 N., R.04 E., Sec. 16; T.17 N., R.04 E.,

Sec. 17; T.17 N., R.04 E., Sec. 20; T.17 N., R.04 E., Sec. 21; T.17 N., R.04 E., Sec. 29; T.17 N., R.04 E., Sec. 30; T.17 N., R.05 E., Sec. 07; T.17 N., R.05 E., Sec. 08; T.17 N., R.05 E., Sec. 09; T.17 N., R.05 E., Sec. 10; T.17 N., R.05 E., Sec. 13; T.17 N., R.05 E., Sec. 14; T.17 N., R.05 E., Sec. 15; T.17 N., R.06 E., Sec. 07; T.17 N., R.06 E., Sec. 08; T.17 N., R.06 E., Sec. 09; T.17 N., R.06 E., Sec. 14; T.17 N., R.06 E., Sec. 15; T.17 N., R.06 E., Sec. 16; T.17 N., R.06 E., Sec. 17; T.17 N., R.06 E., Sec. 18; T.17 N., R.06 E., Sec. 22; T.17 N., R.06 E., Sec. 23; T.17 N., R.06 E., Sec. 24; T.17 N., R.07 E., Sec. 13; T.17 N., R.07 E., Sec. 14; T.17 N., R.07 E., Sec. 15; T.17 N., R.07 E., Sec. 16; T.17 N., R.07 E., Sec. 17; T.17 N., R.07 E., Sec. 18; T.17 N., R.07 E., Sec. 19; T.17 N., R.07 E., Sec. 20; T.17 N., R.07 E., Sec. 21; T.17 N., R.07 E., Sec. 22; T.17 N., R.07 E., Sec. 23; T.17 N., R.07 E., Sec. 24; T.17 N., R.08 E., Sec. 20; T.17 N., R.08 E., Sec. 21; T.17 N., R.08 E., Sec. 27; T.17 N., R.08 E., Sec. 28; T.17 N., R.08 E., Sec. 29; T.17 N., R.08 E., Sec. 34; T.17 N., R.08 E., Sec. 35; T.17 N., R.08 E., Sec. 36.

BILLING CODE 4310-55-P

# Nebraska Piping Plover Critical Habitat



70 0 70 Miles



■ Piping Plover Critical Habitat



North Dakota

Projection: UTM Zone 14, NAD27,  
Clarke 1866

Unit ND-1: Divide 1-10, Williams 1-3

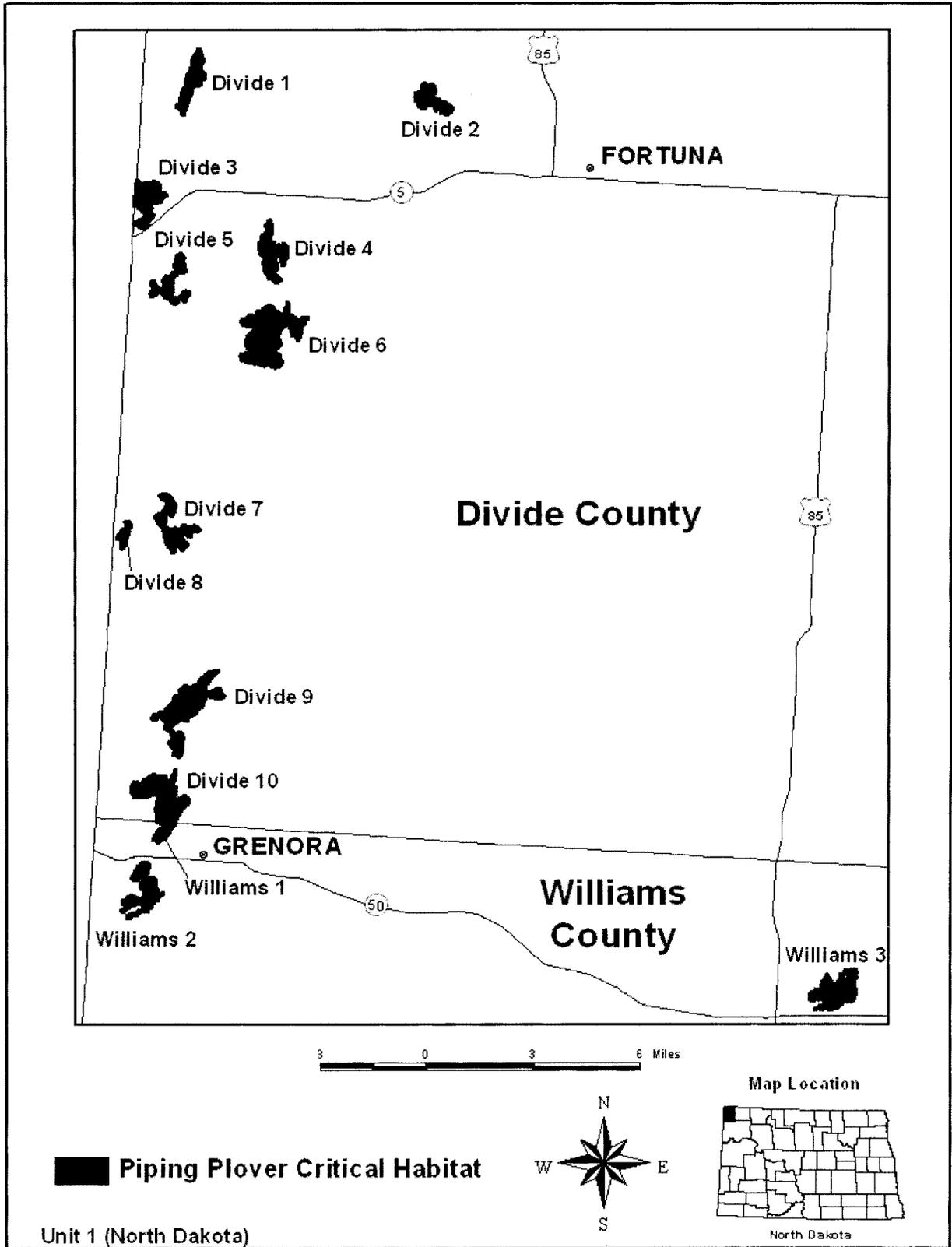
This unit consists of the following  
Township, Range, and Sections:

Divide 1 T. 163 N., R. 103 W., Sec. 11,  
13, 14, 23, 24; Divide 2 T. 163 N., R. 101

W., Sec. 19, T. 163 N., R. 102 W., Sec.  
13, 14, 23, 24; Divide 3 T. 162 N., R. 103  
W., Sec. 2, 3, 10, T. 163 N., R. 103 W.,  
Sec. 34, 35; Divide 4 T. 162 N., R. 102  
W., Sec. 5, 7, 8, 17; Divide 5 T. 162 N.,  
R. 103 W., Sec. 11, 13-15, 22-24; Divide  
6 T. 162 N., R. 102 W., Sec. 19-21, 28-  
30; Divide 7 T. 161 N., R. 103 W., Sec.  
13, 14, 23-26; Divide 8 T. 161 N., R. 103

W., Sec. 22, 27; Divide 9 T. 160 N., R.  
103 W., Sec. 10, 15-17, 20, 21, 28;  
Divide 10 T. 160 N., R. 103 W., Sec. 28,  
29, 32-34; Williams 1 T. 159 N., R. 103  
W., Sec. 4; Williams 2 T. 159 N., R. 103  
W., Sec. 8, 9, 16, 17; Williams 3 T. 159  
N., R. 100 W., Sec. 14, 15, 21-23, 27.

**BILLING CODE 4310-55-P**



Unit ND-2: Burke 1-2, Mountrail 1-10, Renville 1, Ward 1-10

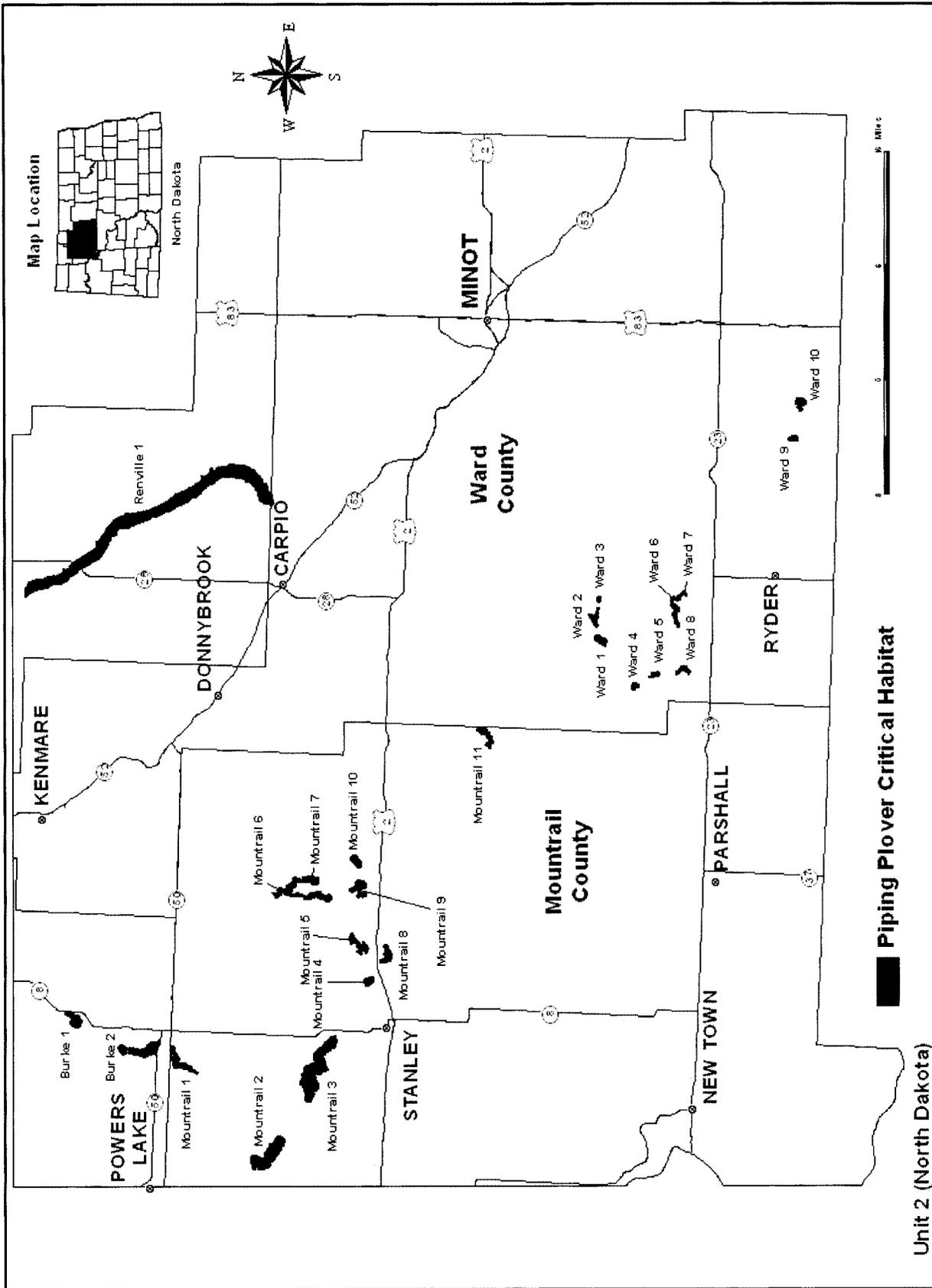
This unit consists of the following Township, Range, and Sections:

Burke 1 T. 160 N., R. 91 W., Sec. 23, 25-27, 34, 35; Burke 2 T. 159 N., R. 91 W., Sec. 16, 21, 27, 28, 33, 34; Mountrail 1 T. 158 N., R. 91 W., Sec. 4, 5, 8, 17, T. 159 N., R. 91 W., Sec. 33; Mountrail 2 T. 157 N., R. 92 W., Sec. 5-9, 16, 17; Mountrail 3 T. 156 N., R. 91 W., Sec. 5, 6, T. 157 N., R. 91 W., Sec. 19, 20, 27-35, T. 157 N., R. 92 W., Sec. 25; Mountrail 4 T. 156 N., R. 91 W., Sec. 13; Mountrail 5 T. 156 N., R. 90 W., Sec. 4, 8-10, 16, 17; Mountrail 6 T. 157 N., R.

89 W., Sec. 8, 9, 16, 17, 20, 21, 28, 29, 32, 33; Mountrail 7 T. 157 N., R. 89 W., Sec. 15, 16, 21, 22, 27, 28; Mountrail 8 T. 156 N., R. 90 W., Sec. 19-21, 29; Mountrail 9 T. 156 N., R. 89 W., Sec. 6, 7, 18, T. 156 N., R. 90 W., Sec. 1, 12, 13; Mountrail 10 T. 156 N., R. 89 W., Sec. 4, 5, 8, 9; Mountrail 11 T. 155 N., R. 87 W., Sec. 19, 30, T. 155 N., R. 88 W., Sec. 24-26, 35, 36; Renville 1 T. 157 N., R. 84 W., Sec. 6, T. 157 N., R. 85 W., Sec. 1, T. 158 N., R. 84 W., Sec. 5-9, 16, 17, 20, 21, 28-32, T. 158 N., R. 85 W., Sec. 1, 36, T. 159 N., R. 84 W., Sec. 30, 31, T. 159 N., R. 85 W., Sec. 2-4, 10, 11, 14, 15, 24-26, 36, T. 160 N., R. 85 W.,

Sec. 18-20, 29, 30, 32, 33, 34, T. 160 N., R. 86 W., Sec. 1, 2, 11-13, 24, T. 161 N., R. 85 W., Sec. 31, 32; Ward 1 T. 153 N., R. 86 W., Sec. 6, 7; Ward 2 T. 153 N., R. 86 W., Sec. 4, 5, T. 154 N., R. 86 W., Sec. 33; Ward 3 T. 153 N., R. 86 W., Sec. 3; Ward 4 T. 153 N., R. 87 W., Sec. 22; Ward 5 T. 153 N., R. 87 W., Sec. 26, 27, 35; Ward 6 T. 152 N., R. 86 W., Sec. 5, 6, T. 152 N., R. 87 W., Sec. 1, T. 153 N., R. 86 W., Sec. 34; Ward 7 T. 152 N., R. 86 W., Sec. 5, 8; Ward 8 T. 152 N., R. 87 W., Sec. 4, 5, 8, 9; Ward 9 T. 151 N., R. 84 W., Sec. 17-20; Ward 10 T. 151 N., R. 84 W., Sec. 15, 21, 22.

**BILLING CODE 4310-55-P**



Unit ND-3: McLean 1-9

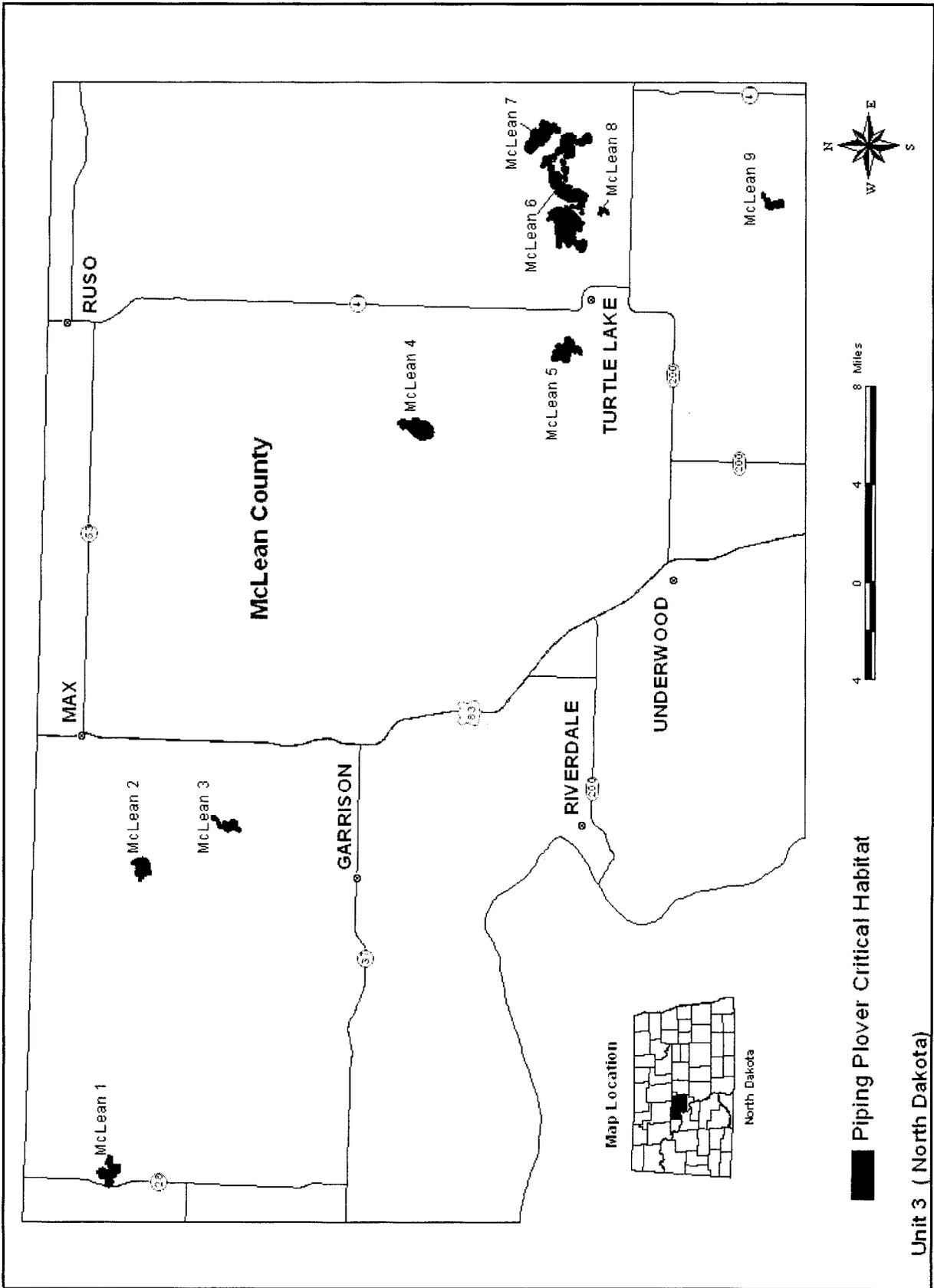
This unit consists of the following  
Township, Range, and Sections:

McLean 1 T. 150 N., R. 86 W., Sec. 21,  
22, 27; McLean 2 T. 150 N., R. 84 W.,  
Sec. 26, 27, 34; McLean 3 T. 149 N., R.

84 W., Sec. 12, 13; McLean 4 T. 148 N.,  
R. 81 W., Sec. 20, 21, 28, 29; McLean  
5 T. 147 N., R. 81 W., Sec. 23-26, 36;  
McLean 6 T. 147 N., R. 79 W., Sec. 19-  
21, 28-30, 32, 33, T. 147 N., R. 80 W.,  
Sec. 22-27, 34, 36; McLean 7 T. 147 N.,

R. 79 W., Sec. 16, 17, 20, 21; McLean  
8 T. 146 N., R. 80 W., Sec. 1, 2, 35, 36;  
McLean 9 T. 145 N., R. 80 W., Sec. 1,  
12.

**BILLING CODE 4310-55-P**



Unit 3 ( North Dakota)

Unit ND-4: Benson 1-7, McHenry 1-5,  
Pierce 1-6, Sheridan 1-6

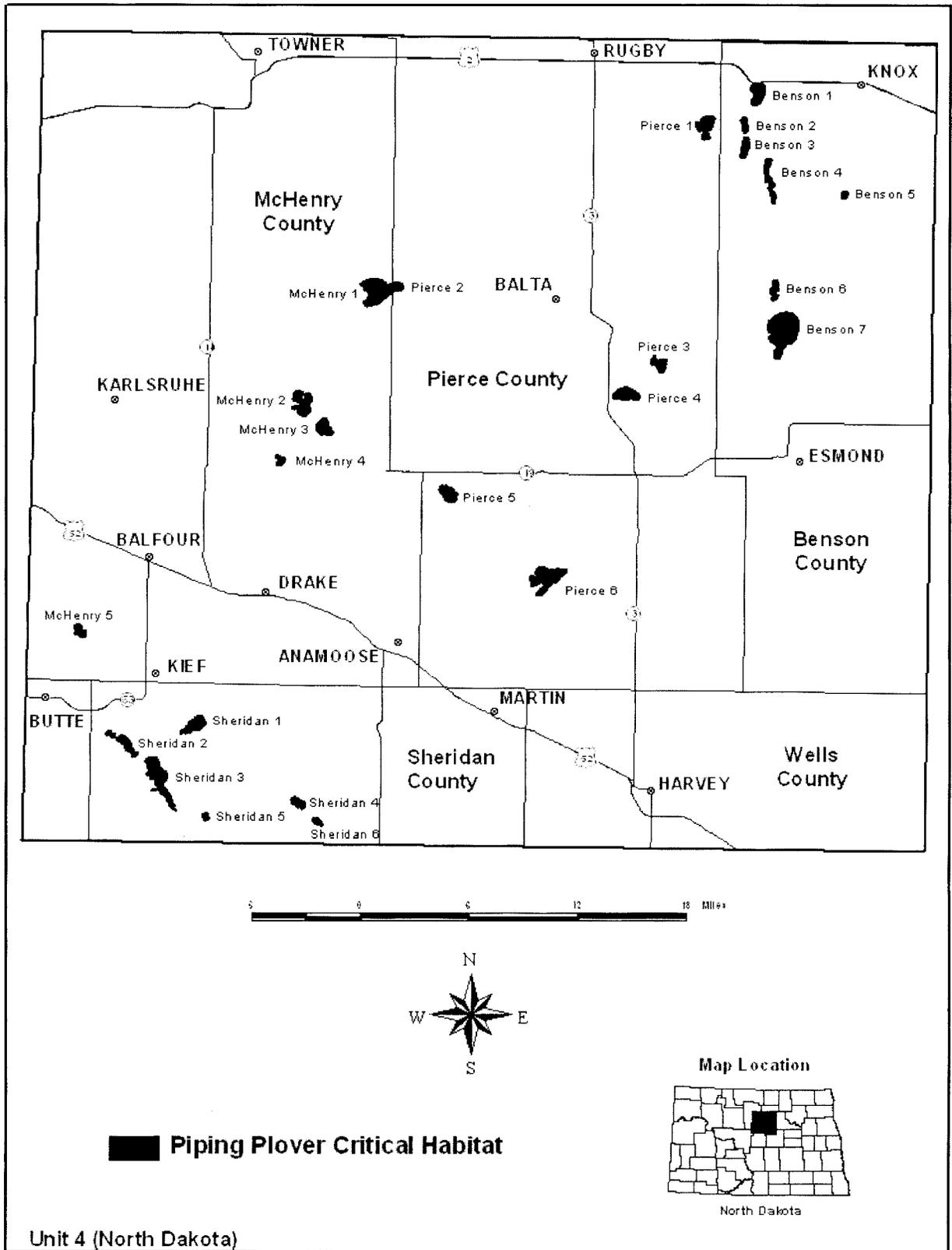
This unit consists of the following  
Township, Range, and Sections:

Benson 1 T. 156 N., R. 71 W., Sec. 16,  
17, 20, 21; Benson 2 T. 156 N., R. 71 W.,  
Sec. 20, 29; Benson 3 T. 155 N., R. 71  
W., Sec. 5, T. 156 N., R. 71 W., Sec. 32;  
Benson 4 T. 155 N., R. 71 W., Sec. 4, 9,  
10, 15, 16; Benson 5 T. 155 N., R. 70 W.,  
Sec. 17, 18; Benson 6 T. 154 N., R. 71  
W., Sec. 9, 10, 15, 16; Benson 7 T. 154  
N., R. 71 W., Sec. 14, 15, 21-23, 26-28,

34; McHenry 1 T. 154 N., R. 75 W., Sec.  
11-14; McHenry 2 T. 153 N., R. 75 W.,  
Sec. 7, 8, 17, 18, 20; McHenry 3 T. 153  
N., R. 75 W., Sec. 20, 21, 28; McHenry  
4 T. 153 N., R. 75 W., Sec. 31, T. 153  
N., R. 76 W., Sec. 36; McHenry 5 T. 151  
N., R. 78 W., Sec. 13, 14, 23, 24; Pierce  
1 T. 156 N., R. 72 W., Sec. 24-26, 35,  
36; Pierce 2 T. 154 N., R. 74 W., Sec. 7,  
18; Pierce 3 T. 153 N., R. 72 W., Sec. 3,  
4, T. 154 N., R. 72 W., Sec. 33, 34; Pierce  
4 T. 153 N., R. 72 W., Sec. 7, 8; Pierce  
5 T. 152 N., R. 74 W., Sec. 5-9; Pierce

6 T. 151 N., R. 73 W., Sec. 5, 6, T. 152  
N., R. 73 W., Sec. 31-33; Sheridan 1 T.  
150 N., R. 76 W., Sec. 7, 18, T. 150 N.,  
R. 77 W., Sec. 12-14; Sheridan 2 T. 150  
N., R. 77 W., Sec. 17-21, 28; Sheridan  
3 T. 149 N., R. 77 W., Sec. 2, 3, 11, T.  
150 N., R. 77 W., Sec. 26, 27, 34, 35;  
Sheridan 4 T. 149 N., R. 76 W., Sec. 1;  
Sheridan 5 T. 149 N., R. 76 W., Sec. 7,  
8; Sheridan 6 T. 149 N., R. 75 W., Sec.  
7.

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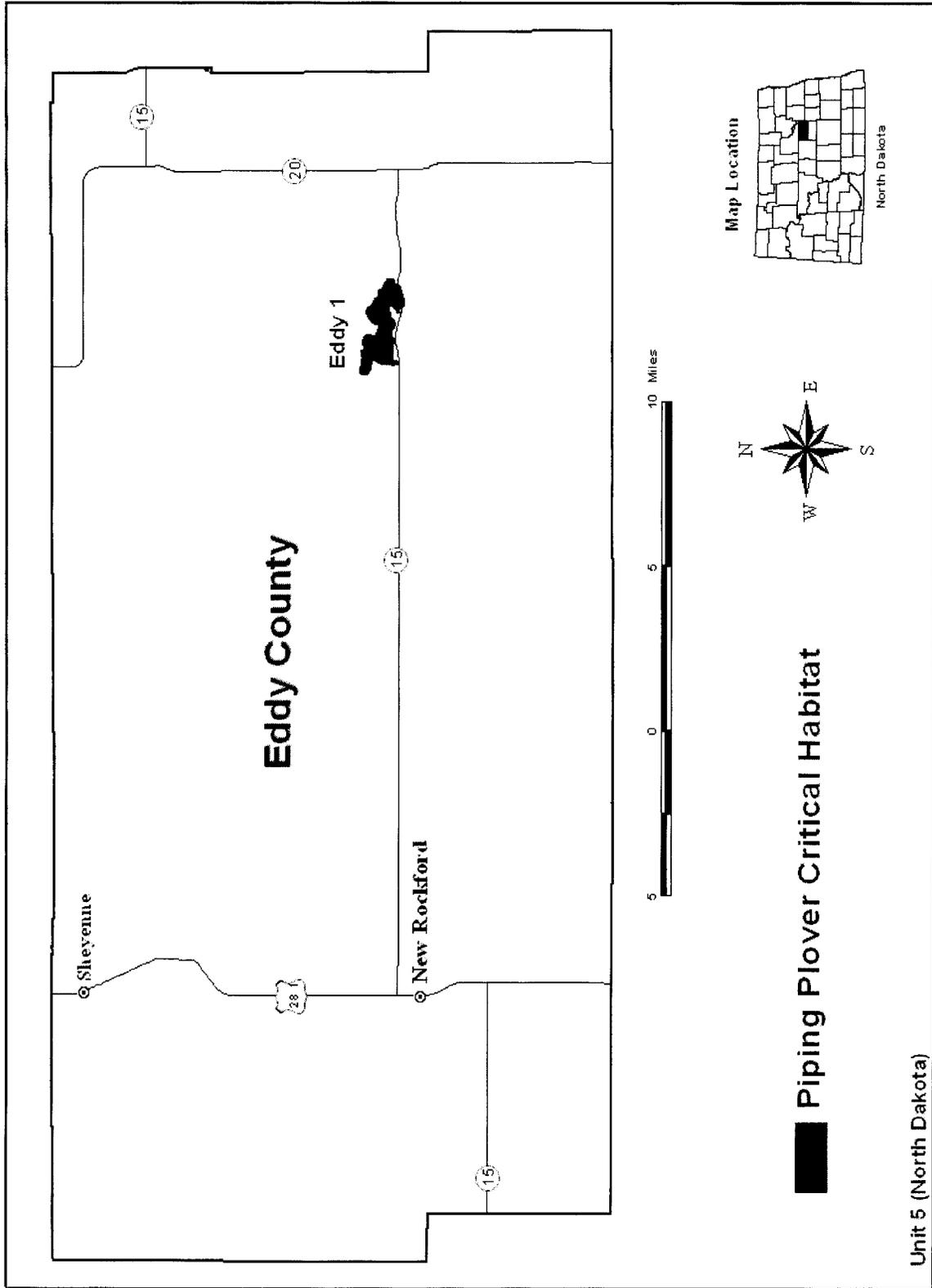
Unit ND-5: Eddy 1

This unit consists of the following  
Township, Range, and Sections:

T. 149 N., R. 63 W., Sec. 21, T. 149  
N., R. 63 W., Sec. 22-23, T. 149 N., R.

63 W., Sec. 25-28, T. 149 N., R. 63 W.,  
Sec. 35-36.

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Unit ND-6: Burleigh 1-8, Kidder 1-11, Sheridan 7, Stutsman 1-3

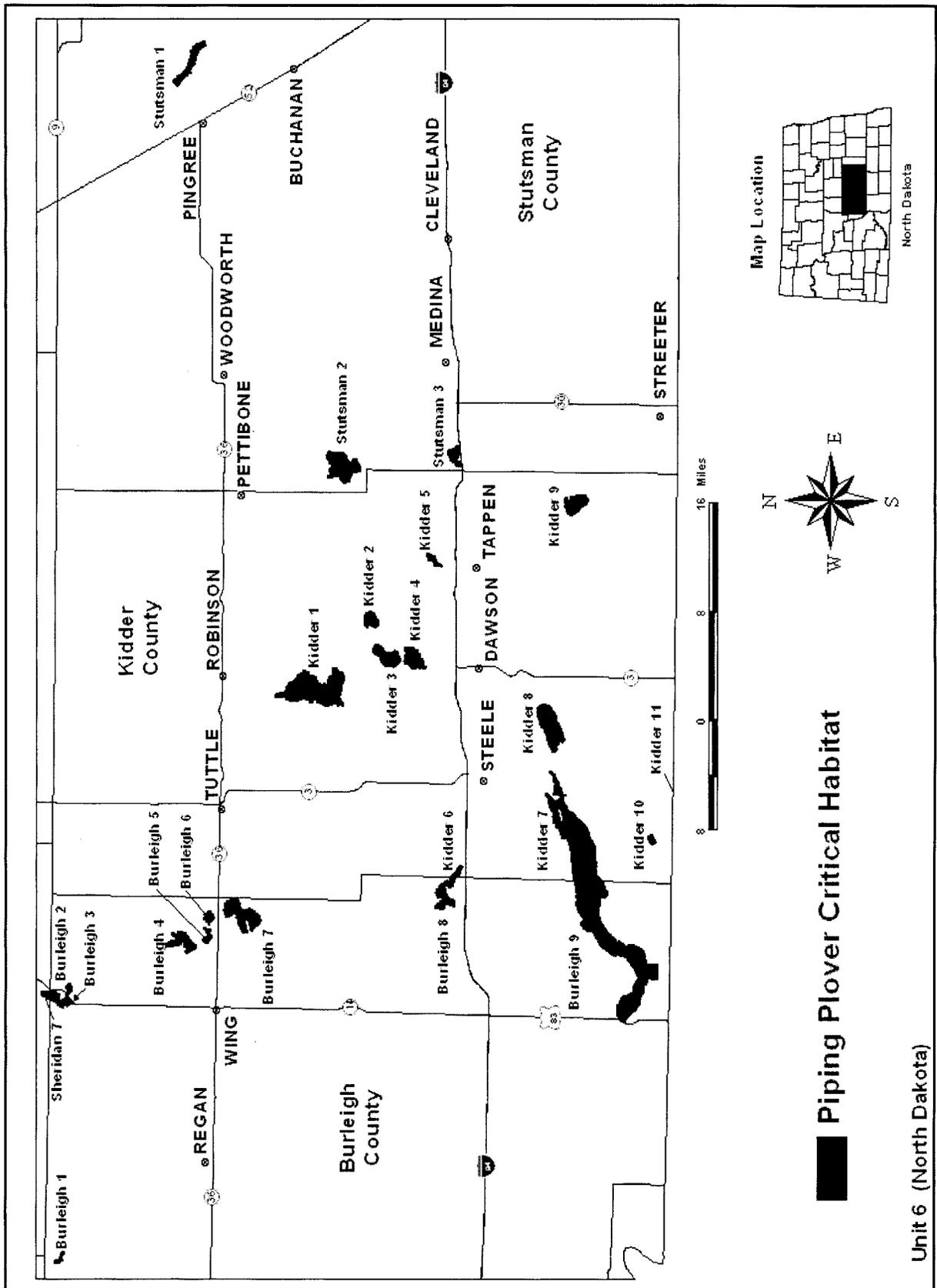
This unit consists of the following Township, Range, and Sections:

Burleigh 1 T. 144 N., R. 79 W., Sec. 3, 10; Burleigh 2 T. 144 N., R. 76 W., Sec. 2, 3, 10-12; Burleigh 3 T. 144 N., R. 76 W., Sec. 11, 14; Burleigh 4 T. 143 N., R. 75 W., Sec. 16, 21, 22, 27-29, 33; Burleigh 5 T. 142 N., R. 75 W., Sec. 3, 4, T. 143 N., R. 75 W., Sec. 33, 34, Burleigh 6 T. 142 N., R. 75 W., Sec. 2, 3, T. 143 N., R. 75 W., Sec. 35, Burleigh 7 T. 142 N., R. 75 W., Sec. 11-15, 22-24, 26, 27, Burleigh 8 T. 139 N., R. 75

W., Sec. 1-3, 10-12, T. 140 N., R. 75 W., Sec. 34-36; Burleigh 9 T. 137 N., R. 75 W., Sec. 1-12, 17-20, 30, 31, T. 138 N., R. 75 W., Sec. 25-27, 33-36, T. 137 N., R. 76 W., Sec. 9, 10, 13, 15-17, 21-27, 35, 36; Kidder 1 T. 141 N., R. 72 W., Sec. 2-4, 9-11, 14-16, 21-24, 26-28, T. 142 N., R. 72 W., Sec. 33, 34; Kidder 2 T. 140 N., R. 71 W., Sec. 5-7, T. 141 N., R. 71 W., Sec. 33; Kidder 3 T. 140 N., R. 72 W., Sec. 1, 2, 10-12, 14, 15; Kidder 4 T. 140 N., R. 71 W., Sec. 25, 35, 36; Kidder 5 T. 139 N., R. 74 W., Sec. 6, 7; Kidder 6 T. 137 N., R. 74 W., Sec. 5, 6, T. 138 N., R. 73 W., Sec. 16-20, T. 138

N., R. 74 W., Sec. 13-15, 21-24, 26-35; Kidder 7 T. 138 N., R. 72 W., Sec. 7, 18, T. 138 N., R. 73 W., Sec. 11-15, 23, 24; Kidder 8 T. 138 N., R. 70 W., Sec. 21-23, 26-28, 34, 35; Kidder 9 T. 137 N., R. 74 W., Sec. 27, 28; Kidder 10 T. 137 N., R. 73 W., Sec. 31; Kidder 11 T. 137 N., R. 70 W., Sec. 33; Sheridan 7 T. 145 N., R. 75 W., Sec. 31, 32; Stutsman 1 T. 143 N., R. 64 W., Sec. 18-20, 28-30, 33, 34, T. 143 N., R. 65 W., Sec. 24; Stutsman 2 T. 141 N., R. 69 W., Sec. 16, 17, 19-21, 28-30, 32, 33; Stutsman 3 T. 139 N., R. 69 W., Sec. 5-8.

**BILLING CODE 4310-55-P**



Unit ND-7: Emmons 1, Logan 1-5,  
McIntosh 1-2

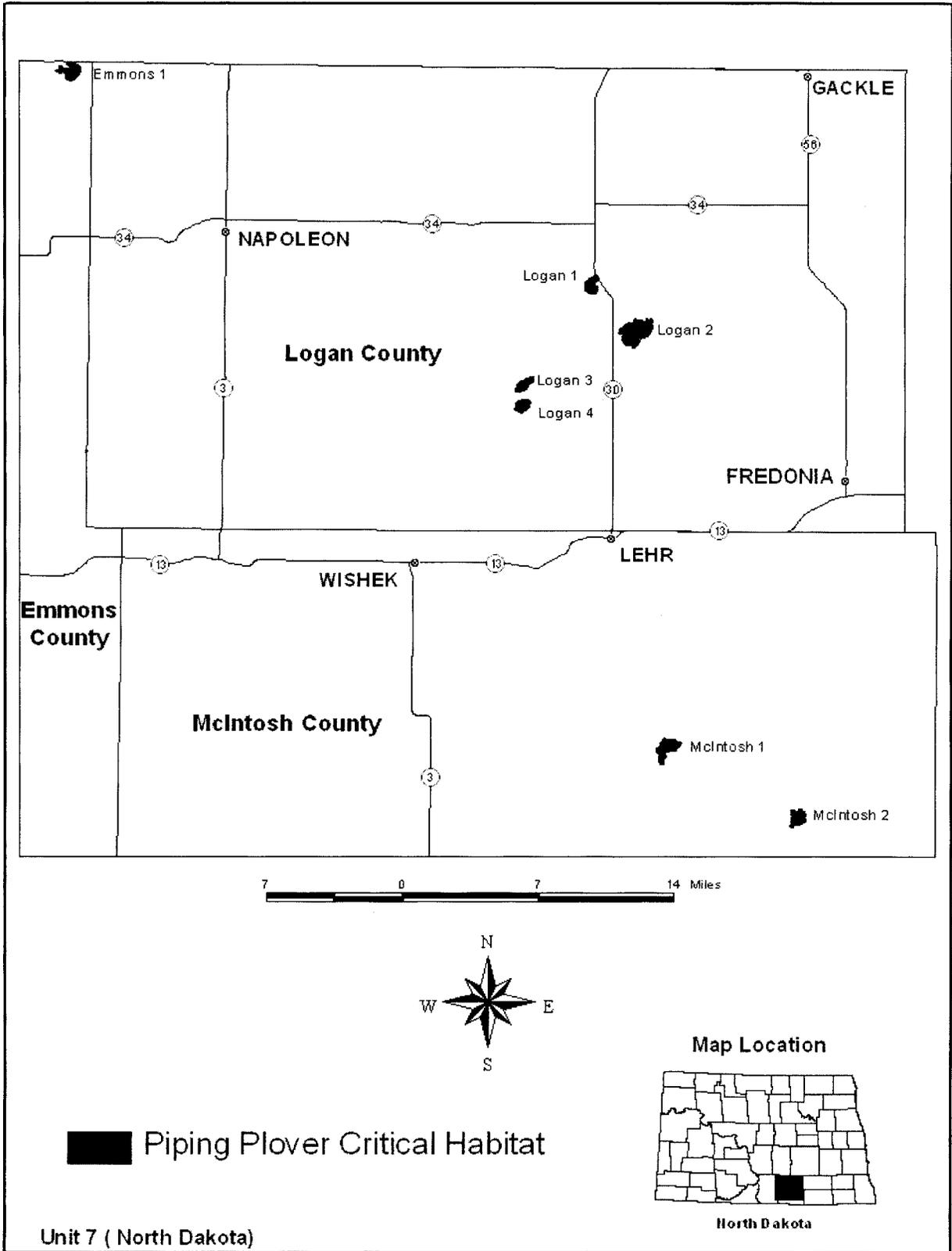
This unit consists of the following  
Township, Range, and Sections:

Emmons 1 T. 136 N., R. 74 W., Sec.  
1, 2; Logan 1 T. 136 N., R. 73 W., Sec.

2; Logan 2 T. 136 N., R. 70 W., Sec. 5,  
6; Logan 3 T. 135 N., R. 69 W., Sec. 28,  
29, 32, 33; Logan 4 T. 134 N., R. 69 W.,  
Sec. 2, 3, 10, 11, 14, 15; Logan 5 T. 134  
N., R. 70 W., Sec. 23, 26, 27; Logan 6  
T. 134 N., R. 70 W., Sec. 34, 35;

McIntosh 1 T. 130 N., R. 69 W., Sec. 2,  
3, T. 131 N., R. 69 W., Sec. 34, 35;  
McIntosh 2 T. 130 N., R. 68 W., Sec. 13,  
14, 23, 24.

**BILLING CODE 4310-55-P**



## Unit ND-8: Missouri River

This unit consists of the following Township, Range, and Sections:

T. 129 N., R. 78 W., Sec. 19, T. 129 N., R. 78 W., Sec. 29-32, T. 129 N., R. 79 W., Sec. 3-6, T. 129 N., R. 79 W., Sec. 8-11, T. 129 N., R. 79 W., Sec. 13-16, T. 129 N., R. 79 W., Sec. 21-27, T. 129 N., R. 79 W., Sec. 35-36, T. 129 N., R. 80 W., Sec. 1, T. 130 N., R. 79 W., Sec. 3-9, T. 130 N., R. 79 W., Sec. 17-21, T. 130 N., R. 79 W., Sec. 27-34, T. 130 N., R. 80 W., Sec. 1-3, T. 130 N., R. 80 W., Sec. 10-14, T. 130 N., R. 80 W., Sec. 23-26, T. 130 N., R. 80 W., Sec. 36, T. 131 N., R. 79 W., Sec. 4-9, T. 131 N., R. 79 W., Sec. 17-20, T. 131 N., R. 79 W., Sec. 29-32, T. 131 N., R. 80 W., Sec. 1, T. 131 N., R. 80 W., Sec. 11-15, T. 131 N., R. 80 W., Sec. 22-26, T. 131 N., R. 80 W., Sec. 35-36, T. 132 N., R. 78 W., Sec. 15-22, T. 132 N., R. 79 W., Sec. 3-5, T. 132 N., R. 79 W., Sec. 8-10, T. 132 N., R. 79 W., Sec. 13-16, T. 132 N., R. 79 W., Sec. 21-24, T. 132 N., R. 79 W., Sec. 26-29, T. 132 N., R. 79 W., Sec. 32-36, T. 133 N., R. 78 W., Sec. 5-8, T. 133 N., R. 78 W., Sec. 18-19, T. 133 N., R. 78 W., Sec. 30, T. 133 N., R. 79 W., Sec. 1-2, T. 133 N., R. 79 W., Sec. 11-13, T. 133 N., R. 79 W., Sec. 23-28, T. 133 N., R. 79 W., Sec. 34-36, T. 134 N., R. 78 W., Sec. 31, T. 134 N., R. 79 W., Sec. 2-3, T. 134 N., R. 79 W., Sec. 10-16, T. 134 N., R. 79 W., Sec. 22-26, T. 134 N., R. 79 W., Sec. 35-36, T. 135 N., R. 78 W., Sec. 6-7, T. 135 N., R. 79 W., Sec. 1-2, T. 135 N., R. 79 W., Sec. 11-15, T. 135 N., R. 79 W., Sec. 22-24, T. 135 N., R. 79 W., Sec. 26-27, T. 135 N., R. 79 W., Sec. 34-35, T. 136 N., R. 78 W., Sec. 18-19, T. 136 N., R. 78 W., Sec. 30-31, T. 136 N., R. 79 W., Sec. 1-3, T. 136 N., R. 79 W., Sec. 5-6, T. 136 N., R. 79 W., Sec. 8-16, T. 136 N., R. 79 W., Sec. 22-27, T. 136 N., R. 79 W., Sec. 35-36, T. 137 N., R. 79 W., Sec. 8, T. 137 N., R. 79 W., Sec. 14-23, T. 137 N., R. 79 W., Sec. 26-36, T. 137 N., R. 80 W., Sec. 3-5, T. 137 N., R. 80 W., Sec. 8-11, T. 137 N., R. 80 W., Sec. 13-17, T. 137 N., R. 80 W., Sec. 22-26, T. 137 N., R. 80 W., Sec. 36, T. 138 N., R. 80 W., Sec. 5-7, T. 138 N., R. 80 W., Sec. 18-19, T. 138 N., R. 80 W., Sec. 28-34, T. 138 N., R. 81 W., Sec. 13, T. 138 N., R. 81 W., Sec. 24-25, T. 139 N., R. 80 W., Sec. 30-31, T. 139 N., R. 81 W., Sec. 3-4, T. 139 N., R. 81 W., Sec. 10-11, T. 139 N., R. 81 W., Sec. 14, T. 139 N., R. 81 W., Sec. 23-26, T. 140 N., R. 81 W., Sec. 5, T. 140 N., R. 81 W., Sec. 8-9, T. 140 N., R. 81 W., Sec. 16, T. 140 N., R. 81 W., Sec. 21, T. 140 N., R. 81 W., Sec. 27-28, T. 140 N., R. 81 W., Sec. 33, T. 141 N., R. 80 W., Sec. 7, T. 141 N., R. 80 W., Sec. 18, T. 141 N., R. 81 W., Sec. 1-3, T. 141 N., R. 81 W., Sec.

11-13, T. 141 N., R. 81 W., Sec. 24-27, T. 141 N., R. 81 W., Sec. 33-35, T. 142 N., R. 81 W., Sec. 4-5, T. 142 N., R. 81 W., Sec. 9-10, T. 142 N., R. 81 W., Sec. 15-16, T. 142 N., R. 81 W., Sec. 21-22, T. 142 N., R. 81 W., Sec. 27-28, T. 142 N., R. 81 W., Sec. 34-35, T. 143 N., R. 81 W., Sec. 5-8, T. 143 N., R. 81 W., Sec. 18-19, T. 143 N., R. 81 W., Sec. 29-33, T. 144 N., R. 81 W., Sec. 30-32, T. 144 N., R. 82 W., Sec. 14-18, T. 144 N., R. 82 W., Sec. 23-25, T. 144 N., R. 83 W., Sec. 13-14, T. 144 N., R. 83 W., Sec. 21-24, T. 144 N., R. 83 W., Sec. 27-34, T. 144 N., R. 84 W., Sec. 5-9, T. 144 N., R. 84 W., Sec. 14-17, T. 144 N., R. 84 W., Sec. 22-25, T. 145 N., R. 84 W., Sec. 5, T. 145 N., R. 84 W., Sec. 8-9, T. 145 N., R. 84 W., Sec. 15-16, T. 145 N., R. 84 W., Sec. 21-22, T. 145 N., R. 84 W., Sec. 27, T. 145 N., R. 84 W., Sec. 34-35, T. 146 N., R. 84 W., Sec. 4-7, T. 146 N., R. 84 W., Sec. 18-20, T. 146 N., R. 84 W., Sec. 29-30, T. 146 N., R. 84 W., Sec. 32, T. 146 N., R. 85 W., Sec. 12-13, T. 146 N., R. 85 W., Sec. 24, T. 146 N., R. 86 W., Sec. 3, T. 146 N., R. 86 W., Sec. 6-7, T. 146 N., R. 87 W., Sec. 1-10, T. 146 N., R. 87 W., Sec. 18, T. 146 N., R. 88 W., Sec. 1-14, T. 146 N., R. 88 W., Sec. 16-18, T. 146 N., R. 88 W., Sec. 20-21, T. 146 N., R. 88 W., Sec. 24, T. 146 N., R. 89 W., Sec. 1-2, T. 146 N., R. 89 W., Sec. 10-12, T. 147 N., R. 82 W., Sec. 2-6, T. 147 N., R. 82 W., Sec. 8-11, T. 147 N., R. 82 W., Sec. 15-18, T. 147 N., R. 83 W., Sec. 1-9, T. 147 N., R. 83 W., Sec. 16-20, T. 147 N., R. 84 W., Sec. 1-24, T. 147 N., R. 85 W., Sec. 26-35, T. 147 N., R. 85 W., Sec. 1-27, T. 147 N., R. 85 W., Sec. 29-31, T. 147 N., R. 85 W., Sec. 34-36, T. 147 N., R. 86 W., Sec. 7, T. 147 N., R. 86 W., Sec. 9-36, T. 147 N., R. 87 W., Sec. 7-36, T. 147 N., R. 88 W., Sec. 6-11, T. 147 N., R. 88 W., Sec. 13-36, T. 147 N., R. 89 W., Sec. 1-29, T. 147 N., R. 89 W., Sec. 34-36, T. 147 N., R. 90 W., Sec. 1-18, T. 147 N., R. 90 W., Sec. 20, T. 147 N., R. 90 W., Sec. 23-27, T. 147 N., R. 91 W., Sec. 1-7, T. 147 N., R. 91 W., Sec. 11-12, T. 147 N., R. 92 W., Sec. 1-9, T. 147 N., R. 92 W., Sec. 12-13, T. 147 N., R. 92 W., Sec. 16-20, T. 147 N., R. 92 W., Sec. 29-30, T. 147 N., R. 92 W., Sec. 32, T. 147 N., R. 93 W., Sec. 1-2, T. 147 N., R. 93 W., Sec. 12-13, T. 148 N., R. 82 W., Sec. 17-20, T. 148 N., R. 82 W., Sec. 28-34, T. 148 N., R. 83 W., Sec. 11-15, T. 148 N., R. 83 W., Sec. 19-36, T. 148 N., R. 84 W., Sec. 18-19, T. 148 N., R. 84 W., Sec. 22-27, T. 148 N., R. 84 W., Sec. 29-36, T. 148 N., R. 85 W., Sec. 19-20, T. 148 N., R. 85 W., Sec. 24-25, T. 148 N., R. 85 W., Sec. 27, T. 148 N., R. 85 W., Sec. 29-36, T. 148 N., R. 86 W., Sec. 23-

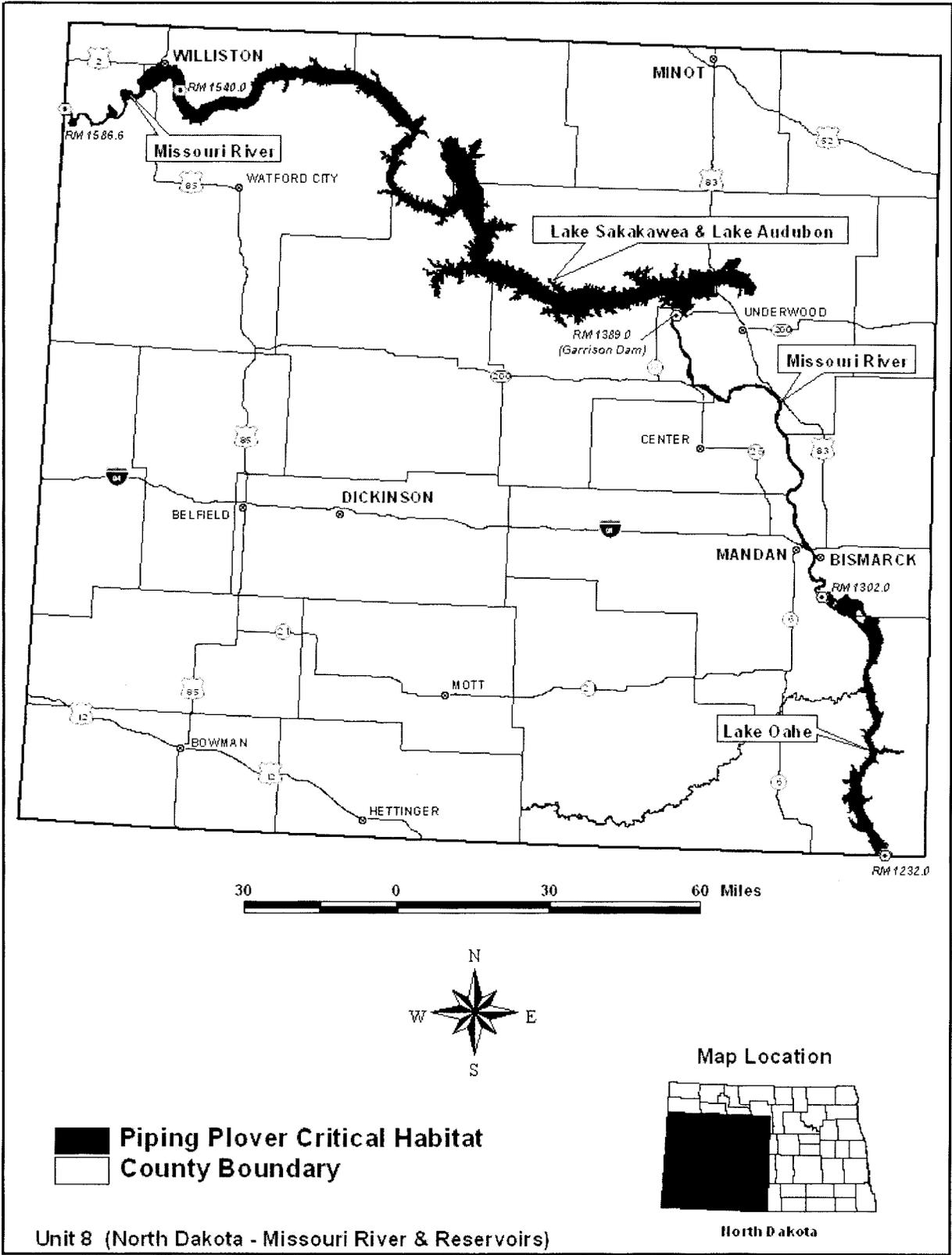
28, T. 148 N., R. 86 W., Sec. 33-36, T. 148 N., R. 89 W., Sec. 30-32, T. 148 N., R. 90 W., Sec. 6, T. 148 N., R. 90 W., Sec. 19-21, T. 148 N., R. 90 W., Sec. 25-36, T. 148 N., R. 91 W., Sec. 1-12, T. 148 N., R. 91 W., Sec. 14-17, T. 148 N., R. 91 W., Sec. 19-36, T. 148 N., R. 92 W., Sec. 13, T. 148 N., R. 92 W., Sec. 20-22, T. 148 N., R. 92 W., Sec. 24-36, T. 148 N., R. 93 W., Sec. 24-25, T. 148 N., R. 93 W., Sec. 35-36, T. 149 N., R. 89 W., Sec. 7, T. 149 N., R. 89 W., Sec. 18, T. 149 N., R. 90 W., Sec. 3-24, T. 149 N., R. 90 W., Sec. 27-33, T. 149 N., R. 91 W., Sec. 1-4, T. 149 N., R. 91 W., Sec. 6, T. 149 N., R. 91 W., Sec. 9-15, T. 149 N., R. 91 W., Sec. 23-26, T. 149 N., R. 91 W., Sec. 34-36, T. 149 N., R. 92 W., Sec. 1-6, T. 149 N., R. 92 W., Sec. 10-12, T. 149 N., R. 92 W., Sec. 14-16, T. 149 N., R. 93 W., Sec. 1-2, T. 150 N., R. 90 W., Sec. 18-19, T. 150 N., R. 90 W., Sec. 29-31, T. 150 N., R. 91 W., Sec. 1-36, T. 150 N., R. 92 W., Sec. 13-14, T. 150 N., R. 92 W., Sec. 19-20, T. 150 N., R. 92 W., Sec. 23-36, T. 150 N., R. 93 W., Sec. 6-9, T. 150 N., R. 93 W., Sec. 13-36, T. 150 N., R. 94 W., Sec. 1-2, T. 150 N., R. 94 W., Sec. 12-15, T. 150 N., R. 94 W., Sec. 22, T. 150 N., R. 94 W., Sec. 24, T. 151 N., R. 91 W., Sec. 1-11, T. 151 N., R. 91 W., Sec. 14-23, T. 151 N., R. 91 W., Sec. 26-35, T. 151 N., R. 92 W., Sec. 1-3, T. 151 N., R. 92 W., Sec. 10-14, T. 151 N., R. 92 W., Sec. 23-26, T. 151 N., R. 92 W., Sec. 36, T. 151 N., R. 93 W., Sec. 5-8, T. 151 N., R. 93 W., Sec. 16-21, T. 151 N., R. 93 W., Sec. 30-31, T. 151 N., R. 94 W., Sec. 1-3, T. 151 N., R. 94 W., Sec. 10-15, T. 151 N., R. 94 W., Sec. 24-26, T. 151 N., R. 94 W., Sec. 35-36, T. 152 N., R. 91 W., Sec. 19, T. 152 N., R. 91 W., Sec. 22-28, T. 152 N., R. 91 W., Sec. 30-35, T. 152 N., R. 92 W., Sec. 18-19, T. 152 N., R. 92 W., Sec. 21-28, T. 152 N., R. 92 W., Sec. 34-36, T. 152 N., R. 93 W., Sec. 1-16, T. 152 N., R. 93 W., Sec. 20-23, T. 152 N., R. 93 W., Sec. 27-34, T. 152 N., R. 94 W., Sec. 1, T. 152 N., R. 94 W., Sec. 36, T. 152 N., R. 99 W., Sec. 2-6, T. 152 N., R. 100 W., Sec. 1-12, T. 152 N., R. 100 W., Sec. 14-18, T. 152 N., R. 100 W., Sec. 20, T. 152 N., R. 100 W., Sec. 22, T. 152 N., R. 101 W., Sec. 1-2, T. 152 N., R. 101 W., Sec. 12-13, T. 152 N., R. 102 W., Sec. 6-7, T. 152 N., R. 103 W., Sec. 3-4, T. 152 N., R. 103 W., Sec. 9-16, T. 152 N., R. 103 W., Sec. 20-23, T. 152 N., R. 103 W., Sec. 28-30, T. 152 N., R. 104 W., Sec. 7-8, T. 152 N., R. 104 W., Sec. 13-15, T. 152 N., R. 104 W., Sec. 17-18, T. 152 N., R. 104 W., Sec. 20-25, T. 152 N., R. 104 W., Sec. 28-29, T. 152 N., R. 104 W., Sec. 32-33, T. 153 N., R. 92 W., Sec. 31-33, T. 153 N., R. 93 W., Sec. 5-9, T. 153 N., R. 93 W., Sec. 15-23, T. 153 N., R.

93 W., Sec. 26–30, T. 153 N., R. 93 W., Sec. 32–36, T. 153 N., R. 94 W., Sec. 1–14, T. 153 N., R. 94 W., Sec. 16, T. 153 N., R. 94 W., Sec. 24, T. 153 N., R. 95 W., Sec. 5–6, T. 153 N., R. 96 W., Sec. 1, T. 153 N., R. 96 W., Sec. 4–5, T. 153 N., R. 97 W., Sec. 1–2, T. 153 N., R. 97 W., Sec. 4–7, T. 153 N., R. 97 W., Sec. 11, T. 153 N., R. 98 W., Sec. 1–3, T. 153 N., R. 98 W., Sec. 11–15, T. 153 N., R. 98 W., Sec. 19–35, T. 153 N., R. 99 W., Sec. 22–29, T. 153 N., R. 99 W., Sec. 31–36, T. 153 N., R. 100 W., Sec. 4–9, T.

153 N., R. 100 W., Sec. 16–21, T. 153 N., R. 100 W., Sec. 27–30, T. 153 N., R. 100 W., Sec. 32–35, T. 153 N., R. 101 W., Sec. 1–11, T. 153 N., R. 101 W., Sec. 15–20, T. 153 N., R. 101 W., Sec. 30, T. 153 N., R. 102 W., Sec. 1, T. 153 N., R. 102 W., Sec. 12–13, T. 153 N., R. 102 W., Sec. 21–28, T. 153 N., R. 102 W., Sec. 33–36, T. 154 N., R. 93 W., Sec. 31, T. 154 N., R. 94 W., Sec. 15, T. 154 N., R. 94 W., Sec. 19–23, T. 154 N., R. 94 W., Sec. 25–36, T. 154 N., R. 95 W., Sec. 11, T. 154 N., R. 95 W., Sec. 13–14, T.

154 N., R. 95 W., Sec. 17–36, T. 154 N., R. 96 W., Sec. 2–3, T. 154 N., R. 96 W., Sec. 10–11, T. 154 N., R. 96 W., Sec. 13–16, T. 154 N., R. 96 W., Sec. 18–36, T. 154 N., R. 97 W., Sec. 13–16, T. 154 N., R. 97 W., Sec. 19–36, T. 154 N., R. 98 W., Sec. 25, T. 154 N., R. 98 W., Sec. 35–36, T. 154 N., R. 100 W., Sec. 19, T. 154 N., R. 100 W., Sec. 29–33, T. 154 N., R. 101 W., Sec. 22–29, T. 154 N., R. 101 W., Sec. 31–36.

**BILLING CODE 4310–55–P**



## South Dakota

Projection: UTM Zone 14, NAD 27,  
Clarke 1866

## Unit SD-1: Missouri River

This unit consists of the following  
Township, Range, and Sections:

T. 6 N., R. 29 E., Sec. 1-6, T. 6 N., R. 29 E., Sec. 8-11, T. 6 N., R. 29 E., Sec. 14-16, T. 6 N., R. 29 E., Sec. 21-23, T. 6 N., R. 29 E., Sec. 25-27, T. 6 N., R. 29 E., Sec. 35-36, T. 6 N., R. 30 E., Sec. 22-34, T. 6 N., R. 31 E., Sec. 19, T. 7 N., R. 28 E., Sec. 1, T. 7 N., R. 28 E., Sec. 12-13, T. 7 N., R. 28 E., Sec. 36, T. 7 N., R. 29 E., Sec. 5-9, T. 7 N., R. 29 E., Sec. 15-17, T. 7 N., R. 29 E., Sec. 20-28, T. 7 N., R. 29 E., Sec. 31-32, T. 7 N., R. 29 E., Sec. 34-36, T. 7 N., R. 29 E., Sec. \*\*, T. 7 N., R. 30 E., Sec. 19-20, T. 7 N., R. 30 E., Sec. 29-32, T. 8 N., R. 23 E., Sec. 1, T. 8 N., R. 24 E., Sec. 4-6, T. 8 N., R. 26 E., Sec. 4, T. 8 N., R. 28 E., Sec. 1, T. 8 N., R. 28 E., Sec. 11-14, T. 8 N., R. 28 E., Sec. 23-25, T. 8 N., R. 29 E., Sec. 4-9, T. 8 N., R. 29 E., Sec. 16-20, T. 8 N., R. 29 E., Sec. 29-31, T. 9 N., R. 23 E., Sec. 36, T. 9 N., R. 24 E., Sec. 12-15, T. 9 N., R. 24 E., Sec. 22-28, T. 9 N., R. 24 E., Sec. 31-34, T. 9 N., R. 25 E., Sec. 1-2, T. 9 N., R. 25 E., Sec. 7-18, T. 9 N., R. 25 E., Sec. 20-25, T. 9 N., R. 25 E., Sec. 27, T. 9 N., R. 26 E., Sec. 1-9, T. 9 N., R. 26 E., Sec. 10-23, T. 9 N., R. 26 E., Sec. 26, T. 9 N., R. 26 E., Sec. 28-30, T. 9 N., R. 26 E., Sec. 32-33, T. 9 N., R. 27 E., Sec. 1-12, T. 9 N., R. 28 E., Sec. 3-9, T. 9 N., R. 28 E., Sec. 13-20, T. 9 N., R. 28 E., Sec. 22-26, T. 9 N., R. 28 E., Sec. 35-36, T. 9 N., R. 29 E., Sec. 1-4, T. 9 N., R. 29 E., Sec. 18-20, T. 9 N., R. 29 E., Sec. 29-32, T. 9 N., R. 30 E., Sec. 6, T. 10 N., R. 26 E., Sec. 10, T. 10 N., R. 26 E., Sec. 13, T. 10 N., R. 26 E., Sec. 15-16, T. 10 N., R. 26 E., Sec. 19-20, T. 10 N., R. 26 E., Sec. 22-29, T. 10 N., R. 26 E., Sec. 32-36, T. 10 N., R. 27 E., Sec. 9, T. 10 N., R. 27 E., Sec. 15-16, T. 10 N., R. 27 E., Sec. 21-36, T. 10 N., R. 28 E., Sec. 1-6, T. 10 N., R. 28 E., Sec. 8-17, T. 10 N., R. 28 E., Sec. 19-21, T. 10 N., R. 28 E., Sec. 24, T. 10 N., R. 28 E., Sec. 29-33, T. 10 N., R. 29 E., Sec. 1, T. 10 N., R. 29 E., Sec. 4-9, T. 10 N., R. 29 E., Sec. 12-13, T. 10 N., R. 29 E., Sec. 16-22, T. 10 N., R. 29 E., Sec. 24-25, T. 10 N., R. 29 E., Sec. 27-30, T. 10 N., R. 29 E., Sec. 32-36, T. 10 N., R. 30 E., Sec. 1-12, T. 10 N., R. 30 E., Sec. 14-19, T. 10 N., R. 30 E., Sec. 20, T. 10 N., R. 30 E., Sec. 29, T. 10 N., R. 30 E., Sec. 30-31, T. 10 N., R. 31 E., Sec. 6, T. 11 N., R. 27 E., Sec. 36, T. 11 N., R. 28 E., Sec. 25, T. 11 N., R. 28 E., Sec. 27-36, T. 11 N., R. 29 E., Sec. 24-26, T. 11 N., R. 29 E., Sec. 31, T. 11 N., R. 29 E., Sec. 36, T. 11 N., R. 30 E., Sec. 1-2, T. 11 N., R. 30 E., Sec. 11-14, T. 11 N., R. 30 E., Sec. 23-26, T. 11 N., R.

30 E., Sec. 31-33, T. 11 N., R. 30 E., Sec. 35-36, T. 11 N., R. 31 E., Sec. 30-31, T. 12 N., R. 30 E., Sec. 1-4, T. 12 N., R. 30 E., Sec. 10-14, T. 12 N., R. 30 E., Sec. 22-28, T. 12 N., R. 30 E., Sec. 34-36, T. 12 N., R. 31 E., Sec. 1-7, T. 12 N., R. 31 E., Sec. 10-12, T. 13 N., R. 30 E., Sec. 1, T. 13 N., R. 30 E., Sec. 31-34, T. 13 N., R. 30 E., Sec. 36, T. 13 N., R. 31 E., Sec. 3-10, T. 13 N., R. 31 E., Sec. 16-17, T. 13 N., R. 31 E., Sec. 20-21, T. 13 N., R. 31 E., Sec. 27-28, T. 13 N., R. 31 E., Sec. 30-35, T. 14 N., R. 30 E., Sec. 36, T. 14 N., R. 31 E., Sec. 1-5, T. 14 N., R. 31 E., Sec. 9-11, T. 14 N., R. 31 E., Sec. 14-15, T. 14 N., R. 31 E., Sec. 22-23, T. 14 N., R. 31 E., Sec. 26-28, T. 14 N., R. 31 E., Sec. 31-35, T. 15 N., R. 30 E., Sec. 1, T. 15 N., R. 31 E., Sec. 4-6, T. 15 N., R. 31 E., Sec. 10-11, T. 15 N., R. 31 E., Sec. 13-15, T. 15 N., R. 31 E., Sec. 23-27, T. 15 N., R. 31 E., Sec. 32-33, T. 15 N., R. 31 E., Sec. 35-36, T. 16 N., R. 28 E., Sec. 13-14, T. 16 N., R. 28 E., Sec. 21-24, T. 16 N., R. 28 E., Sec. 26-28, T. 16 N., R. 29 E., Sec. 1-3, T. 16 N., R. 29 E., Sec. 7-22, T. 16 N., R. 29 E., Sec. 24, T. 16 N., R. 29 E., Sec. 29-30, T. 16 N., R. 30 E., Sec. 1-13, T. 16 N., R. 30 E., Sec. 16-18, T. 16 N., R. 30 E., Sec. 36, T. 16 N., R. 31 E., Sec. 1-2, T. 16 N., R. 31 E., Sec. 6-8, T. 16 N., R. 31 E., Sec. 10-11, T. 16 N., R. 31 E., Sec. 14-19, T. 16 N., R. 31 E., Sec. 20-22, T. 16 N., R. 31 E., Sec. 27-34, T. 17 N., R. 29 E., Sec. 36, T. 17 N., R. 30 E., Sec. 1, T. 17 N., R. 30 E., Sec. 28, T. 17 N., R. 30 E., Sec. 31, T. 17 N., R. 30 E., Sec. 33-34, T. 17 N., R. 31 E., Sec. 6-8, T. 17 N., R. 31 E., Sec. 16-18, T. 17 N., R. 31 E., Sec. 20-21, T. 17 N., R. 31 E., Sec. 27-28, T. 17 N., R. 31 E., Sec. 33-34, T. 18 N., R. 29 E., Sec. 1-2, T. 18 N., R. 29 E., Sec. 12-13, T. 18 N., R. 30 E., Sec. 18-27, T. 18 N., R. 30 E., Sec. 35-36, T. 18 N., R. 31 E., Sec. 31, T. 19 N., R. 28 E., Sec. 2-6, T. 19 N., R. 29 E., Sec. 1-18, T. 19 N., R. 29 E., Sec. 20-26, T. 19 N., R. 29 E., Sec. 34-36, T. 19 N., R. 30 E., Sec. 4, T. 19 N., R. 30 E., Sec. 7-9, T. 19 N., R. 30 E., Sec. 16-21, T. 19 N., R. 30 E., Sec. 28-32, T. 20 N., R. 27 E., Sec. 25, T. 20 N., R. 27 E., Sec. 36, T. 20 N., R. 28 E., Sec. 24-27, T. 20 N., R. 28 E., Sec. 30-36, T. 20 N., R. 29 E., Sec. 19, T. 20 N., R. 29 E., Sec. 29-32, T. 20 N., R. 29 E., Sec. 34, T. 20 N., R. 30 E., Sec. 22, T. 20 N., R. 30 E., Sec. 24-27, T. 20 N., R. 30 E., Sec. 32-34, T. 20 N., R. 30 E., Sec. 36, T. 20 N., R. 31 E., Sec. 4-6, T. 20 N., R. 31 E., Sec. 8-9, T. 20 N., R. 31 E., Sec. 16, T. 20 N., R. 31 E., Sec. 19-21, T. 20 N., R. 31 E., Sec. 28-32, T. 21 N., R. 30 E., Sec. 2-4, T. 21 N., R. 30 E., Sec. 10-11, T. 21 N., R. 30 E., Sec. 14, T. 21 N., R. 30 E., Sec. 23-26, T. 21 N., R. 30 E., Sec. 36, T. 21 N., R. 31 E., Sec. 31, T. 22 N., R.

29 E., Sec. 1-2, T. 22 N., R. 29 E., Sec. 11-12, T. 22 N., R. 30 E., Sec. 5-8, T. 22 N., R. 30 E., Sec. 14-17, T. 22 N., R. 30 E., Sec. 21-23, T. 22 N., R. 30 E., Sec. 27-28, T. 22 N., R. 30 E., Sec. 33-34, T. 22 N., R. 30 E., Sec. \*\*, T. 23 N., R. 29 E., Sec. 20-22, T. 23 N., R. 29 E., Sec. 27-28, T. 23 N., R. 29 E., Sec. 33-36, T. 23 N., R. 29 E., Sec. \*\*, T. 23 N., R. 30 E., Sec. 29-32, T. 107 N., R. 71 W., Sec. 30-32, T. 111 N., R. 80 W., Sec. 1-3, T. 111 N., R. 80 W., Sec. 6, T. 111 N., R. 81 W., Sec. 1-4, T. 112 N., R. 79 W., Sec. 31, T. 112 N., R. 80 W., Sec. 4-9, T. 112 N., R. 80 W., Sec. 17-18, T. 112 N., R. 80 W., Sec. 23, T. 112 N., R. 80 W., Sec. 25-36, T. 112 N., R. 81 W., Sec. 1, T. 112 N., R. 81 W., Sec. 12-15, T. 112 N., R. 81 W., Sec. 22-28, T. 112 N., R. 81 W., Sec. 33-36, T. 113 N., R. 80 W., Sec. 3-4, T. 113 N., R. 80 W., Sec. 9-10, T. 113 N., R. 80 W., Sec. 16-21, T. 113 N., R. 80 W., Sec. 28-34, T. 113 N., R. 80 W., Sec. 4, T. 113 N., R. 80 W., Sec. 9, T. 113 N., R. 81 W., Sec. 5-8, T. 113 N., R. 81 W., Sec. 13, T. 113 N., R. 81 W., Sec. 15-17, T. 113 N., R. 81 W., Sec. 20-29, T. 113 N., R. 81 W., Sec. 34-36, T. 114 N., R. 80 W., Sec. 33-34, T. 114 N., R. 81 W., Sec. 4-5, T. 114 N., R. 81 W., Sec. 9-10, T. 114 N., R. 81 W., Sec. 16-17, T. 114 N., R. 81 W., Sec. 20-21, T. 114 N., R. 81 W., Sec. 27-29, T. 114 N., R. 81 W., Sec. 31-33, T. 115 N., R. 80 W., Sec. 2-5, T. 115 N., R. 80 W., Sec. 7-10, T. 115 N., R. 80 W., Sec. 16-20, T. 115 N., R. 81 W., Sec. 6-7, T. 115 N., R. 81 W., Sec. 16-21, T. 115 N., R. 81 W., Sec. 25-30, T. 115 N., R. 81 W., Sec. 32-33, T. 115 N., R. 81 W., Sec. 35-36, T. 115 N., R. 82 W., Sec. 1-4, T. 115 N., R. 82 W., Sec. 9-16, T. 115 N., R. 82 W., Sec. 22-25, T. 116 N., R. 79 W., Sec. 4-9, T. 116 N., R. 79 W., Sec. 17-20, T. 116 N., R. 80 W., Sec. 24-27, T. 116 N., R. 80 W., Sec. 33-35, T. 116 N., R. 82 W., Sec. 33-36, T. 117 N., R. 79 W., Sec. 5-8, T. 117 N., R. 79 W., Sec. 17-18, T. 117 N., R. 79 W., Sec. 20, T. 117 N., R. 79 W., Sec. 29, T. 117 N., R. 79 W., Sec. 32-33, T. 117 N., R. 79 W., Sec. \*\*, T. 118 N., R. 78 W., Sec. 3-10, T. 118 N., R. 78 W., Sec. 16-18, T. 118 N., R. 78 W., Sec. 20-21, T. 118 N., R. 78 W., Sec. 29-30, T. 118 N., R. 79 W., Sec. 1, T. 118 N., R. 79 W., Sec. 12, T. 118 N., R. 79 W., Sec. 20-32, T. 119 N., R. 79 W., Sec. 3-5, T. 119 N., R. 78 W., Sec. 7-9, T. 119 N., R. 78 W., Sec. 17-20, T. 119 N., R. 78 W., Sec. 30-31, T. 119 N., R. 79 W., Sec. 24-25, T. 119 N., R. 79 W., Sec. 36, T. 120 N., R. 78 W., Sec. 2-4, T. 120 N., R. 78 W., Sec. 9-11, T. 120 N., R. 78 W., Sec. 15-17, T. 120 N., R. 78 W., Sec. 20-22, T. 120 N., R. 78 W., Sec. 27-29, T. 120 N., R. 78 W., Sec. 32-34, T. 120 N., R. 78 W., Sec. \*\*, T. 121 N., R. 78 W., Sec. 3-11, T. 121 N.,

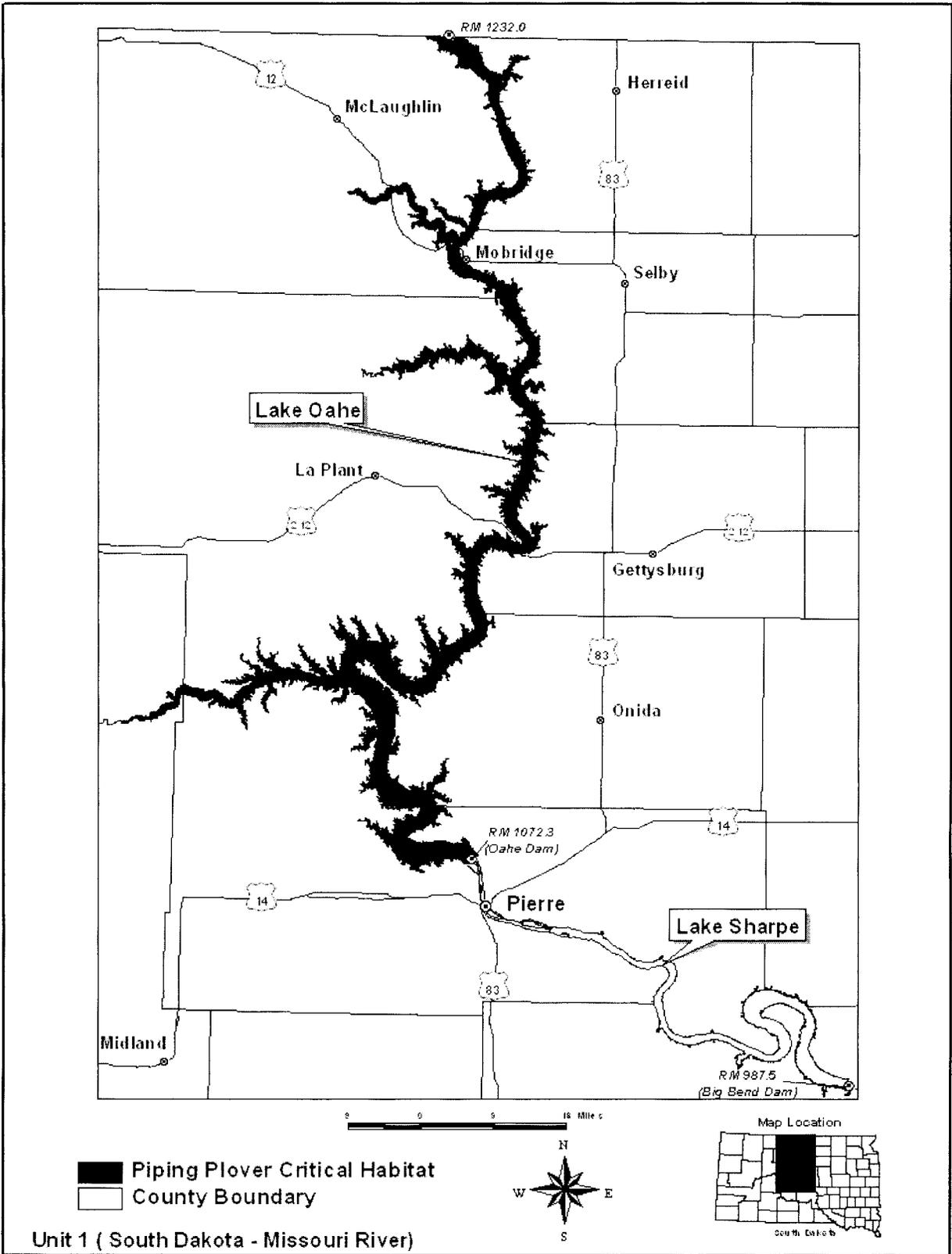
R. 78 W., Sec. 15-18, T. 121 N., R. 78 W., Sec. 20-22, T. 121 N., R. 78 W., Sec. 26-28, T. 121 N., R. 78 W., Sec. 34-35, T. 122 N., R. 78 W., Sec. 3-5, T. 122 N., R. 78 W., Sec. 9, T. 122 N., R. 78 W., Sec. 15-16, T. 122 N., R. 78 W., Sec. 21-22, T. 122 N., R. 78 W., Sec. 27-28, T. 122 N., R. 78 W., Sec. 32-34, T. 123 N., R. 78 W., Sec. 6-8, T. 123 N., R. 78 W., Sec. 18-20, T. 123 N., R. 78 W., Sec. 29-33, T. 123 N., R. 79 W., Sec. 1-3, T. 123 N., R. 79 W., Sec. 11-13, T. 123 N., R. 79 W., Sec. 24-25, T. 124 N., R. 78 W., Sec. 31, T. 124 N., R. 79 W., Sec. 5-7, T. 124 N., R. 79 W., Sec. 18, T. 124 N., R. 79 W., Sec. 29-34, T. 124 N., R. 80 W., Sec. 12-14, T. 124 N., R. 80 W., Sec.

23-26, T. 124 N., R. 80 W., Sec. 35-36, T. 125 N., R. 78 W., Sec. 4-5, T. 125 N., R. 78 W., Sec. 7-8, T. 125 N., R. 79 W., Sec. 9-17, T. 125 N., R. 79 W., Sec. 20-22, T. 125 N., R. 79 W., Sec. 27-29, T. 125 N., R. 79 W., Sec. 32-33, T. 125 N., R. 79 W., Sec. \*\*, T. 126 N., R. 78 W., Sec. 5-8, T. 126 N., R. 78 W., Sec. 17-18, T. 126 N., R. 78 W., Sec. 20-21, T. 126 N., R. 78 W., Sec. 27-29, T. 126 N., R. 78 W., Sec. 32-33, T. 126 N., R. 79 W., Sec. 1, T. 126 N., R. 79 W., Sec. 12, T. 127 N., R. 78 W., Sec. 31, T. 127 N., R. 79 W., Sec. 1-2, T. 127 N., R. 79 W., Sec. 11, T. 127 N., R. 79 W., Sec. 14, T. 127 N., R. 79 W., Sec. 23-26, T. 127 N., R. 79 W., Sec. 36, T. 128 N., R. 78 W.,

Sec. 16-19, T. 128 N., R. 78 W., Sec. 29-31, T. 128 N., R. 79 W., Sec. 5-9, T. 128 N., R. 79 W., Sec. 13, T. 128 N., R. 79 W., Sec. 16-17, T. 128 N., R. 79 W., Sec. 20-22, T. 128 N., R. 79 W., Sec. 24-29, T. 128 N., R. 79 W., Sec. 35-36, T. 128 N., R. 80 W., Sec. 1-3, T. 128 N., R. 80 W., Sec. 10-12.

\*\* Undefined. These are "lands" which were not surveyed during the original Government Land Office survey of South Dakota. They are now inundated and appear to fall in what was the described river channel at that time.

**BILLING CODE 4310-55-P**



## Unit SD-2: Missouri River

This unit consists of the following Township, Range, and Sections:

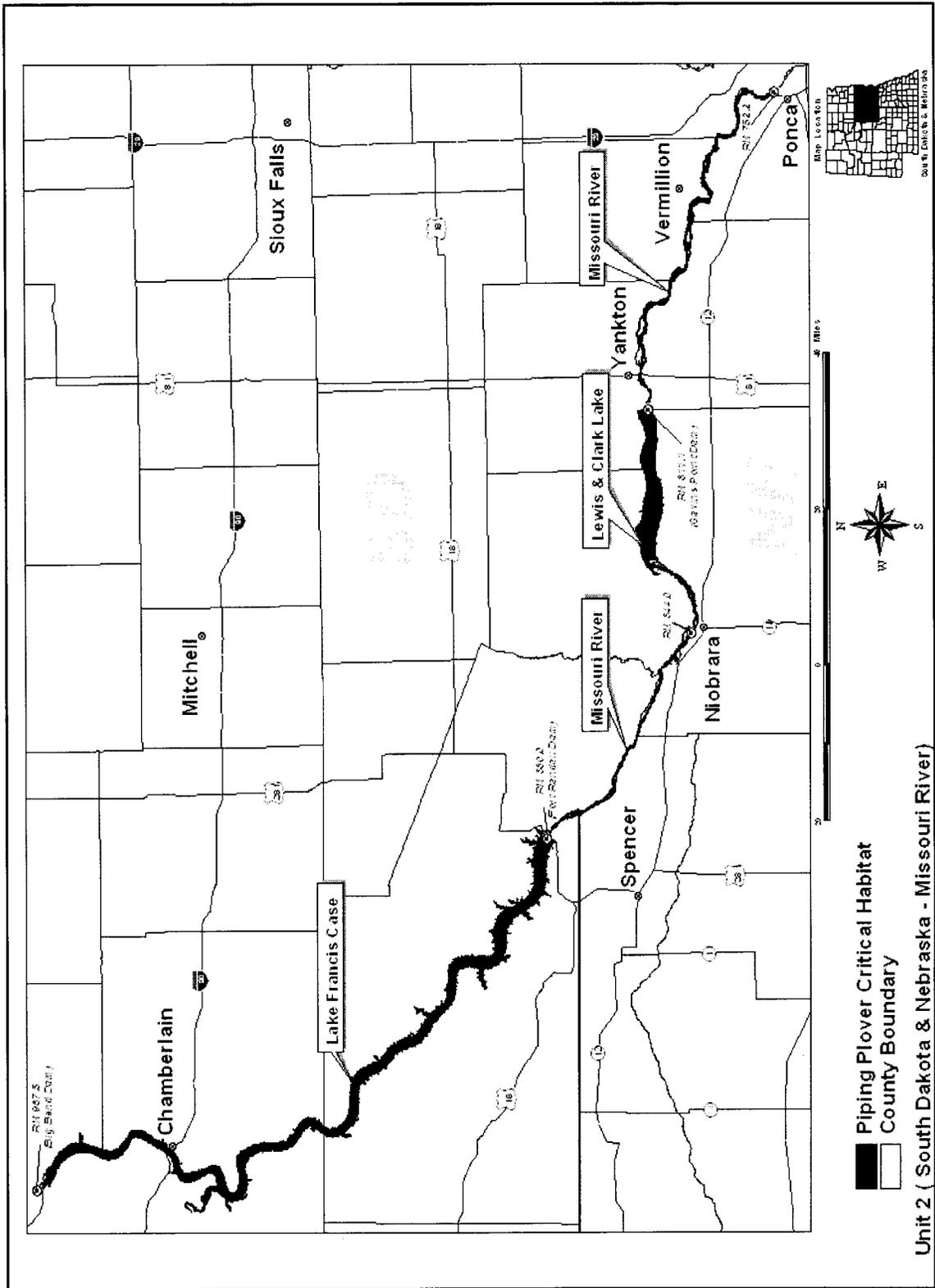
T. 90 N., R. 49 W., Sec. 6, T. 90 N., R. 50 W., Sec. 1, T. 90 N., R. 50 W., Sec. 11-14, T. 90 N., R. 50 W., Sec. 23-25, T. 91 N., R. 49 W., Sec. 31, T. 91 N., R. 50 W., Sec. 7, T. 91 N., R. 50 W., Sec. 18-19, T. 91 N., R. 50 W., Sec. 25-26, T. 91 N., R. 50 W., Sec. 28-30, T. 91 N., R. 50 W., Sec. 35-36, T. 91 N., R. 50 W., Sec. \*\*, T. 91 N., R. 51 W., Sec. 3-6, T. 91 N., R. 51 W., Sec. 10-13, T. 91 N., R. 52 W., Sec. 1-3, T. 91 N., R. 52 W., Sec. 10-12, T. 92 N., R. 51 W., Sec. 31-32, T. 92 N., R. 52 W., Sec. 19-21, T. 92 N., R. 52 W., Sec. 26-30, T. 92 N., R. 52 W., Sec. 34-36, T. 92 N., R. 53 W., Sec. 7-8, T. 92 N., R. 53 W., Sec. 17-18, T. 92 N., R. 53 W., Sec. 20-24, T. 92 N., R. 54 W., Sec. 3, T. 92 N., R. 54 W., Sec. 10-12, T. 92 N., R. 60 W., Sec. 1-2, T. 92 N., R. 60 W., Sec. 10-11, T. 92 N., R. 60 W., Sec. 15-17, T. 92 N., R. 60 W., Sec. 19-21, T. 92 N., R. 61 W., Sec. 6-8, T. 92 N., R. 61 W., Sec. 15-17, T. 92 N., R. 61 W., Sec. 21-24, T. 92 N., R. 62 W., Sec. 1-2, T. 93 N., R. 54 W., Sec. 18-21, T. 93 N., R. 54 W., Sec. 27-28, T. 93 N., R. 54 W., Sec. 34, T. 93 N., R. 55 W., Sec. 13-14, T. 93 N., R. 55 W., Sec. 17-19, T. 93 N., R. 55 W., Sec. 23-24, T. 93 N., R. 56 W., Sec. 13-14, T. 93 N., R. 56 W., Sec. 17-21, T. 93 N., R. 56 W., Sec. 23-24, T. 93 N., R. 56 W., Sec. 26-28, T. 93 N., R. 57 W., Sec. 16-24, T. 93 N., R. 57 W., Sec. 28-29, T. 93 N., R. 58 W., Sec. 17-28, T. 93 N., R. 58 W., Sec. 30, T. 93 N., R. 58 W., Sec. 34-35, T. 93 N., R. 59 W., Sec. 10-11, T. 93 N., R. 59 W., Sec. 13-19, T. 93 N., R. 59 W., Sec. 21-27, T. 93 N., R. 60 W., Sec. 24-26, T. 93 N., R. 60 W., Sec. 35-36, T. 93 N., R. 62 W., Sec. 19-20, T. 93 N., R. 62 W., Sec. 26-30, T. 93 N., R. 62 W., Sec. 35-36, T. 93 N., R. 63 W., Sec. 6-10, T. 93 N., R. 63 W., Sec. 15, T. 93 N., R. 64 W., Sec. 1, T. 94 N., R. 64 W., Sec. 19-20, T. 94 N., R. 64 W., Sec. 27-30, T. 94 N., R. 64 W., Sec. 34-36, T. 94 N., R. 65 W., Sec. 2, T. 94 N., R. 65 W., Sec. 11-13, T. 94 N., R. 65 W., Sec. 24, T. 95 N., R. 65 W., Sec. 15-18, T. 95 N., R. 65 W., Sec. 4-9, T. 95 N., R. 65 W., Sec. 21-23, T. 95 N., R. 65 W., Sec. 26-27, T. 95 N., R. 65 W., Sec. 34-35, T. 95 N., R. 66 W., Sec. 1-13, T. 95 N., R. 67 W., Sec. 1-2, T. 95 N., R. 67 W., Sec. 12-13, T. 96 N., R. 65 W., Sec. 29-31, T. 96 N., R. 66 W., Sec. 26-27, T. 96 N., R. 66 W., Sec. 31-36, T. 96 N., R. 67 W., Sec. 1-11, T. 96

N., R. 67 W., Sec. 13-18, T. 96 N., R. 67 W., Sec. 21-28, T. 96 N., R. 67 W., Sec. 33-36, T. 96 N., R. 68 W., Sec. 1-4, T. 96 N., R. 68 W., Sec. 10-15, T. 97 N., R. 67 W., Sec. 32, T. 97 N., R. 68 W., Sec. 3-11, T. 97 N., R. 68 W., Sec. 14-16, T. 97 N., R. 68 W., Sec. 21-23, T. 97 N., R. 68 W., Sec. 26-35, T. 97 N., R. 69 W., Sec. 1-3, T. 97 N., R. 69 W., Sec. 12, T. 97 N., R. 69 W., Sec. 25, T. 97 N., R. 69 W., Sec. 36, T. 98 N., R. 68 W., Sec. 31-33, T. 98 N., R. 69 W., Sec. 6-7, T. 98 N., R. 69 W., Sec. 9-10, T. 98 N., R. 69 W., Sec. 15-22, T. 98 N., R. 69 W., Sec. 27-29, T. 98 N., R. 69 W., Sec. 33-36, T. 98 N., R. 70 W., Sec. 1-2, T. 98 N., R. 70 W., Sec. 11-13, T. 98 N., R. 70 W., Sec. 24, T. 99 N., R. 70 W., Sec. 4-10, T. 99 N., R. 70 W., Sec. 15-17, T. 99 N., R. 70 W., Sec. 20-23, T. 99 N., R. 70 W., Sec. 25-28, T. 99 N., R. 70 W., Sec. 34-36, T. 99 N., R. 71 W., Sec. 1, T. 100 N., R. 70 W., Sec. 30-32, T. 100 N., R. 71 W., Sec. 7, T. 100 N., R. 71 W., Sec. 18-20, T. 100 N., R. 71 W., Sec. 25-36, T. 100 N., R. 72 W., Sec. 12-14, T. 100 N., R. 72 W., Sec. 23-26, T. 101 N., R. 70 W., Sec. 19, T. 101 N., R. 70 W., Sec. 30, T. 101 N., R. 71 W., Sec. 3-5, T. 101 N., R. 71 W., Sec. 8-9, T. 101 N., R. 71 W., Sec. 10-11, T. 101 N., R. 71 W., Sec. 13-16, T. 101 N., R. 71 W., Sec. 22-26, T. 101 N., R. 71 W., Sec. 34-36, T. 102 N., R. 71 W., Sec. 5-9, T. 102 N., R. 71 W., Sec. 16-18, T. 102 N., R. 71 W., Sec. 20-22, T. 102 N., R. 71 W., Sec. 28-29, T. 102 N., R. 71 W., Sec. 32-34, T. 102 N., R. 72 W., Sec. 1-5, T. 102 N., R. 72 W., Sec. 8-12, T. 102 N., R. 72 W., Sec. 15, T. 103 N., R. 71 W., Sec. 18-19, T. 103 N., R. 72 W., Sec. 1-3, T. 103 N., R. 72 W., Sec. 6-9, T. 103 N., R. 72 W., Sec. 11-18, T. 103 N., R. 72 W., Sec. 21-29, T. 103 N., R. 72 W., Sec. 30-34, T. 103 N., R. 73 W., Sec. 1, T. 103 N., R. 73 W., Sec. 12, T. 103 N., R. 73 W., Sec. 36, T. 104 N., R. 71 W., Sec. 2-4, T. 104 N., R. 71 W., Sec. 8-10, T. 104 N., R. 71 W., Sec. 15-17, T. 104 N., R. 71 W., Sec. 19-21, T. 104 N., R. 71 W., Sec. 29-30, T. 104 N., R. 72 W., Sec. 14, T. 104 N., R. 72 W., Sec. 23-27, T. 104 N., R. 72 W., Sec. 31-32, T. 104 N., R. 72 W., Sec. 34-36, T. 104 N., R. 73 W., Sec. 36, T. 105 N., R. 71 W., Sec. 4-5, T. 105 N., R. 71 W., Sec. 8-9, T. 105 N., R. 71 W., Sec. 14-17, T. 105 N., R. 71 W., Sec. 21-26, T. 105 N., R. 71 W., Sec. 34-36, T. 106 N., R. 71 W., Sec. 3-6, T. 106 N., R. 71 W., Sec. 8-10, T. 106 N., R. 71 W., Sec. 14-16, T. 106 N., R. 71 W., Sec. 21-23, T. 106 N., R. 71 W., Sec. 27-28, T. 106 N.,

R. 71 W., Sec. 32-34, T. 107 N., R. 71 W., Sec. 31-33, T. 107 N., R. 72 W., Sec. 22-26, T. 107, R. 72 W., Sec. 30, T. 107 N., R. 72 W., Sec. 35-36, T. 30 N., R. 6 E., Sec. 3, T. 30 N., R. 6 E., Sec. 10-11, T. 31 N., R. 5 E., Sec. 2, T. 31 N., R. 5 E., Sec. 11-18, T. 31 N., R. 6 E., Sec. 22-23, T. 31 N., R. 6 E., Sec. 26-27, T. 31 N., R. 6 E., Sec. 34, T. 32 N., R. 2 E., Sec. 1, T. 32 N., R. 2 E., Sec. 12, T. 32 N., R. 3 E., Sec. 6-13, T. 32 N., R. 4 E., Sec. 7-9, T. 32 N., R. 4 E., Sec. 16, T. 32 N., R. 4 W., Sec. 17, T. 32 N., R. 4 E., Sec. 18, T. 32 N., R. 4 E., Sec. 21, T. 32 N., R. 4 E., Sec. 23-28, T. 32 N., R. 5 W., Sec. 4-6, T. 32 N., R. 5 E., Sec. 19, T. 32 N., R. 5 E., Sec. 28-30, T. 32 N., R. 5 E., Sec. 33-35, T. 32 N., R. 6 W., Sec. 1, T. 32 N., R. 6 W., Sec. 6, T. 32 N., R. 6 W., Sec. 8-12, T. 32 N., R. 7 W., Sec. 1, T. 32 N., R. 7 W., Sec. 7, T. 33 N., R. 1 W., Sec. 1-3, T. 33 N., R. 1 E., Sec. 3-12, T. 33 N., R. 1 W., Sec. 7-10, T. 33 N., R. 1 W., Sec. 12, T. 33 N., R. 1 W., Sec. 16-17, T. 33 N., R. 2 E., Sec. 7-8, T. 33 N., R. 2 W., Sec. 7-18, T. 33 N., R. 2 E., Sec. 17-18, T. 33 N., R. 2 E., Sec. 20, T. 33 N., R. 2 E., Sec. 26-29, T. 33 N., R. 2 E., Sec. 34-36, T. 33 N., R. 3 W., Sec. 7-8, T. 33 N., R. 3 W., Sec. 10-13, T. 33 N., R. 3 W., Sec. 16, T. 33 N., R. 3 W., Sec. 19-20, T. 33 N., R. 3 W., Sec. 22, T. 33 N., R. 4 W., Sec. 5-9, T. 33 N., R. 4 W., Sec. 11-18, T. 33 N., R. 4 W., Sec. 21, T. 33 N., R. 4 W., Sec. 23-24, T. 33 N., R. 5 W., Sec. 1-2, T. 33 N., R. 5 W., Sec. 7, T. 33 N., R. 5 W., Sec. 11-15, T. 33 N., R. 5 W., Sec. 22-23, T. 33 N., R. 5 W., Sec. 27-28, T. 33 N., R. 5 W., Sec. 32-33, T. 33 N., R. 7 W., Sec. 16-17, T. 33 N., R. 7 W., Sec. 22-23, T. 33 N., R. 7 W., Sec. 26-27, T. 33 N., R. 7 W., Sec. 34-36, T. 33 N., R. 8 W., Sec. 3-5, T. 33 N., R. 8 W., Sec. 10-13, T. 33 N., R. 8 W., Sec. 18, T. 34 N., R. 8 W., Sec. 31-33, T. 34 N., R. 9 W., Sec. 7, T. 34 N., R. 9 W., Sec. 16-18, T. 34 N., R. 9 W., Sec. 21-23, T. 34 N., R. 9 W., Sec. 25-26, T. 34 N., R. 9 W., Sec. 36, T. 34 N., R. 10 W., Sec. 2-3, T. 34 N., R. 10 W., Sec. 10-14, T. 35 N., R. 10 W., Sec. 20, T. 35 N., R. 10 W., Sec. 22, T. 35 N., R. 10 W., Sec. 28, T. 35 N., R. 10 W., Sec. 33-34.

\*\*Undefined. These are "lands" which were not surveyed during the original Government Land Office survey of South Dakota. They are now inundated and appear to fall in what was the described river channel at that time.

BILLING CODE 4310-55-P



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Dated: May 30, 2001.  
Marshall P. Jones, Jr.,  
Acting Assistant Secretary for Fish and  
Wildlife and Parks.  
[FR Doc. 01-14169 Filed 6-11-01; 8:45 am]  
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