

## **Compatibility Determination**

Rocky Mountain Arsenal National Wildlife Refuge  
Commerce City, Colorado

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Rocky Mountain Arsenal National Wildlife Refuge  
April, 2006

## **Compatibility Determination**

**Use:** Grant of 150'-wide Right-of-Way to the City of Commerce City, CO for installation of a 18" diameter sewer line along the west edge of the "Klein Halo" parcel, Section 33, RMA NWR.

**Refuge Name:** Rocky Mountain Arsenal National Wildlife Refuge (RMA NWR)

## **Establishing and Acquisition Authority:**

Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (hereinafter referred to as the "Refuge Act"), Public Law 103-402, October 9, 1992.

## **Refuge Purposes:**

1. To conserve and enhance populations of fish, wildlife, and plants within the Refuge, including populations of waterfowl, raptors, passerines, and marsh and water birds.
2. To conserve species listed as threatened or endangered under the Endangered Species Act and species that are candidates for such listing.
3. To provide maximum fish and wildlife oriented public uses at levels compatible with the conservation and enhancement of wildlife and wildlife habitat.
4. To provide opportunities for compatible scientific research.
5. To provide opportunities for compatible environmental and land use education.
6. To conserve and enhance the land and water of the Refuge in a manner that will conserve and enhance the natural diversity of fish, wildlife, plants, and their habitats.
7. To protect and enhance the quality of aquatic habitat within the Refuge.
8. To fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats.

## **National Wildlife Refuge System Mission:**

The mission of the National Wildlife Refuge System (NWRS) is "...to administer a national network of lands and water for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans." (National Wildlife Refuge System Administration Act of 1966, as amended [16 U.S.C. 668dd-668ee]).

## **Description of Use:**

Background: The Prairie Gateway project, constructed on lands formerly held by the U.S. Government and sold to Commerce City in accordance with the Refuge Act, has a large amount of development in the southern and central portions of Section 9. New utility systems are necessary to support this development that was envisioned by Congress in the Refuge Act.

The Prairie Gateway also includes the western 1/3 of Section 4, and most of the western 1/3 of Section 33, adjacent to Quebec Street, Commerce City, CO. Due to the Refuge Act's legal description of what is now the Prairie Gateway property, two small parcels of land (totaling approx.

28 acres) known as the “Klein Halo” were not sold to Commerce City, but were transferred from the U.S. Army to the Department of Interior for inclusion in the National Wildlife Refuge System. The “Klein Halo” extends to the western boundary of Section 33 along Quebec Street (see attached map), and forms a frontage of approximately XXXX’ north and south of the Klein Treatment Plant parcel that is now owned by the South Adams County Water and Sanitation District (SACWSD).

The western edge of the “Klein Halo” is currently encumbered by a non-exclusive 150’-wide easement, granted to SACWSD for a water line. The “Klein Halo” is isolated from the remainder of the refuge by city-owned lands, and the “Klein Halo” was not anticipated to be part of the refuge by the 1996 Refuge Comprehensive Management Plan.

Wildlife and habitat values of the “Klein Halo” are very low. The area is vegetated primarily with non-native cool season grasses and supports a few scattered exotic Siberian elm trees. There is little vegetation and no significant wildlife habitat value on the “Klein Halo”. The Service and Commerce City are currently negotiating a land exchange whereby the City would acquire the “Klein Halo” and the Service would acquire a significantly larger acreage city-owned land that is superior wildlife habitat in Section 4.

Commerce City is applying for a right-of-way to install an 18” sewer line that overlays the existing SACWSD water line easement and is within 30’ of the existing traffic lanes of Quebec Street at the refuge’s urban interface.

Specific Use Proposed:

Commerce City is applying for a right-of-way to install an 18” sewer line that overlays the existing SACWSD water line easement and is within 30’ of the existing traffic lanes of Quebec Street at the refuge’s urban interface. Specifications for the use are detailed in drawings that have been reviewed by the Refuge Manager and are included in the right-of-way application submitted to the Division of Realty, Lakewood, CO.

**Availability of Resources:**

The construction of the proposed sewer line is the responsibility of the City of Commerce City, and will require no personnel or financial resources of RMA NWR or NWRS. Granting of the right-of-way will require a minimal amount of administrative work by the Refuge Manager, and Realty and Planning staff of the Region 6 ARD, NWRS/PFFW. Accomplishing this work is within the current appropriated resources of those Service offices.

**Anticipated Impacts of the Use:**

No permanent impacts to the resources of RMA NWR are anticipated to result from this use. The use will take place in the “Klein Halo” parcel, in an area already impacted by traffic, noise, existing utility easements and having negligible habitat value. The “Klein Halo” is not posted with refuge boundary signs, is almost certain to be transferred to City ownership in the immediate future

through the aforementioned land exchange, and is not known or considered to be part of the refuge by the general public..

**Public Review and Comment:**

RMA NWR is maximizing the use of the refuge website to solicit public comment on documents, including Compatibility Determinations. The website has a special section for public comment solicitations and this method has been widely publicized in refuge newsletters, local newspapers and announcements to the various citizen advisory committees that operate in support of the remediation of Rocky Mountain Arsenal. The refuge web site routinely receives over 10,000 “hits” per month and is widely used by the public to obtain information about the refuge.

Due to socio-economic exigencies, it is the desire of Commerce City, and of the Refuge to expedite consideration of the City’s right-of-way application. Because of the nature and condition of refuge system land involved in this use, it is anticipated that this use will be non-controversial, minor and incidental (603 FW 2.12(9)(i)). Service policy (603 FW 2.13) provides for an expedited compatibility determination process for uses that “will likely have no detrimental effect on the fulfillment of the purpose(s) of the refuge or the System mission”. Policy allows that for incidental uses likely to generate minimal public interest, the public comment period may be reduced to the “time available”. Failure to expedite this determination will create a significant economic hardship for the applicant, with no benefit to refuge purposes or NWRS mission. Hence this Compatibility Determination will be posted for public comment on the refuge website for 5 days, beginning on April 28, 2006. Based on prior experience, and the non-controversial nature of this proposed use, the undersigned refuge manager anticipates that no public comment will be received, and submits this draft for Regional Office concurrence on the date posted. It is stipulated that this Compatibility Determination will be re-written in response to any significant public comment received before the end of the comment period on May 2, 2006.

**Determination:**

Use is Not Compatible

Use is Compatible

**Stipulations Necessary to Ensure Compatibility:**

This compatibility determination will be reviewed and is subject to revision if any public comments are received by COB, Tuesday, May 2, 2006.

**Justification:**

This use is necessary for Commerce City to develop the Prairie Gateway, as envisioned in the Refuge Comprehensive Management Plan and to achieve the intent of Congress, as stated in Section 5 (Disposal of Certain Real Property at the Arsenal for Commercial, Highway, or other Public Use) of the Refuge Act. The use will not materially interfere with or detract from the fulfillment of the National Wildlife Refuge System mission or the purposes of Rocky Mountain Arsenal NWR.

