

Compatibility Determination to Grant a Right of Way for Bridge Replacement Wapato Lake National Wildlife Refuge

Use: Right-of-Way for Bridge Replacement.

Refuge Name: Wapato Lake National Wildlife Refuge

City, County, and State: Gaston, Washington County, Oregon

Establishing and Acquisition Authorities:

Wapato Lake National Wildlife Refuge (NWR, Refuge), located in Gaston, Oregon, was established in 2007 as a Unit of Tualatin River NWR with the intention of restoring the historic lakebed and surrounding lands and improving habitat conditions for native wildlife and plant species. In 2013, the Unit was re-designated as Wapato Lake NWR. With a total acquisition boundary of 4,370 acres, the U.S. Fish and Wildlife Service (Service) currently owns and manages 958 acres.

Legal authorities used for establishment of the Refuge include the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee); the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), as amended; and the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j), as amended.

Refuge Purposes:

1. "...the development, advancement, management, conservation, and protection of fish and wildlife resources" (16 U.S.C. 742f(a)(4)).
2. "...for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude" (16 U.S.C. 742f(b)(1) Fish and Wildlife Act of 1956).
3. "...the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions..." (16 U.S.C. 3901(b) Emergency Wetlands Resources Act of 1986).

National Wildlife Refuge System Mission:

The mission of the National Wildlife Refuge System is to administer a national network of lands and waters 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:

The proposed use is to issue a Right-of-Way (ROW) permit to Washington County, Oregon, to replace the Gaston Road Bridge. A ROW permit is defined as the right to use and possibly alter the landscape through construction, maintenance, and operation of a road on lands under control of the Service. The

Service, in accordance with applicable authorities and regulations published in CFR 29.21 et seq., proposes to grant a ROW permit to Washington County, Oregon, herein referred to as the County, to use certain lands on the Wapato Lake NWR solely for the purpose of replacing the Gaston Road bridge, located in T. 1 S., R. 4 W., Sec., 36, in Gaston, Oregon.

The County proposes to replace the existing Gaston Road Bridge over Wapato Creek because the Oregon Department of Transportation considers the bridge structurally deficient enough to warrant reducing the load rating to five tons for all vehicles. The bridge was originally built in 1958 with reconstruction work conducted in 1996. The bridge is currently load-limited and has a substandard width of 22.3 feet. The bridge serves a public need by linking the town of Gaston to Newberg, and is an important route between Gaston and a large rural agricultural area.

The new bridge would be moved slightly to the north and elevated in order to facilitate construction, minimize impacts to the Refuge, and meet floodplain requirements. The new bridge design provides one foot of freeboard above the Wapato Creek floodplain. However, floodplain elevations associated with the Tualatin River Valley are approximately five feet above the Wapato Creek floodplain elevation in this area. To build the bridge for the higher elevations would require additional fill impacts along the approaches to meet design specifications for the side slopes of the elevated road to access the bridge on the west side and to elevate an access road on the east side of the bridge. These areas are outside of the existing ROW. The total area within the Refuge impacted by the project as currently designed would be approximately 6,057 square feet. This total includes impact areas of approximately 4,047 square feet on the west side of the bridge and approximately 2,008 square feet on the east side.

Availability of Resources:

The issuance of this ROW permit will require minimal expenditure of Refuge resources including staff and funding.

Anticipated Impacts of the Use(s):

Impacts to the Refuge associated with constructing the new bridge and road access were considered in the National Environmental Policy Act assessment developed for the project, which is attached as Appendix A (USFWS 2020). The location of the new section of road was surveyed to ensure road safety and to minimize impacts to habitat. All activities in this project will follow best management practices (BMPs) to minimize amount and duration of disturbance to wildlife and habitat. Due to the use of BMPs and the small footprint of the project, the negative impacts of road and bridge construction were determined to be minor but long term.

Determination: (check one below)

Use is Not Compatible

Use is Compatible with the Following Stipulations

Stipulations Necessary to Ensure Compatibility:

- The Refuge will evaluate the ROW on an annual basis to ensure that additional Refuge resources are not being impacted by the ROW.
- Access for construction will be restricted to the ROW and the areas delineated by the Special Use Permit for a Temporary Construction Easement. Access following construction will be limited to maintenance activities.
- All disturbed areas that contain soil and plants will be reseeded by the County with Service-approved species and will be sprayed for weeds with Service-approved herbicides, as appropriate.
- Consistent with regulations at 50 CFR 25.21 (h), the Service reserves the right to modify terms and conditions of the ROW permit in the future, as necessary to ensure the continued compatibility with the use and occupancy of the land.
- Follow the requirements of the Inadvertent Discovery Plan (attached to the Environmental Assessment) should cultural resources be discovered during construction activities.

Justification:

The ROW as described is determined to be a compatible use of the Refuge. Potential impacts from the County’s construction of the new bridge and road access on the Refuge’s fish and wildlife would be minimal and would not materially interfere with or detract from achievement of the National Wildlife Refuge System mission or from the Service’s ability to achieve Refuge wildlife, habitat, or other public use-related purposes and goals.

Mandatory 10- or 15-Year Re-evaluation Date: (provide month and year for "allowed" uses only)

_____ Mandatory 15-year reevaluation date (for wildlife-dependent public uses)

 N/A Mandatory 10-year reevaluation date (for all uses other than wildlife-dependent public uses)

National Environmental Policy Act Compliance for Refuge Use Decision: (check one below)

_____ Categorical Exclusion without Environmental Action Statement

_____ Categorical Exclusion and Environmental Action Statement

 X Environmental Assessment and Finding of No Significant Impact

_____ Environmental Impact Statement and Record of Decision

Compatibility Determination for Right of Way (Road), Wapato Lake National Wildlife Refuge. Use is compatible with stipulations.

Approval:

Refuge Manager

Concurrence:

Regional Chief, National Wildlife Refuge System