

# **Draft Compatibility Determination**

## **Title**

**Draft Compatibility Determination, Rights of Way, Winona Connector, Great River State Bike/Ped Trail, Phase 2, Trempealeau National Wildlife Refuge**

## **Refuge Use Category**

Rights-of-way and Rights to Access

## **Refuge Use Type(s)**

Rights of Way, Great River State Bike/Ped Trail Phase 2, Buffalo County, Wisconsin

## **Refuge**

Trempealeau National Wildlife Refuge

## **Refuge Purpose(s) and Establishing and Acquisition Authority(ies)**

The purposes come from the authority under which Trempealeau National Wildlife Refuge (refuge) was established and from authorities under which subsequent major land additions to the refuge were made. Purposes for Trempealeau National Wildlife Refuge are:

“ ...a refuge and breeding ground for migratory birds and other wildlife  
@ Executive Order 7437, dated August 21, 1936.

“ suitable for-(1) incidental fish and wildlife oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species ...@

Refuge Recreation Act(16 U.S.C 460k-460k-4), as amended

“...for the development, advancement, management, conservation, and protection of fish and wildlife resources.@

6 U.S.C. 742f(a)(4)(Fish and Wildlife Act of 1956.)

## **National Wildlife Refuge System Mission**

The mission of the National Wildlife Refuge System, otherwise known as 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 (Pub. L. 105-57; 111 Stat. 1252).

## **Description of Use**

**Is this an existing use?**

No. However, there are recreational trails in the vicinity, and this is the second phase to the already completed Winona Connector Phase 1 project that was previously determined to be a compatible use (Rights of Way – Winona Bike Trail Connector compatibility determination (CD) (U.S. Fish and Wildlife Service 2020)).

The non-motorized uses of this proposed trail (walking, hiking, biking, etc) were also found to be compatible in the refuge's Comprehensive Conservation Plan (U.S. Fish and Wildlife Service 2008).

**What is the use?**

Right-of-way (trail). The right to use and possibly alter the landscape through construction, maintenance, and operation of a trail.

**Is the use a priority public use?**

No. The trail will support bicycling, hiking, jogging, walking, snowshoeing and cross-country skiing that are not priority public uses; however, they do facilitate participation in priority outdoor recreational uses such as wildlife observation, photography, environmental education, interpretation, fishing and hunting.

**Where would the use be conducted?**

The Great River State Trail (Trail) Winona Connector project is the second of two phases of trail improvements intended to extend the trail westward to Minnesota. The Great River State Trail is a 24-mile recreation trail that travels through the prairies and backwaters of the upper Mississippi River valley. Built on an abandoned Chicago-Northwestern railroad line, the trail has a finely crushed limestone surface suitable for walking and bicycling for much of the year and cross-county skiing and snowshoeing in winter. The Great River State Trail passes through two National Wildlife Refuges.

The Great River State Trail begins in Onalaska, Wisconsin and travels north through Wisconsin's scenic Coulee Region. Visitors to the Great River State Trail enjoy the changing wetlands of the Mississippi River backwaters, 500-foot bluffs, hardwood forests, unique sand prairies and oak savannas. The Great River State Trail links to the La Crosse River State Trail via a short road route in the city of La Crosse. The trail currently runs through Trempealeau National Wildlife Refuge along the northern boundary and ends at the refuge's Marshland Access in the unincorporated community of Marshland in the Town of Buffalo.

The length of the proposed extension of the Great River State Trail is 2.4 miles,

starting at the Flyway Trail Winona Connector, Town of Buffalo Park and connecting to the Great River State Trail at the Marshland Access. Phase one of this project was previously completed constructing the trail from 0.5 miles south of the Burlington Northern Santa Fe (BNSF) Railroad to the Town of Buffalo Park. Phase two, would run parallel to WIS 35 just south of the roadway and would continue to border the refuge on the north boundary.

### When would the use be conducted?

The use would be conducted continually under these specific terms and conditions referenced in 50 CFR 29.21-4:

- (a) Any right-of-way easement or permit granted will be subject to outstanding rights, if any, in third parties.
- (b) An applicant, by accepting an easement or permit agrees to such terms and conditions as may be prescribed by the Regional Director in the granting document. Such terms and conditions shall include the following, unless waived in part by the Regional Director, and may include additional special stipulations at his discretion. See § 29.21-8 for special requirements for electric powerlines and § 29.21-9 for special requirements for oil and gas pipelines.
  - (1) To comply with State and Federal laws applicable to the project within which the easement or permit is granted, and to the lands which are included in the right-of-way, and lawful existing regulations there under.
  - (2) To clear and keep clear the lands within the easement or permit area to the extent and in the manner directed by the project manager in charge; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project in such a manner as to decrease the fire hazard and also in accordance with such instructions as the project manager may specify.
  - (3) To prevent the disturbance or removal of any public land survey monument or project boundary monument unless and until the applicant has requested and received from the Regional Director approval of measures the applicant will take to perpetuate the location of aforesaid monument.
  - (4) To take such soil and resource conservation and protection measures, including weed control on the land covered by the easement or permit as the project manager in charge may request.

(5) To do everything reasonably within his power, both independently and on request of any duly authorized representative of the United States, to prevent and suppress fires on or near, lands to be occupied under the easement or permit area, including making available such construction and maintenance forces as may be reasonably obtainable for the suppression of such fires.

(6) To rebuild and repair such roads, fences, structures, and trails as may be destroyed or injured by construction work and upon request by the Regional Director, to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.

(7) To pay the United States the full value for all damages to the lands or other property of the United States caused by him or by his employees, contractors, or employees of the contractors, and to indemnify the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under the easement or permit, except where the easement or permit is granted hereunder to a State or other governmental agency which has no legal power to assume such a liability with respect to damages caused by it to lands or property, such agency in lieu thereof agrees to repair all such damages. Where the easement or permit involves lands which are under the exclusive jurisdiction of the United States, the holder or his employees, contractors, or agents of the contractors, shall be liable to third parties for injuries incurred in connection with the easement or permit area. Grants of easements or permits involving special hazards will impose liability without fault for injury and damage to the land and property of the United States up to a specified maximum limit commensurate with the foreseeable risks or hazards presented. The amount of no-fault liability for each occurrence is hereby limited to no more than \$ 1,000,000.

(8) To notify promptly the project manager in charge of the amount of merchantable timber, if any, which will be cut, removed, or destroyed in the construction and maintenance of the project, and to pay the United States in advance of construction such sum of money as the project manager may determine to be the full stumpage value of the timber to be so cut, removed, or destroyed.

(9) That all or any part of the easement or permit granted may be terminated by the Regional Director, for failure to comply with any or all of the terms or conditions of the grant, or for abandonment. A rebuttable

presumption of abandonment is raised by deliberate failure of the holder to use for any continuous 2-year period the easement or permit for which it was granted or renewed. In the event of noncompliance of abandonment, the Regional Director will notify in writing the holder of the easement or permit of his intention to suspend or terminate such grant 60 days from the date of the notice, stating the reasons therefore, unless prior to that time the holder completes such corrective actions as are specified in the notice. The Regional Director may grant an extension of time within which to complete corrective actions when, in his judgment, extenuating circumstances not within the holder's control such as adverse weather conditions, disturbance to wildlife during breeding periods or periods of peak concentration, or other compelling reasons warrant. Should the holder of a right-of-way issued under authority of the Mineral Leasing Act, as amended, fail to take corrective action within the 60-day period, the Regional Director will provide for an administrative proceeding pursuant to 5 U.S.C. 554, prior to a final Departmental decision to suspend or terminate the easement or permit. In the case of all other right-of-way holders, failure to take corrective action within the 60-day period will result in a determination by the Regional Director to suspend or terminate the easement or permit. No administrative proceeding shall be required where the easement or permit terminates under its terms.

(10) To restore the land to its original condition to the satisfaction of the Regional Director so far as it is reasonably possible to do so upon revocation and/or termination of the easement or permit, unless this requirement is waived in writing by the Regional Director. Termination also includes permits or easements that terminate under the terms of the grant.

(11) To keep the project manager informed at all times of his address, and, in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.

(12) That in the construction, operation, and maintenance of the project, he shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin and shall require an identical provision to be included in all subcontracts.

(13) That the grant of the easement or permit shall be subject to the express condition that the exercise thereof will not unduly interfere with the management, administration, or disposal by the United States of the land affected thereby. The applicant agrees and consents to the occupancy and use by the United States, its grantees, permittees, or

lessees of any part of the easement or permit area not actually occupied for the purpose of the granted rights to the extent that it does not interfere with the full and safe utilization thereof by the holder. The holder of an easement or permit also agrees that authorized representatives of the United States shall have the right of access to the easement or permit area for the purpose of making inspections and monitoring the construction, operation and maintenance of facilities.

- (14) That the easement or permit herein granted shall be subject to the express covenant that any facility constructed thereon will be modified or adapted, if such is found by the Regional Director to be necessary, without liability or expense to the United States, so that such facility will not conflict with the use and occupancy of the land for any authorized works which may hereafter be constructed thereon under the authority of the United States. Any such modification will be planned and scheduled so as not to interfere unduly with or to have minimal effect upon continuity of energy and delivery requirements.
- (15) That the easement or permit herein granted shall be for the specific use described and may not be construed to include the further right to authorize any other use within the easement or permit area unless approved in writing by the Regional Director.

### How would the use be conducted?

The refuge manager will restrict construction and staging of equipment to specific areas. Special needs will be considered on a case-by-case basis and are subject to the manager's approval. To avoid impact to listed species and other special status species such as the bald eagle, construction activities will be completed with appropriate timeframes and techniques consistent with permits, approvals and applicable avoidance plans in coordination with Wisconsin Department of Natural Resources nongame wildlife and U.S. Fish and Wildlife Service. Special use permits will be required since access through U.S. Fish and Wildlife Service lands will be needed to get equipment to right-of-way permit areas. The necessary permits will cover all the specifications of construction, operation, and management to minimize effects to wildlife and habitat.

The proposed use consists of constructing a shared use recreational path alongside WIS 35. The trail would be 10-foot-wide crushed limestone. USFWS has reviewed the proposed use and determines the following impacts would occur; 0.91 acres of temporary limited easement (TLE), 0.39 acres covered under a 50-year right-of-way permit and 0.03 acres of impacts to wetlands on refuge lands. Fill will be placed adjacent to WIS 35 along the toe of existing slopes inside WisDOT right-of-way,

extending onto refuge lands in several locations along the trail. Impacts have been minimized by locating the trail as close to WIS 35 without disturbing any roadway features, reducing the trail width from 10 foot to the minimum allowable width of 8 foot, and the use of steepened side slopes; all to limit the footprint of fill materials and impacts to wetlands. Other project work includes clearing and grubbing work, culvert extensions, and grading operations building out the fore slope. The culvert extensions per the Wisconsin Department of Transportation (WisDOT) request will have 10' riprap armoring at each culvert pipe outflow.

The proposed impacted wetlands are of low quality and are already altered because of the adjacent highway right-of-way. Placing fill in wetlands along the toe of the existing slopes may have minor impacts to vegetation, but otherwise will not impede the hydrology or habitat qualities of the larger wetland system inside the refuge. In addition, federal and state regulations require mitigation be provided in conjunction with the proposed trail. Potential impacts of the project will be minimized or mitigated using the appropriate wetland mitigation procedures.

### **Why is this use being proposed or reevaluated?**

This proposed expansion of an existing right-of-way is to accommodate grading and slope impacts of a new recreational trail along STH 35. The trail will connect Winona, MN with the Great River State Trail. The Great River State Trail currently passes through the refuge and ends at the refuge's Marshland Access. The extension of the trail would promote greater opportunity to enjoy Trempealeau National Wildlife Refuge through increased bicycling and hiking access. It will assist in fostering an appreciation for the refuge, its scenic values, and wildlife. Additionally, the extension would address the lack of a safe and convenient interstate trail between the Marshland Access and Winona, Minnesota. Currently, pedestrians and cyclists who attempt to use the shoulders of STH 35 and STH 54 encounter large volumes of high-speed traffic. Refuge staff have been involved in the planning process for the development and location of this recreational trail.

### **Availability of Resources**

In most cases, minimal expense is required of the Service for these projects. Refuge staff have been engaged in the planning process for this trail. Current and planned future staffing will be sufficient to manage this right of way and planned use. Current resources are adequate to supply the needed informational and directional signs for the proposed trail. Refuge staff will spend about five staff days preparing supporting information and issuing the right-of-way permit. Staff will also periodically monitor trail construction activities. There will be an additional one-time cost to update trail brochures, maps and kiosks to include the new trail. These costs are estimated to be \$5,000 for staff time, trail map re-prints, and updates to kiosk maps.

Post construction, refuge visitor services staff may need to increase trail roving to

account for increased visitor use, including increased litter control and general interactions with the public. Additional law enforcement patrols may be needed along the trail however, refuge staff will coordinate with the Wisconsin Department of Natural Resources and other local law enforcement officers as appropriate. Buffalo County and the Wisconsin Department of Transportation will bear all construction and maintenance costs. Since the operation of the trail will be the responsibility of Buffalo County and Wisconsin Department of Transportation, the existing refuge resources are adequate to properly and safely administer the use. The annual administrative cost of monitoring the rights-of-way will be minimal. Refuge staff frequent the project area throughout the year for normal refuge operations. Therefore, no special monitoring activity will be required.

## **Anticipated Impacts of the Use**

The impact of issuing the right-of-way permit was evaluated during the Winona Connector Phase 1 project (Phase 1 Compatibility Determination USFWS 2020). While this CD is a review of resources specific to this project area, the intent of the previously completed CD was to analyze the impacts of the work similar to this project. To the best of the refuge staff's knowledge and judgment, the work and long-term impacts related to the Phase 1 CD have not resulted in greater than negligible negative impacts to biological resources. Similarly, the refuge expects any potential long-term negative impacts in the Phase 2 project to have a limited footprint.

### **Potential impacts of a proposed use on the refuge's purpose(s) and the Refuge System mission**

Trempealeau National Wildlife Refuge was established in 1936 as "a refuge and breeding ground for migratory birds and other wildlife" (CCP USFWS 2008). The National Wildlife Refuge System Improvement Act of 1997 identified six priority public uses that support the mission of the U.S. Fish and Wildlife Service when appropriate and compatible with the purposes for refuge establishment. Those priority public uses are hunting, fishing, wildlife observation, photography, environmental education, and interpretation. Bicycling at the refuge is viewed as both a wildlife dependent and non-wildlife dependent form of recreation (CCP USFWS 2008). The issuance of the right-of-way permit will further achieve the purposes of the refuge and the Refuge System as it will support access to these priority public uses. Additionally, it will help facilitate the completion of the Great River State trail, linking Wisconsin and Minnesota bicycle trail systems and promoting regional recreation facilities in the Trempealeau and Buffalo County areas.

## **Short-term impacts**

The effects and impacts of the proposed use to refuge resources, whether adverse or beneficial, are those that are reasonably foreseeable, and have a reasonably close causal relationship to the proposed use. This CD includes the written analyses of the environmental consequences on a resource only when the impacts on that resource could be more than negligible and therefore considered an “affected resource”. These resources have been grouped into three categories which represent the resources which may be affected beyond negligible impacts.

In late 2021, a contractor conducted archaeological investigations for the proposed Phase II of the Great River State Trail Winona Connector project. Visual inspection within the project’s Area of Potential Effects (APE) verified previous disturbance from highway and railroad construction. Visual inspection within that area verified heavy disturbance and wetland areas. Survey results indicated that the proposed trail project will have no effects on archaeological historic properties. No additional archaeological investigations are recommended for the project as currently designed, and as such cultural resources have been dismissed from further analysis.

## ***Wildlife & Aquatic Species, Threatened & Endangered Species***

Wildlife species including small and large mammals, and passerine and waterbird species, may be affected by trail construction. Mammal and bird species may be temporarily disturbed or displaced because of human disturbance, noise disturbance, or a short-term loss of habitat. The removal of vegetation including trees, shrubs, forbs, and grasses may result in a loss of cover or forage. The removal of trees may reduce habitat for cavity nesting wildlife. These impacts may not necessarily detract from core habitat as the proposed footprint of this trail is adjacent to existing infrastructure and ongoing disturbances such as the WIS 35/53 County Highway right-of-way. Additionally, tree/plant removal and soil manipulation will occur during the wintertime when wildlife have typically migrated or overwintered in less disturbed or secluded areas of the refuge.

The Information for Planning and Consultation (IPaC) system used by the USFWS determined that several federally endangered or threatened species may be present in the project area. The species identified were the northern long-eared bat (*Myotis septentrionalis*), tricolored bat (*Perimyotis subflavus*), Higgins eye pearlymussel (*Lampsilis higginsii*), sheepnose mussel (*Plethobasus cyphus*), and monarch butterfly (*Danaus plexipus*). The IPaC system and USFWS personnel’s evaluation based on best judgment and expertise working through determination keys determined that the project would have No Effect on the Higgins eye (pearlymussel) and sheepnose mussel since there are no confirmed sightings or suitable habitat within the project area. It May Affect but is Not Likely to Adversely Affect the northern long-eared bat or tricolored bat (proposed as endangered). However, the implementation of

avoidance and minimization measures including timing of tree removal will eliminate or reduce any potential effects to these two species.

The construction of the Great River State Trail Winona Connector Phase 2 project will cause some temporary disruption of habitats. However, since this segment of the trail is adjacent to the WIS 35/53 County Highway footprint and existing right-of-way, we expect any disruption to be minimal. Construction activities may temporarily alter the availability of floral resources for monarchs. They could also have an impact on nectaring or larval species if plants are removed during trail construction. However, most of the area impacted by construction will be restored using native vegetation, making it only a temporary disruption. Instances of collisions with monarch butterflies during trail use are expected to be minimal and should have no impacts to the overall population or continuation of these species. Therefore, the project is Not Likely to Jeopardize the monarch butterfly, a candidate species.

Overall, minimal impact is expected to threatened and endangered species due to the small project footprint occurring in already disturbed, marginal habitat and avoidance and minimization measures in place for this project.

#### ***Habitat & Vegetation, Geology & Soils, Floodplains, Air Quality, and Water Quality***

The IPaC Determination Key system determined no critical habitats exist within the project area. The footprint of this project is adjacent to the WIS 35/53 County Highway, which is considered a major transportation route within the local area. Roadsides and rights-of-way are frequently observed as transportation corridors for exotic plant species (Lazaro-Lobo and Ervin 2019). Trail construction will cause some temporary disruption of wildlife habitat. However, since this segment of the trail is adjacent to the WIS 35/53 County Highway footprint and existing right-of-way, we expect any disruption to be minimal. The current plant community of the project footprint is a mixture of native and nonnative species. Short-term, this project will involve the removal of tree and understory plant species, some of which may be nonnative. Nonnative species may spread from the disturbance and transport caused by construction but can be mitigated by ensuring equipment operators remove seed and plant material when moving to and from the worksite. Within the trail margins, there may be a short-term loss of vegetation due to construction, but this impact will likely be limited as plant succession will resume after construction /soil disturbances have ended.

Soils may similarly be disturbed due to construction, and erosion may be a concern. The construction plan calls for the use of tarps and matting to prevent potential erosion. Additionally, the trail construction parallels elevation contours to prevent downcutting of material, decreasing the likelihood of trail blowouts. Federal, state,

and local regulations require construction to use materials to mitigate the runoff of groundwater and trail construction will adhere to all necessary regulations. Generally, one concern of establishing trails is the area of permeable cover lost and increase in impervious cover, which can cause increased runoff and reduce groundwater infiltration when impermeable materials, such as asphalt or concrete, are used (Shuster et al. 2007). The Winona Connector Phase II trail will be constructed of finely crushed limestone creating a permeable and moderately porous surface (WIDOT 2022). The crushed limestone trail base may mitigate environmental impacts to floodplains by maintaining a permeable layer for groundwater infiltration and subsurface flow. The trail path may require the compaction of deeper soils which could reduce groundwater infiltration compared to nearby areas, but this is unlikely to affect groundwater tables as the footprint of the trail itself is approximately 10' in width (WIDOT 2022). Where the trail intersects wetlands and requires embankment fills, the trail will be reduced to an 8' width (WIDOT 2022). A temporary limited easement (TLE) will be granted for project work and is less than one acre. The lands within the TLE may experience concentrated soil and habitat disturbances but mitigate impacts to the lands outside the TLE. The disturbance to the TLE will require follow up seeding of native plants, benefitting native plant and wildlife communities. Air and water quality are unlikely to be affected beyond a negligible change, as the trail is intended for non-motorized use.

### ***Refuge Management & Operations, Visitor Use & Experience***

During the construction of this trail, the refuge staff may incur short-term costs to their time and budget. The oversight required to produce the planning and NEPA documentation, special use permits, and monitor NEPA compliance of the trail's construction may require a moderate time investment by the refuge manager or other delegated refuge staff. These impacts may reduce staff time for other operational or administrative duties. Visitor services staff may have to respond to public inquiry and develop outreach materials or news releases, and staff may be required to spend time addressing public concerns. Visitors may have reduced or modified access to the Marshland Access point during construction. Visitors may also experience increased noise disturbance during construction. Visitation may be concentrated to other areas of the refuge during construction and consequently access points on refuge could become congested. The concentration of visitors may be mitigated by planning construction around periods of decreased visitation however, this may not be feasible throughout construction.

## **Long-term impacts**

This compatibility determination includes the written analyses of the environmental consequences on a resource only when the impacts on that resource could be more than negligible and therefore considered an “affected resource.”

### ***Wildlife & Aquatic Species, Threatened & Endangered Species***

Whereas construction-related disturbances can be considered temporary, long-term changes to the refuge will occur on less than 0.5 acres of refuge land. The observable changes may vary with relation to seasonality and species. Prior research observed that specialist bird species may occur less frequently or decrease activity near recreation trails, but generalist bird species may continue to inhabit trail margins (Botsch et al. 2018). Mammals such as coyotes (*Canis latrans*), bobcat (*Lynx rufus*), and white-tailed deer (*Odocoileus virginianus*), respond in differing spatiotemporal patterns to recreational trails, becoming more crepuscular or nocturnal, or avoiding the immediate trail area entirely (Shalene and Crooks 2006; Walter et al. 2009).

Mammal populations and associated home ranges are not expected to be negatively affected long-term and are adaptable to moderate environmental changes near wildland-urban interfaces (Ritzel and Gallo 2020). Public engagement may serve to reduce human-wildlife conflict by reinforcing proper wildlife viewing practices among visitors using social media and outreach materials.

### ***Habitat & Vegetation, Geology & Soils, Floodplains, Air Quality, and Water Quality***

Less than 0.5 acres of refuge land within the trail footprint will be maintained under a right-of-way permit for trail accessibility. This loss of habitat occurs within the northern portion of the refuge adjacent to the WIS 35/53 County Highway. Trees and vegetation will be removed yet at the landscape level this impact is not expected to reduce habitat or fragment large tracts of viable habitat. Rather, trail construction can be viewed as an extension of current infrastructure at the edge of the refuge's boundary.

The soil within the trail footprint may become compacted but landscape-level processes, such as groundwater recharge, are unlikely to be altered. The maximum footprint of the trail bed will be 10' and within this area, a permeable layer of finely crushed limestone will promote groundwater infiltration and prevent ponding or trail blowouts. The trail is expected to be maintained by Buffalo County and Wisconsin Department of Transportation staff, which may provide an opportunity for refuge staff to collaboratively plant native vegetation or manage nonnative species to improve the floristic diversity within the boundary of the refuge and trail.

### ***Refuge Management & Operations, Visitor Use & Experience***

The Winona Connector Phase II trail may provide the long-term benefit of accessibility to refuge staff, the general public, and specific user groups. One barrier frequently cited by land managers engaging in planning for habitat management is the cost or time associated with conducting a management action. A hard-surface trail may provide staff the ability to easily access the right-of-way and refuge border, an area frequently encroached by nonnative species spread within the nearby right-of-way. Although not necessarily a ‘tangible’ benefit, staff may have an increased presence while conducting habitat management or other activities on the trail, facilitating positive engagement and public relations of refuge staff and community members. The Winona Connector Phase II presents an opportunity for improved accessibility. Persons with disabilities will gain 2.4 miles of hardpacked, usable trail for wildlife-dependent recreation and greater accessibility to public lands. In addition, this trail may promote the use of alternative, environmentally conscious forms of transportation such as biking within the local commuting area. While the trail presents numerous long-term social and operational benefits for the refuge and the public visitors, there may be negative impacts to consider. Assuming the trail promotes increased visitation, the trail may increase law enforcement violations on public lands or require increased refuge monitoring of trail users. Staff may be required to spend increased time reporting or addressing trail violations, misuse, or damage. Buffalo County, Wisconsin Department of Transportation and refuge staff may be required to coordinate further maintenance at the cost of refuge staff’s time.

## **Public Review and Comment**

The draft compatibility determination will be available for public review and comment for 15 calendar days from February 29<sup>th</sup> to March 14<sup>th</sup>, 2024. The public will be made aware of this comment opportunity through a press release that will be sent to newspapers, radio, television, and other media outlets and community contacts (i.e. village hall, local libraries). State and Tribes have been asked to review and comment on the draft compatibility determination. A hard copy of this document will be posted at the refuge Headquarters (Trempealeau NWR, 28488 Refuge Road, Trempealeau WI 54661) and it will be made available electronically on the refuge website (<https://www.fws.gov/refuge/trempealeau>). Please let us know if you need the documents in an alternative format. Concerns expressed during the public comment period will be addressed in the final document.

## **Determination**

Is the use compatible?

Yes

## **Stipulations Necessary to Ensure Compatibility**

To ensure compatibility with the National Wildlife Refuge System and refuge goals and objectives and to minimize or exclude adverse impacts as described above, the activity can only occur under a number of stipulations:

1. The project complies with other Federal, State and local permitting requirements and regulations relating to environmental and cultural resource protection. Specifically, the project will be in compliance with the Endangered Species Act Section 7 to avoid impacts to listed species. Consideration needs to be made for disturbance during migratory bird nesting seasons. Permittee will adhere to refuge recommendations for bald eagle nesting sites.
2. All state and federal laws must be complied with where impacts to wetlands are involved.
3. All work done in the right-of-way must be approved by the appropriate refuge manager in the form of a letter of authorization or a Special Use Permit depending upon the scope of the project.
4. Buffalo County and the Wisconsin Department of Transportation will follow guidelines outlined in the right-of-way permits and special conditions associated with the refuge Special Use Permit.
5. Refuge lands temporarily disturbed during the construction process are revegetated with native species appropriate for floodplain/wetland habitats. Conditions stipulated in a letter of authorization or special use permit such as seeding mixes, weed control, etc. must be followed to remain a compatible use.
6. To take such soil and resource conservation and protection measures, including weed control on the land covered by the permit, as designated by the refuge.
7. All vegetation removal along road right-of-way will either be accomplished by mechanical means or, if herbicides are used, submitted for approval to the refuge manager, Trempealeau National Wildlife Refuge.
8. No herbicides, pesticides, solvents or fuel storage tanks may be stored on the right-of-way.
9. The project is constructed as designed and maintained by Buffalo County, except for culverts which will be maintained by the Wisconsin Department of Transportation. Both entities will be listed in the right-of-way permit for their respective portions of maintenance responsibility of the trail.
10. As needed, Buffalo County and Wisconsin Department of Transportation will apply for future right-of-way permits to renew. At that time, the compatibility determination and all environmental compliance will be reviewed to ensure they are still appropriate.

Terms and conditions of the right-of-way permit will allow for modifications to ensure compatibility (603 Compatibility Determination 4 FW 2.11(H)(3)).

### **Justification**

The stipulations outlined above would help ensure that the use is compatible at Trempealeau National Wildlife Refuge. Rights-of-way and Rights to Access for the construction of a recreational trail, as outlined in this compatibility determination, would not conflict with the national policy to maintain the biological diversity, integrity, and environmental health of the refuge.

This use will not materially interfere with or detract from the purposes for which the refuge was established. Refuge staff have been engaged with the Wisconsin Department of Transportation and Buffalo County Township in the planning process for the development and location of the recreational trail. Steps were taken during the planning process to minimize the impacts to refuge resources and wetlands by creating steeper side slopes and reducing the width of the trail. This trail will assist in fostering an appreciation for the refuge, its scenic values, and wildlife. During construction temporary disturbances to the lands adjacent to right-of-way will usually have only short-term and temporary effects on wildlife and their habitat. Ensuring that all state and federal laws pertaining to wetland impacts are complied with will ensure that any damage to wetlands is temporary and fully restored or mitigated.

### **Signature of Determination**

Refuge Manager Signature and Date

### **Signature of Concurrence**

Assistant Regional Director Signature and Date

## **Mandatory Reevaluation Date**

2073. More specifically, the compatibility determination will be reviewed when the Buffalo County and Wisconsin Department of Transportation submits additional right-of-way permits.

## **Literature Cited/References**

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## Figure(s)

See Figure 1: Great River State Trail Extension – Winona Connector Phase II Location Map (Description: An aerial map that depicts the proposed trail location with a red line. Phase one is depicted with a green line. Image also includes a vicinity inlaid county map for the state of Wisconsin, identifying the project occurs within Buffalo County, Wisconsin.)

