

Draft Compatibility Determination

Title

Compatibility Determination for Right-of-Way (ROW) and construction of overhead 345-kv transmission line on grassland conservation easements in Mountrail and McLean counties, North Dakota.

Refuge Use Category

Rights-of-way and Rights to Access

Refuge Use Type(s)

Utilities

Refuge

Lostwood Wetland Management District; Audubon Wetland Management District

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

Refuge Purpose(s):

“...as Waterfowl Production Areas” subject to” ...all of the provisions of such Act [Migratory Bird Conservation Act] ...except the inviolate sanctuary provisions...” 16 U.S.C. 718(c) (Migratory Bird Hunting and Conservation Stamp)

“...for any other management purpose, for migratory birds.” 16 U.S.C. § 715d (Migratory Bird Conservation Act)

“...for conservation purposes ... “7 U.S.C. § 2002 (Consolidated Farm and Rural Development Act)

“...for the benefit of wetlands-associated migratory birds...” 16 U.S.C. 4401-4414 (NAWCA).

Establishing and Acquisition Authorities: Migratory Bird Conservation Act, as amended (16 U.S.C. 715-715r); Migratory Bird Hunting and Conservation Stamp Act, as amended (16 U.S.C. 718-718j); North American Wetlands Conservation Act (NAWCA), as amended (16 U.S.C. 4401-4414); Fish and Wildlife Act (16 U.S.C. 742f); Land and Water Conservation Fund Act, as amended (916 U.S.C. 4601-9); Consolidated Farm and Rural Development Act (7 U.S.C. 2002).

16 U.S.C. 4601-9(a)(1), “authorize the Secretary of the Interior to acquire lands and

waters or interests therein for the development, advancement, management, conservation, and protection of fish and wildlife resources. The purpose of easements is to protect the habitat quality and that lands shall be maintained to provide cover, especially nesting cover, and food for a varied array of aquatic, terrestrial, and avian wildlife, particularly waterfowl and threatened and endangered species.”...

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

What is the use?

The use is a utility right-of-way (ROW), which is defined as the right to use and possibly alter the landscape through construction, maintenance, and operation of water or fuel pipeline, power line, telecommunications line or tower, or other utility.

This use will involve allowing installation and maintenance of 24 single pole structures on seven grassland easement tracts. Basin Electric Power Cooperative (BEPC) is proposing to construct, maintain, and operate power lines, towers, and other utility equipment for a 345-kV transmission line across Mountrail, Ward and McLean counties. The 24 single pole structures are necessary for construction the transmission line and consist of 23 poles with an average occupancy of 10 square feet and one pole with an approximate occupancy of 14 square feet.

Is the use a priority public use?

No

Where would the use be conducted?

The line will cross four miles of grassland easement, out of the total project's 165 miles of overhead transmission line from the Tande substation to the Leland Olds substation. A special use permit will initially be issued to facilitate the short-term disturbances and construction of the 24 power poles on the easement-protected grasslands. The ROW permit will authorize the long-term occupancy and

maintenance of 24 structure locations within seven U.S. Fish and Wildlife Service (Service) grassland easement tracts located in Mountrail and McLean counties, North Dakota (Mountrail 517G; Mountrail 533G; McLean 486G,1,2; McLean 432G; McLean 443G; McLean 438G; McLean 224C). The grassland easements in the area predominantly feature a mix of native and tame grasses and are subject to a variety of land uses.

When would the use be conducted?

Construction is slated to commence in summer 2025 and is anticipated to conclude by fall 2026. Installation will proceed in phases, starting with the construction of concrete pier footings, followed by the erection of the structures and the stringing of lines. Upon the completion of the BEPC line construction, the ROW permit will enable operation and maintenance of the infrastructure for a duration of 50 years.

Following the initial construction phase, occasional inspections and minimal maintenance may be necessary within the proposed ROW to access and repair any lines or infrastructure that may sustain damage or degradation. The typical maintenance schedule includes aerial inspections conducted three times a year, one ground-based inspection every two years, and a comprehensive climbing inspection of each structure every five years.

How would the use be conducted?

Prior to the ongoing use and maintenance of power lines, construction crews will utilize a truck-mounted auger or a tracked vehicle equipped with a power auger to drill holes for concrete foundations at 24 designated structure locations. Disturbance will be limited to the confines of the project corridor. Each structure will be supported by steel-reinforced concrete drilled pier foundations, of the 24 piers on grassland easements, 23 piers will measure approximately 10 feet in diameter, and one pier will measure approximately 14 feet in diameter. Excess soil generated will be disposed of off-site.

Structures will be transported to the site by truck and assembled on location. Davit arms, insulators, and other necessary appurtenances will be attached while the structures remain on the ground. Erection crews will deploy cranes or large boom trucks to position the structures onto the foundations.

To mitigate damage to grasslands, the contractor will restrict movement within the project corridor. Preservation of native grassland will be prioritized wherever feasible. Soil protection, along with erosion and sediment control measures, will be implemented prior to construction and maintained throughout the process. In areas where vegetation is removed, revegetation will occur promptly using an approved seed mix to minimize erosion and restore grassland habitat.

Ongoing communication and coordination will be maintained between the Service and Basin Electric Power Cooperative throughout the construction and restoration phases. This collaboration will help ensure that any impacts to easement-protected grasslands are avoided or minimized wherever possible.

For grassland easements, less than fee interests, the Service requires that special use permits be secured for ROW activities that may temporarily affect property interests acquired by the United States. If the requested ROW or its routine maintenance might permanently impact these federal interests, a ROW permit application must be submitted.

Should future construction be necessary for maintenance repairs or replacements, access will occur and be authorized through special use permits that may be secured to authorize temporary access and/or impacts occurring outside of the designated ROW. All construction, monitoring, and maintenance must be done in compliance with the “Stipulations Necessary to Maintain Compatibility” below.

Why is this use being proposed or reevaluated?

Basin Electric Power Cooperative is actively proposing a strategic initiative aimed at expanding electric load capacity to meet the projected increase in electricity demand. This demand growth is primarily driven by two key factors: a rising population and ongoing energy development activities within the Bakken region. As the population in this area continues to grow and energy production escalates, the need for reliable electrical service becomes even more critical.

A pressing concern highlighted in the 2021 Interregional Transmission Planning report is the vulnerability of this region to voltage collapse—a serious risk that could jeopardize the stability of the electrical grid. To combat this challenge, Basin Electric is developing a project specifically designed to enhance service delivery capabilities and mitigate these vulnerabilities throughout the region.

In the course of this project, Basin Electric has made significant efforts to minimize impacts to Service lands. The cooperative recognizes the importance of preserving these lands and strives to balance the need for infrastructure development with environmental and community considerations. However, the complexity of the landscape, particularly the multitude of easement-protected parcels in the region, presents challenges that make it impractical to completely eliminate any effects on Service interests.

This initiative, therefore, not only aims to enhance electric service reliability but also seeks to do so in a manner that is considerate of the surrounding environment. Basin Electric is committed to engaging with stakeholders throughout this process to ensure that all interests are considered as they move forward with this essential

expansion of electrical capacity.

Availability of Resources

To effectively administer this project, resources such as staff time will be essential for reviewing, communicating, and coordinating with BEPC throughout the planning, installation, and restoration phases. This will ensure that any impacts on Service interests are either avoided or minimized. We anticipate that the preparation of the CD and associated compliance documents, along with coordination with other offices, public involvement, ROW permit processing, and monitoring, will require approximately 50 to 60 hours of Service staff time. Following project completion, no ongoing resource needs are expected. Currently, staff availability and funding are adequate to support this endeavor.

All costs associated with the monitoring and maintenance of the ROW will be the responsibility of BEPC.

Anticipated Impacts of the Use

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

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.” Threatened and Endangered species and other special status species, air quality, floodplains, visitor use and experience, cultural resources, and refuge management and operations will not be more than negligibly impacted by the action and have been dismissed from further analyses.

No significant beneficial or adverse short-term, long-term, or cumulative impacts are associated with the proposed use as outlined in this CD. The short-term temporary impacts and any long-term impacts are considered negligible with respect to the mission of the Service and the established purpose for which the grassland easements were purchased.

Short-term impacts

Temporary wildlife disturbance due to construction activity will be minimal as installers will be present for only a short amount of time in any one area. Due to the noise levels and human presence during construction, wildlife may temporarily be displaced to adjacent similar habitats but are expected to resume full use of the area, once construction is complete (Beale 2007, Berger 2010).

Protected grasslands will be impacted in the short-term from the surface disturbance required to install the structures and lines. Most impacts resulting from traffic and trampling will recover on their own by the next growing season. If activity results in removal of vegetation, the area will be reseeded at the earliest opportunity with a seed mix approved by the Wetland Management District Manager. Reseeded areas typically recover within a growing season or two, depending on moisture and other natural variables.

The ground-based monitoring and potential maintenance activities could introduce short-term impacts to the grasslands, primarily due to traversing the grass easement. This potential disturbance will be negated by the expected maintenance schedule that includes aerial inspections conducted three times a year, one ground-based inspection every two years, and a comprehensive climbing inspection of each structure every five years. The minimal short duration for ground-based inspections and maintenance repairs may disturb resident wildlife for less than one day every five years. Careful planning and management of monitoring practices to mitigate any adverse effects on the grassland ecosystem will lead to no impacts. Implementing best management practices will preserve the integrity of the habitat while fulfilling monitoring requirements.

Long-term impacts

This determination indicates that the long-term disturbance resulting from the footprint of the 24 structures will be minimal. The occupancy of 23 structures at approximately 10 square feet and one structure of approximately 14 square feet, culminates an expected total footprint of about 0.043 acres, outlined in BEPC Grassland Easement Impacts Table (Attachment I). The seven easement tracts protect 1,915 acres of grassland. Using the expected occupancy of .043 acres, roughly .002% of the seven-easement footprint will be occupied.

While the structures are in place, we anticipate that their presence will have negligible impacts on the mission of the Service and the intended objectives for which the grassland easement was originally established. Notably, the majority of the project area encompasses habitat with the potential to support up to 80 breeding waterfowl pairs per square mile, as indicated by the Service's Habitat and Population Evaluation Team's Duck Pair Thunderstorm Map updated in 2021 and the process cited in Reynolds et al. (2006). Given this context, the occupancy of 0.043 acres by the

structures would, at most, affect approximately 0.005 breeding pairs of ducks, underscoring the minimal ecological footprint of the project.

BEPC has recognized that necessary operations may impact the environment, including avian and bat species. BEPC has developed an Avian and Bat Protection Plan (ABPP) with the overall goal of minimizing avian and bat mortality. The ABPP provides guidelines for the implementation of cooperative policy and their commitment to compliance with regulatory requirements protecting wildlife and making reasonable and prudent efforts to minimize impact and mortality of avian and bat species while building and maintaining electric generation and transmission facilities. Please refer to Attachment II: Basin Electric Cooperative Avian and Bat Protection Plan.

Public Review and Comment

The draft compatibility determination will be available for public review and comment for 15 days from March 18th to April 1st, 2025. The public will be made aware of this comment opportunity through postings on the Lostwood and Audubon Wetland Management District websites. A hard copy of this document will be posted at the respective Refuge Headquarters or Visitor Center. Concerns expressed during the public comment period will be addressed in the final determination.

Determination

Is the use compatible?

Yes

Stipulations Necessary to Ensure Compatibility

1. Issuance of a special use permit does not preclude the requirements for obtaining a Service ROW permit or any necessary permits or approvals from other County, State, or federal agencies and from local landowners.
2. The permit is issued subject to the revocations and appeals procedure contained in Title 50, Part 25 of the Code of Federal Regulations.
3. The proposed activity will result in no impacts to wetlands protected by Service easements. No wetlands or any part thereof will be filled with any material, leveled by any equipment, drained by any means including pumping or by diverting water, or burned.
4. Upland impacts to areas protected by Service grassland easements will be temporary. Construction mats, crane mats, or similar ground protection will be used to prevent or minimize ground disturbance, particularly during wet or soft soil conditions. Any disturbed areas will be leveled, seeded, and restored to pre-work condition as specified by the Refuge Manager. Spoil will be discarded off site.

5. Sec. 106 will have SHPO Concurrence and Sec. 7 Consultation shall be completed before construction commences.
6. The authorization under the special use permit issued in accordance with this determination is for the initial construction only; any future maintenance or repairs will require additional consultation with the Wetland Management District office and will require a supplemental permit issued prior to the initiation of any remedial work.
7. District staff will monitor installation and restoration activities for compliance with conditions of the special use permit. At any time, district staff may accompany the surveyors to determine potential impacts.
8. The Wetland Management District Manager can terminate or modify the terms of a special use permit if the permittee is out of compliance or to ensure wildlife and habitat protection.
9. In accordance with the Archeological Resources Protection Act (16 U.S.C. 470aa), the removal or disturbance of archeological or historic artifacts is prohibited. The excavation, disturbance, collection, or purchase of historical or archaeological specimens or artifacts on refuge lands is prohibited. If evidence of historical, archaeological, or paleontological sites are discovered during the activities authorized by the SUP, the permittee shall immediately stop activities and contact the Wetland Management District Manager.
10. Additional stipulations may be added to address specific concerns with individual projects.

Justification

The stipulations mentioned above will ensure compatibility of usage within Lostwood and Audubon Wetland Management Districts. The installation of this transmission line will not conflict with the national policy aimed at preserving the biological diversity, integrity, and environmental health of these districts. Based on available science and expert judgment, the Service has concluded that this project, when conducted in accordance with the outlined stipulations, will not significantly interfere with or undermine the objectives of the National Wildlife Refuge System or the district's purpose.

If these structures had existed at the time of the grassland easement acquisition, the ecosystem's beneficial grassland attributes would still qualify, as the property is within an approved county and holds high potential value for wildlife. Current restrictions on mowing, haying, and grass seed harvesting remain in effect to protect grassland nesting species, including ducks and sharp-tailed grouse, ensuring they can complete their nesting cycles before any disturbance occurs. The agreement mandates the maintenance of permanent vegetative cover such as forbs, grasses, and low shrubs, and prohibits cultivation of the grassland.

This project is expected to result in minimal and temporary disturbances to the affected grassland easements. Given the extent of the Service's fee title and easement holdings in the area, it is impractical to completely avoid impacts on Service interests. The managers have collaborated with the applicant to mitigate these impacts wherever possible. At present, the anticipated effects are considered minor and temporary, with complete site restoration anticipated by the next growing season.

As proposed, the project will not lead to any long-term adverse effects on the interests for which the easements were acquired, nor will it detract from or materially interfere with the mission of the National Wildlife Refuge System. It is crucial that, where feasible and without compromising any preservation goals or adversely affecting the land interests held by the Service, the Service accommodates proposed uses aimed at enhancing electricity distribution, improving quality of life, and ensuring safety for residents in rural America.

List of Attachments:

Attachment I: Basin Electric Power Cooperative Grassland Easement Impacts Table

Attachment II: Basin Electric Cooperative Avian and Bat Protection Plan

Attachment III: Transmission Line Route Maps

Signature of Determination

Wetland Management District Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

Literature Cited/References

Beale, C., 2007. The Behavioral Ecology of Disturbance Responses. *International Journal of*

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Reynolds RE, Shaffer TL, Loesch CR, Cox RR. 2006. The farm bill and duck production in the Prairie Pothole Region: increasing the benefits. *Wildlife Society Bulletin* 34: 963- 974. Data updated through 2021.