

Draft Compatibility Determination

Title

Compatibility Determination for Telecommunication Right-of-Way Renewal at Valentine National Wildlife Refuge

Refuge Use Category

Rights-of-way and Rights to Access

Refuge Use Type(s)

Rights-of-way (utility)

Refuge

Valentine National Wildlife Refuge

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

"...as a breeding ground for migratory birds and other wildlife." (Executive Order 7142)

"...for use as an inviolate sanctuary, or for any other management purpose, for migratory birds." (Migratory Bird Conservation Act)

"...for conservation purposes..." (Consolidated Farm and Rural Development Act)

"...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." (Emergency Wetlands Resources Act of 1986)

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?

Yes, the ROW for installing and maintaining a buried telecommunication cable was authorized in 1964 and has been in continuous use since. A new cable was installed in

2022.

What is the use?

We propose renewing the right-of-way (ROW) Permit for Lumen Inc. to maintain and conduct maintenance on existing buried telecommunication cables on Valentine National Wildlife Refuge (Refuge), including excavation, repair, removal, and replacement, as needed.

Is the use a priority public use?

No

Where would the use be conducted?

The use will occur within the area shown in Figure 1. The ROW will be about 50 feet wide and include roughly 9 miles of buried cable.

When would the use be conducted?

A new buried cable was installed in 2022. Maintenance work on the buried cable could occur at any time. Maintenance activities are anticipated to be infrequent. Buried telecommunication lines typically last for 30-40 years before needing replacement. Most maintenance to buried lines is caused by adjacent construction activities that inadvertently impact the buried line.

How would the use be conducted?

Maintaining buried cable may involve repairing or replacing it through methods like boring, plowing, trenching, or vibrating. These actions usually cause minor, temporary disturbances to vegetation and soil. If maintenance is needed, Lumen must backfill and level the area to its original state. Vegetation is expected to quickly recolonize, so seeding will not be necessary due to the robust seedbank in the sandhills.

A 50-year ROW permit will be granted that authorizes the subsurface occupation of the land for the telecommunications infrastructure. The operation and maintenance of the buried cables will not require any further land disturbance, except unforeseen repairs, as the system will be fully integrated and functioning without ongoing physical interference with the surrounding environment.

The Refuge may also issue SUPs for future repairs or replacements, if such construction activities would involve access and/or temporary and minor impacts to Refuge areas outside of the 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?

This use is under review as the Service has received a ROW renewal request from Lumen Inc. The renewal of the ROW permit would allow Lumen Inc. to continue to deliver telecommunication services to the Refuge and private residences in its vicinity via buried cables without causing any long-term negative impacts to Refuge wildlife, habitat; or threatened, endangered, and special status species.

Availability of Resources

Assessment of current resources and capacity

Currently, staff availability and funding are adequate to oversee the maintenance of the ROW. We anticipate that the preparation of the compatibility determination (CD) and associated compliance documents, along with coordination with other offices, public involvement, and ROW permit processing will require approximately 20 hours of Service staff time. Following project completion, no ongoing resource needs are expected. There may be an occasional need for the Refuge to make small investments in time and resources (e.g. communication, coordination, monitoring, and SUP preparation) for future maintenance activities associated with the ROW. However, all costs associated with permitting, monitoring, and maintenance of the ROW will be the responsibility of Lumen Inc.

Impacts of changes to resources and capacity

It is anticipated that the existing buried telecommunication line will require minimal maintenance, so changes in resource capacity should not affect the Refuge's ability to manage the use.

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 materially interfere or detract from the purpose for which a refuge was established and the mission of the Refuge System. 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 analysis.

Short-term impacts

Wildlife

Generally, no significant impacts are expected. If maintenance of the buried cable is needed, there will be temporary disturbances to wildlife, especially from May to August when migratory birds are present. Wildlife may temporarily relocate but will likely return after construction (Beale 2007, Berger 2010). Short-term impacts include noise, temporary habitat loss, and landscape fragmentation, affecting bird use and productivity. The disturbance area will primarily be limited to the narrow zone directly above and next to the buried cable. Cable maintenance is expected to be rare and is not anticipated to impact wildlife populations.

Threatened and Endangered Species and Other Special Status Species

The Endangered Species Act Intra-Service Section 7 review assessed threatened, endangered, and special status species in the project area. It found that the project may affect but is unlikely to adversely affect the American burying beetle, monarch butterfly, and regal fritillary butterfly. No effect was found on other federally listed species.

Habitat and Vegetation

Most of the ROW is comprised of previously disturbed land within an extant road ROW. Any impacts to this marginal habitat will be minimal and short-term. Buried cables typically last 30–40 years and rarely require maintenance. If necessary, maintenance will involve boring, cable-plowing, trenching, or other disturbances, affecting vegetation in a narrow strip directly above the buried cable. Following any ground disturbance, Lumen will backfill and level the area. The disturbed area will re-vegetate within one growing season. Reseeding will not be required to prevent introduction of non-native or non-locally adapted species.

Invasive species can be introduced by equipment and contractors during projects. To prevent this, equipment will be cleaned and inspected before entering the work area. This will be a requirement in the ROW permit.

Using equipment for a project involves the risk of spilling fuel, oil, chemicals, or other substances. Such spills near wetlands or waterways can harm water quality. Based on the anticipated frequency of future maintenance, it is unlikely that any spills will occur. In the event of a spill, cleanup will follow state and federal regulations governing oil and fuel spills.

Long-term impacts

No long-term negative impacts are expected for wildlife, federally listed species, or vegetation. Seasonal wildlife displacement would occur following maintenance due to trampling and uprooting of vegetation; however, these impacts will only remain for one growing season since vegetation disturbed by maintenance is expected to fully recover after one growing season.

Public Review and Comment

The draft compatibility determination will be available for public review and comment for 15 calendar days from August 21 - September 4, 2026. The public will be made aware of this comment opportunity via a digital posting on the Refuge website, and a hardcopy posting at the Refuge Headquarters at 39679 Pony Lake Road Valentine, Nebraska 69201. 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

1. The applicant shall adhere to all applicable terms and conditions of the ROW Permit, any project-specific SUPs associated with the use, other federal, state, county or landowner permits or approvals, and all other applicable laws and regulations.
2. The ROW permit is issued subject to the revocations and appeals procedure contained in Title 50, Part 29 of the Code of Federal Regulations.
3. Habitat impacts will be only temporary. Any disturbed areas will be leveled and graded to pre-work condition.
4. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction near wetlands and aquatic sites. All exposed soil and any work below the ordinary high-water mark must be permanently stabilized at the earliest practicable date. All spoil from temporary coffer damming must be removed immediately, and dam material must also be placed back into the original borrow area.
5. Refuge staff will monitor construction activities for compliance with conditions of the applicable permit. At any time, Service staff may accompany project proponent surveyors or points of contact to determine potential impacts.

Justification

The primary purpose of the Refuge is as a breeding ground and refuge for migratory birds and other wildlife. The proposed ROW renewal will not materially interfere with or detract from the purposes for which the Refuge was established or with the mission of the Refuge System provided the above “Stipulations Necessary to Ensure Compatibility” are in place.

The ROW footprint largely consists of previously disturbed marginal wildlife habitat. Additionally, maintenance of this ROW is expected to occur infrequently as the cable was replaced in 2022 and buried lines typically last 30-40 years, thus impacts are anticipated to be minimal.

Based on available science and best professional judgment, the Service has determined that the proposed use would not materially interfere with or detract from the Refuge’s purposes, or the mission of the Refuge System. However, it would facilitate the continued delivery of telecommunication services to the Refuge and nearby residential areas.

Signature of Determination

District/Refuge Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

2035

Literature Cited/References

Beale, C., 2007. The Behavioral Ecology of Disturbance Responses. International Journal of Comparative Psychology, 20(2).

<https://escholarship.org/uc/item/43m7b2d5>

Berger, R.P., 2010. Fur, Feathers, Fins & Transmission Lines: How transmission lines and rights-of-way affect wildlife. Third Edition. Manitoba Hydro. 97 pp.

https://www.hydro.mb.ca/environment/pdf/fur_feathers_fins_and_transmission_lines.pdf

Bernath-Plaisted, J., and N. Koper. 2016. Physical footprint of oil and gas infrastructure, not anthropogenic noise, reduces nesting success of some grassland songbirds. Biological Conservation, 204 (Part B), 434-441.

Naeth, M.A., D.A. Locky, S.R. Wilkinson, M.R. Nant, C.L. Bryks, and C.H. Low. 2020. Pipeline Impacts and Recovery of Dry Mixed-Grass Prairie Soil and Plant Communities. Rangeland Ecology and Management. 73(5), 619-628.

Richardson, M.L., B.A. Wilson, D.A.S. Aiuto, J.E. Crosby, A. Alonso, F. Dallmeir, and G.K. Golinski. 2017. A review of the impact of pipelines and power lines on biodiversity and strategies for mitigation. Biodiversity Conservation. 26, 1801-1815.

Figure(s)

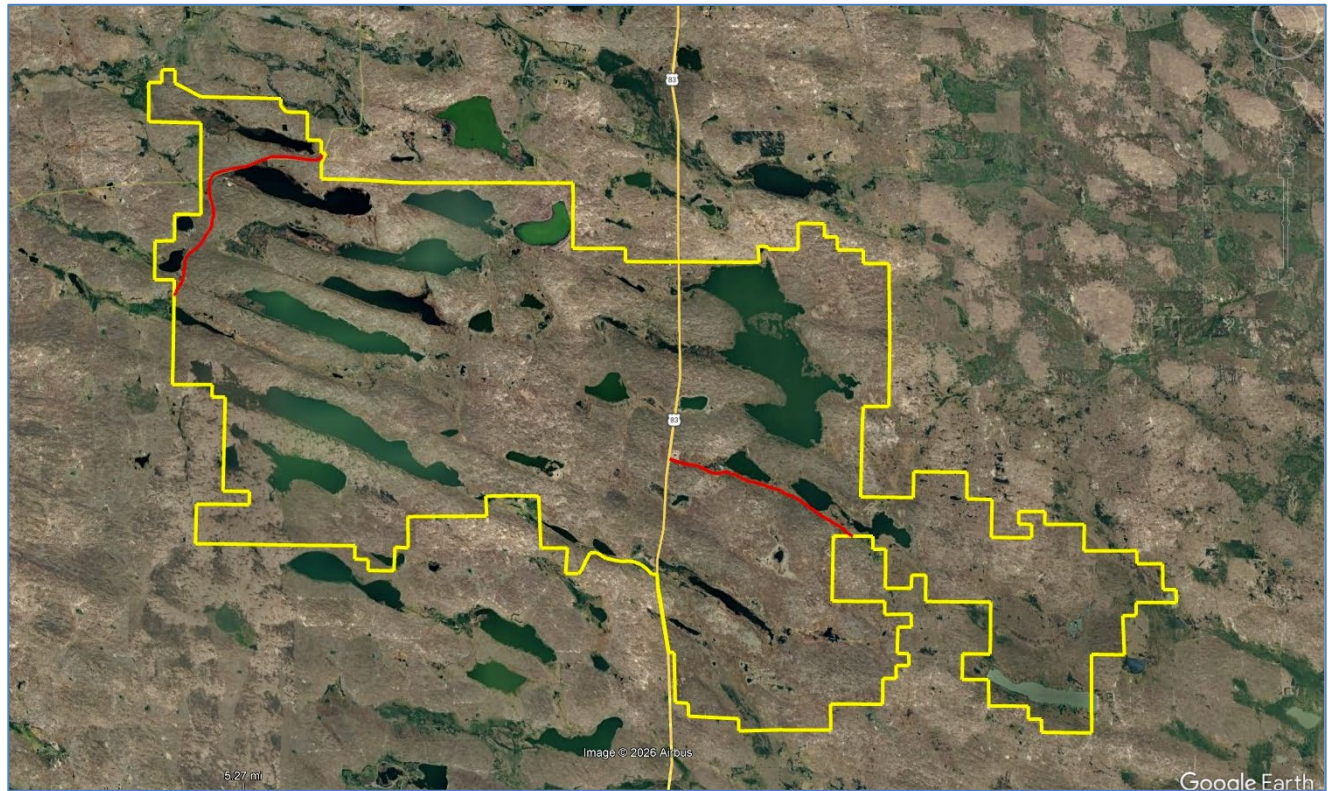


Figure 1: Valentine National Wildlife Refuge is outlined in yellow. The approximate locations of the ROW are delineated in red.