

Draft Compatibility Determination

Title

Compatibility Determination for US Forest Service Right of Way on Myrtle Creek Road (FSR #633), Kootenai National Wildlife Refuge

Refuge Use Category

Rights-of-way and Rights to Access

Refuge Use Type(s)

Rights-of-way (Road)

Refuge

Kootenai National Wildlife Refuge

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

“... for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.” 16 U. S. C 715 et. seq. (Migratory Bird Conservation Act of 1929).

“... suitable for (1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species or threatened species ...” (16 U.S.C. 460k-1) “... the Secretary ... may accept and use ... real ... property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors ...” 16 U.S.C. 460k-2 (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 ...” (16 U.S.C. 742f(a)(4) “ ... 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. 99 742f(b)(1) (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?

Yes. Kootenai National Wildlife Refuge (Kootenai NWR, Refuge) was established in 1964. The land was purchased with the existing Myrtle Creek Road (FSR #633) which had been constructed in the 1950s without a right-of-way easement. In 1972 a Right-Of-Way (ROW) permit was issued to the US Forest Service (USFS) for the existing sixty-six (66) feet wide, 5,025 feet (0.9517 miles) of roadway within the Refuge for a period of fifty (50) years. The current ROW encumbered by the USFWS is 9.31 acres.

What is the use?

The proposed use is a reauthorization of ROW permit to replace the March 16, 1972 “Easement for Road Right of Way” permit granted to the USFS for the purpose of using and maintaining the existing portion of Myrtle Creek Road (FSR #633) that crosses Refuge property and allows access to USFS owned property.

A Right-of-Way for a road is defined as “the right to use and possibly alter the landscape through construction, maintenance, and operation of a road” on lands under control by the U.S. Fish and Wildlife Service (Service). The Secretary of the Interior, through their authorized representative, the Regional Director, United States Fish and Wildlife, in accordance with applicable authorities, and regulations published in 50 CFS 29.21 et.seq., proposes to reauthorize the ROW permit with the USFS to use certain lands on the Kootenai NWR solely for the purposes of operation and maintenance of the existing Myrtle Creek Road (FSR #633).

Is the use a priority public use?

No

Where would the use be conducted?

The ROW permit is for the portion of Myrtle Creek Road (FSR #633) within the Refuge, from the intersection of Westside Road approximately 1 mile to the Refuge boundary. See Exhibit A and Exhibit B for specifics.

When would the use be conducted?

The ROW permit would be valid for 50 years after the signature date. The Service will request modifications to the terms and conditions of the permit from the permittee if the Service determines that such changes are necessary to ensure that the use remains compatible.

How would the use be conducted?

The proposed ROW will allow the USFS to continue to perform all required

maintenance, including labor, equipment, and materials required to keep the road open for use. Currently, the road is used by USFS personnel and designees, Service personnel and designees, and the public.

Service employees and designees will maintain all rights for ingress and egress over, upon, and across the road to perform Refuge management activities and emergency services.

Why is this use being proposed or reevaluated?

FSR#633 is an approximately 12-mile-long road. About one mile of the road is within the Refuge. The Refuge portion is administered in the same manner as the USFS portion of the road. The USFS currently administers the entire length of the road, including uses, maintenance, upgrades, etc.

Reauthorization of this ROW permit will allow for the continued use and maintenance of the existing portion of Myrtle Creek Road (FSR #633) that crosses Refuge property and will allow access to USFS owned property. Additionally, this road allows vehicle access for Refuge staff to conduct operations as needed and facilitates public access to the Refuge and other public lands.

Availability of Resources

The analysis of cost for administering and managing each use will only include the incremental increase above general operational costs that we can show as being directly caused by the proposed use.

Administration – Service personnel and resources will be needed for the issuance of the ROW permit.

Maintenance – The Service is not responsible for maintenance of the road within the ROW. USFS has sole responsibility for all road maintenance within the ROW.

Monitoring – Service personnel will monitor the ROW annually to ensure the ROW does not affect additional Refuge resources.

Current funding and staffing are adequate to allow 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 use will contribute to Refuge purposes and the mission of the National Wildlife

Refuge System by providing access for Refuge staff to conduct its operations, and for the general public to access wildlife-dependent recreational opportunities on the Refuge.

Short-term impacts

No changes are being proposed for this existing use. The short-term impacts of this ROW include continued disturbance from USFS vehicles and from any public access or special uses permitted by the USFS, which may include additional vehicles, bicycles, and/or pedestrians.

Temporary impacts to wildlife will occur during road maintenance activities, which consist mostly of spring road grading and surface gravel spreading as needed. The road is not plowed or maintained for vehicles in winter. No new ground disturbances would occur and short-term impacts to wildlife and or habitats resulting from road maintenance are anticipated to be minor and temporary. Heavy equipment operation from grading or other necessary maintenance activities will alter the movement and use of adjacent wetlands, forests, and fields by deer, elk, moose, small game, and migratory birds.

Anticipated short-term impacts of road use by vehicles, bicycles, and pedestrians on wildlife include temporal disturbances to species using habitat directly adjacent to the designated routes. In addition, there may be direct mortality to wildlife caused by vehicle strikes. No data on vehicle strikes have been recorded, however the number species impacted is thought to be low due to the slow speed of travel on gravel and few observed roadside wildlife mortality occurrences. This road has historically experienced light vehicular use, mostly during April-October.

Disturbances vary with the wildlife species involved and the type, level, frequency, duration, and the time of year such activities occur. Whittaker and Knight (1998) note that wildlife response to presence of humans, including vehicles, can include attraction, habituation, and avoidance. Human induced avoidance by wildlife can prevent animals from using otherwise suitable habitat. Knight and Cole (1991) describe behavioral changes as a result of disturbance from recreational use. Effects range from short-term shifts in habitat use, to complete abandonment of disturbed areas in favor of undisturbed sites. Disturbance can have negative effects such as increasing the energy demands on wildlife.

Hammitt and Cole (1998) conclude that the frequent presence of humans in wildland areas can dramatically change the normal behavior of wildlife, mostly due to unintentional harassment.

Seasonal sensitivities are also important in wildlife responses to human disturbance. For example, when an animal species is already stressed, human disturbance can compound the effect on that individual. Examples of these disturbances include regularly flushing birds during nesting, exposing juvenile animals to greater predation levels, or causing mammals to flee during winter months. These disturbances can

cause large amounts of stored fat reserves to be consumed.

Hammitt and Cole (1998) note that females (such as deer) with young are more likely to flee from a disturbance than those without young. This indicates increased sensitivity to human disturbance during the breeding season.

Although bicycling has the potential to cause flushing of birds from breeding and foraging habitats, bicycling on public roadways and established trails is not anticipated to cause large disturbances to wildlife if riders stay predictably on the designated paths and do not directly approach wetlands or areas where wildlife congregate. This will potentially allow wildlife to habituate to the use.

Long-term impacts

As noted above, disturbance can increase energy expenditures of wildlife, and therefore has the potential to affect productivity. Combined with mortality due to vehicle strikes, roads have the potential to cause changes to local populations or species distribution in the long term.

Flight in response to other disturbance can lower songbird nesting productivity, cause disease, and in extreme cases (predation) can result in death. Knight and Cole (1991) suggest that recreational activities occurring simultaneously may have a combined negative impact on wildlife.

Although there is some temporary disturbance to wildlife due to human activities, the disturbance is generally localized and would have a negligible to minor effect on overall populations or wildlife distribution. Moreover, the road facilitates Refuge management, with an overall benefit to Refuge wildlife and habitat.

Public Review and Comment

This draft compatibility determination will be available for public review and comment for 15 days. A hard copy of this document will be posted at the Refuge Headquarters at 287 Westside Road, Bonners Ferry, ID 83805. It will be made available electronically on the refuge website at www.fws.gov/refuge/Kootenai/. Please let us know if you need the documents in an alternative format.

Determination

Is the use compatible?

Yes

Stipulations Necessary to Ensure Compatibility

1. The Refuge will evaluate the ROW on an annual basis to ensure that additional

Refuge resources are not being impacted by the ROW.

2. The USFS may permit access for special uses of the road, with prior approval from USFWS, as long as access is in accordance with this compatibility determination and with authorities, rules, and regulations referenced within. The USFS will provide the Refuge with written notice of any newly permitted road access prior to use. Access permits issued by the USFS shall expire no later than the expiration date of the ROW permit or when permit rights issued by the Service are changed or revoked.
3. Any areas disturbed by maintenance activities that contain soil and plants will be reseeded with Service-approved species.
4. 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.
5. No herbicides, pesticides, solvents, fuel storage tanks, or hazardous materials may be stored on the ROW.
6. All vegetation removal along the road within the ROW will either be accomplished by mechanical means or, if herbicides are used, submitted for approval to the Refuge Manager.
7. Hazardous waste spills in or near the ROW shall be reported to the Refuge Manager immediately and remediation cleanup take places as soon as it can be safely handled.

Justification

The compatibility policy 603 FW 2.11 (H)(3) states that "For uses in existence on November 17, 2000, that were specifically authorized for a period longer than 10 years (such as rights-of-way), our compatibility reevaluation will examine compliance with the terms and conditions of the authorization, not the authorization itself." USFS has complied with the terms and conditions of the previous ROW agreement, so the use is considered compatible.

Signature of Determination

Refuge Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

2072

Literature Cited/References

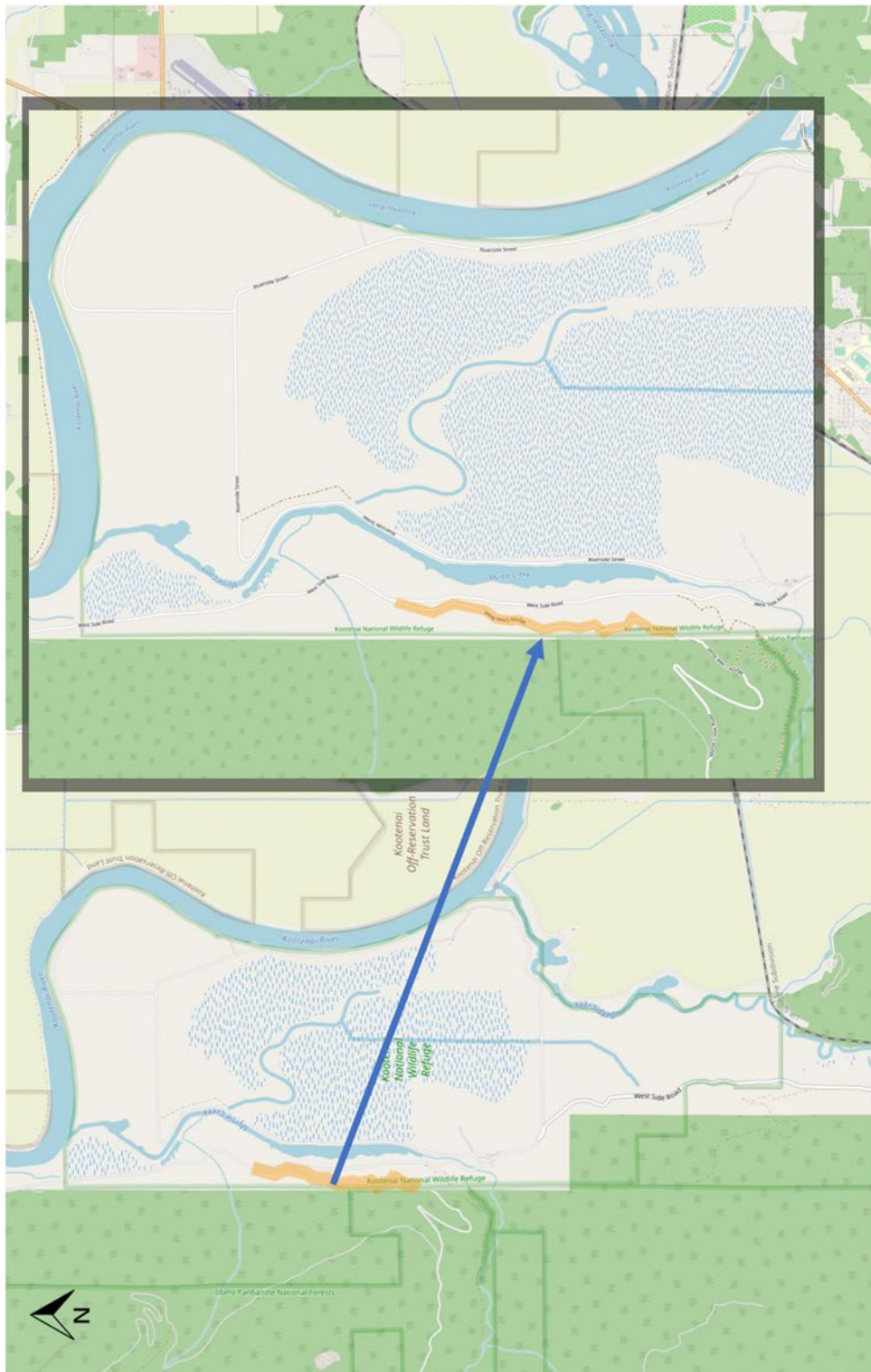
Hammitt, W. E., and D. N. Cole. 1998. Wildland Recreation: Ecology and Management. 2nd ed. New York: John Wiley and Sons.

Knight, R. L. and D. N. Cole. 1991. Effects of recreational activity on wildlife in wildlands in

Transactions of the North American Wildlife and Natural Resources Conference. 56: 238-247.

Whittaker, D., and R. L. Knight. 1998. Understanding wildlife responses to humans. Wildlife Society Bulletin 26: 312-317.

Exhibit B



ORANGE highlight indicates ROW within Kootenai National Wildlife Refuge boundary