

DRAFT COMPATIBILITY DETERMINATION

USE: Temporary Work Outside Existing Right-of-Way

REFUGE NAME: Trempealeau National Wildlife Refuge

ESTABLISHING AND ACQUISITION AUTHORITY(IES):

Trempealeau National Wildlife Refuge was established by Executive Order 7437, dated August 21, 1936.

REFUGE PURPOSE(S):

The purposes come from the authority under which Trempealeau National Wildlife 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: "...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."

DESCRIPTION OF USE:

What is the Use? Allow short-term disturbance to refuge lands for highway or other public interest projects with no right-of-way expansion and full restoration as described in a Special User Permit. Every year, requests are made by state and local government agencies and utility companies to complete repairs and improvements to existing roadways and utility facilities associated with existing rights-of-way on refuge lands. The work typically involves temporary disturbance to previously disturbed areas. Once work is completed, these disturbed areas are then restored to native vegetation. The administering of special conditions set forth in Special Use Permits, will assist the refuge in minimizing and/or preventing conflicts or cumulative impacts from other uses or disturbances on the refuge.

Where is the use conducted? Requests are made by state and local governmental agencies, railroads, and utility companies to do repairs and improvements to existing roadways and utility facilities associated with existing rights-of-way on, and adjacent to, the refuge. Many of these requests require temporary work outside existing right-of-way boundaries, generally resulting in temporary disturbance to the associated vegetation. The amount of allowable area outside of the existing rights-of-way will be addressed in the special use permit on a case-by-case basis, as each case is a unique circumstance and the amount is dependent on project needs. Additional stipulations may be added by the Refuge Manager in order to make project compatible.

When is the use conducted? Although winter is the preferred season, usually the temporary work outside of the right-of-way is conducted during the summer and fall, when construction conditions are optimal. All work in the summer and fall is completed after waterfowl and other grassland bird nesting seasons. The duration of any single project is usually 1 to 8 weeks and usually occurs during daylight hours. Occasionally, work may occur during the nesting season but the size of the disturbance zone will be minimal and described in detail in the special use permit

How is the use conducted? Frequently, the temporary work requested is required to reshape a slope immediately adjacent to a road right-of-way to improve transportation safety. In the case of utility lines, the request may involve access across refuge lands to a portion of the right-of-way for repairs or structure replacement. Heavy equipment is often used to perform this activity. The work typically involves temporary disturbance to uplands that can be re-planted with native vegetation to restore it to its original planted character.

Why is the use being proposed? This compatibility determination will allow the refuge manager to approve work and temporary habitat disturbance outside existing right-of-way boundaries when long-term impacts are either beneficial or not significantly harmful.

AVAILABILITY OF RESOURCES:

In most cases, minimal expense is required of the Service for these projects. However, on occasion, the scope of a project may be such that a major commitment in staff and/or resources is required. In these cases, the Service may opt to require the permittee to reimburse the agency for administrative costs. Authorization of the projects will require the requesting organization to cover habitat restoration costs. There may be a modest administrative cost for issuing a Special Use Permit and monitoring the work.

- Special equipment, facilities, or improvements necessary to support the use: funded through regular management activities, no additional funding is needed.
- Maintenance costs: funded through regular management activities, no additional funding is needed.

- Monitoring costs: staff may monitor commercial recorders to ensure compliance. This is expected to be covered by the refuge's current funding capacity, no additional funding is needed.
- Offsetting revenues: none

ANTICIPATED IMPACTS OF THE USE:

Short and Long-term Impacts:

The impacts to the associated uplands with this use will be minimal and temporary as the projects typically occur over a 1 week to 8 week time frame. When the request includes unavoidable destruction of vegetation, approval will be limited to sites previously tilled or otherwise disrupted. No native prairie remnants or wetlands may be destroyed. Requesting organizations will be required to reseed disturbed areas with a diverse mix of native species improving or restoring habitat that is approved by the refuge manager or their designee.

The quality of the habitat in the disturbed zone may be diminished for up to 3 years following the project but the disturbed zone will provide some migratory bird value by the year following the project. The long-term productivity of the disturbed zone will frequently increase due to the replacement of exotic, less desirable cover with native vegetation.

Most impacts will be along existing roads in areas already subject to significant habitat and aesthetic deterioration due to existing transportation right-of-way. In some cases, a utility right-of-way can split an otherwise contiguous block of quality habitat. In these settings, the disturbance from machinery and construction activity will still be temporary but the impact to waterfowl and other migratory birds is likely greater. The existing right-of-way already results in some disturbance but the decision to authorize temporary work outside the right-of-way will slightly increase the magnitude of the disturbance.

Indirect and Cumulative Impacts:

Most impacts would be along existing rights-of-way in areas already subject to significant habitat and aesthetic deterioration. The work outside of the existing right-of-way would slightly increase the magnitude of disturbance. Current, rights-of-way are mainly limited to refuge borders and would not have compounding impacts across the entire refuge. The right-of-ways are also in close proximity to each other. Construction of frequented access routes to the refuge could indirectly affect visitation. However, this would only be temporary and could create improved and safer routes to access the refuge.

PUBLIC REVIEW AND COMMENT:

The draft Compatibility Determination will be available for public review and comment for 15 days from August 31st, 2020 to September 15th, 2020. A public notice will be sent to local newspapers, as well as a press release, on September 15th, 2020 notifying the public of the comment period. The compatibility determination will be made available online at <https://www.fws.gov/refuge/trempealeau/>. You can contact the refuge at 608-539-2311 x. 6 or

Stephanie_edeler@fws.gov to request either printed or electronic copies. 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 draft.

DETERMINATION:

- Use is not compatible
- Use is compatible with the following stipulations

STIPULATIONS NECESSARY TO ENSURE COMPATIBILITY:

1. All work done outside of existing right-of-ways must be approved by refuge manager in the form of a letter of authorization or a Special Use Permit depending upon the scope of the project.
2. 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.
3. No work that leads to permanent loss of wetlands or native prairie remnants will be allowed without a site-specific compatibility determination. All state and federal laws must be complied with where impacts to wetlands are involved.
4. Whenever possible, work should be performed during the winter months when the ground is frozen to minimize damage to the soil surface. Where ground disturbance will occur on Service lands outside a right-of-way, appropriate steps must be taken to ensure that there are no negative impacts to cultural resources and soil compaction.
5. With ever advancing technologies, the permittee will consider all available options for access using the existing right-of-way. Only when it is deemed unavoidable, will temporary work outside the right-of-way be authorized.

JUSTIFICATION:

This use will not materially interfere with or detract from the purposes for which the refuge was established with the above stipulations in place. Temporary disturbances to the lands adjacent to rights-of-way will usually have only short-term effects on wildlife and their habitat. Work within the rights-of-way is beyond the authority of the Fish and Wildlife Service to regulate other than influencing the timing and scope of work to minimize wildlife harm. Whenever possible, restricting off-right-of-way work to winter months will help prevent soil damage and minimize potential erosion and impacts to cultural resources. 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. Allowing temporary work outside existing right-of-ways ensures that the holder can continue to provide essential human services to communities in the vicinity of the refuge. In some cases, the repairs and maintenance performed may also ensure safety of visitors and the public. Finally, restoration of disturbed sites may increase productivity by providing more robust vegetation than what was originally present.

SIGNATURE:

Refuge Manager Signature and Date

CONCURRENCE:

Regional Refuge Chief Signature and Date

Mandatory 10 or 15-year Re-evaluation Date: 2030