

## Compatibility Determination

**Use:** Project associated with the construction of the Big Stone to Ellendale 345 kV Transmission Line where impacts to U.S. Fish and Wildlife Service protected interests are temporary and minor. Project owners are Otter Tail Power Company and Montana-Dakota Utilities Company.

**Refuge Name:**

Waubay Wetland Management District  
Sand Lake Wetland Management District  
Kulm Wetland Management District

**Establishing and Acquisition Authority (ies):**

Waterfowl Production Areas Wetland Easements, Grassland Easements – The Migratory Bird Hunting and Conservation Stamp Act, March 16, 1934, (16 USC Sec. 718-718h, 48 Stat. 452) as amended August 1, 1958, (PL 85-585; 72 Stat. 486) for acquisition of “Waterfowl Production Area”, the Wetland Loan Act, October 4, 1961, as amended (16 USC 715k-3 - 715k-5, Stat. 813, funds appropriated under the Wetland Loan Act are merged with duck stamp receipts in the fund and appropriated to the Secretary for the acquisition of migratory bird refuges under the provisions of the Migratory Bird Conservation Act, February 18, 1929, (16 USC Sec. 715, 715d – 715r, as amended).

**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 USC 718(c) (Migratory Bird Hunting and Conservation Stamp).

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

**National Wildlife Refuge System Mission:**

“The mission of the 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.” (National Wildlife Refuge System Administration Act of 1966, as amended) [16 USC 6699(dd)-669(ee)].

**Description of Use:**

Construct the Big Stone to Ellendale 345 kV Transmission Line that passes through the above named Wetland Management Districts (WMD). The power line will consist primarily of single pole, self-weathering tubular steel single circuit structures placed on large concrete foundations, which are wider than the pole base.

### **Availability of Resources:**

Financial and staff resources are determined to be sufficient at each field station to administer these requests. Staff time will be needed to evaluate the proposed use, to prepare the site-specific permits and to insure compliance with the permit authorization and stipulations, as well as checking of satisfactory restoration of any disturbed sites after the reseeded areas have had a chance to grow.

No specialized equipment will be necessary, as the work requirement associated with this project is monitoring and compliance checking only. Actual work, including restoration needs, will be completed by the project owners as specified by the Wetland Manager, Environmental Assessment and Finding Of No Significant Impact.

### **Anticipated Impacts of the Use:**

The uses authorized under this compatibility determination must result in impacts that are minor and temporary in nature. Anticipated impacts are as follows:

- Temporary disturbance to the grassland area during and for a period of time following tower construction on 20.19 acres.
- Some wildlife may be temporarily displaced during the actual construction.
- Water quality may be temporarily and slightly reduced due to possible silt deposition if a rainstorm washes the exposed areas for a short period of time after construction. Project owners plan to use silt fences on construction areas near wetland basins to reduce siltation.
- Currently, it is expected that towers will be placed on the following:
  - Three towers on Dickey County, ND Wetland Easements in T. 129 N., R. 63 W., Sections 9 and 24; T. 129 N., R. 62 W., Section 20. Permanent impacts on 0.005 acres.
  - Four towers on Brown County, SD Grassland Easements in T. 127 N., R. 63 W., Sections 6 and 7. Permanent impacts on 0.007 acres.
  - Five towers on Day County, SD Grassland Easements wetland in T. 121 N., R. 59 W., Section 25; T. 120 N., R. 56 W., Section 13; T. 120 N., R. 55 W., Section 24. Permanent impacts on 0.009 acres.
  - Twenty-four towers in Grant County, SD Grassland Easements in T. 120 N., R. 52 W., Section 9; T. 120 N., R. 51 W., Sections 15, 10, 11 and 12; T. 120 N., R. 502 W., Sections 7 and 6. Permanent impacts on 0.04 acres.
  - One leveling in Grant County, SD Grassland Easements in T. 120 N., R. 51 W., Section 10. Permanent impacts on 0.42 acres of previously disturbed grass including leveling for pole placement.
- Coordination will be ongoing between United States Fish and Wildlife Service (FWS) and Project owners to make sure the towers on other lands protected by Wetland Easement are not impacting wetlands.

**Public Review and Comment:**

Public review and comment was solicited through public posting of notice at WaubayWMD, Sand Lake WMD, and Kulm WMDs from December 1, 2015 through December 31, 2015.

**Determination (check one below):**

Use is Not Compatible  
 Use is Compatible with Following Stipulations

**Stipulations Necessary to Ensure Compatibility:**

1. Issuance of a permit does not preclude the requirement for obtaining necessary permits and/or approvals from other County, State, or Federal Agencies and from local landowners.
2. The permit is issued subject to the revocation and appeals procedure contained in Title 50, Part 25 of the Code of Federal Regulations.
3. Upland impacts to areas protected by FWS grassland easements will be temporary. Any disturbed areas will be leveled, seeded and restored to pre-work condition as specified by the Wetland District Manager.
4. Additional stipulations may be added to the Special Use Permit to address specific concerns.
5. The authorization under the 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.

**Justification:**

There will be a total of thirty-three structures placed on Grassland Easements and three structures in wetlands on Wetland Easements over the approximately 170 miles of transmission line. The thirty-six structures will result in a loss of 0.005 of wetland acres and 0.475 of grassland acres for a total loss of 0.48 acres. Project owners have agreed to replace the lost acres as specified by the FWS. The use will not detract from or materially interfere with the mission or purpose of the NWRS.

Prior to issuing any permit, the manager will have worked with Project owners to avoid as many impacts as possible and then to minimize any impacts to FWS interests. The impacts are deemed to be minor and only temporary and site restoration will occur. Monitoring will continue during the construction process to ensure no other structures are placed in Easement wetlands.

Where possible, and without compromising any preservation program goal or objective, and without affecting (in the long term) any land interest held by FWS, it is critically important that field stations be able to accommodate these requested uses which are designed to improve electricity distribution or the quality of life in rural America.