

Compatibility Determination

Use: Re-route of private drainage ditches on Waterfowl Production Areas (WPAs) to facilitate wetland restoration on WPAs or private land.

District/Refuge Name: Detroit Lakes Wetland Management District and Hamden Slough National Wildlife Refuge.

District Establishing and Acquisition Authorities:

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

FmHA fee title transfer properties - Consolidated Farm and Rural Development Act 7 U.S.C. 2002.

Fish and Wildlife Act of 1956 (16 U.S.C. § 742(a)(4)) and (16 U.S.C. § 742(b)(1))
Emergency Wetlands Resources Act of 1986 (16 U.S.C. § 3901(b), 100 Stat. 3583).

District Purposes:

Waterfowl Production Areas - “...as Waterfowl Production Areas” subject to “...all of the provisions of such Act [Migratory Bird Conservation Act]...except the inviolate sanctuary provisions...” and “...for any other management purpose, for migratory birds.”

FmHA fee title transfer properties - “for conservation purposes...”

Description of Use:

This Compatibility Determination (CD) evaluates the re-route of existing private drainage ditches on Waterfowl Production Areas (WPA). Due to the scattered nature of -WPA’s across the five county Detroit Lakes Wetland Management District (District), many properties are adjacent to private property which is primarily used as farmland. Therefore, many neighboring properties have drainage facilities that continue onto, through, or terminate on WPAs.

Is the use a wildlife-dependent public use?

No, the re-route of a drainage ditch is not a wildlife-dependent public use.

Where would the use be conducted?

The use would occur on WPAs throughout the five county District which are impacted by a privately owned drainage ditch **and** where it facilitates wetland restoration.

How and when would the use be conducted?

The re-routing of private drainage ditches will be conducted when the re-route facilitates habitat improvement and increases benefits to wildlife; this will be determined on a case by case basis. An example of an acceptable justification would include; re-routing a privately owned drainage ditch located on a WPA to restore a wetland. The re-routing of private drainage ditches will not be permitted when: native prairie, grasslands, or wetlands will be negatively impacted; the new section of the ditch is proposed to have a lower elevation than that of the original ditch to enable faster movement of water downstream; re-routing the ditch would increase the length of the drainage facility on federal property; the impacts and disturbance resulting from a ditch re-route are determined to outweigh benefits to habitat and wildlife.

Why is this use being proposed?

The re-routing of privately owned drainage ditches located on federally owned properties is being proposed because many of the District WPA’s are surrounded by farmland which has been altered in an attempt to increase yields and maximize crop production potential. As a result, native habitats, primarily prairie, have been broken and wetlands have been drained, causing extensive habitat loss. Re-routing of privately owned ditches may enable habitat restoration on WPA’s that may otherwise not be possible.

Availability of Resources:

The re-routing of privately owned ditches on WPAs will be administered through the Special Use Permit (SUP) process. The landowner will be required to complete a SUP application which will be provided to the District. District staff time will be needed to review the SUP application, discuss the project with the landowner, identify potential impacts resulting from the proposed project, make a determination, and issue a SUP if deemed feasible. At the current time, for the number of requests received each year of this nature, there is adequate staff and resources to evaluate project proposals and determine if they are compatible with the District’s purpose.

Anticipated Impacts of the Use:

Anticipated impacts include: disturbance to vegetation, creating tracks or paths for predators due to use of heavy equipment, and possible placement of spoil on federal land. Any impacts to federal lands will be minimized to the fullest extent. Re-routing of drainage facilities will not be permitted if the project is considered an improvement to the drainage facility. Work will be restricted to as small a work area as possible, routes to and from the work area will be outlined in the SUP by District staff.

Public Review and Comment:

This CD is posted in the office at the District and on the District website from July 29 to August 12, 2016 for public comments.

Determination:

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

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Stipulations Necessary to Ensure Compatibility:

To ensure compatibility with National Wildlife Refuge System and District goals and objectives, and to minimize or exclude adverse impacts as described above, the activity can only occur under the following stipulations:

1. All applicable State and Federal regulations apply. The permittee is responsible for acquiring or renewing any necessary State and Federal permits prior to beginning or continuing their project.
2. The permittee identified on the SUP will oversee the project in its entirety. This includes ditch re-route designs (with FWS approval) and hiring and supervising of the contractor. Additional conditions within the SUP will minimize disturbance to District resources and will be provided on a case-by-case basis.
3. The District manager will provide requirements to reduce impacts to plants, wildlife, or visitors and address these in the special conditions of the SUP.
4. The construction manager shall have in their possession a copy of the SUP when overseeing the construction work on federal land and will display it upon request of District officials.
5. Permittee(s) will contact the District Manager prior to commencement of work; preferably two weeks in advance to identify sensitive areas/wildlife species.
6. Improvement of the drainage facility is not allowed. The re-routed drainage ditch may not be designed to increase water movement downstream. The newly constructed section of the ditch will be the same dimensions and have the same ditch bottom elevation.
7. The newly created ditch must follow grade from the point it exists the existing ditch to the point it re-enters the existing ditch.
8. Spoil resulting from the ditch re-route must be spread on privately owned property with agreement from the landowner. If any spoil is allowed at the discretion of the District Manager to be placed on the WPA, spoil may not be placed in low lying areas, along the perimeter of wetland basins, or in wetland basins on any lands.
9. Work will not be permitted in native prairies or in areas identified as sensitive or critical habitat by District staff.
10. The permittee is responsible for disking, leveling, grading, etc., all disturbed areas, (ruts, divots, spoil piles, etc.) per the specifications identified in the SUP.
11. The permittee is responsible for completing all finish work, including all site preparation and seeding of disturbed areas resulting from the ditch construction process. Refer to SUP for seeding specifications and requirements.

Justification:

In accordance with the missions of the National Wildlife Refuge System, the refuge, and the 1997 Refuge Improvement Act, this use has been determined compatible provided the above stipulations are implemented. This use will promote public awareness and stewardship of the District's natural and cultural resources. It does not materially interfere with or detract from the Service's ability to meet the mission of the National Wildlife Refuge System and administration of this use will require minor amounts of administrative time and funding.

NEPA Compliance for Refuge Use Decision (check one below):

- Categorical Exclusion without Environmental Assessment
- Categorical Exclusion and Environmental assessment
- Environmental Assessment and Record of Decision
- Environmental Assessment and Finding of No Significant Impact

Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. Commercial filming/recording can be categorically excluded from the EA process under Departmental Manual 516 DM6 Appendix 1.4 Categorical Exclusions General section C (3), as outlined below.

Signature: Refuge Manager: _____
(Signature and Date)

Concurrence: Regional Chief: _____
(Signature and Date)

Mandatory 10- or 15 year re-evaluations date: 07/2026