

Compatibility Determination

Use: Granting a Right-of-Way to Gibson Dam Hydroelectric Company, LLC (GDHC) for the construction of a 69kV electric power transmission line over and through a Fish and Wildlife Service Easement for Wildlife Habitat Conservation.

Refuge Name:

Rocky Mountain Front Conservation Area
Benton Lake Complex

Establishing and Acquisition Authority (ies):

Easement for Wildlife Habitat Conservation -The Migratory Bird Hunting and Conservation Stamp Act, 16 U.S.C. Secs. 715a-715e and 718d(c); the Land and Water Conservation Fund Act of 1965; the Fish and Wildlife Act of 1956, 16 U.S.C. 742a-742j; the Emergency Wetlands Resources Act of 1986, 16 U.S.C. 3901, authorize the Secretary of the Interior to acquire lands and waters or interests therein for the development, advancement, management, conservation, and protection of fish and wildlife resources.

Refuge Purpose(s):

“...authorize the Secretary of the Interior to acquire lands and waters or interests therein for the development, advancement, management, conservation, and protection of fish and wildlife resources.” 16 U.S.C. 742a-742j (Land and Water Conservation Fund Act)

“...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)-6699(ee)].

Description of Use:

Construction of a 69kV electric power transmission line over and through 1.63 miles of a Fish and Wildlife Service Easement for Wildlife Habitat Conservation within the Rocky Mountain Front Conservation Area. The Right-of Way would consist of a 30 foot buffer on either side of the transmission line for a total width of 60 feet totaling 11.83 acres. The power line will consist of 31 single wood poles averaging 60 feet in height. The poles would support five lines, two lines from the existing 7.2 kV overhead powerline which currently travels across the easement, and three additional 69 kV lines.

Availability of Resources:

Financial and staff resources are determined to be sufficient to administer this request. Staff time will be needed to insure compatibility determination public scoping and or any additional NEPA compliance.

Anticipated Impacts of the Use:

- Disturbance to the grassland area during the removal of 33 existing, 35 foot high, power poles currently crossing the Morris conservation easement and installation of 31 new, 60 foot high, wooden power poles.
- The proposed route would utilize the existing 7.2 kV power line corridor crossing the Morris Ranch conservation easement. GDHC proposed removal of existing 7.2 kV power lines on the Jones conservation easement and burial of existing lines on the Morris conservation easement for a total overall reduction of 2.84 miles or 38.0% of overhead power lines on these two FWS conservation easement properties.
- The proposed 1.63 mile 69 kV transmission line crossing the Morris conservation easement would support five overhead lines compared with two lines the 7.2 kV power line currently has crossing the easement. The USFWS submitted the following final recommendation pursuant to FPA section 10(j) and irrespective of whether any portion of the project transmission lines are sited on USFWS-administered properties: prior to the construction of any transmission-related facilities, the licensee shall, in coordination with the U.S. Fish and Wildlife Service, develop an Avian Protection Plan (APP) pursuant to Avian Protection Plan Guidelines, a Joint Document Prepared by The Edison Electric Institute's Avian Power Line Interaction Committee (APLIC) and the U.S. Fish and Wildlife Service. GDHC stated that an APP developed specifically for the project was approved by the FWS on May 5, 2009.
- The proposed project has the potential to introduce new or spread existing invasive weed species during construction.
- During construction the project will likely cause temporary avoidance and/or disturbance of both resident and migratory focal species. Long term avoidance due to additional structure height and additional power line is possible but particularly difficult to quantify.

Public Review and Comment:

Public review and comment would be solicited through posting for 30 days on the Benton Lake Web Site, and through publication in the Great Falls Tribune. Review and comment period was from June 28, 2013 through July 28, 2013.

Determination (check one below):

Use is Not Compatible

Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

Justification:

Granting this electric power transmission line Right-of-Way to Gibson Dam Hydroelectric Company, LLC (GDHC) over and through an Easement for Wildlife Habitat Conservation will materially detract from and interfere with the purposes of the Rocky Mountain Front Conservation Area and the mission of the National Wildlife Refuge System.

Property rights, purchased through the conservation easement, allow the Service to prohibit uses that would undermine the fundamental mission of the Refuge System and Refuge Purpose(s) by degrading the biological integrity, diversity, and environmental health of the landscape scale Rocky Mountain Front Conservation Area.

The easement specifically prohibits: 1) Subdividing or de facto subdividing, and/or developing the area for residential, commercial, industrial or any other purposes; 2) Erecting, constructing or placing any structures, buildings or improvements including trailers, mobile homes or other temporary living quarters; 3) "altering the topography or other natural features by digging, excavating, plowing, disking, cutting, filling, removing or otherwise destroying the vegetative cover.

The Refuge Administration Act, as amended, clearly establishes that wildlife conservation is the singular National Wildlife Refuge system mission. House report 105-106 accompanying the National Wildlife Refuge System Improvement Act of 1997 states "...the fundamental mission of our System is wildlife conservation: wildlife and wildlife conservation must come first." Biological integrity, diversity, and environmental health are critical components of wildlife conservation. The easement document and the previously stated prohibited uses, protects and maintains these critical components of wildlife conservation.

Refuge purpose, "authorize the Secretary of the Interior to acquire lands and waters or interests therein for the development, advancement, management, conservation, and protection of fish and wildlife resources", not only allows for acquisition but also protection of those acquired resource interests. The purpose of the easement is to preserve and protect, in perpetuity, fish and wildlife

habitat, including wetland, riparian and upland plant communities. Preventing fragmentation, subdividing or development, avenues for introductions of invasive species, avoidance or disturbance of both resident and migratory focal species and habitat conversion are the threats the easement protects the refuge purpose(s) against. The highest measure of biological integrity, diversity, and environmental health is viewed as those intact and self-sustaining habitats and wildlife populations that existed during historic conditions. The Rocky Mountain Front Conservation Area is ranked in the top one percent of wildlife habitats remaining in the continental United States with virtually every wildlife species found in this area upon the arrival of Lewis and Clark including a complete intact assemblage of large mammalian carnivores.

Construction of the proposed electric transmission line across the Rocky Mountain Front Conservation Area (RMFCA) will result in impacts that will materially detract from achieving the purposes(s) of the RMFCA, and the mission of the National Wildlife Refuge System. Construction of proposed transmission line is hence, incompatible with the purposes of the refuge and mission of the refuge system and in accordance with the National Wildlife Refuge System Administration Act, cannot be permitted.

Mandatory 10- Re-Evaluation Date: _____

Signatures:

Submitted:

Jim Lange
Acting Project Leader

Date

Dean Rundle
Refuge Supervisor

Date

Approval:

Matt Hogan, Region 6
Deputy Regional Director

Date