

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Arthur R. Marshall Loxahatchee National Wildlife Refuge

Use: Walking, Hiking, and Bicycle Riding in Areas Currently Closed to Such Uses

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	✓	
(c) Is the use consistent with applicable Executive orders and Department and Service policies?	✓	
(d) Is the use consistent with public safety?	✓	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?	✓	
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	✓	
(g) Is the use manageable within available budget and staff?	✓	
(h) Will this be manageable in the future within existing resources?	✓	
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	✓	
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?	✓	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will **generally** not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: *Steve Young, Acting District Leader*

Date: July 23, 2015

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence.

If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor: _____

Date: _____

Compatibility Determination

Refuge Name: Arthur R. Marshall Loxahatchee National Wildlife Refuge

Use: Expanding public access in the form of walking, hiking, and biking on the A, B, C impoundments as well as on the L-40, L-39, and L-7 levees.

Date Established: June 8, 1951

Establishing and Acquisition Authorities: A cooperative and License Agreement between the Central and Southern Florida Flood Control District (precursor to the South Florida Water Management District) and the U.S. Fish and Wildlife Service with the Migratory Bird Conservation Act of 1929 authorized the establishment of Arthur R. Marshall Loxahatchee National Wildlife Refuge. In the initial License Agreement, 143,116 acres of wetlands, known as Water Conservation Area I, were leased to the U.S. Fish and Wildlife Service by the State of Florida to be managed in accordance with the License Agreement and legislative mandates.

Refuge Purpose: "...for use as an inviolate sanctuary, or for other management purposes, for migratory birds." (Migratory Bird Conservation Act of 1929. 16 U.S.C. Sect. 644)

...shall be administered by him [Secretary of the Interior] directly or in accordance with cooperative agreements...and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife, resources thereof, and its habitat thereon. 16 U.S.C. Sect. 664 (Fish and Wildlife Conservation Act).

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.*"

Other Applicable Laws, Regulations, and Policies:

Antiquities Act of 1906 (34 Stat.225)

Migratory Bird Treaty Act of 1918 (15 U.S.C. 703-711; 40 Stat.755)

Migratory Bird Conservation Act of 1929 (16 U.S.C. 715r; 45 Stat. 1222)

Migratory Bird Hunting Stamp Act of 1934 (16 U.S.C. 718-178h; 48 Stat.451)

Criminal Code Provisions of 1940 (18 U.S.C. 41)

Bald and Golden Eagle Protection Act of (16 U.S.C. 668-668d; 54 Stat.250)

Refuge Trespass Act of June 25, 1948 (18 U.S.C. 41; Stat. 686)

Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j; 70 Stat.1119)

Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4; Stat. 653)

Wilderness Act (16 U.S.C. 1131; 78 Stat. 890)

Land and Water Conservation Fund Act of 1965

National Historic Preservation Act of 1966, as amended (16 U.S.C.470, et seq.; 80 Stat. 915)

National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd, 668ee; 80 Stat. 927)

National Environmental Policy Act of 1969, NEPA (42 U.S.C. 4321, et seq; 83 Stat.852)

Use of Off-Road Vehicles on Public Lands (Executive Order 11644, as amended by Executive Order 10989)

Endangered Species Act of 1973 (16 U.S.C. 1531 et seq; 87 Stat.884)

Refuge Revenue Sharing Act of 1935, as amended in 1978 (16 U.S.C. 715s; 92 Stat.1319)

National Wildlife Refuge Regulations for the Most Recent Fiscal year 950 CFR Subchapter C; 43 CFR 3101.3-3)

Emergency Wetlands Resources Act of 1986 (S.B. 740)
North American Wetlands Conservation Act of 1990
Food and Security Act (Farm Bill) of 1990 as amended (HR 2100)
The Property Clause of the U.S. Constitution Article IV 3, Clause 2
The Commerce Clause of the U.S. Constitution Article I, Section 8
The National Wildlife Refuge System Improvement Act of 1997 (Public law 105-57, USC668dd)
Executive Order 12996, Management and General Public Use of the National Wildlife Refuge System, March 25, 1996
Title 50, Code of Federal Regulations, Parts 25-33
Archeological Resources Protection Act of 1979
Native American Graves and Protection Repatriation Act of 1990

Description of Use: Public access in the form of walking, hiking, and biking on the A, B, and C impoundments as well as on the entire levee system (L-40, L-39- and L-7) at the Arthur R. Marshall Loxahatchee Wildlife Refuge (Refuge) in an effort to provide visitors additional areas to experience the myriad of wading birds, waterfowl, hawks, and alligators that use the Refuge and surrounding natural areas. The Refuge interior is bounded by a perimeter canal and levee system.

Currently, about two-thirds of the roughly 58 mile levee system that surrounds the Refuge is accessible to the public, offering visitors an opportunity to experience unique Everglades' habitats and wildlife. Most visitors use authorized boats, bicycles, or trek from their vehicles to access the Refuge. Specifically, walking and hiking are permitted on the perimeter levee from Hillsboro area northwest to the S-6 pump station. Hiking is also permitted from the Hillsboro Area to the ACME 1 pump station northeast of the Strazzulla Marsh. Bicycling is currently permitted on the perimeter levee from Hillsboro Recreation Area northward to the Headquarters Area and visitor center and authorized boats are permitted throughout the canal system and the southern interior of the Refuge. Bank fishing is permitted along sections of levees open to public use, currently from the S6 pump station to ACME 1, and its expansion to the north levee is considered compatible under this determination. Recreational activities that are dependent on wildlife, known as the Big Six priority public uses-- fishing, hunting, wildlife photography, wildlife observation, environmental education, and wildlife interpretation--are automatically considered to be appropriate activities on a National Wildlife Refuge.

Availability of Resources: Based on review of the Refuge's budget allocated for this type of activity, there will be adequate funding to ensure compatibility and to administer the use at its current level.

Anticipated Impacts of the Use: The Refuge has experienced minimal impacts to wildlife as a result of existing visitor access to the levee system which tend to occur if visitors venture too close to foraging or nesting wading birds, alligators, and turtles that use the canal and fringe vegetation adjacent to the levee. Expanding public access to a 58 mile stretch of the existing levee system and seven miles of the impoundment system (currently open to walking, wildlife photography, wildlife observation, environmental education and interpretation in addition to the annual Everglades Day festival and facility maintenance) is anticipated to minimally impact wildlife resources, similar to impacts experienced on levee settings currently open to public access.

Infrastructure including levees and canals currently exists along the L-40, L-39, and L-7 and A, B, C impoundment area, and no additional trail construction will be necessary to afford access. The Refuge presently maintains a public access facility at the Lee Road boat ramp, Hillsboro boat ramp, and 20 mile bend area where visitors have access to a paved parking area with trailer parking, bathroom facilities, boat ramp, dock, and an information kiosk that provides educational materials including Refuge specific regulations, Refuge trust resource information, and Refuge missions including our exotic control and water quality projects.

Fee collection structures and information kiosks may be placed at Refuge entrances including access points of the proposed north trail. With most infrastructure already in place, visitor needs associated with increased access to this region of the Refuge are presently accommodated and no new facilities are anticipated.

Public Review and Comment: Methods used to solicit public review and comment will include a 30 day public review. A draft of the Compatibility Determination will be posted at Refuge Headquarters located at 10216 Lee Road, Boynton Beach, FL 33437-4796, posted on the Friends of Loxahatchee website, friends of Loxahatchee Facebook page, sent to interested parties, and advertised in papers. Phone numbers provided (561.732.3684 or 561.735.6011), and Refuge fax number provided (561.369.7190) for comments.

Determination (check one below):

Use is Compatible

Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility: Access should be limited to that necessary to facilitate priority and compatible secondary uses. To mitigate potential disturbances, a combination of Refuge staff presence and informational kiosks would help educate visitors about the potential problems associated with their actions. Recreational activity along the levees will avoid active nests of snail kite, wood stork, and any other trust species (e.g., least terns, killdeer, ground doves, black neck stilts, Eastern indigo snake, Florida scrub jay, and gopher tortoises). When a nest is detected, a 500-meter no-entry buffer zone will be placed around each snail kite nest and a 150-meter no-entry buffer zone will be placed around each nest of each of the other species. Refuge staff will coordinate restrictions and necessary communications with user groups and the placement of signs surrounding Refuge areas at the edges of buffer zones. The Refuge will place "Area Closed" signs delineating levees or within water areas that need to be closed to avoid adverse disturbance effects to snail kite and wood stork nests. Enforcement of restrictions will be performed by the Refuge Law Enforcement Officers. The parking area, boat ramps and all access to the 20-mile bend facilities are closed at night, minimizing wildlife disturbance to daylight hours only. If any negative impacts occur, the Service will take corrective action to reduce or eliminate the effects on wildlife. Impacts to wildlife from visitor use including observation and photography activities, fishing, biking, walking, hiking, or construction of initial trail facilities including information kiosks, pay fee cans, etc., may result in disturbance to wildlife, but are expected to be minimal.

All current or future Refuge specific rules and regulations apply to the proposed bicycle expansion:

- Public use of motorized vehicles of any kind operated on the Refuge levee system
- Public use of ATV's on any portion of the Refuge
- Permitted motorized vehicles are restricted to existing roads and parking areas
- Public use of certain boats including airboats, "go-devils", and personal watercraft are not allowed on any portion of the Refuge
- Boating, bicycling, hiking, walking etc. solely for recreational purposes (such as racing, water skiing, etc.) is not permitted
- Horseback riding
- Camping

There are specific stipulations that should apply to opening the A, B, and C impoundments and Refuges levee system:

- Limit all access when necessary to protect nesting bald eagles, snail kite, colonial nesting birds, resting waterfowl from disturbance, or for other management purposes.
- Public access restricted to posted hours.
- Certain areas of the Refuge may be restricted seasonally to avoid disturbance of breeding or nesting wildlife or to protect sensitive habitat.
- All trash must be packed out and properly disposed off-site.
- Pets are not authorized.
- Clearing of vegetation is prohibited.

NEPA Compliance for Refuge Use Description:

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

Justification: Expanding Refuge access along the L-40, L-39, L-7, and the A, B, C impoundments provides the public additional opportunities to experience wildlife and enhances the public use experience A.R.M. Loxahatchee National Wildlife Refuge strives to provide. It is through permitted, compatible uses that the public becomes aware of and provides support for our National Wildlife Refuges.

Signature: ^{AKING} Refuge Project Leader: Steve Henry July 23, 2015
 (Signature and Date)

Review: Regional Compatibility Coordinator: _____
 (Signature and Date)

Review: Refuge Supervisor: _____
 (Signature and Date)

Concurrence: Regional Chief: _____
 (Signature and Date)

Mandatory 10-Year Re-evaluation Date: _____

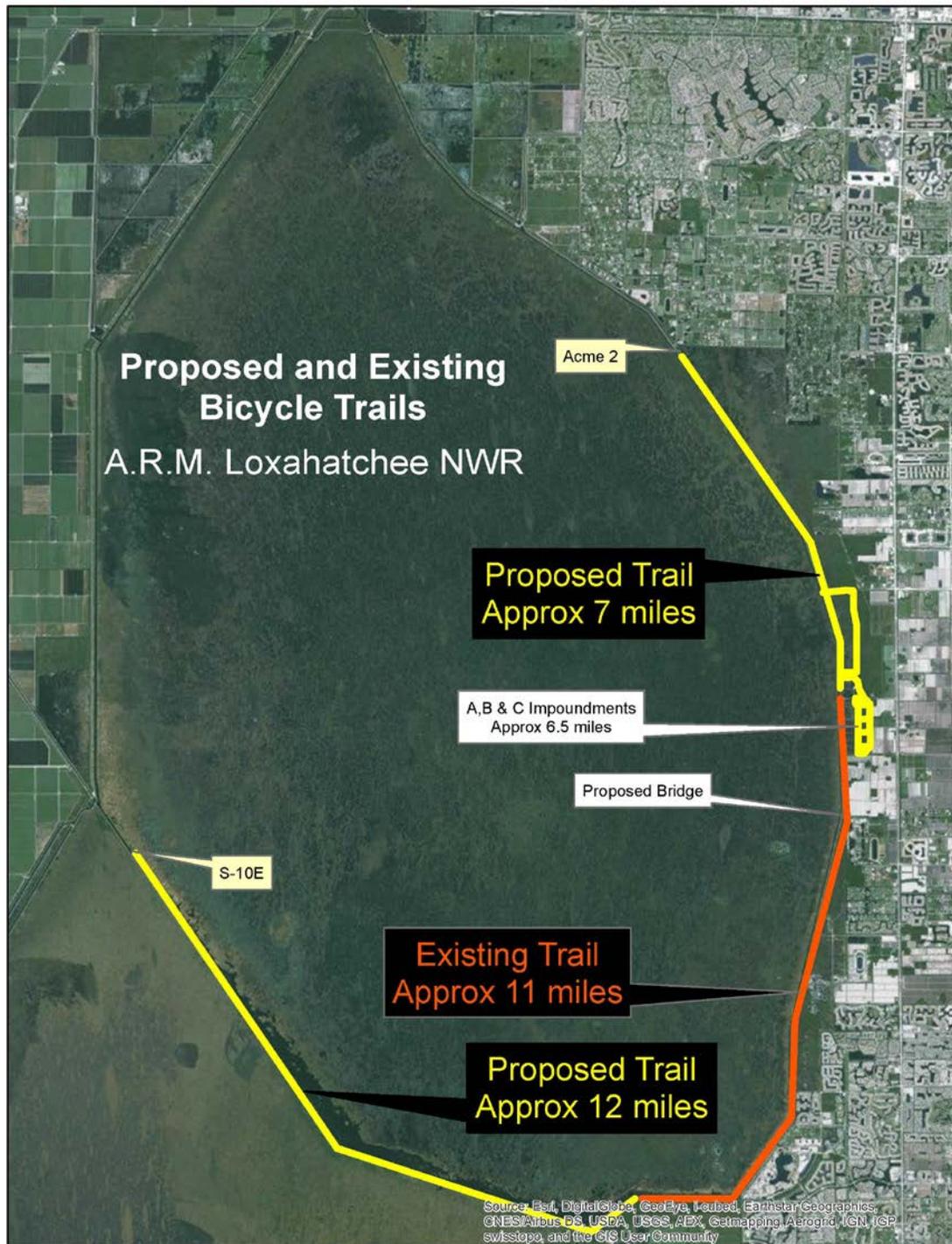


Figure 1. Existing and proposed trails for public access.

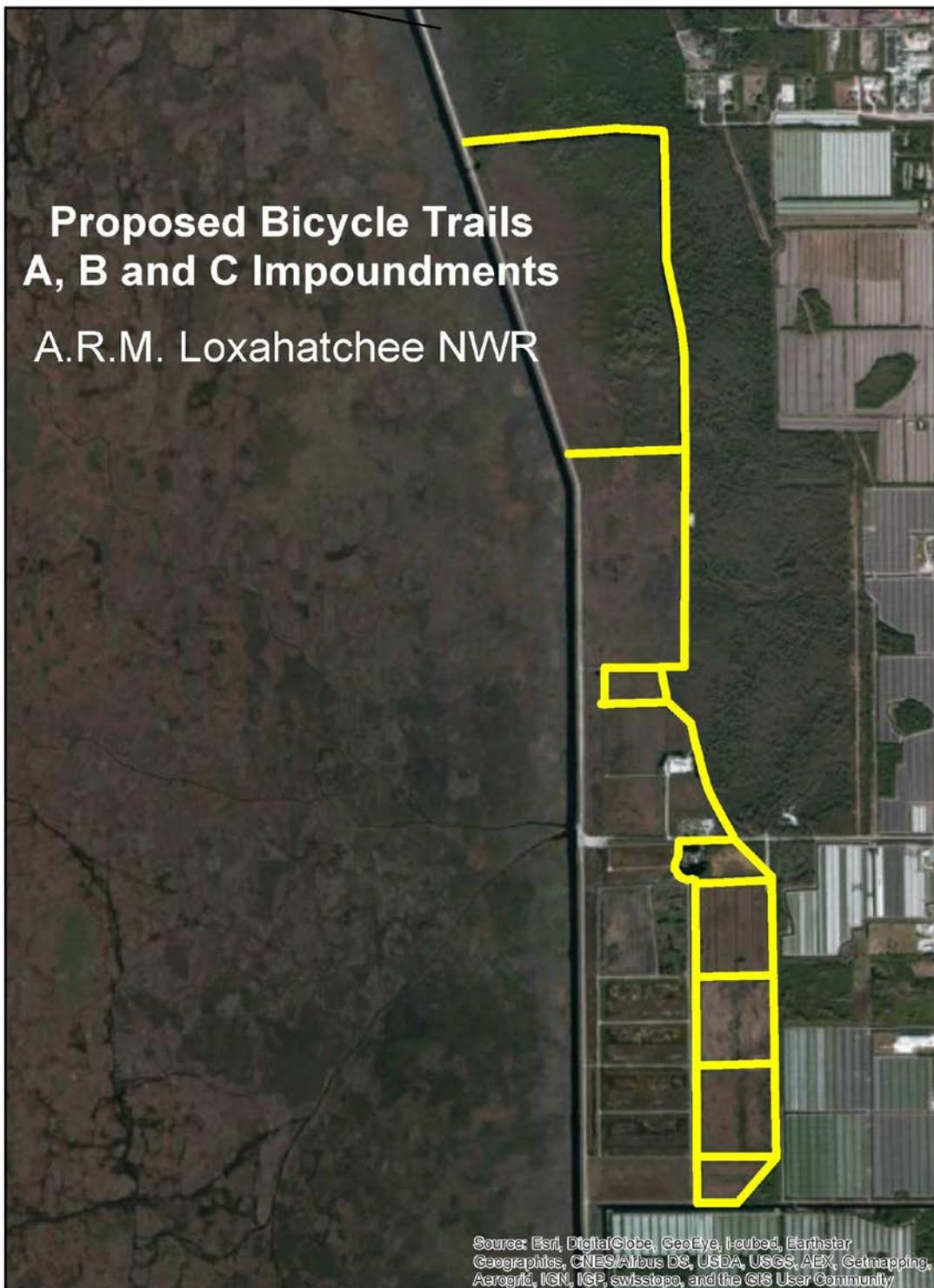


Figure 2. Proposed expansion into the A, B, and C impoundments.

Figure 3. Phase B of the proposed expansion.

