

## **Red Rock Lakes National Wildlife Refuge**

**Established 1935**

### **Compatibility Determination**

**Use:** Public and Private Buried Utility Lines

**Refuge Name:** Red Rock Lakes National Wildlife Refuge

**Establishing and Acquisition Authorities:**

President Franklin D. Roosevelt established Red Rock Lakes Migratory Waterfowl Refuge (later named Red Rock Lakes National Wildlife Refuge on July 19, 1961) under Executive Order 7023, signed on April 22, 1935, "as a refuge and breeding ground for wild birds and animals."

On September 4, 1935, President Roosevelt enlarged the refuge under Executive Order 7172, "provided, that any private lands within the areas described shall become a part of the refuge upon the acquisition of title or lease thereto by the United States." The refuge currently encompasses over 51,000 acres fee title and 9,400 acres leased.

**Refuge Purpose(s):**

"As a refuge and breeding ground for wild birds and animals." (Executive Order 7023)

"As an inviolate sanctuary, or for any other management purpose, for migratory birds." (Migratory Bird Conservation Act, 16 U.S.C. 715d)

"For (a) incidental fish and wildlife-oriented recreational development, (b) the protection of natural resources, (c) the conservation of endangered species or threatened species." (Refuge Recreation Act, 16 U.S.C. 460k-1)

"The conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions." (Emergency Wetlands Resources Act, 16 U.S.C. 3901)

"For the development, advancement, management, conservation, and protection of fish and wildlife resources." (Fish and Wildlife Act, 16 U.S.C. 742f)

"For the use and enjoyment of the American people in such manner as will leave [wilderness areas] unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness." (Wilderness Act, 16 U.S.C. 1131a)

**National Wildlife Refuge System Mission:**

Managed by the U.S. Fish and Wildlife Service (Service), the mission of the National Wildlife Refuge 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.

**Description of Use:**

The Refuge receives occasional requests from utility companies to cross fee and easement properties with buried electric cables, communications lines, cattle water tank pipeline and/or rural or potable water lines or systems. These requests are generally part of an overall area-wide project to improve wildlife habitat and/or to provide better services to the people residing or ranching in the area. When these types of projects are proposed, it may not be possible to avoid all Service land interests (fee and easement), and therefore, some Service property interests may be temporarily impacted during the construction period. At the landscape scale, there may also be reduced impacts by routing through Service property interests. This use includes requests for projects on Red Rock Lakes NWR and conservation easements.

Construction methods may include cable-plowing, utilizing a vibrating cable-plow, or narrow trenching equipment. In each case, the surface disturbance is minimal, and the temporary cable or trenching scar will grow over with vegetation within a reasonable amount of time.

**Is the use a proposed new use or an existing use?**

This is a new use.

**Where would the use be conducted?**

This use would be conducted in any Service interests, fee title or easement, associated with Red Rock Lakes NWR.

**How and when would the use be conducted?**

The use would be conducted using best management practices and restricted to occur when they would not adversely impact wildlife and other ecosystem processes (e.g., water and soil quality, etc.)

**Why is this use being proposed?**

Buried utilities typically have reduced impact for wildlife and habitat continuity in the long term when compared to above ground utility installations. When utility routes are unable to avoid Service interests, the Service must be able to accommodate these requested uses which are designed to improve habitat quality and the safety and quality of life in rural America. The

use will not detract from or materially interfere with the mission or purpose of the NWRS. The uses covered by this CD are considered not to be an economic use under the guidelines found in 50 CFR 29.1.

**Availability of Resources:**

Financial and staff resources are determined to be sufficient to administer these requests. Staff time will be needed to evaluate the proposed use, to prepare the site-specific permits, and to ensure compliance with the permit authorization and stipulations, as well as checking for 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 these projects is monitoring and compliance checking only. Actual work, including restoration needs, will be completed by the applicant as specified by the refuge manager.

**Anticipated Impacts of the Use:**

The uses authorized under this compatibility determination must result in impacts that are only very minor and temporary in nature. In other words, there will be no long term negative impacts to Service land or water interests.

Examples of work authorized under this Compatibility Determination include:

- trenched and backfilled areas to accommodate buried pipelines and cables
- buried utility lines or PVC water lines using a cable plow
- excavated trenches using a backhoe equipped with a "trenching" bucket (approximately 8 inches wide).

Anticipated impacts are as follows:

- temporary disturbance to the area during and for a period of time following the backfilled trench
- 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 backfilling the trenches or washing of the exposed back-sloped areas.

There will be no long-term impacts nor will there be any cumulative impacts to Service lands or interests.

**Public Review and Comment:**

This CD was posted for 14 days at the refuge office as well as on the refuge website.

**Determination:**

Use is not compatible

Use is compatible with the following stipulations

**Stipulations Necessary to Ensure Compatibility:**

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

1. All applicable state and federal regulations apply. The permittee is responsible for acquiring or renewing any local state or federal permits prior to beginning or continuing their project. Issuance of a refuge special use permit does not preclude the requirements for obtaining necessary permits and/or approvals from other County, State, or Federal Agencies and from local landowners.
2. The special use permit is issued subject to the revocation and appeals procedure contained in Title 50, Part 25 of the Code of Federal Regulations
3. The proposed activity will result in no impacts to wetlands protected by FWS easements. No wetlands or any part thereof will be filled with any material, leveled by any equipment, drained by any means including pumping or by diverting water, or burned.
4. Any work within protected wetland basins will be backfilled and compacted to the normal contour of the wetland bottom. No excess, non-compacted fill will be permitted.
5. Upland impacts to areas protected by FWS easements will be only temporary. Any disturbed areas will be leveled, seeded, and restored to pre-work condition as specified by the Refuge Manager.
6. Additional stipulations may be added to address specific concerns with individual projects.
7. 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 Refuge, and will require a supplemental permit issued prior to the initiation of any remedial work.
8. Mechanical work will be completed as quick and efficiently as reasonably possible to lessen noise and other disturbance to wildlife.

**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. There will be minimal and temporary disturbance to resources

protected by the Service's fee or easement by this activity. The use will not detract from or materially interfere with the mission or purpose of the NWRs or refuge. The uses covered by this CD are considered not to be an economic use under the guidelines found in 50 CFR 29.1 .

Prior to issuing any permit, the manager will have worked with the applicant to avoid as many impacts as possible, and then to minimize any impacts to Service interests. The impacts are deemed to be minor and only temporary and complete site restoration will occur, usually with the next growing season.

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

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

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

Signature: Refuge Manager: \_\_\_\_\_

(signature and date)

Concurrence: Regional Chief: \_\_\_\_\_

(signature and date)

Mandatory 10- or 15 year re-evaluations date: \_\_\_\_\_