

Compatibility Determination

Use: Short-term Upland Disturbance for Highway or Other Public Interest Projects with No Right-Of-Way (ROW) Expansion and Full Restoration.

Refuge Name: Big Stone Wetland Management District (WMD)

Establishing and Acquisition Authorities:

Waterfowl Production Areas (WPAs) - 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).

Refuge Purposes:

Waterfowl Production Areas (WPAs) - "...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...."

National Wildlife Refuge System (NWRS) Mission:

The Mission of the NWRS 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:

Allow short-term disturbance to uplands for highway or other public interest projects with no ROW expansion and full restoration. Every year, requests are made by state and local government agencies and utility companies to complete repairs and improvements to existing roadways and utility facilities associated with existing ROWs on WPAs throughout the WMD. The work typically involves temporary disturbance to previously farmed uplands. Once work is completed, these disturbed areas are then reseeded to native vegetation by the requesting organization.

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

This is an existing use.

Is the use a priority public use?

This is not a priority public use.

Where would the use be conducted?

Many of these requests require work over a short-duration, usually immediately adjacent to existing ROW boundaries on WPAs.

When would the use be conducted?

Most often, the temporary work outside of the ROW is conducted during the summer and fall, when construction conditions are optimal and after the waterfowl and other grassland bird nesting season is over.

How would the use be conducted?

Frequently, the temporary work requested is to reshape a slope immediately adjacent to a road ROW to improve transportation safety as well as culvert and bridge maintenance and replacement activities. Other times, the requested action can be merely permission to turn heavy equipment around on land immediately adjacent to the ROW.

Why is this use being proposed?

This determination will allow approved work and temporary habitat disturbance outside the ROW boundary for public safety maintenance activities when long-term impacts to habitat and wildlife are either beneficial or not harmful.

Availability of Resources:

What resources are needed to properly and safely administer use?

Minimal expense is required of the U.S. Fish and Wildlife Service (Service) for these projects. Authorization of projects will require the requesting organization to cover habitat restoration costs. There is a modest administrative cost to issuing and monitoring this work.

Are existing resources adequate to properly and safely administer use?

No additional fiscal resources are needed to conduct this use. The additional time needed to coordinate issuance and oversight of the needed permits or agreements is relatively minor and within existing WMD resources.

Anticipated Impacts on Refuge Purposes:

How does short-term upland disturbance for highway or other public interest projects with no ROW expansion and full restoration affect WMD purposes and the NWRS mission?

This short-term disturbance will have minimal and temporary effects on the WMD purposes and the NWRS mission. These effects are not expected to be significant and/or enduring after the project's completion.

How does short-term upland disturbance for highway or other public interest projects with no ROW expansion and full restoration affect fish, wildlife, plants, and their habitats; and the biological integrity, diversity, and environmental health of the WMD?

When the request includes unavoidable destruction of vegetation, approval will be limited to sites previously tilled or otherwise disrupted. No native prairie remnants or wetlands may be destroyed. Any areas with disturbed vegetation will be seeded by the requesting organization to a diverse mix of native species that will lead to better long-term habitat than the vegetation originally disturbed. Most of this work occurs in summer and fall, after the waterfowl nesting season. The duration of any single project is usually 1 to 8 weeks. Occasionally, work may occur during the nesting season but the size of the disturbance zone will be minimal. The quality of the habitat in the disturbed zone may be diminished for up to 3 years following the project but the disturbed zone will provide some migratory bird value in the year immediately following the project. The long-term productivity of the disturbed zone will frequently increase due to the replacement of exotic, less desirable cover with native vegetation. Most of the impacts will be along existing roads in areas already subject to significant habitat and aesthetic deterioration due to activity within the existing transportation ROW. Rarely, a utility ROW can split an otherwise contiguous block of quality habitat. In these settings, the disturbance will still be temporary but the impact to waterfowl and other migratory birds is likely greater. The existing ROW already authorizes disturbance within the ROW, so the larger impact of creating a disturbance within quality habitat will likely occur anyway. The decision to authorize temporary disturbance outside the ROW will slightly increase the magnitude of the disturbance.

Public Review and Comment:

This compatibility determination is part of the 10-year review for Compatibility Determinations in the Big Stone WMD Comprehensive Conservation Plan. Public notification and review will include a comment period from 13 February 2014 through 7 March 2014. Comments received and agency responses will be included in the final version of this Compatibility Determination.

Determination:

Use is Not Compatible

Use is Compatible with the Following Stipulations

Stipulations Necessary to Ensure Compatibility:

1. All work done outside of existing rights-of-way must be approved by the Project Leader in the form of a Special Use Permit (SUP).
2. Conditions stipulated in a SUP such as seeding mixes, weed control, etc. must be followed to remain a compatible use.
3. A cultural resources review may be required to be compliant with the National Historic Preservation Act and/or Archaeological Resources Protection Act.

4. No work that leads to permanent loss of wetlands or native prairie will be allowed without a site-specific compatibility determination.

Justification:

This use will not materially interfere with or detract from the purposes for which the units were established with the above stipulations in place. Almost all WPAs are constrained by one or more ROWs that were in place before acquisition by the federal government. Temporary disturbances to land adjacent to these ROWs will have only small, temporary harmful effects on wildlife and may lead to improved long-term productivity by replacing degraded, exotic vegetation with vigorous native vegetation. Work within the ROW is beyond the authority of the Service to regulate other than influencing the timing and scope to minimize wildlife harm. Allowing temporary work outside the ROW does no long-term harm to wildlife resources and allows the holder of the ROW to provide essential human services to our rural communities. Restoration of the disturbed sites could potentially increase productivity by providing more robust and diverse vegetation.

Signature: Project Leader

(Signature and Date)

Concurrence: Regional Chief

(Signature and Date)

Mandatory 10- or 15-year Re-Evaluation Date: 2024