

APPENDIX G. Intra-Service Section 7 Form for Consultation under the Endangered Species Act

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Intra-Service Section 7 Biological Evaluation Form - Region 6

Originating Person: Paula Gouse

Date Submitted: 7/24/2023

Telephone Number: 406-526-3436

I. Service Program and Geographic Area or Station Name:

Charles M. Russell Wetland Management District
Grass Lake NWR
Lake Mason NWR
War Horse NWR
Hailstone NWR

II. Flexible Funding Program (e.g. Joint Venture, etc) if applicable:

N/A

III. Location: Location of the project including County, State and TSR (township, section & range):

The proposed management actions will take place on four national wildlife refuges and six waterfowl production areas in Petroleum, Musselshell, Golden Valley, Yellowstone, and Stillwater Counties, Montana (see attached map).

IV Species/Critical Habitat: List federally endangered, threatened, proposed, and candidate species or designated or proposed critical habitat that may occur within the action area. To obtain species lists: <http://ecos.fws.gov/ipac/>

- Black-footed Ferret (*Mustela nigripes*) – Endangered
- Canada Lynx (*Lynx Canadensis*) – Threatened
- Grizzly Bear (*Ursus arctos horribilis*) – Threatened
- North American Wolverine (*Gulo gulo luscus*) - Proposed Threatened
- Piping Plover (*Charadrius melodus*) - Threatened
- Red Knot (*Calidris canutus rufa*) – Threatened
- Pallid Sturgeon (*Scaphirhynchus albus*) – Endangered
- Monarch Butterfly (*Danaus plexippus*) – Candidate (treated as proposed species for purposes of internal FWS conferencing)
- Whitebark Pine (*Pinus albicaulis*) - Threatened

Project Description: Describe proposed project or action or, if referencing other documents, prepare an executive summary (attach additional pages as needed):

The Comprehensive Conservation Plan and Environmental Assessment for Charles M. Russell Wetland Management District and associated National Wildlife Refuges presents three alternatives for managing the District for the next 15 years. The proposed management actions will take place on four national wildlife refuges and six waterfowl production areas.

The proposed action (Alternative C and the focus of this consultation) expands the Service's suite of tools for managing uplands, wetlands, and fuels to meet the goals for the District, including

prescribed fire, prescriptive grazing, mechanical treatment, chemical control, biological control and reseeded to native grasses.

Mechanical treatments may include using hand-held tools, chain saws, bulldozers, tractors, masticators, excavators, forestry cutters, chippers, and other specialty equipment to reduce fuels and remove invasive plants. Biological control of insect pests or invasive plants may include predators, parasitoids, and pathogens.

The proposed action would improve water quality by flushing or draining wetland systems and improve effectiveness of existing structures to achieve wetland habitat goals, including restoring natural hydrology. This may include improving existing ditches, replacing culverts, and removing water control structures.

It also expands visitor services and access as well as increases capacity for refuge operations and administration. This includes opening 3 previously closed areas to hunting, installing information signs on all units, improving roads and parking areas and repair or install fencing. The three areas which will be opened to hunting are Grass Lake NWR, the north portion of the Lake Mason Unit on Lake Mason NWR and Hailstone NWR. In addition, non-lead ammunition and non-lead fishing tackle are proposed for all hunting and fishing activities on the District.

VI. **Determination of Effects:**

(A) Description of Effects: Describe the action(s) that may affect the species and critical habitats listed in item IV. Your rationale for the Section 7 determinations made below (B) should be fully described here.

Black-footed Ferret - The black-footed ferret has not been reintroduced nor documented in any prairie dog colonies located on the eight District units. In the wake of the rediscovery of the species in the wild in 1981 near Meeteetse, Wyoming, in 1989, the Service instituted the survey protocol Black-footed Ferret Survey Guidelines for Compliance with the Endangered Species Act, designed to detect ferrets in potentially suitable habitats. Despite the fact that thousands of hours of survey effort have been expended throughout the historic range of the species since 1981 in an attempt to locate additional extant populations, to date no other wild populations have ever been detected. The failure to locate additional extant black-footed ferret populations, coupled with the ubiquity of sylvatic plague throughout the historic range of the species, has prompted the FWS to determine that the black-footed ferret has been extirpated throughout its range, except where it has been purposely reintroduced using captive-reared or translocated wild individuals. No project-related effects are anticipated to the black-footed ferret.

Pallid Sturgeon - District wetlands are either within closed basins, are too intermittent in nature, or are too far away from perennial lakes, rivers, or streams to support fisheries. The Clarks Fork River which forms the boundary of Clark's Fork WPA is not suitable habitat for pallid sturgeon. The current pallid sturgeon range in the Yellowstone River in Montana extends from the North Dakota border upstream to Cartersville, approximately 140 miles downstream of the Clark's Fork WPA. Given this distance, no project-related effects are anticipated to the pallid sturgeon.

Whitebark Pine – All units in the District are outside the current known/expected range of whitebark pine. No project-related effects are anticipated to the whitebark pine.

Red Knot – Migratory stopovers are rare in Montana but have occurred at wetlands across the state. This species has been most recently observed in the project area during migration at War Horse NWR (1982) and

Spidel WPA (1995). Temporary disturbance to migratory individuals is possible but anticipated to be insignificant and/or discountable due to the availability of adjacent habitat. No effects to nesting would occur.

Canada Lynx, Grizzly Bear, Wolverine - While most units in the District are outside the range of Canada lynx, grizzly bear, and wolverine, they are wide ranging species which could move through portions of the District. Grizzly bears may be present as transients in the Clarks' Fork WPA, which occurs near the eastern extent of the grizzly bear "may be present" range maintained by the FWS Grizzly Bear Recovery Program. Clark's Fork WPA is day use only with no trash cans or food storage. Food, trash, and other attractant management measures would be implemented at this site to minimize the potential for bear/human conflict. Prescriptive grazing may be used as a management tool in the Clark's Fork WPA. To reduce the potential of grizzly bear/livestock/human conflict, measures would be included as terms and conditions of all grazing permits in the WPA. These would include removing carcasses, removing attractants and reporting any conflicts between grizzly bears and livestock or human. Significant effects to grizzly bears associated with human conflict or habituation potential are not anticipated. Similarly, although Canada lynx and wolverine range generally occurs outside of proposed project areas, they may occur as rare transients in the Clark's Fork WPA. No designated Canada lynx critical habitat occurs in the project area. Temporary disturbance to transient individuals is possible for all three species but anticipated to be insignificant and/or discountable due to the availability of adjacent habitat.

Piping Plover, Monarch Butterfly - The District is within the migratory range of the piping plover and the summer range of the monarch butterfly. A non-breeding piping plover observation was recorded at Hailstone NWR in 1999 and comprises the only known occurrence at the project sites. No designated critical habitat occurs at any project sites. Temporary disturbance to migratory or other non-breeding individuals is possible but anticipated to be insignificant and/or discountable due to the availability of adjacent habitat. No effects to piping plover nesting are anticipated. Monarchs were recorded in 2018 in Musselshell County several miles east of Lake Mason NWR, but could occur in suitable habitat (native prairie, marshes, pastures; especially those containing milkweed, etc.) at units project-wide. Pesticides/herbicides would not be applied (nor prescribed fires or other vegetation removal be conducted) where any life stage of monarchs are observed and present; treatment buffers would also be implemented as appropriate. Pesticide/herbicide treatment would be implemented via spot treatment where appropriate based on Monarch habitat considerations. The proposed action would be confined to ten discrete project units and is not likely to jeopardize the existence of the Monarch butterfly.

The proposed alternative would expand the suite of tools for managing and improving habitat and will increase habitat diversity and resiliency.

Effects on listed species from disturbance during prescribed fires or mechanical treatment are expected to be insignificant in the short term and beneficial in the long term—wildlife might temporarily disperse but would return to the area once activities cease. Otherwise, fire increases the diversity of plant species and structure and can suppress the encroachment of woody species into native grasslands. Prescribed burns will be timed to avoid critical mating, nesting or egg laying seasons such as for monarch butterflies.

Opening previously closed areas and improving access may bring more visitors to the District. Any public use activities would be monitored to ensure adverse effects to special status species do not occur. Improved signage and infrastructure such as fences and parking areas would lessen the impact visitors have on habitat.

This alternative would eliminate the potential long-term risk from the introduction of additional lead ammunition and lead tackle onto refuge lands. Additional lead would no longer enter the environment and potentially impact eagles, migratory birds, or any threatened and endangered species that may occur on the District.

(B) Determination: Determine the anticipated effects of the proposed project on species and critical habitats listed in item IV. Check all applicable boxes and list the species (or attach a list) associated with each determination.

Determination

No Effect: This determination is appropriate when the proposed project will not directly or indirectly affect (neither negatively nor beneficially) individuals of listed/proposed/candidate species or designated/proposed critical habitat of such species. **No concurrence from ESFO required.** (black-footed ferret, pallid sturgeon, and whitebark pine) X

May Affect but Not Likely to Adversely Affect: This determination is appropriate when the proposed project is likely to cause insignificant, discountable, or wholly beneficial effects to individuals of listed species and/or designated critical habitat. **Concurrence from ESFO required.** (red knot, piping plover, grizzly bear, Canada lynx, wolverine) X

May Affect and Likely to Adversely Affect: This determination is appropriate when the proposed project is likely to adversely impact individuals of listed species and/or designated critical habitat. **Formal consultation with ESFO required.** _____

May Affect and Likely to Adversely Affect but the proposed action is for the purpose of endangered or threatened species recovery and falls under Region 6's Programmatic Consultation on Service-initiated Recovery Actions: This determination is appropriate when adverse effects are likely but the project is designed to assist with recovery of listed species and/or designated critical habitat. **Concurrence from the ESFO that the project is covered by the programmatic consultation is required.** _____

May affect but Not Likely to Jeopardize candidate or proposed species/critical habitat: This determination is appropriate when the proposed project may affect, but is not expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. **Concurrence from ESFO optional.** (Monarch butterfly) X

Likely to Jeopardize candidate or proposed species/critical habitat: This determination is appropriate when the proposed project is reasonably expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. **Conferencing with ESFO required.** _____

Signature PAUL SANTAVY Digitally signed by PAUL SANTAVY
Date: 2023.08.04 13:51:26 -06'00' Date _____
[Supervisor at originating station]

Reviewing Ecological Services Office Evaluation (check all that apply):

A. **Concurrence** _____ **Nonconcurrence** _____
Explanation for nonconcurrence:

B. Formal consultation required _____
List species or critical habitat unit _____

C. Effects are addressed in the Programmatic Consultation on R6's Recovery Program – no further consultation needed _____

D. Conference required _____
List species or critical habitat unit _____

Name of Reviewing ES Office: MT Ecological Services Field Office

Signature  _____

Date August 8, 2023 _____

for Ben Conard
Acting Office Supervisor