Draft Compatibility Determination

for Boundary County, Idaho Riverside Road Right-of-Way on Kootenai National Wildlife Refuge.

Refuge Use Category

Rights-of-way and Rights to Access

Refuge Use Type(s)

Rights-of-way, Road

Refuge

Kootenai National Wildlife Refuge (Refuge)

Refuge Purpose(s) and Establishing and Acquisition Authority(ies)

"… for use as an inviolate sanctuary, or for any other management purpose, for migratory birds." 16 U. S. C 715 et. seq. (Migratory Bird Conservation Act of 1929).

"… suitable for (1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species or threatened species …" (16 U.S.C. 460k-1) "… the Secretary … may accept and use … real … property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors …" 16 U.S.C. 460k-2 (Refuge Recreation Act (16 U.S.C. 460k-460k-4), as amended).

"… for the development, advancement, management, conservation, and protection of fish and wildlife resources …" (16 U.S.C. 742f(a)(4) " … for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude …" 16 U.S.C. 99 742f(b)(1) (Fish and Wildlife Act of 1956).

National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System, otherwise known as 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 (Pub. L. 105-57; 111 Stat. 1252).

Description of Use

Is this an existing use?

Yes. Kootenai NWR was established in 1964. The land was purchased subject to an existing ROW, fifty (50) feet in width, twenty-five (25) feet on either side of the centerline totaling 10.01 acres.

In 2021 the Service issued a Compatibility Determination (CD) for a new Right-of-Way (ROW) permit for the Riverside Road Improvement Project 5806(1), a project funded through the Federal Lands Access Program (FLAP). A Project Memorandum of Agreement between the Service, US Forest Service, Western Federal Lands Highway Division, and Boundary County was signed in February 2018. The ROW permit issued in 2021 allowed the County, through funding provided by the Federal Highway Administration, Western Federal Lands Highway Division (FHWA-WFL), to reconstruct that portion of Riverside Road which runs through the Refuge to improve safety and reliability of the route by widening the roadway on either side to accommodate pedestrians, wildlife viewers, and bicyclists, who frequently use this road. The current ROW encumbered by the County is 15.26 acres. However, the road widening project was delayed. We now propose changes to the construction design to accommodate the Kootenai Floodplain Restoration Project. This would require an amendment to the existing ROW. This CD describes the amendment to the ROW and would supersede the 2021 ROW CD.

What is the use?

A ROW is defined as "The right to use and possibly alter the landscape through construction, maintenance, and operation of a road" on lands under control by the U.S. Fish and Wildlife Service (Service).

The Secretary of the Interior, through his authorized representative, the Regional Director, United States Fish and Wildlife Service, in accordance with applicable authorities, and regulations published in 50 CFS 29.21 et.seq., proposes to amend the 2021 ROW permit to Boundary County, Idaho, herein referred to as the County, to use certain lands on the Kootenai National Wildlife Refuge (NWR, Refuge) solely for the purpose of expanding (raising, widening and realigning) Riverside and Westside Roads within the Refuge. The proposed use is the issuance of an updated ROW permit to accommodate implementation of the Kootenai Floodplain Reconnection Project, which requires changes to the planned Riverside Road Improvement Project. The current ROW encumbered by the County is 15.26 acres. The increase in height and width of Riverside Road would require a minor increase in the 2022 Boundary County right-of-way easement through the refuge along Riverside Road. The Service proposes to amend the 2021 ROW Permit as follows: By granting Boundary County 0.20 acres of temporary construction easement and 1.92 additional acres of new ROW, and abandoning -0.37 acres of existing ROW, thereby increasing the ROW from

15.26 to 16.81 acres.

Is the use a priority public use?

No

Where would the use be conducted?

Road reconstruction would occur on the Boundary County Riverside Road, a portion of which is located within the interior of the Refuge and would be subject to increased flooding from the levee breaches associated with the Floodplain Reconnection Project. The length of Riverside Road that would be raised would be approximately 4,000 linear feet. The new road surface would have two lanes, each 11-feet wide with 5-foot shoulders (32 feet total). Because the road would be 6-feet higher, a wider base would be constructed, and the side slopes would be 2:1 ratio. The increase in height and width of Riverside Road would require a minor increase in the 2021 Boundary County ROW easement through the refuge along Riverside Road, from 15.26 to 16.81 acres. See Figures 2.1 (Kootenai National Wildlife Refuge Floodplain Reconnection Project Proposed Action) and 3.4 (Riverside Road Detour Route) in the Draft Environmental Assessment (EA) for the Kootenai River Floodplain Reconnection Project (BPA 2024).

When would the use be conducted?

The ROW permit would be valid for 50 years after the signature date. Construction within the permitted ROW would take approximately 5 months (June 1-October 31). Construction of the Riverside Road portion of the Project is expected to last about 4 months (July 1-October 31).

How would the use be conducted?

During construction, Riverside Road and areas adjacent to the road would be graded and treated for dust control (water application) as needed to support haul traffic during construction. Silt fences would be installed between the haul roads and adjacent wetlands and temporary construction fencing would be installed along access routes to minimize the disturbance footprint. Stormwater would be managed using existing drainage patterns with runoff routed into natural depressions in the existing topography or constructed settling basins in the work area. Since there would not be any in-water work, turbidity monitoring would not be necessary. Construction equipment such as large excavators, scrapers, motor graders, bulldozers, and dump trucks would be used for earthwork and grading associated with raising the height of Riverside Road. Additional earthwork and grading would also be required for road modifications and Refuge infrastructure modifications (e.g. roadside pullouts).

Why is this use being proposed or reevaluated?

We propose to enlarge the existing ROW in order to realign, raise, and improve Riverside Road in conjunction with the Kootenai River Floodplain Reconnection Project. The purpose of the floodplain reconnection project is to restore Refuge floodplain habitats and improve use by migratory birds, native and ESA-listed fish species, and improve visitor safety, use and satisfaction. The Floodplain Reconnection Project is designed to improve habitat conditions for Endangered Species Act (ESA) listed Kootenai River white sturgeon and bull trout and other native fish species, benefit channel morphology and instream processes, and protect existing infrastructure within the Refuge..

Availability of Resources

Administration - Service personnel and resources will be needed for the issuance of the ROW Permit to reconstruct Riverside Road and Westside Road on Refuge lands and for coordination with Federal Highways Administration during the road construction work. The Federal Highways Administration will oversee and implement the reconstruction of the road. Current funding and staffing are adequate to allow the use.

Maintenance – The Refuge is not responsible for maintenance of the road within the ROW. Boundary County Road and Bridge Department has sole responsibility for all road maintenance within the ROW once the construction is completed.

Monitoring – Refuge personnel will monitor the ROW annually to ensure the ROW does not affect additional Refuge resources. Current funding and staffing are adequate to allow the use.

Anticipated Impacts of the Use

Potential impacts of a proposed use on the refuge's purpose(s) and the Refuge System mission

Beneficial effects of the Kootenai River Floodplain Reconnection Project could not be realized without modifications to the Riverside Road Improvement Project. Authorization of ROW modifications on Refuge would result in short- and long-term impacts, primarily to soils, wildlife, wetlands, recreational access, transportation, and public health and safety. Those impacts are likely to be moderate to negligible and would not materially interfere with or detract from the Refuge’s ability to meet its purposes, or the Refuge System Mission.

Impacts are described in detail in the Kootenai NWR Floodplain Reconnection Project Draft Environmental Assessment (BPA 2024) and incorporated herein by reference. Short- and long-term impacts from modifications to the ROW permit are summarized

below.

Short-Term Impacts

During construction, heavy machinery would excavate, compact, and expose soils, which may erode in the immediate vicinity of Riverside Road. BMPs such as straw bales, coir wattles or silt fences would be utilized to minimize impacts to soils and subsurface geology, to maintain long-term productivity of soils in riparian ecosystems, and to minimize soil erosion. Soil productivity and function would be impaired in the short term but would likely recover quickly, resulting in temporary, minor impacts to soils and geology.

Raising and realigning Riverside Road would result in short-term impacts to plants and plant communities from construction activities, including damage to existing vegetation. Construction activities could create bare soils that are more susceptible to establishment of noxious and invasive species. To reduce this impact, any ground disturbed by the project activities would be seeded with an appropriate native erosion-control seed mix to reduce the risk of erosion and invasion by noxious and invasive weeds. Equipment and materials brought to the project site would be cleaned and inspected for noxious and invasive species and their seeds prior to work initiating. Certified weed-free mulch may be applied as a short-term protection for disturbed soils.

Although some vegetation would be permanently removed, the Floodplain Reconnection Project is expected to increase the area and extent of seasonal flooding on the Refuge to support an overall increase in wetland/riparian acres. In summary, there would be minor short-term adverse impacts to vegetation from construction and the resulting changes to plant communities.

Short-term impacts to wildlife species would be from construction noise and the presence of heavy machinery. These types of disturbances would be of short duration and limited scale. Animals that were displaced during this time would likely return or be replaced by other individuals. Much of the habitats located in the interior of the refuge would not be disturbed during construction and would likely serve as sanctuary from construction activities.

Riverside Road is the primary vehicular transportation roadway in the project area. During construction, the road would be closed to through traffic for approximately four months (June-October), requiring drivers follow a 30-minutes detour route for travel, resulting in a temporary moderate impact to travelers, and a temporary short-term loss of recreational access.

Long-Term Impacts

Long-term beneficial impacts would result from restored floodplain function and revegetation of native plant communities. Raising, realigning and expanding Riverside Road would result in the permanent loss of approximately 1.3 acres of wetlands,

mostly emergent wetlands adjacent to the roadways. Road improvements would facilitate broader creation of approximately 30 acres of new, low elevation features that would develop into wetlands. The Floodplain Reconnection Project would improve wetland functions, particularly in areas outside of the existing ponds, such as increased primary production, nutrient exchange between the floodplain and the Kootenai River, increased cover of wetland and riparian plant species, and increased diversity of aquatic and wetland habitats.

Riverside Road would be raised, in places, up to 8 feet higher than the adjacent habitat. In the road's current condition, larger mammals are rarely impacted or encountered, but small mammals, turtles, amphibians, and young birds are commonly struck and killed by speeding traffic. Two wildlife passage culverts would be installed under Riverside Road to provide long-term passage where most of the crossings are currently observed. The design of Riverside Road would also include traffic calming features, which have been shown to reduce motorist speed (Retting et. al., 2003), and the road would be straightened slightly to improve visibility at the Deep Creek levee.

Once completed, Riverside Road would have a new road surface and provide improved access. Long-term, Riverside Road would be wider and safer for drivers as well as cyclists, pedestrians and ATV users. Improvements to viewing areas and available habitat for wildlife would result in moderate long- term beneficial impacts for recreation opportunities on the KNWR.

In summary, issuance of a ROW permit to realign, raise, and improve Riverside Road would result in minor, short-term negative impacts to soils and geology, vegetation, and recreational and vehicular access. Long-term, there would be beneficial impacts to Refuge wetland function, vegetation communities, wildlife, public health and safety, and recreational access.

Public Review and Comment

The Bonneville Power Administration solicited public comment on the Draft Environmental Assessment (EA) for the Kootenai National Wildlife Refuge Floodplain Reconnection Project through public notice via letters and posting on the project website (https://www.bpa.gov/learn-and-participate/public-involvement-decisions/project-reviews/kootenai-national-wildlife-refuge-floodplain). Copies of the EA were also posted at the Refuge Office and on the Refuge website (https://www.fws.gov/refuge/kootenai). The 30-day public comment period occurred between September 18, 2024 through October 17, 2024 and a public meeting was held on October 1, 2024. Eight comment letters were received, none of which related to the ROW easement. All comments received during the public comment period will be addressed in the final EA.

Determination

Is the use compatible?

Yes

Stipulations Necessary to Ensure Compatibility

1. The Refuge will evaluate the ROW on an annual basis to ensure that additional Refuge resources are not being impacted by the ROW.
2. Access for construction will be restricted to the ROW and the areas delineated by the Special Use Permit for a Temporary Construction Easement. Access following construction will be limited to maintenance activities.
3. All disturbed areas that contain soil and plants will be reseeded by the County with Service-approved species and will be sprayed for weeds with Service-approved herbicides, as appropriate.
4. Consistent with regulations at 50 CFR 25.21 (h), the Service reserves the right to modify terms and conditions of the ROW permit in the future, as necessary to ensure the continued compatibility with the use and occupancy of the land.
5. Follow the requirements of the Inadvertent Discovery Plan (attached to the Environmental Assessment) should cultural resources be discovered during construction activities. No herbicides, pesticides, solvents, fuel storage tanks, or hazardous materials may be stored on the ROW.
6. All vegetation removal along the road ROW will either be accomplished by mechanical means or, if herbicides are used, submitted for approval to the Refuge Manager.
7. Hazardous waste spills shall be reported to the Refuge Manager immediately and remediation cleanup take place as soon as it can be safely handled.

Justification

The ROW expansion as described is determined to be compatible because potential impacts from the County's use of this ROW on wildlife, other Refuge resources, and the visiting public that use this Refuge unit would be minimal and not materially interfere with or detract from achievement of the NWRS mission or from the Service's ability to achieve Refuge wildlife, habitat, or other public-use-related purposes and goals. In addition, the new ROW will allow for safety improvements for people using Riverside Road. Overall, the connected action of reconnecting the Kootenai River to the Refuge floodplain is expected to benefit the Refuge in achieving Refuge System Mission and achieving Refuge purposes.

Signature of Determination

Refuge Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

2085

Literature Cited/References

Arizona Game and Fish Department. 2006. Guidelines for Culvert Construction to Accommodate Fish and Wildlife Movement and Passage. Arizona Game and Fish Department, Habitat Branch.

Bonneville Power Administration. September 2024. Kootenai National Wildlife Refuge Floodplain Reconnection Project, Draft Environmental Assessment. DOE/EA-2276. Available at: Kootenai National Wildlife Refuge Floodplain Draft EA

Idaho Department of Transportation (IDOT). 2024. IDOT Road Data. Available online at: https://itd.idaho.gov/road-data/

Retting, R.A., S.A. Ferguson, and A.T. McCartt. 2003. A review of evidence-based traffic engineering measures designed to reduce pedestrian-motor vehicle crashes. Am J Public Health. 2003 Sep;93(9):1456-63.

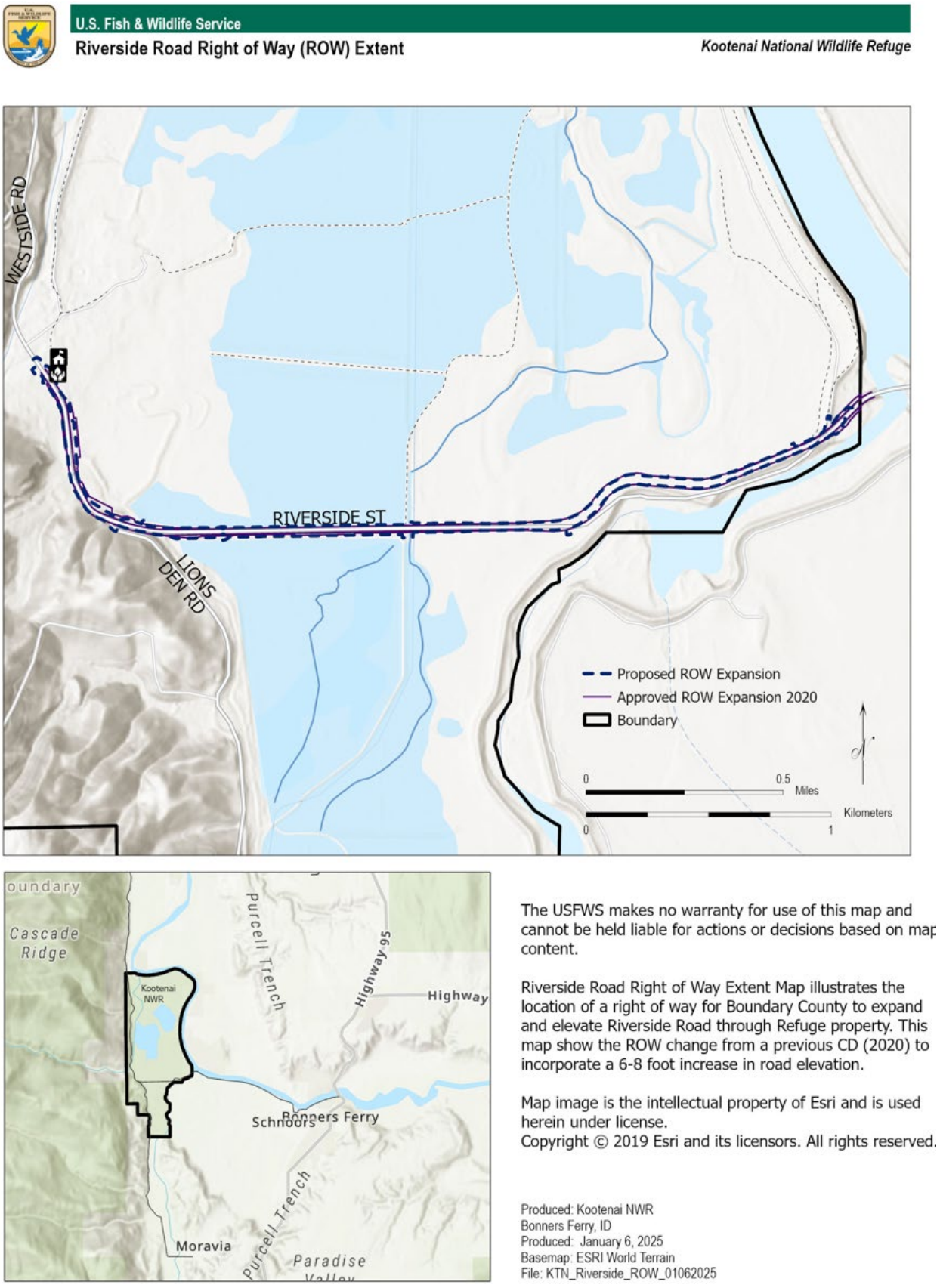

Figure 1. Proposed ROW extent for Riverside Road.