Environmental Review Report

Project Information

Report Generation Date:	11/18/2019 12:56:35 PM
Project Title:	Bluewater SHP report
User Project Number(s):	
System Project ID:	NE-CERT-002055
Project Type:	Habitat Conservation and Restoration (non- NRCS project)
Project Activities:	Prescribed Burning
Project Size:	13.48 acres
County(s):	Garden
Watershed(s):	North Platte
Watershed(s) HUC 8:	Middle North Platte-Scotts Bluff
Watershed(s) HUC 12:	Lower Blue Creek
Biologically Unique Landscape(s):	None
Township/Range and/or Section(s):	T16R42WS06
Latitude/Longitude:	41.392935 / -102.185582

Contact Information

Organization:	Private individual
Contact Name:	Rick Schneider
Contact Phone:	
Contact Email:	
Contact Address:	
Prepared By:	
Submitted On Behalf Of:	

Project Description

Test of CERT: project activity type prescribed burning

Introduction

The Nebraska Game and Parks Commission (Commission) and the U.S. Fish and Wildlife Service (Service) have special concerns for endangered and threatened species, migratory birds, and other fish and wildlife and their habitats. Habitats frequently used by fish and wildlife species are wetlands, streams, riparian areas, woodlands, and grasslands. Special attention is given to proposed projects which modify wetlands, alter streams, result in loss of riparian habitat, convert/remove grasslands, or contaminate habitats. When this occurs, the Commission and Service recommend ways to avoid, minimize, or compensate for adverse effects to fish and wildlife and their habitats.

CONSULTATION PURSUANT TO THE NEBRASKA NONGAME AND ENDANGERED SPECIES CONSERVATION ACT (NESCA)

The Commission has responsibility for protecting state-listed endangered and threatened species under authority of the Nongame and Endangered Species Conservation Act (NESCA) (Neb. Rev. Stat. § 37-801 to 37-811). Pursuant to § 37-807 (3) of NESCA, all state agencies shall, in consultation with the Commission, ensure projects they authorize (i.e., issue a permit for), fund or carry out do not jeopardize the continued existence of state-listed endangered or threatened species or result in the destruction or modification of habitat of such species which is determined by the Commission to be critical. If a proposed project may affect state-listed species or designated critical habitat, further consultation with the Commission is required.

Informal consultation pursuant to NESCA can be completed by using the Conservation and Environmental Review Tool (CERT). The CERT analyzes the project type and location, and based on the analysis, provides information about potential impacts to listed species, habitat questions and/or conservation conditions. Project proponents can agree to implement conservation conditions as outlined in the report and applicable to the project type by signing in the designated areas and uploading the signed PDF as part of their "final" project submittal. By agreeing to and implementing the conservation conditions as outlined (if applicable), then further consultation with the Commission is not required. If the report indicates the project may have impacts on listed species, then further consultation with the Commission is required.

TECHNICAL ASSISTANCE AND CONSULTATION PURSUANT TO THE ENDANGERED SPECIES ACT (ESA)

The Service has responsibility for conservation and management of fish and wildlife resources for the benefit of the American public under the following authorities: 1) Endangered Species Act of 1973 (ESA); 2) Fish and Wildlife Coordination Act; 3) Bald and Golden Eagle Protection Act; and 4) Migratory Bird Treaty Act. The National Environmental Policy Act (NEPA) requires compliance with all of these statutes and regulations.

Pursuant to section 7(a)(2) of ESA, every federal agency, shall in consultation with the Service, ensure that an action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. If a proposed project may affect federally listed species or designated critical habitat, section 7 consultation is required with the Service. It is the responsibility of the lead federal action agency to fully evaluate all potential effects (direct and indirect) that may occur to listed species and critical habitat in the action area. The lead federal agency provides their effect determination to the Service for concurrence. If federally listed species and/or designated/proposed critical habitat would be adversely affected by implementation of the project, the lead federal agency will need to formally request further section 7 consultation with the Service prior to making any irretrievable or irreversible commitment of federal funds (section 7(d) of ESA), or issuing any federal permits or licenses.

At this time, **the information generated in this report DOES NOT satisfy consultation obligations between the lead federal agency and the Service pursuant to ESA**. For the purposes of ESA, the information in this report should be considered as TECHNICAL ASSISTANCE, and does not serve as the Service's concurrence letter, even if the user signs and agrees to implement conservation conditions in order to satisfy the consultation requirements of NESCA.

Overall Results

The following result is based on a detailed analysis of your project.

- It is unlikely this project will negatively impact listed species or their designated critical habitat. Please review all the information provided in this document. Then, sign and date the "Certification" section and upload the signed document as "Final" in CERT. No additional correspondence with the Nebraska Game and Parks Commission is required unless otherwise indicated in the "Additional Information" section below. If the project involves a federal permit, action or funding, the lead federal agency should review the information provided in this report and make an "effect determination" pursuant to their obligations under ESA. Depending on the determination made by the lead federal agency, further consultation with the U.S. Fish and Wildlife Service may or may not be required.

Additional Information

Nebraska Game and Parks Commission Property

This project is within or near a property owned and/or managed by the Nebraska Game and Parks Commission (NGPC). Please contact the Nebraska Game and Parks Commission to determine if this project will have impacts on the property.

Certification

I certify that ALL of the project information in this report (including project location, project size/configuration, project type, project activities, answers to questions) is true, accurate, and complete. If the project type, activities, location, size, or configuration of the project change, or if any of the answers to any questions asked in this report change, then this information is no longer valid and we recommend running the revised project through CERT to get an updated report.

_____ _____

Applicant/project proponent signature Date

Additional Considerations

Bald and Golden Eagle Protection Act

The federal Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668-668c) provides for the protection of the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*). Under the Eagle Act, “take” of eagles, their parts, nests or eggs is prohibited. Disturbance resulting in injury to an eagle or a decrease in productivity or nest abandonment by substantially interfering with normal breeding, feeding, or sheltering behavior is a form of “take.”

Bald eagles use mature, forested riparian areas near rivers, streams, lakes, and wetlands and occur along all the major river systems in Nebraska. The bald eagle southward migration begins as early as October and the wintering period extends from December-March. The golden eagle is found in arid open country with grassland for foraging in western Nebraska and usually near buttes or canyons which serve as nesting sites. Golden eagles are often a permanent resident in the Pine Ridge area of Nebraska. Additionally, many bald and golden eagles nest in Nebraska from mid-February through mid-July. Disturbances within 0.5-miles of an active nest or within line-of-sight of the nest could cause adult eagles to discontinue nest building or to abandon eggs. Both bald and golden eagles frequent river systems in Nebraska during the winter where open water and forested corridors provide feeding, perching, and roosting habitats, respectively. The frequency and duration of eagle use of these habitats in the winter depends upon ice and weather conditions. Human disturbances and loss of wintering habitat can cause undue stress leading to cessation of feeding and failure to meet winter thermoregulatory requirements. These affects can reduce the carrying capacity of preferred wintering habitat and reproductive success for the species.

To comply with the Eagle Act, it is recommended that the project proponent determine if the proposed project would impact bald or golden eagles or their habitats. This can be done by conducting a habitat assessment, surveying nesting habitat for active and inactive nests, and surveying potential winter roosting habitat to determine if it is being used by eagles. The area to be surveyed is dependent on the type of project; however for most projects we recommend surveying the project area and a ½ mile buffer around the project area. If it is determined that either species could be affected by the proposed project, the Commission recommends that the project proponent notify the Nebraska Game and Parks Commission as well as the Nebraska Field Office, U.S. Fish and Wildlife Service for recommendations to avoid “take” of bald and golden eagles.

Migratory Bird Treaty Act and Nebraska Revised Statute §37-540

We recommend the project proponent compliy with the Migratory Bird Treaty Act (16 U.S.C. 703-712: Ch. 128 *as amended*) (MBTA). The project proponent should also comply with Nebraska Revised Statute §37-540, which prohibits take and destruction of nests or eggs of protected birds (as defined in Nebraska Revised Statute §37-237.01). Construction activities in grassland, wetland, stream, woodland, and river bank habitats that would result in impacts on birds, their nests or eggs protected under these laws should be avoided. Although the provisions of these laws are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10. If development in this area is planned to occur during the primary nesting season or at any other time which may result in impacts to birds, their nests or eggs protected under these laws, we request that the project proponent arrange to have a qualified biologist conduct a field survey of the affected habitats to determine the absence or presence of nesting migratory birds. If a field survey identifies the existence of one or more active bird nests that cannot be avoided by the planned construction activities, the Nebraska Game and Parks Commission and the Nebraska Field Office, U.S. Fish and Wildlife Service should be contacted immediately. For more information on avoiding impacts to migratory birds, their nests and eggs, or to report active bird nests that cannot be avoided by planned construction activities, please contact the U.S. Fish and Wildlife Service and/or the Nebraska Game and Parks Commission (contact information within report). Adherence to these guidelines will help avoid unnecessary impacts on migratory birds.

Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act (FWCA) requires consultation with the U.S. Fish and Wildlife Service (Service) and the State fish and wildlife agency (i.e., Nebraska Game and Parks Commission) for the purpose of preventing loss of and damage to fish and wildlife resources in the planning, implementation, and operation of federal and federaly funded, permitted, or licensed water resource development projects. This statute requires that federal agencies take into consideration the effect that the water related project would have on fish and wildlife resources, to take action to prevent loss or damage to these resources, and to provide for the development and improvement of these resources. The comments in this letter are provided as technical assistance only and are not the document required of the Secretary of the Interior pursuant to Section 2(b) of FWCA on any required federal environmental review or permit. This technical assistance is valid only for the described conditions and will have to be revised if significant environmental changes or changes in the proposed project take place. In order to determine whether the effects to fish and wildlife resources from the proposed project are being considered under FWCA, the lead federal agency must notify the Service in writing of how the comments and recommendations in this technical assistance letter are being considered into the proposed project.

Section 404 of the Clean Water Act

In general, the Nebraska Game and Parks Commission and the U.S. Fish and Wildlife Service have concerns for impacts to wetlands, streams and riparian habitats. We recommend that impacts to wetlands, streams, and associated riparian corridors be avoided and minimized, and that any unavoidable impacts to these habitats be mitigated. If any fill materials will be placed into waterways or wetlands, the U.S. Army Corps of Engineers Regulatory Office in Omaha should be contacted to determine if a 404 permit is needed.

Agency Contact Information

Nebraska Game and Parks Commission

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U.S. Fish and Wildlife Service

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Aerial Image Basemap With Locator Map

Project Boundary

Project Review Boundary

3-mile Information Buffer Boundary

Project Size (acres): 13.48

Lat/Long (DD): 41.3929 / -102.1856

County(s): Garden

BUL(s):

Township/Range/Section(s): T16R42WS06

Service Layer Credits: Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey,

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Topographic Basemap With Sections and Protected Areas

- Project Boundary
- Project Review Boundary
- 3-mile Information Buffer Boundary
- Sections
- NGPC Properties
- PAD (USGS) - boundaries

Protected Areas Database (USGS)

- U.S. Fish & Wildlife Service
- U.S. Forest Service
- Natural Resources Conservation Service
- Army Corps of Engineers
- Bureau of Reclamation
- Other Federal
- Tribal
- Conservation Organization
- Other State (non-NGPC)
- Other (City, Unknown)

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

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Web Map As Submitted By User

- Project Boundary
- Project Review Boundary
- Blowout Penstemon
- Whooping Crane primary occurrence area
- American Burying Beetle
- Northern Long-eared Myotis
- Swift Fox

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Table 1
Protected Areas in Immediate Vicinity of Project (project review area)

Area Name	Owner/Manager	Information Source
Bluewater Battlefield SHP	Nebraska Game and Parks Commission	NGPC

Table 2
Documented Occurrences in Immediate Vicinity of Project (project review area):
Natural communities and special areas

Name	Other Information	SRank	GRank
Sandsage Prairie	Sandsage Prairie	S3	G3?
Large Intact Block of Habitat for At-risk Species			

Table 3
Township-level Documented Occurrences of Species within 1 Mile of Project Review Area

Scientific Name	Common Name	USFWS	State	SGCN	USFS	SRank	GRank
Aegolius acadicus	Northern Saw-whet Owl			Tier 2		S3	G5
Aquila chrysaetos	Golden Eagle			Tier 2		S3	G5
Athene cunicularia	Burrowing Owl			Tier 1	S	S2	G4
Colias cesonia	Dogface			Tier 2		S3	G5
Corydalis aurea ssp. occidentalis	Mountain Fumewort					S2S4	G5T5
Cygnus buccinator	Trumpeter Swan			Tier 2	S	S2	G4
Erynnis afranius	Afranius Duskywing			Tier 2		S2	G5
Erynnis baptisiae	Wild Indigo Duskywing			Tier 2		S3	G5
Falco mexicanus	Prairie Falcon			Tier 2		S2	G5
Fundulus sciadicus	Plains Topminnow			Tier 1	S	S3	G4
Haliaeetus leucocephalus	Bald Eagle			Tier 2	S	S3	G5
Hesperia pahaska	Pahaska Skipper			Tier 2		S2	G5
Lontra canadensis	River Otter		T		S	S4	G5
Megathymus yuccae coloradensis	Yucca Skipper			Tier 2		S3S4	G5T5
Melospiza georgiana	Swamp Sparrow			Tier 2		S3	G5
Mitoura grynea	Olive Hairstreak			Tier 2		S3	G5
Pectis angustifolia var. angustifolia	Lemon Pectis					S2S4	G4G5TNR

Table 3
Township-level Documented Occurrences of Species within 1 Mile of Project Review Area

Scientific Name	Common Name	USFWS	State	SGCN	USFS	SRank	GRank
Platanthera aquilonis	Northern Green Orchid					S3	G5
Poanes hobomok	Hobomok Skipper			Tier 2		S3S4	G5
Polites mystic	Long Dash			Tier 2		S3	G5
Primula pauciflora var. pauciflora	Northern Shooting-star			Tier 2		S2	G5T5
Speyeria aphrodite	Aphrodite Fritillary			Tier 2		S3	G5
Thelypodium integrifolium	Entire-leaf Thelypody					S2S4	G5

Table 4
Potential Occurrences in Immediate Vicinity of Project (project review area):
Special status species (Tier 1 at-risk species and Bald and Golden Eagle), based on models or range maps

Scientific Name	Common Name	Data Type	USFWS	State	SGCN	USFS	SRank	GRank
Aquila chrysaetos	Golden Eagle	Model			Tier 2		S3	G5
Asio flammeus	Short-eared Owl	Range			Tier 1	S	S2	G5
Athene cunicularia	Burrowing Owl	Range			Tier 1	S	S2	G4
Boloria selene sabulocollis	Kohler's Fritillary	Range			Tier 1		S1S2	G5T2
Cicindela lepida	Ghost Tiger Beetle	Range			Tier 1		S2	G3G4
Cicindela limbata limbata	Sandy Tiger Beetle	Range			Tier 1		S4	G4T3T4
Coccinella novemnotata	Nine-spotted Ladybird Beetle	Range			Tier 1		S1	G5
Dalea cylindriceps	Large-spike Prairie-clover	Range			Tier 1		S2	G3G4
Danaus plexippus	Monarch	Range			Tier 1	S	S2	G4
Euphyes bimacula illinois	Two-spotted Skipper	Range			Tier 1		S3	G4T1T2
Fundulus sciadicus	Plains Topminnow	Range			Tier 1	S	S3	G4
Haliaeetus leucocephalus	Bald Eagle	Range			Tier 2	S	S3	G5
Hesperia ottoe	Ottoe Skipper	Range			Tier 1	S	S2	G3G4
Lanius ludovicianus	Loggerhead Shrike	Range			Tier 1	S	S3	G4
Lasiurus borealis	Eastern Red Bat	Range			Tier 1		S3	G3G4
Lasiurus cinereus	Hoary Bat	Range			Tier 1	S	S3	G3G4
Lethe eurydice fumosus	Smoky-eyed Brown	Range			Tier 1		S3	G5T3T4
Lontra canadensis	River Otter	Model		T		S	S4	G5

Table 4
Potential Occurrences in Immediate Vicinity of Project (project review area):
Special status species (Tier 1 at-risk species and Bald and Golden Eagle), based on models or range maps

Scientific Name	Common Name	Data Type	USFWS	State	SGCN	USFS	SRank	GRank
Numenius americanus	Long-billed Curlew	Range			Tier 1	S	S3	G5
Perimyotis subflavus	Tricolored Bat	Range			Tier 1		S3	G2G3
Pica hudsonia	Black-billed Magpie	Range			Tier 1		S2	G5
Speyeria idalia	Regal Fritillary	Range			Tier 1	S	S3	G3
Trimerotropis saxatilis	Lichen Grasshopper	Range			Tier 1		S1	G3