Environmental Review Report

Project Information

Report Generation Date:	11/18/2019 12:10:22 PM
Project Title:	Halsey prescribed fire test report
User Project Number(s):	
System Project ID:	NE-CERT-002051
Project Type:	Habitat Conservation and Restoration (non- NRCS project)
Project Activities:	Prescribed Burning
Project Size:	2,489.32 acres
County(s):	Thomas
Watershed(s):	Loup
Watershed(s) HUC 8:	Dismal
Watershed(s) HUC 12:	102100020502; 102100020504; Ewoldt Landing Strip
Biologically Unique Landscape(s):	None
Township/Range and/or Section(s):	T22R27WS20; T22R27WS21; T22R27WS22; T22R27WS23; T22R27WS26; T22R27WS27; T22R27WS28; T22R27WS29
Latitude/Longitude:	41.856015 / -100.448428

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 the CERT prescribed fire project activity

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.

- More information needed - refer to the following sections. Answer the habitat question(s) in the section below. Additional consultation with the Nebraska Game and Parks Commission and/or the U.S. Fish and Wildlife Service may or may not be required. Refer to the "Conservation Conditions Agreement" section for additional information.

Questions and Conservation Conditions

American Burying Beetle

This project is within the range of the state and federally listed endangered American burying beetle (*Nicrophorus americanus*).

Habitat Question for American Burying Beetle:

Will the project or activity involve ground disturbance (overturning soil) and/or prescribed burning in a perennial vegetated plant community or in an area with wet and/or mesic inclusions?

____ Unknown

____ No. Conservation conditions are not needed for this species unless otherwise indicated.

____ Yes. The following conservation conditions must be implemented in order to avoid adverse impacts on American burying beetle.

ABB CC-3: No burning May 1st thru September 15th.

Northern Long-eared Bat

This project is within the range of the state and federally listed threatened northern long-eared bat (*Myotis septentrionalis*).

Habitat Questions for Northern Long-eared Bat:

Are the Project Limits within or adjacent to deciduous and/or pine woodlands with live or dead trees or snags that exhibit peeling bark or have crevices or hollows?

OR

Do the Project Limits include buildings, bridges over drainages (wet or dry), and/or box culverts over 5-feet in height?

____ Unknown for EITHER question

____ No for BOTH questions. Conservation conditions are not needed for this species unless otherwise indicated.

____ Yes for EITHER question. The following conservation conditions must be implemented in order to avoid adverse impacts on northern long-eared bat.

NLEB CC-5: Do not implement within a woodland between May 1 and July 31.

Western Prairie Fringed Orchid

This project is within the range of the state and federally listed threatened western prairie fringed orchid (*Platanthera praeclara*).

Habitat Questions for Western Prairie Fringed Orchid:

Are the Project Limits within or adjacent to a wet meadow or natively vegetated grassland that is on a lower stream terrace or topographic floodplain?
Are the Project Limits within 100 feet of a natively vegetated sidehill seep that has no history of tillage?
Do the Project Limits occur in a drainage (ditch, waterway, or other moist soil sites) that contains suitable vegetation for the species AND is associated with a wet meadow or natively vegetated grassland that is on a lower stream terrace or topographic floodplain?

____ Unknown for one or more questions
____ No for ALL three questions. Conservation conditions are not needed for this species unless otherwise indicated.
____ Yes for ANY of the questions. The following conservation conditions must be implemented in order to avoid adverse impacts on western prairie fringed orchid:

WPFO CC-7: Prescribed burning will not be conducted between May 15 and October 1.

Whooping Crane and Whooping Crane Critical Habitat

This project is within the range of the state and federally listed endangered whooping crane (*Grus americana*) and/or federally designated critical habitat for whooping crane.

Habitat Questions for Whooping Crane and Whooping Crane Critical Habitat:

Are the Project Limits or area of potential effect outside of densely populated residential, commercial, or industrial areas?
OR
Are the project limits or area of impact within 1/2 mile of suitable habitat, which includes but is not limited to, sub-irrigated grasslands, meadows, shallow wetland habitat, farm ponds, or major rivers?

____ Unknown for EITHER question.
____ No for EITHER question. Conservation conditions are not needed for this species unless otherwise indicated.
____ Yes for BOTH questions. The following conservation conditions must be implemented in order to avoid adverse impacts on whooping crane and/or critical habitat for whooping crane:

Unless otherwise indicated, conservation condition WC CC-2 **or** WC CC-3 is required (not both), in addition to any other conservation conditions listed for this species:

WC CC-2: If project or management actions/activities must occur during the spring (March 6 - April 29) or fall (October 9 - November 15) migration periods, then a survey must be conducted according to the standard protocol. Take note of the worktime restrictions as stated in the protocol.

OR

WC CC-3: Project or management actions/activities will not be implemented during the spring (March 6 - April 29) or fall (October 9 - November 15) whooping crane migration periods.

Conservation Conditions Agreement

Based on the information contained in the report, follow the instructions for A, B or C below.

A) IF one or more of the habitat questions were answered with "Yes", insert an "X" for one of the two options below:

_____ Option 1. For all species for which there is habitat present (as indicated by checking "yes" to a habitat question) I understand and agree to implement and/or incorporate the conservation conditions for those species as indicated. By agreeing to implement and/or incorporate the conservation conditions for those species as indicated, no further consultation with the Nebraska Game and Parks Commission is required. However, further consultation between the lead federal agency and the U.S. Fish and Wildlife Service (Service) may be required. Contact the Service for additional information. Sign and date on the line below, and also sign and date the "Certification" section. Submit a copy of the signed report with any type of permit/application required for the project.

_____ _____

Applicant/project proponent signature Date

_____ Option 2. I have concerns regarding one or more of the conservation conditions. Sign the "Certification" section below. When submitting the project as "Final" in CERT, please attach a separate document explaining your concerns with the conservation conditions and why they cannot be implemented. Then, contact the Nebraska Game and Parks Commission and the U.S. Fish and Wildlife Service for further information.

B) IF one or more habitat questions were answered with "Unknown," then sign the "Certification" section below, submit the project as "Final" in CERT, and contact the Nebraska Game and Parks Commission and the U.S. Fish and Wildlife Service for further information.

C) IF ALL the habitat questions were answered "No" or if the "Overall Results" section indicated the project was unlikely to impact listed species, then sign the "Certification" section below and submit the project as "Final" in CERT. No further consultation with the Nebraska Game and Parks Commission is required. Additional coordination with the U.S. Fish and Wildlife Service may be necessary depending on the determination made by the lead federal agency pursuant to their obligations under ESA. Submit a copy of the signed report with any type of permit/application needed for the project.

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

Shannon Sjolie
2200 North 33rd Street
Lincoln, NE 68503
phone: (402) 471-5423
email: shannon.sjolie@nebraska.gov

Michael Bernhardt
2200 North 33rd Street
Lincoln, NE 68503
phone: (402) 471-5554
email: michael.bernhardt@nebraska.gov

U.S. Fish and Wildlife Service

Eliza Hines
9325 South Alda Road
Wood River, NE 68883
phone: (308) 382-6468 ext. 204
email: eliza_hines@fws.gov

Halsey prescribed fire test report

Aerial Image Basemap With Locator Map

Project Boundary

Project Review Boundary

3-mile Information Buffer Boundary

Project Size (acres): 2,489.32

Lat/Long (DD): 41.8560 / -100.4484

County(s): Thomas

BUL(s):

Township/Range/Section(s): T22R27WS20; T22R27WS21; T22R27WS22; T22R27WS23; T22R27WS26 +

Service Layer Credits: Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community
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Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey,

Halsey prescribed fire test report

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

Halsey prescribed fire test report

Web Map As Submitted By User

Project Boundary

Project Review Boundary

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
Nebraska National Forest	Forest Service	USGS Protected Areas Database

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

Name	Other Information	SRank	GRank
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
Nicrophorus americanus	American Burying Beetle	E	E	Tier 1		S1	G2G3
Penstemon haydenii	Blowout Penstemon	E	E	Tier 1		S1	G1G2

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
Arizona elegans	Glossy Snake	Range		NC	Tier 1		S1	G5
Asio flammeus	Short-eared Owl	Range			Tier 1	S	S2	G5
Athene cunicularia	Burrowing Owl	Range			Tier 1	S	S2	G4
Atrytone arogos iowa	Iowa Skipper	Range			Tier 1		S1	G3T3
Boloria selene sabulocollis	Kohler's Fritillary	Range			Tier 1		S1S2	G5T2
Catocala nuptialis	Married Underwing	Range			Tier 1		SNR	G3G4
Catocala whitneyi	Whitney Underwing	Range			Tier 1		S1	G3G4
Cicindela lepida	Ghost Tiger Beetle	Range			Tier 1		S2	G3G4
Cicindela limbata limbata	Sandy Tiger Beetle	Range			Tier 1		S4	G4T3T4
Danaus plexippus	Monarch	Range			Tier 1	S	S2	G4
Emydoidea blandingii	Blanding's Turtle	Range		NC	Tier 1		S4	G4
Eristalis brousii	Hourglass Drone Fly	Range			Tier 1		S1	G1G2

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
Erynnis martialis	Mottled Duskywing	Range			Tier 1		S2	G3
Euphyes bimacula illinois	Two-spotted Skipper	Range			Tier 1		S3	G4T1T2
Fundulus sciadicus	Plains Topminnow	Range			Tier 1	S	S3	G4
Grus americana	Whooping Crane	Range	E	E	Tier 1		S1	G1
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
Myotis septentrionalis	Northern Long-eared Myotis	Range	T	T	Tier 1		S1S2	G1G2
Nicrophorus americanus	American Burying Beetle	Range	E	E	Tier 1		S1	G2G3
Numenius americanus	Long-billed Curlew	Range			Tier 1	S	S3	G5
Oxyloma haydeni	Niobrara Ambersnail	Range			Tier 1		SNR	G3
Penstemon haydenii	Blowout Penstemon	Range	E	E	Tier 1		S1	G1G2
Perimyotis subflavus	Tricolored Bat	Range			Tier 1		S3	G2G3
Platanthera praeclara	Western Prairie Fringed Orchid	Range	T	T	Tier 1		S2	G3
Speyeria idalia	Regal Fritillary	Range			Tier 1	S	S3	G3