

U. S. FISH AND WILDLIFE SERVICE

ENVIRONMENTAL ACTION STATEMENT FOR CATEGORICAL EXCLUSION

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the following proposed action is categorically excluded from NEPA documentation requirements consistent with 40 CFR §1508.4, 43 CFR §46.205, 43 CFR §46.210, 43 CFR §46.215, and 516 DM 8.

Proposed Action and Alternatives. *Describe the proposed action and any alternatives explored. Discuss briefly why proposed action was selected over other alternatives.*

The legal provision (16 U.S.C. 668dd-668ee) states that lands within the National Wildlife Refuge System (NWRS) are closed to public use unless specifically and legally opened. No refuge use may be allowed unless it is determined to be compatible. A compatible use is one that, in the sound professional judgment of the refuge manager, will not materially interfere with or detract from the fulfillment of the mission of NWRS or the purposes of the refuge. All programs and uses must be evaluated based on the mandates set forth in the Improvement Act as follows:

- Contribute to ecosystem goals, as well as refuge purposes and goals;
- Conserve, manage, and restore fish, wildlife, and plant resources and their habitats;
- Monitor the trends of fish, wildlife, and plants;
- Manage and ensure appropriate visitor uses as those uses benefit the conservation of fish and wildlife resources and contribute to the enjoyment of the public; and,
- Ensure that visitor activities are compatible with refuge purposes.

The Improvement Act further identifies six priority wildlife-dependent recreational uses. These uses are hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. During the Comprehensive Conservation Plan process, the following three alternatives assessed visitor services:

Alternative A – No Action (Current Management)

Alternative B – Optimize Wildlife-Dependent Public Use and Management

Alternative C – Maximize Wildlife Dependent Public Use and Management.

Alternative A maintained the current level of visitor services. Alternative B increased opportunities for visitors including addition of a staffed visitor center, increased opportunities and amenities for visitors to participate in the six priority wildlife-dependent recreational uses and other uses. Alternative C maximized visitor opportunities and amenities on the Refuge.

Alternative C was selected as the preferred alternative. As part of optimizing wildlife-dependent public use opportunities for visitors, the public use program is reviewed to ensure that it contributes to refuge objectives in managing quality recreational opportunities and protecting habitats. The public use program is subject to modification if current uses results in unanticipated negative impacts to natural communities, wildlife species, or their habitats or if new refuge uses are identified. Compatibility determinations were reviewed, updated and/or developed for public uses currently

occurring or requested to be allowed to occur on Clarks River NWR.

Categorical Exclusion(s). Quote and provide the Departmental Manual citation(s) for the specific Categorical Exclusions you are using; if it appears necessary, discuss why you believe the action fits as this Categorical Exclusion; mention that the action does not trigger an Exception to the Categorical Exclusions at 43 CFR §46.215; and/or if it does trigger an Exception, discuss why it does not apply for this action.

Clarks River NWR 2012 Comprehensive Conservation Plan (CCP) Goals A, B, and D

- Objectives A-1, A-5, A-20, A-21,
- Objectives B-1, B-2, B-6, B-7, and B-8 specifically relates to the resource and habitat management.
- Objectives D-2, D-3, D-4, D-5, and D-6 specifically relates to the six priority wildlife-dependent recreational uses (Hunting, Fishing, Wildlife Observation and Photography, Environmental Interpretation, and Environmental Education).
- Objectives D-7 specifically relates to promoting Special Uses such as research, hiking, biking, walking, and horseback riding on Clarks River NWR.

The specific Categorical Exclusion “(B) Resource management - (7) Minor changes in the amounts or types of public use on Service or State-managed lands in accordance with existing regulations, management plans and procedures” and “Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or not introduction of organisms not indigenous to the affected ecosystem”; (9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated” and “(C) Permit and Regulatory Functions – (5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the purpose of the refuge system unit, and result in no or negligible environmental disturbances are anticipated” applies for the minor changes in:

- Wildlife Observation,
- Environmental Education and Interpretation,
- Wildlife Photography
- Scientific Research by Special
- Forest Management for Wildlife Habitat Enhancement and Improvement

The use of Unmanned Aerial Systems (UAS)/drones is not addressed by goals and objectives as identified in the CCP/Habitat management Plan (HMP) which focus on migratory birds, at risk species, and threatened and endangered species. This use is not a priority public use of the National Wildlife Refuge System under the National Wildlife Refuge System Administration Act of 1966 Act of (16 1997. U.S.C: 668dd-668cc) as amended by the National Wildlife Refuge System Improvement Act of 1997. This activity, however, can be linked to three of the six priority public uses: photography, environmental education and interpretation. This use has the potential to assist in scientific research, and Refuge Management actions such as inventory and monitoring.

The use of UAS/drones will be reviewed on a case-by-case basis to ensure this use does not have the potential to disturb wildlife, impact refuge management, or interfere with scheduled programs. Before a refuge manager can consider permitting the use of a drone and prior to bureaus approving/issuing a special use permit for this type of mission the operator must be in compliance

with the following FAA regulations:

- DOI operator follows provisions of the Small UAS Rule (sUAS rule; Part 107), a COA, an emergency COA, or the DOI-FAA MOA
- Non-DOI government agency/public university operator follows provisions of the sUAS Rule Part 107) or a COA (and provides a copy of COA to USFWS)
- Commercial operator follows provisions of the sUAS Rule (Part 107)

In addition to the FAA requirements, the operator must ensure they met all 50 CFR regulations regarding aircrafts. Once the operator has met all required regulations, then the permit may be issued on a case-by-case basis to ensure this use does not have the potential to disturb wildlife, impact refuge management, or interfere with scheduled programs. By applying stipulations, this use is a compatible public use.

The CCP (2012) and an Environmental Assessment (2010) considered resource management techniques as well as public uses such as hunting, fishing, wildlife observation and photography, environmental interpretation, environmental education, and other special uses (e.g. research).

Permits/Approvals. *Discuss any additional permits/approvals needed before the proposed action can be implemented, such as a Clean Water Act Section 404 permit, Endangered Species Act Section 7 consultation, and/or National Historic Preservation Act Section 106 clearance.*

Finding of Appropriateness was completed for the public use of Unmanned Aerial Systems/Drones in June 2017.

Public Involvement/Interagency Coordination. *Discuss the opportunities provided to the public, other agencies, and/or Tribes to get involved with the proposed action, any significant comments they may have made, and our responses.*

During the NEPA process for the CCP, Clarks River NWR offered multiple opportunities for public input. Initially, a Notice of intent to prepare the CCP was published in the *Federal Register* on August 29, 2008. The public was notified in the local newspapers and media of public scoping meetings held on September 23 and 25, 2008. Approximately 10 members of the public attended the public scoping meeting. Four members of the public offered their comments at the public meeting. In addition, 25 other comments were received from the general public.

Additionally, the 2010 Draft CCP and Environmental Assessment (EA) was made available for public review beginning February 15, 2012 and ending March 15, 2012, as announced in the *Federal Register* (77 FR 8890). A news release was sent out to five local newspapers, two local online media outlets, two local TV stations, six local radio networks, and over one hundred state and regional media contacts. Announcements of the availability of the Draft CCP/EA and announcements of three public meetings were made in the *Paducah Sun*, *Marshall County Tribune-Courier*, and broadcast online and on television on *WDRB 41 Louisville*.

Prior to mailing out the 2010 Draft CCP/EA, the Service mailed over 1,700 post cards to landowners that owned land within the expansion area. Copies of the Draft CCP/EA, which included the land protection plan, were then posted at refuge headquarters and on the Service's website, <http://southeast.fws.gov/planning>, under "Draft Documents." More than 300 copies of the Draft CCP/EA were distributed to local landowners, the public, and local, state, and federal agencies. ~~Public meetings were held~~ on February 21, 22, and 23, 2012. More than 270 people attended and many submitted comments at the three public meetings. Approximately fifty-five respondents submitted written comments on the Draft CCP/EA by mail or e-mail.

Since new public uses were considered, Clarks River NWR initiated a 30 day public comment period. The Refuge accepted public comments on the proposed determinations for compatible wildlife-dependent recreation and wildlife habitat management uses from February 15, 2017 through March 15, 2017. Notifications of the public comment period were posted on Clarks River NWR website and Facebook page, as well as published in a local newspapers (Marshall County Daily, Paducah Sun, Lake News). The Refuge only received one public comment during the 30 day open period. This comment was in support of the proposed determinations for compatible wildlife-dependent recreation and wildlife habitat management uses. The comment also requested that the Refuge expand recreational fishing opportunities to include bow-fishing. In response to this comment, a compatibility determination for bow-fishing was developed.

Due to changes to this compatibility determination, it was determined that the public should have an additional chance to comment. Therefore, this compatibility determination was made available for public review and comment for 14 days beginning March 19, 2018 and ending April 2, 2018. Announcements were once again sent to local newspapers and posted on the Refuge's website and facebook pages. The Refuge did not received any public comments in writing during this comment period, however, one individual indicated his support to the assistant refuge manager during the open period.

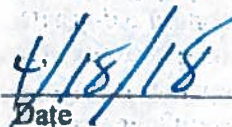
Supporting Documents: *Supporting documents for this determination include relevant office file material and the following key references: (List document citations here.)*

U. S. Fish and Wildlife Service. 2010. Draft Clarks River National Wildlife Refuge Comprehensive Conservation Plan and Environmental Assessment. Benton, Kentucky. 260 pp.

U. S. Fish and Wildlife Service. 2012. Clarks River National Wildlife Refuge Comprehensive Conservation Plan. Atlanta, Georgia. 266 pp.

U. S. Fish and Wildlife Service. 2013. Clarks River National Wildlife Refuge Habitat Management Plan. Benton, KY. 109 pp.


Project Leader


Date

Clarks River NWR accepting comments on compatible use of unmanned aerial systems

Press Release

Clarks River National Wildlife Refuge (CRNWR) is accepting comments on the proposed determinations for compatible wildlife-dependent recreation and wildlife habitat management uses. The comment period began March 19, 2018 and goes through April 2, 2018. A copy of the compatibility determination is available to the public for review at the CRNWR office or on the website at www.fws.gov/refuge/clarks_river.

Comments are to be as specific as possible with an explanation including sufficient

information to allow authentication of data referenced. The use of Unmanned Aerial Systems/Drones (Special Use Permit ONLY) were found appropriate for observation of wildlife, wildlife photography/videography, recording of events for educational materials, inventory and monitoring, and/or research. Please submit written comments to Refuge Manager, Clarks River National Wildlife Refuge, via email (clarksriver@fws.gov), or by mail to P.O. Box 89, Benton, KY 42025. All relevant comments will be considered before a final decision is made on in this proposal. All

comments and recommendations, including names and addresses, will become part of the public administrative record.

The public use program will be reviewed annually to ensure that it contributes to refuge objectives in managing quality recreational opportunities and protecting habitats, and is subject to modification if onsite monitoring by refuge personnel or other authorized personnel results in unanticipated negative impacts to natural communities, wildlife species, or their habitats.