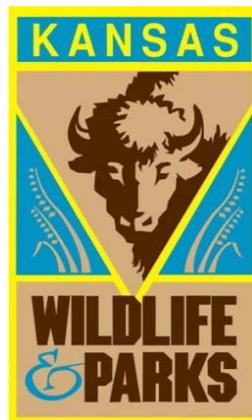


**UNITED STATES DEPARTMENT OF
AGRICULTURE**

FARM SERVICE AGENCY

**Final Programmatic Environmental Assessment
Kansas Voluntary Public Access
Habitat Incentive Program
(VPA-HIP)**



June 2011

FINDING OF NO SIGNIFICANT IMPACT

Voluntary Public Access and Habitat Incentive Program

State of Kansas

June 2011

INTRODUCTION

The United States Department of Agriculture Farm Service Agency proposes to implement a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) in the State of Kansas. The Voluntary Public Access and Habitat Incentive Program (VPA-HIP) provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting and fishing, and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

The State of Kansas, through the Kansas Department of Wildlife and Parks (KDWP), proposes to use VPA-HIP grant funds to expand its existing public access programs in order to provide the public with more opportunities to hunt and fish, and to improve wildlife habitat on private lands enrolled in these access programs. The KDWP works with thousands of cooperators each year who voluntarily participate in our current Walk-In Hunting Access (WIHA), Special Hunts on Private Lands, and Fishing Impoundments & Stream Habitats (FISH) programs. Through these access programs, and various private lands habitat initiatives, private landowners are provided with financial incentives and the opportunity to work with state employed biologists to allow public access to their lands and improve wildlife habitat. These programs have opened more than one million acres of privately owned land to the public in Kansas. With approximately 97 percent of all land in Kansas under private ownership, the importance of public access to private lands within the state cannot be overstated. Thanks in part to the success of these programs, the KDWP has been able to increase public awareness about the importance of private land access and habitat improvement to individuals who hunt and fish, highlight increased access as a fundamental part of continued hunter and angler recruitment and retention efforts, and motivate landowners to conserve wildlife species.

PREFERRED ALTERNATIVE

The Preferred Alternative is the Proposed Action which consists of three main components: (1) expand public access programs throughout Kansas, with a focus on hunting access in the east, fishing access in the west, and both hunting and fishing access with regard to properties enrolled in the Upper Arkansas River – Conservation Reserve Enhancement Program (UAR-CREP); (2) modify the lease options and incentive payments made available to landowners for providing public access; and (3) provide incentives to landowners who are enrolled in the access programs to make habitat improvements on these properties through developed management plans and the implementation of appropriate conservation practices.

REASONS FOR FINDING OF NO SIGNIFICANT IMPACT

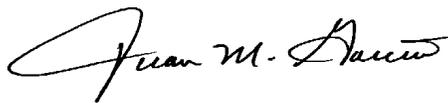
In consideration of the analysis documented in the Programmatic Environmental Assessment (EA) and in accordance with Council on Environmental Quality regulations 1508.27, the Preferred Alternative would not constitute a major State or Federal action affecting the human and natural environment. Therefore, this Finding of No Significant Impact (FONSI) has been prepared and an Environmental Impact Statement (EIS) will not be prepared. This determination is based on the following:

1. The proposed action will have long-term beneficial impacts to the hunting public from increased walk-in access opportunities and improved wildlife habitat.
2. The preferred alternative would not affect public health or safety.
3. Unique characteristics of the geographic area (cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, and ecologically critical areas) would not be negatively impacted from implementation of the preferred alternative.
4. There are no negative impacts on the quality of the human environment expected.
5. The potential impacts on the human environment as described in the Programmatic EA are not uncertain nor do they involve unique or unknown risks.
6. The preferred alternative would not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.
7. Cumulative impacts of the preferred alternative in combination with other recent, ongoing, or foreseeable future actions are not expected to be significant.
8. The preferred alternative would not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places.
9. The preferred alternative would not have negative impacts to wildlife and their habitats, including endangered and threatened species under the Endangered Species Act of 1973.
10. The preferred alternative does not threaten a violation of Federal, State, or local law imposed for the protection of the environment.

DETERMINATION

On the basis of the analysis and information contained in the Programmatic EA and FONSI, it is my determination that adoption of the preferred alternative does not constitute a major Federal action affecting the quality of the human and natural environment. Barring any new data or substantial issues are identified during the public and agency review of the Final Programmatic EA that would dramatically change the analysis presented in the EA, the Programmatic EA and this FONSI are considered Final 30 days after date of initial publication of the Notice of Availability.

APPROVED: _____



June 6, 2011

Signature

Date

COVER SHEET

Proposed Action: The United States Department of Agriculture (USDA) Farm Service Agency (FSA) and the State of Kansas have agreed to implement a new Voluntary Public Access – Habitat Incentive Program (VPA-HIP). USDA is provided the statutory authority by the provisions of the Food Security Act of 2008, and the Regulations at 7 Code of Federal Regulations (CFR) 1410. VPA-HIP provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting, fishing, and other compatible recreation and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

Type of Statement: Programmatic Environmental Assessment

Lead Agency: United States Department of Agriculture, Farm Service Agency

Sponsoring Agency: Kansas Department of Wildlife and Parks (KDWP)

Cooperating Agencies: None

Comments: This Programmatic Environmental Assessment was prepared in accordance with USDA FSA National Environmental Policy Act (NEPA) implementation procedures found in 7 CFR 799, as well as the NEPA of 1969, Public Law 91-190, 42 United States Code 4321-4347, 1 January 1970, as amended.

A Notice of Availability was released on June 28, 2011 announcing a 30-day comment period. A copy of the document can be found on the USDA FSA website: <http://www.fsa.usda.gov>
Comments will be accepted until July 29, 2011. Comments may be submitted via e-mail to: jake.george@ksoutdoors.com

Or via mail to the following address:
Kansas Department of Wildlife & Parks
Attn: Jake George
512 SE 25th Ave, Pratt, KS, 67124

EXECUTIVE SUMMARY

The United States Department of Agriculture Farm Service Agency proposes to implement a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) in the State of Kansas. The Voluntary Public Access and Habitat Incentive Program (VPA-HIP) provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting and fishing, and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

The State of Kansas, through the Kansas Department of Wildlife and Parks (KDWP), proposes to use VPA-HIP grant funds to expand its existing public access programs in order to provide the public with more opportunities to hunt and fish, and to improve wildlife habitat on private lands enrolled in these access programs. The KDWP works with thousands of cooperators each year who voluntarily participate in our current Walk-In Hunting Access (WIHA), Special Hunts on Private Lands, and Fishing Impoundments & Stream Habitats (FISH) programs. Through these access programs, and various private lands habitat initiatives, private landowners are provided with financial incentives and the opportunity to work with state employed biologists to allow public access to their lands and improve wildlife habitat. These programs have opened more than one million acres of privately owned land to the public in Kansas. With approximately 97 percent of all land in Kansas under private ownership, the importance of public access to private lands within the state cannot be overstated. Thanks in part to the success of these programs, the KDWP has been able to increase public awareness about the importance of private land access and habitat improvement to individuals who hunt and fish, highlight increased access as a fundamental part of continued hunter and angler recruitment and retention efforts, and motivate landowners to conserve wildlife species.

Purpose and Need for the Proposed Action

The purpose of the Proposed Action is to use VPA-HIP grant funds to increase public access and improve wildlife habitat on private farms and ranches in the state of Kansas. The need for the Proposed Action is to: increase the value realized by private landowners for wildlife populations inhabiting their property; increase the amount of public hunting and fishing access on qualified private land; and to promote wildlife habitat restoration and improvement of watershed conditions on private properties.

Description of Alternatives

This document contains an analysis of two alternatives, the Proposed Action (Preferred Alternative) and the No Action Alternative. No other alternatives were carried forward for detailed analysis in this document.

Proposed Action

The Proposed Action consists of three main components: (1) expand public access programs throughout Kansas, with a focus on hunting access in the east, fishing access in the west, and both hunting and fishing access with regard to properties enrolled in the Upper Arkansas River – Conservation Reserve Enhancement Program (UAR-CREP); (2) modify the lease options and incentive payments made available to landowners for providing public access; and (3) provide incentives to landowners who are enrolled in the access programs to make habitat improvements on these properties through developed management plans and the implementation of appropriate conservation practices.

No Action Alternative

Under the No Action Alternative, the existing public access to private land and habitat improvement programs would continue as they are currently administered. Expansion of the existing access programs, and the increased wildlife dependant recreational opportunities that program expansion would provide, would not occur. Additionally, opportunities afforded by the proposed habitat improvement projects on both current and potential access properties would not be realized.

ACRONYMS AND ABBREVIATIONS

| | | | |
|-------|---|---------|---|
| ACHP | Advisory Council on Historic Preservation | UAR | Upper Arkansas River |
| CEQ | Council on Environmental Quality | USCB | U.S. Census Bureau |
| CFR | Code of Federal Regulations | USDA | U.S. Department of Agriculture |
| CREP | Conservation Reserve Enhancement Program | USEPA | U.S. Environmental Protection Agency |
| CRP | Conservation Reserve Program | USFWS | U.S. Fish and Wildlife Service |
| DWR | Division of Water Resources | VPA-HIP | Voluntary Public Access and Habitat Incentive Program |
| EO | Executive Order | WHIP | Wildlife Habitat Incentives Program |
| ESA | Endangered Species Act | WIHA | Walk-In Hunting Access |
| FISH | Fishing Impoundments and Stream Habitats | | |
| FSA | Farm Service Agency | | |
| HEL | Highly Erodible Land | | |
| IGUCA | Intensive Groundwater Use Control Area | | |
| KDHE | Kansas Department of Health and Environment | | |
| KDWP | Kansas Department of Wildlife and Parks | | |
| LIP | Landowner Incentive Program | | |
| MBTA | Migratory Bird Treaty Act | | |
| NAAQS | National Ambient Air Quality Standards | | |
| NEPA | National Environmental Policy Act | | |
| NHPA | National Historic Preservation Act | | |
| NRCS | Natural Resource Conservation Service | | |
| PEA | Programmatic Environmental Assessment | | |
| SHPO | State Historic Preservation Office | | |

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CHAPTER 1.0 INTRODUCTION

The United States Department of Agriculture Farm Service Agency proposes to implement a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) in the State of Kansas. The Voluntary Public Access and Habitat Incentive Program (VPA-HIP) provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting and fishing, and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

The VPA-HIP is a competitive grants program that is only available for state and tribal governments. The grant funding may be used to expand existing public access programs, create new public access programs, or provide incentives to improve wildlife habitat on enrolled lands. Program objectives in the State of Kansas are to:

- Maximize participation by landowners;
- Ensure that land enrolled in the program has appropriate wildlife habitat;
- Provide incentives to strengthen wildlife habitat improvement efforts on Conservation Reserve Enhancement Program (CREP) land;
- Supplement funding and services from other Federal, state, or private resources; and
- Provide the public with resource options for locating public access land.

The State of Kansas, through the Kansas Department of Wildlife and Parks (KDWP), proposes to use VPA-HIP grant funds to expand its existing public access programs in order to provide the public with more opportunities to hunt and fish, and to improve wildlife habitat on private lands enrolled in these access programs.

1.1 BACKGROUND

The KDWP works with thousands of cooperators each year who voluntarily participate in our current Walk-In Hunting Access (WIHA), Special Hunts on Private Lands, and Fishing Impoundments & Stream Habitats (FISH) programs. The WIHA and FISH programs make private land and waters available for public hunting and fishing through a lease agreement between the KDWP and landowners. Participating landowners receive payments, which vary with the number of acres, length of stream, and length of lease. Similarly, the Special Hunts on Private Land program allows for more of a controlled access opportunity. KDWP Biologists work with landowners to determine the access dates, number of hunters, species pursued, and

legal equipment. Application for the Special Hunts is completed online with successful applicants being determined by a random drawing. This program is geared towards increasing public access in the eastern, more urban half of the state and providing additional Youth/Mentor hunt opportunities in support of ongoing hunter recruitment and retention efforts.

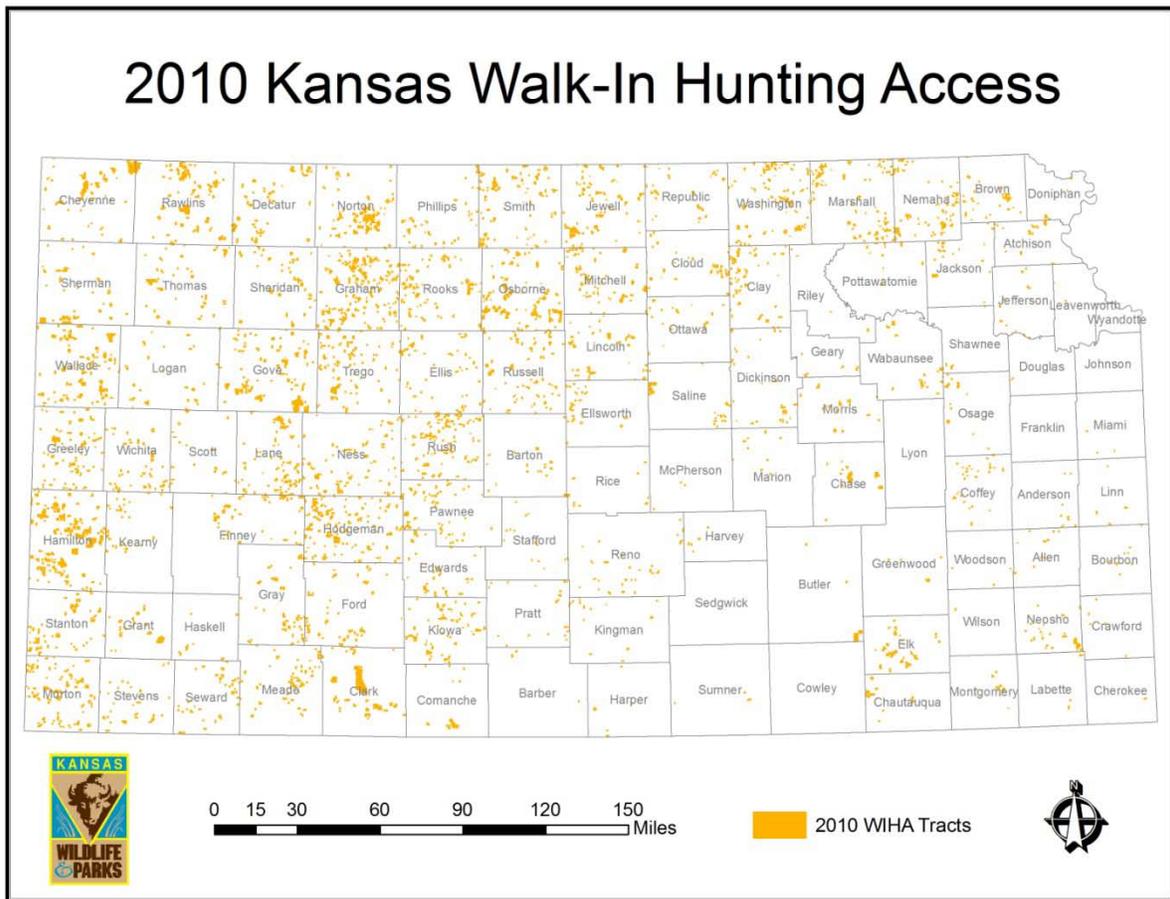
Through these access programs, and various private lands habitat initiatives, private landowners are provided with financial incentives and the opportunity to work with state employed biologists to allow public access to their lands and improve wildlife habitat. These programs have opened more than one million acres of privately owned land to the public in Kansas. With approximately 97% of all land in Kansas under private ownership, the importance of public access to private lands within the state cannot be overstated. Thanks in part to the success of these programs, the KDWP has been able to increase public awareness about the importance of private land access and habitat improvement to individuals who hunt and fish, highlight increased access as a fundamental part of continued hunter and angler recruitment and retention efforts, and motivate landowners to conserve wildlife species.

1.1.1 Walk-In Hunting Access

The Walk-In Hunting Access (WIHA) program began in 1995 as an effort to enhance the strong Kansas hunting heritage by providing public hunting access to private property. The program has grown to be one of the most successful access programs in the country. By 2004, over 1 million acres were enrolled in Kansas WIHA, providing countless opportunities for sportsmen to pursue their favorite game. Landowners who enroll their property receive a hunting lease payment in exchange for allowing public hunting access. Payments vary by the amount of acres enrolled and length of contract period. Contract dates can be established from September 1 or November 1 through January 31 or March 31 of each year. In addition, other lands are leased for spring turkey hunting only (April 1- May 31). Land enrolled can be in CRP, native rangeland, wheat or milo stubble and riparian or wetland areas. The area is posted with signs designating it as WIHA, periodically patrolled, and safety zones clearly marked. Liability is waived from private individuals who lease land to the state for recreational purposes. State law provides immunity from damages or injuries resulting from ordinary negligence.

Over the last decade, program enrollment has topped out between 1-1.2 million acres. Due to annual turnover of previously enrolled properties, exorbitant prices being paid by individuals for private hunting leases, and the loss of wildlife habitat caused by expiring Conservation Reserve Program (CRP) acres returning to crop production, additional program growth has been difficult. There is, however, a definite need for program growth and room for habitat improvement on access properties based on public demand. Program expansion is especially needed in the south-central and eastern, more urban areas of the state. As can be seen in Figure 1-1, landowners in these portions of the state have been reluctant to enroll in the WIHA program.

Figure 1-1 Walk-In Hunting Access (WIHA) Distribution



1.1.2 Fishing Impoundments and Stream Habitats

The F.I.S.H. Program, which stands for Fishing Impoundments and Stream Habitats was patterned after the very successful Walk-In Hunting Access Program with a goal of increasing public fishing opportunities in Kansas. The F.I.S.H. Program was first introduced to Kansas anglers and landowners in 1998. The KDWP leases private waters from landowners for public fishing. Landowners participating in F.I.S.H. receive payments, which vary according to the number of water acres enrolled in impoundments or the length and quality of the streams. Annual payments are based on \$42 per acre for impoundments and from \$500 - \$1000 per stream mile. Waters are made available for public access from March 1 to October 31, although some annual leases occur as well. Private waters in metropolitan counties receive a 50-percent urban bonus for signing up in the FISH program. These counties include Sedgwick, Butler, Cowley, Sumner, Kingman, Reno, Riley, Geary, Harvey, Saline, Ottawa, Jackson, Jefferson, Leavenworth, Wyandotte, Wabaunsee, Shawnee, Douglas, Johnson, Lyon, Osage, Coffey, Franklin, and

Miami. Participants in these counties receive \$63/acre for impoundments and \$750-\$1,500/per stream mile.

The F.I.S.H. program provides anglers with a place to fish while leaving the land in private ownership. By providing a place to fish, the tradition of fishing can be preserved. KDWP officials periodically patrol F.I.S.H. areas and enforce regulations. The Kansas Recreational Use Statute provides landowners limited liability regarding ordinary negligence. Over the last decade, the F.I.S.H. program has become stagnant and an inability to provide a competitive lease amount has not allowed for much needed program expansion.

1.1.3 Special Hunts on Private Lands

The KDWP has conducted special hunts on public lands for a number of years. These hunts are a part of the department's hunter recruitment and retention program, Pass It On. The special hunts offer a less crowded experience with better harvest opportunities.

Access to private land for hunting is also a concern in the recruitment and retention effort. In 2008, KDWP surveyed landowners and sportsmen who live in urban areas of Kansas to get their views about access to private land and hunting opportunities. One of the objectives of the study was to determine a way to increase hunting access in the eastern and south-central, more urban regions of the state. It was determined that providing a program that controls the total number of people utilizing private land would be desirable to some landowners who may consider enrolling in an access program. It was also desired by hunters to have a more controlled environment and less crowding.

As a result of the need for more hunting land near our urban areas and the information gathered through surveys, the Special Hunts on Private Lands program was developed. This program leases private land for public hunting; however access is limited. Landowners work with KDWP biologists to determine how many days and what type of hunting they will allow on their property. KDWP advertises the hunting opportunities and accepts applications for the hunts via an online web application. A random drawing determines the successful applicants for each offered hunt. Those drawn are provided with permits to be placed on the dash of their vehicle and carried with them while accessing the property so that both the landowner and KDWP officers can easily verify that each person hunting has permission.

Initial response to the program has been very positive from both landowners and hunt participants. In 2010, 118 hunts were offered for spring turkey with 4,775 acres in 12 counties enrolled. For the fall of 2010, we were able to offer 133 hunts (ranging from upland bird to deer to waterfowl) on over 12,821 acres in 16 counties.

1.2 THE PROPOSED ACTION

The State of Kansas, through the Kansas Department of Wildlife and Parks (KDWP), proposes to use VPA-HIP grant funds, supplemental/license restricted state funds, and Pitman-Robertson federal aid funds to expand its existing public access programs in order to provide the public with more opportunities to hunt and fish, and to improve wildlife habitat on private lands enrolled in these access programs.

1.3 PURPOSE AND NEED FOR PROPOSED ACTION

The purpose of the Proposed Action is to use VPA-HIP grant funds to increase public access and improve wildlife habitat on private lands in the State of Kansas. The need for the Proposed Action is to: increase the value realized by private landowners for wildlife populations inhabiting their property; increase the amount of public hunting and fishing access on qualified private land; and to promote wildlife habitat restoration and improvement of watershed conditions on private properties.

1.4 REGULATORY COMPLIANCE

This Programmatic Environmental Assessment (PEA) has been prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) (Public Law 91-190, 42 United States Code 4321 et seq.); implementing regulations adopted by the Council on Environmental Quality (CEQ) (40 Code of Federal Regulations [CFR] 1500-1508); and FSA implementing regulations, Environmental Quality and Related Environmental Concerns – Compliance with NEPA (7 CFR 799). The intent of NEPA is to protect, restore, and enhance the natural and human environment through well-informed Federal decisions. A variety of laws, regulations, and Executive Orders (EOs) apply to actions undertaken by Federal agencies and form the basis of the analysis presented in this PEA.

1.5 ORGANIZATION OF EA

This PEA assesses the potential impacts of the Proposed Action and the No Action Alternative on potentially affected environmental and economic resources.

- Chapter 1.0 provides background information relevant to the Proposed Action, and discusses its purpose and need.
- Chapter 2.0 describes the Proposed Action and alternatives.

- Chapter 3.0 describes the baseline conditions (i.e., the conditions against which potential impacts of the Proposed Action and alternatives are measured) for each of the potentially affected resources.
- Chapter 4.0 describes potential cumulative impacts and irreversible and irretrievable resource commitments.
- Chapter 5.0 discusses mitigation measures utilized to reduce or eliminate impacts to protected resources.
- Chapter 6.0 contains references.
- Chapter 7.0 lists the preparers of this document.
- Appendix A provides a copy of the categorical exclusion and SHPO review of the current KDWP hunting access program (WIHA/Special Hunts).
- Appendix B provides a copy of the categorical exclusion and SHPO review of the current KDWP fishing access program (FISH).
- Appendix C provides a copy of the USFWS-KDWP Programmatic Agreement for the Intra-Service Consultation and Conference for the delivery of KDWP private lands habitat programs.

CHAPTER 2.0 DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES

2.1 PROPOSED ACTION

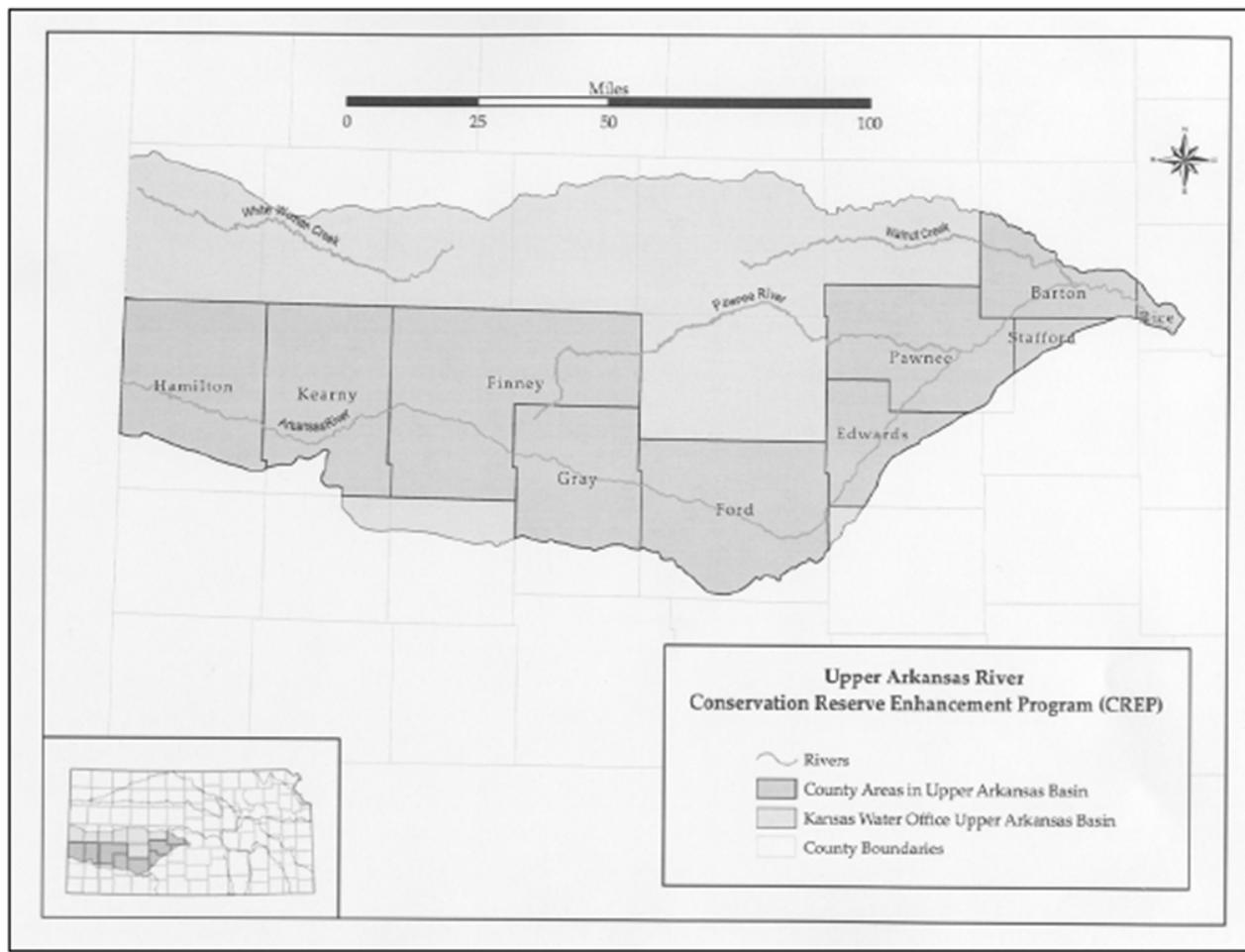
As discussed in Chapter 1, the primary objectives of the Proposed Action, which is the agency's preferred alternative, are to increase public access to private lands for wildlife-dependent recreation (primarily hunting and fishing) and make improvements to habitat on these properties through better management plans and the implementation of appropriate conservation practices.

To increase widespread acceptance of the fishing and hunting access programs among landowners, we will offer lease incentives in priority areas. Priority areas include: the eligible enrollment area for the Upper Arkansas River – Conservation Reserve Enhancement Program (UAR CREP; Figure 2-1), areas of Kansas with traditionally low enrollment in the current programs, areas of Kansas with little or no public fishing and hunting access, parcels of interest for long-term lease arrangements, areas that may offer multiple recreational opportunities (e.g. fishing, hunting, canoeing), and areas that secure large contiguous sections of stream/river miles or hunting lands. In highly populated areas of the state where landowner enrollment is limited because of concern that they will be overrun with users, an access by random draw system may be implemented. In such cases, leases may stipulate access dates, announcement of the opportunity will be made public so that anyone may apply, and successful applicants will be notified with further information upon completion of a random drawing.

The proposed action would provide more opportunity to sportsmen and women for hunting and fishing, helping to stabilize, if not increase license revenue. Agency biologists will conduct a site visit at each parcel to ensure habitat quality is sufficient. Landowner agreements will include the type of fish and wildlife species the public could expect to encounter on the property, based upon sampling, viewing, and habitat conditions. We do currently speak with landowners about possible opportunities to improve the habitat for fish and wildlife and the appropriate means of doing so. Incentives for fish and wildlife habitat improvements will be offered as part of the public access program. Through this public access program we intend to provide both technical assistance and financial incentives to landowners to improve their fisheries and wildlife habitat and we expect this to be a draw for landowner participation. Many habitat practices can be employed to improve aquatic resources as well as upland habitat in the form of field borders, filter strips, riparian buffers, and wetland restoration. The primary focus for habitat improvement through VPA-HIP funds will be to promote enrollment in Continuous CRP practices, specifically CP33 (Habitat Buffers for Upland Birds) and CP38 (State Acres For Wildlife Enhancement), bundling additional CCRP enrollment incentive payments (above and beyond those paid by USDA) with public hunting access agreements for the length of the CCRP contract. This approach will maximize the utility of VPA-HIP funds, help to insure appropriate wildlife habitat

is in place for the duration of the hunting access agreement, and ensure that habitat improvements are compliant with all best management practices. Table 2-1 summarizes currently utilized habitat and conservation practice types outlined within the KDWP-U.S. Fish and Wildlife Service (USFWS) Programmatic Agreement for private lands habitat program delivery and intra-Service informal conference on KDWP private lands programs (Appendix C).

Figure 2-1 Upper Arkansas River - Conservation Reserve Enhancement (UAR-CREP) Area



Acres that receive improved wildlife habitat will provide year round cover to multiple wildlife species. Specifically, these conservation practices will provide habitat for game species such as bobwhite quail, ring-necked pheasant, and deer, which directly meets the purposes of providing access for recreational opportunity.

Removing farmable wetland and creating buffer or other acreage conversion from cropland will increase the areas and benefits of enhanced recharge, water quality, and wildlife habitat. Playas and wetlands provide benefits in groundwater recharge and in water quality (sediment and nutrient filtering and cycling), floodwater storage, and wildlife habitat. These areas serve as seasonal staging grounds for millions of migrating birds. These wetlands also provide hunting and wildlife viewing opportunities, which bring substantial funds into local and state economies.

Table 2-1 Conservation Practice Types for the Kansas VPA-HIP

| Practice Type | Description |
|---|--|
| | Activities involving soil disturbance will NOT be used on previously undisturbed sites. Where applicable, applicant will be responsible for certifying that the design of these activities meets all state and federal criteria and shall obtain all licenses and permits required for performing such activities. |
| Herbaceous Vegetation Establishment | The establishment and early maintenance of native herbaceous plant species to improve vegetation composition and/or structure. Activities may include the following: seedbed preparation (e.g., disk, harrow), seed drill, broadcast seeder, broadcast and rollerpack, and hand placement. To the extent possible, native plant material will be used. |
| Woody Vegetation Establishment | The establishment and early maintenance of native tree and shrub species to improve vegetation composition and/or structure. Activities will be limited to areas that historically supported woody vegetation (e.g., draws, floodplains), and may include the following: seedling plow or other tractor-drawn seeding equipment, dibble bar, shovel. |
| Herbaceous and Woody Vegetation Control | Activities designed to control invasive/noxious plant species or improve vegetation composition and structure. Activities include the following: prescribed fire (see below), aerial or ground application of federally approved herbicides and other chemical sprays, tree dozing, mechanical (shear, roller chop, shred, disk, harrow, mow). Specific activities will be determined based on plant type, land-use history, soil type, and degree of infestation. |
| Prescribed Fire | Activities include firebreak construction and burn operation. |
| Improved Grazing Distribution | Activities designed to alter the distribution of herbivores to protect or improve vegetation composition and/or structure. Activities may include: construction, repair, and maintenance of boundary or interior fences (including gates), grazing deferment, and rotational grazing. |
| Stream Improvements | Activities performed on previously disturbed stream reaches to improve habitat. Activities would focus on restoring natural functions of stream courses (e.g., erosion/sediment deposition rates and distribution, pool-riffle sequences, water quality) and may include the following: hardened stream crossings, removal of fish barriers, bank stabilization, and restoring riparian vegetation (see above). |
| Wetland Restoration | Activities performed to restore a function(s) of existing wetlands and playas. Activities may include the following: establishing native vegetation (e.g., wet meadow zones) and removal of artificial dewatering devices (e.g., pits, drainage ditches) to restore natural hydrology. |
| Establishment of Wildlife Food Plots | The establishment of food plots with species specific plantings with the intent of providing an additional, life-sustaining food supply for either resident or migratory wildlife. |

2.2 NO ACTION ALTERNATIVE

Under the No Action Alternative, the FSA would not offer incentives to private landowners for public access in KDWP's Walk in Hunting (WIHA) and Fishing (FISH) area programs. No action would be taken to increase public wildlife recreation on these private lands in Kansas. No additional incentives for conservation practices such as filter strips, buffers, and wetland restoration would be offered to increase wildlife habitat and water quality in croplands. Ultimately, license sales and hunter and fishing numbers and recruitment could continue to decrease as opportunity for access to recreational areas remains stagnant or is reduced.

2.3 SCOPING

CEQ regulations (40 CFR §1501.7) state that the lead agency shall identify and eliminate from detailed study the issues which are not important or which have been covered by prior environmental review, narrowing the discussion of these issues in the document to a brief presentation of why they would not have a dramatic effect on the human or natural environment.

FSA and KDWP personnel reviewed the potential for the Proposed Action to have environmental impacts to the standard FSA environmental resource areas. Resources that could clearly be eliminated from consideration in this PEA were not carried forward for analysis. The following resource areas were evaluated during scoping and eliminated from detailed analysis:

- Sole Source Aquifers – There are no sole source aquifers in Kansas.
- Coastal Zones – There are no coastal zones in Kansas
- Floodplains – Both actions are expected to have negligible floodplain impacts. The conversion of cropland to conservation cover would have a negligible impact on the ability of the floodplain to store floodwater. The conversion of cropland to conservation cover would have a negligible impact on the ability of the floodplain to convey floodwater. Percolation and infiltration rates are slightly better under conservation cover than under cropland. The Kansas Floodplains Office supports the conversion of crop land to conservation cover in Kansas.
- Noise – Noise sensitive receivers exist within the project area; however, neither the Proposed Action nor the No Action Alternative has the potential to negatively impact these resources. Neither action would generate substantial amounts of noise.
- Traffic and Transportation – Traffic and transportation resources, primarily road and rail, exist within the project area; however, neither the Proposed Action nor the No Action Alternative has the potential to negatively impact these resources in a substantial manner.
- Human Health and Safety – Neither the Proposed Action nor the No Action Alternative have the potential to increase the inherent risk to human health or safety.
- Wild and Scenic Rivers – There are no Wild and Scenic Rivers in Kansas.

- National Natural Landmarks – None of the National Natural Landmarks in Kansas are used for agricultural purposes, specifically cropland, and thus would not be eligible for wildlife habitat improvement. Therefore, the Proposed Action would have no impact on National Natural Landmarks in Kansas.
- Wilderness Areas – There are no Wilderness Areas in Kansas.

2.4 ALTERNATIVES ELIMINATED FROM ANALYSIS

Aside from the Proposed Action and the No Action Alternative, no other alternatives have been reviewed through the NEPA process.

CEQ regulations (40 CFR §1502.14) require the lead agency to identify all reasonable alternatives for implementing a Proposed Action. The Federal Register notice announcing the rule for VPA-HIP (Vol. 75(130), page 39135) explicitly states the purpose of VPA-HIP is to provide grants to State and tribal governments to encourage owners and operators of privately held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation and to improve fish and wildlife habitat on their land. Each VPA-HIP application received by USDA FSA underwent a selection screening process to identify those proposals that met the program objectives (listed in Introduction Section 1.0).

The KDWP considered other alternative strategies for delivery of the VPA-HIP in which habitat improvement projects would not be included in the proposal and/or expansion of the access programs would not occur. However, these alternatives were eliminated from further analysis since they clearly did not meet the overall purpose and need of the VPA-HIP program to improve habitat and increase public access for wildlife dependent recreation.

2.5 ALTERNATIVES SELECTED FOR ANALYSIS

The Proposed Action (preferred alternative) and the No Action Alternative have been carried forward for analysis in this PEA.

2.6 COMPARISON OF ALTERNATIVES

Selection of the Proposed Action is expected to result in increased wildlife-related access to private lands in Kansas. Wildlife, including fish, habitat and populations will improve with this alternative.

Selection of the No Action Alternative will result in less public opportunity to private land access in Kansas, and wildlife habitat will not be improved. There will be less cropland converted to wildlife habitat, and less conservation of soil and water resources.

2.6.1 Identification of Geographical Boundaries

The project area for actions includes the entire State of Kansas.

2.6.2 Identification of Temporal Boundaries

If the Proposed Action is selected, implementation could begin immediately. The first year of funding is in place for Fiscal Year (FY) 2010, with up to 2 more years (3 total; FY 2010, FY 2011, and FY 2012) of funding. Contracts entered into during these funding years may extend up to 10 years or more for public access and include habitat management plans that implement practices throughout the life of the access agreements.

CHAPTER 3.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

This chapter provides a description of the existing environmental conditions that have the potential to be affected from implementation of the Proposed Action and the potential environmental impacts that may occur to those resources. Resource areas potentially impacted by the Proposed Action and covered in this PEA include:

- Biological Resources (Vegetation, Terrestrial and Aquatic Wildlife, and Protected Species)
- Cultural Resources
- Water Resources
- Soil Resources
- Recreation
- Socioeconomics and Environmental Justice
- Air Quality

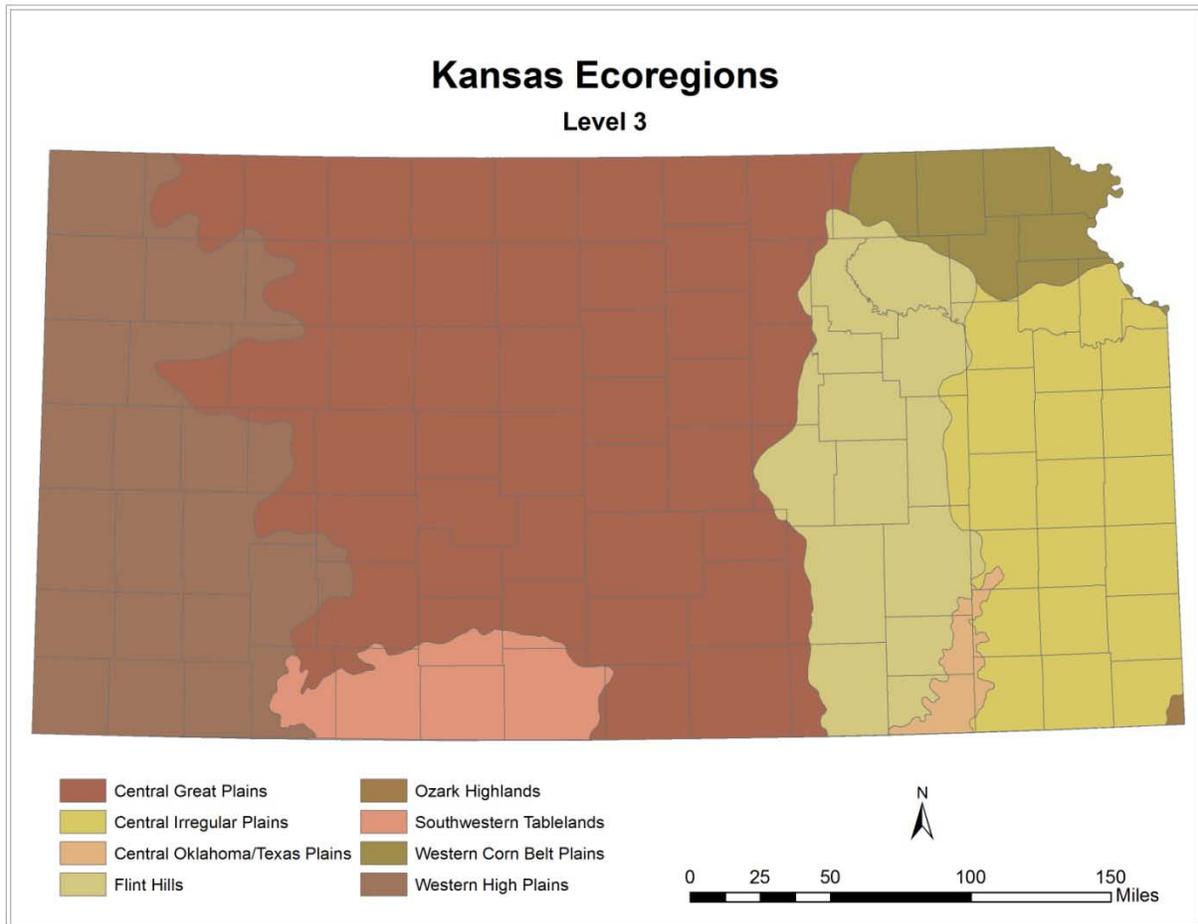
As described in Chapter 2.0, this PEA describes the potential impacts from implementing VPA-HIP funds in the State of Kansas on a programmatic level. Any individual project determined to have potential significant impacts would require a separate EA and is outside of the scope of this analysis. Environmental consequences to each resource area are described for the Proposed Action (Preferred Alternative) and the No Action Alternative:

- **Proposed Action (Preferred Alternative):** utilize VPA-HIP funds to expand and enhance existing public access programs and improve habitat.
- **No Action Alternative:** continuation of existing public access programs as they are currently administered. No expansion or additional financial incentives for enrollment would occur.

The project area is the entire state of Kansas. Kansas has multiple eco-regions, but primarily consists of sand sagebrush prairie, short-grass prairie, mixed-grass prairie, tall-grass prairie, and hardwood forests (Figure 3-1). There are also multiple rivers, streams, and reservoirs containing aquatic resources. Much of western Kansas consists of the High Plains, with large acreages of agricultural cropland. Central Kansas is generally a mix of cropland and rangeland/pasture land. The Red Hills occur in south central Kansas, and are generally large rangeland with some cropland intermixed. East central Kansas consists of the Flint Hills, which is one of the few remaining tall-grass prairies in North America. Extreme southeastern Kansas has forested woodlands.

The climate is a gradient of dry to wet from western to eastern Kansas, where the average rainfall in western Kansas can be < 20 inches, while eastern Kansas may receive > 40 inches on average. A substantial portion of soils in Kansas are classified as highly erodible.

Figure 3-1 Kansas Ecoregions Map (Level 3)



3.1 BIOLOGICAL RESOURCES

Biological resources are any characteristic or feature of the natural environment that adds to the intrinsic value of the local area. In this PEA, biological resources include vegetation, terrestrial wildlife, aquatic wildlife, and protected species. Biological resources are included in this PEA because habitat improvement projects have the potential to temporarily disturb the natural environment during implementation but would also result in long-term positive improvements to the natural environment. Also, expanding the public access programs and increasing hunting and fishing opportunities may increase the potential for impacting game populations.

This section contains information regarding wildlife and fisheries, vegetation, and protected species and their habitat. Two of the most relevant Federal environmental laws that require consideration of biological resources during planning processes are the Endangered Species Act (ESA) and the Migratory Bird Treaty Act (MBTA).

3.1.1 Affected Environment

The Proposed Action covers the entire State of Kansas. A brief overview of the vegetation by ecoregion, terrestrial and aquatic wildlife, and protected species statewide is included in this section.

The western half of Kansas lies in the region known as the Great Plains. The majority of this region is a high, nearly level plain, broken by streams or erosion valleys. These areas are often referred to as the High Plains, or the short-grass prairie. Grass in sandy soils tends to be bunchy and sparse, and can be very low growing varieties like buffalo grass. Native annual grasses are numerous. Other coarser grasses are important for holding soils in place, especially mitigating wind erosion. Switchgrass, little bluestem, big bluestem, and Indian grass are often planted in the region as part of conservation practices. Forbs are also common within newer grass stands, and anywhere disturbance occurs.

The east central Flint Hills is one of the last remaining tall-grass prairies in North America. Native grasses mentioned above dominate the region. This area is largely range ground used for livestock grazing, and is often annually burned by landowners in the early spring. Other areas in eastern Kansas consist of open valleys and forested areas, with woodlands in extreme southeast Kansas. Throughout Kansas, loss of grasslands, wetlands, and riparian communities from conversion to cropland has reduced community diversity and available wildlife habitat since European settlement.

Kansas provides habitat to an extremely rich and diverse set of wildlife populations. Many are resident species, while many migratory birds use the area each year for at least a part of their life cycle. Upland game birds consist of northern bobwhite quail, ring-necked pheasants, and greater and lesser prairie chickens. Non-game birds include more than 250 species, most grassland associated avifauna. Many waterfowl species use the project area in the spring and fall as either staging areas or for reproduction and wintering habitat. Mammalian communities consist of more than 50 species, including mule and whitetail deer. Multiple fish species inhabit Kansas waters, as well as an abundant suite of herptifauna.

State and federally listed species are protected at the state level by the Kansas Nongame and Endangered Species Conservation Act and at the Federal level by ESA. There are presently 59 species listed as State Threatened or Endangered and an additional 70 species on the Species In Need of Conservation List (KDWP 2005). This list is reviewed every five years as per amendments to the Nongame and Endangered Species Act of 1975. Federally listed Threatened and Endangered species that are present in Kansas include gray bat, American burying beetle, whooping crane, Neosho madtom, piping plover, Arkansas shiner, Topeka shiner, pallid sturgeon, least tern, Mead's milkweed, and western prairie fringed orchid. Lesser prairie-chicken, Sprague's pipit, Arkansas darter, Neosho mucket, and sage grouse are listed as candidate species.

Compliance with the MBTA has been considered during the project planning phase. The MBTA protects all native bird species, nests, and young. During preliminary agency coordination, it

was designated that impacts to native birds should be avoided, especially during the primary nesting season (April 1 – July 15). All habitat practices and projects that would be available are required to occur outside this nesting period.

3.1.2 Environmental Consequences

Impacts to biological resources would be considered significant if activities resulted in reducing the wildlife or fisheries populations to a level of concern, removing land with unique vegetation characteristics, incidental take of a protected species or its habitat, or filling of wetland areas without appropriate permits and mitigation measures.

3.1.2.1 Proposed Action (Preferred Alternative)

Under the Proposed Action, additional habitat improvement projects similar to those currently implemented through various KDWP habitat initiatives would occur on privately owned farms and ranches throughout Kansas under the VPA-HIP. These projects would be consistent with overall strategies to conserve habitat and wildlife important to the state of Kansas as described in the Comprehensive Wildlife Conservation Plan (KDWP 2005a). In general, the activities associated with installing these projects would result in minor, short-term impacts, which include disturbance to local vegetation, wildlife, and wetlands. However, the goal of these projects is long-term habitat improvement and sustainability of wildlife. The specific impacts of each individual project, with respect to biological resources, would be addressed by KDWP biologists. Current approved habitat improvement practices have already been thoroughly evaluated for their impacts with respect to biological resources through current agreements with the USFWS for the Landowner Incentive Program (LIP) and the Natural Resource Conservation Service (NRCS) Wildlife Habitat Incentives Program (WHIP) which are delivered through KDWP Wildlife Biologists.

As outlined in chapter 2, much of the current habitat work within Kansas focuses on game species such as bobwhite quail, ring-necked pheasant, and deer. While a portion of KDWP Wildlife Biologist's time is spent delivering federal conservation programs, there are several state programs which target species through specific practices. The framework of the Kansas Private Lands Habitat Management Program consists of the Upland Game Bird Initiative, Pheasant Initiative, Quail Initiative, Prairie Chicken Initiative and KDWP Wildlife Habitat Improvement Program. This program allows for KDWP Biologist and private landowners to work together in the development of habitat management plans. Currently several plans are focusing on the CRP enhancements that include cost sharing on prescribed burning, light disking, food plot establishment, forb/legume interseeding, brush removal, and providing additional Sign-Up Incentive Payment (SIP) or Practice Incentive Payment (PIP) to help increase

the enrollment in several Continuous CRP practices. Other plans have been developed to provide cost share for the conversion of farmland to native grass, converting grazing land and hay land from cool season grass to warm season grass, hedgerow renovation, wetland development, and deferred grazing on native rangeland.

The primary focus for habitat improvement through VPA-HIP funds will be to promote enrollment in Continuous CRP practices, specifically CP33 (Habitat Buffers for Upland Birds) and CP38 (State Acres for Wildlife Enhancement), bundling additional CCRP enrollment incentive payments (above and beyond those paid by USDA) with public hunting access agreements for the length of the CCRP contract. This approach will maximize the utility of VPA-HIP funds, help to insure appropriate wildlife habitat is in place for the duration of the hunting access agreement, and ensure that habitat improvements are compliant with all best management practices. CCRP enrollment is similar to CRP in that tracts are retired for a period of 10 – 15 years, however only small portions of the field such as filter strips are included, allowing the majority of the field to be farmed. Although CCRP tracts are generally smaller in total acreage than those enrolled through the CRP general sign-up, these areas provide quality habitat for wildlife by creating increased edge, diversity, and small patches of permanent cover in and around fields.

As a part of the current contributory and cooperative agreements with NRCS, KDWP Wildlife Biologists are required to complete NRCS Conservation Planner training. This training extensively covers NRCS Conservation Practice Standards which incorporate adherence to best management practices for habitat project planning and implementation. Whether delivering federal conservation programs for habitat improvement or state habitat program initiatives, conservation practice standards and associated best management practices are taken into consideration by KDWP Wildlife Biologists as the projects are developed and applied.

Regarding protected species, it is expected that implementation of the habitat improvement projects under the Proposed Action would increase value by controlling less favorable species in preference for native species that provide greater habitat value. Much of the recent habitat improvement projects have been targeted towards the lesser prairie-chicken, a candidate species, and expanding these practices (red cedar tree removal from prairie) would result in long-term positive impacts to the habitat and associated protected species. Increased hunting opportunities may increase temporary disturbance of some species, but it is not expected to have long term environmental impacts to T&E species. Boundary signing and hunting activities primarily occur outside of the breeding and nesting time frames for many species. As outlined in Appendix C, informal consultation with USFWS would occur as necessary for individual projects.

3.1.2.2 No Action Alternative

Under the No Action Alternative, current access programs would not be expanded and no habitat improvement projects would be undertaken on private lands utilizing the VPA-HIP funding. The current public access programs would continue to be available; however any program expansion would be extremely limited. While habitat improvement projects would still occur through ongoing habitat initiatives, the benefit from additional improvement projects throughout Kansas utilizing the VPA-HIP funding would not be realized.

3.2 CULTURAL RESOURCES

This section contains information regarding archaeological, architectural, and traditional cultural property resources. The term cultural resource is loosely defined as a resource that is important to a society's ability to interpret their shared cultural history. A variety of cultural resources exist and Federal laws are in place to ensure that these resources are considered during the planning process. Two primary Federal laws apply to this category of resource.

The first is the National Historic Preservation Act (NHPA) of 1966, as amended. It established the Advisory Council on Historic Preservation (ACHP) to advise the President and the Congress on historic preservation matters, to recommend measures to coordinate Federal historic preservation activities, and to comment on Federal actions affecting properties included in or eligible for inclusion in the National Register of Historic Places (National Register). Historic property is any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register maintained by the Secretary of the Interior (36 CFR 800.16(1)(1)). The term, historic property, includes artifacts, records, and remains that are related to and located within such properties. It included properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization. These properties are referred to as "Traditional Cultural Properties" when they meet the National Register criteria.

The second is the Archeological and Historic Preservation Act of 1974. This law provides for the survey, recovery, and preservation of significant scientific, prehistoric, historic, archaeological, or paleontological data when such data may be destroyed or irreparably lost due to a Federal, federally licensed, or federally funded project.

A state law, the Kansas Preservation Act, also exists and was originally enacted in 1977. This state law requires that the Kansas State Historic Preservation Office (SHPO) be given the opportunity to comment on proposed project affecting historic properties or districts. The initial legislation required the activities of governmental entities which encroached on national or state register properties to be reviewed by the Kansas SHPO. In 1981 the law was widened to require review of all projects involving national and state register properties and their environs which needed local building permits. Projects undertaken by individuals, firms, associations,

organizations, partnerships, businesses, trusts, corporations or companies became subject to review if they require building permits. A 1988 amendment further defined the “environs” of historic properties, requiring that the SHPO receive notice of any proposed project within 500 feet of a listed historic property located within the corporate limits of a city or within 1000 feet of a listed historic property located in the unincorporated portion of a county.

3.2.1 Affected Environment

Evaluated and unevaluated historic properties exist within the project area. They include archaeological sites associated with Native American and Euro American activity, historic frontier and agricultural buildings, and a variety of historic property. Passage of the NHPA resulted in the development of the Section 106 review process for considering historic property during project planning. The Section 106 process would be followed to the extent required once specific site locations are identified. The Kansas SHPO has reviewed current public access programs and found that the projects should have no effect on properties listed in the National Register of Historic Places (see attached letter; Appendix A).

The Section 106 process consists of the following requirements:

- KDWP will ensure that each specific site location is evaluated for its potential to contain historic property.
- KDWP personnel would consider the specific details proposed for the candidate site during the development of the site’s conservation plan. Personnel would then make a determination if effect regarding the effect that the Proposed Action would have on historic property if present, and
- KDWP would provide the Kansas SHPO with an opportunity to comment on the evaluation of each of the site specific locations for actions not exempted in 1-EQ, if appropriate.

In the event that there is a disagreement between KDWP and the SHPO on a Section 106 issue, then the ACHP would become involved. Additionally, KDWP would coordinate cultural resources review with the appropriate American Indian tribes in accordance with Section 106 process where appropriate.

3.2.2 Environmental Consequences

3.2.2.1 *Proposed Action (Preferred Alternative)*

Under the Proposed Action, additional public access to private properties for wildlife dependant recreation and habitat improvement projects on these properties would occur through VPA-HIP

funding. While the Proposed Action would not likely impact any cultural resources, either architectural or archaeological, KDWP is highly aware of the importance of cultural resources. No aspect of the Proposed Action would allow for purposeful destruction of any cultural resource. Current Access programs were reviewed by the SHPO for potential effects or impacts on cultural and historic resources. In their review, the SHPO considered all recorded cultural and historic resources in the state and determined that the access programs would have no effect on archeological and historic property. KDWP will stop all activities scheduled for a project if any cultural or historic remains are uncovered. The SHPO will be notified immediately, and project activities will not resume until directed by the SHPO on how to proceed.

3.2.2.1 *No Action Alternative*

Under the No Action Alternative, current KDWP public access and habitat improvement programs would not be expanded using VPA-HIP funding. Programs would likely continue at their current levels.

3.3 WATER RESOURCES

This section contains information regarding groundwater, surface water, water quality, and wetlands. The Clean Water Act provides the authority to establish water quality standards, control discharges into surface and subsurface waters, develop waste treatment management plans and practices, and issues permits for dredged or fill material.

The Kansas Department of Agriculture, Division of Water Resources (DWR) has the responsibility for water management in Kansas. DWR oversight of water resources includes surface and groundwater appropriations for beneficial uses, river flows to meet minimum desirable stream flows (MDS) and interstate issues related to streams flowing through neighboring states. Kansas uses priority in appropriation as the basis of water use, with new appropriations based on availability.

3.3.1 Affected Environment

Groundwater plays a major role in water supply, especially in western Kansas, to both the agricultural and municipal entities. In extreme western Kansas along the Arkansas River corridor, many counties have been, or are at risk of impact by saline contamination. The principal sources of groundwater are the saturated sands, gravels, and silts in the thick deposits of the Tertiary and Quaternary age. This includes the alluvial deposits along the river and tributaries and the Ogallala Formation of the High Plains aquifer. Authorized withdrawals for

irrigated agriculture use the majority of all water used. An Intensive Groundwater Use Control Area (IGUCA) has been established by DWR in counties along the western reaches of the Arkansas River corridor in Kansas.

The central and eastern portions of Kansas are not as dependent on groundwater supply for agricultural or municipal use. Multiple water storage reservoirs are located throughout central and eastern Kansas. Additionally, agricultural farming practices in central and eastern Kansas are not water-dependent.

Water quality concerns are addressed through a combination of regulatory and voluntary incentive based programs. The Kansas Department of Health and Environment (KDHE) is responsible for water quality standards for water bodies, public water supplies, and those related to discharges to rivers and streams. Water quality in Kansas varies across the state. Salinity issues in western Kansas are common. Throughout the state, point and non-point source issues can be related to agricultural practices such as stockyard waste, fertilization of croplands, etc.

The disappearance of nearly one-half of the state's wetlands has increased the importance of those that remain. Migratory birds formerly had access to many wetlands, as well as shallow, braided river channels throughout Kansas for foraging and resting. Draining these wetlands and depletion of streamflow in major streams such as the Arkansas River have left only Cheyenne Bottoms and Quivira National Wildlife Refuge as major stopover places in Kansas.

Playas, shallow seasonal wetlands, are found in abundance throughout the Southern High Plains. About 10,000 playa lakes are located in western Kansas and serve as the primary recharge for the Ogallala aquifer. Many studies indicated that recharge into the Ogallala under playas exceeds three inches per year. Playas are also one of the most important wetland habitat for migrating birds in the Central Flyway. The majority of playas are located in agricultural areas, and can receive impacts to the watershed from fertilizer and pesticide runoff, contaminants from feedlot runoff, overgrazing, and sedimentation.

Cheyenne Bottoms is a wetland of international importance located north of Great Bend in Barton County. Cheyenne Bottoms receives diversion water from the Arkansas River. The wetland encompasses ~ 41,000 acres that includes 19, 857 acres as a wildlife area. This area is recognized as an important migratory area for North American shorebirds. Past studies reflect almost half of North American shorebirds migrate through this area. It is also designated critical habitat for the endangered whooping crane, least tern, peregrine falcon, and numerous other birds. The Bottoms are owned and managed by the KDWP. This area receives more than 50,000 visitors each year. These visitors come to hunt and to birdwatch the many water-related bird species. Waterfowl populations have generally been stable to increasing in recent years.

3.3.2 Environmental Consequences

Impacts to water resources would be considered significant if implementation of the Proposed Action resulted in violating laws or regulations established to protect water resources, or actions resulted in major deterioration of water quality.

3.3.2.1 *Proposed Action (Preferred Alternative)*

Under the Proposed Action, it is expected that implementation of the habitat improvement projects would increase habitat value by controlling less favorable species in preference for species that provide greater vegetation and wildlife value, as well as long term decreases in erosion. Improvements to riparian habitat may include herbaceous seeding, shrub planting, and limiting grazing during certain times of the year. Surface water quality would be improved by stabilizing the banks, plantings, and limiting grazing during certain times of the year. The habitat improvement measure could cause a minor short term impact by increasing sediment loads in runoff; however, the long term benefit of the habitat improvements more than offset the short term impact. In addition, sound erosion and sediment control measures would be utilized during the habitat improvement.

3.3.2.2 *No Action Alternative*

Under the No Action Alternative, current public access programs would not be expanded and VPA-HIP funding would not be available for habitat improvement projects on private lands. The current public access programs would continue to be available. While habitat improvement projects would still occur, the benefit from additional improvement projects throughout Kansas utilizing the VPA-HIP funding would not be realized.

3.4 SOIL RESOURCES

Soils are included in this PEA because of the increased erosion potential resulting from the proposed habitat improvement projects.

3.4.1 Affected Environment

A variety of soils occur throughout the state of Kansas. The differences in geology, topography, and climatic conditions within the state have led to the development of many different soils with unique characteristics and distributions.

Kansas encompasses approximately 52,657,500 acres of which 29.1 million acres are classified as cropland, 16.9 million acres as rangeland, and 2.2 million acres as pastureland. Kansas has 304 named soil series. The major soils in Kansas are Harney, Richfield, and Ulysses with a dominant soil texture of silt loam. The rainfall variation in Kansas ranges from <18 to >40 inches per year. Moisture is the only limiting factor to crop production over much of the state. Kansas has 10.6 million acres of highly erodible cropland and nearly 25 million acres total of Highly Erodible Land (HEL). There are over 300,000 acres of hydric soils which may or may not be considered wetlands depending on the presence of hydrophytic plants (NRCS 1987).

3.4.2 Environmental Consequences

Impacts to soils would be considered significant if activities resulted in increased erosion and sedimentation to a level that could not be avoided or minimized with appropriate management practices or mitigation measures.

3.4.2.1 *Proposed Action (Preferred Alternative)*

The Proposed Action has the potential to negatively impact soil resources during habitat improvement projects associated with the Kansas VPA-HIP. Specific impacts would depend on the types of soil in the project area, the erosion potential of each individual soil, and the size and depth of the proposed disturbance. These factors will be taken into consideration when assessing proposed habitat improvement projects. Programmatic-level impacts would include temporary disturbance during habitat improvement activities. Completion of habitat improvement projects would have long-term benefits on area soils because an increase in vegetation cover would help reduce future soil erosion in improved areas. Under the Proposed Action, there could be short-term, negative impacts to soil resources during habitat improvement projects; however, once the projects are completed there will be long-term, beneficial impacts to soil resources in the State of Kansas.

3.6.2.2 No Action Alternative

Under the No Action Alternative, current public access programs would not be expanded and no habitat improvement projects would be undertaken on private lands utilizing the VPA-HIP funding. Current KDWP access programs would continue to be available and habitat improvement projects through current initiatives would continue. However, the long-term, positive impacts associated with the implementation of the Proposed Action would not be realized.

3.5 RECREATION

Recreation includes those outdoor activities that take place away from the residence of the participant. The State of Kansas offers a wide variety of recreational opportunities to its residents. For this PEA, recreation focuses on hunting and fishing opportunities and other wildlife-related recreational activities available to the public in the State of Kansas.

3.5.1 Affected Environment

Hunting in the State of Kansas is regulated by the KDWP and a valid hunting license is required to hunt within the state. All resident hunters age 16 through 64 must have a resident hunting license unless exempt. Nonresident hunters, regardless of age, must have a nonresident license. These licenses are valid for one year after the date of purchase, and can be used to hunt small game, including upland game birds. A separate hunting permit is required when hunting big game and less abundant species. Species that require a separate hunting permit in the State of Kansas include antelope, deer, elk, bobcat (nonresident), turkey, and Sandhill Cranes (fee/required test). Additionally, state and federal stamps are required for waterfowl and a Habitat Information Program stamp is required for all migratory birds. Licenses and permits can be obtained online, through a KDWP office, or at local retail stores. Each year, some permits can only be acquired through public drawings (KDWP 2010).

Including federal and state owned properties, total area for public lands with hunting access in Kansas is less than 500,000 acres. In a state that is 97% privately owned property, assurance of public access to private lands for hunting is paramount for maintaining license sales and continuing hunter recruitment and retention efforts. Over the last decade, enrollment in the Kansas WIHA program has topped out between 1-1.2 million acres. Due to annual turnover of previously enrolled properties, exorbitant prices being paid by individuals for private hunting leases, and the loss of wildlife habitat caused by expiring Conservation Reserve Program (CRP) acres returning to crop production, additional program growth has been difficult. There is,

however, a definite need for program growth and room for habitat improvement on access properties based on public demand. Program expansion is especially needed in the south-central and eastern, more urban areas of the state.

Like hunting, fishing is also regulated by KDWP. Residents age 16 through 64 who have been legal residents of the state for 60 days immediately prior to buying a license must have a resident license in possession while fishing in Kansas. All nonresidents 16 and older must have a valid nonresident license to fish in Kansas. All licenses expire Dec. 31 each year, except five-day, lifetime, and 24-hour fishing licenses. Licenses can be obtained online, through a KDWP office, or at local retail stores. The most common types of fish that can be fished for in Kansas are black basses, catfish, sunfishes, walleye, sauger, saugeye, wipers, and crappie (KDWP 2011).

3.5.2 Environmental Consequences

Impacts to recreation would be considered significant if they drastically reduced, increased, or removed available public lands designated for recreation or significantly degraded the quality of the recreation. Impacts to environmental conditions such as air, water, or biological resources within or near public recreational land in such a way to affect its use would also be considered significant.

3.5.2.1 *Proposed Action (Preferred Alternative)*

The Proposed Action has the potential to provide long-term, beneficial impacts to recreational resources in the State of Kansas. Expanding existing public access programs would create more opportunities for citizens to enjoy the recreational activities associated with the programs. Expanding these programs would allow more opportunities and venues for hunting and fishing on private property. During habitat improvement projects there could be short-term, negative impacts to recreational resources because the land may not be accessible and improvement activities could disturb wildlife and game species. However, the increased funding for habitat improvement would also lead to long-term, higher quality hunting and fishing opportunities. Therefore, the Proposed Action would have long-term, beneficial impacts to recreational resources in Kansas.

The primary focus for the use of VPA-HIP funds in Kansas will be to promote enrollment in Continuous CRP practices, specifically CP33 (Habitat Buffers for Upland Birds) and CP38 (State Acres for Wildlife Enhancement), bundling additional CCRP enrollment incentive payments (above and beyond those paid by USDA) with public hunting access agreements for the length of the CCRP contract. This approach will maximize the utility of VPA-HIP funds, help to maximize landowner participation in both access and the CCRP, help to insure

appropriate wildlife habitat is in place for the duration of the hunting access agreement, and ensure that habitat improvements are compliant with all best management practices. CCRP enrollment is similar to CRP in that tracts are retired for a period of 10 – 15 years, however only small portions of the field such as filter strips are included, allowing the majority of the field to be farmed. Although CCRP tracts are generally smaller in total acreage than those enrolled through the CRP general sign-up, these areas provide quality habitat for wildlife by creating increased edge, diversity, and small patches of permanent cover in and around fields.

As a result of initial inquiries with area landowners, it is estimated that hunting access leases could be obtained on new properties in excess of 100,000 acres. These properties would offer quality habitat, via CCRP practices, and public hunting opportunity for the next 10-15 years.

Hunting plays a large role in wildlife population management and goal setting. In Kansas, by necessity, much of that hunting activity must occur on private land. Income from hunting license sales and federal aid provides the funding base for wildlife habitat and population programs. It is our objective to increase hunting access on private lands in Kansas to approximately 1,300,000 acres by the year 2014. This access will allow for better management of wildlife populations, producing levels that are more consistent with habitat conditions and other limiting factors, and will relieve hunting pressure on public lands. In conjunction with current public access programs in Kansas, the VPA-HIP funding is expected to help provide:

- A minimum of 400,000 deer use days, with a harvest of at least 35,000 animals;
- 1,000,000 pheasant use days;
- 900,000 quail use days;
- 440,000 cottontail rabbit use days;
- A minimum of 225,000 squirrel use days;
- A minimum of 250,000 waterfowl use days;
- A minimum of 125,000 wild turkey use days;
- 120,000 greater prairie-chicken use days; and
- 5,000 lesser prairie-chicken use days.

The Kansas private land access programs are designed to offset the downward trend in hunting license sales, and to allow KDWP to better manage populations of game species. Currently, harvest objectives are used to set hunting units and limit take. User days and quality/satisfaction are derived from the harvest of game. A lack of public access lands has been identified as a major reason that many hunters are either giving up, not taking up hunting, or pursuing other forms of outdoor recreation. Expected results and benefits from program expansion utilizing VPA-HIP and other funding sources as available include:

- The stabilization or increase in funding for wildlife management in Kansas;
- An increase in the number of hunters in Kansas;
- An increase in user satisfaction and quality of hunt experience; and

- The reduction of hunting pressure on federal and state owned public lands.

3.5.2.2 *No Action Alternative*

Under the No Action Alternative, current KDWP access programs would not be expanded and no habitat improvement projects would be undertaken on private lands utilizing the VPA-HIP funding. There would be no use of VPA-HIP funds for expansion and improvement of recreational opportunities in Kansas; therefore, under the No Action Alternative there would be no impacts to recreational resources. The current public access programs and habitat initiatives would continue as they are currently administered.

3.6 SOCIOECONOMICS AND ENVIRONMENTAL JUSTICE

Socioeconomics for this PEA includes an investigation of population and demographic statistics as well as a discussion on the potential economic boost to landowners and rural communities in the state.

EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires a Federal agency to “make achieving environmental justice part of its mission by identifying and addressing as appropriate, disproportionately high human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” A minority population can be defined by race, by ethnicity, or by a combination of the two classifications.

According to CEQ, a minority is defined as being one of the following groups: American Indian or Alaska Native, Asian or Pacific Islander, Black, not of Hispanic origin, or Hispanic. A minority population is defined as one of these groups exceeding 50 percent of the population in an area or the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population (CEQ 1997). The United States Census Bureau (USCB) defines ethnicity as either being of Hispanic origin or not being of Hispanic origin. Hispanic origin is further defined as “a person of Cuban, Mexican, Puerto Rican, South or Central America, or other Spanish culture or origin regardless of race” (USCB 2001).

Each year the USCB defines the national poverty thresholds, which are measured in terms of household income and are dependent upon the number of persons within the household. Individuals falling below the poverty threshold are considered low-income individuals. USCB census tracts where at least 20 percent of the residents are considered poor are known as poverty

areas (USCB 1995). When the percentage of residents considered poor is greater than 40 percent, the census tract is considered an extreme poverty area.

3.6.1 Affected Environment

3.6.1.1 *Population and Demographics*

The state of Kansas had an estimated population of 2.8 million as of July 2009. According to the USCB, this represents 0.9 percent of the total national population and is a 0.9 percent increase from the state population as estimated in 2007. As the population in Kansas continues to increase, the cities with populations of more than 5,000 are realizing the greatest proportion of the increase. Historically, Kansas has been predominately rural. However, that trend is changing. Of the 627 cities in Kansas, 58 have populations that exceed 5,000; 569 have populations of less than 5,000; and 428 have populations of less than 1,000 people. The total population of all cities in Kansas is nearly 2.3 million, which represents 81.9 percent of the total population (State of Kansas 2010). Long-term projections for the population of the state from USCB show a population of over 2.9 million by the year 2030.

The population in Kansas is predominately white, with 86.1 percent of the 2000 Census respondents claiming this ethnicity. Black or African American ranked second in the state at 5.7 percent, followed by Asian (1.7 percent), and American Indian or Alaskan Native (0.9 percent). Other Race accounted for 3.4 percent of respondents.

In 2008, Kansas ranked 33rd in the nation with a poverty rate of 11.3 percent. According to the USCB 2000 Census, 86 percent of the Kansas population over the age of 25 had attained a high school degree, with 25.8 percent of the same age demographic having completed a bachelor's degree.

3.6.1.2 *Private Landowner and Rural Community Economic Benefits*

According to the 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (USFWS 2006), approximately 271,000 hunters spend an average of 11 days hunting in Kansas each year. Each hunter spends an average of \$827 annually on food, gas, lodging, and equipment. Likewise, approximately 319,000 anglers spend an average of 15 days fishing in the state annually, spending an average of \$626. Most of this money goes directly into the Kansas communities from which they base their recreational activities. With declining populations in rural areas, the influx of economic activities driven by outdoor recreational opportunities has become a very important source of supplemental income.

KDWP public access programs which provide access to private land for hunting and fishing help to increase recreational opportunity in these areas, enhancing the economic benefits to landowners and communities alike. The average annual payment to landowners for hunting

access through the WIHA program is \$695. Total payments to landowners through the WIHA program for fall and spring hunting access is greater than \$1.85 million each year. Through the FISH program, the average annual payment to landowners for fishing access is \$770 and the total annual payments come to greater than \$127,000.

3.6.2 Environmental Consequences

Significance of an impact to socioeconomics varies depending on the setting of the Proposed Action, but 40 CFR 1508.8 states that effects may include those that induce changes in the pattern of land use, population density, or growth rate.

Environmental justice is achieved when everyone, regardless of race, culture, or income, enjoys the same degree of protection from environmental and health hazards and has equal access to the decision-making process. Significant environmental justice impacts would result if access to decision-making documents was denied or if any adverse environmental effects occurred that would disproportionately affect minority or low-income populations.

3.6.2.1 Proposed Action (Preferred Alternative)

Under the Proposed Action, \$3 million of VPA-HIP funds (with the potential for additional funds received in year three of the grant) would be used in addition to the current federal grants and KDWP funding to expand current public access programs and perform habitat improvement projects on privately owned farms and ranches enrolled in public access programs in Kansas. The VPA-HIP funds may be used to hire additional biological technicians for programs delivery and/or temporary staff for posting enrolled properties and survey work regarding access. VPA-HIP funds may also be used to cover development costs of web based contract management and mapping tools for access and habitat components of the programs.

Ultimately, some of the increased money paid out to landowners and the potential hiring of additional full-time and/or part-time/temporary employees would have a slight beneficial impact on local economies. Any habitat improvement projects undertaken may require purchase of goods/materials (seeds, seedlings, shrubs) and services (rental or contracting of heavy equipment) depending on the nature of the improvement project. This would also have a slight beneficial impact to local economies. Increasing hunting and angling opportunities or allowing access to previously inaccessible lands would also bring indirect economic benefits through traveling hunters and anglers needing lodging, meals, fuel, and supplies.

Under the Proposed Action, there would be no disproportionate impact to minorities or low income populations in Kansas. All of the public access programs are voluntary and would only

target landowners with eligible lands. KDWP's public access programs could provide additional opportunities to lower income hunters and anglers who cannot afford to pay for private access leases.

3.6.2.2 *No Action Alternative*

Under the No Action Alternative, KDWP would not receive funding from the VPA-HIP grant. KDWP would not be able to hire additional personnel to support the growth of access programs or perform additional habitat improvement projects. The No Action Alternative would not allow for any of the positive economic impacts from the introduction of the VPA-HIP funding into the economy. There would be no increase in hunting and angling opportunities, and therefore no economic benefits via associated need for lodging and purchase of goods and supplies.

3.7 *Air Quality*

Air quality in the U.S. is governed by the Clean Air Act. National Ambient Air Quality Standards (NAAQS) have been established for criteria air pollutants regulated by the U.S. Environmental Protection Agency (USEPA): ozone, carbon monoxide, sulfur dioxide, nitrous oxide, lead, and particulate matter. The NAAQS are used as thresholds to determine if local air quality is within acceptable thresholds (in "attainment") or exceeds the thresholds ("non-attainment"). Air quality in this PEA is limited to an analysis of particulate matter since the proposed habitat improvement projects could include prescribed burning or result in soil disturbance, both of which have the potential to increase particulate matter in the local area.

3.7.1 *Affected Environment*

The Flint Hills region of Kansas is the largest tract of unplowed tallgrass prairie in North America and one of the few large areas of native prairie remaining in the United States. Fire is an important management tool utilized to prevent the encroachment of trees and woody plants into the stand of prairie grass, as well as providing a positive impact to livestock gains and maintaining the economic stability of the region. For the benefits of fire as a rangeland management tool to be realized, burning must be initiated at the proper time. Burning of the tallgrass prairie generally occurs in early to mid-April. This has led to an increased interest in the air quality, not only in Kansas, but throughout the United States during the time frame in which the majority of prescribed burning activities occur.

The Kansas Department of Health and Environment and more than 80 stakeholders recently approved the Flint Hills Smoke Management Plan which attempts to reduce the air pollution impacts from spring agricultural burning. The key elements of the Smoke Management Plan include:

- Voluntary measures to reduce emissions from prescribed burning of rangeland in the counties of the Flint Hills
- A web site with a predictive, decision-making tool for producers and local fire officials
- A comprehensive fire-data collection effort to characterize prairie burning including ambient-air monitoring, use of satellite imagery, and a post-burn season survey
- Restrictions on open burning during April, but allows for agricultural burning related to management of prairie or grasslands and CRP burning activities in affected counties
- Extensive outreach and education efforts including booklets, pamphlets, and media exposure

While seasonal burning of both grasslands and crop stubble does occur in areas of Kansas outside the Flint Hills region, there is enough variation in time frame and scope of these burns to eliminate the need for a statewide smoke management plan.

3.7.2 Environmental Consequences

Impacts to air quality would be considered significant if the action resulted in violation of air quality regulations, resulted in permanent increase of criteria pollutants, or affected the attainment status of the local area.

3.7.2.1 *Proposed Action (Preferred Alternative)*

The Proposed Action would have little potential for impacts to regional air quality. Increasing the amount of land enrolled in Kansas public access programs would not require any activities that would impact air quality. Only those habitat improvement projects that involved prescribed burning or soil disturbance could temporarily increase particulate matter in the local area.

Prescribed burning is a very cost effective and useful tool that wildlife and habitat managers use to return an area to a more natural fire regime. The disturbance caused by prescribed burning releases nutrients, opens understory, and thins out dead plant material. Prescribed burning, when used appropriately, can greatly benefit many of the targeted habitat types on public access program properties. Where applicable (Flint Hills region), smoke management plan guidelines would be adhered to for all prescribed burns. Outside of the Flint Hills region, much of the prescribed burning that would take place is in accordance with required annual and/or mid-

contract federal management guidelines for Continuous and Whole Field CRP. Occasional burning of the conservation crop cover would not significantly degrade regional air quality.

In most cases, the proposed habitat improvement projects would occur on current farmland that is already subject to soil disturbance. The potential air quality impacts from soil disturbance during habitat project implementation would be minor, temporary, and localized. During project planning for those practices that would disturb the soil, conservation standard guidelines will be taken into consideration and followed through with upon project installation. Ultimately, the Proposed Action would likely result in reduced air emissions and reduced dust generated by wind erosion due to conversion of crop lands to a conservation cover crop.

3.7.2.2 *No Action Alternative*

Under the No Action Alternative, public access programs in Kansas would not be expanded and no habitat projects would be undertaken on private lands utilizing the VPA-HIP funding. KDWP would continue with the current public access programs and habitat improvement initiatives as they are now administered. No further benefits in air quality from the conversion of cropland to conservation cover crop would be realized utilizing VPA-HIP funds under the No Action Alternative.

CHAPTER 4.0 CUMULATIVE IMPACTS AND IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

4.1 CUMULATIVE IMPACTS

CEQ regulations stipulate that the cumulative impacts analysis within an EA should consider the potential environmental impacts resulting from “the incremental impacts of the action when added to past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions” (40 CFR 1508.7). Recent CEQ guidance in considering cumulative impacts involves defining the scope of the other actions and their interrelationship with the Proposed Action. The scope must consider geographical and temporal overlaps among the Proposed Action and other actions. It must also evaluate the nature of interactions among these actions.

Cumulative impacts are most likely to arise when a relationship or synergism exists between the Proposed Action and other actions expected to occur in a similar location or during a similar time period. Actions overlapping with or in proximity to the Proposed Action would be expected to have more potential for a relationship than those more geographically separated.

In this PEA, the affected environment for cumulative impacts includes all of the State of Kansas since the public access programs are available statewide; therefore, the proposed habitat improvement projects could occur anywhere in the state on private land enrolled in one of the public access programs. In addition to VPA-HIP, several other Federal and state programs in Kansas focus on conservation. Federal programs include the Conservation Reserve Program, Wildlife Habitat Incentives Program (WHIP), Environmental Quality Incentives Program, and the Wetlands Reserve Program. Wildlife conservation in the state of Kansas is a multi-agency coordinated effort. KDWP works very closely with the NRCS and USFWS to ensure that all opportunities to restore and enhance wildlife populations and habitats are explored. Through a programmatic agreement, KDWP biologists have been very successful in handling the delivery of the federal WHIP for NRCS.

The potential long-term impacts from habitat improvement projects under the VPA-HIP in combination with other wildlife habitat conservation strategies would have overall long-term, beneficial impacts to the wildlife populations and habitat in the state of Kansas. Increasing public awareness of the presence of important wildlife and game species and minor activities they can do to improve habitat on their land would create an environment to support a sustained wildlife population. Therefore, cumulative impacts are expected to be beneficial to the natural environment.

4.2 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

Irreversible and irretrievable commitments are related to the use of nonrenewable resources and the effect that the use of these resources has on future generations. Irreversible effects primarily result from the use or destruction of a specific resource that cannot be replaced within a reasonable time frame. Irretrievable resource commitments involve the loss in value of an affected resource that cannot be restored as a result of the action. Under the Proposed Action, long-term beneficial impacts are expected to wildlife populations and their habitats. There would be no irreversible or irretrievable commitment of resources.

CHAPTER 5.0 MITIGATION MEASURES

The purpose of mitigation is to avoid, minimize, or eliminate significant negative impacts on affected resources. CEQ regulations (40 CFR 1508.20) state that mitigation includes:

- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- Compensating for the impact by replacing or providing substitute resources or environments.

CEQ regulations state that all relevant reasonable mitigation measures that could avoid or minimize significant impacts should be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies. This serves to alert agencies or officials who can implement these extra measures, and will encourage them to do so. The lead agency for this Proposed Action is FSA. The state partner agency is KDWP.

There are no expected long-term, significant negative impacts associated with implementation of the VPA-HIP in Kansas. State employed biologists will assess all habitat improvement projects as per current procedures for delivery of federal programs as identified in Chapter 3. In those site specific instances where a wetland, threatened or endangered species, or a cultural resource may be present, consultation with the appropriate lead agency would identify specific mitigation measures required to eliminate or reduce the negative impacts to an acceptable level.

CHAPTER 6.0 REFERENCES

Council on Environmental Quality (CEQ). 1997. Council on Environmental Quality. Guidance Under the National Environmental Policy Act.

Kansas Department of Wildlife and Parks (KDWP). 2005. Kansas Administrative Regulation 115-15-1. Kansas Species in Need of Conservation (SINC) list.

KDWP. 2005a. Kansas Comprehensive Wildlife Conservation Plan. October.

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KDWP. 2011. Kansas Fishing Regulations Summary.

Natural Resource Conservation Service (NRCS). 1987. History of Kansas Soil Survey. Accessed via the internet at: http://www.ks.nrcs.usda.gov/about/ks_history/soil_survey.html Compiled October 1987.

State of Kansas. 2010. Governor's Economic and Demographic Report. Kansas Division of the Budget. January.

United States Census Bureau (USCB). 2001. Overview of Race and Hispanic Origin. Census 2000 Brief.

USCB. 1995. Poverty Areas. Statistical Brief. <http://www.census.gov/population/socdemo/statbriefs/povarea.html> Accessed March 14, 2011.

United States Fish and Wildlife Service (USFWS). 2006. National Survey of Fishing, Hunting, and Wildlife-Associated Recreation; Kansas.

CHAPTER 7.0 LIST OF PREPARERS

USDA Farm Service Agency

Matthew Ponish, National Environmental Compliance Manager

Kansas Department of Wildlife and Parks

Jake George, Private Land Programs Coordinator

David Dahlgren, Small Game Specialist

Tom Lang, Fisheries Programs Specialist

APPENDIX A: WIHA – DETERMINATION OF CATEGORICAL EXCLUSION



Kathleen Sebelius, Governor
J. Michael Hayden, Secretary

www.kdwp.state.ks.us

May 7, 2009

Mr. Carl Magnuson, Federal Aid Coordinator
Kansas Department of Wildlife & Parks
1020 S. Kansas, Suite 200
Topeka, KS 66612

RE: W-38-L, Amendment 12 – Hunting Access to Private Land (WIHA)

Dear Carl:

We have reviewed the above referenced project that will be partially funded by the Wildlife Restoration Program. The objective of the project is to increase hunting access on private lands to approximately 1.3 million acres on an annual basis by the year 2014. This objective will be met by offering interested private landowners an annual lease payment based on area enrolled and lease length. The lease agreement will provide "walk-in only" access to enrolled lands for the purpose of hunting. A portion of program funds will be used to specifically target enrollment in areas (e.g., metropolitan counties) that will stimulate hunter recruitment and retention. The primary activities of the program include contacting landowners, contract negotiation and preparation, signage of leased lands, and preparation of documents (e.g., atlas, brochure) that promote the program and identify the location of leased lands. An Environmental Assessment of the activities specified in the project narrative of this grant was not deemed necessary as the work will occur within the guidelines of a categorical exclusion as published by the U.S. Fish and Wildlife Service in 516 DM 8.5, B(2) and B(3). Departmental limitations on the use of categorical exclusions were considered and limitation factors are not present or involved with the proposed actions.

In arriving at this decision, the following items were considered:

- 1. Executive Order No. 13112. Invasive Species.** The Kansas Department of Wildlife and Parks (Department) has regulations and guidelines to prevent the introduction of non-native or non-naturalized species into waters or lands where they have not existed, or been stocked previously. Further, primary project activities are associated with enrolling private landowners into the WIHA program and involve no land management activities or species introductions. The only activities that will occur on leased lands are signage of the lease perimeter and possibly fencing designated parking areas. As such, there will be no introduction of non-indigenous organisms.
- 2. Executive Order No. 11988. Floodplain Management.** Primary project activities involve enrolling private landowners in lease agreements that permit public hunting. The only Department activities conducted on leased land will be signage of the lease perimeter and, depending on lease terms, the fencing and signage of unimproved parking lots. As such, this project will not involve construction or renovation activities in floodplain areas and no permits from the state or federal government will be required.
- 3. Executive Order No. 11990. Protection of Wetlands.** Project activities (lease enrollment and signage) will not directly or indirectly impact wetlands. Therefore, no permits will be required from the U.S. Army Corps of Engineers.

4. **Public Law 97-98, Farmland Protection Policy Act.** Lease agreements, including signage of lease perimeter and fencing of unimproved parking lots, will occur only on private lands with the willing consent of landowners. Further, lease agreements are for the purpose of providing public access to private lands for hunting purposes. As such, there will be no direct negative impact on any farmland, nor will the projects contribute to the unnecessary conversion of farmland to agricultural uses.
5. **National Environmental Policy Act of 1969.** Activities conducted as part of this project will involve no habitat destruction, negligible unintentional animal mortality other than the take of designated game animals according to Department statutes and regulations, and no introduction of non-indigenous organisms or contaminants.
6. **Endangered Species Act of 1973.** Project activities will occur statewide on private lands; however, exact locations are not currently known and likely will change annually depending on landowner interest and satisfaction. Therefore, it is not possible to identify potential negative impacts to Federally-listed endangered, threatened, or candidate species (see Attachment A for a list of species considered). However, potential negative impacts to these species resulting from project activities are anticipated to be minimal because land disturbance will be limited to installation of fence posts and signs, and occasional fencing and signage of unimproved (i.e., no soil disturbance or addition of gravel) parking areas. Regardless, to ensure no Federally-listed endangered, threatened, or candidate species are negatively impacted, a Department biologist will evaluate the location of proposed parking areas that are part of any lease agreement to determine if any federally-listed or candidate species are present. If any of these species are documented, the U.S. Fish and Wildlife Service will be notified and grant activities will be reviewed and modified as necessary to ensure no negative impacts result from activities associated with this program. As part of this review process, disturbance (e.g., mowing, parking lot development, concentrated vehicle/foot traffic) of sites supporting Federally-listed and candidate plant species (Mead's Milkweed and Western Prairie Fringed Orchid) will be prohibited.
7. **Executive Order No. 12898. Environmental Justice.** This project will not have adverse human health or environmental effects on low-income populations, minority populations, or Indian tribes. Further, no activities associated with this project, or deriving from this project, will contribute to, or provide support for, discrimination of minority communities.
8. **Historical and Cultural Preservation:** A request was made to Tim Weston of the State Historic Preservation Office (SHPO) to review the proposed project for the effects or impacts on cultural and historic resources. In their review, the SHPO considered all recorded cultural and historic resources in the area and determined the project will have no effect on archeological and historic property. A copy of the SHPO review letter is attached. The Department will stop all activities scheduled for the area if any cultural or historic remains are uncovered. The SHPO will be notified immediately, and the Department will not resume activities until directed by the SHPO on how to proceed.

Sincerely,



Murray Laubhan, Chief
Environmental Services Section

Attachment A

SPECIES CONSIDERED IN THIS REVIEW:

Endangered Species Act of 1973.

Federally-listed Threatened and Endangered Species

American Burying Beetle (*Necrophorus americanus*)
Arkansas River Shiner (*Notropis girardi*)
Black-capped Vireo (*Vireo atricapillus*)
Black-footed Ferret (*Mustela nigripes*)
Eskimo Curlew (*Numenius borealis*)
Gray Bat (*Myotis grisescens*)
Indiana Bat (*Myotis sodalis*)
Least Tern (*Sterna antillarum*)
Mead's Milkweed (*Asclepias meadii*)
Neosho Madtom (*Noturus placidus*)
Pallid Sturgeon (*Scaphirhynchus albus*)
Piping Plover (*Charadrius melodus*)
Topeka Shiner (*Notropis topeka*)
Western Prairie Fringed Orchid (*Platanthera praeclara*)
Whooping Crane (*Grus americana*)

Federally-listed Proposed Species

None

Federally-listed Candidate Species

Neosho Mucket (*Lampsilis rafinesqueana*)
Sheepnose Mussel (*Plethobasus cyphus*)
Lesser Prairie Chicken (*Tympanuchus pallidicinctus*)
Arkansas Darter (*Etheostoma cragini*)
Spectaclecase (*Cumberlandia monodonta*)



KSR&C No: 09-05-093

Kansas Historical Society
Cultural Resources Division

MARK PARKINSON, GOVERNOR

May 13, 2009

Terry E. Denker
Chief, Planning & Federal Aid
Department of Wildlife & Parks
1020 S Kansas Ave, Room 200
Topeka KS 66612-1327

RE: Private Land Hunting Access Grant
Kansas Department of Wildlife and Parks
Statewide

Dear Mr. Denker:

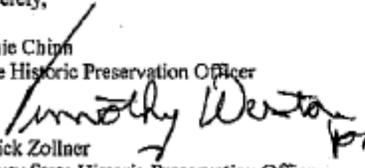
The Kansas State Historic Preservation Office has reviewed its cultural resources files for the area of the above referenced project in accordance with 36 CFR 800. The project as proposed should have no effect on properties listed in the National Register of Historic Places or otherwise identified in our files. This office has no objection to implementation of the project.

Any changes to the project area that include additional ground disturbing activities will need to be reviewed by this office prior to beginning construction. If construction work uncovers buried archaeological materials, work should cease in the area of the discovery and this office should be notified immediately.

This information is provided at your request to assist you in identifying historic properties, as specified in 36 CFR 800 for Section 106 consultation procedures. If you have questions or need additional information regarding these comments, please contact Tim Weston 785-272-8681 (ex. 214). Please refer to the Kansas Review & Compliance number (KSR&C#) above on all future correspondence relating to this project.

Sincerely,

Jennie Chipm
State Historic Preservation Officer


Patrick Zollner
Deputy State Historic Preservation Officer

6425 SW 6th Avenue • Topeka KS 66615-1059
Phone 785-272-8681, ext. 240 • Fax 785-272-8682 • cultural_resources@kshs.org • TTY 785-272-8683
kshs.org

TOTAL P.02

**APPENDIX B: FISH – DETERMINATION OF
CATEGORICAL EXCLUSION**



Kathleen Sebelius, Governor
J. Michael Hayden, Secretary

www.kdwp.state.ks.us

November 24, 2008

Mr. Carl Magnuson, Federal Aid Coordinator
Kansas Department of Wildlife & Parks
1020 S. Kansas, Suite 200
Topeka, KS 66612

RE: F-46-L-11 Amendment # 6 – Grant Application for Fishing Access to Private Waters

Dear Carl:

We have reviewed the above referenced grant application for Fishing Access to Private Waters. An Environmental Assessment of the activities specified in the proposal was not deemed necessary because the activities occur within the guidelines of a categorical exclusion as published by the U.S. Fish and Wildlife Service in 516 DM 8.5, B(2) and E(2). Departmental limitations on the use of categorical exclusions were considered and limitation factors are not present or involved with the proposed actions.

In arriving at this decision, the following items were considered:

1. **Executive Order No. 13112. Invasive Species.** There will be no introduction of non-indigenous organisms.
2. **Executive Order No. 11988. Floodplain Management.** There are no proposed activities that would negatively impact floodplain areas.
3. **Executive Order No. 11990. Protection of Wetlands.** There will be no drainage, fill, or other negative impacts on wetland areas.
4. **Public Law 97-98, Farmland Protection Policy Act.** Project activities will not impact prime farmland.
5. **National Environmental Policy Act of 1969.** Activities conducted as part of this project will not involve habitat destruction or introduction of contaminants.
6. **Endangered Species Act of 1973.** To ensure no Federally-listed endangered, threatened, or candidate species are negatively impacted, a qualified biologist will evaluate private lands that will be leased to determine if these species are present (see Attachment A for a list of species). If any of these species are documented, the U.S. Fish and Wildlife Service will be notified and grant activities will be reviewed and modified as necessary to ensure no negative impacts result from activities associated with this program. As part of this review process, the following will apply: (1) lands that occur within designated critical habitat of any threatened, endangered, or candidate species will not be leased as part of this program, (2) Signs alerting anglers to the presence of Arkansas River Shiner, Neosho Madtom, and Topeka Shiner will be conspicuously posted at sites where these species are known to occur and signs will include, at a minimum, information that disposing of live bait bucket contents or seining for minnows is prohibited, and (3) disturbance (e.g., mowing, parking lot development, vehicle/foot traffic) of sites

supporting Federally-listed and candidate plant species (Mead's Milkweed and Western Prairie Fringed Orchid) will be prohibited.

7. **Executive Order No. 12898. Environmental Justice.** These projects will not have adverse human health or environmental effects on low-income populations, minority populations, or Indian tribes.

Sincerely,



Murray Laubhan, Chief
Environmental Services Section

Attachment A

SPECIES CONSIDERED IN THIS REVIEW:

Endangered Species Act of 1973.

Federally-listed Endangered Species

American Burying Beetle (*Necrophorus americanus*)
Arkansas River Shiner (*Notropis girardi*)
Black-capped (*Vireo atricapillus*)
Black-footed Ferret (*Mustela nigripes*)
Eskimo Curlew (*Numenius borealis*)
Gray Bat (Myotis) (*Myotis grisescens*)
Indiana Bat (*Myotis sodalis*)
Least Tern (*Sterna antillarum*)
Mead's Milkweed (*Asclepias meadii*)
Neosho Madtom (*Noturus placidus*)
Pallid Sturgeon (*Scaphirhynchus albus*)
Piping Plover (*Charadrius melodus*)
Topeka Shiner (*Notropis topeka*)
Western Prairie Fringed Orchid (*Platanthera praeclara*)
Whooping Crane (*Grus americana*)

Federally-listed Proposed Species

None

Federally-listed Candidate Species

Neosho Mucket (*Lampsilis rafinesqueana*)
Sheepnose Mussel (*Plethobasus cyphus*)
Lesser Prairie Chicken (*Tympanuchus pallidicinctus*)
Arkansas Darter (*Etheostoma cragini*)
Spectaclecase (*Cumberlandia monodonta*)

**APPENDIX C: KDWP/USFWS – PROGRAMMATIC
AGREEMENT REGARDING HABITAT DELIVERY**

**PROGRAMMATIC AGREEMENT FOR THE INTRA-SERVICE CONSULTATION
AND CONFERENCE ON THE LANDOWNER INCENTIVE PROGRAM
IMPLEMENTED BY THE KANSAS DEPARTMENT OF WILDLIFE AND PARKS**

April 15, 2007

I. INTRODUCTION

In 2004 and 2005, the Kansas Department of Wildlife and Parks (KDWP) received Tier I Landowner Incentive Program (LIP) grants from the U.S. Fish and Wildlife Service (Service) to fund staff and associated support necessary to develop a state LIP that would benefit both private landowners and at-risk wildlife species. In 2006, the KDWP received a \$500,000 Tier II LIP grant from the Service to implement the LIP through the provision of technical and financial assistance to private landowners. Proposed actions funded as part of the Kansas LIP have a minimum 25% non-federal contribution. In addition, KDWP also has plans to secure other grants to further expand its' private lands program to benefit wildlife and habitat conservation.

II. PURPOSE

This Agreement provides the intra-Service consultation requirements under section 7(a)(2) of the Endangered Species Act (hereafter referred to as Act) regarding the informal consultation process (50 CFR 402.13) on the Service's LIP and other KDWP private lands programs. In addition, this Agreement documents the intra-Service informal conference on KDWP private lands programs. Through the informal consultation and consultation process, the Service may provide technical assistance to an agency to evaluate the potential effects of a proposed action on federally listed threatened and endangered species, proposed listed species, and candidate species (hereafter referred to collectively as federally listed species) and critical habitat, and suggest possible modifications to the action that could avoid potentially adverse effects. During this process, it may be determined that the anticipated effects of the action are not likely to adversely affect federally listed species or critical habitat. Written concurrence from the Service is required for this determination, which concludes the consultation. Recommendations provided to a federal agency through conference are advisory only.

According to the Service's on-line Threatened and Endangered Species System (TESS), the state of Kansas currently supports 9 federally listed species in the short- and mixed-grass prairie regions, including 5 endangered species, 3 threatened species, and 1 candidate species (Appendix A). The Service's LIP is designed to benefit species-at-risk and their habitats, and work concurrently with the Act and other federal and state programs for the recovery of listed species, as well as the prevention of future species listings. Proposed actions under LIP would most likely be designed for management of habitat using established management principles and techniques. For these reasons, it is anticipated that the majority of project-level conservation practices receiving funding through LIP would be completely beneficial to federally listed species and critical habitat. However, some proposed conservation practices may be anticipated to have a wide array of effects before any subsequent beneficial effects are realized. Those practices in which all potential effects would be anticipated to be completely beneficial, insignificant, or discountable would qualify as "not likely to adversely affect" determination.

The purpose of this Agreement is to provide the conditions of LIP activities for which conservation practices may be considered to “not likely to adversely affect” federally listed species and critical habitats in Kansas, as well as provide guidelines for avoiding adverse effects to federally listed species. For those conservation practices that would be funded through LIP and involve activities that do not meet the conditions of the Agreement for federally listed species, or for conservation practices not included in the Agreement, a separate consultation would be conducted. Therefore, the concurrence provided herein meets the requirements under section 7(a)(2) and concludes the informal consultation on the Service’s LIP.

III. LEGAL AUTHORITY

The Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531 et seq., is intended to protect threatened and endangered species and the ecosystem on which they depend. Under section 7 of the Act, federal agencies are required to ensure that any action they authorize, fund, or carry out does not jeopardize the continued existence of listed species or adversely modify designated critical habitat. Procedural regulations for conducting interagency consultation under section 7 are provided in 50 CFR 402.

The Service’s policy on intra-service conference requires the evaluation of candidate species as though they were proposed for listing under the Act. Under section 7(a)(4) of the Act, a conference is required for federal actions that may jeopardize the continued existence of a proposed species; however, action agencies may confer informally to assess the extent of potential impacts to proposed species.

IV. CONSULTATION AND CONFERENCE PROCEDURES

This Agreement provides an outline by which project-level conservation practices may be determined to be included in the consultation and, therefore, would not require contact with the Service. The concurrence provided in the informal consultation memorandum implementing this Agreement is based on the conditions for which covered actions are defined. KDWP, acting as the designated non-federal representative of the Service, will evaluate proposed conservation practices to identify coverage under this Agreement. The conservation practices to be funded by LIP that are under consultation were provided by KDWP and are listed in Appendix B. These practices are management tools available to private landowners for implementing proposed projects. Conditions for implementing these practices are listed in Appendix C. The conditions were developed for each federally listed species based on 1) known management techniques and principles, 2) anticipated effects that would be reasonably certain to occur based on the biology of the species, and 3) the presence/absence of the species and/or its habitat. Certain practices may be excluded from the consultation for those federally listed species in which management needs are unknown, or the potential effects of covered practices cannot be evaluated sufficiently. Potential effects resulting from proposed practices meeting the conditions of this Agreement would be expected to be insignificant, discountable, and/or completely beneficial. Conditions also are provided for LIP activities that, if implemented at the project level, would not be anticipated to result in any adverse impacts to federally listed species.

A. DETERMINATION OF COVERED CONSERVATION PRACTICES

Project applications have been developed for LIP that require detailed descriptions of proposed conservation practices involved with the implementation of LIP projects, including legal description of the project area and management practices that would occur for the duration of the grant agreement. All completed applications will be reviewed by a KDWP project biologist prior to submitting the proposal to the KDWP LIP coordinator who will assemble an ad hoc committee of wildlife professionals to evaluate, score, and select proposals for funding. During this process, a KDWP biologist will determine the potential for projects to impact federally listed species based on project location. For those projects potentially occurring within the range of federally listed species, 1) a survey will be conducted to determine presence of these species, 2) conservation practices described in the proposal will be compared to the list of practices covered in this Agreement (Appendix B), and 3) conditions for implementing practices described in the proposal will be reviewed. These conditions provide detailed information specific to each covered practice that should be followed to ensure all potential effects of the action on listed species would be insignificant, discountable, or completely beneficial. **Covered practices include only those practices listed in Appendix B that meet the conditions listed in Appendix C for the federally listed species potentially occurring within the project area where the practice would be implemented.**

B. NON-COVERED CONSERVATION PRACTICES

Proposed practices not included in Appendix B of this Agreement are non-covered practices. Further, proposed practices included in Appendix B that do not meet the implementation conditions provided in Appendix C for each of the federally listed species occurring in the project area also are not covered. **All non-covered practices are not considered as being part of this consultation and will be consulted on individually with the Service's Ecological Services Field Office (ESFO) in Manhattan, Kansas.**

V. MONITORING AND REPORTING

Accurate monitoring and reporting of actions is important to document, evaluate, and ultimately, improve the Service's LIP. For covered actions under this Agreement, KDWP assumes responsibility for monitoring projects that receive LIP funding to ensure the project is completed and to evaluate benefits for at-risk species. Monitoring information may be provided to KDWP by the applicant. KDWP will have discretion in determining the type and extent of project monitoring; however, a minimum reporting requirement is necessary to assist the Service in evaluating species' status. For each covered activity, the following information will be documented under this Agreement:

- County where implemented
- At-risk species anticipated to benefit
- Number of acres
- Dates that project was implemented and completed

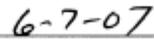
- Amount of funding awarded
- Summary of project activities
- Status and results (if available) of project

VI. TERMINATION AND REINITIATION OF CONSULTATION

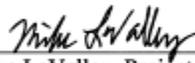
This Agreement shall be in effect from the date of final signature. This Agreement may be terminated at any time by the Service or KDWP with 30 days written notice. During the term of this Agreement, the Service or KDWP may determine that circumstances have changed to an extent that additional review is warranted. Such circumstances may include, but are not limited to, species status, new species or critical habitat listing, species management needs, and modifications in project design. Upon such a determination by either agency, consultation will be reinitiated.



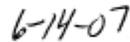
Keith Sexson
Assistant Secretary of Operations
Kansas Department of Wildlife and Parks



Date



Mike LeValley, Project Leader
Kansas Ecological Services Field Office
U.S. Fish and Wildlife Service



Date

APPENDIX A

Federally listed species (threatened, endangered, proposed, and candidate) occurring in Kansas as of 30 March 2007. This list represents only species that potentially may occur in the Short-grass and Central Mixed-grass Bird Conservation Regions of Kansas. This list is subject to change, without notice, as new biological information is gathered and should not be used as the sole source for identifying species that may be impacted by a project.

| Common name | Scientific name | Status | Federal | |
|----------------------------|---------------------------------|------------|-----------------|-----------------------------|
| | | | Recovery plan | Designated critical habitat |
| Birds | | | | |
| Bald Eagle | <i>Haliaeetus leucocephalus</i> | Threatened | Yes | No |
| Black-capped Vireo | <i>Vireo atricapilla</i> | Endangered | Yes | No |
| Eskimo Curlew | <i>Numenius borealis</i> | Endangered | No | No |
| Least Tern (interior pop.) | <i>Sterna antillarum</i> | Endangered | Yes | No |
| Piping Plover | <i>Charadrius melodus</i> | Threatened | Yes | Yes |
| Whooping Crane | <i>Grus americana</i> | Endangered | Yes | Yes |
| Fishes | | | | |
| Arkansas Darter | <i>Etheostoma cragini</i> | Candidate | No ¹ | No |
| Arkansas River Shiner | <i>Notropis girardi</i> | Threatened | No | Yes |
| Topeka Shiner | <i>Notropis topeka</i> | Endangered | No ¹ | No |

¹ Kansas has a state recovery plan.

APPENDIX B

List of potential conservation practices that may be implemented to complete projects funded by the Landowner Incentive Program. To the extent possible, conservation practices should be implemented in accordance with the Natural Resources Conservation Service's Standards and Specifications.

- A. **Herbaceous Vegetation Establishment** – The establishment and early maintenance of native herbaceous plant species to improve vegetation composition and/or structure for at-risk species. Activities may include the following (alone or in combination): seedbed preparation (e.g., disk, harrow), seed drill, broadcast seeder, broadcast and rollerpack, hand placement. To the extent possible, native plant material will be used. Activities involving soil disturbance will NOT be used on previously undisturbed sites.
- B. **Woody Vegetation Establishment** – The establishment and early maintenance of native tree and shrub species to improve vegetation composition and/or structure for at-risk species. Activities will be limited to areas that historically supported woody vegetation (e.g., draws, floodplains), and may include the following (alone or in combination): seedling plow or other tractor-drawn seeding equipment, dibble bar, shovel. Activities involving soil disturbance will NOT be used on previously undisturbed sites.
- C. **Herbaceous and Woody Vegetation Control** – Activities designed to control invasive/noxious plant species or improve vegetation composition and structure for at-risk species. Activities include the following (alone or in combination): prescribed fire (see D below), aerial or ground application of federally approved herbicides and other chemical sprays, tree dozing, mechanical (shear, roller chop, shred, disk, harrow, mow). Specific activities will be determined based on plant type, land-use history, soil type, and degree of infestation. Activities involving soil disturbance will NOT be used on previously undisturbed sites.
- D. **Prescribed Fire** – Activities include firebreak construction and burn operation. Applicant will abide by all local, state, and federal laws, regulations, and restrictions governing the use of prescribed fire. Applicant shall obtain all required licenses and permits for implementing all operational aspects of prescribed fire.
- E. **Improved Grazing Distribution** – Activities designed to alter the distribution of herbivores to protect or improve vegetation composition and/or structure of important habitats for at-risk species. Activities may include (alone or in combination): construction, repair, and maintenance of boundary or interior fences (including gates), grazing deferment, rotational grazing, and development of alternative livestock watering facilities (which may involve installation of waterlines and/or wells). In the case of alternative livestock watering facilities, applicant shall obtain all licenses and permits required regarding water rights.
- F. **Stream Improvements** – Activities performed on previously disturbed stream reaches to improve habitats for at-risk species. Activities will focus on reducing restoring natural functions of stream courses (e.g., erosion/sediment deposition rates and distribution, pool-riffle sequences, water quality) and may include the following (alone or in combination):

hardened stream crossings, removal of fish barriers, bank stabilization, and restoring riparian vegetation (see A, B, and C). Applicant will be responsible for certifying that the design of these activities meets all applicable state and federal criteria and shall obtain all licenses and permits required for performing such activities.

- G. Wetland Restoration – Activities performed to restore a function(s) of existing wetlands. Activities may include the following (alone or in combination): establishing native vegetation (e.g., wet meadow zones [see A]) and removal of artificial dewatering devices (e.g., pits, drainage ditches) to restore natural hydrology. Applicant will be responsible for obtaining all necessary permits and licenses required for performing such activities.
- H. Boundary Surveys – The delineation of project lands. This activity is most often conducted for boundary fencing or associated with easement acquisition.
- I. Signs and Boundary Markers – Installation and maintenance of boundary and information signs.
- J. Custodial Functions – Inspection of project sites for compliance and evaluation.
- K. Site Renovation – Major activities associated with preparing site for project implementation, including removal of nonfunctional equipment and trash.
- L. Monitoring – Observations and investigations associated with monitoring compliance and determining success of practices.
- M. Research – Activities undertaken by biologists to rigorously evaluate the impact of practices, including but not limited to surveys and censuses, population sampling, disease investigation, and life history studies.
- N. Demonstration Sites and Tours – Activities conducted on project sites for the purpose of disseminating information or providing educational assistance.
- O. Project Administration – Record keeping, cooperator contract/sub-agreement management, and related administrative duties.

APPENDIX C

Conditions for implementing practices under the Landowner Incentive Program to ensure that federally listed species (threatened, endangered, proposed, and candidate) occurring in Kansas are not adversely affected. Species are listed alphabetically by common name within taxonomic group (e.g., birds, fish). For each species, activities covered in this agreement are listed by the letter corresponding to the list provided in Appendix B.

- A. *Arkansas Darter* – In Kansas, the Arkansas Darter historically occurred in the southwestern one-third of the state and was relatively abundant. Although the current range is still applicable, populations have declined or disappeared, particularly in areas where groundwater has been diminished due to irrigation pressures (Eberle and Stark 2000). Currently, the species inhabits the main stem Cimarron River in Kansas and Oklahoma. In addition, KDWP has designated portions of the main stem of the North Fork Ninescah River, South Fork Ninescah River, Spring River, and perennial spring-fed reaches of named and unnamed streams in south-central Kansas as critical habitat. The species occurs most often in sand or pebble-bottomed pools of small spring-fed streams and marshes characterized by cool water and aquatic vegetation (Moss 1981, Pigg 1987, Robison et al. 1974, Taber et al. 1986). In Kansas, spawning occurs between 1 March and 31 May (KDWP personal communication). Invertebrates are the primary food resource (Taber et al. 1986) and aquatic vegetation may be used as perch sites to access prey (Brunson 1992). Water depletion is the greatest threat to the Arkansas Darter (Cross et al. 1985, U.S. Fish and Wildlife Service 1989). Drying of spring-fed streams and marshes has caused localized extirpations and forced the species to occupy less favorable habitats (Pigg 1987). Other threats include agricultural and municipal developments that contribute to degraded water quality and habitat loss.
1. Proposed projects located more than 100 feet from the designated critical habitat that involve practices A thru O would not be anticipated to result in any adverse effects to the Arkansas Darter or designated critical habitat.
 2. Proposed projects located within 100 feet of designated critical habitat that involve practices H, I, J, K, L, M, N, and/or O would not be anticipated to result in any adverse effects to the Arkansas Darter or designated critical habitat.
 3. Proposed projects that involve practices F and/or G that occur within designated critical habitat, but are implemented outside the spawning period (1 March to 31 May), would not be anticipated to result in adverse effects to the Arkansas Darter or designated critical habitat because these practices would be designed to enhance habitat for the species.
- B. *Arkansas River Shiner* – Endemic to the Arkansas River drainage, the Arkansas River Shiner is almost entirely restricted to approximately 508 miles of Canadian River in Oklahoma, Texas, and New Mexico and a small aggregation that may still persist in the Cimarron River in Oklahoma and Kansas (U.S. Fish and Wildlife Service 2005). The species was last recorded in the Cimarron River near Guthrie, Oklahoma in 2004. In Kansas, critical habitat for the Arkansas River Shiner occurs along 62.5 miles of the Cimarron River, including 300

feet measured laterally from each stream bank (Federal Register, Volume 70, Number 197, October 13, 2005). Suitable habitat includes rivers with flow regimes (e.g., duration, magnitude, frequency) to form and maintain channel and in-stream habitats necessary to support spawning, larvae development, and survival. These habitats include substrates of predominantly sands, pools, riffles, runs, and backwater areas with a variety of water depths and current velocities; natural variations in temperature, turbidity, conductivity, dissolved oxygen, and pH; low concentrations of contaminants; and riparian areas of sufficient quality to support an adequate invertebrate food base (U.S. Fish and Wildlife Service 2005). The species undergoes multiple, asynchronous spawns in a single season and spawning may occur as early as April and as late as September (Polivka and Matthews 1997, Wilde et al. 2000). In Kansas, peak spawning occurs from 1 June to 30 August (KDWP personal communication). Bonner and Wilde (2000) speculate that about 135 miles may be the minimum length of unimpounded river for successful completion of the life cycle. In addition to habitat loss and modification, decline of the Arkansas River Shiner in the Cimarron River has been partially attributed to the introduction of the Red River shiner (*Notropis bairdi*) Cross et al. 1983).

1. Proposed projects located more than 300 feet from the Cimarron River that involve practices A thru O would not be anticipated to result in any adverse effects to the Arkansas River Shiner or designated critical habitat.
 2. Proposed projects located within 300 feet of the Cimarron River that only involve practices H, I, J, K, L, M, N, and/or O would not be anticipated to result in any adverse effects to the Arkansas River Shiner or designated critical habitat.
 3. Proposed projects involving practices F and/or G that occur within designated critical habitat, but are implemented outside the spawning period (1 June to 30 August), would not be anticipated to result in adverse effects to the Arkansas River Shiner or designated critical habitat because these practices would be designed to enhance habitat for the species.
- C. *Bald Eagle* – The bald eagle migrates, winters, and recently has expanded its breeding range to include Kansas. In general, the species uses mature, forested, riparian areas near rivers, streams, lakes, wetlands, or other water bodies that support primary food resources, including fish and waterfowl. Southward migration begins as early as October and the wintering period extends from December to March. In Kansas, breeding occurs from approximately mid-February through mid-August. The frequency and duration of riparian habitat use during winter varies depending on ice and weather conditions in the state. However, loss of winter habitat and excessive human disturbance during winter can cause undue stress leading to cessation of feeding and failure to meet winter thermoregulatory requirements.
1. Proposed projects that involve only practices E (grazing deferment, rotational grazing) and O in Appendix B would not be anticipated to result in any adverse effects to the bald eagle.

2. Proposed projects that would include practices A, B, C, D, E (fence construction, repair, or maintenance; development of alternative livestock watering facilities), F, G, H, I, J, K, L and/or M in Appendix B may occur without adverse effects to the eagle under the following conditions:
 - a. No bald eagles are known to nest within the action area.
 - b. Covered practices are located a minimum of 0.5-miles OR not in line-of-sight of the nest tree in project areas where a bald eagle nest is active.
 - c. Covered practices listed in Appendix B are implemented between August 15 to December 1 (after nesting and prior to wintering).
- D. *Black-capped Vireo* – Historically, Black-capped Vireos are believed to have bred from south-central Kansas through central Oklahoma and Texas to central Coahuila, Mexico (U.S. Fish and Wildlife Service 1991). However, Graber (1957) could not locate suitable areas during the early 1950's and concluded that drought and land-use changes in the 1930's eliminated potential habitat. The last documented record of the species in Kansas occurred in the 1950s (Tordoff 1956). Project lands with suitable breeding habitat (shrubland habitat with vegetation cover extending to ground level) will be surveyed. However, given the lack of sightings during the past 50 years, it is unlikely that conservation practices listed in Appendix B would result in any adverse effects to the species.
- E. *Eskimo Curlew* – According to NatureServe (2006), no reliable sightings of Eskimo Curlews have occurred since 1987. Historically, Kansas provided migratory habitat for the species, which included both prairies and marshes, particularly recently burned areas that increased foraging efficiency for invertebrates. Given the lack of recent sightings and possible extirpation of the species, conservation practices listed in Appendix B would not be anticipated to result in any adverse effects to the species.
- F. *Least Tern (interior population)* – In Kansas, interior Least Terns nest on the Arkansas River, Cimarron River, Quivira National Wildlife Refuge, and Cheyenne bottoms Wildlife Management Area (Boyd 1987; Schulenberg and Ptacek 1984). The reproductive period extends from approximately 1 June to 1 September and essential nesting and foraging sites include riverine sandbars, an open channel area, appropriate stream flows, and lake shorelines (U.S. Fish and Wildlife Service 1990). Diet includes fish and invertebrates, with foraging occurring close to natural nesting sites and <6.4 km of artificial nesting habitats such as sand and gravel pits (Kirsch 1989), and reservoir shorelines (Boyd 1987). Channelization, irrigation, and construction of reservoirs and pools have contributed to the elimination of much of the tern's sandbar habitat in the Arkansas River (Funk and Robinson 1974, Hallberg et al. 1979, Sandheinrich and Atchison 1986). Essential habitat in Kansas includes the Arkansas and Cimarron River corridors.
 1. All proposed projects to be conducted within these corridors will be surveyed for nesting Least Terns before implementing conservation practices in Appendix B.

2. For proposed project areas that do not contain suitable Least Tern nesting habitat, all covered practices listed in Appendix B would not be anticipated to result in any adverse effects to the interior Least Tern.
 3. For proposed project areas that contain suitable Least Tern nesting habitat, practices A (if herbaceous vegetation is established to control erosion/sedimentation outside of the established river course), C, D, E, F, G, H, I, J, K, L, M, N, and/or O would not be anticipated to result in any adverse effects to the interior Least Tern if implemented outside the nesting period (1 June to 1 September).
- G. *Piping Plover* – According to the U.S. Fish and Wildlife Service (1994), the historic and current range of the piping plover are similar. In the Northern Great Plains, breeding occurs south to Nebraska, whereas wintering occurs in the Gulf of Mexico, eastern Mexico, the southern Atlantic coast, and scattered Caribbean Islands. Some sporadic nesting also has occurred in Oklahoma, and evidence of nesting has been documented along the Kansas River in Kansas. Although migratory routes have not been specifically described, Kansas likely provides primarily migratory habitat for this species and some nesting habitat. Diet consists of invertebrates and foraging occurs primarily on exposed sandy substrates adjacent to large saline wetlands and lakes. Given the life history and habitat affinities of this species, conservation practices listed in Appendix B would not be anticipated to result in any adverse effects to the species or its critical habitat.
- H. *Topeka Shiner* – Historically widespread and abundant in streams throughout the central prairies of the U.S., the current distribution of the Topeka Shiner consists of fragmented populations within a small portion of the historic range. In Kansas, the species currently is known to occur in the Neosho River basin, Smoky Hill River basin, Lower Kansas River basin, and the Big Blue River basin (Mammoliti 2004). The Topeka Shiner inhabits small to mid-size prairie streams characterized by good water quality, relatively cool water temperatures, and low fish diversity (Cross and Collins 1995, Pflieger 1997). Suitable streams generally maintain perennial flow, but may become intermittent during summer. Stream substrates typically are comprised of gravel, cobble, or sand (Pflieger 1997); however, bedrock and clay hardpan substrates overlain by a thin layer of silt are not uncommon (Minckley and Cross 1959). Spawning occurs in pool habitats, over sunfish nests, from late 15 May to 31 July in Kansas (Cross and Collins 1995, Kerns and Bonneau 2002). The primary prey base is comprised of invertebrates acquired from the benthos, water column, and the surface of aquatic plants (Cross and Collins 1995, Kerns and Bonneau 2002). Other food items also include minnow eggs, larval fish, algal and vascular plant material (Hatch and Besaw 1998). The federal government has no critical habitat designation for this species in Kansas, citing that the state of Kansas has provided for the designation and adequate management of habitat for the species, which includes the Big Blue, Willow Creek/Upper Smoky Hill, Lower Kansas, and Cottonwood Recovery Units (Mammoliti 2004).
1. Proposed projects located more than 100 feet from the designated critical habitat that involve practices A thru O would not be anticipated to result in any adverse effects to the Topeka Shiner or designated critical habitat.

2. Proposed projects located within 100 feet of designated critical habitat that involve practices H, I, J, K, L, M, N, and/or O would not be anticipated to result in any adverse effects to the Topeka Shiner or designated critical habitat.
 3. Proposed projects that involve practices F and/or G that occur within designated critical habitat, but are implemented outside the spawning period (15 May to 31 July), would not be anticipated to result in adverse effects to the Topeka Shiner or designated critical habitat because these practices would be designed to enhance habitat for the species.
- I. *Whooping Crane* –Whooping Cranes migrate through central Kansas during both spring and fall. Departure from wintering grounds in spring occurs between 25 March and 1 May and migration usually is complete in 2-4 weeks (Canadian Wildlife Service and U.S. Fish and Wildlife Service 2005). Fall migration is more protracted; however, movement through the Great Plains south of Saskatchewan is usually rapid and may be completed in a week (Kuyt 1992). In Kansas, Quivira National Wildlife Refuge and Cheyenne Bottoms Wildlife Area has been federally designated as critical migratory stopover habitat for Whooping Cranes. Landscapes characterized by wetland mosaics appear to provide the most suitable stopover habitat (Johns et al. 1987). Diet during migration is poorly documented, but includes frogs, fish, plant tubers, crayfish, insects, and agricultural grain (Canadian Wildlife Service and U.S. Fish and Wildlife Service 2005). However, the largest amount of time is spent feeding in harvested grain fields (Johns et al. 1997). Shallow, seasonal and semipermanent palustrine wetlands typically are used for roosting in the United States (Austin and Richert 2001), although riverine habitats characterized by submerged sandbars in wide unobstructed channels isolated from human disturbance also are used (Armbruster 1990). Human activity in the vicinity of important roosting and feeding habitats can disturb whooping cranes and cause premature departure.
1. Proposed projects involving practices A thru O that occur outside the migratory corridor of the Whooping Crane would not be anticipated to result in any adverse effects to the Whooping Crane or designated critical habitat.
 2. Proposed projects involving practices A, C, D, E, F, G, H, I, J, K, L, M, N and/or O that occur within the migratory corridor of the Whooping Crane would not be anticipated to result in any adverse effects to the Whooping Crane or designated critical habitat if implemented outside the migratory period (spring = 1 April to 1 May; fall = 25 September to 10 November).
 3. Proposed projects involving practice B that occur within the migratory corridor of the Whooping Crane may occur without adverse effects provided that establishment of woody vegetation in areas not historically supporting such vegetation or known to be used by Whooping Cranes is avoided.

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