

# Appendix A

## Appropriate Use Findings



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Appropriate Use Findings

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The Appropriate Refuge Uses Policy ([603 FW 1](#)), finalized in 2006, outlines the process that the Service uses to determine when general public uses on refuges may be considered. Uses proposed for a National Wildlife Refuge must first be found appropriate and compatible. The appropriate use review occurs prior to applying the compatibility screening. Compatibility determinations are found in Appendix B.

Public uses previously defined as wildlife-dependent uses under the National Wildlife Refuge System Improvement Act of 1997 (hunting, fishing, wildlife observation and photography and environmental education and interpretation) are generally exempt from appropriate use review. Other exempt uses include refuge management activities and situations where the Service does not have adequate jurisdiction to control the activity. State fish and wildlife agency activities are not subject to this policy when they:

1. Directly contribute to the achievement of refuge purpose(s), refuge goals, and the Refuge System mission, as determined by the refuge manager in writing,
2. Are addressed in a document such as a Regional or California/Nevada Operations Office (CNO) memorandum of understanding or a comprehensive conservation plan (CCP), or
3. Are approved under national policy.

Other existing, proposed, or requested public uses are required to undergo the appropriateness screen. Appropriate use policy provides refuge managers with a consistent procedure to screen and document decisions concerning public uses, with the use of the following questions:

- (a) Do we have jurisdiction over the use?
- (b) Does the use comply with applicable laws and regulations (Federal, state, tribal, and local)?
- (c) Is the use consistent with applicable executive orders and department and Service policies?
- (d) Is the use consistent with public safety?
- (e) Is the use consistent with goals and objectives in an approved management plan or other document?
- (f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?
- (g) Is the use manageable within the available budget and staff?
- (h) Will this be manageable in the future within existing resources?
- (i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?
- (j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality, compatible, wildlife-dependent recreation into the future?

Uses marked "no" for questions (a) or (b) are not evaluated further. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate.

When a use is determined to be appropriate, a refuge manager must then decide if the use is compatible before allowing it on a refuge.

The following forms show which uses have been determined appropriate and which have been determined not appropriate. Narrative answers for findings follow each form. Interpretation of two of the questions on the form, (e) and (f), are explained below:

- Question (e) on the appropriate uses form (Is the use consistent with goals and objectives in an approved management plan or other document?) is interpreted as follows: The approved management plan in question is interpreted as the CCP.
- Question (f) (Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?) was checked yes if this is the first time the use has been formally considered in a planning process. Question (f) was also checked yes if there is no documentation of the use being denied in an earlier planning process.

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Malheur National Wildlife Refuge

Use: Commercial Tours and Photography

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	✓	
(c) Is the use consistent with applicable Executive orders and Department and Service policies?	✓	
(d) Is the use consistent with public safety?	✓	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?	✓	
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?		✓
(g) Is the use manageable within available budget and staff?	✓	
(h) Will this be manageable in the future within existing resources?	✓	
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	✓	
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?	✓	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will **generally** not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes  No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: \_\_\_\_\_ Date: \_\_\_\_\_

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence.

If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319  
02/06

## **Appropriate Uses Justification, Attachment 1**

**Date:** November 2, 2011

**Refuge:** Malheur National Wildlife Refuge (Refuge)

**Use:** Commercial Tours and Photography

**Summary:** Commercial tours and photography uses on the Refuge cover a broad range of resource-based activities, including birding, geology, plant identification, art and visual interpretation, music, sound recording, and other similar non-consumptive activities. These uses would usually occur in areas open to the public, using the same facilities associated with non-commercial recreational uses.

For findings listed on FWS Form 3-2319, and if deemed necessary, a justification has been provided below.

### **a. Do we have jurisdiction over the use?**

All of the proposed activities would take place within Refuge boundaries. The Refuge has jurisdiction over collections within Refuge boundaries.

### **b. Does the use comply with applicable laws and regulations (Federal, state, tribal, and local)?**

Any proposed activities would comply with all applicable laws and regulations and any restrictions or qualifications that are required to comply with law and regulations would be specified in the special use permit (SUP).

### **c. Is the use consistent with applicable executive orders and department and Service policies?**

Under U.S. Fish and Wildlife Service (USFWS) Policy (50 CFR 29.1), a commercial recreational use is a use that generates revenue or that results in a commodity that is or can be sold for income or revenue.

The Appropriate Use Policy ([603 FW 1](#)) specifically references commercial uses of this kind. The policy states that “Commercial uses of a refuge may be considered appropriate if they are a refuge management economic activity (see 50 CFR 25.12), if they directly support a priority general public use, or if they are specifically authorized by statute ... An example of a commercial use that may be appropriate is a concession-operated boat tour that facilitates wildlife observation and interpretation.”

### **d. Is the use consistent with public safety?**

Through SUP review, the Refuge will ensure that each project is consistent with public safety. If necessary, stipulations to ensure public safety will be included in the project’s SUP.

### **e. Is the use consistent with goals and objectives in an approved management plan or other document?**

The use is consistent with Goal 7 in the CCP. Requests would be approved in instances where they can provide meaningful biological and cultural significance and public appreciation of natural resources.

**f. Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?**

This use had a determination completed in 1994. Use was determined to be compatible.

**g. Is the use manageable within available budget and staff?**

The use is manageable with available budget and staff.

**h. Will this be manageable in the future within existing resources?**

The proposed activity at current levels would be manageable in the future with existing resources (see above).

**i. Do the uses contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources, or is the use beneficial to the Refuge's natural or cultural resources?**

The proposed use would contribute to the public's understanding and appreciation of natural and/or cultural resources.

**j. Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see Section 1.6D, [603 FW 1](#), for description), compatible, wildlife-dependent recreation into the future?**

The Refuge will ensure that the activities will not impair existing or future wildlife-dependent recreational use of the Refuge during individual project review, prior to issuing SUPs.

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Malheur National Wildlife Refuge

Use: Grazing and Haying

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	✓	
(c) Is the use consistent with applicable Executive orders and Department and Service policies?	✓	
(d) Is the use consistent with public safety?	✓	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?	✓	
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?		✓
(g) Is the use manageable within available budget and staff?	✓	
(h) Will this be manageable in the future within existing resources?	✓	
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	✓	
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?	✓	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will **generally** not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes  No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: \_\_\_\_\_

Date: \_\_\_\_\_

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence.

If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor: \_\_\_\_\_

Date: \_\_\_\_\_

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319  
02/06

## Appropriate Uses Finding, Attachment 1

**Date:** November 2, 2011

**Refuge:** Malheur National Wildlife Refuge

**Project:** Grazing and Haying.

**Summary:** Livestock grazing and haying have occurred in the past at Malheur Refuge and are proposed to be used in the future as tools to provide optimum conditions for wildlife (specifically, foraging areas for waterfowl, waterbirds, and shorebirds; pairing habitat for waterfowl; nesting habitat for shorebirds; and nesting habitat for certain passerines) and, where possible, to improve biological integrity (native plant diversity; hereafter, restoration) in Refuge plant communities. These actions would be undertaken by private parties under cooperative agreement.

For each of the findings listed on FWS Form 3-2319, a brief narrative response has been provided below.

### **a. Do we have jurisdiction over the use?**

All proposed activities would take place within Refuge boundaries and under the supervision of Refuge staff.

### **b. Does the use comply with applicable laws and regulations (Federal, state, tribal, and local)?**

The proposed activities would comply with all applicable laws and regulations and would be spelled out in each Cooperative Land Management Agreement (CLMA).

### **c. Is the use consistent with applicable executive orders and department and Service policies?**

Under USFWS Policy (50 CFR 29.1), grazing and haying under the circumstances applicable at the Refuge are considered refuge management economic activities. “Refuge management economic activity” refers to a refuge management activity on a National Wildlife Refuge, which results in generation of a commodity that is or can be sold for income or revenue or traded for goods or services. Examples include farming, grazing, haying, timber harvesting, and trapping.

The Appropriate Use Policy ([603 FW 1](#)) specifically states that “Commercial uses of a refuge may be considered appropriate if they are a refuge management economic activity ....”

The proposed use would provide high-quality forage for migrating waterfowl and cranes within close proximity to high-quality roosting habitat. The use of a private cooperator to graze Refuge meadows helps provide high-quality forage and removes thatch that would be left behind if mowing were used as the only management technique. Other methods such as prescribed fire may remove thatch and mimic natural processes. Given the difficulty in using prescribed fire for meadow management, grazing is consistent with the Service’s Biological Integrity, Diversity, and Environmental Health Policy ([601 FW 3](#)).

**d. Is the use consistent with public safety?**

The proposed use is consistent with public safety and generally occurs in areas not accessible to the public. Some waterfowl/upland bird hunting does take place in areas where livestock are being used, but hunters are advised to avoid these highly visible treatment areas.

**e. Is the use consistent with goals and objectives in an approved management plan or other document?**

The proposed use is consistent with Goal 4 of the CCP; recommendations in the 2009 Wildlife and Habitat Management Review (USFWS 2010); and the 1990 Blitzen Valley Management Plan (Rule 1990).

**f. Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?**

This use had a determination completed in 1994. Use was determined to be compatible.

**g. Is the use manageable within available budget and staff?**

The proposed use is manageable with available budget and staff. The use of cooperators may save staff time and resources. Force account management of this nature would prove to be highly cost-prohibitive to the Service.

**h. Will this be manageable in the future within existing resources?**

The proposed use would be manageable in the future with existing resources and may save staff time and resources (see above).

**i. Do the uses contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources, or is the use beneficial to the Refuge's natural or cultural resources?**

The proposed use is beneficial to the Refuge's natural resources because haying and grazing would help achieve Refuge purposes by providing many waterfowl, waterbird, shorebird, and landbird with high-quality food sources as well as nesting and fledging habitat.

**j. Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see Section 1.6D, [603 FW 1](#), for description), compatible, wildlife-dependent recreation into the future?**

Haying and grazing operations may occasionally conflict with the experiences of some Refuge visitors. However, such impacts would be expected to be minor to moderate at the Refuge due to the seasonal differences in uses. Refuge visitation peaks during spring, when little grazing or haying will likely occur. Growing-season mowing and grazing will not occur at a scale that would disrupt or significantly impact wildlife viewing opportunities enjoyed by Refuge visitors. During the fall when haying and rake-bunch grazing operations are active, wildlife observation and photography visitation drops. Hunting use increases during this season but is concentrated in the Buena Vista Unit and around Malheur Lake, where little or no haying or grazing occurs.

## References

- Rule, M., G. Ivey, and D. Paullin. 1990. Blitzen Valley Management Plan. Malheur National Wildlife Refuge. Princeton, OR. 169 pp.
- USFWS (U.S. Fish and Wildlife Service). 2010. Malheur National Wildlife Refuge, Wildlife and Habitat Management Review. June 1-5, 2009. Unpublished report. Available at Refuge Headquarters. 52 pp.

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Malheur National Wildlife Refuge

Use: Plant Gathering of Culturally Important Plants

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	✓	
(c) Is the use consistent with applicable Executive orders and Department and Service policies?	✓	
(d) Is the use consistent with public safety?	✓	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?	✓	
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?		✓
(g) Is the use manageable within available budget and staff?	✓	
(h) Will this be manageable in the future within existing resources?	✓	
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	✓	
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?	✓	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will **generally** not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes  No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: \_\_\_\_\_ Date: \_\_\_\_\_

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence.

If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319  
02/06

## **Appropriate Uses Finding, Attachment 1**

**Date:** November 2, 2011

**Refuge:** Malheur National Wildlife Refuge

**Use:** Plant Gathering of Culturally Important Plants

**Summary:** Culturally important plants that grow in the wetlands, marshes, and riparian areas have been collected by members of the Burns Paiute Tribe for generations. Culturally important plant collection involves taking hand cuttings from live plants (e.g., willow whips) or plants that have reached senescence (cattails and bulrush). Plant materials are collected in small amounts and plant mortality does not occur as a result of these activities.

For findings listed on FWS Form 3-2319, and if deemed necessary, a brief narrative response has been provided below.

### **a. Do we have jurisdiction over the use?**

All of the proposed activities would take place within Refuge boundaries. The Refuge has jurisdiction over collections within Refuge boundaries.

### **b. Does the use comply with applicable laws and regulations (Federal, state, tribal, and local)?**

Any proposed collection activities would comply with all applicable laws and regulations and any restrictions or qualifications required to comply with law and regulations would be specified in an SUP.

### **c. Is the use consistent with applicable executive orders and department and Service policies?**

The Appropriate Use Policy ([603 FW 1](#)) specifically references Native American ceremonial, religious, medicinal, and traditional gathering of plants. The policy states that the Service “will review specific requests and provide reasonable access to Native Americans to refuge lands and waters for gathering plants for ceremonial, religious, medicinal, and traditional purposes when the activity is appropriate and compatible or when existing treaties allow or require such access.”

### **d. Is the use consistent with public safety?**

Through individual project review, the Refuge will ensure that each project is consistent with public safety. If necessary, stipulations to ensure public safety will be included in the project’s SUP.

### **e. Is the use consistent with goals and objectives in an approved management plan or other document?**

Plant gathering by tribal members is consistent with Goal 10 in the CCP.

**f. Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?**

This use had a determination completed in 1994. Use was determined to be compatible because of the infrequent use.

**g. Is the use manageable within available budget and staff?**

Currently, the Refuge receives fewer than six requests per year for this activity, and it is manageable with available budget and staff.

**h. Will this be manageable in the future within existing resources?**

If use remains at current levels, the use would be manageable in the future with existing resources (see above).

**i. Do the uses contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources, or is the use beneficial to the Refuge's natural or cultural resources?**

Collection activities would be approved in instances where they can provide meaningful cultural significance and public appreciation of natural resources.

**j. Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, [603 FW 1](#), for description), compatible, wildlife-dependent recreation into the future?**

Persons collecting plants may occasionally flush wildlife from areas used by hunters, wildlife observers, photographers, anglers, or environmental education groups, but this conflict would be expected to be minimal. The Refuge will ensure that collection activities would not significantly impair existing or future wildlife-dependent recreational use of the Refuge during individual project review, prior to issuing each SUP.

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Malheur National Wildlife Refuge

Use: Research, Scientific Collecting, and Surveys

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	✓	
(c) Is the use consistent with applicable Executive orders and Department and Service policies?	✓	
(d) Is the use consistent with public safety?	✓	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?	✓	
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?		✓
(g) Is the use manageable within available budget and staff?	✓	
(h) Will this be manageable in the future within existing resources?	✓	
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	✓	
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?	✓	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will **generally** not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes  No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: \_\_\_\_\_ Date: \_\_\_\_\_

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence.

If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319  
02/06

## **Appropriate Uses Finding, Attachment 1**

**Date:** November 2, 2011

**Refuge:** Malheur National Wildlife Refuge

**Project:** Research, scientific collecting, and surveys

**Summary:** The Refuge receives or initiates requests for scientific research on Refuge lands and waters. Research topics cover a variety of biological, physical, archeological, and social issues and concerns to address Refuge management information needs or other issues not related to refuge management. This compatibility determination refers to research, collecting, or surveys conducted by non-USFWS entities. This may include other Federal, state, tribal, and private entities, or their contractors. Research proposals must be accompanied by a detailed study plan. Proposals will be reviewed and granted special use permits on a case-by-case basis.

For each of the findings listed on FWS Form 3-2319, a brief narrative response has been provided below.

### **a. Do we have jurisdiction over the use?**

The Refuge has jurisdiction over those research projects that are sited within Refuge boundaries.

### **b. Does the use comply with applicable laws and regulations (Federal, state, tribal, and local)?**

Any proposed research activity would comply with all applicable laws and regulations and any restrictions or qualifications that are required to comply with laws and regulations would be specified in the SUP.

### **c. Is the use consistent with applicable executive orders and department and Service policies?**

The Appropriate Use Policy ([603 FW 1](#)) specifically references research. Under this policy, the Service actively encourages cooperative natural and cultural research activities that address Service management needs, and encourages research related to the management of priority general public uses. According to the policy, research that directly benefits refuge management has priority over other research.

Through the review of individual projects, the Refuge would ensure that project proposals are consistent with other applicable policies.

### **d. Is the use consistent with public safety?**

Through individual project review, the Refuge will ensure that each project is consistent with public safety. If necessary, stipulations to ensure public safety will be included in the project plan.

**e. Is the use consistent with goals and objectives in an approved management plan or other document?**

The proposed use is consistent with Goal 13 of the CCP. Research activities would be approved in instances where they can provide meaningful data that may contribute to Refuge management and public appreciation of natural resources.

**f. Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?**

This use had a determination completed in 1994. The use was determined to be compatible.

**g. Is the use manageable within available budget and staff?**

Currently, the Refuge typically receives fewer than six requests per year for this activity, and it is manageable with available budget and staff.

**h. Will this be manageable in the future within existing resources?**

Research activity is expected to increase over the next 15 years. Projected levels of research activity would be manageable in the future with existing resources.

**i. Do the uses contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources, or is the use beneficial to the Refuge's natural or cultural resources?**

Completed research projects would provide information useful for the management of the Refuge's natural or cultural resources.

**j. Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see Section 1.6D, [603 FW 1](#), for description), compatible, wildlife-dependent recreation into the future?**

Researchers may occasionally flush wildlife from areas used by hunters, wildlife observers, photographers, anglers, or environmental education groups, but this conflict would be expected to be minimal.

The Refuge will ensure that research activities would not significantly impair existing or future wildlife-dependent recreational use of the Refuge through SUP stipulations, as needed for each project.

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Malheur National Wildlife Refuge

Use: Farming

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	✓	
(c) Is the use consistent with applicable Executive orders and Department and Service policies?	✓	
(d) Is the use consistent with public safety?	✓	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?	✓	
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?		✓
(g) Is the use manageable within available budget and staff?	✓	
(h) Will this be manageable in the future within existing resources?	✓	
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	✓	
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?	✓	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will **generally** not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes  No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: \_\_\_\_\_ Date: \_\_\_\_\_

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence.

If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319  
02/06

## **Appropriate Uses Finding, Attachment 1**

**Date:** November 2, 2011

**Refuge:** Malheur National Wildlife Refuge (Refuge)

**Project:** Farming

**Summary:** The cooperative program would include between 80 to 1,000 acres to support objectives described in the CCP using appropriate farming practices. Crops would include wheat, barley, rye, oats, or similar crops known to have wildlife forage value.

Cropland management would be carried out by cooperative farmers under agreement with the Refuge. The resulting crop would be shared by the cooperator and the government. To benefit wildlife, the Refuge share would be left in the field where it would be available to wildlife.

Since cereal grains are favored by cranes and some waterfowl as a high-carbohydrate food, the 2009 Wildlife and Habitat Management Review (USFWS 2010) recommended continuing crop production to benefit cranes.

For each of the findings listed on FWS Form 3-2319, a brief narrative response has been provided below.

### **a. Do we have jurisdiction over the use?**

All proposed activities would take place within Refuge boundaries and under the supervision of Refuge staff.

### **b. Does the use comply with applicable laws and regulations (Federal, state, tribal, and local)?**

The proposed activities would comply with all applicable laws and regulations and would be spelled out in the Cooperative Farming Agreement (CFA).

### **c. Is the use consistent with applicable executive orders and department and Service policies?**

Under USFWS Policy (50 CFR 29.1), farming under the circumstances applicable at the Refuge are considered refuge management economic activities. “Refuge management economic activity” refers to a refuge management activity on a national wildlife refuge that results in generation of a commodity that is or can be sold for income or revenue or traded for goods or services. Examples include farming, grazing, haying, timber harvesting, and trapping.

The Appropriate Use Policy ([603 FW 1](#)) specifically states that “Commercial uses of a refuge may be considered appropriate if they are a refuge management economic activity ....”

The proposed use would provide high-energy and readily available foods for migrating waterfowl and cranes within close proximity to other natural food sources and high-quality roosting habitat. Crops provide wildlife with easily accessible high-energy foods, are more digestible than many native plants, and can reduce foraging time required to meet caloric demands (Alisauskas and Ankney 1992; Baldassare and Bolen 2006). Because these conditions cannot be met by singularly managing natural foods, the production of non-genetically modified crops is consistent with the

Service's Biological Integrity, Diversity, and Environmental Health Policy ([601 FW 3](#)) and will help achieve Refuge purposes.

**d. Is the use consistent with public safety?**

The proposed use is consistent with public safety and would be sited in areas closed to the general public.

**e. Is the use consistent with goals and objectives in an approved management plan or other document?**

The proposed use is consistent with Goal 3 in the CCP and with recommendations in the 2009 Wildlife and Habitat Management Review conducted by the Service (USFWS 2010) and the 1990 Blitzen Valley Management Plan (Rule 1990).

**f. Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?**

The use has been ongoing for many years.

**g. Is the use manageable within available budget and staff?**

The proposed use is manageable with available budget and staff. The use of cooperators may save staff time and resources and increase the reliability of successful crop production.

**h. Will this be manageable in the future within existing resources?**

The proposed use would be manageable in the future with existing resources and may save staff time and resources (see above).

**i. Do the uses contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources, or is the use beneficial to the Refuge's natural or cultural resources?**

The proposed use is beneficial to the Refuge's natural resources because crop production would help achieve Refuge purposes by providing migrating waterfowl and cranes with a high-energy, easily accessible food source in close proximity to natural foods and roosting sites.

**j. Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see Section 1.6D, [603 FW 1](#), for description), compatible, wildlife-dependent recreation into the future?**

The proposed use will not impair existing or future wildlife-dependent recreational use of the Refuge. A maximum of 1,000 acres (approximately 0.5percent of the Refuge area) would be used for crop production.

## References

- Alisauskas, R.T. and C.D. Ankney. 1992. The cost of egg laying and its relationship to nutritional reserves in waterfowl. Pages 30-61 in: B.D.J. Batt, A.D. Afton, M.G. Anderson, C.D. Ankney, D.H. Johnson, J.A. Kadlec, and G.L. Krapu, eds. Ecology and management of breeding waterfowl. Minneapolis: University of Minnesota Press.
- Baldassare, G.A and E.G. Bolen. 2006. Waterfowl ecology and management. Hoboken, NJ: John Wiley and Sons, Inc.
- Rule, M., G. Ivey, and D. Paullin. 1990. Blitzen Valley Management Plan. Malheur National Wildlife Refuge. Princeton, OR. 169 pp.
- USFWS. 2010. Malheur National Wildlife Refuge, Wildlife and Habitat Management Review. June 1-5, 2009. Unpublished report. Available at Refuge Headquarters. 52 pp.

