

Appendix G: Appropriate Use Findings

Introduction

Big Muddy National Fish and Wildlife Refuge (NFWR) managers decide if a new or existing use is an appropriate refuge use. This appendix includes a list of the appropriate use designations for Big Muddy NFWR.

The U.S. Fish and Wildlife Service (FWS, Service) appropriate use policy (603 FW 1) explains the decision process the refuge manager follows when first considering whether or not to allow a proposed use on a refuge. The refuge manager must first find a use to be appropriate before undertaking a compatibility review of the use and outlining the stipulations of the use.

The appropriate use policy clarifies and expands on the compatibility policy (603 FW 2.10(D)(1)), which describes when the refuge manager should deny a proposed use without determining compatibility. If a proposed use is found “not appropriate,” the use will not be allowed and a compatibility determination will not be prepared. By screening out proposed uses not appropriate to the refuge, the refuge manager avoids unnecessary compatibility reviews. Although a use may be both appropriate and compatible, the refuge manager retains the authority to not allow the use or modify the use.

This policy does not generally apply to proposed public use of wetland and grassland easement areas of the National Wildlife Refuge System (NWRS, Refuge System). The rights acquired on these areas generally do not extend to control over such public uses except where those uses would conflict with the conditions of the easement (603 FW 1.2(A)). The Service’s *Midwest Region Easements Manual* provides more direction on applying the appropriate use policy to easements (FWS, 2012c).

Background for this policy as it applies to Big Muddy NFWR is found in the following statutory authorities:

- National Wildlife Refuge System Administration Act of 1966 (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) (16 U.S.C. § 668dd–668ee). This law provides the authority for establishing policies and regulations governing refuge uses, including the authority to prohibit certain harmful activities. The Administration Act does not authorize any particular use, but rather authorizes the Secretary of the Interior to allow uses only when they are deemed compatible. The Improvement Act provides the Refuge System mission and includes specific directives and identifies six wildlife-dependent uses as priorities for the Refuge System.
- *Refuge Recreation Act of 1962*, (16 U.S.C. § 460k). This law authorizes the Secretary of the Interior to allow public recreation in areas of the Refuge System when the use is an “appropriate incidental or secondary use.”

Refuge uses must meet at least one of the following four conditions to be deemed appropriate:

1. It is a wildlife-dependent recreational use as identified in the Improvement Act.

2. It contributes to fulfilling the refuge purpose(s), the Refuge System mission, or goals or objectives described in a refuge management plan approved after the Improvement Act was signed into law.
3. The use involves the take of fish and wildlife under state regulations.
4. The refuge has evaluated the use following the guidelines in this policy and found that it is appropriate. The criteria used by the manager to evaluate appropriateness can be found on the appropriate use forms completed for the refuge.

Uses that have been administratively determined to be appropriate but still require compatibility determinations are:

- six wildlife-dependent recreational uses as defined by the Improvement Act as hunting, fishing, wildlife observation, photography, environmental education and interpretation; and
- take of fish and wildlife under state regulations including hunting, fishing, and trapping.

Also covered under this policy are “specialized uses,” or uses that require specific authorization from the Refuge System, often in the form of a special use permit, letter of authorization, or other permit document. These uses do not include uses already granted by a prior existing right. Appropriateness findings for specialized uses are made on a case-by-case basis.

This policy does NOT apply to the following:

- Situations where reserved rights or legal mandates provide certain uses must be allowed.
- Refuge management activities conducted by the Refuge System or a Refuge System-authorized agent designed to conserve fish, wildlife, and plants and their habitats. These activities fulfill refuge purpose(s) or the Refuge System mission and are based on sound professional judgment.

Appropriate use findings are made without public review and comment. However, if a proposed use is found to be appropriate, we must still determine that the use is compatible. The compatibility determination includes an opportunity for public involvement (603 FW 1.9(B)).

The following uses are deemed **appropriate** for Big Muddy NFWR:

- [Collecting Wild Edibles](#)
- [Farming](#)

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Big Muddy National Fish and Wildlife Refuge

Use: Collecting Wild Edibles

This form is not required for wildlife-dependent recreational uses, forms of 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?	x	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	x	
(c) Is the use consistent with applicable Executive orders and Department and Service policies?	x	
(d) Is the use consistent with public safety?	x	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?	x	
(f) Has an earlier documented analysis not denied the use, or is this the first time the use has been proposed?	x	
(g) Is the use manageable within available budget and staff?	x	
(h) Will this be manageable in the future within existing resources?	x	
(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?	x	
(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?	x	

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 x 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** x

Refuge Manager: /Thomas G. Bell/ Date: May 6, 2014

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: /Tim Yager/ Date: 5-7-2014

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

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FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Big Muddy National Fish and Wildlife Refuge

Use: Farming

This form is not required for wildlife-dependent recreational uses, forms of 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
(k) Do we have jurisdiction over the use?	x	
(l) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	x	
(m) Is the use consistent with applicable Executive orders and Department and Service policies?	x	
(n) Is the use consistent with public safety?	x	
(o) Is the use consistent with goals and objectives in an approved management plan or other document?	x	
(p) Has an earlier documented analysis not denied the use, or is this the first time the use has been proposed?	x	
(q) Is the use manageable within available budget and staff?	x	
(r) Will this be manageable in the future within existing resources?	x	
(s) 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?	x	
(t) 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?	x	

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 x 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** x

Refuge Manager: /Thomas G. Bell/ Date: May 6, 2014

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.

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Refuge Supervisor: /Tim Yager/ Date: 5-7-2014

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