

## **Final Compatibility Determination for Resident Game and Migratory Bird Hunting on Fort Niobrara National Wildlife Refuge**

**Use:** Hunting of resident game and migratory birds

**Refuge Name:** Fort Niobrara National Wildlife Refuge

**Establishing and Acquisition Authority(ies):**

- Executive Order (EO) 1461, dated January 11, 1912
- EO 1642, dated of November 12, 1912
- EO 3256, dated March 31, 1920
- EO 7301, dated February 21, 1936

**Refuge Purpose:**

EO 1461 established Fort Niobrara National Wildlife Refuge (NWR) on January 11, 1912, as the “Niobrara Reservation . . . a preserve and breeding ground for native birds.” EO 1642 expanded the refuge on November 12, 1912, and the reintroduction of elk and bison occurred in January of 1913. EO 3256, dated March 31, 1920, and EO 7301, dated February 21, 1936, added more acreage to the refuge.

In 1997, in preparation for developing the refuge’s comprehensive conservation plan, the Interior Department Library, Library of Congress, National Archives, and National Agriculture Library conducted extensive research independent of refuge staff to determine the purpose(s) of the refuge. After reviewing the EOs and supporting historical documents, it was determined that big game (bison and elk) was pan intended purpose of the refuge. The conclusion was that the refuge has two primary purposes which are: (1) a preserve and breeding ground for native birds, and (2) the preservation of bison and elk herds representative of those that once roamed the Great Plains.

In 2008, a proposed Fort Niobrara NWR Elk and Deer Management Plan and Environmental Assessment (EDMP/EA) was released for public review and comment. Deer and elk hunting in refuge lands north and west of the Niobrara River, approximately 5,065 acres—3,500 acres woodland; 1,330 acres grassland; 235 acres wetland—was declared compatible with the refuge’s established purposes. The final EDMP/EA was signed in 2009. The first deer hunt on the refuge occurred in 2011 and, per conditions of the EDMP, elk hunting began in 2016.

The mission of the National Wildlife Refuge System (Refuge System), as outlined by the National Wildlife Refuge System Administration Act (NWRSA), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) (16 United States [U.S.] Code 668dd et seq.), is to:

*“ . . . to administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans. ”*

The NWRSAA mandates the Secretary of the Interior in administering the Refuge System to (16 U.S. Code 668dd[a][4]):

- provide for the conservation of fish, wildlife, and plants, and their habitats within the Refuge System;
- ensure that the biological integrity, diversity, and environmental health of the Refuge System are maintained for the benefit of present and future generations of Americans;
- ensure that the mission of the Refuge System described at 16 U.S. Code 668dd(a)(2) and the purposes of each refuge are carried out;
- ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the states in which the units of the Refuge System are located;
- assist in the maintenance of adequate water quantity and water quality to fulfill the mission of the Refuge System and the purposes of each refuge;
- recognize compatible wildlife-dependent recreational uses as the priority public uses of the Refuge System through which the American public can develop an appreciation for fish and wildlife;
- ensure that opportunities are provided within the Refuge System for compatible wildlife-dependent recreational uses; and
- monitor the status and trends of fish, wildlife, and plants in each refuge.

Therefore, it is a priority of the U.S. Fish and Wildlife Service (Service) to provide for wildlife-dependent recreation opportunities, including hunting and fishing, when those opportunities are compatible with the purposes for which the refuge was established and the mission of the Refuge System.

#### **National Wildlife Refuge System Mission:**

The mission of the Refuge System is to administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the U.S. for the benefit of present and future generations of Americans (Improvement Act, Public Law 105-57).

#### **Description of Use:**

*What is the use?*

The Service is proposing to expand hunting opportunities for resident game and migratory birds on the refuge in accordance with the refuge's comprehensive conservation plan. Resident game hunting covers all non-migratory wildlife hunted in Nebraska under the Nebraska Game and Parks Commission (NGPC) Hunting Regulations. Resident game species include white-tailed deer, mule deer, pronghorn, elk, badger, bobcat, coyote, fox, long-tailed weasel, mink, muskrat, opossum, prairie dog, porcupine, rabbit and hare, raccoon, skunk, squirrel, woodchuck, greater prairie chicken, grouse, partridge, pheasant, quail, and turkey. Migratory bird hunting covers waterfowl, dove, crow, rail, snipe, and woodcock.

The use is described and analyzed in the 2020 Final Environmental Assessment for Expanded Hunting at Fort Niobrara NWR.

*Where will the use be conducted?*

Hunting is currently permitted in the open hunt area of the refuge. Refuge regulations follow the NGPC-established state hunting seasons and bag limits, as appropriate. The refuge hunting and fishing brochure shows designated access points.

*When and how will the use be conducted?*

Hunter access is permitted from two hours before legal sunrise until two hours after legal sunset. Shooting hours for coyote, porcupine, prairie dog, woodchuck, and state-defined huntable furbearers begin half an hour before legal sunrise and end half an hour after legal sunset. All other shooting hours for proposed species fall within the refuge access hours by state regulation.

License rules and bag limits are according to state regulations. Special deer bag limits, such as antlerless only, bonus tags, and mule deer doe, will be negotiated with the NGPC and published in their regulations. Muzzleloader deer hunters wanting to hunt during the November rifle season, or the December muzzleloader season, must apply for a refuge permit using an approved Service application and permit form. They must also report their hunting activity by February 15 each year using an approved Service hunting report form. Refuge permits for these seasons will be awarded by lottery.

For waterfowl hunting, all blinds and decoys must be removed at the conclusion of each day's hunt. For big game hunting, portable tree stands and steps may be used; however, they may not be installed, used, or left in place from February 1 to August 15. We, the Service, allow the use of dogs when hunting, except from May 1 to July 31. We allow hunting with muzzleloader, archery, and shotgun weapons, or by falconry. Nontoxic shot is required for all shotgun and muzzleloader shotgun use.

Possession of alcoholic beverages is prohibited on the refuge.

*Why is this use being proposed?*

The purpose of this proposed action is to provide compatible wildlife-dependent recreational opportunities on the refuge. The need of the proposed action is to meet the Service's priorities and mandates as outlined by the NWRSA to "recognize compatible wildlife-dependent recreational uses as the priority general uses of the NWRS" and "ensure that opportunities are provided within the NWRS for compatible wildlife-dependent recreational uses" (16 U.S. Code 668dd[a][4]). This action also satisfies EO 13443 signed August 16, 2007, "Facilitation of Hunting Heritage and Wildlife Conservation"; Secretarial Order 3347 signed March 2, 2017, "Conservation Stewardship and Outdoor Recreation"; and Secretarial Order 3356, signed September 15, 2017, "Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories."

**Availability of Resources:**

Annual hunt program administration costs for the refuge, including salary, equipment, law enforcement, brochures, and analysis of biological information, totals approximately \$15,000. Refuge administrative and maintenance funds are used to maintain signs, buy brochures, perform

biological inventory and monitoring, and coordinate with the state. Refuge law enforcement money is used to monitor hunting and enforce regulations. It is anticipated that this will pay for the hunting program at the refuge in the future, although the refuge's law enforcement funding does not provide adequate law enforcement.

### **Anticipated Impacts of the Use:**

As described above, this alternative will expand hunting opportunities in the current open hunt area on the refuge to include hunting of pronghorn, badger, beaver, bobcat, coyote, fox, long-tailed weasel, mink, muskrat, opossum, prairie dog, porcupine, rabbit and hare, raccoon, skunk, squirrel, woodchuck, greater prairie chicken, grouse, partridge, pheasant, quail, turkey, waterfowl, dove, crow, rail, snipe, and woodcock. In addition, the refuge hunting program will better align with NGPC hunting regulations. The potential take of most resident and migratory wildlife species open to hunting on the refuge is likely negligible in proportion to regional or state harvest numbers and will not add significantly to the cumulative effects on the various species. Direct effects to refuge populations of some species, such as turkey or deer, will not be known until the hunting program is conducted. Expanded hunting opportunities will most likely result in increased temporary disturbance and displacement of hunted and non-hunted wildlife species from foot traffic moving through the area or from gunfire. Minor effects to other wildlife-dependent recreation, such as wildlife viewing opportunities, are possible under the proposed alternative during the fall, winter, and spring; however, about 75 percent of nonconsumptive wildlife-dependent visits occur during the summer. Wilderness values could be affected if hunter numbers increase significantly. No effects to cultural resources or the refuge environment and community are expected.

The Service's Hunt Permit Application (Form 3-2356), refuge hunt permit (Annual), and Service's Big Game Harvest Report (Form 3-2359) will not be required under this alternative. Refuge staff will no longer have reliable information to use and provide to NGPC about hunter use and harvest. Harvest levels will be taken from NGPC telecheck and check station information, which may not be specific to the refuge. Wilderness character monitoring will be less exact. If concerns arise about adverse effects to wildlife populations or wilderness values, the refuge hunt permit and harvest report rules could be reinstated as a mitigation measure.

### **Public Review and Comment:**

This compatibility determination was prepared concurrently with the EA and companion hunting plan for the refuge. Public review and comment were achieved concurrently with the public review and comment period for the draft hunting plan and environmental assessment. Public review and comment were solicited through public posting of notices at the refuge and on the refuge's website.

**Determination (check one below):**

Use is not compatible.

Use is compatible with the below stipulations.

**Stipulations Necessary to Ensure Compatibility:**

Listed below are refuge-specific regulations that pertain to hunting on the refuge as of the date of this compatibility determination. These regulations may be modified as conditions change, or if refuge expansion continues or occurs. The following information is from 50 CFR 32.46.

*(c) Fort Niobrara National Wildlife Refuge—*

*(1) Migratory game bird hunting. We allow hunting of coot, crow, dark goose, dove, duck, light goose, rail, snipe, teal, and woodcock on designated areas of the refuge subject to the following conditions:*

*(i) Hunters may access the refuge from two hours before legal sunrise until two hours after legal sunset.*

*(ii) We allow access from designated areas of the refuge.*

*(iii) You must remove all blinds and decoys at the conclusion of each day's hunt (see §27.93 of this chapter).*

*(iv) We allow the use of dogs when hunting August 1 through April 30.*

*(2) Upland game hunting. We allow upland game hunting to include badger, bobcat, coyote, fox, long-tailed weasel, mink, opossum, prairie dog, porcupine, rabbit & hare, raccoon, skunk, squirrel, woodchuck, greater prairie chicken, grouse, partridge, pheasant, quail, and turkey on designated areas of the refuge subject to the following conditions:*

*(i) The conditions set forth at paragraphs (c)(1)(i), (ii), and (iv) of this section apply.*

*(ii) We allow hunting with muzzleloader, archery, shotgun, and falconry.*

*(iii) You may only possess nontoxic shot when hunting turkey (see § 32.2[k]).*

*(iv) Shooting hours for coyote, porcupine, prairie dog, woodchuck, and state-defined huntable furbearers are ½ hour before legal sunrise to ½ hour after legal sunset.*

*(3) Big game hunting. We allow hunting of deer, elk, and pronghorn antelope on designated areas of the refuge subject to the following conditions:*

*(i) The conditions set forth at paragraphs (c)(1)(i), (ii) of this section apply.*

*(ii) We allow hunting only with muzzleloader and archery equipment.*

*(iii) We allow portable tree stands and ground blinds to be used from August 16 through January 31.*

*(iv) We allow muzzleloader deer hunting subject to the following condition: Hunters must possess a refuge hunt permit (FWS Form 3-2439, Hunt Application—National Wildlife Refuge System) and comply with all of its terms and conditions.*

*(4) Sport fishing. We allow fishing on Minnechaduza Creek and on the Niobrara River, downstream from the Cornell Dam, subject to the following conditions:*

*(i) The conditions set forth at paragraphs (c)(1)(i) and (ii) of this section apply to anglers.*

*(ii) We prohibit the use of limb or set lines.*

*(iii) We prohibit the take of baitfish, reptiles, and amphibians.*

*(iv) We prohibit use or possession of alcoholic beverages while fishing on refuge lands and waters.*

**Justification:**

Based on the anticipated biological effects above and in the EA, it was found that hunting of resident game and migratory birds on the refuge will not interfere with the wildlife or habitat goals and objectives or purposes for which the refuge was established. Hunting is a priority public use as listed in the Improvement Act. By facilitating this use, visitors will gain knowledge and an appreciation of fish and wildlife, which will lead to increased public stewardship of wildlife and their habitats. Increased public stewardship will support and complement the Service's actions in achieving the purposes of the refuge and the mission of the Refuge System.

**Signatures:**

\_\_\_\_\_  
Steve Hicks, Project Leader

\_\_\_\_\_  
Date

**Review:**

\_\_\_\_\_  
Barbara Boyle, Refuge Supervisor

\_\_\_\_\_  
Date

**Approval:**

\_\_\_\_\_  
Maureen Gallagher, Refuge Chief  
Region 6

\_\_\_\_\_  
Date

**Mandatory 10- or 15-year Re-Evaluation Date:** 2035