

**Final Kirwin National Wildlife Refuge
Hunting and Fishing Plan**

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U.S. Fish and Wildlife Service

Kirwin National Wildlife Refuge

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Table of Contents

I.	Introduction	2
II.	Statement of Objectives.....	4
III.	Description of Hunting Program	4
A.	Areas to be Opened to Hunting	4
B.	Species to be Taken, Hunting Periods, Hunting Access	4
C.	Hunter Permit Requirements.....	8
D.	Consultation and Coordination with the State.....	8
E.	Law Enforcement	8
F.	Funding and Staffing Requirements	8
IV.	Conduct of the Hunting Program	9
A.	Hunter Permit Application, Selection, and Registration Procedures	9
B.	Refuge-Specific Hunting Regulations.....	9
C.	Other Refuge Rules and Regulations for Hunting	11
V.	Public Engagement.....	12
A.	Outreach for Announcing and Publicizing the Hunting Program	12
B.	Anticipated Public Reaction to the Hunting Program.....	18
C.	How Hunters will be Informed of Relevant Rules and Regulations	19
VI.	Compatibility Determination.....	19

List of Figures

Figure 1.	National Wildlife Refuge Locations in Kansas, Including Kirwin National Wildlife Refuge in Northcentral Kansas.	3
Figure 2.	Current and Proposed Hunting and Boating Opportunities at Kirwin National Wildlife Refuge.....	5
Figure 3.	Population Trend of Various Furbearer Species Based on Annual Roadside Indices ..	16

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Hunting and Fishing Plan

I. Introduction

National wildlife refuges are guided by the mission and goals of the National Wildlife Refuge System (Refuge System), the purposes of an individual refuge, United States (U.S.) Fish and Wildlife Service (Service) policy, and laws and international treaties. Relevant guidance includes the National Wildlife Refuge System Administration Act of 1966 (NWRSA), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act), Refuge Recreation Act of 1962, and selected portions of the Code of Federal Regulations and U.S. Fish and Wildlife Service Manual.

Kirwin National Wildlife Refuge (NWR) is a 10,778-acre overlay of Kirwin Reservoir in central Kansas (Figure 1) that was established in 1954. The refuge purpose serves to conserve, maintain, and manage wildlife, resources thereof, and their habitats on behalf of the National Migratory Bird Management Program. Specifically, the refuge was established under the following authorities and for these purposes:

- “. . . for use as an inviolate sanctuary, or for any other management purpose, for migratory birds” (Migratory Bird Conservation Act 1929 [16 U.S. Code 715d]).
- “. . . for the development, advancement, management, conservation, and protection of fish and wildlife resources” (Fish and Wildlife Act of 1956 [16 U.S. Code 742fa4]).
- “. . . for the benefit of the United States Fish and Wildlife Service, in performing its activities and services” (Fish and Wildlife Act of 1956 [16 U.S. Code 742fb1]).

Shortly after passage of the Flood Control Act of 1944, the construction of Kirwin Reservoir began in 1952 and was built for irrigation and flood control administered by the U.S. Bureau of Reclamation and the Kirwin Irrigation District. The overlay national wildlife refuge was established prior to the completion of the dam in August 1955 and began to store water in October of that year.

Habitats on the refuge consist of prairie grassland, cropland, open water, shoreline, wetlands, and riparian areas. The refuge lies in an area where the tallgrass prairies of the east meet the short-grass plains of the west. Therefore, this habitat supports both prairie and plains wildlife common to both habitats that occur on the refuge.

The mission of the Refuge System, as outlined by the NWRSA, as amended by the Improvement Act (16 U.S. Code 668dd et seq.), 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 United States for the benefit of present and future generations of Americans.”



Figure 1. National Wildlife Refuge Locations in Kansas, Including Kirwin National Wildlife Refuge in Northcentral Kansas.

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, 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 general 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 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.

Hunting is a traditional activity in central Kansas. Visitors to the refuge have enjoyed recreational activities such as hunting, fishing, wildlife observation, and wildlife photography since its establishment. In fact, hunting has been permitted on 5,800 refuge acres in accordance with federal and state regulations. Each year, between 40,000 and 90,000 people recreate at the refuge, depending on the water level and the fishing quality. The Service currently permits hunting in season for waterfowl, dove, pheasant, quail, turkey, prairie chicken, snipe, coot, cottontail rabbit, fox squirrel, and white-tailed deer. On any given day during hunting season, roughly 100 people enjoy the opportunity to pursue their favorite game species on the refuge.

II. Statement of Objectives

The objectives of a fishing and hunting program on the refuge are to provide the public with additional compatible wildlife-dependent recreational uses, and new opportunities for youth and those with special needs. These expanded uses will attract new users and therefore expand opportunities for environmental education, appreciation of natural resources, and inspiration to participate in other refuge uses that support the Refuge System mission.

III. Description of Hunting Program

A. Areas to be Opened to Hunting

- No new areas of the refuge will be opened to hunting; however, archery-only turkey hunting will be allowed on 2,095 new acres currently open to deer hunting (Figure 2).
- Parts of the refuge are designated as hunting areas and are shown on the map in the brochure (see Figure 2). On the refuge, hunting is prohibited outside the hunt areas or from across roads, trails, or parking areas.
- Refuge hunting areas are open for hunting activities from September 1 through April 30, as described in the hunting and fishing plan and newly published Code of Federal Regulations associated with this hunting and fishing plan.

B. Species to be Taken, Hunting Periods, Hunting Access

Hunting Hours

- The refuge is open to the public for hunting a half hour before sunrise to a half hour after sunset. Refuge hunting seasons are September 1 through April 30. Hunting hours follow state regulations but are more restrictive within the refuge area. Night hunting is prohibited; setting up and walking in before and after hunting hours are allowed, but no active pursuit of any species is allowed at night (a half hour after sunset to a half hour before sunrise).

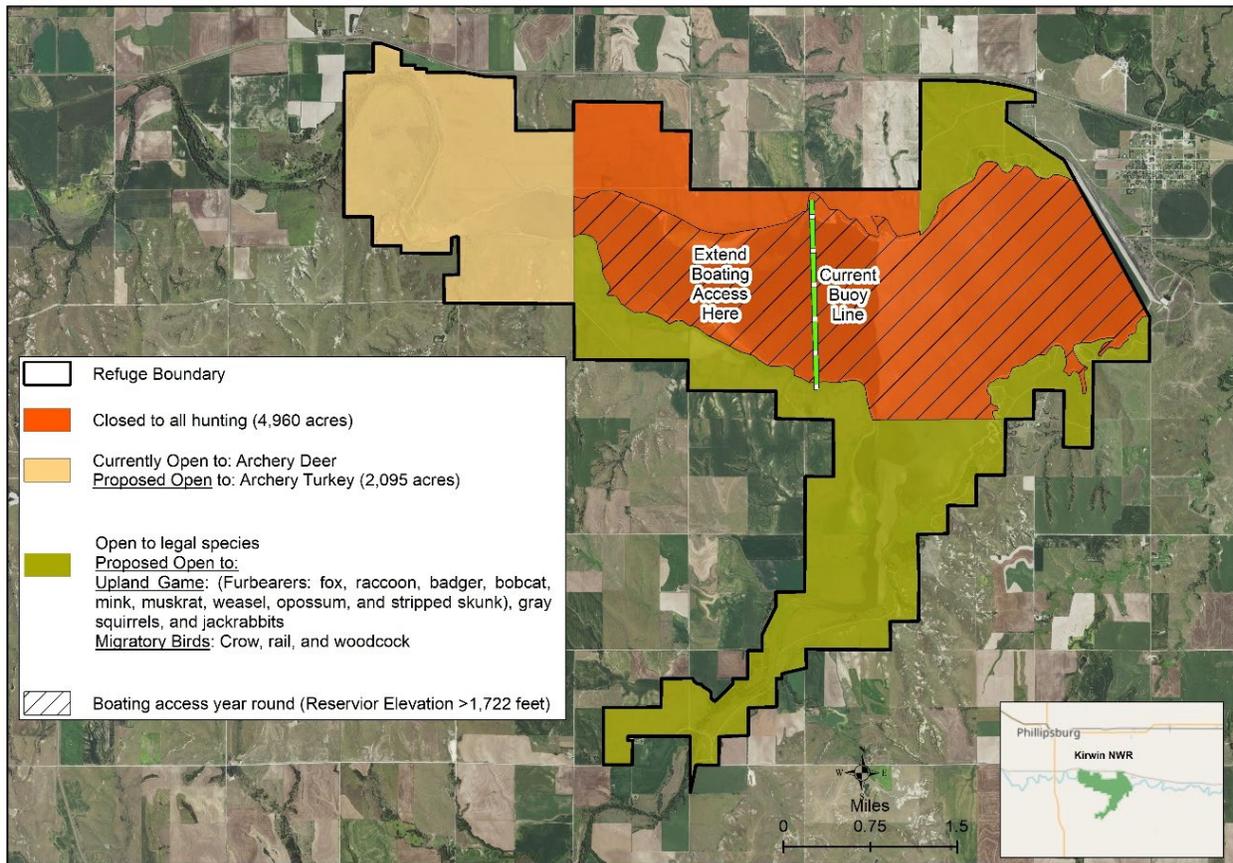


Figure 2. Current and Proposed Hunting and Boating Opportunities at Kirwin National Wildlife Refuge.

Methods of Take (Overall)

- Methods of take allowed on the refuge include archery and shotgun, no larger than 10 gauge. The refuge permits nontoxic shot only. Prohibited methods of take on the refuge include centerfire rifle, rimfire rifle, air rifle, pistol, trapping, running coyote and/or furbearers, and hunting from vehicles. Specific methods of take by species, or group of species, are identified under “Species to be Taken” and regulations described in more detail below.

Species to be Taken – Deer (State-Defined: White-Tailed Deer and Mule Deer)

- Deer hunting will be allowed with the method of take using archery equipment only.
- Deer youth and disability hunt season, the second week in September (currently September 7 through 15). Allowable methods include archery only.
- Archery deer seasons are in concurrence with state regulations and opportunities are by permit/draw only; a permit must be obtained to hunt deer on the refuge.

- Deer extended archery whitetail antlerless-only in January in concurrence with state regulations.

Species to be Taken – Turkey

- Turkey hunting is currently allowed but will be expanded into the archery-only hunting area on the western portion of the refuge.
- Methods of take include archery and shotgun (nontoxic shot only) no larger than 10 gauge, in concurrence with state regulations.

Species to be Taken – Coyote

- Coyote hunting will be permitted within specified units.
- Hunting permitted September through April when refuge hunt areas are open within the fall and winter hunting seasons.
- Limit of take in concurrence with state regulations (currently, no limit).
- Methods of take include archery and shotgun (nontoxic shot only) no larger than 10 gauge, in concurrence with state regulations.
- No use of vehicles, communication devices including radios, dogs, or bait is permitted.

Species to be Taken – Small Game (Squirrel, Rabbit [Cottontail, Jackrabbit])

- The refuge will permit squirrel (grey and fox) and rabbit (cottontail, jackrabbit) hunting.
- Methods of take include archery and shotgun (nontoxic shot only) no larger than 10 gauge, in concurrence with state regulations.
- Use of bait is prohibited.
- Use of decoys (except live decoys) and calls (including electronic calls) is permitted, in concurrence with state regulations.
- Maintain current seasons for the refuge (state seasons that fall within September through April; excluding May through August).

Species to be Taken – Furbearers (State-Defined Hunted Species Include Badger, Bobcat, Red Fox, Grey Fox, Swift Fox, Mink, Muskrat, Opossum, Raccoon, Striped Skunk, and Weasel)

- New state-defined furbearer species permitted to be hunted on the refuge include badger, bobcat, fox, mink, muskrat, opossum, raccoon, striped skunk, and weasel.
- Hunting of otter and beaver are prohibited, consistent with state regulations.
- At any time, the Service maintains the authority to limit hunting opportunities to special hunts or programs to maintain control of the furbearer species allowed to be taken, number of access permits, the days of hunting, and methods of take. Administration will be coordinated with the state. Otherwise, the Service will allow the state-defined limits (currently none) and the season described below.

- State-defined furbearer seasons are in concurrence with state regular seasons (currently November 13 through February 15) and state established limits (www.ksoutdoors.com/Hunting/When-to-Hunt).
- The use of calls and decoys is permitted.
- No hunting at night. The refuge is open a half hour before sunrise to a half hour after sunset.
- Methods of take include archery and shotgun (nontoxic shot only) no larger than 10 gauge.
- No dogs can be used for furbearer hunting.

Species to be Taken – Upland Gamebird (Pheasant and Quail [Bobwhite], Prairie Chicken)

- Maintain current hunting regulations.
- Methods of take include archery and shotgun (nontoxic shot only) no larger than 10 gauge.

Species to be Taken – Migratory Gamebirds (State-Defined)

- The refuge will permit hunting of coot, crow, duck, goose, merganser, mourning dove, rail, snipe, and woodcock in concurrence with state *regular* seasons and limits.
- Methods of take include archery and shotgun (nontoxic shot only) no larger than 10 gauge.
- The refuge permits hunting of light geese in concurrence with state regulations during established seasons but does end April 30 on the refuge.
- Crow is a new species of migratory gamebird that may be hunted.
 - Methods of take include archery and shotgun (nontoxic shot only) no larger than 10 gauge.
 - In concurrence with state *regular* seasons (currently November 10 through March 10) and state established limits (currently none).
- No falconry season on the refuge.
- No sandhill crane hunting is allowed.

Species to be Taken – Fish

- All refuge waters are open to sport fishing in accordance with state fishing regulations with the exceptions below.
 - Legal species: Fish species listed in the state fishing regulations may be taken.
 - Noncommercial collection of baitfish is allowed as governed by state regulations.

C. Hunter Permit Requirements

All state permit requirements apply on refuge lands, in addition to refuge-specific requirements. For deer and turkey, draw hunt permits and tags are required prior to hunting these species.

D. Consultation and Coordination with the State

Representatives of the Kansas National Wildlife Refuge Complex (Flint Hills, Quivira, and Marais des Cygnes NWRs) met with the Secretary of Kansas Department of Wildlife, Parks, and Tourism (KDWPT) and a KDWPT Wildlife Research Supervisor Migratory Bird Specialist about potential future hunting opportunities on the refuges on October 30, 2019 in Hartford, Kansas. The state shared organization and public interests and responded to proposed hunting opportunities (operations and regulations) at the meeting and in follow-up verbal and written communications with the Kansas NWR Complex and Kirwin NWR. The Service asked about recommendations and review of hunt programs, specifically special hunts and the use of state-coordinated programs. The Service specifically asked the state about including the refuge and refuge complex in state hunt registration and administered programs to ensure consistency and coordination. The Service agreed with state recommendations to improve the alignment with the state and among refuges in the refuge complex. Overall, the state was supportive of the Service's proposals to expanded hunting opportunities and both agencies confirmed the continuance of a strong partnership to support these efforts. The state regional office reviewed and concurred with the refuge-specific regulations. We, the Service, have and will continue to consult and coordinate on specific aspects of the hunting and fishing plan. The state is in agreement with the refuge and refuge complex hunting and fishing plan(s) because it will help meet state objectives.

E. Law Enforcement

Enforcement of refuge violations on the refuge is the responsibility of commissioned refuge law enforcement officer(s). Other refuge officers, special agents, state game wardens, and the local sheriff's department may assist the full-time officer at the refuge as necessary. Any law enforcement officer may enforce state laws on the refuge. The following methods are used to inform the public about hunting and fishing regulations: publication of the Code of Federal Regulations, a refuge brochure showing the area open and closed to hunting (excluding temporary closures for the protection of wildlife or the public that will be provided as necessary), signage along refuge boundaries or in specific units; in addition to other communications when possible (such as website, phone). Refuge law enforcement officers will randomly check hunters and fisherman for compliance with federal and state laws.

F. Funding and Staffing Requirements

Facilitating safe hunting and fishing activities require a considerable amount of time and expense to the refuge. For example, law enforcement officers may contribute over 40 hours per week starting in September through April. Transportation costs associated with law enforcement activities is estimated at nearly \$400 per week but fluctuates with fuel and maintenance costs. Operations that include posting open and closed signs and communication related to the protection of whooping cranes (or other species of concern or public safety) require an estimated 8 to 10 hours each spring and fall. Monitoring and management of whooping cranes is not all hunting-related; it is also of interest to nonconsumptive users and required for biological purposes (such as Recovery Act action). However, more time is spent checking whooping crane

use and location within hunt units and is estimated at 4 hours per week during migration. In addition, many hours are required to provide information to the public (such as phone, website, visitor's center, brochures, and news releases) throughout the hunting season and spring migration. Added communication costs are associated with printing hunting and fishing information for kiosks and the visitor center, and with maintenance of refuge infrastructure (such as roads, parking lots, boat access points, signs, facilities). Further monitoring related to other species (such as waterfowl) involves at least 150 hours per year. Time and cost are associated with public communications and coordination and administration with the state (such as special hunts). Future monitoring will involve many species, but much of the information will be used from state surveys and volunteer efforts (such as deer surveys and fur harvest data).

IV. Conduct of the Hunting Program

A. Hunter Permit Application, Selection, and Registration Procedures

Hunter permit application, selection, and registration procedures are implemented in coordination with the KDWPT. The refuge will try to align regulations whenever possible.

For special hunt opportunities, such as how the state will designate the proposed deer and turkey hunts on the refuge, the Service will maintain control and flexibility in limiting the number of hunters, access permits, the days of hunting, and the methods of take. The Service will follow procedures and schedules according to state special hunt operations.

B. Refuge-Specific Hunting Regulations

Listed below are the refuge-specific regulations that pertain to hunting on the refuge as of the date of this plan. These regulations may be modified as conditions change or if refuge expansion continues or occurs.

50 Code of Federal Regulations Part 32 Kirwin National Wildlife Refuge

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

- (i) You must remove portable hunting blinds and decoys at the end of each day's hunt (see section 27.93 of this chapter).*
- (ii) We prohibit shooting from or over roads and parking areas.*
- (iii) In Bow Creek, we allow hunting access by boat or on foot year round.*
- (iv) We allow the use of dogs when hunting migratory birds.*

(2) Upland game hunting. We allow hunting of cottontail rabbit, jack rabbit, pheasant, prairie chicken, quail, state-defined furbearers, and squirrel (fox and grey) on designated areas of the refuge subject to the following conditions:

- (i) We only allow shotguns and archery equipment when hunting upland game.*
- (ii) We allow the use of dogs when hunting upland game, except that we prohibit the*

use of dogs when hunting coyotes and furbearers.

(iii) Shooting hours for upland game species are one half hour before legal sunrise until legal sunset.

(iv) We prohibit the harvest of beaver and otter.

(v) The condition set forth at paragraph (b)(1)(ii) of this section applies.

(3) Big game hunting. We allow hunting of deer and turkey on designated areas of the refuge subject to the following conditions:

(i) We only allow archery hunting of deer.

(ii) We allow one portable blind or stand per hunter. You may place a stand on the refuge no more than 14 days prior to the season, and you must remove it within 14 days of the close of the season. You must remove a portable blind at the end of each day's hunt (see section 27.93 of this chapter). You must label any portable blind or stand with the owner's name and KDWPT number. Labels must be clearly visible from the ground.

(iii) You must obtain a refuge-issued permit (FWS Form 3-2405, Self-Clearing Check-In/Out Permit) to hunt deer on the refuge.

(iv) The condition set forth at paragraph (b)(1)(ii) of this section applies.

(v) We prohibit the use of dogs when hunting turkey.

(vi) You may possess only approved nontoxic shot for turkey hunting (see section 32.2(k)).

(4) Sport fishing. We allow sport fishing on designated areas on the refuge subject to the following conditions:

(i) We only allow boats for activities related to fishing.

(ii) We prohibit boating for fishing between October 1 and April 1 when the reservoir water elevation falls below 1,722 feet (measured on October 1), except in the Bow Creek Hunting Unit. Boats may be launched only at Scout Cove during this period.

(iii) We allow boating for fishing year-round, on the entire reservoir, only when the reservoir water elevation is above 1,722 feet (measured on October 1).

(iv) We allow noncommercial collection of baitfish as governed by state regulations.

(v) We prohibit all activities associated with fishing tournaments, outside of sport fishing itself, to include organized gatherings, registrations, weigh-ins, and award presentations to be held or organized on the refuge.

(vi) We prohibit the take of reptiles and amphibians.

Relevant State Regulations

- All other state regulations apply and are available from KDWPT.

C. Other Refuge Rules and Regulations for Hunting

Parking, Camping, Fires, and Boating

- Motorized vehicles are permitted only on developed roads and parking areas (see Figure 2). Driving off roads or on roads marked as closed by signs or barriers is not permitted. Parking in front of gates or on bridges or water control structures is not permitted.
- Overnight camping is prohibited on the refuge.
- Open fires of any type are prohibited on the refuge.
- The use of boats, canoes, and other watercraft is permitted but limited to the designated areas and dates described below.

Refuge and Cultural Resources

- All government property, including natural items such as antlers, plants, historic, and archaeological features are protected by federal law. Searching for or removal of objects of antiquity or other value is strictly prohibited.

Seasonal or Emergency Closures

- This refuge supports many species of conservation concern. All areas on the refuge may be closed to hunting for the protection of whooping cranes or other species, habitat, or the public as determined by the Service. Closed area signs may be erected on a temporary or permanent basis, but any of these signs apply to all public use activities. The Service may close hunting on the refuge if there is a concern about a long-term decline or sudden decline in the population at regional, state, or larger scales, though the state traditionally adjusts hunting and fishing regulations based on population trends.

Blinds/Tree Stands

- One portable blind or stand per hunter is allowed. You may place your blind or stand on the refuge no more than 14 days prior to the season, and you must remove it within 14 days of the close of the season. You must remove portable blinds at the end of each day's hunt. You must label portable blinds and stands with the owner's KDWPT number. Labels must be clearly visible from the ground.

Game Retrieval

- Retrieving nonpermitted species is prohibited on all refuge lands. Retrieving permitted species from areas closed to hunting is also prohibited, including temporary closures due to endangered species use (such as whooping cranes) during spring and fall migration.

Artificial Light

- Use of artificial light or light-gathering equipment is prohibited during the take of any game animal on the refuge.

Bait

- Baiting or the use of bait for hunting any species is prohibited on the refuge.

V. Public Engagement

A. Outreach for Announcing and Publicizing the Hunting Program

Initial outreach and public input regarding hunting and fishing occurred as part of development of the comprehensive conservation plan for the refuge (signed in 2006). Public scoping opportunities and input from tribes, state, and local individuals and agencies, nongovernment organizations, and Service staff occurred as part of a recently developed comprehensive conservation plan (CCP). KDWPT participated as part of the planning team. Comments throughout the planning process were considered in development of the hunting and fishing plan.

On April 1, 2020, the Service made the draft hunting and fishing plan and associated EA available to the public for a 30-day public review and comment period. The draft hunting and fishing plan and associated EA were amended, and the 30-day public review and comment period was extended through May 27, 2020. The draft hunting and fishing plan and associated EA were available at www.fws.gov/mountain-prairie/huntfish.php#. Hard copies were also available upon request. The Service received comments from seventeen individuals and two organizations. One commenter expressed support for expanding the fishing opportunities by allowing motorized boating in an area currently closed to motorized boats on Kirwin NWR. Fifteen commenters expressed opposition to the proposed expansion of fishing opportunities by allowing motorized boating in an area currently closed to motorized boats on Kirwin NWR. One individual and two organizations were partially opposed to the proposed expanded opportunities for both hunting and fishing. Opposition from the two organizations pertained to hunting of coyote, bobcat, and locally rare or uncommon species, and largely considered conflicts with the refuge's frequent nonconsumptive users and any increased potential disturbance of whooping cranes. The majority of comments received were local opposition to the proposed expansion of fishing opportunities and the potential overutilization of the lake and associated impacts on fish populations within the reservoir. The discussion of comments we received follow by topic below.

Comments and Agency Response

Comment (1): A couple comments expressed general opposition to any hunting on the national wildlife refuge. These and other comments voiced that hunting was antithetical to the purposes of a refuge.

Response: The NWRSA, as amended, stipulates that hunting (along with fishing, wildlife observation and photography, and environmental education and interpretation), if found to be compatible, is a legitimate and priority general public use of a refuge and should be facilitated. The Service has adopted policies and regulations implementing the requirements of the NWRSA that refuge managers comply with when considering hunting and fishing programs. The need for the proposed action also meets the Service's implementation of Secretarial Order 3347 *Conservation Stewardship and Outdoor Recreation* and Secretarial Order 3356 *Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories* by expanding hunting opportunities and aligning Service

regulation with state regulations.

We allow hunting of resident wildlife on national wildlife refuges only if such activity has been determined compatible with the established purpose(s) of the refuge and the mission of the Refuge System as required by the NWRSA. Hunting of resident wildlife on national wildlife refuges generally occurs consistent with state regulations, including seasons and bag limits. Refuge-specific hunting regulations can be more restrictive (but not more liberal) than state regulations and often are more restrictive in order to help meet specific refuge objectives. These objectives may include resident wildlife population and habitat objectives, limiting disturbance impacts to wildlife, maintaining high-quality opportunities for hunting and other wildlife-dependent recreation, eliminating or minimizing conflicts with other public uses and/or refuge management activities, and protecting public safety.

Each refuge manager makes a decision on hunting on that particular refuge after rigorous examination of available information. Developing or referencing a CCP, a 15-year plan for the refuge, is generally the first step taken by a refuge manager. Our policy for managing units of the Refuge System is to manage all refuges in accordance with an approved CCP, which, when implemented, will achieve refuge purposes; help fulfill the Refuge System mission; maintain and, where appropriate, restore the ecological integrity of each refuge and the Refuge System; help achieve the goals of the National Wilderness Preservation System; and meet other mandates. The CCP guides management decisions and sets forth goals, objectives, and strategies to accomplish these ends. Following the development or referencing of a CCP, refuge managers develop or reference step-down plans, which would include a hunting plan. After completing the step-down plan, the process to open a refuge for hunting requires compliance with the National Environmental Policy Act (NEPA; 42 U.S. Code 4321 et seq.), which may include conducting an environmental assessment accompanied by the appropriate decision documentation (record of decision, finding of no significant impact, or environmental action memorandum or statement). The remaining requirements to open a refuge for hunting include an evaluation of section 7 of the Endangered Species Act of 1973, as amended (16 U.S. Code 1531 et seq.), copies of letters requesting state and/or tribal involvement, and draft refuge-specific regulatory language. We make available the CCP, hunting plan, and NEPA documents, and request public comments on them, as well as on any proposed rule, before we allow hunting on a refuge or other Refuge System lands.

In sum, this illustrates that the decision to allow hunting on a national wildlife refuge is not a quick or simple process. It is full of deliberation and discussion, including review of all available data to determine the relative health of a species population before we allow it to be hunted.

The word “refuge” includes the idea of providing a haven of safety for wildlife, and as such, hunting might seem an inconsistent use of the Refuge System. However, the NWRSA stipulates that hunting, if found compatible, is a legitimate and priority general public use of a refuge. Furthermore, we manage refuges to support healthy wildlife populations that, in many cases, produce harvestable surpluses that are a renewable resource. As practiced on refuges, hunting and fishing do not pose a threat to wildlife populations. It is important to note that taking certain individuals through hunting does not necessarily reduce a population overall, as hunting can simply replace other types of mortality. In some cases, however, we use hunting as a management tool with the explicit goal of reducing a population; this is often the case with exotic and/or invasive species that threaten ecosystem stability. Therefore, facilitating hunting

opportunities is an important aspect of the Service's roles and responsibilities as outlined in the legislation establishing the Refuge System, and the Service will continue to facilitate these opportunities where compatible with the purpose of the specific refuge and the mission of the Refuge System.

Not all refuges are inviolate sanctuaries. If we acquired a refuge as an inviolate sanctuary, we may open up to 40 percent of that refuge's area for hunting of migratory game birds (16 U.S. Code 668dd[d][1][A]). However, if we acquired a refuge without the stipulation that it be an inviolate sanctuary, we may open 100 percent of the refuge's area for hunting. The Improvement Act (16 U.S. Code 7421) amended Section 6 of the NWRSA to provide for the opening of all or any portion of an inviolate sanctuary to the taking of migratory birds if taking is determined to be beneficial to the species. Such opening of more than 40 percent of the refuge to hunting is determined by species. This amendment refers to inviolate sanctuaries created in the past or to be created in the future; it has no application to areas acquired for other management purposes.

We did not make any changes to the hunting and fishing plan as a result of these comments.

Comment (2): One commenter pointed out there are current hunting and fishing opportunities on this refuge and other public lands, such as U.S. Forest Service lands, Bureau of Land Management lands, and state areas; therefore, the proposed additional hunting opportunities on national wildlife refuges in Kansas is not necessary.

Response: Congress, through the NWRSA, as amended, envisioned that hunting, fishing, wildlife observation and photography, and environmental education and interpretation would all be treated as priority public uses of the Refuge System. Therefore, the Service facilitates all of these uses on refuges, as long as they are found compatible with the purposes of the specific refuge and the mission of the Refuge System.

We did not make any changes to the hunting plan or environmental assessment as a result of these comments.

Comment (3): Several commenters felt that predators (coyotes, bobcats) should not be hunted on refuges due to their biological importance in refuge ecosystems, and that the cumulative impacts of hunting these species was not thoroughly analyzed by the Service. Commenters stated bobcat density estimates vary and are poorly understood, and that bobcats are limited by available prey, competition, predation, and are susceptible to disease. For these reasons, the commenters felt that “trophy hunting” of these species is inappropriate. They also felt that hunting of these species is unethical and the common methods of take for these species, including baiting, hounding, and trapping are unsportsmanlike.

Response: Refuge managers consider predator management decisions on a case-by-case basis. As with all species, a refuge manager makes a decision about managing predator populations, including allowing predatory species to be hunted, only after careful examination to ensure the action would comply with relevant laws, policies, and directives. The NWRSA, as amended, directs the Service to manage refuges for “biological integrity, diversity, and environmental health” and mandates that “regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with state fish and wildlife laws, regulations, and management plans” (16 U.S. Code 668dd[m]). Opportunities for hunting predators, as described in the regulations, are to bring greater consistency with state fish and

wildlife laws, regulations, and management plans. For refuges, hunting decisions are only made after careful consideration by the refuge manager to ensure that such actions would not threaten the integrity, diversity, and overall health of the ecosystem and were compatible with both the purpose of the refuge and the mission of the Refuge System. Finally, both the NEPA process and the rulemaking process provide the opportunity for public to provide comments and any additional information on impacts of our actions. We considered the additional information provided from the public on this issue during these public comment periods and determined that they did not affect our initial determinations that these small and minor opportunities for hunting predators on Kirwin NWR had no more than minor impacts on the population health of these species or other wildlife at the local, regional, or national level.

Most of the predator species listed, if allowed to be hunted on a refuge, are only allowed to be hunted with restrictions, such as in number, area, time, and methods of take. Trapping is not an option in the proposed hunting and fishing plan. Baiting is prohibited on all refuges outside Alaska (50 Code of Federal Regulations 32.2[h]), unless specifically authorized under station-specific regulations, and authorization of baiting is uncommon. The use of dogs for hounding is prohibited on refuges (50 Code of Federal Regulations 26.21[b]) unless authorized by station-specific regulations. Many refuges only authorize the use of dogs for retrieval of migratory birds, upland game birds, and small game, and most refuges require authorized dogs to be under the immediate control of the hunter at all times, or leashed unless actively retrieving an animal.

Comment (4): One commenter felt while the environmental assessment provides some discussion of population trends for raccoons and coyotes, it provides no estimates of population numbers or trends of other “furbearer” species, or any other analysis of these species’ ability to withstand additional hunting pressure. The Service has a legal duty to ensure that the biological integrity, diversity, and environmental health of the system are maintained for the benefit of present and future generations of Americans (16 U.S. Code 668dd[a][1], [4]). The Service cannot act consistent with that duty when authorizing the exploitation of ecologically important predator species like bobcats, especially given the myriad other threats they face and the lack of data on their current populations.

The commenter also felt the draft environmental assessment’s analysis of impacts to furbearers is deficient because it provides no analysis of how new hunting opportunities on the refuge could impact the other species to be targeted. It also fails to consider an alternative that would not expand hunting to ecologically important predators, such as bobcats, and it provides no cumulative impacts of furbearer hunting on the refuge when combined with hunting elsewhere in the state or country.

Response: The NWRSAA, as amended, mandates that “regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with state fish and wildlife laws, regulations, and management plans” (16 U.S. Code 668dd[m]). Opportunities for hunting predators, as described in the regulations, are to bring greater consistency with state fish and wildlife laws, regulations, and management plans. For refuges, hunting decisions are only made after careful consideration by the refuge manager to ensure that such actions would not threaten the integrity, diversity, and overall health of the ecosystem and were compatible with both the purpose of the refuge and the mission of the Refuge System. In the EA for Kirwin NWR, population trends were provided on furbearer and other species besides raccoons and coyotes. Some of the trends provided were for the appropriate region of north-

central Kansas, which showed stable to increasing trends following severe drought. Statewide trends, which are also stable to increasing, are provided in Figure 3.

The majority of annual harvest of bobcats in Kansas is a result of trapping, which is not a method of take being proposed at Kirwin NWR. For furbearer species, the proposed hunting opportunities limit the hunted area (less than 40 percent of refuge lands), time (season and hours; no hunting at night), and methods of take (e.g., no trapping or baiting). Collectively, these restrictions limit take and, therefore, impacts associated with other hunted species and/or with population trends at different landscape scales. Additionally, furbearer species have access to hunted and non-hunted lands both on and off the refuge (for example, bobcats have average home range size of 2–4 square miles for females and about twice as large for males (www.ksoutdoors.com/Hunting/Furharvesting/Furbearers/Bobcat, accessed 5-21-2020)).

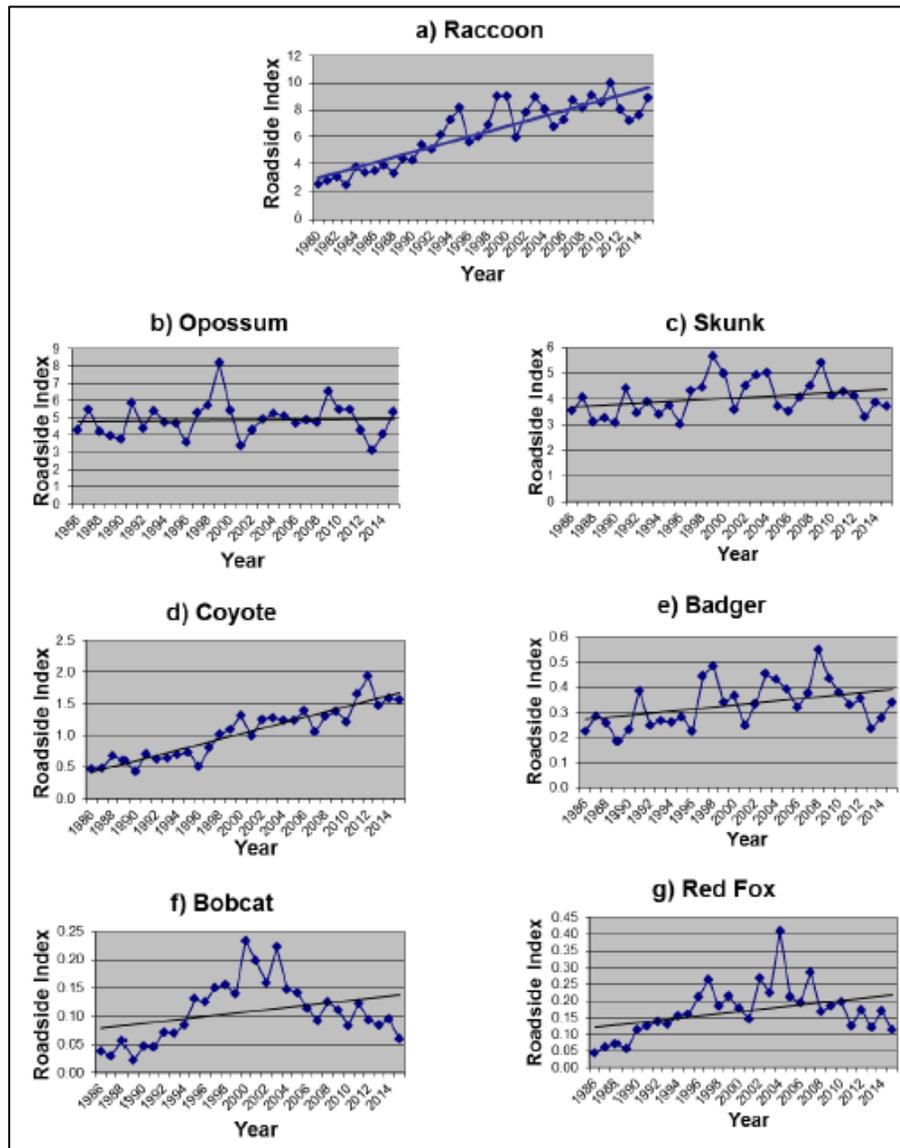


Figure 3. Population Trend of Various Furbearer Species Based on Annual Roadside Indices

Comment (5): One commenter expressed an opinion that skunks and opossums are not desirable game species and are largely nocturnal, making hunting of these species an unlikely means of population control. The commenter also felt muskrat, mink, fox, badger, and bobcats either are uncommon on the refuge or are nocturnal, and thus either not likely to be desirable quarry for hunters or, if hunted, not found. The commenter asserted a change in regulation is not required to control burgeoning populations or to fulfill an urgent popular demand for an open season on these species.

Response: The NWRSAA (16 U.S. Code 668dd [a][4]), as amended, stipulates that hunting (along with fishing, wildlife observation and photography, and environmental education and interpretation), if found compatible, is a legitimate and priority general public use of a refuge and should be facilitated. The Service has adopted policies and regulations implementing the requirements of the NWRSAA that refuge managers comply with when considering hunting and fishing programs. The need for the proposed action also meets the Service's implementation of Secretarial Order 3347 *Conservation Stewardship and Outdoor Recreation* and Secretarial Order 3356 *Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories* by expanding hunting opportunities and aligning Service regulation with state regulations.

We did not make any changes to the hunting and fishing plan or EA as a result of these comments.

Comment (6): One commenter expressed concern of the use of lead in ammunition and/or fishing tackle. The Service (Kirwin NWR is representative of the Service) was praised for supporting the use of nontoxic ammunition. The commenter stated science demonstrates harm that lead poisoning causes eagles and other wildlife, and provided a website with supporting documentation (www.diversity.box.com/s/63lkfzz46uprpu67sfk31on118ixnj4f), requesting that these studies be included in the official record for this project. The commenter felt the draft environmental assessment acknowledged potential impacts from lead poisoning but failed to take the "hard look" required under NEPA.

Response: The proposed hunting opportunities on Kirwin NWR only allow use of nontoxic ammunition. Adverse environmental impacts of lead are acknowledged in the EA. The Service continues to educate hunters and anglers on the impacts of lead on the environment, and particularly on human health and safety concerns of ingesting animals harvested with lead ammunition. At a national scale, the Service continues to phase-out the use of lead ammunition and tackle on lands in cooperation with our state partners. Fishing on Kirwin NWR has been allowed since 1954 when the Bureau of Reclamation established the irrigation reservoir. The Service proposes expansion of fishing opportunities on the refuge by motorized boat; however, the area is already open for fishing with non-motorized boat and from the bank of the reservoir. We encourage anglers to voluntarily use nontoxic tackle for all harvest activities. Lead alternatives to both ammunition and tackle are becoming more widely available and used by hunters and anglers, however, they remain more expensive.

Kirwin NWR supports lead alternatives and recommends the use nontoxic tackle on the refuge. We have added opportunities to educate the public on the effects of lead on natural resources to the hunting and fishing plan and EA as a result of these comments.

Comment (7): There were several comments from local residents expressing general concern against proposed expansion of fishing opportunities, focused on negative impacts to the reservoir fisheries, which is managed by the KDWPT.

Response: In passing the Improvement Act, Congress reaffirmed that the Refuge System was created to conserve fish, wildlife, plants, and their habitats, and would facilitate opportunities for Americans to participate in compatible wildlife-dependent recreation, including hunting and fishing on Refuge System lands. We prioritize wildlife-dependent recreation, including hunting and fishing, when doing so is compatible with the purpose of the refuge and the mission of the Refuge System.

Fishing is a priority public use as listed in the Improvement Act and has been found compatible at Kirwin NWR. Opportunities for fishing will be provided based on refuge goals and objectives and in accordance with state regulations.

Based on the biological impacts addressed in the final EA, the Service determined recreational fishing will not materially interfere with the habitat goals and objectives or purposes for refuge establishment. The refuge has been open to fishing from bank and by boat since establishment in 1954.

Congress, through the NWRSAA, as amended, envisioned that hunting, fishing, wildlife observation and photography, and environmental education and interpretation would all be treated as priority public uses of the Refuge System. Therefore, the Service facilitates all of these uses on refuges, as long as they are found compatible with the purposes of the specific refuge and the mission of the Refuge System. There are several other compatible public uses enjoyed by the public on Kirwin NWR and providing an expanded fishing opportunity is not expected to impact federal trust species. Boating is not a priority public use; however, it does facilitate the six priority public uses. By specifying areas, time of year, no wake zones, and implementing a seasonal boat closure, boating is determined to be a compatible use. Based on biological impacts described in the final EA and the final CCP, it is determined that boating in support of the six priority public uses within the Kirwin NWR would not materially interfere with or detract from the purpose for which the refuge was established.

There will be no changes to the seasonal boat closure (October 1 to April 1) when water elevations are below 1,722 feet elevation. Access to the lake by both motorized and non-motorized boats already exists. The proposed new fishing opportunities will address the removal of the current buoy line, which is difficult for the refuge to maintain and enforce on the fluctuating elevation of the irrigation reservoir. The reservoir does freeze over in the winter months and is inaccessible to motorized boats when the water elevations are low. The refuge maintains the authority to close any particular area of the refuge to conserve and protect federal trust species including threatened and endangered species or for purposes of public safety.

We did not make any changes to the hunting and fishing plan or EA as a result of these comments.

B. Anticipated Public Reaction to the Hunting Program

Based on the comments received for the CCP (signed 2006), there may be reactions to the addition and expansion of hunting opportunities on the refuge. While hunting has been allowed on the refuge for decades, there are concerns about species of conservation concern, such as the

whooping crane, and the balance of compatible consumptive and nonconsumptive uses. Hunting, fishing, wildlife observation, and other wildlife-based activities are important economic and recreational uses in Kansas.

C. How Hunters will be Informed of Relevant Rules and Regulations

Information regarding hunting, fishing, and other wildlife-dependent public uses may be obtained at the refuge office at 702 E. Xavier Road, Kirwin, Kansas 67644 or by calling (785) 543-6673. Dates, forms, directions, maps, and application and permit requirements will be available at the office and visitor's center, and information will be posted on the refuge website: www.fws.gov/refuge/Kirwin/.

VI. Compatibility Determination

Hunting and all associated program activities proposed in this plan are compatible with the purposes of the refuge. See the Final Compatibility Determination for Hunting and Fishing on Kirwin NWR (www.fws.gov/mountain-prairie/huntfish.php#).