

Draft Compatibility Determination for Hunting on National Elk Refuge

Use: Pronghorn and white-tailed deer hunting

Refuge Name: National Elk Refuge

Counties: Teton County, WY

Establishing and Acquisition Authority(ies):

- “The establishment of a winter game (elk) reserve...” Stat. 293, August 10, 1912
- “For the establishment and maintenance of a winter elk refuge in the state of Wyoming...” Stat 847, March 4, 1913
- “All lands that now or may hereafter be included within the boundaries of...the Elk Refuge, Wyoming...are hereby further reserved and set apart for the use of the Department of [Interior] as refuges and breeding grounds for birds.” Executive Order 3596, December 22, 1921
- “For use of the Secretary of [the Interior] as a refuge and breeding ground for birds...” Executive Order 3741, September 20, 1922
- “For grazing of, and as a refuge for, American elk and other big game animals...” Stat 1246, February 25, 1927
- “For the development, advancement, management, conservation, and protection of fish and wildlife resources...” Fish and Wildlife Act of 1956
- “Suitable for – (1) incidental fish and wildlife-oriented recreational development. (2) the protection of natural resources. (3) the conservation of endangered species or threatened species...” 16 United States (U.S.) Code 460-k-1 (Refuge Recreation Act of 1962)
- “Ensure that the biological integrity, diversity, and environmental health of the System are maintained for the benefit of present and future generations of Americans...” National Wildlife Refuge System Administration Act of 1966 (NWRSA), as amended (16 U.S. Code 668dd-eee)

Refuge Purpose(s):

The National Elk Refuge (NER or Refuge) was established in 1912 as a “winter game (elk) reserve” (37 Stat 293, 16 U.S. Code 673). In the following year, Congress designated the area as “a winter elk refuge” (37 Stat 847). In 1921, all lands included in the refuge, or that might be added in the future, were reserved and set apart as “refuges and breeding grounds for birds” (Executive Order 3596), which was affirmed in 1922 (Executive Order 3741). In 1927, the

refuge was expanded to provide “for the grazing of, and as a refuge for, American elk and other big game animals” (44 Stat 1246, U.S. Code 673a).

National Wildlife Refuge System Mission:

The mission of the National Wildlife Refuge System (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 United States for the benefit of present and future generations of Americans.

Other Applicable Laws, Regulations and Policies:

- Antiquities Act of 1906 (34 Stat. 225)
- Migratory Bird Treaty Act of 1918 (15 U.S. Code 703-711; 40 Stat. 755)
- Migratory Bird Conservation Act of 1929 (16 U.S. Code 715r; 45 Stat. 1222)
- Migratory Bird Hunting Stamp Act of 1934 (16 U.S. Code 718-178h; 48 Stat. 451)
- Criminal Code Provisions of 1940 (18 U.S. Code 41)
- Bald and Golden Eagle Protection Act (16 U.S. Code 668-668d; 54 Stat. 250)
- Refuge Trespass Act of June 25, 1948 (18 U.S. Code 41; 62 Stat. 686)
- Fish and Wildlife Act of 1956 (16 U.S. Code 742a-742j; 70 Stat. 1119)
- Refuge Recreation Act of 1962 (16 U.S. Code 460k-460k-4; 76 Stat. 653)
- Wilderness Act (16 U.S. Code 1131; 78 Stat. 890)
- Land and Water Conservation Fund Act of 1965
- National Historic Preservation Act of 1966, as amended (16 U.S. Code 470, et seq.; 80 Stat. 915)
- National Wildlife Refuge System Administration Act of 1966 (16 U.S. Code 668dd, 668ee; 80 Stat. 927)
- National Environmental Policy Act of 1969 (NEPA) (42 U.S. Code 4321, et seq; 83 Stat. 852)
- Use of Off-Road Vehicles on Public Lands (Executive Order 11644, as amended by Executive Order 10989)
- Endangered Species Act of 1973 (16 U.S. Code 1531 et seq; 87 Stat. 884)
- Refuge Revenue Sharing Act of 1935, as amended in 1978 (16 U.S. Code 715s; 92 Stat. 1319)

- National Wildlife Refuge Regulations for the Most Recent Fiscal Year (50 Code of Federal Regulations [CFR] Subchapter C; 43 CFR 3101.3-3)
- Emergency Wetlands Resources Act of 1986 (S.B. 740)
- North American Wetlands Conservation Act of 1990
- Food Security Act (Farm Bill) of 1990, as amended (HR 2100)
- The Property Clause of the U.S. Constitution Article IV 3, Clause 2 The Commerce Clause of the U.S. Constitution Article 1, Section 8
- The National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57, U.S. Code 668dd)
- Executive Order 12996, Management and General Public Use of the National Wildlife Refuge System, March 25, 1996
- Title 50, CFR, Parts 25-33 Archaeological Resources Protection Act of 1979
- Native American Graves Protection and Repatriation Act of 1990

Description of Use:

What is the use? Is the use a wildlife-dependent public use?

The refuge will be opened to limited hunting of pronghorn and white-tailed deer, as outlined in the Draft National Elk Refuge Pronghorn and White-Tailed Deer Hunting Plan (USFWS 2021).

This is a wildlife-dependent public use.

Where would the use be conducted?

On National Elk Refuge, within the Pronghorn and White-tailed Deer Hunt Areas as described in the Draft National Elk Refuge Pronghorn and White-Tailed Deer Hunting Plan (USFWS 2021).

When would the use be conducted?

Pronghorn Archery Hunting – August 15 through September 9, annually.

Pronghorn Firearms Hunting – September 10 through October 31, annually.

White-Tailed Deer Archery Hunting - September 1 through September 14, annually.

White-Tailed Deer Firearms Hunting – September 15 through October 6, annually.

How would the use be conducted?

In accordance with the Draft National Elk Refuge Pronghorn and White-Tailed Deer Hunting Plan (USFWS 2021), state and federal hunting regulations.

Availability of Resources:

Resources involved in the administration and management of the use: The addition of pronghorn and white-tailed deer hunting to the current refuge hunt program will require moderate U.S. Fish and Wildlife Service (Service) resources. Expenses will include program management staff resources, boundary posting, signage, and law enforcement program staffing. Current refuge management covers all these expenses on an annual basis. Estimated costs to implement this hunting plan are estimated to be \$10,000.00 for the first year. Annual execution and operation of this hunting plan will also require an increase of 10 percent of the current refuge law enforcement program staff. This will moderately detract from other law enforcement duties. To compensate for limited refuge law enforcement staff time, the Service will continue the use of overtime and rely on assistance from the Utah and Wyoming Patrol Captain, as well as detailers from other refuge law enforcement programs. Management program staff time will not increase from current levels.

Special equipment, facilities, or improvements necessary to support the use: None

Maintenance costs: Minor and insignificant

Monitoring costs: Minor and insignificant

Offsetting revenues: None

Anticipated Impacts of the Use:

See Draft Environmental Assessment for Pronghorn and White-Tailed Deer Hunting on the National Elk Refuge 2021 (www.fws.gov/mountain-prairie/huntfish.php).

Public Review and Comment:

This draft Compatibility Determination was made available to the public during the 30-day comment period for the Draft National Elk Refuge Pronghorn and White-Tailed Deer Hunting Plan 2021 and associated EA. The draft Hunting Plan and associated EA will be available at www.fws.gov/mountain-prairie/huntfish.php#.

Determination:

Use is not compatible

Use is compatible with the following stipulations

Stipulations Necessary to Ensure Compatibility:

- Adherence to the Draft National Elk Refuge Pronghorn and White-Tailed Deer Hunting Plan (USFWS 2021), state and federal hunting regulations, and refuge regulations.

References:

U.S. Fish and Wildlife Service. 2021. Draft National Elk Refuge Pronghorn and White-Tailed Deer Hunting Plan. National Elk Refuge. Jackson, WY. 9 pp. www.fws.gov/mountain-prairie/huntfish.php

Justification:

This alternative meets the purpose and needs of the Service, as it will provide additional wildlife-dependent recreation opportunities on the refuge and facilitate regulating the Jackson area white-tailed deer population to reduce potential competition with other native ungulates.

Signatures:

_____	_____
Frank Durbian, Project Leader	Date

Review:

_____	_____
Lisa Talcott, Refuge Supervisor	Date

Approval:

_____	_____
Stacy Armitage, Refuge Chief	Date

Mandatory 10- or 15-year Re-Evaluation Date: 2036