Draft Compatibility Determination

Compatibility Determination for Cooperative Farming, Jocelyn Nungaray National Wildlife Refuge

Refuge Use Category

Agriculture, Aquaculture, and Silviculture

Refuge Use Type(s)

Farming (cooperative)

Refuge

Jocelyn Nungaray National Wildlife Refuge

Refuge Purpose(s) and Establishing and Acquisition Authority(ies)

"... for use as an inviolate sanctuary, or for any other management purpose, for migratory birds." 16 U.S.C. § 715d (Migratory Bird Conservation Act).

"... the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions ..." 16 U.S.C. § 3901(b), 100 Stat. 3583 (Emergency Wetlands Resources Act).

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"... 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 U.S.C. § 460k-1 "... the Secretary ... may accept and use ... real ... property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors ..." 16 U.S.C. § 460k-2 (Refuge Recreation Act (16 U.S.C. § 460k-460k-4), as amended).

"... for the development, advancement, management, conservation, and protection of fish and wildlife resources ..." 16 U.S.C. § 742f(a)(4) "... for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude ..." 16 U.S.C. § 742f(b)(1) (Fish and Wildlife Act of 1956).

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 (Pub. L. 105-57; 111 Stat. 1252).

Description of Use

Is this an existing use?

Yes

This compatibility determination (CD) reevaluates and replaces the previous compatibility determination for cooperative farming on Jocelyn Nungaray National Wildlife Refuge. Cooperative farming has been conducted on the refuge as a long-established habitat management practice, and was evaluated and found compatible in conjunction with the Texas Chenier Plain National Wildlife Refuge Complex Environmental Impact Statement/Comprehensive Conservation Plan/Land Protection Plan (USFWS 2008a) and its associated Record of Decision (USFWS 2008b).

This use is being reevaluated to bring the determination current with the national compatibility determination template and current refuge management direction, and because the prior determination cycle has lapsed (603 FW 2.11(H)). Cooperative farming has continued without interruption during this period.

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What is the use?

The use is cooperative farming, cropland management carried out by private citizens on refuge lands, under the terms of a "Cooperative Agricultural Agreement" (agreement(s)) in which the cooperator provides labor, equipment, and materials and the Government provides the land. Jocelyn Nungaray National Wildlife Refuge (NWR or refuge) proposes to continue the cooperative farming program in designated areas that are compatible with refuge purposes. Farming on the refuge is accomplished through agreements with local cooperators.

Is the use a priority public use?

No

Where would the use be conducted?

The use is conducted on designated cropland areas of the refuge that have been previously farmed. The refuge farm program includes approximately 2,700 acres of farm base as defined by the U.S. Department of Agriculture (USDA), distributed annually to cooperative farmers on a rotational basis. Not all of the farm base is cultivated each year; cooperators farm a portion of the base annually on a rotation, leaving the remainder as "maintenance" acreage. The specific acreage farmed annually varies based on refuge management objectives, USDA farm program requirements, and wildlife habitat needs. These croplands provide shallow freshwater

wetland and early-successional habitat used by migratory waterfowl, shorebirds, wading birds, rails, and other wildlife.

When would the use be conducted?

Farming activities occur year-round in support of an annual crop cycle. Planting typically begins in spring (March through May), and harvest typically occurs from late summer through late fall (August through October). Cooperators have exclusive rights to both farmed acres and maintenance acres; maintenance acres must be maintained annually. Cooperators are allowed to take the first crop and are required to flood fields after harvest. Flooding after harvest makes existing waste grain available to waterfowl and often produces a second or ratoon crop, which is left for wildlife.

How would the use be conducted?

Farming is conducted under a Cooperative Agricultural Agreement, a multi-year agreement that outlines the obligations and expectations of the U.S. Fish and Wildlife Service (Service) and the cooperator for the use of croplands on the refuge. The agreement consists of a Commercial Special Use Permit and a Plan of Operations. Cooperators provide the labor, equipment, and materials necessary to conduct farming, including land leveling, levee maintenance, seeding, fertilization, and water management. Cooperators are allowed to take the first crop and are required to maintain levees and flood fields after harvest. Cooperators must disc, rollerchop, spray, or mow noxious weeds on all maintenance acres each year in accordance with the USDA farm program. Cooperators conduct farming operations in accordance with standard commercial agricultural best management practices. All herbicides and pesticides must be pre-approved through the national Pesticide Use Permit (PUP) process. All farming activities must be conducted in accordance with the terms and conditions of the Cooperative Agricultural Agreement and applicable refuge requirements. Participation in the program involves close coordination with the USDA Farm Service Agency.

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Why is this use being proposed or reevaluated?

The cooperative farming program is a valuable and cost-effective habitat management tool for the refuge. Crops such as rice provide a high-carbohydrate energy source used by migrating and resident waterfowl, songbirds, and other wildlife during the wintering and migration seasons, allowing the energy requirements of migrating wildlife to be met largely within the safety of refuge lands. Cooperative farming enables efficient, concentrated production of food plants and increased habitat value for wildlife, provides additional economic activity for the

surrounding community, and avoids the substantial personnel, fuel, and equipment costs that the refuge would otherwise incur to achieve comparable habitat conditions.

This is an existing use being reevaluated to bring the determination current with the national template and current refuge management direction, and because the prior determination cycle has lapsed (603 FW 2.11(H)). All farming and chemical use will continue to be conducted in a manner that minimizes impacts on farmed and unfarmed areas of land and water.

Availability of Resources

To comply with the Refuge Recreation Act (Public Law 87-714), the Project Leader must determine whether sufficient resources—financial, staffing, facilities, or other infrastructure—are available to support the proposed use without materially interfering with the refuge purpose(s) or the mission of the National Wildlife Refuge System. This determination should be informed by a review of current capacity and, where applicable, the refuge's Comprehensive Conservation Plan (CCP).

Assessment of current resources and capacity

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Adequate funding and staff are available to manage the cooperative farming program. Refuge cooperative farmers apply best agricultural management practices on refuge lands. They maintain and level fields and levees, purchase seed, apply fertilizers, and handle all other aspects of farming on their respective farm units. If pesticides or herbicides are warranted, the cooperator will follow all PUP guidelines and regulations.

Cooperative farming occurs through the use of existing staff and facilities. Existing resources such as agreement administration, compliance monitoring, and coordination with USDA are made possible through existing refuge staff.

Refuge staff administer the cooperative farming program through agreement administration, compliance monitoring, coordination with cooperators and the U.S. Department of Agriculture, and monitoring and evaluation of the use. We estimate that these functions require approximately 6 percent of one full-time equivalent, or roughly 125 staff hours per year (Table 1). Recurring non-labor costs to the refuge are estimated at approximately $50,565 per year, consisting of the cooperative farming share of gravel road maintenance and associated vehicle travel.

Basis for cost and staffing estimates. Staffing is expressed as full-time equivalents (FTE) at 2,080 hours per FTE. Equipment is charged at published hourly ownership and operating rates: agricultural tractor with batwing mower at $100 per hour (FEMA Schedule of Equipment Rates, cost code 8400 plus mower attachment), and road grader, dump truck, front-end loader and track hoe at rates from the U.S. Army Corps

of Engineers Construction Equipment Ownership and Operating Expense Schedule (EP 1110-1-8). Operator time is counted separately as staff hours and is not included in those rates. Vehicle travel is estimated at 50 miles per 8-hour workday at the 2026 Internal Revenue Service standard business mileage rate of $0.725 per mile. Road and facility costs are annualized on a straight-line basis over their maintenance or replacement cycle. Costs of refuge law enforcement are not attributed to individual uses.

Allocation of shared costs. Costs not caused by a single use are allocated among uses by the refuge's observed share of road and facility use, as recorded in the refuge cost and FTE workbook. Costs that cannot be attributed to a single use are carried under base refuge management and are not charged to any individual use.

Table 1. Costs to Administer and Manage Cooperative Farming

Category and Itemization	One-time Cost	Recurring Annual Expenses
Supplies and equipment (vehicle travel)	—	$566
Staff time (program coordinator 80 hr; management and administration 40 hr; gravel road work 5 hr)	—	125 hr / 0.06 FTE
Maintenance (hunting/farming/resource gravel road, 25 percent farming share)	—	$49,999
Total recurring annual expenses		**$50,565 + 0.06 FTE**
Offsetting revenues	**—**	**Cooperator in-kind services and/or bid payments**
Total expenses	**None**	**$50,565 + 0.06 FTE**

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Impacts of changes to resources and capacity

The availability of resources is subject to change and the level of use provided may vary based on current staffing, partner support, funding, or infrastructure conditions. Costs may increase over time, in relation to changes in the costs for equipment, maintaining facilities, etc. A substantial increase to the number of requests may also create the need for additional resources to administer the use. The Project Leader will use sound professional judgment in evaluating whether the refuge or its partners can develop, operate, and maintain the use in a compatible manner.

For other refuge uses, if resource conditions shift such that the refuge can no longer sustain the use in a compatible manner, the Project Leader may modify or suspend the use pursuant to 50 CFR 25.21 (or 50 CFR 36.42 for Alaska). The public will be notified of any changes to refuge uses, including temporary modification or suspension, re-evaluation of compatibility and/or discontinuing of refuge uses.

Potential impacts of a proposed use on the refuge's purpose(s) and the Refuge System mission

The effects and impacts of the proposed use to refuge resources, whether adverse or beneficial, are those that are reasonably foreseeable and have a reasonably close causal relationship to the proposed use. This CD includes the written analyses of the environmental consequences on a resource only when the impacts on that resource could be more than negligible and therefore considered an "affected resource."

- Green sea turtle (*Chelonia mydas*) (Threatened)
- Hawksbill sea turtle (*Eretmochelys imbricata*) (Endangered)
- Kemp's Ridley sea turtle (*Lepidochelys kempii*) (Endangered)
- Loggerhead sea turtle (*Caretta caretta*) (Threatened)
- Piping Plover (*Charadrius melodus*) (Threatened)
- Red Knot (*Calidris canutus rufa*) (Threatened)
- West Indian Manatee (*Trichechus manatus*) (Threatened)
- Eastern Black Rail (*Laterallus jamaicensis jamaicensis*) (Threatened)
- Whooping Crane (*Grus americana*) (Endangered)
- Monarch Butterfly (*Danaus plexippus*) (Proposed Threatened)
- Tricolored Bat (*Perimyotis subflavus*) (Proposed Endangered)

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Short-term impacts

The following species may occur on or near the refuge and warrant consideration under the Endangered Species Act of 1973, as amended. The refuge is coordinating Section 7 consultation with the Texas Coastal and Central Plains Ecological Services Field Office (Project Code 2026-0104349); effect determinations and any additional avoidance and minimization measures will be finalized through that consultation.

The sea turtle species (green, hawksbill, Kemp's Ridley, and loggerhead) and the West Indian manatee are not expected to be impacted, as farming activities occur inland on previously farmed croplands and do not affect the marine or estuarine habitats these species use.

Piping Plovers and Red Knots have been documented wintering and foraging on mudflats and coastal portions of the refuge; however, farming activities typically occur outside of the migratory window and in different habitats, and no impacts are expected.

The Eastern Black Rail has been documented on the refuge year-round. The species' 4(d) rule excludes prohibitions on routine agricultural operations such as cereal grain farming, and cooperative farming occurs on previously farmed croplands rather than the high-marsh and wet-prairie habitat the species occupies. With the avoidance and minimization measures established through Section 7 consultation and incorporated into the associated Cooperative Agricultural Agreement and Special Use Permit, the cooperative farming program may affect, but is not likely to adversely affect, the Eastern Black Rail.

The Tricolored Bat may occur on the refuge during portions of the year; however, cooperative farming activities are not expected to affect suitable roosting or foraging habitat for the species.

Monarch butterflies migrate through the refuge and may use agricultural fields and adjacent habitats during migration. While some temporary disturbance to monarch habitat may occur during active farming years, the program also maintains early-successional habitat beneficial to monarchs and other pollinators through regular soil disturbance and vegetation management across a larger acreage than is actively farmed in any given year.

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Whooping Cranes have been documented on the refuge, although their occurrence is infrequent. The refuge is within the range of both the Aransas–Wood Buffalo migratory population, which winters on the upper Texas coast, and the Louisiana Non-migratory Population, which has expanded into southeastern Texas. Whooping Cranes are known to use harvested and shallowly flooded agricultural fields as foraging habitat. The cooperative farming program — particularly the post-harvest flooding requirement, the ratoon crop left for wildlife, and the availability of waste grain and aquatic invertebrates such as crawfish — provides beneficial foraging conditions. With the avoidance and minimization measures established through Section 7 consultation and incorporated into the associated Cooperative Agricultural Agreement and Special Use Permit, the cooperative farming program may affect, but is not likely to adversely affect, the Whooping Crane, and is expected to offer incidental foraging benefits should their use of the refuge increase in the future.

Long-term impacts

The cooperative farming program provides shallow freshwater wetland habitat and serves several long-term management outcomes for migratory bird management on the refuge, including forage for migrating and wintering waterfowl, habitat for migrating shorebirds, and freshwater habitat for breeding and brood-rearing King

Rails (*Rallus elegans*), Mottled Ducks (*Anas fulvigula*), and Fulvous (*Dendrocygna bicolor*) and Black-bellied Whistling Ducks (*Dendrocygna autumnalis*). Fields prepared and planted in spring provide hundreds of acres of bare ground and shallow water habitat for migrating shorebirds. During summer, irrigated fields and associated canals and drains provide emergent wetland nesting habitat commonly used by Purple Gallinules (*Porphyrio martinicus*), Fulvous Whistling Ducks, King Rails, Common Gallinules (*Gallinula galeata*), and Least Bitterns (*Ixobrychus exilis*) (Pierluissi 2006). Farmed fields and infrastructure often provide the majority of freshwater nesting habitat for some of these species on the refuge during drought years when fresh water is a limiting factor.

Flooding after harvest makes existing waste grain available to waterfowl and often produces a second crop, which is also left for wildlife. During migration and wintering periods, waterfowl and waterbirds extensively use post-harvest fields that were cultivated and at least partially flooded (Czech and Parsons 2002). During winter, flooded fields can provide waterbird habitat similar to natural wetlands (Elphick 2000).

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Agricultural production has declined over recent decades in the counties surrounding the refuge, reducing this type of agricultural wetland habitat for waterfowl, shorebirds, and other wetland-dependent species. Abandoned fields and pasturelands are susceptible to invasion by Chinese tallow (*Triadica sebifera*), eastern baccharis (*Baccharis halimifolia*), and deep-rooted sedge (*Cyperus entrerianus*), all of which decrease habitat quality and require extensive restoration. In the absence of the cooperative farming program, the acres involved would likely become infested with Chinese tallow absent intensive restoration and invasive species management.

Use of pesticides in the cooperative farming program has potential impacts to fish and wildlife, particularly aquatic resources. Careful oversight and monitoring of pesticide use by the refuge minimize the potential for long-term impacts. All applications are conducted in accordance with state and federal laws and regulations and using only Service-approved pesticides through the PUP process. Pesticide use is monitored and reported by the cooperator. Integrated pest management strategies, including mechanical soil manipulation and water management, are used to control plant and insect pests, with an overall goal of reducing pesticide use on the refuge while maintaining the agricultural objectives of the program.

Farming occurs only on lands that have been previously farmed. The adverse impacts described above are minimal and do not persist beyond individual cropping cycles, and the use is not expected to incrementally add to other state, private, or federal

actions proposed or currently occurring in the area. Continued loss and fragmentation of coastal prairie and freshwater wetland habitats on the upper Texas coast have increased the importance of actively managed freshwater habitats on the refuge for migratory birds and other wildlife. In addition to its habitat value, the program supports wildlife observation, wildlife photography, and public hunting opportunities on the refuge.

Public Review and Comment

The draft Compatibility Determination will be available for public review and comment for 30 calendar days, from November 30 through December 30, 2026. The draft Compatibility Determination will be shared directly with relevant stakeholders, including representatives of the State of Texas and federally recognized Tribes in Texas, for review and comment. The public will be made aware of this comment opportunity through postings at the refuge and notices in media outlets with local distribution. A hard copy of this document will be posted at the Texas Chenier Plain National Wildlife Refuge Complex headquarters at 4017 FM 563, Anahuac, Texas 77514. It will be made available electronically on the refuge website at https://www.fws.gov/refuge/jocelyn-nungaray. Concerns expressed during the public comment period will be addressed in the final determination.

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Determination

Is the use compatible?

Yes

Stipulations Necessary to Ensure Compatibility

1. Cooperators are allowed to take the first rice crop, but leave the second or ratoon (a new shoot or sprout springing from the base of a crop plant after cropping) crop for wildlife.
2. Cooperators must maintain levees and flood fields after harvest.
3. Cooperators must disc, rollerchop, spray, or mow noxious weeds on all maintenance acres each year according to the USDA Farm Program.
4. Cooperators must use only those pesticides approved by the USFWS. Written records of pesticide applications must be provided annually by the cooperator.
5. All farming activities must be conducted in accordance with the terms and conditions of the Cooperative Agricultural Agreement, the associated Plan of Operations, and applicable refuge requirements.
6. Cooperative farming activities will comply with all species-specific avoidance and minimization measures established through Section 7 consultation with the Texas Coastal and Central Plains Ecological Services Field Office. These measures will be incorporated into each Cooperative Agricultural Agreement and associated Special Use Permit and may be updated as consultation is

completed or revised.

7. The cooperative farming program will be administered in accordance with the Service's Cooperative Agricultural Use policy (620 FW 2), including the general conditions for cooperative agriculture, cooperator selection through an open and competitive process, and documentation of each agreement on the required Cooperative Agricultural Agreement form.

Changes in timing of field preparation and harvest, more efficient harvest technology, and more precise field leveling may, over time, reduce the value of farming to wildlife. Changes in the cooperative farming program must be evaluated in terms of wildlife benefits and economic viability. It is essential that refuge staff evaluate new methods and technologies as they develop, and work with permittees to ensure that the program continues to support refuge management objectives. Regular reevaluation of the program will be necessary to ensure compatibility in the long term.

Justification

Cooperative farming use was analyzed in the Environmental Impact Statement (USFWS 2008a) for the refuge's CCP and documented in the associated Record of Decision (USFWS 2008b). Cooperative farming use was found to be appropriate and compatible on Jocelyn Nungaray NWR. Environmental conditions and farming operations have not changed substantially since those analyses. Conditions and stipulations imposed through cooperative farming agreements ensure that farming activities are conducted in a manner that meets refuge habitat objectives while minimizing impacts to refuge resources.

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The Biological Integrity, Diversity, and Environmental Health Policy (601 FW 3) was approved in 2001 and updated in 2006 to implement the National Wildlife Refuge System Improvement Act of 1997. This policy provides Refuge Managers with an evaluation process to analyze refuge resources and recommend the best management practices in concert with the refuge purpose(s) and the Refuge System mission. This policy specifically addresses farming in 601 FW 3.15(B) and 601 FW 3.15(C).

> "Our habitat management plans call for the appropriate management strategies that mimic historic conditions while still accomplishing refuge objectives... Farming, haying, logging, livestock grazing, and other extractive activities are permissible habitat management practices only when prescribed in plans to meet wildlife or habitat management objectives, and only when more natural methods, such as fire or grazing by native herbivores, cannot meet refuge goals and objectives." [601 FW 3.15(B)]
>
> "We do not allow refuge uses or management practices that result in the maintenance of non-native plant communities unless we determine there is no feasible alternative for accomplishing refuge purpose(s)." [601 FW 3.15(C)]

In addition, this policy provides guidance on biological integrity, diversity, and

environmental health in a landscape context (601 FW 3.7(C)).

> "In pursuit of refuge purposes, individual refuges may at times compromise elements of biological integrity, diversity, and environmental health at the refuge scale in support of those components at larger landscape scales. When evaluating the appropriate management direction for refuges, Refuge Managers will consider their refuges' contribution to biological integrity, diversity and environmental health at multiple scales." [601 FW 3.7(C)]

Consistent with 601 FW 3.15(B), cooperative farming on Jocelyn Nungaray NWR is prescribed specifically to meet wildlife and habitat management objectives, and it accomplishes those objectives at a scale and cost that more natural methods alone cannot achieve on the refuge's freshwater impoundments. Rather than maintaining a non-native plant community as an end in itself, cooperative farming functions as an active habitat-management tool that regenerates native, seasonally flooded wetland vegetation from the refuge's existing seedbank (Strader and Stinson 2005). The periodic soil disturbance and flood-and-drawdown cycle associated with rice culture mimic the natural wet-and-dry hydrology of the coastal prairie, setting back succession and stimulating germination of native moist-soil annuals already present in the seedbank (Fredrickson and Taylor 1982). Depending on the timing of disturbance and drawdown, these include smartweeds (*Polygonum* spp.), flatsedges (*Cyperus* spp.), spikerush (*Eleocharis* spp.), bulrushes (*Schoenoplectus* spp.), sprangletop (*Leptochloa* spp.), and wild millet (*Echinochloa* spp.), along with submerged aquatic vegetation on reflood (Strader and Stinson 2005). Together with waste grain, the ratoon crop left for wildlife, and the aquatic invertebrates that flooded fields produce, this native vegetation supplies the high-energy, high-protein forage base that sustains wintering and migrating waterfowl, shorebirds, wading birds, and rails.

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The refuge acknowledges that the cooperative farming program may influence some aspects of biological integrity, diversity, and environmental health on the cultivated share of the refuge. Consistent with 601 FW 3.7(C), however, this temporary and localized disturbance is applied in support of native wetland communities and functions at both the refuge and larger landscape scales. In the absence of the cooperative farming program, the acres involved would not revert to native marsh; they would likely become infested with Chinese tallow and other invasive species absent intensive restoration and invasive-species management. By using temporary agricultural disturbance as a cost-effective surrogate for natural disturbance, the program restores native moist-soil vegetation and the wetland functions associated with it, allowing the refuge to meet its CCP (2008) objectives and provide vital wintering waterfowl habitat in the most productive and cost-effective manner available.

Agriculture provides many benefits to a variety of wildlife on the upper Texas coast. The cooperative farming program on Jocelyn Nungaray NWR provides critical freshwater wetland habitat for shorebirds, rails, raptors, ducks, geese, wading birds, and other waterbirds, and many of these agricultural fields play important roles in

public use programs on the refuge, particularly wildlife observation, photography, and public waterfowl hunting. When conducted in accordance with the stipulations listed herein, the cooperative farming program would not materially interfere with or detract from the fulfillment of the National Wildlife Refuge System mission or the purposes for which Jocelyn Nungaray NWR was established. Rather, appropriate and compatible cooperative farming is a use through which the refuge sustains native wetland habitat and the public can develop an appreciation for wildlife and wild lands.

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Signature of Determination

Refuge Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

September 2036

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