

Draft Compatibility Determination

Title

Draft Compatibility Determination for Cultural/Ceremonial Bison Hunting by Federally Recognized Native American Tribes, National Elk Refuge.

Refuge Use Category

Hunting

Refuge Use Type(s)

Special Hunting Event – Cultural/Ceremonial Bison Hunting.

Refuge

National Elk Refuge

Refuge Purpose(s) and 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.” Exec. Order 3596, December 22, 1921

“...for use of the Secretary of [the Interior] as a refuge and breeding ground for birds...” Exec. 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 USC 460-k-1 (Refuge Recreation Act of 1962)

“...(B) 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, as amended (16 USC 668dd-eee)

National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System, otherwise known as 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. The cultural/ceremonial bison hunt, as referenced in the Comprehensive Conservation Plan (CCP) for the National Elk Refuge (2015) is being expanded to include additional federally recognized native American tribes (hereafter referred to as “tribes”) that claim traditional/ancestral, or treaty based hunting rights on the National Elk Refuge.

What is the use?

Cultural/Ceremonial hunting of bison by tribal members.

Is the use a priority public use?

No

Where would the use be conducted?

Cultural bison hunts will typically take place in the southern half of the refuge and are dependent on the location of bison on the refuge on the day of the hunt. Hunt locations are selected in areas that are not easily visible to the public to protect the privacy of the ceremony, facilitate presence of bison, and allow for maximum accessibility by tribal hunters.

When would the use be conducted?

Cultural hunts will be conducted after the end of the general state managed bison hunting season and prior to elk antler collection activities on the Refuge, typically late winter/early spring. Hunts will not be conducted while elk and bison are being supplementally fed.

How would the use be conducted?

A special Use Permit (SUP) will be required by each tribe conducting cultural bison hunts. The SUP will include special provisions, as needed, in regard to the conduct of the hunt.

- Only tribal members enrolled with the tribe operating under the SUP will be granted authorization to participate in the hunt.
- Annual harvest limits for cultural/ceremonial bison hunts will be determined in cooperation with the Wyoming Game and Fish Department via a Memorandum of Understanding with the FWS. The annual maximum harvest limit will be divided equally between participating tribes and within these limits each tribe may be allowed a maximum of five bison.
- During the hunt, refuge management and federal/state game wardens may be present to observe the conduct of the hunt.
- SUP requests for cultural bison hunts are due by December 31st of the year immediately prior to the proposed winter/spring hunt period to allow for coordination of multiple hunts and refuge management activities.
- Participants are not exempt from Refuge Administration Regulations or other applicable federal laws.
- This Compatibility Determination (CD) and SUPs issued in accordance with this CD are not recognition of off-reservation Treaty Rights by participating tribes.
- The maximum number of shooters is restricted to the allowable maximum harvest number. Shooters will be identified by name in the SUP request.
- Each shooter will be accompanied by a spotter who will assist the shooter with visually tracking the bison selected for harvest and assess the resulting shot placement and need for additional shots. The spotter can serve as a backup shooter in the event that the shooter needs assistance in completing a quick and humane kill. A designated shooter/spotter team will approach a bison or group of bison selected for harvest prior to other hunters engaging the same bison or bison group to avoid confusion and reduce the potential of overharvest.
- Firearms and other weapons used to harvest bison will meet Tribal and Wyoming Game and Fish requirements for the harvest of big game.
- Only shooters and spotters will be allowed to possess hunting firearms and weapons during the hunt. Tribal law enforcement officers may possess weapons for law enforcement purposes and for serving as backup shooters.
- As the refuge is not open to general public use, Tribal members participating in a pre-hunt ceremony but not the actual hunt, are restricted to the use of the pre-hunt ceremony site. Tribal members assisting with bison retrieval may

accompany hunters to the site of the harvest.

- As the refuge prohibits the public collection of antlers, bison skulls or other wildlife parts, Tribal members are also prohibited from collecting these items.

Why is this use being proposed or reevaluated?

This use is being reevaluated as the cultural/ceremonial bison hunt referenced in the Comprehensive Conservation Plan (CCP) for the National Elk Refuge (2015) is being expanded to include other tribes that claim traditional, or treaty based hunting rights on the National Elk Refuge. The original CD for hunting in the CCP only included the Shoshone-Bannock Tribe's. Additional tribes have requested authorization to conduct cultural bison hunts on the Refuge and this CD serves to expand upon the previous CD to include additional tribes. Cultural bison hunts serve to honor the historic use of this area by tribes and provide opportunities for tribes to celebrate their cultural traditions.

Availability of Resources

The analysis of cost for administering and managing each use will only include the incremental increase above general operational costs that we can show as being directly caused by the proposed use. This use can be accommodated with existing resources as identified in the Table 1.

Table 1. Costs to Administer and Manage [Name of Use]

Category and Itemization	One-time Cost	Recurring Annual Expenses
Develop Plan/NEPA document/opening package	\$2,000	--
Staff time (LE, administration and management)	\$2,000	\$1,500
Monitoring	--	\$500
Total one-time expenses	\$4,000	
Total recurring annual expenses		\$2,000
Offsetting revenues	--	--
Total expenses	\$4,000	\$2,000

Anticipated Impacts of the Use

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.” Fish, habitat and vegetation, geology and soils, air quality, water quality, visitor use, cultural resources, and socioeconomics will not be more than negligibly impacted by the action and have been dismissed from further analyses.

Short-term impacts

Increasing the number of tribes participating in cultural bison hunts on the refuge will not significantly create additional short term impacts to bison, other wildlife, threatened and endangered species (see Section 7 Intra-Service Consultation for Cultural/Ceremonial Bison Hunting by Native American Tribes, 2022), and refuge management and operations beyond those described in impact or affect in the Comprehensive Conservation Plan and Environmental Assessment for the National Elk Refuge (2015) and the Compatibility Determination for Hunting on the National Elk Refuge (2015).

Long-term impacts

Increasing the number of tribes participating in cultural bison hunts on the refuge will not significantly create additional long term impacts to bison, other wildlife, threatened and endangered species (see Section 7 Intra-Service Consultation for Cultural/Ceremonial Bison Hunting by Native American Tribes, 2022), and refuge management and operations beyond those described in impact or affect in the Comprehensive Conservation Plan and Environmental Assessment for the National Elk Refuge (2015) and the Compatibility Determination for Hunting on the National Elk Refuge (2015).

Public Review and Comment

The draft compatibility determination will be available for public review and comment for 14 calendar days from April 22 to May 6, 2022. The public will be made aware of this comment opportunity through local newspapers. Wyoming Game and Fish

Department and Tribes have been asked to review and comment on the draft compatibility determination. A hard copy of this document will be posted at the Refuge Headquarters at 675 East Broadway, Jackson, WY 83001 and Visitor Center at 532 North Cache Street, Jackson WY 83001. It will be made available electronically on the refuge website [National Elk Refuge | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/nler). Please let us know if you need the documents in an alternative format. Concerns expressed during the public comment period will be addressed in the final compatibility determination.

Determination

Is the use compatible?

Choose an item.

Stipulations Necessary to Ensure Compatibility

1. Issuance of a SUP to participating Tribe(s).
2. Adherence to stipulations listed under the conduct of the hunt as referenced in this CD.
3. Adherence to hunt location as referenced in this CD.
4. Adherence to hunt timing as referenced in this CD.

Justification

Cultural bison hunting, as outlined in this compatibility determination, would not conflict with national policy to maintain the biological diversity, integrity, and environmental health of the National Elk Refuge. Based on the stipulations outlined above, it is anticipated that wildlife populations will find sufficient food resources and resting places such that their abundance and use of the Refuge will not be measurably lessened as a result of allowing cultural bison hunting on the National Elk Refuge. The relatively limited number of individual animals expected to be adversely affected as a result of cultural bison hunting will not cause wildlife populations to materially decline, the physiological condition and production of species present will not be impaired, their behavior and normal activity patterns will not be altered dramatically, and their overall welfare will not be negatively impacted. Based on available science and best professional judgement, the Service has determined that the cultural bison hunt at the National Elk Refuge, in accordance with the stipulations provided here, would not materially interfere with or detract from the National Wildlife Refuge System mission or the purposes of the National Elk Refuge.

Signature of Determination

Refuge Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

Delete this text and insert year for reevaluation

Literature Cited/References

Compatibility Determination for Hunting on the National Elk Refuge. 2015. U.S. Fish and Wildlife Service, Jackson, WY. 2 pp.

Comprehensive Conservation Plan and Environmental Assessment: National Elk Refuge. 2015. U.S. Fish and Wildlife Service, Jackson, WY. 333 pp.