

**FINDING OF NO SIGNIFICANT IMPACT
AND DECISION TO OPEN TO PUBLIC ACCESS**

**WAPATO LAKE NATIONAL WILDLIFE REFUGE
*Gaston, Oregon***

The U.S. Fish and Wildlife Service (Service) is opening Wapato Lake National Wildlife Refuge (NWR/Refuge) to wildlife observation, wildlife photography, environmental education, and interpretation in accordance with the Refuge's Public Access Plan. The Public Access Plan is a step-down plan from the Tualatin River National Wildlife Refuge Proposed Wapato Lake Unit, Land Conservation Plan and Environmental Assessment (USFWS 2007) and Tualatin River National Wildlife Refuge Comprehensive Conservation Plan (USFWS 2013). The public access area being considered includes the top of the approximately 2.6 miles of the five-mile levee that partially surrounds the 800-acre wetland basin known as Wapato Lake. In addition, areas adjacent to the levees on the lakebed, a higher ground portion on the northern end of the lakebed, and the access trail to the Refuge are included.

Wapato Lake NWR is currently only open for waterfowl hunting. The Refuge prepared a separate Environmental Assessment (EA) and Hunt Plan to open for waterfowl hunting in 2020. In the Draft Public Access Plan and EA, the Refuge evaluated other potential wildlife-dependent recreational opportunities including wildlife observation, photography, environmental education, and interpretation, where compatible and safe, while assessing potential conflicts between uses.

The Refuge has prepared a Public Access Plan (Plan) for Wapato Lake NWR (USFWS 2022), which is incorporated by reference and attached to the Final EA to provide more details on the Refuge's public use access program. Additionally, a Wapato Lake NWR Environmental Assessment (USFWS 2019) provides habitat restoration information that informs potential public uses within the wetland basin. The Refuge would continue to implement restoration of Wapato Lake as outlined in the Environmental Assessment.

Selected Action

Alternative B with modifications

The selected alternative has been modified from the original Alternative B, in response to public comments. In addition, trail mileage in the Final Plan (2.85 miles) differs from mileage in the Draft Plan and EA (3.35 miles) because unsafe levee conditions required closing the southernmost mile of the levee trail to public access. Seasonal closures under the selected alternative have been updated to incorporate whole months rather than partial months to avoid confusion. Hours of access were also changed from "30 minutes before sunrise to 30 minutes after sunset," to "sunrise to sunset," to improve enforceability.

The new selected alternative opens the refuge to public access for wildlife observation and photography, environmental education, and interpretation from February through November until levee repairs are complete (estimated for 2027). From February through September, the public may walk/hike on the full length (2.6 miles) of the designated levee trail and the 0.25-mile paved entrance trail seven days per week, during daylight hours only (sunrise to sunset). In October and November, when waterfowl hunting under the State season is occurring on private lands adjacent to the Refuge and on private inholdings within the Refuge, the public may walk/hike on the northern 1.3 miles of the levee trail seven days per week, during daylight hours only. The southern 1.3 miles of the levee trail will be closed to all public access, including hunting access, during that time. Only waterfowl hunters with refuge permits may access the refuge in December and January. Access to the northern 1.3-miles of the levee trail would be limited to selected hunters and their parties with a Refuge permit on Tuesdays, Thursdays, and Saturdays.

After levee repairs are complete, the public may walk/hike on the full length (2.6 miles) of the designated levee trail and the 0.25-mile paved entrance trail seven days per week from February through the start of the State waterfowl hunting season (mid-October), during daylight hours only (sunrise to sunset). Only waterfowl hunters with refuge permits may access the refuge during the State waterfowl season. Access to the northern 1.3-miles of the levee trail would be limited to selected hunters and their parties with a Refuge permit on Tuesdays, Thursdays, and Saturdays. The entire 2.6-mile levee trail and the 0.25 mile paved entrance trail would be closed to all other public access during the State waterfowl hunting season. Informational signage clarifying all access and restrictions will be installed.

Until lakebed restoration and levee repairs are complete (estimated for 2027), the lake will need to continue to be dewatered in most years to facilitate rebuilding the failing levee system. The lakebed generally fills from precipitation by mid-December. The refuge waterfowl hunt is open in accordance with the state season, which generally runs from mid-October through January, but because of the lack of water, hunting on the refuge does not currently begin until mid-December. While restoration and levee repairs are ongoing, we will be collecting data on public use activity and wildlife use of the Refuge and will initiate a complete review of the public use program, including waterfowl hunting. We expect to begin our evaluation of public use when we get closer to completing levee repairs to determine if changes to the hunt or public access plan are warranted. Any proposed changes would be evaluated in a separate review and NEPA document.

As described in the EA, selected trail closures during the hunt season reduces the potential for user group conflicts, maximizes the time of year for the general public to visit the refuge, provides sanctuary in the form of “rest days” for wildlife during the full hunt season, and provides an area that is relatively free from disturbance on the southern part of the refuge during the State waterfowl season. The selected alternative offers new opportunities for public access and fulfills the Service’s mandate under the National Wildlife Refuge System

Improvement Act of 1997, to provide opportunities for wildlife observation, wildlife photography, environmental education, and interpretation, when compatible.

Other Alternatives Considered and Analyzed

Alternative A— Opening Wapato Lake NWR to Year-Round Non-Hunting Public Access

Alternative A considered opening the refuge to public access year-round, with alternating closures during the hunt season mid-October-January. This alternative was identified as the preferred alternative in the Draft EA but was not selected after multiple public comments concerning safety and confusion, and concerns that alternating open days would result in conflicts between hunters and the general public. Although we would utilize signage, social media and other forms of outreach to potential visitors, we have since determined that mitigating these concerns would require more on-site resources than we have available for monitoring and enforcement. We also determined that this alternative could result in unacceptably high levels of wildlife disturbance on all days of the week in the northern (non-sanctuary) portion of the Refuge during the fall migration and wintering period.

Alternative B— Opening Wapato Lake NWR to Seasonal Non-Hunting Public Access:

Alternative B considered opening the Refuge to the public from February to September, and closing the refuge to public access during the full hunt season, from mid-October to January. Access would be limited to permitted hunters and their parties during the refuge hunt season.

This alternative was not selected, because it does not consider the availability of non-hunting public use while levee repairs are ongoing.

Alternative C - Maintain Status Quo - No Non-Hunting Public Use [No Action Alternative]:

Wapato Lake NWR is currently not open to public use except for waterfowl hunting on Tuesdays, Thursdays, and Saturdays during the State season (mid-October-January), although at the current time the lakebed usually only has sufficient water to support waterfowl hunting from mid-December through January. The Refuge would remain closed to all public use from February through September. The Refuge would continue to implement restoration of Wapato Lake as outlined in the Environmental Assessment (USFWS 2019). Additional public uses, specifically, wildlife observation, wildlife photography, environmental education and interpretation, would not be permitted under this alternative.

This alternative was not selected, because it would not offer any new opportunities for public access and therefore would not fulfill the Service's mandate under the National Wildlife Refuge System Improvement Act of 1997.

Summary of Effects of Selected Action

An Environmental Assessment (EA) was prepared in compliance with the National Environmental Policy Act (NEPA) to provide a decision-making framework that 1) explored a reasonable range of alternatives to meet project objectives, 2) evaluated potential issues and impacts to the refuge, resources and values, and 3) identified mitigation measures to lessen the degree or extent of these impacts. The EA evaluated the effects associated with three alternatives. The effects evaluation is incorporated as part of this finding.

Implementation of the agency's decision would be expected to result in the following environmental, social, and economic effects:

The selected alternative would result in negligible or no impact to threatened and endangered species, special status species, soils, air quality, water quality, floodplains, or cultural resources. We expect minor, short-term impacts to wildlife and aquatic species, and minimal impacts to habitats and vegetation. Social and economic effects on visitor experience, and local socioeconomic effects are also expected to be positive, though minor in the context of the Portland-Vancouver metropolitan area.

Impacts to wildlife are expected to be minor and short term. Wildlife located near the trail system may be temporarily disturbed by the presence of the public. This disturbance, especially when repeated over the course of the year, may result in some wildlife species altering foraging habits, or seeking out new breeding territories by moving to other areas on and off the Refuge. Since these public access activities are new, dispersal patterns cannot be predicted, and would also be influenced by habitat conditions on the surrounding landscape. Disturbance would likely occur within 150 to 200 yards of designated trails. The presence of the public on designated trails is expected to have only minor impacts to birds breeding and nesting in dense vegetation on levee side slopes. Additionally, to support the biological needs of wintering waterfowl, the closure of the southern 1.3 miles of the levee trail to all public access during the high waterfowl use period and state waterfowl hunting season (October through January) would provide a relatively disturbance-free area for waterfowl. Closure of the southern 1.3 miles of the levee trail October through January would also prevent disturbance to an active bald eagle nest located at the southern end of Wapato Lake.

Due to the requirement that visitors stay on established trails, the footprint of disturbance to soils and vegetation is expected to be minimal. The potential exists for trail users to inadvertently introduce invasive plants to the site; however, a preliminary plan has been developed to address this potential. Overall, adverse impacts to vegetation are expected to be minor and localized but would occur annually over the long-term.

While the selected Alternative would result in long term increases in wildlife-dependent recreation opportunities on the Refuge, none of the impacts would be significant. Public access for wildlife observation, wildlife photography, interpretation, and environmental education would occur from February through November until levee repairs are complete in 2027, and we

anticipate that this trail will be popular. The closure of the entire trail to non-hunting use during December and January (prior to completion of levee repairs) and during the State waterfowl hunting season (after completion of repairs) would eliminate user group conflicts between hunters and non-hunters and address safety concerns. However, the seasonal trail closure would limit the public's opportunities for wildlife observation, photography, environmental education, and interpretation during the winter, when the largest concentrations of birds may be observed on the Refuge.

While refuges by their nature are unique protected areas for conservation of fish, wildlife and habitat, the proposed action will not have a significant impact on refuge resources and uses for several reasons:

- The proposed action will increase local recreation opportunities and result in 2.85 miles of trail (2.6 miles of levee and 0.25 miles of paved entrance trail) opened to the public.
- The action will result in beneficial impacts to the wildlife-dependent recreational opportunities and contribute to the local economy.
- The action will ensure that there is low danger to the health and safety of refuge staff and visitors.
- The action is not in an ecologically sensitive area;
- The action will not impact any threatened or endangered species; or any Federally-designated critical habitat;
- The action will not impact any cultural or historical resources;
- The action will not impact any wilderness areas;
- There is no scientific controversy over the impacts of this action and the impacts of the proposed action are relatively certain.

Public Review

The proposal has been thoroughly coordinated with all interested and/or affected parties.

Coordination with State, County, and Local Government Agencies:

Discussions with ODFW staff over opening to non-hunting wildlife dependent recreation activities at Wapato Lake NWR have been ongoing for many years. More recent discussions were focused on Refuge staff soliciting advice from ODFW on what they saw as viable options for incorporating non-hunting access into the overall Wapato Lake NWR public use program, which currently only included waterfowl hunting. ODFW responded by providing recommendations regarding waterfowl hunting and some suggestions on mitigating conflicting uses. Those recommendations were used in developing the proposed public use activities in this EA and in the Selection of Alternative B with modifications.

The Refuge staff coordinated with the city of Gaston to provide public parking and restroom facilities. In addition, we have been engaging in ongoing discussions with local partners,

including Metro, Clean Water Services, and the environmental education and park ranger staffs at Jackson Bottom Wetland Preserve and Scoggins Valley Park/ Henry Hagg Lake.

Tribal Consultation:

Tribal interests are an integral part of the restoration of Wapato Lake wetland basin and recreational opportunities on the Refuge. Discussions with members of the Confederated Tribes of Grand Ronde (CTOGR) regarding opening Wapato Lake NWR to public access activities, hunting, and ongoing restoration have been ongoing. The Tribe participated in the development of the Tualatin River NWR Comprehensive Conservation Plan (2013) which addresses the future potential for public use at Wapato Lake NWR. The Tribe was provided a copy of the Draft EA and Public Access Plan and invited to provide comments prior to issuance of the Draft EA and Public Access Plan for public comment.

Public Outreach:

On December 1, 2021, the Draft Public Access Plan and EA was posted on the Refuge website and public comments were solicited for 60 days. A virtual Open House was held on January 26, 2022. The Refuge sent a notice to local residents inside of their utility bills. Copies of the Draft Plan and EA were made available at City Hall in Gaston, Oregon. The Service received 63 written comments. Responses to these comments are found in Appendix C of the Public Access Plan.

Finding of No Significant Impact

Based upon a review and evaluation of the information contained in the EA as well as other documents and actions of record affiliated with this proposal, the Service has determined that the proposal to allow wildlife observation, photography, environmental education and interpretation on Wapato Lake NWR does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102 (2) (c) of the National Environmental Policy Act of 1969 (as amended). As such, an EIS is not required.

Decision

The Service has decided to open Wapato Lake NWR to wildlife observation, photography, environmental education and interpretation during selected months, beginning in September 2022.

This action is compatible with the purposes of the refuge and the mission of the National Wildlife Refuge System. See attached Compatibility Determinations (Appendix D of the Public Access Plan).

The action is consistent with applicable laws and policies.

CHRISTINE
OGURA

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Date: 2022.09.21 17:44:57 -07'00'

Acting Regional Chief, USFWS Pacific Region

_____ Date

References:

U.S. Fish and Wildlife Service. 2019. Wapato Lake National Wildlife Refuge Environmental Assessment. Sherwood, OR: Tualatin River National Wildlife Refuge.

<https://ecos.fws.gov/ServCat/DownloadFile/177822>

U.S. Fish and Wildlife Service. 2021. Wapato Lake National Wildlife Refuge Draft Public Access Plan and Environmental Assessment. Sherwood, OR: Tualatin River National Wildlife Refuge.

U.S. Fish and Wildlife Service. 2022. Wapato Lake National Wildlife Refuge Public Access Plan and Final Environmental Assessment. Sherwood, OR: Tualatin River National Wildlife Refuge.