

Chapter 7: Public Comment on Draft EIS/CCP and the Supplement (Alternative E) and Response

7.1 Introduction

The Draft EIS/CCP for the Upper Mississippi River National Wildlife and Fish Refuge (Refuge) generated tremendous public interest and input. Chapter 6 describes in detail the public meetings and workshops held during the planning process. In summary, the Refuge hosted 46 public meetings attended by approximately 4,500 people. A total of 3,230 written comments were received during the two comment periods and these comments are the focus of this chapter. Table 34 summarizes the comments received by source.

Table 34: Source of Comments

Affiliation	Number of Written Comments Draft CCP/EIS, May 1 to Aug. 31, 2005, 120-day comment period	Number of Written Comments Supplement (E), Dec. 5, 2005 to March 6, 2006, 90-day comment period
Tribal Governments	1	--
Federal Agencies	4	2
State Agencies	6	5
Local/Other Agencies	10	4
Elected Officials (state/fed)	9 ¹	3 ¹
Organizations	48	23
Businesses	18	11
General Public	2,420	666
Totals	2,516	714

1. *Eight Wisconsin State Legislators signed one comment letter in each comment period*

7.2 How Comments were Handled

Public comments received during 11 public meetings of the first comment period and 9 public meetings of the second comment period were an important part of the planning process. All public meetings were video taped and later converted to digital video disc (DVD) to become part of the official record for the planning process. The DVDs are kept at the Refuge headquarters in Winona, Minnesota. Arrangements for viewing the DVDs can be made by calling the Refuge at (507) 452-4232.

Public comments received during the 10 public workshops of the first comment period were summarized in 87 separate workgroup reports. These workgroup reports were posted a few days after each workshop on the Refuge planning website and are still available for viewing (<http://www.fws.gov/midwest/planning/uppermiss>).

Written comments received during the two comment periods came in a variety of forms including letters, comment forms distributed at meetings, e-mails, and faxes. Each comment received was assigned a log number, summarized and recorded on a master electronic file, and then placed in a three-ring binder. A standard acknowledgement letter or e-mail was sent to each person or group who submitted a comment.

All written comments are available for public review at the Refuge headquarters in Winona, Minnesota. Arrangements for viewing can be made by calling the Refuge at (507) 452-4232. A copy of the written comments received from tribes, states, elected officials, other agencies, local units of government, and conservation or other organizations are included on the Refuge's planning website at <http://www.fws.gov/midwest/planning/uppermiss>.

7.3 How Comments and Responses are Organized

Comment categories and locations:

Tribes, States, Corps of Engineers, Environmental Protection Agency	(7.4, page 360)
Elected officials (state/federal)	(7.5, page 373)
Petitions	(7.6, page 380)
Form letters/e-mails	(7.7, page 384)
Comments by topic or plan objective	(7.8, page 386)
General comments	(7.9, page 421)

Due to the volume of written comments received, most are not included in their entirety as noted below. Comments from both comment periods are combined unless otherwise noted. Simple edit suggestions were generally accepted and made in the Final EIS/CCP and are not referenced here or discussed.

Given the Refuge's close working relationship and shared responsibility for natural resource management, the comments from Tribes; Minnesota, Wisconsin, Iowa, and Illinois departments of natural resources; Corps of Engineers; and the U.S. Environmental Protection Agency are treated individually. Each of these letters is summarized by issue or concern raised, followed by a Service

response. Comments from state and federal elected officials are also treated in this way due to the general heightened public interest in elected official comments. Scanned copies of letters from tribes, agencies, and elected officials are included at the end of this chapter, and page numbers for each are included in the respective comment/response.

Since petitions and form letters represent a large number of individuals, they are also treated separately. The basic issues or concerns in each petition and form letter is quoted or summarized, followed by a response.

Comments from individuals, organizations, businesses, and local/other units of government are combined and aligned with the 41 objective topics that comprise the heart of each alternative in Chapter 2. This objective framework helps the tracking of particular areas of interest, and eases reference back to the body of the EIS/CCP. For example, comments on Waterfowl Hunting Closed Areas are found under 4.2, the same objective number for the closed area objective across all alternatives. The number in parenthesis () following each comment represents the number of people and/or organizations who provided a similar comment. For certain comments, a unit of government or organization submitting the comment may be cited if it helps put the comment in context.

Finally, comments which are general in nature and do not match a particular objective, including comments for or against a particular alternative, are summarized followed by a response, as appropriate. As above, the number in parenthesis () following each comment represents the number of people and/or organizations who provided a similar comment. For certain comments, a unit of government or organization submitting the comment may be cited.

7.4 Tribes, States, Corps of Engineers, and Environmental Protection Agency Comments and Response

In most cases, the states, Corps of Engineers, and Environmental Protection Agency provided written comments on the May 1, 2005 Draft EIS/CCP and on the December 5, 2005 Supplement (Alternative E). Both comment letters are included and responded to in turn. Illinois did not submit comments on the Supplement. One tribe submitted comments during the first comment period, none for the second.

Service Response to Iowa Tribe of Oklahoma, May 12, 2005 comments. (Letter Page 423)

1. The historical preservation of the Iowa Tribe of Oklahoma is very important and the Iowa people have an historic presence in counties adjacent to the Refuge. They wish to be kept informed of any artifact discoveries.

Response: We appreciate the Iowa Tribe of Oklahoma's interest in the Refuge CCP and will keep them apprised of any cultural resource issues and discoveries. As noted in Chapters 2, 3, and 4 of the Final EIS/CCP, cultural resource management is an area of overriding importance and compliance that will be addressed on a project-by-project basis when actions outlined in the plan are implemented.

Service Response to Minnesota Department of Natural Resources, August 31, 2005 comments. (Letter Page 424)

1. Alternative D provides the diversity of uses and experiences sought by the public.

Response: Comment is noted.

2. Consider eliminating or restricting jet skis, airboats, hovercraft, and other motorized mechanisms that negatively impact fish and wildlife in critical habitats.

Response: The Electric Motor Areas described in the alternatives limit all watercraft to electric motor or human power propulsion only. Slow, No Wake Areas in Alternative E do limit types of watercraft seasonally (airboats and hovercraft) due to their inherent noise generation. Alternative E was developed after extensive input on this topic at public meetings and in written comments.

3. Exemptions needed in Closed Areas and Electric Motor Areas for federal and state agencies doing research, monitoring, and law enforcement.

Response: Special area regulations are general public use regulations and were never intended to cover states or other agencies from continuing to carry out their responsibilities for fish and wildlife management and enforcement. We have added language to clarify this intent in Chapter 2, section 2.4.1 (Elements Common to All Alternatives). We continue to recognize, however, that public perceptions are important and good judgment is needed when working in areas or with equipment the general public is restricted from using.

4. Law enforcement concerns stemming from new regulations: inquiries, response, jurisdiction for enforcement, costs, etc.

Response: We have added a strategy in Alternative E, Objective 5.5 (General Public Use Regulations) to prepare a step-down law enforcement plan in cooperation with the states and the Corps of Engineers. This plan will be started in 2006 and will address the issues and concerns raised.

5. Supports reconfiguration of Waterfowl Hunting Closed Area locations, size, etc.

Response: We appreciate the support for this important aspect of the CCP.

6. Delay the no fishing, no motor provision until later in October to accommodate fall fishing.

Response: In Alternative E, we have delayed the effective date for voluntary avoidance or the no motor restriction in Waterfowl Hunting Closed Areas to October 15 versus October 1 in other alternatives to address this concern.

7. Consider Voluntary Avoidance Areas versus use or entry restrictions.

Response: In Alternative E, the preferred alternative, we have incorporated the use of voluntary avoidance guidelines in all Waterfowl Hunting Closed Areas versus more restrictive regulations of other alternatives. Alternative E also establishes a threshold of disturbance and the intent of the Refuge to move toward more restrictive regulations should the voluntary approach fail to limit disturbance to waterfowl using the areas for rest and feeding.

8. Extend period of no entry for motorized craft in closed areas to late December to benefit late migrants.

Response: We do not concur with the need to extend guidelines or regulations for entry into Waterfowl Hunting Closed Areas later into the winter season. Most waterfowl hunting ends before or by mid-December which removes a major disturbance and in effect provides waterfowl additional areas to rest and feed outside of closed areas. Also, the number of waterfowl using the refuge is highly variable at this time of year given the timing of yearly freeze-up.

9. Support Electric Motor Areas, but disappointed that larger contiguous areas not selected.

Response: Electric Motor Areas in Alternative D were based on trying to balance the variety of existing uses now occurring on the Refuge to avoid undue disruption to the public. Based on substantial public comment, further changes were made in Alternative E to address public concerns. We believe Alternative E provides areas to meet the needs of the greatest diversity of Refuge users throughout the length of the Refuge.

10. Concerns about the proposed boat launch fee at Refuge-administered ramps.

Response: The fee proposal was dropped in Alternative E, the preferred alternative.

Service Response to Wisconsin Department of Natural Resources, August 29, 2005 comments. (Letter Page 429)

1. Emphasized that Wisconsin reserves the right to provide free and open navigation to residents of the state and the right to regulate fishing in all waters of the state.

Response: We recognized and quote the state's 1925 approval language in Final EIS/CCP (Chapter 1) and concur to a point that does not interfere with federal trust responsibilities and meeting the purposes of the Refuge; however, proposals in Alternative E do not limit navigation or use, only the means of navigation and use on the connected waters (more in closed area comments). We concur with state's lead in fish management and regulation and have edited objectives, strategies, and other text in the Final EIS/CCP to stress a cooperative approach.

2. Believe the plan should be broadened to include the larger ecosystem, including fisheries and state-listed species and species of concern.

Response: We concur and have included the strongest fishery management emphasis in any Refuge plan to date. Virtually all recent EMP projects in Wisconsin have either focused on improving fish habitat or included a fish habitat component (Long Lake, Stoddard, Lake Onalaska, Ambrough Slough, Sunfish Lake, Mud Lake, and Spring Lake). The Service believes that waterfowl management and fishery management can be complementary with careful planning. Alternative E objectives and strategies dealing with monitoring and threatened and endangered species have been changed to include state-listed species and state species of concern, along with reference to recently completed state Comprehensive Wildlife Conservation Plans.

3. Complete a Law Enforcement step-down plan to improve understanding, expectations, and cooperation of Refuge and state officers

Response: Concur and have added in Alternative E, Objective 5.5 (General Public Use Regulations) a strategy for preparing a step-down LE plan in cooperation with the states and Corps of Engineers.

4. Support concept of Electric Motor Areas if the Refuge works with public to delineate the areas. Consider commercial fishing needs, seasons of closure, and boundary changes.

Response: Although we do not concur with delaying decision and believe the public has had ample opportunity for input, we have made major changes in Alternative E reflecting both state and public comment. In short, we have dropped 11 of 15 proposed new Electric Motor Areas, 8 of which are proposed to become seasonal Slow, No Wake Areas (March 16-October 31).

Commercial fishing should not be measurably affected by the proposals in Alternative E since Electric Motor and Slow, No Wake Areas are in backwater versus areas not often used for commercial fishing.

5. Concern about amount of Closed Areas in Wisconsin; unfair loss of recreational opportunity, especially in Pools 4 and 10 (Big Lake and Wisconsin River Delta proposals). Need for deer management in Goose Island area a concern with Closed Area expansion/restrictions proposed.

Response: We understand the concern with amount of closed areas in Wisconsin but try to be neutral to state lines when addressing resource issues. In truth, the best habitat on many parts of the upper Refuge is in Wisconsin. We share the concern with recreational impacts and are opening the Nelson-Trevino area in Pool 4 to balance the loss in the Big Lake area, and in Alternative E also open an additional 788 acres of existing closed area to hunting (Buffalo or Beef Slough). We have also modified the proposed Wisconsin River Delta closed area in Alternative E so that it is open to hunting and fishing through October 31, and dropped the north Goose Island special hunt area from any designation (remains open). We support and will continue to work with state and local officials to accommodate deer hunting in the existing Goose Island closed area. We share the habitat and public safety concerns from the expanded deer population in this area.

6. Closed areas must remain open to fishing during waterfowl season, and would like to help craft a phased approach using alternatives such as voluntary avoidance, slow-no-wake, electric motor with travel lanes, and no motor areas.

Response: In Alternative E, the preferred alternative, we have made major changes to the closed area entry and use regulations proposed in Alternative D and have dropped the “no fishing, no motors” provision in favor of Voluntary Avoidance on all areas and no use of motors on small closed areas. These restrictions also have been moved forward to October 15 versus October 1 to accommodate early fall fishing.

We are also proposing in Alternative E a disturbance threshold policy to guide future entry and use restrictions. This policy is included in Objective 4.2, Waterfowl hunting closed areas and sanctuaries.

7. Concern with lack of support for doing fish habitat improvement projects in Waterfowl Hunting Closed Areas.

Response: Unintended conflicts often arise when trying to meet different objectives for fish and waterfowl in the same area. Fall fishing has been shown to be a major disturbance to waterfowl in some closed areas. Certain fish habitat improvements which attract and hold fish can increase angler use and waterfowl disturbance, and on small closed areas especially, have the potential to negate any waterfowl migration benefits. Careful consideration of these dynamics is needed when planning habitat projects.

Alternative E includes this issue in the closed area objective, and also proposes a new policy for project planning to deal with Refuge and state concerns with fish habitat projects.

8. Address commercial fishing needs and research, monitoring, and law enforcement needs in Closed Areas and any Electric Motor Areas.

Response: New regulations were always intended to be public use regulations, not regulations governing bona fide agency work. Language has been added to section 4.2.1 (Elements Common to All Alternatives) to articulate this intent. Commercial fishing in closed areas is covered under the voluntary avoidance guidelines, which does not preclude commercial

fishing. Commercial fishing intrusions into closed areas will not be counted as a disturbance under the disturbance threshold guidelines. We hope, however, that commercial anglers can adapt practices and time activities to lessen disturbance to staging waterfowl. We will continue to work with the state and commercial anglers in a cooperative manner to this end. Electric Motor Areas and Slow, No Wake Areas should not have a major impact on commercial fishing due to their locations.

9. We may not move forward with complementary state regulations for 25 shotshell limit, 100 yard spacing, beach use, camping, etc.

Response: The proposed shotshell limit and hunting party spacing regulations have been dropped in Alternative E, the preferred alternative. State officers do not actively enforce Refuge-specific non-hunting/fishing recreational use regulations now, and we understand that matching state regulations may not always be possible.

10. Use the beach planning process to consider any beach designations, and needed restrictions or regulations for beach use.

Response: Concur with beach plan process, and have made several changes in Alternative E to proposed beach-related regulations in Alternative D, including areas open to camping, human waste, and alcohol use. The beach section of the plan was revised in Alternative E, but we realize there may still be differences of opinion regarding dredge material placement site management (bath tubs). Since the Refuge ends up with the responsibility for enforcement, we believe we should manage these sites in a way that safeguards the public and lessens enforcement workload.

11. Supports public suggestions for regulation banning glass containers on the Refuge.

Response: Concur and have added a new regulation to Alternative E, the preferred alternative, Objective 5.1.

12. Economic recreational benefits cited in the Draft EIS seem very low compared to previous economic studies done on the Upper Mississippi River System.

Response: We do not disagree, but felt it wise to use Refuge visitation figures we enter in report to ensure consistency, and visits are what drive the economics. Our economist used the same economic models as previous Corps of Engineers studies, but since visits are counted differently and the Refuge is a subset of the river as a whole, the economic benefits are lower. However, in the Final EIS in Chapter 3, end of section 3.4.2, we discuss this difference and also present the higher economic gain figures.

Service Response to Iowa Department of Natural Resources, August 22, 2005 comments. (Letter Page 434)

(Note: due to the comprehensive nature of Iowa's comments, responses were only made to items of concern or suggestions)

1. Ensure that public is not overly regulated and new regulations are needed and targeted to provide the expected results.

Response: We have made several major changes in Alternative E, the preferred alternative, which has reduced many regulatory-type actions and to ensure the remaining new regulations are needed and targeted.

2. Iowa reminds the Service that management authority for fisheries and mussel resources in Iowa waters remains with the state.

Response: We do not disagree, but recognize that the Refuge shares some of this authority on a national wildlife refuge. However, language in several objectives dealing with fisheries, mussels, and recreational fishing has been augmented in Alternative E to recognize the state's lead and primary role in managing these resources and related recreation.

3. Suggest no hunting March 15 – September 1 in no hunting zones (trails, facilities) versus closed to hunting.

Response: We believe that some areas warrant a separation of hunting and other recreational uses based on location and circumstances and overriding concern for visitor safety. However, we have made several major changes in Alternative E by dropping some suggested no hunting areas around trails, or greatly reducing the acreage affected by closure. Alternative E depicts 11 administrative no hunting zones covering 3,845 acres compared to the existing 8 zones covering 3,555 acres.

4. Support Closed Area modifications/additions, with specific suggestions on boundaries for Guttenberg Ponds, Kenough Slough, and Pleasant Creek.

Response: We concur with these modifications and have made adjustments in Alternative E, the preferred alternative.

5. Do not support 25 shotshell daily possession limit and minimum 100 yard spacing requirement for waterfowl hunters on the Refuge.

Response: These proposals have been dropped in Alternative E, the preferred alternative.

6. Concur with phase out the use of permanent blinds on the Refuge for waterfowl hunting given the need for consistency on the Refuge and the various issues surrounding permanent blinds.

Response: The permanent blind issue is difficult given the number of hunters affected and the traditional ties to this method of waterfowl hunting. We appreciate Iowa's support.

7. Work with states on fishing tournaments to avoid duplication.

Response: We concur and have modified language in Alternative E to strengthen coordination with the states and to ensure a simplified process.

8. Make every effort to keep recreational fish float operations.

Response: We have made a change in Alternative E to solicit new fish float proposals for any existing floats that may be closed by owners or phased out due to non-compliance with permit stipulations.

9. Recommend that the Service enforce the .08 blood alcohol level for drivers of motor vehicles but use existing intoxication laws for persons on beaches on the Refuge.

Response: We concur. Alternative E drops the .08 blood alcohol level for persons on the Refuge in favor of using the existing Refuge regulation that ties behavior to alcohol use. We will continue to enforce applicable state alcohol regulations for boat or other vehicle operators.

10. Electric Motor Areas: suggest making these no wake areas instead.

Response: We have made major changes in Alternative E reflecting both state and public comment. In short, we have dropped 11 of 15 proposed new Electric Motor Areas, 8 of which are

proposed to become seasonal Slow, No Wake Areas (March 16-October 31). We continue to believe that there is a need for a few Electric Motor Areas to provide an alternative experience for hunters, anglers, trappers, and people who enjoy quiet wildlife observation.

11. The Service is cautioned that Iowa is the agency of authority for Slow, No Wake Zones.

Response: All alternatives have recognized the current process for establishment of no wake zones. We will work through local and state levels of government as appropriate for establishing the areas proposed.

12. Recommend that the Service make a canoe landing at each proposed canoe trail and offered suggestions for several.

Response: We do not disagree, although realities of railroad tracks and lands, private land, and slope of terrain often limit access points to the Refuge and the river. The specific suggestions will be considered during more detailed planning and implementation of the canoe trails and Refuge accesses.

Service Response to Illinois Department of Natural Resources, August 26, 2005 comments. (Letter Page 440)

1. Continue to allow the use of permanent waterfowl hunting blinds on the Savanna District.

Response: We appreciate Illinois' concern with the planned phase out of permanent blinds for waterfowl hunting on the Savanna District of the Refuge. This is a difficult issue due to the number of hunters involved and the strong traditions that have developed. However, we believe our concerns with private, exclusive or proprietary use of public lands and waters, continued problems with confrontations and debris, and inconsistency with the other three districts of the Refuge warrant a phase out of the blinds. We have made one change in Alternative E to help ease the transition. The pool-by-pool sequence of phase out will be Pool 12, 14, and 13. This will not only ease our administrative and enforcement burden, but give the greatest number of blind hunters (Pool 13, 250 blinds) more time to adjust to alternative hunting methods.

2. Continue the 200-yard spacing requirement between waterfowl hunting parties.

Response: We concur and Alternative E reflects no-change in 200-yard spacing for Illinois portion of Refuge

3. Work collaboratively with the state on fishing tournament permitting.

Response: We concur and have made modifications to Alternative E, Objective 4.9 to strengthen the collaborative approach to addressing fishing tournaments on the Refuge.

Service Response to U.S. Army Corps of Engineers September 6, 2005 comments. (Letter Page 441)

(Note: due to the comprehensive nature of the Corps of Engineers' comments, responses were only made to major items of concern. A number of relatively minor editorial comments or corrections are not paraphrased but have been incorporated in the Final EIS/CCP)

1. Alternative D is best approach of alternatives presented; reasonable and balanced approach.

Response: We appreciate the Corps cooperation and support during this planning effort as well as on the multitude of mutual activities on the Upper Mississippi River System.

2. Refuge needs Corps of Engineers' concurrence to implement changes affecting Corps-acquired lands; believe concurrence can be obtained on most of the proposals in Alternative D.

Response: It is our hope that concurrence will come through the Corps of Engineers comments in support of the Final EIS/CCP, or through the many step-down plans that will be prepared in collaboration with the Corps of Engineers (e.g. law enforcement, pool beach plans). We have added wording to many objectives and strategies in Alternative E to emphasize collaboration and cooperation, and inherent in these principles is concurrence.

3. Public use must be addressed in cooperative manner through existing forums.

Response: We agree and have modified objectives and strategies in Alternative E to reflect this cooperative approach in the implementation of objectives dealing with public use. We have also added a separate section in Chapter 2, section 2.4.1 (Elements Common to All Alternatives) that addresses cooperation and coordination with the Corps of Engineers and the states.

4. Some objectives are very optimistic (e.g. pool drawdowns, boundary survey).

Response: We have modified the objectives considerably in Alternative E, the preferred alternative, to address these comments. Objective 1.1 (boundary integrity/surveying) was changed to focus on problem areas versus the entire boundary, and Objective 2.2 (water level management) was changed to reflect ecological need, engineering feasibility, and available funding that may influence completing pool drawdowns.

5. Provide prioritized implementation strategy in the plan due to fiscal concerns.

Response: Appendix L (Implementation Plan) addresses a strategy for implementing various objectives. Since funding sources are varied and subject to year-to-year change, establishing a strict priority is not always practical or in-line with the way the Service receives funding. Also, many actions must receive simultaneous attention. However, we agree that prioritization, even by category of projects, is useful and does help communicate the work the Refuge believes is most important. Changes have been made in Appendix L to reflect this.

6. Address cultural resources earlier in the document; more emphasis.

Response: We believe that cultural resources are addressed in the appropriate way in Chapters 2, 3, and 4 of the Final EIS/CCP. Several edits have been made based on comments specific to cultural resources. Regardless of cultural resource placement in the Final EIS/CCP, it remains one area of overriding importance, and compliance with laws and regulations will be addressed on a project-by-project basis when actions outlined in the plan are implemented.

7. Identify acquisition authority for bluffland acquisition

Response: Authority for bluffland acquisition, either in fee or easement, stems from the Record of Decision signed by the Regional Director for the 1987 Refuge Master Plan. That plan identified the bluffland areas and they have carried forward to the Final EIS/CCP. This plan does not alter the approved refuge boundary established by that earlier authority. Many agencies need legislative authority for acquisition, but in the Service, that authority still rests with the agency, although major expansion now require Director's approval and new National Environmental Policy Act compliance documentation.

8. Use "placement site" and "material" versus "disposal site" and "spoil."

Response: Concur: We have made changes throughout the final document.

9. Want to see their comments/suggestions reflected in Final EIS/CCP.

Response: Concur and disposition of comments described in this chapter.

10. Support Closed Area management as long as navigational servitude for main channel commercial and recreational boat traffic protected. Establish travel corridor on Pool 8 Closed Area (Limited Development Area).

Response: We concur and existing and proposed Waterfowl Hunting Closed Areas are designed to take main channel navigational servitude into account. In Alternative E, we have added a travel corridor in the Wisconsin Islands Closed Area (limited development area). Chapter 4, Section 4.2.7 (Environmental Consequences of the Draft and Final CCP/EIS) does state that "Under all alternatives there is no impact to commercial navigation. All proposed actions have been tempered by the requirement in establishment legislation that Refuge management not interfere with the navigation operations carried out by the Corps of Engineers."

11. Support permanent blind phase out.

Response: We appreciate the support for dealing with this difficult issue in Pools 12, 13, and 14 of the refuge.

12. The Corps of Engineers requests to be part of fishing tournament management process.

Response: Concur and have added language in Alternative E, Objective 4.9 that includes the Corps of Engineers in both the objective and the strategies for implementation.

13. Closing beaches on Corps-acquired land would require District Engineer approval; address problems through interagency partnership effort involving public.

Response: We have made several changes in Alternative E, Objective 5.1 to highlight a partnership approach in addressing beach-related policies and maintenance. Any closures for health and safety or bona fide wildlife issues would be coordinated with the Corps of Engineers, states, and the public. The only exception is if a true emergency, but this would likely be rare and not a permanent change without coordination and Corps of Engineers agreement on Corps-acquired areas.

14. Dredged material placement overrides recreational considerations on placement sites; placement sites should not be referred to as recreational beaches; a fee for beach use may have liability consequences.

Response: We concur and abide by the designations in the Land Use Allocation Plans and agree that placement sites are first and foremost Corps of Engineers project areas and not recreational beaches. However, there is no doubt that the public uses them for recreation. No recreational use fee is proposed in Alternative E, and if any fee is contemplated in the future, it would only be done in coordination with the Corps of Engineers, the states, and the public.

15. Electric Motor Areas and No Wake Zones; establish collaboratively.

Response: We do not disagree and the purpose of the interagency planning team and the extensive public involvement has helped shape the number, size, and location of proposed Slow, No Wake Areas and Electric Motor Areas. We recognize, however, that there will likely never be total agreement on either the concept or the locations, but input has been substantial as reflected in major changes made in Alternative E, the preferred alternative. Slow, No Wake Zones (linear areas) identified will be established through the normal local unit of government process that has been used in the past.

16. Drawdown objective overly optimistic, some not feasible, some not proven environmentally. Standard timeframe not workable.

Response: Concur and have changed the language in Objective 2.2 to reflect the uncertain and dynamic nature of pool wide drawdowns, and the need to base decisions on ecological need and engineering feasibility.

17. Clarify Guiding Principles for Habitat Projects so as not to preclude active management strategies (e.g. moist soil units, control structures)

Response: We have modified the strategies in Alternative E, Objective 3.2 to clarify that active management strategies are not precluded.

18. Restricting watercraft from entry in Waterfowl Hunting Closed Areas would require concurrence from District Engineer. Implement through a partnership program with Corps of Engineers and states.

Response: Alternative E, the preferred alternative, does not preclude entry in any Waterfowl Hunting Closed Area that straddles the main channel of the river. We have also included travel corridors where needed so the public can access the main channel. For Waterfowl Hunting Closed Areas, if compliance levels with voluntary avoidance require further restrictions, we will work with the Corps of Engineers and the states to affect that change. This intent has been articulated in Alternative E, Objective 4.2.

Service Response to U.S. Environmental Protection Agency, August 30, 2005 comments. (Letter Page 460)

1. The Draft EIS is rated “LO” indicating a lack of objection and EPA did not identify the need for additional information or issues to be considered. It was suggested that an explanation be added on how the CCP will be integrated with the Corps of Engineers’ Navigation and Ecosystem Sustainability Program (NESP).

Response: We have added reference to NESP in Chapter 1, Section 1.4.3.3 in the Final EIS/CCP. Reference to NESP is also made in several objective strategies dealing with habitat improvements, and is also discussed in Appendix L, the implementation plan for the CCP which emerges. We remain committed to a strong partnership with the Corps of Engineers, other agencies, and the states in dovetailing the provisions of the environmental side of NESP with the habitat restoration and enhancement projects identified in the Final EIS/CCP.

Service Response to Minnesota Department of Natural Resources, January 20, 2006 comments. (Letter Page 462)

1. Encourage monitoring of Waterfowl Hunting Closed Areas for disturbance and if necessary implement further restrictions.

Response: Concur and will be doing monitoring to gauge how well voluntary avoidance is working. Objective 4.2 in Alternative E discusses monitoring, the threshold established for disturbance, and actions to follow should further restrictions be necessary.

2. Concerned about enforcement impacts and the law enforcement step-down plan timetable and contents.

Response: We replied to Minnesota in separate letter in February outlining the process for state involvement, the timetable for completion (end of CY 06), and the topics and issues to be covered in the plan. This letter was also given to the Wisconsin DNR after receiving their

comments with a similar concern. A strategy calling for completion of the law enforcement step-down has been added to Alternative E, Objective 5.5.

Service Response to Wisconsin Department of Natural Resources, March 6, 2006 comments. (Letter Page 464)

1. Desire that all habitat improvement projects provide for the needs of the entire ecosystem, both fish and wildlife. They would like to meet and establish criteria for making decisions on project features.

Response: We believe this comment refers to fish habitat improvements as part of habitat projects in Waterfowl Hunting Closed Areas. In Alternative E, the preferred alternative, Objective 4.2 Waterfowl Hunting Closed Areas, fish habitat improvements in closed areas is addressed due to unintended conflicts that may arise when trying to meet fish and waterfowl objectives in the same area. Improved fish habitat can attract more anglers and increase disturbance, especially under a "voluntary avoidance" approach. However, the Refuge is most willing to sit down and discuss this issue more fully and explore setting criteria for consistent project decision-making. A strategy to this effect has been added to Alternative E, Objective 4.2.

2. The State reiterated the need for access to restricted areas (closed areas, slow no wake, electric motor areas) for survey, monitoring, and enforcement work.

Response: Special area regulations are general public use regulations and were never intended to cover states or other agencies from continuing to carry out their responsibilities for fish and wildlife management and enforcement. We have added a paragraph stating this intent in Chapter 2, Section 2.4.1 (Elements Common to All Alternatives) in the Final EIS/CCP. We continue to recognize, as does the state, that public perceptions are important and good judgment is needed when working in areas or with equipment the general public is restricted from using.

3. The state is concerned about subsequent state regulations matching proposed refuge regulations so that state officers can enforce. An example is the Waterfowl Hunting Closed Area boundaries. The state asks that we continue to work with them to ensure consistency.

Response: We recognize the difficulties that different rules or regulations would present, both for the citizens of Wisconsin and state conservation officers. Indeed, we prefer similar regulations so that state conservation officers can continue to assist in enforcing Refuge regulations related to hunting and other fish and wildlife-related recreation. We will continue to work with the state, but are prepared to implement needed regulatory changes regardless of the outcome of the state rule making process. To do otherwise would be abdicating our responsibilities to manage the Refuge in accordance with its establishing legislation, the Refuge Improvement Act, and Refuge System policies and regulations.

4. The State is concerned about the timing of the law enforcement step-down plan preparation and urges completion before new regulations or new refuge officers are added.

Response: We concur with the importance of the plan and have provided the state with a copy of the letter sent earlier to the Minnesota DNR that outlines the process for state involvement, the timetable for completion (end of CY 06), and the topics and issues to be covered in the plan.

5. The State recommends the major disturbance threshold for waterfowl in closed areas be set at 1,000 birds only and not "or 50 percent of the birds present," and recommends an average of 20 disturbances per week versus the one major disturbance per day based on a season-long average that is in Alternate E.

Response: We do not concur. The rationale section of Objective 4.2 articulates our basis for the thresholds, namely human disturbance monitoring and research done on the Refuge over several years. We believe these thresholds are reasonable and defensible for application in other closed areas. We have added additional science-based information on closed areas and disturbance in Appendix Q and believe it will prove a useful reference for current and future managers.

6. Recommend that fire be used as a management tool on islands.

Response: We do not disagree, and will continue to use fire on islands where it is appropriate and in keeping with basic ecological processes for a site. Several islands were burned in spring, 2006. As stated in our guiding principles for habitat management (Objective 3.2), natural succession may be the best natural process on some islands given the realities of the physical environment and the needs of all species. This approach is also in-line with the Service's policy on biological integrity, diversity, and environmental health, but does not preclude the use of fire where most appropriate and feasible.

7. Recommend that canoe trails be located within Slow, No Wake Areas whenever possible.

Response: Since canoe trails are linear and entail no other restriction for other user groups or subgroups, there was considerably more latitude in where to site them based on a variety of factors such as habitat type, proximity to landings and communities, and river and backwater flow patterns. Thus, there was no need to locate canoe trails within other "area" designations. Some canoe trails do, however, fall within or adjacent to Slow, No Wake Areas.

Service Response to Iowa Department of Natural Resources, February 10, 2006 comments. (Letter Page 468)

1. Iowa affirmed its jurisdiction over fisheries, navigation, and licensing requirements, and was concerned about the Service's permitting of fishing tournaments and commercial fishing, mussel, and turtle harvest. They agree with the terms "one-stop shopping" and "dovetail with" in Alternative E.

Response: We concur that Iowa retains jurisdiction over these areas, but acknowledge that the Service also shares jurisdiction and responsibilities on national wildlife refuges. Several objectives dealing with fisheries, mussels, and tournaments in Alternative E clearly recognize the states' lead in fishery resources, and also outlines our intent to use agreements or other mechanisms to meet our regulatory mandates. We will not be stepping-out alone in those areas that have traditionally been managed by the states and will continue to stress a collaborative approach in carrying out our respective responsibilities.

2. Encourage the Service to develop step-down plans in timely manner in coordination with the states and with public involvement.

Response: Concur

3. The Service should include reference to the Comprehensive State Wildlife Plans, and the Refuge should be a major partner in implementing.

Response: Concur. The state wildlife plans were completed after the Draft EIS/CCP was assembled and released in May, 2005. The Final EIS/CCP has a section describing these important state wildlife plans in Chapter 1, Section 1.4.3.3, and reference to the plans has been added in appropriate objectives in Alternative E. We believe the state plans will add strength to the CCP, and vice versa.

4. In regard to refuge access, Iowa would like to see improved access for multiple recreational uses, better parking areas for some proposed facilities like trails and canoe landings, and increased shore-line fishing access. They also believe all canoe landings should be available during ice-over conditions for access by ATVs to ice fishing areas.

Response: Detailed planning for any proposed public use facilities/accesses will consider and try to accommodate the need for parking. We agree that increased shoreline-angling access is important and have identified several areas. However, difficulty in securing railroad rights-of-way remains a limiting factor along the entire Refuge. We generally allow ATV and snowmobile access directly to the ice from Refuge parking and boat landings, and will examine some of the more primitive canoe landings which may present a conflict with current regulations.

5. In Objective 3.1, suggest adding a strategy for maintenance of habitat projects.

Response: Concur that this is important. In Alternative E, we did add this need in the Operations and Maintenance section, Objective 6.3. We have also added a line-item to the Implementation Plan (Appendix L) for maintenance of habitat projects.

6. Recommends that the Goetz Island No Hunting Zone (Pool 11) be removed.

Response: Due to its location adjacent to the City of Guttenberg, a no hunting zone in conjunction with the proposed Goetz Island Hiking Trail is warranted. However, we reduced this no hunting zone from 242 acres to 32 acres in Alternative E of the Final EIS/CCP. We believe this change will continue to address safety concerns while keeping most of the area open to hunting.

7. Suggests integrating future Environmental Management Program (EMP) projects with various public use objectives. For example, the proposed Turkey River Project could be a real showcase since tour route, trail, viewing platform, and shoreline fishing could also be done.

Response: We concur that public use objectives in the plan would dovetail nicely with many proposed EMP projects, and may be a cost-effective way to achieve both resource and public use objectives. This suggestion will be incorporated during detailed planning for all projects in coordination with the Corps of Engineers and the states.

8. Requests that the Electric Motor Area proposed for the Guttenberg Ponds Area in Pool 11 be deleted since access is normally limited anyway for motorboats due to obstructions.

Response: After a closer examination of the size of the area and inlet/outlet barriers to consistent access, we have deleted this 93-acre area (specifically Big Pond) from Alternative E, the preferred alternative, in the Final EIS/CCP.

Service Response to Corps of Engineers, March 7, 2006 comments. (Letter Page 471)

1. The Corps of Engineers believes the Service did an excellent job in addressing their previous comments on the Draft EIS/CCP and concur with Draft Alternative E with the understanding that interagency partnership activities will continue.

Response: We appreciate the Corps of Engineers' concurrence, involvement in the planning process, and ongoing efforts to benefit both navigation and the environment on the Mississippi River and the Refuge. The Service will continue the partnership activities, and the collaborative approach has been strengthened in edits to the Final EIS/CCP.

2. The Corps of Engineers looks forward to participating with the Refuge on many of the step-down implementation plans outlined in the CCP, ongoing Corps of Engineers/Service plans, and in coordinating cultural resource plans and needs.

Response: We also look forward to the continued partnership for step-down plans and other ongoing planning and implementation efforts.

Service Response to U.S. Environmental Protection Agency, March 1, 2006 comments. (Letter Page 473)

1. The Supplement to the Draft EIS is rated “LO” indicating a lack of objection and EPA did not identify the need for additional information or issues to be considered. It was again suggested that an explanation be added on how the CCP will be integrated with the Corps of Engineers’ Navigation and Ecosystem Sustainability Program (NESP).

Response: As noted in an earlier response, we have added reference to NESP in Chapter 1, Section 1.4.3.3 in the Final EIS/CCP. Reference to NESP is also made in several objective strategies dealing with habitat improvements, and is also discussed in Appendix L, the implementation plan for the CCP which emerges. We remain committed to a strong partnership with the Corps of Engineers, other agencies, and the states in dovetailing the provisions of the environmental side of NESP with the habitat restoration and enhancement projects identified in the Final EIS/CCP.

7.5 Elected Official Comments and Response

Service Response to Congressman Green Comments of August 8, 2005 (Letter Page 475)

1. Constituents are against the proposed restrictions to recreation in the Draft EIS/CCP.

Response: During the 31 public information meetings and public workshops held during the 120-comment period in 2005, we heard from thousands of citizens. Based on this input, we prepared a Supplement to the Draft EIS/CCP, Alternative E, to take into account citizen and agency concerns and suggestions.

2. The Service should select Alternative A as its new preferred alternative.

Response: We do not believe that Alternative A (no action or current direction) adequately addresses the large number of issues and needs identified in Chapter 1 of the Draft and Final EIS/CCP, including compliance with the Refuge Improvement Act and Refuge System policies and regulations. However, Alternative E addresses many of the concerns and ideas expressed by citizens and agencies, and we believe represents a balanced approach to management of the Refuge.

Service Response to Wisconsin Legislature (eight signatories) August 29, 2005 comments (Letter Page 477)

1. We oppose Alternative D because it usurps state authority on sovereign waters and unnecessarily eliminates recreational opportunities and economic activity.

Response: We have made many changes to Alternative D in response to comments by developing a new preferred alternative, Alternative E. We recognize and quote the state’s 1925 Refuge approval language in the Draft and Final EIS/CCP (Chapter 1), but the Service continues to have responsibility and authority for federal trust species and in meeting the purposes of the Refuge. However, we have developed our plan to ensure that we do not “usurp”

any state authority. Proposals in Alternative E do not limit navigation or use, only the means of navigation and use in an effort to meet the needs of fish and wildlife and the needs of the public who enjoy recreation in a variety of ways. Also, no current recreational use is being eliminated, although there are restrictions on some areas at certain times of the year to meet the needs of wildlife and people. Our analysis of economic impacts in Chapter 4 of the Final EIS/CCP shows a continued gain in economic outputs under Alternatives C through E.

2. We have attached a memo from the Wisconsin Legislative Council which raises issues and concerns about Wisconsin sovereignty and jurisdiction over waters of the Refuge.

Response: We defer to comments from the Wisconsin Attorney General, and our response, later in this section.

3. The title to fish resides with Wisconsin and Refuge tournament fishing regulations would be redundant.

Response: We concur with state's lead in fish management and regulation and have edited objectives, strategies and other text in the Final EIS/CCP to clarify this point and stress a cooperative approach. We do believe, however, that the Refuge has shared responsibility and jurisdiction for fishing tournaments on the Refuge. Alternative E outlines an approach that would dove-tail with state regulations and avoid redundancy.

4. We believe increasing Waterfowl Hunting Closed Areas will not improve fish and wildlife populations overall, and that shell possession limits, hunter spacing, and managed hunts are not wildlife conservation tools, just ways to manage people.

Response: We do not concur that closed area changes will not improve waterfowl well-being based on research and monitoring done on the Refuge and elsewhere. For the Final EIS/CCP we have updated waterfowl information in Chapter 3, and have also added Appendix Q which discusses in detail the science and rationale for closed area changes. The shell limit and hunter spacing proposals have been dropped in Alternative E, and we will continue to work with local waterfowlers and the state to address issues relating to the waterfowl hunting firing line (Gibbs Lake area) north of the Lake Onalaska Closed Area. A special hunt area in Pool 8 (Goose Island) has been deleted in Alternative E, the preferred alternative.

Service Response to Senator Coleman March 9, 2006 Comment Letter (Page 484)

1. Concerned with loss of hunting access and opportunities for Minnesota hunters, especially with the changes proposed in Pool 4, Big Lake closed area proposal. The senator suggests providing replacement hunting opportunities of comparable quality.

Response: Alternative E opens an additional 3,138 acres to hunting in Pool 4, although not all comparable. Included in these acres of additional hunting area is 638 acres in Buffalo Slough near Big Lake to help any hunters displaced. Also, implementation of these changes are delayed until 2009 in Alternative E to allow three-year monitoring of waterfowl use in Nelson-Trevino and surrounding areas to ensure all information is fully considered before making the change. This will also ease the transition for hunters accustomed to hunting in the Big Lake area and allow them time to explore other alternative hunting areas.

2. Does not favor restricting specific types of watercraft or propulsion type.

Response: In response to public comment, many of the proposed Electric Motor Areas were dropped in Alternative E in favor of seasonal Slow, No Wake Areas. However, airboats and hovercraft present special problems due to inherent noise and limited ability to maintain slow,

no wake speeds in many backwater situations. Restricting specific types of watercraft or vehicles like ATVs and snowmobiles is an accepted management tool to protect resources and to maintain or enhance visitors' experiences. For example, Minnesota and Wisconsin prohibit airboats on virtually all state wildlife management areas.

Service Response to Congressman Kind March 13, 2006 Comment Letter (Page 485)

1. Strengthen efforts to reduce sedimentation, enhance habitat restoration, and combat invasives.

Response: We share the concern on these issues. We believe the action alternatives address these issues in a realistic and measurable way by a more aggressive implementation of Pool Management Plans (a 50-year vision for habitat for each pool done collaboratively by the Service, Corps of Engineers, and states), by marked expansion of the Partners for Fish and Wildlife Program in watersheds leading into the refuge, by calling for a 10% reduction in invasive plants by 2010, and by working with others on invasive animal issues. About 78% (\$170 million) of the projected funding needs for the life of the plan are devoted to habitat improvement and land acquisition, both of which directly improve the quality and quantity of fish and wildlife habitat.

2. Preserve and build upon the strong partnerships that have been developed.

Response: Virtually every objective in the Final EIS/CCP has partnerships and coordination as a strategy. A new "Friends of Pool 9" group has started due to the EIS/CCP public involvement process. We are prepared to continue working relationships with long-term partners and new partners, regardless of disagreements on certain parts of the CCP. However, doing the right thing for the refuge, resource, and the public as a whole may mean the loss of support by a few. Any loss of support is usually off-set by new partners who emerge.

3. Work with Wisconsin agencies in developing regulations and future management decisions.

Response: We have strived to reach consensus with the State of Wisconsin through our counterpart, the Wisconsin Department of Natural Resources, and believe we have done so since overall, they support Alternative E. Coordination will continue on any outstanding issues and through future implementation. This also holds true for the Corps of Engineers, who have endorsed Alternative E. We will continue to work with state and local authorities and strive for harmony and acceptance, tempered by our responsibilities to manage the Refuge in accordance with its establishing legislation, the Refuge Improvement Act, and Refuge System policies and regulations.

4. Maintain access for all users per the Refuge Improvement Act of 1997.

Response: We concur and we believe Alternative E provides and enhances all the priority public uses outlined in the Refuge Improvement Act while ensuring that they, and other uses, are compatible with the purpose of the Refuge and the mission of the Refuge System. We believe we are coordinating with state law with our proposed actions and will continue to do so. All users have access and ability to navigate, only the means of navigation is affected and often only seasonally. All priority public uses are allowed in Electric Motor Areas and Slow, No Wake Areas.

5. Strongly encourages the Service to adopt voluntary compliance methods in place of mandatory Slow, No Wake Areas, Electric Motor Areas, and waterfowl closed areas in Wisconsin, and monitor the impact.

Response: We gave this comment serious thought and consideration, and have adopted a voluntary compliance approach for all Waterfowl Hunting Closed Areas in Alternative E. However, for Electric Motor Areas and Slow, No Wake Areas, we do not believe the approach is in the best interest of the resource or the public and have not included it in Alternative E of the Final EIS/CCP. There are several reasons for not taking the suggested action:

- # Education, self-regulation, and law enforcement are all vital parts of the compliance equation. Education and self-regulation works for the majority of people. However, a voluntary approach removes enforcement and will eventually erode the level of compliance. A voluntary approach actually punishes the majority of law-abiding citizens by preventing us from taking action against the minority who choose to not abide by voluntary guidelines.*
- # There is little in the literature to confirm the soundness of this approach. Most voluntary compliance literature is in the context of voluntary compliance with existing regulations, not pure voluntary guidelines.*
- # Perhaps the best example in the literature is our existing voluntary avoidance area within the Lake Onalaska Waterfowl Hunting Closed Area, Pool 7. It has been successful in keeping the level of intrusions steady over time, but intrusions still occur and disturb waterfowl during fall staging. In contrast, one of the objectives of slow, no wake and Electric Motor Areas is to limit disturbance to wildlife in the spring and early summer since this is the sensitive nesting and young-rearing period for many species. Disturbance at this time can directly impact recruitment by causing nest abandonment, nest flooding by boat wakes, physical trauma to young which are slower or flightless, and scattering of broods or family groups. On the human side, just one improper intrusion into these areas may ruin the experience for a visitor and dampen his or her desire for future use of the area. Waterfowl Hunting Closed Areas also entail a very different set of circumstances. They are closed by regulation to hunting and trapping which limits use levels, and the voluntary avoidance provision is only in effect for a two to three month period that does not coincide with peak watercraft use.*
- # We currently have one mandatory Electric Motor Area in Wisconsin and it is working well. Airboats are not allowed in virtually all State wildlife management areas (Minnesota and Wisconsin). Some states prohibit any gas-powered motors in management areas.*
- # A voluntary approach in Wisconsin would lead to inconsistent Refuge regulations and confusion with the public who often cross state lines on any given pool.*
- # Setting a threshold which would trigger a mandatory or regulatory approach is problematic. All options examined have serious drawbacks due to variability of sites in terms of size, resources, access, and public use levels and patterns; lack of science on appropriate thresholds; measurement and "violation" definition problems; reliability and consistency of violation reporting by the public; and the additional monitoring burden placed on the Service.*

Service Response to Congressman Green March 6, 2006 Comment Letter (Page 488)

1. Concerned with social and economic impact of Alternative E to communities.

Response: Social and economic impacts have been reviewed and analyzed in Chapter 4, Environmental Consequences, of the Final EIS/CCP. We do not believe the plan would negatively impact visitation, the main driver of economics. The Division of Economics in Washington prepared our economic analysis using standard economic models and found a positive economic impact for Alternatives C through E. We believe that Alternative E, in its attempt to strike that reasonable balance of uses, will help ensure that the Refuge remains a

destination of choice for both wildlife and people. This integrated approach may prove more sustainable and have positive, long-term natural resource, social, and economic impacts both on the Refuge and in surrounding communities.

2. Service should adopt Alternative A (no action or current direction).

Response: We do not believe that Alternative A adequately addresses the large number of issues and needs identified in Chapter 1 of the Draft and Final EIS/CCP, including compliance with the Refuge Improvement Act and Refuge System policies and regulations. However, Alternative E addresses many of the concerns and ideas expressed by citizens and agencies, and we believe represents a balanced approach to management of the Refuge.

**Service Response to the Wisconsin Legislature (eight signatories) March 1, 2006 Comment Letter.
(Page 489)**

1. We are still generally opposed to Alternative E because it usurps state authority on sovereign waters and unnecessarily eliminates treasured wildlife and non-wildlife based recreational opportunities and economic activity.

Response: As noted in a previous comment and response, we recognize and quote the state's 1925 Refuge approval language in the Draft and Final EIS/CCP (Chapter 1), but the Service continues to have responsibility and authority for federal trust species and in meeting the purposes of the Refuge. However, we have developed our plan to ensure that we do not "usurp" any state authority. Proposals in Alternative E do not limit navigation or use, only the means of navigation and use in an effort to meet the needs of fish and wildlife and the needs of the public who enjoy recreation in a variety of ways. Also, no current recreational use is being eliminated, although there are restrictions on some areas at certain times of the year to meet the needs of wildlife and people. Our analysis of economic impacts in Chapter 4 of the Final EIS/CCP shows a continued gain in economic outputs under Alternatives C through E.

2. We have attached a January 13, 2006 memo from the Wisconsin Legislative Council which raises issues and concerns about Wisconsin sovereignty and jurisdiction over waters of the Refuge.

Response: We defer to comments from the Wisconsin Attorney General, and our response, later in this section.

3. Nearly every constituent and group we have heard from is opposed to new restrictions and supportive of maintaining the current recreational opportunities.

Response: It is not unusual or unexpected to find opposition to change. We have made a concerted effort to keep citizens informed and to consider their comments and suggestions in crafting the Final EIS/CCP. Alternative E in the Final EIS/CCP contains 17 major changes in response to public and agency input during nine public meetings and through written comments received. Written comments on the Supplement to the EIS reflect a more balanced perspective than elected officials may receive, with 165 persons in favor of Alternative A (139 of these were in one petition) and 143 persons in favor of Alternative B, D or E. We continue to believe that Alternative E, the preferred alternative, is a balanced approach that meets the greatest needs of both wildlife and people on the Refuge.

4. Our constituents have not expressed a demand for non-motorized canoe areas and we are concerned about additional search and rescue efforts needed if gasoline motors are prohibited in certain areas. We are concerned about loss of access for activities like hunting and trapping and effects on disabled persons.

Response: We heard from a number of people and organizations during scoping, public meetings, and through written comments who favored the establishment of Electric Motor Areas. In response to public comment, we made substantial changes to the number of Electric Motor Areas, going from 17 total areas in Alternative D to 5 total areas in Alternative E which equals less than 1% of the Refuge. Hunting, fishing, and trapping remain open in these areas, and we do not believe the number and size of areas presents an undue burden on disabled persons due to the abundant adjacent areas of the Refuge for other motorized craft. Also, the relatively small number and size of Electric Motor Areas should not increase incidents of lost or stranded persons requiring search and rescue efforts.

5. The choice of closed areas remains controversial; we suggest a pool-by-pool approach over time.

Response: We recognize that changes to the system of closed areas in effect since 1958 causes concern to some hunters. Just as waterfowl management must take a holistic, landscape approach for effective conservation, we believe that a Refuge-wide approach to closed areas is in the best interest of both waterfowl and the hunting public. We have incorporated many changes from earlier alternatives in Alternative E, the preferred alternative, due to public input at public meetings and workshops. Since these meetings were attended by persons interested in one or two local pools, we believe that in effect we have developed the preferred closed area system with pool-by-pool input.

6. It is critical that the maximum amount of acres be open to deer hunting for recreation and minimizing disease and environmental impacts.

Response: We do not disagree, although it is necessary to limit all hunting in Waterfowl Hunting Closed Areas during the waterfowl season to meet objectives for these areas, and to establish small scattered no hunting zones to deal with public safety concerns. We are currently working with state and local officials for a deer hunt in the Goose Island area, Pool 8, Wisconsin to help reduce the deer herd. We remain committed to following Wisconsin DNR's lead in deer management.

7. Concern about the economic impact that Alternative E will have, especially in regard to hunting, fishing, and trapping.

Response: As noted in an earlier comment and response, social and economic impacts have been reviewed and analyzed in Chapter 4, Environmental Consequences of the Final EIS/CCP. We do not believe the plan would negatively impact visitation, the main driver of economics. The Division of Economics in Washington prepared our economic analysis using standard economic models and found a positive economic impact for Alternatives C through E. We believe that Alternative E, in its attempt to strike that reasonable balance of uses, will help ensure that the Refuge remains a destination of choice for both wildlife and people. This integrated approach may prove more sustainable and have positive, long-term natural resource, social, and economic impacts both on the Refuge and in surrounding communities.

8. Concern that proposed pet restrictions will eliminate people's ability to swim their dogs.

Response: We have changed Objective 5.4, Dog Use Policy, in Alternative E in the Final EIS/CCP to address this concern while still protecting wildlife and other persons on the Refuge.

9. Concern that not enough emphasis is placed on invasive species management.

Response: We share the concern with the impacts that invasive species can have on habitat and native fish and wildlife populations. Alternatives D through E of the Final EIS/CCP calls for a 10% reduction in invasive plants by 2010 which we believe is a realistic objective depending on

funding levels. Controlling invasive animals represents an incredible basin-wide challenge beyond the confines and capabilities of the Refuge, and this is recognized in the rationale section of the invasives animal objective (2.4) in the plan. We will continue to work with the states and other agency partners in addressing invasive animals.

10. Concern that there is not enough access to shoreline and disabled fishing; work with Corps of Engineers to improve access at locks and dams.

Response: We share the concern for shoreline and disabled fishing, although the realities of railroad tracks and lands, private land, and slope of terrain often limit access points to the Refuge and the river for shoreline fishing and especially disabled anglers. In Alternative E, we have called for the addition of five additional accessible fishing piers, four new walk-in accesses, and improvement to five parking areas which often provide additional shoreline fishing opportunities. In addition, Alternative E retains four fishing float concessions which provide fishing opportunities for those without boats or who are disabled.

11. Concern with loss of public support and associated benefits by going forward with proposals.

Response: As noted in an earlier comment and response, virtually every objective in Final EIS/CCP has partnerships and coordination as a strategy. A new "Friends of Pool 9" group has started due to the CCP public involvement process. We are prepared to continue working relationships with long-term partners and new partners, regardless of disagreements on certain parts of the CCP. However, doing the right thing for the Refuge, resource, and the public as a whole may mean the loss of support by a few. Any loss of support is usually off-set by new partners who emerge.

Service Response to the Wisconsin Attorney General March, 6, 2006 Comment Letter (Page 493)

1. The plan adopted by the Fish and Wildlife Service must assiduously abide by the reservation of all rights by the State of Wisconsin and must not intrude into areas of regulation that were reserved for the State.

Response: Neither the Wisconsin Department of Natural Resources nor the Wisconsin Attorney General's comments on Alternative E have said that the Service has intruded or impinged on state authority. The Attorney General's comments do not say that the Service has crossed a line that would constitute intrusion into state authority. We continue to recognize and respect the various state and Corps of Engineers authorities, tempered by the Service's own authorities for carrying out its federal trust species responsibilities, and managing a national wildlife refuge in accordance with its legislative purpose, the Refuge Improvement Act of 1997, and Refuge System regulations and policies.

2. Suggested that regulation of fishing, boating, hunting and other state regulated activities be done in the closest consultation with the state.

Response: We agree and have been in close consultation with the state since the beginning of the planning process. The states are all represented on the Interagency Planning Team, and we have had several meetings with the State of Wisconsin to discuss and find solutions to issues. The Wisconsin Department of Natural Resources, in their comments on Alternative E, supported Alternative E with the understanding that we would continue to work on outstanding issues of concern (see Wisconsin Department of Natural Resources comments and response).

3. Any restrictions on navigation that may be imposed under Alternative E must be reasonable restrictions that are balanced with other public rights that are protected under the Public Trust Doctrine in the Wisconsin Constitution.

Response: Neither the Attorney General's comments nor the Wisconsin Department of Natural Resources have asserted or said that Alternative E would contravene Wisconsin's Public Trust Doctrine. The Attorney General's comments indicate that the Public Trust Doctrine embodies exactly the type of program we have been trying to develop. We are seeking to balance competing uses, acknowledging that no one public right is absolute. In the case of Slow, No Wake and Electric Motor Areas, they constitute less than 5 percent of the total Refuge and less than 8 percent of the water area of the Refuge. Slow, No Wake Areas are also seasonal, so there are no restrictions for four-and-a-half months of the year. These areas are also open to hunting, fishing, wildlife observation, and other currently allowed uses. We believe our proposal is in keeping with the Attorney General's urging that "any such restrictions are reasonable and are not imposed to the exclusion of other key factors that affect the conservation of resources in the Refuge."

4. The CCP has an undue focus on controlling human uses to the exclusion of dealing with resource conservation and protection such as pollution, sedimentation, invasive species, and habitat loss.

Response: As noted in an earlier comment and response, managing public use on a national wildlife refuge is an inseparable part of overall administration and resource management. The Refuge Improvement Act requires that CCPs address wildlife-dependent public use and visitor service facilities. As the most visited refuge in the Refuge System with an estimated 3.7 million annual visits, it is to be expected that public use-related issues would need addressing.

However, we believe the plan does address resource issues in a realistic and measurable way by a more aggressive implementation of Pool Management Plans (a 50-year vision for habitat for each pool done collaboratively by the Service, Corps and states), by marked expansion of the Partners for Fish and Wildlife Program in watersheds leading into the Refuge, by calling for a 10% reduction in invasive plants by 2010, and by working with others on invasive animal issues. About 78% (\$170 million) of the projected funding needs for the life of the plan are devoted to habitat improvement and land acquisition, both of which directly improve the quality and quantity of fish and wildlife habitat. Chapter 2, Table 4, outlines more than 360 habitat-related actions that are Refuge priorities and a part of all alternatives.

7.6 Petitions Received and Response

7.6.1 First Comment Period Petitions

Petition 1 – 180 signatures (Cordova, Illinois area citizens)

“In response to the proposed changes for the Upper Mississippi River National Wildlife and Fish Refuge, the undersigned people are requesting consideration for the families who use the river as a place of recreation. Most people are responsible in their use of watercraft in all areas of the river: Recreational boating is a source of income in the area as well as a means of having quality family time in a safe environment. We agree that migratory paths of various wildlife deserve consideration, but we believe that the national waterways belong to all the people. We ask that places such as Steamboat Slough remain available for recreational use.”

Response: We have made several changes in Alternative E, the preferred alternative, to address concerns regarding general recreation on the Refuge. All current types of recreation will continue, although there are time and place restrictions on a portion of the Refuge. In Pool 14, which includes Steamboat Slough, there is one seasonal Slow, No Wake Area in the backwaters north of Princeton State Wildlife Area. Due to its size and shallow-water, it should not measurably affect recreation in the Cordova/Princeton area, and the area remains open to fishing, hunting, wildlife observation, camping, and other uses. There is a canoe trail identified through Steamboat Slough, but this designation does not preclude other types of watercraft or any other current use.

Petition 2 – 77 signatures (some Wisconsin citizens, most unknown)

“Don’t change anything, leave nature deal with the changes.”

Response: We do not believe that no action or current direction would address the myriad of issues and needs identified in Chapter 1 of the Final EIS/CCP. However, as noted elsewhere in this comment and response chapter, many changes were made for the preferred alternative in response to public concerns.

Petition 3 – 12 signatures (Bellevue, Iowa area citizens)

“We the undersigned, believe the Mississippi River is a public waterway to be used BY THE PEOPLE. We believe the National Fish and Wildlife Service SHOULD NOT CONTROL this waterway by restricting boats with gas motors off the channel, require fees for boat ramps, or charge and/or close all beaches.”

Response: We believe that establishing Electric Motor Areas and Slow, No Wake Areas as identified in Alternative E, the preferred alternative, is a reasonable approach to meeting the needs of fish and wildlife on a national wildlife refuge, and for addressing the various needs and conflicts that come with high visitation rates. These areas encompass approximately 8 percent of the water acres on the Refuge, with the remaining 92 percent unrestricted during peak visitation periods. The fee for use of Refuge-administered boat ramps was dropped in Alternative E. There is no proposal at this time for any recreation fee, and no proposal to close all beaches. Beach closures or restrictions will only be used to address chronic public use problems or safeguard wildlife or habitat values.

Petition 4 - 2,939 signatures (La Crosse, Wisconsin area citizens)

"The undersigned Citizens petition the U.S. Fish and Wildlife Service (FWS) as follows:

1. The FWS has recommended Alternative Plan D to the proposed Comprehensive Conservation Plan. We are opposed to Alternative Plan D and recommend that it be denied.
2. We favor Alternative Plan A (current plan now in force) to the FWS Comprehensive Conservation Plan and recommend that Alternative Plan A be adopted with the opportunity for modifications, with public support on a pool by pool basis.”

Response: We do not believe that Alternative A (no action or current direction) adequately addresses the large number of issues and needs identified in Chapter 1 of the Draft and Final EIS/CCP, including compliance with the Refuge Improvement Act and Refuge System policies and regulations. However, Alternative E, the preferred alternative, addresses many of the concerns and ideas expressed by citizens and agencies, and we believe represents a balanced approach to management of the Refuge. We believe the extensive public involvement effort, with

31 public meetings and workshops in communities up and down the Refuge, resulted in extensive pool-by-pool analysis and comment by the public. Most of the more than 3,700 persons attending the meetings provided input on the one or two pools they live near and use.

Petition 5 - 74 signatures (Green Sanctuary Committee, Woodstock, Illinois)

“The Fish and Wildlife Service’s primary mission is to protect fish and wildlife and their habitats contained within the national wildlife refuge system. As such, activities must be prohibited that inflict significant damage to wildlife and their habitat and disrupt the natural state of quiet and equilibrium.

Fish and wildlife do not thrive in noisy, polluted areas with jetskis churning the waters and degrading the shorelines. People (like us) who appreciate nature and visit the Refuge for solitude and revitalization also do not thrive under these conditions.

Therefore, we support the “enhanced alternative B” and its call for elimination of personal watercraft throughout the Upper Mississippi National Wildlife Refuge. In addition, we believe off-road vehicles such as ATVs as well as marine outboard two-stroke motors must be prohibited for the protection of the refuge.

The “enhanced alternative B” was crafted by concerned citizens and best protects refuge resources such as air and water quality, wildlife and solitude. We deplore any degradation of the refuge. We urge FWS to adopt this alternative.”

Response: We do not believe that Alternative B is the preferred alternative for this particular refuge due to the mix of ownerships and jurisdictions, level and importance of recreation, and the size and length of the Refuge. We believe that Alternative E strikes a reasonable and sustainable balance between the needs of fish and wildlife and the needs of people in accordance with the Refuge Improvement Act and Refuge System policies and regulations. Off-road vehicles will continue to be prohibited except on navigable waters during ice-over conditions. We have addressed watercraft use conflicts by establishing 13 Electric Motor Areas and Slow, No Wake Areas, and strengthened the protection of migrating birds through changes to the system of Waterfowl Hunting Closed Areas and Sanctuaries encompassing 43,764 acres.

7.6.2 Second Comment Period Petitions

Petition 1 - 25 signatures (La Crosse, Wisconsin area citizens)

“Dear Mr. Hultman,

We are writing to ask you to reconsider the State of Wisconsin’s authority over navigation on the Upper Mississippi River and the consequences of your planning effort.

We believe that your Comprehensive Conservation Plan for the Upper Mississippi River Wildlife and Fish Refuge has unfortunately been put on the fast track for approval. We have attended several meetings with your agency and with other concerned river conservationists and various groups.

We remain concerned that your effort to expand the authority of your agency and usurp the power of the State of Wisconsin regarding navigation is ongoing and has not been addressed.

We believe that it is paramount that you withdraw from your plan any and all restrictions on navigation OR put on hold until those issues can be settled with the State of Wisconsin.

As the days and weeks pass we draw dangerously close to your deadline of March 6, 2006. We remain concerned that once this plan is signed the only avenue open to us would be a costly lawsuit that will further divide this once supportive river community. We have long been supporters of the work your agency and other agencies.

Our support for your work has eroded over the course of your planning process and successful river habitat programs like the Environmental Management Program and Navigation and Ecosystem Sustainability Program are in jeopardy of losing their public support. Please resolve these constitutional issues FIRST so we can all proceed with planning for this great river resource we all love.”

Response: As noted in earlier comments and responses, the Service believes that it has the authority for the actions described in Alternative E, the preferred alternative in the Final EIS/CCP. Neither the Wisconsin Department of Natural Resources nor the Wisconsin Attorney General's comments on Alternative E have said that the Service has intruded or impinged on state authority. The Attorney General's comments do not say that the Service has crossed a line that would constitute intrusion into state authority. We continue to recognize and respect the various state and Corps of Engineers authorities, tempered by the Service's own authorities for carrying out its federal trust species responsibilities, and managing a national wildlife refuge in accordance with its legislative purpose, the Refuge Improvement Act of 1997, and Refuge System regulations and policies.

Petition 2 - 139 signatures (Quad City Bass Club)

“We the undersigned respectfully ask that Alt A. become the final decision on the draft CCP and EIS for the Upper Mississippi River National Wildlife and Fish Refuge. The refuge has not shown sound biological data to support Alt E. and would waste federal tax dollars on signs, buildings and staff. They have admitted to not addressing sedimentation and habitat problems in the past. Deferred to the state to manage the fishery. They have chosen to take the easy task of restricting public access to the refuge and create controversy between refuge users. WE SUPPORT ALT. A NO CHANGE.”

Response: As noted in earlier comment and response, we do not believe that Alternative A (no action or current direction) adequately addresses the large number of issues and needs identified in Chapter 1 of the Draft and Final EIS/CCP, including compliance with the Refuge Improvement Act and Refuge System policies and regulations. However, Alternative E, the preferred alternative, addresses many of the concerns and ideas expressed by citizens and agencies, and we believe represents a balanced approach to management of the Refuge. Alternative E does address sedimentation and habitat issues in a meaningful and realistic way, and we have always recognized the state's lead in fishery management, although we believe the Refuge plays a role. If tackling some of the public use issues and challenges is the easy path, this was certainly not reflected in the scores of public meetings attended by thousands of citizens.

Petition 3 - 131 signatures (Fountain City, Wisconsin area citizens)

“To Don Hultman Refuge Manager, US Fish and Wildlife Service Upper Mississippi River Wildlife and Fish Refuge. RE: Your Comprehensive Conservation Plan for the Upper Mississippi River Refuge, Alternative E. We oppose the proposed Slow No Wake Zone along Merrick State Park.”

Response: We believe this Slow, No Wake Zone, Pool 5a, is warranted based on concerns expressed by visitors using the adjacent Merrick State Park. However, this and all other Slow, No Wake Zones will go through the local unit of government approval process, as is normal and customary for designating Slow, No Wake Zones on the river. Thus, this area is a proposal by the Refuge, not a final decision.

7.7 Form Letter or Form E-mail Comments and Response

7.7.1 First Comment Period

Form letter 1 (post cards) - 295 individuals (Sierra Club-Midwest)

Comment: Support protecting the Mississippi River for future generations of people, fish and wildlife. The final Conservation Plan must allow people and nature to co-exist. Support Alternative D to ensure adequate water quality and habitat for fish, wildlife and quality recreational opportunities for future generations.

Response: Comments are noted. Alternative E, the preferred alternative, is a modification of Alternative D. Many of the features or actions in Alternative D are also found in Alternative E. However, changes were made based on public input at public meetings and workshops, and in response to written comments. We believe that Alternative E continues to meet the spirit of these comments.

Form letter 2 – 20 individuals (based on alert from National Rifle Association)

Comment: Limiting the number of shotshells for waterfowl hunting is unnecessary and would unfairly target youth and beginning hunters. Closure of areas to hunting should not be done unless biologically necessary. Electric Motor Areas would make hunter access to these areas very difficult, and concerned about permit-only hunts and fees. Some of the letters specifically preferred Alternative A.

Response: The daily possession limit of 25 shotshells for waterfowl hunting in Alternatives B and D was deleted in Alternative E, the preferred alternative. The modifications to the existing system of Waterfowl Hunting Closed Areas as described in Alternative E is based on decades of surveys and recent energetics studies. Even with the changes, the percentage of the Refuge open to hunting in Alternative E is 78% compared to the current 80%, and the gap is actually narrower since some areas are only closed for part of the season. As noted in earlier responses, major changes were also made to the number of Electric Motor Areas, and Alternative E contains five areas totaling 1,852 acres versus 16 areas totaling 14,498 acres in Alternative D. Also, the proposed managed hunt in Pool 7 was dropped in favor of working with area waterfowlers and the state in addressing issues of crowding and firing line behavior. We do not believe that Alternative A (no action or current direction) adequately addresses the large number of issues and needs identified in Chapter 1 of the Draft and Final EIS/CCP, including compliance with the Refuge Improvement Act and Refuge System policies and regulations.

Form letter 3 – 120 individuals (unknown “sponsor,” letters from throughout U.S.)

Comment: Understand the need for flexibility in refuge management, but opposed to any restrictions regarding motorized watercraft, and specifically the Electric Motor Areas in Alternative D. As a taxpayer and boat owner who pays federal tax on the boat and fuel, any reduction in access is unacceptable.

Response: In response to these and other comments, we have made many changes as reflected in Alternative E, the preferred alternative. When compared to the other alternatives, these changes include a major reduction of Electric Motor Areas in favor of seasonal Slow, No Wake Areas, dropping of a boat ramp fee, modifying beach-related use regulations, dropping shot shell limits and spacing for waterfowl hunters, and changing boundaries and entry regulations for Waterfowl Hunting Closed Areas. The number of canoe trails was reduced by two trails in Alternative E compared to Alternative D. However, canoe trails remain open to all watercraft type (unless within an otherwise restricted-use area) so should not affect traditional and customary uses.

Form letter 4 – 1,850 (Blue Water Network based in San Francisco, California)

Comment: The Service's primary mission is to protect wildlife and its habitat and activities that damage wildlife and habitat and that disrupt traditional activities like hunting and fishing must be prohibited. Support an enhanced Alternative B for the Refuge, and believe that ATVs, two-stroke outboards, personal watercraft and snowmobiles should be prohibited.

Response: As noted in earlier response, we do not believe that Alternative B is the preferred alternative for this particular refuge due to the mix of ownerships and jurisdictions, level and importance of recreation, and the size and length of the Refuge. We believe that Alternative E strikes a reasonable and sustainable balance between the needs of fish and wildlife and the needs of people in accordance with the Refuge Improvement Act and Refuge System policies and regulations. Off-road vehicles will continue to be prohibited except on navigable waters during ice-over conditions. We have addressed watercraft use conflicts by establishing 13 Electric Motor Areas and Slow, No Wake Areas, and strengthened the protection of migrating birds through changes to the system of Waterfowl Hunting Closed Areas and Sanctuaries encompassing 43,764 acres.

Form letter 5 – 20 individuals (Prairie du Chien, Wisconsin area citizens)

Comment: Strongly disagree with the contents of the Draft EIS/CCP and concerned about closing areas of the Refuge that have been used for generations. The river has been and should be a multi-purpose resource for the benefit of fish, wildlife, and people. Changes which diminish hunting, fishing, boating, and camping will not gain consensus. Favor Alternative A, no action, and this will allow more time to enact a plan that will gain public support.

Response: By law, national wildlife refuges are to be managed first and foremost for fish and wildlife in accordance with their purposes. However, we concur that this Refuge can be managed effectively to benefit fish, wildlife, and people, and we believe the goals and objectives in Alternative E, the preferred alternative, strongly support this. Alternative E reflects many changes based on extensive public input at meetings, workshops, and through written comments. All types of traditional recreation currently enjoyed on the Refuge will continue, although there are reasonable time and place restrictions on a portion of the Refuge to meet the needs of wildlife and the needs of a large and diverse public. We believe this balanced approach is in the best long-term interest of the resource, area communities and economy, and the public at large. Alternative A, no action or current direction, does not meet the multitude of needs outlined in Chapter 1.

7.7.2 Second Comment Period

Form Letter 1 – 193 individuals (permanent blind owners/users, Pools 12-14 area)

Comment: Hunters, anglers and trappers pay the largest portion of funds for conservation and Alternative E has a negative effect on them. The plan spends most of its funds on creating canoe, hiking, and bike trails and does little for wildlife. Specifically, want to keep permanent blinds for the following reasons:

- # Hunter safety – having hunters running around for place to hunt in dark is dangerous
- # Habitat – permanent blinds provide nesting sites for waterfowl and habitat for other birds and fish
- # Tradition – this is way we have always hunted in the Savanna District and there is no reason to change it.

Response: We recognize that hunters and anglers have been and continue to be major financial supporters for conservation in this country. However, operation and maintenance funds for national wildlife refuges do not come from the sale of licenses or Duck Stamps, but from general tax revenues. The Refuge Improvement Act requires that each refuge facilitate compatible hunting, fishing, wildlife observation, photography, interpretation, and environmental education. The facilities in the plan are designed to support these various wildlife-dependent uses. Fish and wildlife management remains a major component of all alternatives in the Final EIS/CCP. Habitat enhancement and land acquisition account for 78 percent of the estimated cost of implementing Alternative E, the preferred alternative, over the next 15 years.

As noted in an earlier response to Illinois Department of Natural Resources comments, phasing out permanent hunting blinds is a difficult issue due to the number of hunters involved and the strong traditions that have developed. However, we believe our concerns with private, exclusive or proprietary use of public lands and waters, continued problems with confrontations and debris, and inconsistency with the other three districts of the Refuge warrant a phase out of the blinds. We also acknowledge that permanent blinds do provide nesting sites for Canada Geese and Mallards, and micro-habitat for other fish and wildlife. However, we believe the concerns outweigh these benefits, and habitat for Canada Geese and Mallards remains abundant without the blinds. We have made one change in Alternative E to help ease the transition. The pool-by-pool sequence of phase out will be Pool 12, 14, and 13. This will not only ease our administrative and enforcement burden, but give the greatest number of blind hunters (Pool 13, 250 blinds) more time to adjust to alternative hunting methods.

7.8 Public Comment by Topic or CCP Objective

(Note: number in parenthesis denotes number of similar comments received)

1.1 Refuge Boundary

Comment: Support plan to identify, survey and post areas where encroachment most likely (9).

Response: Comments are noted.

1.2. Acquisition within Approved Boundary

Comment: Support land acquisition (16) and believe the ecological health and viability of the Refuge depend upon it (4).

Response: We concur with these comments and completing land acquisition within the authorized Refuge boundary is an important objective in Alternatives B through E.

Comment: Want money ear-marked for land acquisition to be used for fish stocking and eradication of choking weeds (3).

Response: Funding appropriated by Congress for land acquisition must be used for land acquisition. The funding source for land acquisition for the Refuge is the Land and Water Conservation Fund, funding for which comes mainly from off-shore oil and gas leasing fees paid to the United States.

1.3 Bluffland Protection

Comment: Support efforts to aggressively acquire blufflands to protect upland habitat and terraces as an important corridor for migration of non-waterfowl. (19)

Response: Concur as reflected in Alternatives B through E.

1.4 Research Natural Areas and Special Designations

Comment: Support management of Natural Areas and efforts to achieve special designations (RAMSAR Wetland of International Importance and Important Bird Area). Study degraded habitat in these areas to learn how to replicate them (9).

Response: Concur as reflected in Alternatives B, D, and E.

Comment: Create a Research Natural Area for oak savannas at the Lost Mound Unit, Savanna District (NW Illinois Prairie Enthusiasts).

Response: We concur with the ecological importance and significance of the oak savanna and prairie at the Lost Mound Unit, Savanna District of the Refuge. However, we do not believe that natural area designation is appropriate given the level of disturbance, and in some cases contamination, that has occurred at the Lost Mound Unit (former Savanna Army Depot). We are committed, however, to conserving and enhancing the oak savanna habitat at Lost Mound through prescribed burning, invasive plant removal, and other methods.

Comment: Natural areas need to be re-identified. For example, Goose Island (Pool 8) is designated as a natural area in the Land Use Allocation Plan, but is programmed to be converted to forest.

Response: The Goose Island area of the Refuge was never formally adopted as a federal Research Natural Area by the Service and there is no intent to pursue such designation. Thus, habitat management of the area will be guided by what is best for the resource in cooperation with the Corps of Engineers, Wisconsin, and local units of government which all have a role in the Goose Island area.

2.1 Water Quality (chemistry and sediments)

Comment: A majority of individuals/organizations citing water quality as a concern (81) listed it as their top priority.

Response: We concur that water quality is a critical aspect of the environmental health of the Refuge which is one reason it was treated as a separate objective in the Draft and Final EIS/CCP. We also recognize in the text that water quality is an issue beyond the scope of the Refuge, but have identified strategies to address that we believe are realistic and can help address water quality impacts originating off-refuge.

Comment: Support efforts to standardize water quality criteria and address sedimentation and siltation especially in backwaters (71).

Response: Concur and objectives and strategies in the Final EIS/CCP reflect this.

Comment: Private citizen concerned that islands the Service has helped build in Lake Onalaska are cutting off water flow and increasing sedimentation along shoreline.

Response: Like all habitat projects, we have worked with the Corps of Engineers, Wisconsin Department of Natural Resources, and local units of government and associations in designing island projects. The design work includes a look at flows and sediment transport, among other variables. This analysis does not indicate that islands constructed in Lake Onalaska are the cause for any substantial increase in sedimentation.

Comment: General concern that limiting speed and certain types of boats will not reduce sedimentation or improve water quality (5).

Response: We do not disagree, although motor type and how it is used can affect water quality and sediment in the immediate area of operation. However, our proposals for Slow, No Wake Areas, no wake zones, and Electric Motor Areas are not intended to address sedimentation and water quality issues. They are intended to address fish and wildlife disturbance, public safety, or conflicts within or between different user groups.

Comment: Concern that dumping raw sewage, nutrient loads, agricultural and storm water run-off are all affecting water quality (3).

Response: We concur that these actions can measurably affect water quality. However, most of these actions occur off-refuge and come under the jurisdiction of state or federal agencies who deal with water and nutrient discharges. We generally report potential violations of pollution control regulations to the appropriate state agency, and will continue to do so. The Final EIS/CCP does include strategies to address water quality by working with landowners in watersheds (Objective 2.1).

Comment: The Refuge should focus on watershed agreements and impact of point and non-point water quality sources.

Response: We concur although have limited ability to address the myriad of watershed and basin wide land use issues that affect the quality of water entering the Refuge. We have identified in the plan strategies to address a watershed-based approach that we believe is realistic and can help address water quality impacts originating off-refuge.

2.2 Water Level Management

Comment: Support water level controls to mimic natural water level fluctuations to benefit habitat (25).

Response: Comments are noted and water level management remains an important feature in the Final EIS/CCP.

Comment: Concerned that the water level in Pools 9 and 10 is kept too high all year causing a lack of vegetation and thus habitat (3).

Response: This concern was also raised at public meetings and workshops in communities near Pools 9 and 10. Water level management of all pools remains under the control of the Corps of Engineers. We have brought this issue up with the Corps of Engineers and will continue to discuss it with them.

2.3 and 2.4 Invasive Plants and Invasive Animals

Comment: Invasives should become top priority after water quality. Want greater partnership with state agencies to fight invasives (79).

Response: We concur that addressing invasive plants and animals is a high priority, thus the plan treats them as separate objectives. Controlling invasive species is a difficult challenge since they often originate off-refuge and control methods are either costly or have yet to be developed. Invasive animal species in particular do not lend themselves to direct control in a large river system and effective measures are often dependent on political and management actions beyond the boundary of the Refuge. However, we have strengthened strategies in these objectives in Alternative E (which include working with the states and others), and have also ranked invasive species control high in the Implementation Plan, Appendix L.

Comment: Want active controls to fight invasives like purple loosestrife. Recommend using volunteers to physically eradicate invasives on islands and help educate public (3).

Response: See response above. We concur with the use of volunteers and role of education and these are included in the strategies in the plan.

Comment: Want active coordination and improved public awareness campaign to control Asian carp and zebra mussel spread (5).

Response: See responses above.

3.1 Environmental Pool Plans

Comment: Develop diverse partnership providing a balanced approach to habitat and water quality restoration and management (2).

Response: We concur as reflected in the many strategies in the Final EIS/CCP which emphasize partnerships. We have also added a new section in Chapter 2, Section 2.4.2 (Elements Common to All Alternatives), that emphasizes coordination and collaboration with the states and Corps of Engineers on all aspects of the plan.

Comment: Overall support pool drawdowns and recognize benefits (10).

Response: Concur; see comments and response under 2.2, Water Level Management.

3.2 Guiding Principles for All Habitat Management Programs

Comment: Adopt and use guiding principles (5) and employ management practices which restore/mimic natural ecosystem processes promoting diverse habitat with minimum maintenance and cost (2).

Response: We concur and Alternative E in the Final EIS/CCP reflects these comments.

3.3 Monitoring Fish and Wildlife Populations

Comment: Monitoring is a critical step to assess status and trends of wildlife populations. Increase efforts and coordinate with states and other agencies, providing periodic reports to public (18).

Response: Comments are noted and we believe the Final EIS/CCP affirms these comments.

Comment: Increase monitoring to include Red-shoulder hawks, warblers, Pileated Woodpeckers, neo-tropicals and migrant shore birds (2).

Response: Although we generally concur with this comment, the range of species monitored is often limited by staffing, funding, or number of qualified volunteers. The plan calls for updating the Refuge wildlife inventory plan, and it is at this time that the range of species that will be monitored will be selected

3.4 Threatened and Endangered Species

Comment: Fully protect the habitats for threatened and endangered species, increase inventory, monitoring, and recovery. Encourage public education at every opportunity (4).

Response: We concur and Alternative E in the Final EIS/CCP reflects increased emphasis on threatened and endangered species.

Comment: Identify other federally listed species in adjoining areas (like Indiana bats) and coordinate monitoring activities.

Response: Since the Refuge CCP is specific to the Refuge, it would not be appropriate to stray to far afield with actions and initiatives, especially given the restraints of staffing and funding. We did examine records for Indiana bat occurrences and found these records show the bats are some distance from the Refuge. We will continue to provide assistance to our counterparts in the Service's Ecological Services and Fisheries programs, as well as the states and non-governmental organizations, for off-refuge threatened and endangered species monitoring as appropriate.

Comment: Protect federally-listed monkshood flower and Pleistocene snail.

Response: We concur. The Driftless Area National Wildlife Refuge is managed as part of the Refuge Complex and its purpose is to protect these two species. A CCP for this refuge was recently completed and calls for a marked expansion of habitat protection for these species, with the eventual goal of having enough secure habitat, and secure populations, to de-list the species.

3.5 Furbearer Trapping

Comments:

- # Address liberal beaver trapping ruining habitat for duck marsh and rat houses. Want Minnesota to sanction otter trapping and dates to coincide for beaver/otters. (3)
- # Wants muskrat season to end December 31 to allow population to recover from loss of habitat and prevent over-harvesting. 75% of rats taken in first 2 weeks especially in Pool 5A.
- # 30-day season long enough to allow muskrat population to build back up (too low). (3)
- # Want airboat use authorized during winter to retain safety when trapping. (3)

- # Give each trapper 5-10 more tags specifically for dry land trapping to control predators (raccoon/possum).
- # Increase trap tag allotment to pre-1970 issue of 40 tags and adjust trap hours to mirror states.
- # Allow raccoons caught incidental to spring beaver trapping as legal game.
- # Ban all hunting and trapping on Refuge (3)
- # Leg hold and Conibear traps pose serious threats to non-target wildlife including T&E species. Mitigate hazard and seek incidental take permits as necessary.
- # Anyone who makes profit out of activities on refuge should be required to have a Special Use Permit and be charged accordingly. (3)
- # Fully analyze trapping programs or suspend trapping until program is fully analyzed, reviewed, and brought into compliance with Refuge policies. Plan relies heavily on state data not independently confirmed by the Service. Beaver and red fox populations are declining but trapping limits are unchanged.

Response: All alternatives in the Final EIS/CCP call for an update of the Refuge Trapping Plan by June, 2007. There will be a separate environmental assessment completed as part of that planning process, as well as public involvement as outlined in Alternative E. Thus, it is premature to respond to most of the specific comments received on trapping. The comments above, along with new input, will be considered as a new trapping plan is prepared.

3.6 Fishery and Mussel Management

Comment: Largest and most widely used U.S. river refuge needs a full time fishery biologist (3).

Response: We concur and a fishery biologist position is included in the preferred alternative of the Final EIS/CCP.

Comment: The Refuge needs to take an active and advisory role in fishery and mussel management, especially in concert with the states through the technical section of the Upper Mississippi River Conservation Committee.

Response: We concur as reflected in the preferred alternative.

Comment: Would like 15-inch limit on walleye and saugers. Bag or creel limit should be lowered from 6 to 4, and would like more restrictions on fish harvesting and selective walleye harvesting.

Response: We believe, as reflected in the Final EIS/CCP, that the states have the lead for management of sport and other fisheries, including regulations determining size and take limits. Thus, we generally defer to the states for any take regulations that are applied on the Refuge.

Comment: Ensure stocking program supports/supplements fishery efforts since fishing directly impacts economic growth.

Response: The Refuge does not actively participate in any stocking programs since we believe this is a responsibility carried out at the discretion of the states based on their survey information and objectives. The Genoa National Fish Hatchery, Genoa, Wisconsin, does do some fish rearing and stocking in coordination with the states.

3.7 Commercial Fishing and Clamming

Comment: The Refuge should issue permits for commercial fishing and clamming.

Response: We believe Alternative E in the Final EIS/CCP outlines a sensible approach for dove-tailing any Refuge permit requirements with the current permitting processes of the states who retain the lead for commercial fishing and mussel harvest.

Comment: Insure the Service coordinates with states to avoid jurisdictional issues on commercial use.

Response: Concur and this is reflected in the Final EIS/CCP.

Comment: Final decision on Waterfowl Hunting Closed Area entry regulations and electric motor only areas must take into account commercial fishing and biological monitoring.

Response: We have made several changes in Alternative E that address concerns for both commercial fishing and entry by other agencies engaged in monitoring activities.

The large Waterfowl Hunting Closed Areas also used by commercial anglers are now voluntary avoidance versus no fishing, no motors. Small Waterfowl Hunting Closed Area are voluntary avoidance and no motors, but these areas are generally not of interest to commercial anglers. We will continue to work with commercial anglers on ways to limit timing and methods of harvest in closed areas in the fall to minimize disturbance to resting and feeding waterfowl. Electric Motor Areas have been scaled back to just five areas and should not affect commercial fishing. Bona fide biological monitoring and other resource and law enforcement work is exempt from public use restrictions in certain areas. This was clarified in the Final EIS/CCP in Chapter 2, Section 2.4.1.

Comment: Closure of lower half of Pool 5 would make commercial fishing impossible.

Response: See response above. The Weaver Bottoms Closed Area in Pool 5 is a voluntary avoidance area from October 15 to the end of the state duck season in Alternative E, the preferred alternative.

Comment: Commercial anglers need to have unrestricted access above Lock and Dam 9.

Response: See response above. The Harper's Slough Closed Area above Lock and Dam 9 is a voluntary avoidance area from October 15 to the end of the state duck season in Alternative E, the preferred alternative.

Comment: The Refuge should ban all commercial fishing and clamming as an incompatible refuge use (2).

Response: Do not concur: Commercial fishing can be a valuable management tool in keeping fish populations in balance with habitat, especially in regard to introduced species such as common carp, and more recently, Asian carp. Clamming or mussel harvest is closely regulated by the states so that harvest does not harm populations or species. Wisconsin recently closed the mussel harvest based on population data. The Refuge will continue to work with the states in managing commercial fishing and clamming to ensure it remains a compatible use.

Comment: Commercial anglers could be impacted by closures during duck season (2), and commercial fishing in Lansing, New Albin, and Harpers Ferry is a livelihood for many.

Response: We do not disagree and made changes to Alternative E due to comments received from commercial anglers and the states. See other comments and responses in this section.

Comment: Create travel corridors for commercial anglers to check nets and lines during waterfowl season (2).

Response: Travel corridors for general access around the core of Waterfowl Hunting Closed Areas have been incorporated in various alternatives, including Alternative E, the preferred alternative. The need for travel corridors specifically for commercial anglers is no longer an issue since in Alternative E, entry into large closed areas is at the discretion of the operator under the voluntary avoidance guidelines adapted. However, this idea has merit to help limit disturbance to waterfowl and will be pursued in coordination with commercial anglers and the states.

3.8 Turtle Management

Comment: Support turtle ecology study and management of turtles (5).

Response: Comments are noted and reflect the direction in Alternatives B, D, and E in the Final EIS/CCP.

Comment: There is no proof that turtle harvest is beneficial to Refuge as required by Refuge System regulations dealing with commercial uses on refuges.

Response: We do not disagree, although there is also no proof that turtle harvest as prescribed by state regulations, which the Refuge adopts, are posing any harm to turtle populations. However, we recognize the need for better information and Alternatives B, D, and E call for both increased turtle monitoring to understand population dynamics and human impacts, and for a turtle management strategy which would address the question of whether harvest contributes to achieving Refuge purposes or Refuge System mission as required in 50 CFR 29.1. This issue is also complicated by the mix of ownerships and jurisdictions on the river floodplain. As called for in the Final EIS/CCP, we will continue to work on this and other commercial uses of natural resources to ensure compliance with Refuge System policy and regulations.

Comment: The lack of information is not reason to dismiss the alternative component of fish and turtle sanctuaries.

Response: We do not concur. As noted in Chapter 2, Section 2.3, there is a lack of scientific information and no concurrence among resource managers and biologists that additional fish sanctuaries, or new turtle sanctuaries, are warranted. We believe that other actions in Alternative E of the Final EIS/CCP, namely Electric Motor Areas and Slow, No Wake Areas, provide additional protection and some measure of "sanctuary" for aquatic species during the critical breeding and young-rearing season.

Comment: Research is required to provide scientific basis for turtle management decisions and restrictions.

Response: Concur; and this is reflected in Alternative B, D, and E of the Final EIS/CCP under Objective 3.8.

3.9 Forest Management

Comments:

- # Refuge forest needs to be evaluated, inventoried, and managed to improve the type and make up of the forest (13).
- # Hire a forester who understands fire and flood driven ecosystems, and recognize the need for large patches and older forest with high canopy closure (3).
- # Concerned about impact of dying silver maples and bird species loss as forest trees die, disappear, and are replaced by less desirable hardwoods.
- # Supports balanced forest management that provides adequate habitat for cavity-nesting game and non-game species.
- # Allow retention of 70% closed canopy for forest birds like Red-shouldered Hawks and warblers (2).
- # Harvest some trees to promote healthy/diverse forest. Some could be taken down and replaced with wetland/upland plantings and allowed to re-forest naturally.
- # Recommend using dredged material to add topographic diversity restoring elevations and soil moisture to support floodplain forest habitats.

Response: We concur with most of these comments and they are addressed in Alternative B, D, and E in the Final EIS/CCP. Specific comments and suggestions on forest composition and structure will be addressed in the Forest Management step-down plan to be completed by 2010. The first priority is to complete a forest inventory by 2008 which will form the basis of more detailed planning. In addition, the Corps of Engineers, which has responsibility for forest management on about half of the lands that are part of the Refuge, is actively working on a forest management strategy as part of the pre-planning for the Navigation and Environmental Sustainability Program. This strategy, and potential increase in funding, could accelerate forest management actions.

Comment: Concern about disturbing mature woodland forest near the proposed Kain Switch Hiking Trail, Pool 9, south of New Albin, Iowa.

Response: This hiking trail has been scaled-back considerably in Alternative E (2.9 miles versus 4.3 miles) and will run close to the road versus into the heart of this unique forest area. Also, the trail is meant to be natural or primitive in nature and designed and constructed in a way that causes little or no impact to the existing forest.

3.10 Grassland Management

Comment: Support grassland management, including restoration and protection of native prairie and savannas for diverse species which rely on grasslands and forest (8).

Response: Concur and reflected in the Final EIS/CCP.

Comment: Add grass to dikes and establish grassland habitat for ground nesting birds on constructed islands.

Response: We agree that establishing grass on dikes, islands, and other areas may be the best management strategy depending on site. However, as stated in our guiding principles for habitat management (Objective 3.2), natural succession may be the best course on some areas given the realities of the physical environment and the needs of all species. This approach is also in-line with the Service's policy on biological integrity, diversity, and environmental

health, but does not preclude the planting of grass on dikes and islands to benefit ground nesting birds where most appropriate, feasible, and sustainable.

4.1 General Hunting

Comment: Wants to keep minimum of 80 percent of Refuge open to hunting and recommends adjusting current areas open to hunting that may provide better sanctuaries.

Response: In Alternative E we have made several adjustments to Waterfowl Hunting Closed Areas and No Hunting Zones, and added explanatory information about the acreage and percentage of the Refuge open to hunting. The percentage of the Refuge open to hunting is substantial compared to most national wildlife refuges, and the percentage of 78 percent in Alternative E is a minimum. The actual percentage is expected to rise as land acquisition is completed and these additions are opened to hunting.

Comment: Concerned about loss to overall hunting area (44).

Response: We have tried to minimize any reduction in areas open to hunting while still meeting the needs of waterfowl and other wildlife which depend on the Refuge for either all or a portion of their annual life cycle. Hunting remains a priority public use in keeping with the Refuge Improvement Act. We made several changes in Alternative E to address this comment and concern. The acres of Waterfowl Hunting Closed Areas/Sanctuaries declined by 780 acres in Alternative E compared to current conditions or Alternative A. We reduced the areas affected by a restriction on open water hunting substantially from Alternative D to Alternative E, along with the acres in administrative no hunting zones. The phase-out of permanent hunting blinds and the exception for leaving decoys out overnight in Pools 12-14 in Alternative E should open up additional areas of the Refuge to the general public for hunting by drastically reducing instances of proprietary use.

Comment: Oppose all hunting on the Refuge (11).

Response: We understand some citizens concern with hunting on national wildlife refuges. However, hunting on refuges remains an important form of outdoor recreation for millions of citizens and a use which is to be facilitated when compatible with the purpose of the refuge and the mission of the Refuge System (Refuge Improvement Act). We have taken care in Alternative E, the preferred alternative, to ensure the right balance between the needs of wildlife and people in keeping with the Refuge Improvement Act and Service policy and regulation.

Comment: Want airboat restrictions during hunting, either by area or seasonally (10).

Response: Alternative E in the Final EIS/CCP contains both Electric Motor Areas and Slow, No Wake Areas that would restrict speed, airboats, and hovercraft during all or some of the hunting season. We believe the changes made in Alternative E compared to other alternatives provide a reasonable accommodation for persons desiring a different hunting experience.

Comment: Wants continued deer hunting opportunities to continue in the Reno Bottoms area, Pool 9 (2).

Response: Reno Bottoms remains open to deer hunting in Alternative E, the preferred alternative. Seasonal restrictions on speed, airboats, and hovercraft in a portion of Reno Bottoms designated a Slow, No Wake Area will cause some inconvenience to bow hunters, but the restrictions end October 31 before the general deer gun season opens.

Comment: Against deer hunting changes in Sabula, Iowa area.

Response: In Alternative E, the preferred alternative, there are no changes to existing Waterfowl Hunting Closed Areas or Sanctuaries that would affect current deer hunting opportunities in the Sabula area..

Comment: Concerned about loss of deer bow hunting opportunities from proposed changes to Waterfowl Hunting Closed Areas and No Hunting Zones (5).

Response: We have made substantial changes to Waterfowl Hunting Closed Areas and No Hunting Zones in Alternative E, the preferred alternative. The total acreage open and suitable for bow hunting changes little from current conditions, but we recognize that any change creates an inconvenience if an area formerly open is closed.

Comment: Concerned about proposed closing of John Deere Marsh hunting area, Pool 11 (3).

Response: We have made several modifications to the John Deere Marsh Area in Alternative E, the preferred alternative. This alternative establishes a 107-acre walk-in hunting area while still maintaining a closed area on either side to meet the needs of waterfowl (dabbler ducks) in this stretch of Pool 11. We believe Alternative E addresses the concerns for loss of hunting opportunity in this area.

Comment: Address disabled hunting opportunities and access (3).

Response: Disabled access via walking or wheelchair remains a challenge given the terrain and obstacles such as railroad tracks and rights-of-way. However, we make every effort to design and construct accessible ramps and docks to help disabled persons getting into and out of watercraft used for duck hunting, the main type of hunting on the Refuge. It is Service policy to accommodate the needs of the disabled for recreational activities whenever possible, and we will continue to explore ways to do this in both facilities and programs.

Comment: Suggest not putting new wildlife viewing facilities in existing hunting areas since it creates conflicts (4).

Response: Most wildlife viewing platforms are generally on the edges of areas where hunting occurs, and thus there are generally no direct conflicts between viewers and hunters. Many of the existing or proposed wildlife observation decks (Alternative E) do overlook areas closed to hunting, mainly because waterfowl tend to congregate in these areas during fall migration. In all cases, we consider hunting when choosing locations for viewing facilities, realizing that many hunting areas also provide excellent spring migration viewing opportunities when hunting seasons are generally closed.

4.2 Waterfowl Hunting Closed Areas and Sanctuaries

Comment: Concerned about and generally opposed to changes of Waterfowl Hunting Closed Areas in Pool 4 near Wabasha, Minnesota and Nelson, Wisconsin (Big Lake/Nelson-Trevino) hunting area (46).

Response: We have made several changes to the closed areas in Pool 4 in Alternative E, the preferred alternative, to try and accommodate hunter's concerns. Alternative E opens an additional 3,098 acres to hunting in Pool 4, although not all comparable. However, we have also made a change in Alternative E that opens an additional 678 acres (Buffalo Slough) near the Big Lake area to help any hunters displaced. Also, implementation of these changes are delayed until 2009 in Alternative E to allow three-year monitoring of waterfowl use in Nelson-

Trevino and surrounding areas to ensure all information is fully considered before making the change. This will also ease the transition for hunters accustomed to hunting in the Big Lake area and allow them time to explore other alternative hunting areas.

Comment: Boat access is severely limited in the Nelson-Trevino area compared to the Big Lake area, so the swap is not equal just because of access issues.

Response: We agree that access to these two areas is markedly different and will affect hunting access and thus the hunting experience. We have tried to mitigate these effects by changes in Alternative E as outlined in the previous comment and response. The new Big Lake Closed Area in Alternative E may also increase the quality of hunting in adjacent areas (e.g. downstream of Hwy. 25 causeway, Robinson Lake, and Buffalo Slough) since more waterfowl will stay in the area, possibly further off-setting the access issue.

Comment: One person raised several specific issues and questions concerning the dynamics of waterfowl food and closed areas, the basis for setting a threshold of disturbance in Alternative E, and the overall effects of disturbance on waterfowl.

Response: A detailed response to these issues is provided in Appendix Q (Waterfowl Hunting Closed Areas, History, Description, Background and Rationale for Alternative E), Attachment 1.

Comment: Prefer voluntary avoidance areas to mandatory regulations which limit access to Waterfowl Hunting Closed Areas (19).

Response: Alternative E, the preferred alternative, uses voluntary avoidance for all closed areas, a major change from other alternatives based on comments received from the public and some states. However, small closed areas (less than 1,000 acres) also have a no motor regulation from October 15 to the end of the respective state duck season since waterfowl in these smaller areas are more vulnerable to disturbance from watercraft.

Comment: Only support current voluntary avoidance or restricted access areas (Lake Onalaska Voluntary Avoidance Area and Mertes Slough Electric Motor Area) (4).

Response: Comment is noted.

Comment: Recommend possible trial period on new closed or voluntary avoidance areas, then monitor to insure they are meeting biological goals (4).

Response: We do not support a trial period for closed areas since trial periods tend to alter human behavior given their known end point. However, we do support monitoring of closed areas and the new voluntary avoidance provisions in Alternative E. Monitoring is a part of the closed area objective in Alternative E, the preferred alternative. We also support overall monitoring of closed area effectiveness and making future changes on a more timely basis should the data suggest a change is needed (adaptive management).

Comment: Many oppose all new closed areas outlined in the various alternatives (27), while a few support some new closed areas (6).

Response: We understand that changes to the system of Waterfowl Hunting Closed Areas of the Refuge are generally met with resistance since the changes affect long-standing patterns of public use. However, the issue and need for change is thoroughly documented in the Final EIS/CCP, and in particular Appendix Q which was added as part of the Supplement to the Draft

EIS/CCP and is part of the final document. We believe that changes to a system that has remained virtually unchanged since 1958 are needed based on habitat conditions, monitoring data, disturbance studies, and energetics information.

Comment: Concerned about the proposed addition to, and the special hunt designation of, the Goose Island No Hunting Zone, Pool 8 (10).

Response: The Goose Island No Hunting Zone expansion to the north (235 acres) has been dropped in Alternative E in response to public comment. The area will remain open to hunting and no special hunting program is established in Alternative E. The expansion of the no hunting zone to the south remains in Alternative E since it is deemed important to make the existing area more effective as a rest area for waterfowl and to address firing line concerns.

Comment: Suggests rotating closed areas in conjunction with drawdowns allowing wildlife to thrive without shutting down anyone's favorite hunting or fishing area for too long.

Response: Waterfowl develop patterns of use over time, and changing closed areas on a frequent basis can diminish their effectiveness. Likewise, the public is generally not agreeable to frequent changes in areas open or closed to hunting or other uses since it disrupts patterns, opportunities, and year-to-year planning.

Comment: Hunting areas should only be limited as a last resort based on biological data (4).

Response: We concur to a point and have tried to limit the number of acres closed to hunting to that which is needed biologically. However, it must always be kept in mind that one of the main purposes of the Refuge when established by Congress in 1924 was to serve as a "refuge and breeding place for migratory birds" and this at times must take precedent over recreational uses.

Comment: Would rather have smaller bag limit than closing areas completely (2).

Response: Daily harvest and possession limits are an important part of overall waterfowl conservation, but they do not replace the need to provide food and rest for waterfowl during migration. The Refuge also does not set harvest limits. This is done nationally by the Service, flyway councils, and the states.

Comment: Most boaters don't comply with regular boat regulations let alone voluntary regulations. Assuming voluntary avoidance will work over long-term is plain silly (3).

Response: We have established a threshold of disturbance in Alternative E in conjunction with voluntary avoidance and indicate that more restrictions will be pursued if the threshold is exceeded. We believe that voluntary avoidance, as suggested at several meetings and in written comments, may prove successful given our experience with the Lake Onalaska Voluntary Avoidance Area.

Comment: Open closed areas to low impact managed hunts, increase voluntary avoidance areas, and increase number of closed areas, but reduce their size to spread-out bird populations.

Response: Many of these suggestions are incorporated in Alternative E of the Final EIS/CCP. However, we do not see the merit in opening closed areas to low-impact managed hunts since it would still introduce disturbance to waterfowl and would add an administrative and management workload.

Comment: Closed areas should be closed to all activities not just hunting.

Response: We do not disagree, but have opted with a voluntary avoidance approach in Alternative E, the preferred alternative, to limit entry and disturbance to waterfowl.

Comment: What about a probationary deer hunting period allowed in waterfowl closed areas after migration?

Response: Although peak migration can occur at different times during the hunting season depending on weather, birds continue to move through the Refuge until full ice-up. Even then, ice conditions can abate and birds will use these areas. Due to these variabilities from year-to-year and often week-to-week in the fall, opening the areas based on migration patterns would be difficult.

Comment: Concerned about watercraft use regulation changes in Reno Bottoms and its negative effect on waterfowl hunting (5).

Response: We understand these concerns, recognizing that other hunters see a restriction in boat speed and types of watercraft as a benefit to their hunting experience.. We have made several changes to the Reno Bottoms area in Alternative E of the Final EIS/CCP to help accommodate concerns. These changes include making the area a seasonal Slow, No Wake Area with no restrictions on speed or watercraft type after October 31, and deleting from any designation Pickerel Slough and land and water to the east of it (866 acres).

Comment: Concerned about closing Gerndt Lake (also called Garnet Lake locally) and Wisconsin River Delta in Pool 10 just south of Prairie du Chien, Wisconsin (4).

Response: We have made several changes for Alternative E of the Final EIS/CCP that we believe help address some of the concerns. The Wisconsin River Delta area is a Special Hunt Area in the preferred alternative, meaning it will be closed to all hunting and trapping from November 1 to the end of the state duck hunting season. This change will help alleviate concerns with the loss of duck hunting and fall fishing in this area since it will be open to all uses before November 1.

Comment: Closing open water hunting on Potosi Pool (Pool 9, Grant County, Wisconsin) is good especially if Canvasbacks are increasing there.

Response: Comment is noted.

Comment: Don't close Albin Lake to hunting there are already closed areas in Genoa, New Albin, and South Lansing.

Response: There are no changes to closed areas in this area of Pool 9 in Alternative E, the preferred alternative.

Comment: Concerned about opening previously closed area near Pleasant Creek, Pool 13 south of Bellevue, Iowa (2).

Response: We examined this concern closely and talked to adjacent landowners concerned with the reduction in the closed area. We do not believe this change will negatively impact hunting on adjacent land. There is no strong biological reason for keeping this nearly 600 acres of seasonally dry bottomland in the Pleasant Creek Closed Area, and opening it is in line with goals to facilitate hunting on the Refuge.

Comment: Concerned about closed areas near Ferryville and impact on economy (2).

Response: There are no changes proposed for this area in Alternative E, the preferred alternative. Alternatives B and D proposed “no open water hunting” in these areas, neither of these alternatives are preferred in the Final EIS/CCP.

Comment: Concerned about economic impact if hunting changes are made in Pool 13.

Response: No changes to current closed areas or sanctuaries in Pool 13 are identified in Alternative E, the preferred alternative. Permanent waterfowl hunting blinds are being phased out in Alternative E, but we do not believe this will measurably impact the level of hunting activity or have a negative economic impact. The opposite may occur as areas “reserved” by permanent blinds would now be open to all and provide more opportunity for more waterfowl hunters.

4.3 Waterfowl Hunting Regulation Changes

Comment: There were specific comments on proposals in Alternative D to impose a 100-yard minimum spacing between waterfowl hunting parties (6 for, 1 against) and a 25 shotshell daily possession limit for waterfowl hunters (9 for, 11 against).

Response: Based on input at public meetings and workshops, these provisions were dropped in Alternative E, the preferred alternative in the Final EIS/CCP. The existing 200-yard spacing requirement in the Savanna District, Pools 12-14, Illinois side, remains in Alternative E since hunters in those areas overwhelming favored keeping this requirement.

Comment: Desire that open water waterfowl hunting continue where allowed by Wisconsin regulations (Grant County portion of Refuge) (5).

Response: We believe that a portion of Pool 11, Grant County, Wisconsin, provides a critical feeding and staging area for Canvasback and Lesser Scaup. We have made modifications in Alternative E to protect the area that is most important, which will still allow open water hunting in adjacent areas. A proposal in the draft of Alternative E released in December that would prohibit open water hunting in all Minnesota and Wisconsin waters within the Refuge was dropped. Current state law already prohibits this type of hunting, with the exception of Grant County, Wisconsin.

Comment: Favor banning duck hunting guides who preclude individual hunters from some areas, or support special use permit proposal, and support better enforcement (6).

Response: We believe that hunting guides can provide a valuable service to some segments of the hunting community. However, we concur that better oversight, permitting, and subsequent law enforcement is needed, as reflected in Alternative E, the preferred alternative.

Comment: Ban mechanical decoys and/or limit number of decoys per hunter (4).

Response: We believe that these kinds of issues/suggestions are better handled on a national or state basis rather than with a Refuge-specific regulation.

Comment: Ban the exception in Refuge regulations which allows waterfowl decoys to be left out overnight in Pools 12-14 (Savanna District) (3).

Response: We concur and have added this provision in Alternative E, Objective 4.5, in the Final EIS/CCP.

Comment: Want mandatory course required before getting duck stamp to include duck identification, estimating distance, ethics and safety (4).

Response: We defer to the states for hunter education requirements, and believe that all of these topics are taught in hunter education and safety courses. We will, however, continue to stress these topics in our education and outreach efforts identified in the strategies for several hunting-related objectives in Alternative E, the preferred alternative.

4.4 Firing Line – Pool 7, Lake Onalaska (Gibbs Lake area)

Comments: There were several concerns and suggestions received in comments on this objective. They are listed below, followed by a single response.

- # Recognized that there is a problem that needs to be addressed (9)
- # Concerned that any changes or a managed hunt will make things worse by concentrating hunters nearby within what is already a very limited hunting area (7)
- # Adjust boundaries (either North or South) of Lake Onalaska hunting area to remedy firing line problems and review periodically to gauge success (3).
- # Address firing line problem by placing stakes where hunters must hunt within a certain distance, and enforce (2).
- # Solve Gibbs Lake problem by closing hunting at 12 noon each day, thus giving waterfowl more feeding and resting time.

Response: There was considerable concern expressed at public meetings and workshops about proposals in Alternatives B through D in the Draft EIS/CCP. Since this is a relatively local issue and no clear consensus emerged from public input, Alternative E of the Final EIS/CCP calls for more public and state involvement to help draft a plan for this area. The comments and ideas above will be considered, along with additional input received, when drafting the plan. Also, the deadline for completing the plan was moved to October 1, 2006 versus July 1, 2006 in the draft of Alternative E.

4.5 Permanent Hunting Blinds on Savanna District

Comments: There were more than 200 written comments received on the issue of permanent waterfowl hunting blinds in the Savanna District, Pools 12-14. Approximately 200 comments wanted to see the use of permanent blinds continue, and 193 of these comments came in form letters signed by current blind owners/users (see Section 7.7). There were 10 written comments favoring the elimination of permanent blinds.

Response: As noted in our earlier response to Illinois DNR comments, we appreciate the concern with the planned phase out of permanent blinds for waterfowl hunting on the Savanna District of the Refuge. This is a difficult issue due to the number of hunters involved and the strong traditions that have developed. However, we believe our concerns with private, exclusive or proprietary use of public lands and waters, continued problems with confrontations and debris, and inconsistency with the other three districts of the Refuge warrant a phase out of the blinds. We have made one change in Alternative E in the Final EIS/CCP to help ease the transition. The pool-by-pool sequence of phase out will be Pool 12, 14, and 13. This will not only ease our administrative and enforcement burden, but give the greatest number of blind hunters (Pool 13, 250 blinds) more time to adjust to alternative hunting methods.

4.6 Potter's Marsh Managed Hunt, Savanna District

Comment: Would like to see changes in the management and administration of the Potter's Marsh Managed Hunt (4).

Response: The preferred alternative, Alternative E, outlines several changes to improve and economize the administration and management of the Potter's Marsh Managed Hunt while preserving a quality waterfowl hunting opportunity and experience.

Comment: Would like to see Potter's Marsh area closed to fishing during the duck hunting season (2).

Response: Although we understand that conflicts between these two uses can at times occur, we do not believe the level of fishing during the prime duck hunting hours warrants a closure to fishing.

4.7 Blanding's Landing Managed Hunt Program

Comment: Keep the permanent blinds in this area but eliminate the drawing and go to a first-come, first-secured system (3).

Response: Although we concur with opening the area on a first-come, first-secured basis, the use of permanent blinds still represents problems as noted in the Final EIS/CCP. Thus, Alternative E, the preferred alternative, opens the area but eliminates the use of permanent blinds per the schedule in Objective 4.5.

Comment: Opening-up Blanding's Landing would be a good thing and provide more hunting opportunities.

Response: Comment is noted.

4.8 General Fishing

Comment: Restrictions on fishing would violate Wisconsin constitutional rights for open navigation and use of Wisconsin waters (10).

Response: As noted in earlier comments and responses to the state, we recognized and quote the state's 1925 approval language in Final EIS/CCP (Chapter 1) and concur to a point that does not interfere with federal trust responsibilities and meeting the purposes of the Refuge. However, provisions in Alternatives B and D that would have limited entry or fishing in Waterfowl Hunting Closed Areas were dropped in Alternative E, the preferred alternative, in favor of voluntary avoidance and/or no motor restrictions. None of the provisions in Alternative E preclude navigation or use, including fishing, only the means of navigation and use.

Comment: Expand fishing access (including shoreline fishing) for physically limited, youngsters and non-boat owners (5).

Response: We share the concern for shoreline and disabled fishing, although the realities of railroad tracks and rights-of-way, private land, and slope of terrain often limit access points to the Refuge and the river for shoreline fishing and especially disabled anglers. In Alternative E, the preferred alternative in the Final EIS/CCP, we have called for the addition of five additional accessible fishing piers, three new walk-in accesses, and improvement to five

parking areas which often provide additional shoreline fishing opportunities. In addition, Alternative E retains four fishing float concessions which provide fishing opportunities for those without boats and the disabled.

Comment: Provide parking lots where fishing opportunities are expanded (3).

Response: We concur that parking is often an issue. Detailed planning for any proposed public use facilities/accesses will consider and try to accommodate the need for parking.

Comment: Support a fishing platform at Winneshiek Slough Landing.

Response: Comment is noted. Alternative E, the preferred alternative, includes an accessible fishing platform at this location.

Comment: Eliminate state fishing license reciprocity (2).

Response: We acknowledge that people are for and against this provision which allows persons with one license to fish two states on the Mississippi River. By policy and practice we defer to the states for game and fish licensing requirements on the Refuge.

Comment: Address fishing opportunities that have been diminished by excessive sand, siltation and sedimentation (3).

Response: We share these concerns for the effect that sedimentation has on fish habitat and fishing opportunities. All alternatives in the Final EIS/CCP identify cooperative projects with the states and Corps of Engineers to address this issue. For example, there are 60 projects identified to increase water depth, 28 projects to divert flows to decrease sedimentation, and 13 fish passage projects identified in the plan.

Comment: Balance the needs of fall anglers with the needs of waterfowl and waterfowl hunters (5).

Response: In Alternative E, the preferred alternative, we have made changes to public entry guidelines to accommodate early fall fishing by moving the effective date to October 15 versus October 1 in other alternatives.

Comment: Protect fish spawn areas from human disturbance in spring (2).

Response: We believe that the Electric Motor Areas and Slow, No Wake Areas in Alternative E, the preferred alternative, help address disturbance to many backwater fish spawning areas by slowing or limiting the type of watercraft in the spring.

Comment: Address conflicts between anglers and jet-ski, airboat, and hovercraft users (3).

Response: Similar to the comment and response above, we believe that the series of Electric Motor Areas and Slow, No Wake Areas scattered throughout the Refuge in Alternative E will help address conflicts between and within user groups, including anglers.

4.9 Fishing Tournaments

Comment: Refuge must coordinate and regulate fishing tournaments with the states and the Corps of Engineers (8).

Response: Concur and the objective and strategies in Alternative E affirm this.

Comments:

- # Concern with loss of income, impact to communities if tournaments banned/reduced.
- # Tournament anglers care deeply about the resource.
- # Against another layer of permitting (3).
- # Impacts to fish not proven; there is low mortality post release from tournaments.
- # Concern about singling out tournament anglers to benefit other users (2).
- # Negative portrayal of bass anglers is wrong.
- # Concerned about closed area and sanctuary impact to tournaments.
- # Concern that fishing tournaments are “out of hand” and create conflicts with other Refuge users (7).
- # Concerned about noise and excessive speed (safety) during fishing tournaments (4).
- # Tournaments tie up parking, boat ramps, and entire fishing areas for days.
- # Ban all fishing tournaments as crass commercial exploitation of public resource (4)
- # Eliminate out of state fishing tournaments.
- # Fishing tournaments should be managed from a fish stock perspective in conjunction with states.
- # Wants bass fishing tournament participants to buy commercial fishing license (3).
- # Concern about lost of income/economic impacts if bass tournaments are restricted or reduced.
- # Limit bass anglers to only keeping 2 fish versus 6 fish.
- # Use Geographic Positioning System coordinates to guide tournament anglers from sensitive areas
- # Don't allow any fishing tournaments during fall waterfowl hunting.

Response: Alternative E, the preferred alternative in the Final EIS/CCP, calls for working with the states and the Corps of Engineers to develop a plan by 2008 to more effectively manage fishing tournaments on the Refuge, for the benefit of both tournament participants and the general public who share the Refuge. There is no proposal to eliminate fishing tournaments. The strategies in Objective 4.9 give more details on how this step-down planning would proceed and what would be entailed, including additional public involvement and review. Thus, it is premature to respond to most of the specific comments received on fishing tournaments. The comments summarized above, along with new input, will be considered as planning for tournament fishing management proceeds.

4.10 Wildlife Observation and Photography

Observation Areas

Comment: Increased Refuge visitation demands more non-consumptive platforms (5).

Response: We concur and Alternative E, the preferred alternative, reflects this. Wildlife observation is also one of the priority public uses identified in the Refuge Improvement Act and is to be facilitated.

Comment: Great River Bird Trail designation has already spawned three annual bird festivals and continues to draw visitors to area.

Response: Comment is noted.

Comment: Observation facilities are not needed. The flood retention basin in Dubuque, Heritage Pond, and several ponds near the highway in Guttenberg are excellent locations to view wildlife or take photographs. Even marinas are better than recommended observation tower locations.

Response: Comment is noted.

Comment: Don't place observation decks or platforms where they will conflict with established traditional hunting areas (6).

Response: As noted in a previous comment and response, most wildlife viewing platforms are generally on the edges of areas where hunting occurs, and thus there are generally no direct conflicts between viewers and hunters. Many of the existing or proposed wildlife observation decks (Alternative E) overlook areas closed to hunting, mainly because waterfowl tends to congregate in these areas during fall migration. In all cases, we consider hunting when choosing locations for viewing facilities, realizing that many hunting areas also provide excellent spring migration viewing opportunities when hunting seasons are generally closed.

Comment: Oppose observation tower near Goose Island due to limited parking and safety concerns, especially during summer (4). Can it be moved to Shady Maple area instead? Want handicapped access at Goose Island tower.

Response: The observation platform at Goose Island has been dropped in Alternative E, the preferred alternative.

Comment: Oppose spending money on observation decks when there are already many scenic bluffs or state park areas to view wildlife (3).

Response: Although we agree that these areas provide excellent viewing areas, many areas on the Refuge provide unique viewing opportunities due to the concentrations of waterfowl and other waterbirds.

Comment: Trempealeau National Wildlife Refuge already has many features to view wildlife, don't spend money on something already available.

Response: The Upper Miss Refuge is 261 miles long and many residents and visitors are too far away to take advantage of Trempealeau's opportunities. Also, there are viewing opportunities on this refuge due to unique habitat and large concentrations of some species that are not available at Trempealeau refuge.

Comment: Adding new trails and towers doesn't protect or restore habitat, only destroys it through filling wetlands and construction (5).

Response: Although these facilities do not directly protect or restore habitat, they do foster contact and connection with wildlife and wild places which leads to greater understanding and appreciation. This in the end can result in more support for overall conservation programs, including the protection and restoration of habitat. Our site selection, design, and construction of facilities always try to avoid or minimize any impacts to wetlands or other sensitive habitat.

Comment: Would observation tower near Browns Marsh only be accessible via bike trail? We believe a one mile access route is too far for many to walk and suggest an alternative location in the Clearwater Resort area near Lake Onalaska.

Response: The state bike trail running along Brown Marsh receives many thousands of users each year and this overlook is designed to take advantage of this opportunity. Thus, we believe access to this particular overlook is appropriate. Other sites on Lake Onalaska were considered during development of the plan.

Hiking Trails

Comment: Support the additional hiking trails called for in the plan (24).

Response: Comments are noted.

Comment: Would like hiking trails and surrounding areas to be multiple-use (e.g. hunting and fishing), not exclusive-use (2).

Response: We generally concur that hiking trails can be open to a variety of uses, including hunting. However, we believe that some areas warrant a separation of hunting and other recreational uses based on location and circumstances and overriding concern for visitor safety. However, we have made several major changes in Alternative E, the preferred alternative, by dropping some suggested no hunting areas around trails.

Comment: Recommend more trails near flood plain forest at Rush Creek in Vernon County, Root River bottoms at Mill Stone Landing in Houston County, Wisconsin River Bottoms in Crawford County, and the bottoms east of Fish Farm Mounds along Highway 82 dike near Lansing. These areas have better parking and don't require coordination with railroad.

Response: We considered these suggested areas in developing Alternative E but believe they are not suitable at this time given terrain, periodic flooding concerns, feasibility given floodplain location, and other factors. There was also a concern of including too many trails given the 15-year horizon of the plan.

Comment: Oppose the Kain Switch trail (6), the John Deere Trail (1), and the trail near Barton's (2).

Response: In response to these and other comments, several changes were made to hiking trails in Alternative E, the preferred alternative, including dropping some trails, making them shorter, or deleting associated no-hunting zones.

Canoe Trails

Comment: Many written comments specifically expressed support for canoe trails (72).

Response: Comments are noted.

Comment: Canoe trail markers are an unnecessary cost and need maintenance after spring floods, and canoes can go anywhere they want now. Provide pool maps for canoeists, so other users don't have to see more signs.

Response: For persons unfamiliar with backwater areas of the Refuge, the combination of maps and signs is an important service. We try to use the least amount of trail markers necessary, and place them above the normal high-water mark whenever possible to reduce maintenance.

Comment: The boating report states that small boat/canoe use is declining but the Service is increasing canoe trails by 425 percent.

Response: The most recent boating study on Pools 4-9 in 2003 by the Minnesota Department of Natural Resources cited a decline in fishing boats and a trend toward runabouts or larger "cruise" vessels. There was no trend indicated for non-motorized craft, although they did represent 2 percent of boats in the study. The use of a percentage for the increase of canoe trails is somewhat misleading. In Alternative E, the preferred alternative in the Final EIS/CCP, the number of canoe trails increases from the current 4 to 19. A total of 19 canoe trails on a water-based refuge 261 miles in length does not seem excessive, especially since they involve little cost and maintenance other than trail markers.

Comment: Want proposed canoe access at Conway Lake (Pool 9) to include parking area (2).

Response: Parking associated with this access in Alternative E will be explored during detailed site planning. We will be seeking cooperation from the railroad on this particular access, which could affect parking and other features.

Comment: Canoe trails around Wyalusing State Park great example of activities that increase canoe use and appreciation of watershed resource.

Response: Comment noted; this is an existing canoe trail system.

Comment: Consider having a canoe launch at the mouth of Crooked Creek, Pool 13.

Response: A boat ramp is identified in Alternative E, the preferred alternative, at this location. This ramp would double as a canoe launch.

Comment: An alternative canoe trail could be made in Shingle Creek area of Black River Bottoms by removing downed timber below power lines near Lytles Landing.

Response: This idea has merit, but a canoe trail at this area was not included in Alternative E, the preferred alternative, due to other options in the area (existing Long Lake Canoe Trail).

Comment: Address speeding motor boats along Long Lake canoe trail. Canoe trails great concept, but if you don't exclude motor use there what's the point?

Response: Canoe trails were never intended to exclude other uses, including other types of watercraft, but to provide a canoeing option for people less familiar with the river; or who prefer a marked route or trail. We realize that conflicts may occur; but these are addressed through the Electric Motor Areas and Slow, No Wake Areas proposed in Alternative E of the Final EIS/CCP.

Comment: Provide boat landings or launch areas at proposed canoe trails (3).

Response: We do not disagree, although realities of railroad tracks and lands, private land, and slope of terrain often limit access points to the Refuge and the river. We will continue to look for ways to enhance access during more detailed planning and implementation of the canoe trails.

Comment: Oppose exclusive use canoe trail in Ambrose area, is there a real or perceived need here (2)?

Response: All canoe trails, unless within an Electric Motor Area or Slow, No Wake Area, are open to all other types of watercraft and are not canoe-only areas.

Comment: Opposed to Conway Lake canoe trail in Pool 9 north of Lansing, Iowa (3).

Response: Alternative C in the Draft EIS/CCP identified a 12-mile canoe trail that went through the Conway Lake area. However, this trail was dropped in Alternative D and Alternative E, the preferred alternative.

Comment: Opposes canoe trail on Pool 4 “where current is too strong;” has towed many canoeists back up river.

Response: The Nelson Dike Canoe Trail is the only canoe trail in Alternative E, the preferred alternative. This trail is located in a predominantly backwater area some distance from the main channel of the river and currents are not expected to present a serious problem for canoeists or kayakers.

Bike Trails

Comments:

- # For bike trails (10)
- # Against bike trails (4)
- # Don't close these areas to hunting and use exclusively for bikes
- # Bike Trails disrupt wildlife, waste money and don't reflect wild nature of Refuge (3)
- # Concerned duck stamp money is being used for these trails

Response: Comments for and against bike trails are noted and are indicative of the divergent view points on certain public uses and facilities. Of the three new bike trails in Alternative E, the preferred alternative, the first is on an existing paved road currently closed to hunting, the second is in an existing closed or no hunting area, and no determination has been made in regards to hunting on the third. It remains our policy to keep trails open to hunting unless there is a bona fide safety or conflict concern due to location. Some existing trails through areas open to hunting include a buffer only so the surrounding area remains open. Like all public use, there is some disturbance to wildlife on bike trails, but this is considered minor given timing and levels of use, and the low noise associated with biking. Biking and bike trails continue to grow in popularity, and are an excellent way to view wildlife, one of the priority public uses of the Refuge System. No duck stamp funds are used for bike trails or any other public use facilities or programs since these funds must be used for land acquisition.

Auto Tour Routes

Comments: For auto tour routes (5) and against auto tour routes (5), especially if they impinge on hunting areas.

Response: Comments noted. Any auto tour routes should not impinge on areas currently open to hunting since they are located on existing roads.

Comments: Recommend widening Red Oak Road to accommodate 2-lane traffic and promote as scenic byway (2). Against Red Oak Road as scenic byway since substantial number of ducks and geese use the adjacent shoreline as a resting area. The ducks and geese seem more affected by pedestrian than vehicular traffic.

Response: The proposed Red Oak Wildlife Drive/Bike Loop would be a cooperative venture with Allamakee County and the railroad since it is mostly off-Refuge and would follow existing roads. Any decisions on width of road or other amenities would be done during future detailed planning. Since this drive would follow existing roads, disturbance to waterfowl from vehicles is not expected to increase. Bike traffic could increase disturbance to waterfowl, but it is not expected to be substantial since birds are already conditioned to vehicle traffic.

Comment: An auto tour route already exists at Trempealeau National Wildlife Refuge.

Response: The two new auto tour routes in Alternative E, the preferred alternative, are located adjacent to Pools 9 and 11 which are some distance from Trempealeau Refuge in Pool 6. Thus, they offer auto tour opportunities for persons who would not frequent Trempealeau Refuge. The other existing tour route is on the Lost Mound Unit, Pool 13 near the southern end of the Refuge.

Photography Blinds

Comments: For photography blinds and expanded photo opportunities (34), and against photography blinds (3).

Response: Comments are noted.

4.11 Interpretation and Environmental Education

General

Comment: Necessary, but don't divert funds from law enforcement or wildlife management.

Response: Funding for interpretation and environmental education is a separate line item in the Refuge System and Refuge budget. Funds for law enforcement and wildlife management are not diverted to these accounts, although it is recognized that staff on the Refuge wear many hats and often assist with all programs.

Comment: Would rather see money earmarked for this be used for habitat improvement.

Response: Interpretation and environmental education are two of the six priority uses that are to be facilitated on national wildlife refuges. Any funding received specifically for interpretation or environmental education are to be used to support those activities, so there is little to no latitude to earmark those funds for habitat improvement. However, habitat conservation and improvement remains a higher priority than these or other public uses.

Signs and Signage

Comments:

- # Maintain signs (2)
- # Signs detract from natural beauty (2)
- # Better signs at landings and beaches quickly address litter and human waste policies (4)
- # Use signs as reminders at landings outlining hunter ethics during hunting season (5)
- # "Closed unless open" in regards to beach-related uses would mean fewer signs

- # Need well designed signs reminding folks to “pack out” trash (leave no trace) campaign (3)
- # Put sign designs on web first to get public opinion on effectiveness before going “final”

Response: We realize that signs and signing must be approached with care to balance the public’s need for information with the impact signs can have on the scenic qualities of an area. This Refuge provides a particular signing challenge due to its size and length, high visitation, high number of access points, and floodplain nature. Many of these comments are suggestions which will be considered when designing and placing signs in accordance with Fish and Wildlife Service standards.

Visitor Contact Facilities/Visitor Center

Comment: Support building new offices with visitor contact facilities (7) and insure they are well located.

Response: Comment is noted.

Comment: Central visitor center great way to promote public education and awareness, should be priority on construction list (2).

Response: Due to the construction and maintenance costs of a central visitor center; it was not carried from Alternative C to Alternative E, the preferred alternative. Also, we believe that modest visitor contact areas in conjunction with the four district offices will better meet the needs of the public on such a long refuge touching scores of communities, and be a more efficient use of limited construction dollars.

Interpretive Events

Comments:

- # Fund an interpretive trailer that could be moved and used at various locations up and down river throughout year
- # All events should be geared to raise public awareness (3)
- # Supports Mississippi Flyway Birding Festival, great economic boost and public education opportunity (2)

Response: Comments are noted, and the trailer is a great idea, but due to other higher priority needs for facilities that more directly support visitors to the Refuge, it was not included in Alternative E, the preferred alternative.

Comment: If this is already the most visited Refuge in the country, do you need to keep promoting it?

Response: This is a fair question. We do not consider interpretive and environmental education programs as promotion, but a charge from Congress in the Refuge Improvement Act of 1997. There are, however, indirect benefits to increased public awareness of the Refuge. Citizens who know and understand the Refuge are more apt to care about it and the Mississippi River as a whole, which generally leads to fiscal and political support for improving habitat for fish and wildlife.

Environmental Education

Comments:

- # The more people understand natural resource management the more they will voluntarily support managing it (5)
- # Solicit more volunteers and conservation clubs to provide education during fall migration
- # Important endeavor but not at the expense of hiring needed biologists

Response: Comments noted and we concur.

Visitor Services Staffing

Comments:

- # Proactively regulate visitor activities to reduce conflicts with resource objectives
- # Important public outreach feature (5)
- # Needs aren't great enough to warrant increased staff levels

Response: Comments are noted.

4.12 Fish Floats

Comments: Support the continuation of fish floats for an alternative fishing opportunity (15), and would like to see them eliminated because they are eyesores and restrict open water fishing (2).

Response: As noted in the rationale section in Alternative E, Objective 4.12, Chapter 2 of the Final EIS, we believe that the four existing fish floats provide a valuable alternative fishing experience for persons without boats and/or river experience, and for disabled persons. Strategies in the objective are designed to improve float appearance, function, and safety.

Comment: Want fish floats to be clean, regulated, and licensed.

Response: Concur, and this is reflected in Alternative E, the preferred alternative.

4.13 Guiding Services

Comments:

- # Ban waterfowl hunting guides who attempt to restrict access to individual hunters
- # Increase guiding services using non-motorized boats
- # Guides monopolize entire areas reducing the opportunities for individual hunters (3).
- # Limit to certain designated areas assigned by permit issued by the Fish and Wildlife Service
- # Enforce guide requirement to have Coast Guard license and Refuge special use permit (5)

Response: These comments are noted and will be considered when writing guiding policy and when developing a consistent process for issuing permits as noted in Objective 4.13, Alternative E, the preferred alternative.

5.1 Beach Use and Maintenance Policy and Regulations

Comments:

- # Beaches offer important affordable recreational opportunities
- # Vital to local communities where users may not be able to afford other river uses
- # If areas need to be closed, allow them to stay open for families to swim, camp, picnic during summer since backwater is safer for these activities due to lack of current.
- # Backwater beaches without current are necessary for safety of beachcombers and swimmers
- # Allow marinas to dredge sand and place on beaches or near marinas to create beaches
- # Wants beach near Dubuque with walk-in or vehicle access
- # Coordination with other agencies, education, and law enforcement best ways to handle “party” beaches (3)
- # Beach use should be limited to designated sites that are most durable and support extensive human impact
- # For restrictions outlined in Alternatives C, B, or D (6)
- # Against any restrictions to current use and regulations (11)
- # For closing areas if biologically necessary (2)
- # Mark areas that are of wildlife concern such as turtle breeding grounds
- # Against closing or restricting use of beaches to benefit turtle breeding areas (2)
- # Want camping and over night mooring allowed (11)
- # Want restrictions to where camping and mooring would be allowed (1)
- # Human waste must be addressed for health reasons (16)
- # Recommend signs and informational campaigns on human waste policies (6), and recommend better monitoring and fines for non-compliance (2)
- # How do you prevent people who “pack it out” from dumping in water when they leave a beach?
- # Add portable toilets at boat landings (4)
- # No large ugly toilets on beaches, high cost to maintain and idiots will vandalize
- # Educate campers on “cat hole” human waste burial methods (3)
- # Only 1% of overall waste problem is from human waste
- # For the blood-level based (.08) alcohol consumption limitations (5), and against any new alcohol regulation (5)
- # Create some alcohol free beaches (3)
- # For some level of beach maintenance (11)
- # Implement an “adopt a beach or boat landing program” to address problems (4)
- # Initiate “leave no trace” education program to address litter and human waste (5)
- # Ban glass on beaches (7)
- # Close beaches for a week where litter is a problem

Response: These comments are indicative of the large amount of public comment also received at the 21 public meetings and workshops held after release of the Draft EIS/CCP in May, 2005. Based on these comments, and in consideration of the above written comments, many changes were made in the supplement to the EIS, Alternative E, the preferred alternative. These

changes include keeping current regulations defining where and when camping is allowed, dropping a new alcohol consumption regulation, modifying human waste regulations, and clarifying beach planning in cooperation with the states and Corps of Engineers. Some of the specific location or maintenance comments will be considered during the beach planning process. A ban on food and beverage glass containers was added in Alternative E, as well as a strategy for addressing beach clean-up and maintenance through an adopt-a-beach program. The policy for closing areas to protect wildlife resources and public health and safety was simplified and clarified. Adopting a "Leave No Trace" program was retained in Alternative E. Providing portable toilets at landings or on beach areas was not deemed a realistic option given the floodplain nature of the Refuge, cost, increased maintenance workload, and past experience with portable toilets.

5.2 Electric Motor Areas (includes Slow, No Wake Areas, Alternative E)

Comments: Support Electric Motor Area designation (55) and against Electric Motor Area designation (180, includes 112 form letter comments).

Response: Designating Electric Motor Areas generated considerable written comment as well as comments at all public meetings and workshops. Based on these comments, substantial changes were made for Alternative E, the preferred alternative. These changes included dropping four proposed areas completely, and converting eight Electric Motor Areas to seasonal Slow, No Wake Areas. Collectively, the remaining five Electric Motor Areas and eight Slow, No Wake Areas encompass 11,572 acres, or approximately 8 percent of the water area of the Refuge.

Comment: Make all proposed Electric Motor Areas slow no wake instead (10).

Response: See comment and response above.

Comment: Phase out airboats, hovercraft, and jet skis entirely by 2010 or 2015 (2).

Response: We do not believe prohibiting certain types of watercraft throughout the entire Refuge is reasonable or warranted given the size of the Refuge, mix of jurisdictions and authorities in many areas, and the desires expressed at the public meetings and workshops. We believe that Alternative E, the preferred alternative, represents a reasonable approach to limiting disturbance from certain types of watercraft through the use of time and space constraints.

Comment: Technology now allows people to access areas they were never meant to, Electric Motor Areas and Slow, No Wake Zones are necessary to manage for biological reasons (5).

Response: Comment is noted and we concur as reflected in Alternative E.

Comment: Canoeists can do their thing now but if you convert areas to Electric Motor Areas it prevents others from using traditional hunting/fishing areas (2).

Response: We made major changes in Alternative E, the preferred alternative to address the concerns of access for hunting and fishing. The number of Electric Motor Areas was reduced from 17 in Alternative D to 5 in Alternative E. Eight Electric Motor Areas were changed to seasonal Slow, No Wake Areas which should have minimal effect on hunting and fishing access since all motorized watercraft, except airboats and hovercraft, are allowed.

Comment: Where is scientific data supporting need for electric motor only or slow no wake zones?

Response: The wildlife science literature contains scores of papers documenting the effect of watercraft and associated speed and noise on wildlife. An excellent overview of the literature on the effects of recreation on wildlife is maintained by the Montana Chapter of the Wildlife Society and can be accessed via their website at www.montanatws.org. Studies on waterfowl disturbance on the Refuge are also well-documented and it is generally accepted in the wildlife management profession that motorized watercraft speed and noise disturbs wildlife. Limiting motor size, type, and speed, or banning combustion motors completely, are commonly used management practices on national wildlife refuges and state wildlife management areas. However, the purpose of the Electric Motor Areas and Slow, No Wake Areas is to also limit disturbance to persons engaged in hunting, fishing, wildlife observation and other activities in these areas, and to enhance the quality of the experience. Citizens' concerns for the loss of quiet and solitude on the Refuge, and concerns over conflicts between and within various user groups, was expressed at scoping meetings prior to drafting the EIS/CCP. We have also received concerns about certain watercraft from trappers in their annual reports. In the most recent recreational boating study on Pools 4 thru 9 (Minnesota DNR, 2004), respondents listed boat speed and wakes, personal watercraft, and careless operation by others as concerns. The study also showed that 56 percent of respondents were either neutral, mildly supportive, or strongly supportive of setting aside non-motorized areas on the Mississippi River.

Comments:

- # Don't restrict hunters to electric motors only in Black River Bottoms area, only makes access too difficult for hunters (8)
- # Hunted Black River Bottoms for 14 years and have never seen an electric motor or canoeist there due to strong current, so why set aside this area?
- # Strong current in Black River doesn't allow you to go at no wake speed
- # Trempealeau Refuge is only a few miles from proposed Black River Bottoms Electric Motor Area. Isn't this duplication at additional expense and displacement of other user groups?
- # Big Marsh/Mud Lake in Pool 7 is a good alternative to the Black River Bottoms area.

Response: In Alternative E, we have changed the designation of this area from an Electric Motor Area to a seasonal Slow, No Wake Area in response to comments and concerns. Boats with outboard motors or mud-type motors are permitted year-around which should lessen access and current concerns. We have also added language in Alternative E so that "slow, no wake" matches state regulations, which in Wisconsin, means a person can use a speed to maintain steerage. This provision should help address the concern of strong current. Although Trempealeau Refuge is approximately 15 miles distance and only allows boats powered by electric motors or hand, it does not contain the unique bottomland forest found on Upper Miss Refuge. The Black River Bottoms provides a unique experience to hunters, anglers, and wildlife observers and is closer to the major population center of La Crosse/Onalaska. We believe the Big Marsh/Mud Lake area in Pool 7 upstream of the Black River Bottoms may provide a good alternative. Thus, we have delayed implementation of the Black River Bottoms Slow, No Wake Area until 2008 to allow further exploration of the Big Marsh/Mud Lake proposal.

Comment: Opposes Electric Motor Area in Pool 8 between Blue and Lawrence lakes. Recommends reducing the size of the area around Blue Lake and shifting it south of Blue Lake, through Target Lake and end it at the area just north of Lawrence Lake.

Response: In Alternative E, the preferred alternative, we have changed the designation of this area from Electric Motor Area to a Slow, No Wake Area. This designation will dramatically change the accessibility since boats with outboard and shallow-drive motors will be allowed,

although airboats and hovercraft would be excluded. We also looked at various configurations suggested by the public, including the recommendation above. Based on this review, the boundary of this area remains virtually the same in Alternative E as the area presented in the supplement to the Draft EIS/CCP. We have added Appendix R to the Final EIS/CCP which gives more details on the resource and public use rationale for this and all other Electric Motor Areas and Slow, No Wake Areas.

Comment: Support the heron sanctuary designation on a part of the existing Mertes Slough Electric Motor Area, Pool 6 (6).

Response: We appreciate this comment, but have deleted the sanctuary designation in Alternative E, the preferred alternative. We felt that overlaying sanctuary status over an existing restricted area would be confusing, lead to additional signing and sign maintenance costs, and be of limited value since the level of disturbance is low under the electric motor only designation.

Comment: Consider smaller areas for Electric Motor Areas and make larger areas Slow No Wake (4).

Response: As noted in an earlier comment/response, we made substantial changes in Alternative E, the preferred alternative. These changes included dropping four proposed areas completely, and converting eight Electric Motor Areas to seasonal Slow, No Wake Areas. Collectively, the remaining five Electric Motor Areas and eight Slow, No Wake Areas encompass 11,572 acres, or approximately 8 percent of the water area of the Refuge. Electric Motor Areas are relatively small, averaging 370 acres and a total of 1,852 acres.

Comment: Consider seasonal Electric Motor Area restrictions versus year-around (9).

Response: We considered this and other comments about the season for Electric Motor Areas. However, we believe that setting aside these areas year-around also meets the needs of hunters, anglers, trappers, cross country skiers, and others who desire an area with more quiet and solitude. Wildlife also benefits by the reduced disturbance, regardless of the season.

Comment: Must have designated travel corridors through any Electric Motor Area or Slow, No Wake Area.

Response: We avoided most main travel corridors such as tributaries and deep sloughs when laying out the boundaries of the areas. Providing either a motorized or any-speed travel corridor through these areas would negate many of the reasons for establishing them.

Comment: Does not believe “giving” canoeists and kayakers both spillways in Reno Bottoms area in Pool 9 is fair (there are two spillways in Dam 8 at very upper end of Pool 9 that are popular fishing areas for some visitors).

Response: A portion of the Reno Bottoms area is now a Slow, No Wake Area in the preferred alternative and is open to motorized watercraft, except airboats and hovercraft, as well as canoeists and kayakers. We also modified the boundary in Alternative E to exclude 866 acres from any designation, which allows unrestricted means of access to the east spillway via Pickerel Slough or other avenues.

Comment: Concerned about safety in Electric Motor Areas due to sudden storms or bad weather (3).

Response: In emergency situations, we would expect the public to take whatever action is necessary for their health and safety, including “violating” any rule. There are also only five relatively small Electric Motor Areas designated in Alternative E, the preferred alternative.

Comment: Quiet non-motor zones should be provided for visitors and formal monitoring for future updates of the CCP. Expressly commend the Service for Electric Motor Areas since delicate backwaters are essential to health of fish and wildlife, and uphold these restrictions through interagency collaboration (2).

Response: Comments are noted and we believe are reflected in Alternative E, the preferred alternative.

Comment: Proposed Electric Motor Area for 9-Mile Island in Pool 12 should be Slow, No Wake Area instead.

Response: We concur and this designation change was made in Alternative E, the preferred alternative.

Comments: In regard to comments specifically mentioning area and seasonal restrictions on airboat and hovercraft use in the supplement to the Draft EIS/CCP (Draft Alternative E), 35 were for the restrictions and 7 were opposed.

Response: Comments are noted. Written comments are one form of input and we realize that many persons who currently use airboats or hovercraft throughout the Refuge do not support the restrictions in Alternative E, the preferred alternative. However, we believe Alternative E represents a balanced approach to meet the needs of all user groups, as well as the needs of wildlife in these backwater areas.

5.3 Slow No Wake Zones

Comments:

For additional Slow, No Wake Zones (10)

Against additional Slow, No Wake Zones (11)

Bass tournament anglers and 50% of boat owners already ignore Slow, No Wake Zones (3)

Recommend a speed limit instead of slow, no wake

If goal is to protect plants use a slow, no wake or channel marker to designate affected areas

Slow, no wake creates a problem in shallow areas since boats can't operate on plane (3)

Response: Comments are noted. Slow, No Wake Zones, designed to reduce boating speed along linear stretches, always reflect a mixture of support or disdain. Alternative E, the preferred alternative, identifies 11 additional Slow, No Wake Zones to address safety and human disturbance problems, or to address bank erosion. We believe this number is reasonable and addresses the most pressing problem areas. In Alternative E we have also adopted the respective state definition for “slow, no wake,” which in some states includes a speed limit. Adopting the respective state definition also reduces confusion and layering of regulations.

Comment: Would like Slow, No Wake Zone near northwest entry to Jack Oak Slough, Pool 11, near Eagles Roost Resort, Cassville, Wisconsin, for safety.

Response: This area was considered, but not included since it did not rank as a high priority area based on resource or safety concerns expressed by staff or the public.

Comment: Make Crooked Slough, Pool 13, and all associated backwaters slow, no wake.

Response: In Alternative E, we have identified a speed and distance restriction for Crooked Slough in-line with Iowa regulations. This restriction requires boats to slow down to less than 5 mph when approaching or passing other slow or stationary craft. We believe this will provide the needed safety regulation while not unduly restricting boat travel on this very long corridor.

Comment: Reduce proposed Slow, No Wake Zone in Minnesota Slough, Pool 9, to 200 yards of the Fish Lake curve area.

Response: Concur; and this change was made for Alternative E, the preferred alternative.

Comment: Opposes Slow, No Wake Zone for the Fountain City area since it's a main thoroughfare for boaters using campgrounds and two businesses (5).

Response: We believe this Slow, No Wake Zone is warranted based on concerns expressed by visitors using the adjacent Merrick State Park. However, this and all other Slow, No Wake Zones will go through the local unit of government approval process, as is normal and customary for designating Slow, No Wake Zones on the river. Thus, this area is a proposal by the Refuge, not a final decision.

5.4 Dog Use Policy

Comments:

- # Dogs need to be under voice or leash control to prevent human or wildlife disturbances (17)
- # Against all dog restrictions (3)
- # Support continued hunting with dogs (7)
- # Wants dog swimming allowed (5)
- # Owners need to be responsible for picking up dog waste

Response: We have made changes to this objective in Alternative E, the preferred alternative, to simplify the new regulation language. We believe this new regulation protects wildlife and other visitors, while allowing the water training of retrievers and other dogs which was a concern in some areas, particularly in and around La Crosse, Wisconsin. We also added language addressing dog waste.

5.5 General Public Use Regulations

Comment: No written comments on this objective were received from the public. See comments from the states earlier in this chapter in regard to a step-down law enforcement plan, which was added to the strategies in this objective in Alternative E of the Final EIS/CCP.

6.1 Office and Shop Facilities

Comment: All money should go to improving fish and wildlife on Refuge, not building offices (13).

Response: Offices and shops are a basic need of any operation. As noted in Chapter 4, Environmental Consequences, many of the Refuge offices and shops are inadequate in terms of public accessibility, information, and programs, and continue to have unresolved structural safety issues. Inadequate maintenance and storage capacity also negatively effects efficiency of field operations and condition of heavy equipment and vehicles. Also, costs of new buildings are off-set to some degree since the current annual lease payments for offices at Winona and La Crosse would be eliminated.

Comment: Support building new office and shop facilities (5).

Response: Comments are noted.

6.2 Public Access Facilities

Comments:

- # Against all new fees (64)
- # Approve boat launch fees if they are used for new landing facilities in same area (5)
- # Use money generated by fees to hire more law enforcement officers
- # Require everyone using Refuge to have annual for-fee permit or Federal Duck Stamp and use money for habitat restoration or protection (7).

Response: The boat ramp fee in Alternatives B, C, and D was dropped in Alternative E, the preferred alternative. Also, a general, annual recreation fee was strongly opposed by the majority of people at public meetings and workshops. However, the concept of a fee, but not an actual proposal, remains in Alternative E, in-line with recent laws governing recreational user fees on federal public lands. If fees are charged, they are specifically earmarked for the refuge where collected to enhance visitor facilities and programs, not for habitat or other work. Federal Duck Stamps do allow "free" entrance to national wildlife refuges which charge entrance fees, but the proceeds go into the nationwide Duck Stamp land acquisition fund. No Duck Stamp funds are used for land acquisition at the Upper Miss Refuge since the funding source is the Land and Water Conservation Fund.

Comment: Support new boat access proposal (7).

Response: Comments are noted.

Comment: Boat landings at Campion and St. Feriole are excellent examples of well thought-out, user friendly, and economically feasible boat landings.

Response: Comment is noted.

Comment: Boat landing at Big Slough near Lansing looks nice but not as practical as the old landing. Parking was reduced by 50% and curbs cause problems when maneuvering.

Response: We understand the concerns at this and other landings. These issues will be considered when rehabilitating or constructing new landings, and communicated to persons doing the design work. Also, we think it would be wise to get input from citizens using these areas before designs are finished and contracts awarded.

Comment: Can you use money from boat gas tax for improved boat landings?

Response: No, any federal excise tax on fuel goes to accounts other than refuges.

Comment: Support walk-in accesses (4).

Response: Comments are noted.

Comment: New canoe trails need launch and landings established, otherwise tough to use (4).

Response: We do not disagree, although access development is often hampered by roads, railroads, and physical terrain.

Comments: If a canoe access off Highway 26 (Pool 9, Iowa side) is a goal look at three existing parking areas between Conway Lake and Lansing, one is at extreme south end of Conway (3). Supports a canoe launch along existing road near Big Slough eliminating need for Conway Lake access. Not feasible to construct parking off Highway 26 down steep bank, across railroad tracks in floodplain.

Response: We will take these comments into consideration when doing more detailed planning for the Conway Lake canoe access, or other accesses along Highway 26. The railroad tracks and terrain present a considerable challenge along this and other stretches of the Refuge for any type of access.

Comment: Ensure access doesn't require canoe portage across highways (2).

Response: Concur; and we will avoid this situation in any accesses developed.

Comment: Supports signed and maintained portages on dikes between pools with steps or gravel path instead of trying to balance canoe going up and down steep rocks.

Response: We do not disagree, but the dikes or dams between pools are under the jurisdiction of the Corps of Engineers. It is unlikely that the Corps of Engineers would entertain any actual recreational development of the dams since their purpose is for water control and management.

Comment: Would like some canoe-only campgrounds.

Response: Since Electric Motor Areas are open to camping, they do serve to a degree as canoe-only camping areas. Given the ease of access to remote areas of the Refuge with canoe, many other areas offer the opportunity to get away from heavily-used beach areas along the main channel. However, we acknowledge that secluded, sandy areas in the backwaters are limited.

Comment: Support additional parking areas (8).

Response: Comments are noted.

6.3 Operation and Maintenance Needs

Comment: Concern for costs of maintaining infrastructure resulting from the Environmental Management Program.

Response: Concur and we have added more information on this need in Alternative E, the preferred alternative, and in the Appendix L, Implementation Plan, in the Final EIS/CCP.

6.4 Public Information and Awareness

Comments:

- # Need more information at public access points to garner public compliance (4)
- # Focus on information campaigns and public information sites (5)
- # Use marinas, boat landings, sporting good stores, and brochures for information programs
- # Kiosks very valuable where there are high number of visitors (2)

Response: We concur and believe the information and awareness efforts outlined in Alternative E of the Final EIS/CCP reflect these comments.

Comment: All the money earmarked for public information campaigns doesn't promote wildlife habitat (2). Spend money on fish and wildlife programs instead due to budget constraints (3).

Response: We believe the public has a need for basic information about the Refuge, its fish and wildlife, and the rules for public use. This is a basic function of managing public lands. As noted in earlier responses, there are indirect and positive benefits to increased public awareness of the Refuge. Citizens who know and understand the Refuge are more apt to care about it and the Mississippi River as a whole, which generally leads to fiscal and political support for improving habitat for fish and wildlife.

Comment: Recommend using newsletters to keep public apprised of changes and results of changes (5).

Response: Newsletters are costly from a production, printing, and mailing standpoint. We have learned through the process of producing the CCP that a website is a valuable tool, and will continue to use it, and the media, to provide information to the public on programs and actions of the CCP which emerges from the Final EIS.

Comment: Kiosks specifically needed at St. Feriole Slough, Villa Louis, and Campion landings near Prairie du Chien.

Response: These landings are managed by the City of Prairie du Chien and not within the Refuge. Although we place Refuge kiosks at many non-Refuge landings in cooperation with cities and towns, there are fiscal and maintenance constraints to placing at all of the 200-plus boat landings in Pools 4 through 14. However, we are currently partnering with the city to place kiosks at two of the landings.

6.5 Staffing Needs

Comment: Hire more Law Enforcement Officers, they're spread too thin (10).

Response: We concur; and added four additional full-time law enforcement officers to this objective in Alternative E, the preferred alternative.

Comment: Support hiring forester (8).

Response: Comments are noted.

7.9 General Comments and Response

This section contains comments and responses to input that did not logically fit in the objectives or categories in Section 7.8.

During both comment periods, a large number of persons or organizations specifically stated their preference for an alternative being considered. A summary of this preference is in Table 35. If a comment did not mention a specific alternative, even if in favor or opposed to certain aspects of an alternative, it is not included in the table.

Petitions and form letters obviously impact these numbers, and it is difficult to weigh the qualitative aspects of a comment in a petition or form letter compared to a written original comment from an individual or organization. For example, during the second comment period, one petition accounted for 139 of the 165 comments specifically wanting Alternative A, while the 112 comments specifically wanting Alternative E were individually written.

Table 35: Comments Stating an Alternative Preference¹

Alternative Preferred	First Comment Period (Draft EIS/ CCP)	Second Comment Period (Supplement or Alt. E)
	Number of Written Comments/ Signatures	Number of Written Comments/ Signatures
Alternative A: No Action	3,086	165
Alternative B: Wildlife	1,840	9
Alternative C: Public Use	1	0
Alternative D: Integrated	387	22
Alternative E: Modified Integrated	0	112

1. Includes number of signatures on petitions, and number of individual form letters/e-mails discussed in Sections 7.6 and 7.7

Also, comments for or against a particular alternative represent the opinions, perspectives, and values of those commenting. Without a random sampling of the general public, one cannot conclude that these numbers represent the views or desires of society as a whole, or of all people who use or benefit from the Refuge.

Comment: Concerns with the new walk down access and bank fishing area off of Highway 35 just south of Stoddard, Wisconsin. These concerns include adequate parking, pedestrian safety, and funding (Wisconsin Division of Transportation Systems Development, Southwest Region).

Response: We share these concerns. The access and bank fishing to this popular fishing area created by an Environmental Management Program project is only identified in Alternative E. We realize that many questions concerning design, funding, and maintenance will need to be answered if this project moves forward. As with all projects adjacent to roads and highways, we will work collaboratively with the state and other agencies before proceeding.

Comment: Alternative D, the preferred alternative, should be rejected because it bans appropriate and priority uses without justification. Concerned about compliance with the National Environmental Policy Act (National Marine Manufacturers Association and Personal Watercraft Industry Association).

Response: In response to public input, the Service issued a Supplement to the Draft EIS/CCP which presented a new alternative, Alternative E, as the preferred alternative. Major changes were made, especially in regards to Electric Motor Areas. Neither Alternative D nor Alternative E bans any priority use in these areas, only the means of use is affected. All areas, except Waterfowl Hunting Closed Areas, remain open to the priority public uses of hunting, fishing, wildlife observation, photography, interpretation, and environmental education. We believe the Final EIS/CCP contains extensive documentation of issues and justification for the actions presented, and complies with all requirements of the National Environmental Policy Act.

Comment: Alternative A should be designated the preferred alternative because it best accomplishes the Refuge's goals, accommodates the broadest mix of uses, and ensures fair and environmentally sound boating management (National Marine Manufacturers Association and Personal Watercraft Industry Association).

Response: We do not believe that Alternative A, no action or current direction, meets the multitude of needs outlined in Chapter 1 of the Final EIS/CCP, nor ensures compliance with the Refuge Improvement Act of 1997 and various Service policies and regulations governing national wildlife refuges. However, Alternative E, the preferred alternative, reflects many changes based on extensive public input at meetings, workshops, and through written comments. All types of traditional recreation currently enjoyed on the Refuge will continue, including boating by any means on at least 90 percent of the water area of the Refuge. We believe the time and place restrictions on a portion of the Refuge meet the needs of wildlife and the needs of a large and diverse public. We believe this balanced approach is in the best long-term interest of the resource, area communities and economy, and the public at large.

Iowa Tribe of Oklahoma Comment on Draft EIS/CCP



Iowa Tribe of Oklahoma

R.R. 1, Box 721
Perkins, Oklahoma 74059
(405) 547-2402
Fax: (405) 547-5294

file - CCP

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5/12/2005

US Fish & Wildlife Service
ATTN: CCP Comment
Room 101, 51 East Fourth Street
Winona, MN 55987

RE: Upper Mississippi River

Dear CCP Comment:

We received the notification of your district's improvement program. I understand that some of the project is a previous improvement and you do not foresee any impact of Native American or Euro-American archaeological resources.

The Iowa people have an historic presence in Multiple County. Please keep the Iowa Tribe of Oklahoma informed if anything new is discovered.

The historical preservation of the Iowa Tribe of Oklahoma is very important. Many religious and cultural artifacts have been discovered. During excavation if anything is unearthed please give me a call at 405-547-2402 ext. 323 or e-mail me at etipton@iowanation.org.

Thank you for your cooperation in this matter.

Sincerely,

Erin C. Tipton
Historical Preservation

ECT/jr

Minnesota Department of Natural Resources Comment on Draft EIS/CCP



Minnesota Department of Natural Resources

Southern Region
261 Hwy 15 South
New Ulm, MN 56073-8915
507-359-6010

new copy
2459

August 31, 2005

Mr. Don Hultman
Upper Mississippi River NW&FR
Attn: CCP Comment
Room 101
51 East Fourth St
Winona, Minnesota 55987

RE: U.S. Fish and Wildlife Service Comprehensive Conservation Plan

Dear Mr. Hultman:

The Minnesota Department of Natural Resources (MNDNR) would like to commend the US Fish and Wildlife Service (USFWS) for developing a comprehensive and diverse plan for management of the Upper Mississippi River National Wildlife and Fish Refuge over the next 15 years. We support the Refuge Vision and Goals as outlined in the plan and believe the six fundamental uses of the Refuge should continue to drive management and use of the system. We believe the issues generated during your initial scoping meetings reflected the variety of use and experiences sought by the public and your recommended Alternative D provides that diversity. We have attached our specific comments regarding Alternative D Objectives. General comments are as follows:

We strongly support your recommendations for habitat and water quality improvements through increased rate of land acquisition, bluffland protection, decreased sedimentation, pool-scale drawdowns, control of invasive plants and animals, increased inventory and monitoring, and threatened and endangered species recovery. These actions are critical to the long-term sustainability of the Mississippi River and should be of highest priority. Many of these actions can be addressed by implementing the Environmental Pool Plans. Pool Plans were developed through a diverse partnership and would provide a balanced approach to habitat and water quality restoration and management on the Refuge. We will continue our strong partnership with the USFWS and other agencies, NGO's, and the public to implement the Pool Plans to accomplish these activities.

We agree that developing additional rules for beach use, camping, and other related recreational activities in the refuge are needed. Given the high level of recreational activities on the Refuge and the potential impacts on fish and wildlife habitat, it is important that USFWS maintain a perspective that looks into the future and anticipates increases in user numbers and recreational activities. We suggest the USFWS consider eliminating or restricting the use of airboats, hover crafts, jet skis, and any other motorized mechanism that negatively impacts fish and wildlife resources in these critical habitats, and negatively affects other recreational pursuits in these areas. Exemptions should only be granted to federal or state agencies for research, monitoring, or law enforcement purposes, and use should be avoided whenever possible in closed areas during critical times of the year such as waterfowl migration.

DNR Information: 651-296-6157 • 1-888-646-6367 • TTY: 651-296-5484 • 1-800-657-3929

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Minnesota Department of Natural Resources Comment on Draft EIS/CCP

August 31, 2005

Page 2

Alternative D calls for significant changes and increases in regulations for a wide variety of recreational and commercial uses in the refuge. These changes will increase law enforcement demands and impact MNDNR Conservation Officers as they receive calls and complaints regarding Refuge regulations. This is especially important considering there are not enough federal wardens to meet current needs or to enforce additional regulations resulting from the Comprehensive Conservation Plan (CCP). While we recognize MNDNR Enforcement staff are not directly responsible for enforcing Refuge specific regulations, they will be called to address problems as the public often does not discern between state and federal wardens. In order to fully evaluate the level of support needed and our ability to assist the USFWS in implementing the CCP, we request that the following enforcement issues be addressed:

1. Location and availability of federal enforcement staff to answer calls for service from the public and other law enforcement agencies.
2. Expectations for other law enforcement agencies to respond to violations occurring in the refuge when and if USFWS staff are not available.
3. Jurisdiction of other law enforcement personnel responding to federal law violations on Refuge property.
4. Costs to other agencies to provide law enforcement on Refuge property, as well as the need to alter or modify existing work plans and work loads.
5. Development of a response and referral plan for public inquiries directed to the MNDNR regarding service and information related to the Refuge and regulations.

We appreciate the opportunity to comment on this plan and the efforts you have taken to include other partners and the public in the planning process. Meetings between MNDNR and Refuge staff have been productive and have helped us better understand the issues being addressed. We look forward to continued cooperation as we work together to improve the Mississippi River for fish and wildlife while accommodating public use.

Please contact me or Tim Schlagenhaft (507-280-5058) of my staff if you have any questions regarding our comments and recommendations.

Sincerely,



Cheryl Heide

Attachment

c: Gene Merriam	Mark Holsten
John Guenther	Dave Leuthe
Craig Mitchell	Rebecca Wooden
Randy Evans	Tim Schlagenhaft
Ken Varland	Huon Newburg
Walt Pop	

2

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Minnesota Department Natural Resources Comment on Draft EIS/CCP

Minnesota Department of Natural Resources - Specific Comments on USFWS CCP, Alternative D

Objective 1.2 - Land Acquisition

We agree with the need to continue land acquisition efforts within Refuge boundaries and suggest you add an additional strategy such as: "Work with state, local governments, and private land trusts to identify critical tracts for purchase." The MNDNR through the Natural Heritage Program and County Biological Survey has identified areas of high biodiversity, which may be integrated into this long-term strategy.

Objective 2.2 - Water Level Management

We strongly support the continued use of drawdowns to improve vegetation growth and encourage a more natural deposition of bottom material for island creation. We recommend increasing the frequency and duration of drawdowns to more closely resemble the natural hydrograph (including investigating the potential for winter drawdowns) to improve habitat and possibly offset costs associated with island development.

Objective 2.3 – Invasive Plants

We encourage quick, responsive action for controlling new infestations of invasive plants within the Refuge. At a minimum, we recommend simultaneous actions of inventory work and control of invasive plants to prevent or minimize further spread throughout the Refuge.

Objective 3.7 - Commercial Fishing and Clamming

We find the proposed strategies to be consistent with our desired management of commercial fishing. It is important that commercial fishing licenses be issued as a single permit through the states and not become a dual licensing procedure.

There should also be clarification that the USFWS could not allow commercial harvest of mussels in state waters where commercial clamming has been eliminated.

Cooperation between USFWS and the four states on commercial fishing will be important as Asian carp species become established within the Refuge. These species will have an effect on commercial harvest and may have population impacts to native species that are currently harvested commercially. We encourage you to include these concerns in the CCP to increase awareness of this potential problem.

Objective 3.9 – Forest Management

We agree more attention needs to be focused on improving forest resources and we recommend you add the following strategy: Support a balanced forest management approach that provides adequate habitat for cavity nesting game and non-game species. Allow for the retention of closed or primarily (>70%) closed canopy for forest birds such as red-shouldered hawks, cerulean warbler, etc. We support completing a forest inventory and hiring a Refuge Forester, and encourage incorporation of the forest management practices included in the Environmental Pool Plans.

Minnesota Department of Natural Resources Comment on Draft EIS/CCP

Objective 3.10 – Grassland Management

We agree that many species of wildlife are dependent on grassland habitat. The Minnesota DNR recently produced an action plan for waterfowl management entitled "The Challenge to Restore Minnesota's Wetland and Waterfowl Hunting Heritage, a Two-year Action Plan, 2004-2005". This report recommends increasing grassland areas where possible to improve nesting success of waterfowl and other ground-nesting bird species. As such, we recommend USFWS add a strategy under this objective to increase grassland acreage within the Refuge. Furthermore, we recommend the use of native species, particularly clump forming plants, which will provide nesting conditions favorable to birds as well as turtles.

Objective 4.2 - Closed Areas

We support efforts to provide refuge and sanctuary for migrating waterfowl. The Minnesota DNR report referenced above identifies fall security as being insufficient in some areas to attract and hold migrating ducks. Your proposal to increase the number of Closed Areas within the Refuge supports DNR's strategy to establish additional waterfowl sanctuaries, refuges (ideally one every 25 miles), migratory waterfowl feeding and resting areas and other restricted boating areas to reduce disturbance and increase use by migrating waterfowl.

We have heard, however, a considerable amount of concern from anglers about the proposal to make Closed Areas off-limit for fishing during the period of October 1 to the close of the respective state waterfowl season. Fall fishing is an extremely popular activity and we feel that not allowing angling during this period in all Closed Areas is overly restrictive and will not be supported by the public. We suggest the following modifications be made to Alternative D that support the biological need to provide security, feeding and resting areas for waterfowl while continuing to allow fishing opportunities for the public:

1. Delay the no entry/angling period until later in October, perhaps second or third week of October when diving duck numbers begin to build. This would allow some fall angling to occur while still providing migrating waterfowl the benefits of Closed Areas.
2. Use additional Voluntary Avoidance Areas as have been used in Lake Onalaska in Pool 7. This may be effective in reducing waterfowl disturbance and would foster education and participation of anglers.
3. Extend the period of no entry (for motorized craft only) in the Closed Areas after the waterfowl season to late December. Climatic trends and increases in available habitat have extended open water use by waterfowl in many sections of the Refuge. This extension would provide additional benefits to late staging waterfowl including tundra swans, and grant a more primitive and quiet experience for those trappers and anglers who desire that experience.

Objective 4.9 - Fishing Tournaments

We support the language in Alternative D relating to tournaments on the Refuge. The USFWS could play a key role in facilitating tournament regulations that are consistent between states and are acceptable to tournament organizers and the general public. We recommend existing state rules be used as a foundation for this process. As with commercial fishing, it is important that tournament permits be issued as a single process through the states and not become a dual permitting procedure. Given the time frame and procedures required to change state

Minnesota Department of Natural Resources Comment on Draft EIS/CCP

rules/statutes, the January 2008 goal may be optimistic.

Objective 5.1 – Beach Use and Maintenance

At present, Subp. 2, C&D satisfy MNDNR concerns regarding the ability to close and/or restrict beach use and other recreational activities that may significantly impact critical wildlife habitat. The flexibility to implement this management strategy, when deemed necessary, is important for such species as turtles and ground nesting birds.

Objective 5.2 - Electric Motor Areas

We support the concept of this Objective and all locations and provisions identified in Alternative D. However, we are somewhat disappointed that larger contiguous areas, (i.e. the entire Weaver Bottoms, including everything east and south from Murphy's Cut/Halfmoon Landing to the main channel) which were discussed and recommended in earlier planning, (i.e. Manager for a Day Workshops, etc.) were not identified and incorporated into Alternative D.

Objective 6.2 – Public Access Facilities

We are concerned about your proposal to implement a self-service launch fee at Refuge operated boat ramps. We believe it will put additional strain on existing free, non-Refuge facilities (city, county, state) that are already crowded, and will create some areas on the river that would have no free public access on the Minnesota side (i.e. Pool 5a). We are willing to work with you to explore other options for maintenance and operations of these facilities.

Wisconsin Department of Natural Resources Comment on Draft EIS/CCP



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

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Madison, Wisconsin 53707-7921
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FAX 608-267-3579
TTY Access via relay - 711

2478

August 29, 2005

Mr. Don Hultman, Refuge Manager
Upper Mississippi River NW&FR
51 E. Fourth St., Room 101
Winona, MN 55987

Subject: Comprehensive Conservation Plan Comments

Dear Mr. Hultman:

Thank you for the opportunity to comment on the Comprehensive Conservation Plan (CCP) for the Upper Mississippi River Wildlife and Fish Refuge. The Upper Mississippi is one of the true jewels of the Midwest and the Fish and Wildlife Service's concern for the River's natural resources is deeply appreciated by our department.

We are aware that you will be developing a new preferred alternative this fall. The following comments primarily refer to the Alternative D, although we also have several important general comments on the CCP.

General CCP Comments

We salute your public outreach efforts on this plan to date and urge the USFWS to continue the public dialogue and work closely and in concert with the public and all the agencies involved with the development and implementation of any proposed changes. The public involvement associated with the release of this plan has been one of the largest ever witnessed from the river public. Although much of the initial response was negative, the workshops helped to bring that large group together to talk and help find solutions. This new found enthusiasm for the river should be cultivated to allow a greater interaction and relationship with the public on current and upcoming Upper Mississippi River issues. We offer our assistance to help you and the large public audience you have energized, to develop the next steps in a positive manner.

As you are aware, the State of Wisconsin reserved certain rights, under sec. 1.035, Wis. Stats., when the Upper Mississippi River Refuge was created. These rights remain critically important to us yet today. As such, *Wisconsin reserves the right to provide free and open navigation to the residents of the state in all waters of the state including the Mississippi River. In addition, Wisconsin reserves the right to regulate fishing in all waters of the state including the Mississippi River.*

We strongly support your emphasis on habitat and habitat management. However, we believe the plan should be broadened to include the larger ecosystem, including fisheries. The refuge's original authorizing language makes it clear that the Upper Mississippi should address the needs of multiple species within the Upper Mississippi River without limiting the emphasis to waterfowl and other migratory bird species. The CCP needs to be strengthened in this area.

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Wisconsin Department of Natural Resources Comment on Draft EIS/CCP

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We believe the Plan needs to thoroughly discuss efforts to address all rare and declining species and their habitats. All border states have recently identified these as "Species of Greatest Conservation Need" within their nearly completed "Comprehensive Wildlife Conservation Strategies". All states have been charged by Congress via The Fish and Wildlife Service to author these plans with the purpose of keeping species from becoming federally listed. In addition to migratory birds and turtles, the Upper Mississippi River is a major repository for rare fish and freshwater mussels and can play a critical role in the conservation of the Midwest's biodiversity. Wisconsin has identified numerous "Species of Greatest Conservation Need" that largely depend on the Mississippi River floodplain and associated habitats to survive. Because of this, our state is poised to work closely with and coordinate efforts to conserve these species. Specifically, the Service should emphasize coordinating efforts with respective states to protect and enhance identified "Species of Greatest Conservation Need" and their habitats.

We believe a Law Enforcement step-down plan should be added to the other 13 step-down plans proposed, particularly since there is no law enforcement plan for the Refuge at present. We appreciate the work the refuge officers are already doing. However, we see a need to focus their efforts on new and existing refuge regulations to leverage law enforcement resources, rather than to duplicate the efforts of State officers. Wisconsin DNR Wardens will not be able to enforce many of the rules proposed, particularly public recreation restrictions, since they are prohibited from holding Federal law enforcement credentials and many proposed changes would not be codified in State statutes or Administrative Code and therefore could not be enforced.

The Wisconsin DNR is pleased to read about your intention to update the Land Use Allocation Plan (LUAP) in cooperation with the U.S. Army Corps of Engineers and other public agencies. Keeping a high proportion of the Upper Miss. Refuge available for public recreation will remain important to the citizens of all the bordering states. We recommend the USFWS consider a land acquisition boundary expansion for the Refuge, beyond the boundary established in the 1987 master plan. By working with "willing sellers only" we hope you can purchase or establish long term conservation easements on more than the 1000 acres per year referenced in the CCP.

We suggest you update the public use figures and economic data for the Refuge. We believe the economic information depicted in Table 24 and section 3.4.2, are off by a significant margin. It is our understanding that the numbers generated by Caudill 2004, was done by using the Economics of Recreation study (1990). Based on numerous recreational studies done during the last 15 years we would expect recreation use and economic benefit numbers to increase not decrease as this section seem to indicate. We have generated numbers for the 19 counties and these numbers are very different from your numbers. For the region, using the 1990 data (old data) we calculated the direct and indirect economic benefit to be 4,582 jobs, \$254,560,000.00 generated and 7,636,800 daily visits. On a national basis, we calculated the jobs generated are 11,773, \$763,680,000.00 generated and 10,320,000 daily visits. Since the document does not contain any specifics on how the numbers were generated, we will need additional information on your estimate.

Comments on Alternative D

We support the concept of Paddle/Electric motor areas for resource protection reasons and/or to provide a diversity of recreational experiences. However, we would withdraw that support on the Refuge unless the USFWS works closely with the public to delineate the boundaries of these areas. The Department is well aware of the strong public opposition this proposal has received, and believes the concept needs to be publicly supported. Furthermore, USFWS must consider the impact on commercial fishing, evaluate seasonal closures and consider boundary changes as options to the proposal in Alternative D.

Wisconsin Department of Natural Resources Comment on Draft EIS/CCP

2478

Wisconsin DNR recognizes the importance of Closed Areas to waterfowl management and supports the "steppingstone" theory of spacing. Proposed boundary or location changes will need to be developed in close cooperation with the public and other agencies, particularly in pools 4, 7 and 10. Of specific concern to Wisconsin residents is the significant increase in Closed Areas within our border waters. We understand that high quality habitat is located within Wisconsin, but Closed Area changes in Alternative D result in an unfair loss of recreational opportunity for our residents, especially in pools 4 and 10. We have an additional concern with the northward expansion of the Goose Island no hunting zone in pool 8. It should not restrict deer hunting since this area funnels deer entering and leaving the overpopulated Goose Island County Park. This important deer hunting (especially bowhunting) area must remain available to help manage the large deer herd and minimize disease concerns.

Closed areas must remain open to fishing during the waterfowl season as we believe closing them to fishing would violate the intent of the Wisconsin legislation allowing establishment of the Refuge. *Therefore, as an alternative to closing fishing in the Closed Areas of the refuge we would like to work with you to craft a phased approach for providing necessary sanctuary for waterfowl while still allowing fishing and appropriate navigation in the Closed Areas. Alternative approaches may include but are not limited to voluntary closed areas, slow-no-wake, electric trolling motor with travel lanes for motored craft and no motor areas. Any options that involve reallocating production or uses from one refuge purpose to another (e.g. waterfowl production at the expense of fishing or fish habitat restoration) should be supported by adequate cost-benefit alternatives analysis which includes reasonable estimates of what changes in production or use are expected. If such information is not available, the options should be scientifically evaluated in a suitable pilot study prior to widespread implementation.*

One further comment on the concept of steppingstone habitat: we also believe the approach should be applied to all species within the ecosystem, including the fishery. Many studies have documented the migratory movement of fish and depending on the species guild these steppingstones can be spaced from a few to several thousand miles apart. We must manage for fisheries' needs as well as avian needs, since they are all trust species. We are also seeking your assurance that the FWS will no longer oppose the construction of cost-effective fisheries habitat structures within refuge closed areas. We believe this habitat work is vital to the stepping stone concept.

We believe your final management decision for non-motorized and closed areas must address both commercial fish and biological monitoring concerns. Commercial fishing is a business for some residents in the states along the refuge, and in both of these areas the ability to fish would be eliminated. Late fall is an important time of year to commercially fish due to the market value and schooling of fish in cooling waters. Additionally, biologists from the southern region of the Upper Mississippi River suggest that the best time to catch silver and bighead carp is in the fall. Therefore, it is important for the USFWS to include a provision for commercial fishing to meet the needs of this business sector and provide a mechanism for possible management of invasive species. The second concern is that Wisconsin DNR river managers and researchers need to be able to do our biological monitoring work within any Non-Motorized Areas and Closed Areas. Our department has a continuing need to gather important natural resources data in these areas. Our staff must have the ability to do this with motorized boats. We request that the final CCP explicitly authorize our department, as well as, other state fish and wildlife agencies to enter these special designation areas for this work. We recognize that we have an obligation to minimize any disruption to these special designation areas, but the work must be done.

We strongly urge that furbearer trapping continue on the Refuge for biological and social reasons. Although it is not one of the "big 6" uses, trapping is included in the original statement of purpose for this refuge.

Wisconsin Department of Natural Resources Comment on Draft EIS/CCP

2478

We support establishment of Hiking Trails, Canoe Trails and Observation Platforms to provide recreational and educational opportunities to a wide variety of users. However, we believe that these activities can occur without precluding hunting. Most of Wisconsin trails allow hunting adjacent to them and users are notified by signs and news releases.

Other specific comments

Open Water Hunting:

Wisconsin DNR supports Objective 4.3, #3, the elimination of Open Water Hunting in the refuge. Pool 11 (river miles 586-591) is the only area on the Refuge in Wisconsin where this type of hunting is allowed.

Specific Regulation Changes:

We feel obligated to inform you that if the USFWS decides to move forward with the 25 shot shell limit, 100-yard spacing, camping rules and managed hunts, the state may not enact complementary state regulations. These changes would have to go through our rule making process, which would involve considerable public input and Natural Resources Board approval. The USFWS must also realize that slow no wake zones in Wisconsin may only be enforced if local units of government have established them and the zones are properly marked.

Beach Use and Management:

Wisconsin DNR believes that recreational uses on the Mississippi River, such as beach use, camping and boating should continue in their current form and we are eager to start the beach planning process again. Specifically, we believe that empty dredge material sites, known as "bathtubs", should be open to the public. Public use of these areas has little effect on wildlife habitat as the areas are already highly disturbed. Our Conservation Wardens prefer the availability of "bathtub" beach use because it concentrates the "party crowd" away from other users and sensitive natural resource areas. We understand the concern with human waste at bathtub beaches (and all beaches for that matter) and believe that an educational campaign may be the best way to address the issue at this time. We would certainly be willing to work with you to address the human waste issue.

Beach related uses were assessed and assigned a compatibility determination. Within Alternative D, the beaches will remain open-unless-closed, which is a reasonable approach to start the planning process. The step-down plan should include long term partnership teams, like the Recreation Work Group, to assess beach designation and management. As these teams assess the beach designations, they can consider whether such designations as Day-Use only, No-alcohol and Closed beaches are appropriate. This beach planning process should also provide the public with the opportunity to comment during the process and when recommendations are made.

Wisconsin DNR supports two additional points regarding beach management. We support your definition of intoxication and believe it is reasonable since it reflects the laws in the adjoining states. Wisconsin DNR also supports the public in their call for the prohibition of glass containers on the Refuge and Corps of Engineers lands. It is a responsible action to help protect river users and wildlife on the river.

Thank you again for the opportunity to review and comment on the Draft Comprehensive Conservation Plan for the Upper Mississippi River Wildlife and Fish Refuge. It is an ambitious plan. I hope our

Wisconsin Department of Natural Resources Comment on Draft EIS/CCP

comments are helpful in crafting your final preferred alternative. We will look forward to reviewing the revised management alternative (E) and EIS amendment when they become available.

Sincerely,


Scott Hassett
Secretary

2478

- c Holly Stoerker, UMRBA, 415 Hamm Building, 408 St. Peters St, St. Paul, MN, 55102
- Rick Nelson, USFWS, 4469 48th Ave. CT, Rock Island, IL 61201
- Tim Schlagenhaft, MNDNR, 2300 Silver Creek Rd, Rochester, MN, 55906
- Mike Griffin, IDNR, 206 Rose Street, Bellevue, IA 52031
- Dan Sallee, ILDNR, 2317 East Lincolnway, Suite A, Sterling, IL 61081
- Scott Humrickhouse, WDNR, 1300 West Clairemont Ave., Eau Claire, WI 54702-4001
- Gretchen Benjamin, WDNR, 3550 Mormon Coulee RD, La Crosse, WI 54601
- Patrick Henderson, Office of the Governor, State Capitol 115 E, Madison, WI 53702
- Todd Ambs, WDNR, GEF II – AD/5
- Tim Andryk, WDNR, GEF II – LS/5
- Todd Peterson, WDNR, GEF II – WM/6
- Laurie Osterndorf, WDNR, GEF II - AD/5
- Tom Hauge, WDNR, GEF II – WM/6
- Signe Holtz, WDNR, GEF II – ER/6
- Senator Dan Kapanke
- Senator Ron Brown
- Senator Dale Schultz
- Representative Michael Huebsch
- Representative Barb Gronemus
- Representative Jennifer Shilling
- Representative Lee Nerison
- Representative Gabe Loeffelholz

Iowa Department of Natural Resources Comment on Draft EIS/CCP



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

STATE OF IOWA

DEPARTMENT OF NATURAL RESOURCES
JEFFREY R. VONK, DIRECTOR

August 22, 2005

Upper Mississippi River NW&FR
CCP Comment
Attn: Don Hultman, Refuge Manager
Room 101
51 East Fourth Street
Winona, MN 55987

2401

Dear Mr. Hultman:

This letter represents the Iowa DNR comments on the Upper Mississippi River National Wildlife and Fish Refuge Draft Environmental Impact Statement and Comprehensive Conservation Plan May 2005.

As you know the management of the Upper Mississippi River is a complex multi-jurisdictional task. The Iowa Department of Natural Resources is proud to be a partner in the management of this important natural resource. We value having the most visited USFWS Refuge along Iowa's border. The economic impact of these visitors and the recreational opportunities that the River provides to Iowans and to the nation are very significant.

The Iowa Department of Natural Resources is an advocate for sportspersons, recreationists, and a clean diverse environment. This plan proposes many changes which many members of the public view as being very restrictive. The Iowa DNR cautions the Refuge to review all regulation changes to ensure that the public that uses the refuge is not overly regulated and the proposed regulations are needed and targeted to provide the expected results for the Refuge.

My staff has read the plan and has several specific comments on some of the proposed actions. For the sake of clarity these comments will address the proposed actions and issues presented in Table 1: Alternative Comparison by Issue/Objective, Upper Mississippi River NW&FR.

If not specifically exempted comments will be on the Alternative D. (Preferred Alternative)

WALLACE STATE OFFICE BUILDING / 502 EAST 9th STREET / DES MOINES, IOWA 50319
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Iowa Department of Natural Resources Comment on Draft EIS/CCP

Goal 1 Landscape

- 1.2 Refuge Boundary: Iowa DNR agrees with the CCP and encourages the Refuge and the COE to survey the boundary to keep encroachment down and identify boundaries.
- 1.2 Acquisition within approved boundary: Iowa DNR agrees and supports the Service in acquisition of critical habitats as well as considering public recreational values.
- 1.3 Bluffland Protection: Iowa DNR supports bluffland protection as outlined in the CCP. The Iowa DNR along with many other partners has been working on protection of this resource.
- 1.4 Research Natural Areas and special Designations: Iowa DNR agrees.

Goal 2 Environmental Health

- 2.1 Water Quality: Iowa DNR agrees. We have embarked on the same course. We welcome another partner in this massive effort. When implemented, please contact your partners including the Iowa DNR to make the best use of the additional resources you will be bringing to the problem. This will also keep duplication of efforts to a minimum.
- 2.2 Water Level Management: Iowa DNR supports integrated water level management of the Mississippi River Pools. Water level management task forces have been formed in the St Paul and Rock Island districts of the COE. As you are aware any pool level water level management would require a cooperative effort of all river management agencies. We also support the establishment of the Access Trust Fund to facilitate river access during drawdowns.
- 2.3 Invasive Plants: Iowa DNR supports the Service as an active partner in efforts to reduce and inventory invasive plants from the Refuge. We support an increased emphasis by the Service on educational efforts. Current signage must be maintained.
- 2.1 Invasive Animals: Iowa DNR welcomes the Service as an active partner in the control invasive animals on the Refuge.

Goal 3 Wildlife and Habitat

- 3.1 Environmental Pool Plans: Iowa DNR as a partner in preparation of these plans, supports aggressive implementation of these plans. We would also like to see the Refuge seek additional funding through the Department of the Interior for implementation of the plans.
- 3.2 Guiding Principals for all Habitat Management Programs: Iowa DNR supports the Service proposing funding for more Habitat Management Programs. The guiding principals for every habitat project should be how well the project meets the needs for providing habitat. These projects should be evaluated on a case by case basis to provide the best habitat for sustaining the ecosystem of the Upper Mississippi River.
- 3.3 Monitor and Investigate Fish and Wildlife Populations and Their Habitats: Iowa DNR supports increased monitoring in partnership with adjacent agencies.
- 3.4 Threatened and Endangered Species Management: Iowa DNR supports the monitoring and plan preparation for these species.

Iowa Department of Natural Resources Comment on Draft EIS/CCP

- 3.5 Furbearer Trapping: Iowa DNR supports continuing the current trapping and harvest on the Refuge.
- 3.6 Fishery and Mussel Management: Iowa DNR supports increased involvement by the refuge in fishery and mussel management on the refuge. We encourage the Refuge to take an active role in UMRCC fisheries technical section. The UMRCC fisheries technical section also has a mussel ad hoc committee. Iowa DNR reserves the rights of the state to manage fisheries and mussel resources in Iowa waters.
- 3.7 Commercial Fishing and Clamming: Iowa DNR supports more involvement by the Refuge in Commercial fishing and clamming on the refuge. Iowa DNR cautions the Service that the management authority for these resources is the Iowa Department of Natural Resources. We see no need for additional permits to commercial fishers. The States and the UMRCC keep commercial fishing statistics and they are reported to the UMRCC. These statistics are available to the Refuge.
- 3.8 Turtle Management: Iowa DNR agrees this species needs more attention on the refuge however we reserve the right to manage this species. Iowa DNR has commercial harvest data on turtles that is available to the refuge.
- 3.9 Forest Management: Iowa DNR concurs with the Refuge CCP to increase involvement in forest management.
- 3.1 Grassland Management: Iowa DNR agrees.

Goal 4 Wildlife-Dependent Recreation.

- 4.1 General Hunting: Iowa DNR agrees with the CCP except we suggest adding the 6 new no hunting zones as no hunting zones from March 15 to September 1st every year. This accomplishes the goal of reduced user conflicts during the high use period of the summer but does not exclude traditional use during the fall for hunting based recreation. We have this specific comment on the Proposed Crooked Slough No Hunting Zone; the Service needs to open the area just downstream of the emergency spillway to fishing and boating. This area currently and traditionally attracts many anglers.
- 4.2 Waterfowl Hunting Closed Areas: Iowa DNR supports additional or modified closed areas for a total of 21 refuge wide. We understand that by supporting this section we are supporting limiting access to fishing and boating to these areas. The lack of disturbance to migrating waterfowl and the purpose for which the refuge was created were the factors that brought us to this decision. Iowa DNR also requests that some of the closed area boundaries need to be coordinated with the states to reduce conflicts. Iowa Department of Natural Resources would like to receive detailed maps of all the proposed closed areas to help eliminate most conflicts with this issue. In no case should the closure dates extend beyond the period from October 1 to the close of the duck season. Iowa DNR makes the following comments on specific closed areas:
 - Pool 10 proposed Guttenberg Ponds Waterfowl Sanctuary, move the West boundary East to exclude Swift Slough from the proposed Closed area.
 - Pool 12, the new closed area proposed called Kenough Slough should be moved North to the area known as Hires Lake. Menominee slough should be left open for boat traffic.

Iowa Department of Natural Resources Comment on Draft EIS/CCP

Pool 13 Pleasant Creek Closed area, remove Caseys Island and make the East boundary the land on the West side of the slough behind Caseys Island.

- 4.3 Waterfowl Hunting Regulation Changes: Iowa DNR does not believe that the 25 shell limit and 100 yard hunter spacing will be productive and enforceable in handling the problems that these rules were designed to minimize. The 25 shell limit was proposed to reduce "skybusting" or shooting/wounding waterfowl that are out of effective range. This can be a problem but we believe there are more effective ways to handle this problem. Education (4.11) of hunter user groups could help solve this problem. We are concerned with over regulation of constituent groups with the regulation having a minimal chance of affecting the issue that is trying to be solved. Also enforcement of the 100 yard spacing is not practical. Iowa DNR defers to the state of Wisconsin on the New Open water areas within that state.
- 4.4 Firing Line – Pool 7 Lake Onalaska: Iowa DNR has no standing in this issue.
- 4.5 Permanent Hunting Blinds on Savanna District: Iowa DNR has a long tradition of support for permanent blinds use on the Mississippi River. We also realize that the issue of proprietary use of public hunting areas and the deposition of litter into the River are real problems with the use of permanent blinds on the UMR NF&WR. We also realize that all other districts within the Refuge have adopted rules prohibiting the use of permanent hunting blinds on the refuge. For the reasons outlined above, to limit proprietary use, and to make Refuge regulations more uniform the Iowa DNR will concur with a phase-out of permanent hunting blinds in the Savanna District.
- 4.6 Potter's Marsh Managed Hunt- Savanna District: Iowa DNR has no standing on this issue.
- 4.7 Blanding Landing Managed Hunt Program: Iowa DNR has no standing on this issue.
- 4.8 General Fishing: Iowa DNR supports the addition of the new fishing piers/docks. Iowa DNR is in favor of promoting bank, shore, and openwater fishing on the Refuge. We believe there are more areas than identified in the plan that need to be added to accommodate shore fishing. Iowa DNR fisheries staff are willing to help identify these areas with Refuge staff.
- 4.9 Fishing Tournaments: The states already have a permit system in place. We request the Service work with the states to reduce duplication of effort and coordinate with the states for any information the Service needs.
- 4.10 Wildlife Observation and Photography: Iowa DNR supports in principle the use of existing and new facilities in the plan. We also suggest the 21 canoe trails each have a landing or launch delineated. However, we disagree with the idea that any hiking, biking, or auto tour route or trail be closed year-round to hunting. The reasoning used in the CCP is to avoid user conflicts. Iowa DNR suggests many of these areas can be closed to hunting from March 15 to September 1st to alleviate perceived user conflicts. The public has been using these areas for years while they have been managed for multiple use. Iowa DNR is also concerned with the addition of refuge areas and the potential impact on expanding white-tailed deer populations. CWD is already present in Wisconsin, and the Iowa DNR has initiated an intensive CWD detection plan including

Iowa Department of Natural Resources Comment on Draft EIS/CCP

- counties adjacent to Wisconsin. The Iowa DNR does not support any areas where deer can not be hunted and/or sampled for this detection effort.
- 4.11 Interpretation and Environmental Education: Iowa Department of Natural Resources believes strongly in interpretive and educational programs. We support their use by the Refuge to inform and educate the public and user groups. We also believe that some of the conflicts perceived by user groups can be handled by good public education on functions of the refuge. Iowa DNR believes that "skybusting" and hunter spacing (100 yard rule) can be better handled under this objective than under objective 4.3.
- 4.12 Fish Floats: Iowa DNR believes there are user groups of anglers that use these fish floats. We are concerned that the phasing out of this program will indirectly limit this recreational activity. Every effort should be made to keep this type of recreational activity on the refuge. The Iowa DNR does agree that there has been safety, non-compliance, and regulatory issues that needed to be addressed. The Coast Guard should be consulted regarding license requirements and suggest operator obtain a current pilot and engineer license
- 4.1 Guiding Services: Iowa DNR agrees with the CCP.

Goal 5 Other Recreational Use.

- 5.1 Beach Use and Maintenance: Iowa DNR recognizes the historic and growing use of these beaches. We can find no reference in the code of Iowa where the public can be denied entry to a public use facility if their blood alcohol level is .08 or above. Iowa as well as most states have laws requiring the driver of a motor vehicle to have alcohol levels below a certain point but do not limit or define the alcohol limit for what is commonly referred to as public intoxication. We therefore recommend the Service enforce the .08 level on drivers of motor vehicles and expect that persons deemed to be publicly intoxicated be subject the current law.
- 5.2 Electric Motor Areas: Iowa DNR is aware that a group of users would like areas of the River where they can recreate without the noise and speed that is associated with motorized craft. We also recognize that a substantial portion of sportspersons view not being able to motor into these areas as a detriment to their ability to use the Refuge. Iowa DNR cannot support the proprietary use of one area by one user group over another. We suggest making these areas no wake areas with any size motors operated at no wake speed.
- 5.3 Slow No-Wake Zones: The Iowa DNR is willing to work with the Service on the proposed no wake zones. The Service is cautioned that the Iowa Department of Natural Resources is the agency with authority in this matter.
- 5.4 Dog Use Policy: Iowa DNR concurs.
- 5.5 General Public Use Regulations: Iowa DNR concurs.

Goal 6 Administration and Operation

- 6.1 Office and Shop Facilities: Iowa DNR concurs.
- 6.2 Public Access Facilities: Iowa DNR recommends the Service make a canoe landing at each proposed Canoe Trail. Without a landing the public will have a hard time using these areas. We also have this specific comment on Browns Lake in Pool 13 canoe landing; we believe a canoe landing should be put into Browns Lake near the Iowa DNR parking lot known as Blakes Lake in Green

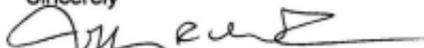
Iowa Department of Natural Resources Comment on Draft EIS/CCP

Island Wildlife Area. This landing should be cut through the trees to Browns Lake to be used by canoeist during the open water season and by ice fishing anglers during the winter. That these landings can be used for ATV access to the River during ice over conditions.

- 6.3 Operations and Maintenance Needs: Iowa DNR agrees with the CCP.
- 6.4 Public Information and Awareness: Iowa DNR is in favor of this.
- 6.5 Staffing Needs: The Service should set its own staffing needs to meet the plan.

Thank you for the opportunity to comment on the Plan. We respectfully request that preferred alternative D be amended to include our comments.

Sincerely



Jeffrey Vonk, Director
Iowa Department of Natural Resources

Illinois Department of Natural Resources Comment on Draft EIS/CCP



Illinois Department of Natural Resources

One Natural Resources Way • Springfield, Illinois 62702-1271
217.785.0075 • <http://dnr.state.il.us>

Rod R. Blagojevich, Governor

Joel Brunsvold, Director

August 26, 2005

2457

Mr. Don Hultman
Refuge Manager
Upper Mississippi River National Wildlife and Fish Refuge
51 E. Fourth Street - Room 101
Winona, Minnesota 55987

Dear Mr. Hultman,

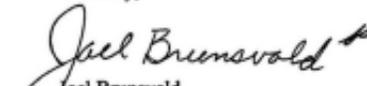
I would like to thank you and your staff for your recent visit and summary presentation of the Comprehensive Conservation Plan (CCP) for the Upper Mississippi River National Wildlife and Fish Refuge (UMRNWFR). The Illinois Department of Natural Resources (IDNR) appreciates and supports the efforts of the Fish and Wildlife Service to address the long term management of the Nation's Wildlife and Fish refuges. At your request, I would like to address a couple of the issues which we discussed during our meeting.

As I stated in my April 6, 2004 letter commenting on your draft plan, the IDNR takes great pride in a long history and tradition of waterfowl hunter management on dozens of State managed areas throughout the Upper Mississippi and Illinois River systems. We appreciate the desire of the Fish and Wildlife Service (FWS) to standardize waterfowl hunter management on the UMRNWFR and eliminate the use of permanent blinds in the Savanna District, as it did on the rest of the Refuge since the 2000 season. It remains the recommendation of the IDNR that you reconsider this decision and continue to allow waterfowl hunters the continued use of permanent blinds in the Savanna District. In addition, we appreciate and would like to recognize that you are reconsidering your elimination of a spacing distance between blind sites and will continue to utilize the 200 yard blind spacing requirement standard on IDNR managed waterfowl sites.

I would also like to address the issue of Fishing Tournaments on the Refuge. Our understanding from the meeting discussion is that as with any commercial event held on the Refuge, a Special Use Permit is required and it is the intent of the FWS to begin enforcing this requirement. We appreciate your commitment to consult with the appropriate IDNR officials during the permitting process and are confident this program can be conducted smoothly.

Thank-you again for taking the time to visit my office and discuss the UMRNWFR CCP and to provide explanation and the opportunity to comment on those parts of the CCP for which we have concern, as described above. We ask that you reconsider our request for reinstatement of permanent blinds and look forward to reviewing your new "preferred alternative", Alternative E, when it is issued. Please do not hesitate to contact me or my representative on your CCP Interagency Planning Team, Tom Beissel, Regional Wildlife Biologist in our Sterling office.

Sincerely,


Joel Brunsvold
Director

JB:TB

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U.S. Army Corps of Engineers Comment on Draft EIS/CCP



DEPARTMENT OF THE ARMY
MISSISSIPPI VALLEY DIVISION, CORPS OF ENGINEERS
P.O. BOX 80
VICKSBURG MS 39181-0080

September 6, 2005

REPLY TO
ATTENTION OF

Executive Office

2497

Mr. Don Hultman
Upper Mississippi River
National Wildlife and Fish Refuge
ATTN: CCP Comment
Room 101
51 East Fourth Street
Winona, Minnesota 55987

Dear Mr. Hultman:

I refer to your recent letter requesting review and comment on the U.S. Fish and Wildlife Service's Draft Environmental Impact Statement and Comprehensive Conservation Plan for the Upper Mississippi River National Wildlife and Fish Refuge.

My staff, along with the staff of the St. Paul, Rock Island, and St. Louis Districts, has reviewed the draft document. Our consolidated comments are attached (enclosure 1). If you have any questions regarding these comments, please contact Mrs. Susan Smith of my staff at telephone number (601) 634-5827.

We appreciate the opportunity to participate with the U.S. Fish and Wildlife Service in this process. We look forward to a continued positive relationship as our agencies collaboratively work to improve the ecosystem of the Upper Mississippi River National Wildlife and Fish Refuge.

Sincerely,


Mark L. Mazzanti
Deputy Director, Programs
Directorate
Engineer in Charge

Enclosure

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

Comments from the
Mississippi Valley Division,
St. Paul District, Rock Island District, and St. Louis
District
on the
U.S. Fish and Wildlife Service
Comprehensive Conservation Plan and
Environmental Impact Statement for the
Upper Mississippi River National Wildlife and Fish Refuge,
May 2005

General Comments:

1. The Comprehensive Conservation Plan/Environmental Impact Statement (CCP/EIS) presents a conceptual plan for sound stewardship and adaptive management.
2. This plan also underscores the importance of a continuing partnership between the U.S. Fish and Wildlife Service (USFWS), the Corps of Engineers (COE), and the adjoining states in the exercise of our mandates and responsibilities. Mutual participation and resolution of issues is necessary in the interest of the Upper Mississippi River's resources and values to the nation.
3. Given the four alternatives presented in the CCP/EIS, Alternative D is the best alternative. It provides a reasonable and balanced approach between protecting critical natural resource and refuge values and recreational use by the public.
4. The cooperative agreement is the only document that officially addresses the management relationship between the COE and the USFWS. Within the agreement, it is clear that COE did not grant unilateral authority to the USFWS for management of COE owned lands and the public use that occurs on them. Management jurisdiction was given to the USFWS with reservations. Provided USFWS obtains COE concurrence, the cooperative agreement does not prevent USFWS from implementing any plan or program for the Upper Mississippi River National Wildlife and Fish Refuge System, including restrictions over areas currently under COE authority pursuant to the agreement. We believe concurrence can be obtained on most of the proposals outlined in the preferred alternative D.

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U.S. Army Corps of Engineers Draft EIS/CCP

5. The recommended alternative in the CCP/EIS includes expansion of closed areas, elimination of permanent duck blinds, management of beach areas, and the establishment of no-wake areas. All are topics that will affect recreational use on lands held in fee title by the COE and incorporated into the cooperative agreement. We believe that public use must be addressed in a cooperative manner with the USFWS, the COE, the state resources agencies, etc. Final decisions on cooperative agreement lands, rather than being made unilaterally by the USFWS, will be made in coordination with the COE in the many forums that exist for such discussion and decision making. Once decisions regarding public use are made cooperatively, then we will support the USFWS in the implementation of the resulting plan.

6. Some of the refuge goals which require the participation and cooperation of the COE, such as boundary marking, pool planning, and drawdowns, are very optimistic given current levels of funding and manpower.

7. All alternatives identified in the CCP/EIS require substantial contributions from other Federal agencies and private groups to achieve each alternative's goals. In addition, Alternatives B, C, and D also require a significant increase in USFWS annual funding for the refuge (i.e., increased rate of land acquisition, new offices and/or maintenance facilities, increased personnel from 37 full-time equivalent (FTE) employees to 54.5 FTE for Alternatives B and C and 56.5 FTE for Alternative D, etc.). Given the current constraints on discretionary spending in the Federal budget, it is not apparent that the USFWS can successfully achieve each alternative's goal if it does not have the personnel needed to coordinate with other agencies, the personnel needed to enforce changed public use regulations, the funds for increased land acquisition, etc. Based on these fiscal concerns, we suggest a prioritized implementation strategy be included which recognizes the potential for funding and manpower constraints.

8. Although the USFWS states that it is committed to the protection of cultural resources, cultural resources management concerns should be articulated much earlier in the document. Consider including the protection of cultural resources as a separate issue within the Landscape category of the Refuge's goals.

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

9. Throughout the document, the need for bluff land protection and acquisition is cited. Yet an examination of the legislation that established the refuge indicates that lands "which are subject to overflow by such river" should be acquired. Therefore, it is unclear under which authority the USFWS will acquire the bluff land.

10. We request that USFWS use "Placement Site" rather than "Disposal Site" when referring to dredged material placements sites. Also, we noticed that some of the placement sites are identified and some are not. COE maps from the Channel Maintenance Management Plan could be referenced for locations of all sites. (The Rock Island District COE does not have completed Channel Maintenance Management Plans at this time.)

11. The terms "disposal" and "spoil" are used throughout the CCP. Use of the terms "placement site" and "material" is requested to be consistent with current documents and long-time Corps program terminology.

12. Revisions to the CCP/EIS resulting from Corps of Engineers (COE) comments should be reflected in the Summary of the Draft EIS, the CCP/EIS, and the separate Executive Summary document.

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

Specific Comments:

Page	Paragraph	Comment
10	Section 1.4.3	This section does an excellent job of summarizing the relationship of the COE and USFWS coordination efforts on the river. In general, the CCP makes many references to controlling public use on land within the refuge and on the water for such things as motorless areas, slow/no wake zones, and waterfowl sanctuaries. Many of the historic public uses on both land and water would be impacted by this plan. As a result, we recommend that Section 1.4.3 be expanded to include a summary of a partnership process that would be used to finalize these new policies. This section already acknowledges the congressionally authorized multi-purpose uses of the Upper Mississippi River, but needs to be strengthened concerning the resultant need for intensive interagency coordination in river wide management decisions.
11	Section 1.4.3, paragraph 4, 1st sentence	The referenced sentence reads, "In summary the cooperative agreement grants to the Service, the rights to manage fish and wildlife and their habitat on those lands acquired by the Corps." We believe, "In summary the cooperative agreement, with some reservations, grants to the Service, the rights to manage fish and wildlife and their habitat on those lands acquired by the Corps" is more accurate and therefore should replace the referenced sentence.
11	Section 1.4.3, paragraph 4, 2nd sentence	The sentence, "These lands are considered part of the Refuge and the National Refuge System" should be changed to read, "These lands are managed by the Service as a part of the Refuge and the National Wildlife Refuge System." This revised sentence reflects a more accurate

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		statement of the USFWS' role for these lands.
11	Section 1.4.3, paragraph 5, 2nd to last sentence	The COE is not aware of any cases that prohibited placement of dredged material on lands within Wisconsin or Minnesota. However in accordance with the Clean Water Act of 1977, the COE routinely applies for permits from the states for discharge of material.
12	LUAP paragraph	Based on the statement "Both Land Use Allocation Plans remain important references..." we assume that the LUAP's are not superseded by the CCP and remain in effect, with acknowledgement that they need to be updated as stated in Appendix L, Goal 1.
15-16	Section 1.4.3.3	Interagency Reports and Assessments: Add the Navigation Study: <i>FINAL Integrated Feasibility Report and Programmatic Environmental Impact Statement for the UMR-IWW System Navigation Feasibility Study</i> , 24 September 2004, US Army Corps of Engineers, Mississippi Valley Division, Vicksburg, MS, 652 pages. Also this reference should be added to the list in Chapter 8.
15-16	Section 1.4.3.3	Interagency Reports and Assessments: Add the Biological Opinion for the Navigation Study: <i>FINAL BIOLOGICAL OPINION for the Upper Mississippi River-Illinois Waterway System Navigation Feasibility Study</i> , August 2004, U.S. Fish and Wildlife Service, Rock Island Field Office, Rock Island, IL, Marion Suboffice, Marion, IL, and Twin Cities Field Office, Bloomington, MN, 141 pages. Also this reference should be added to the list in Chapter 8.
17	Section 1.4.4.2	Refuge Goals: Add a goal that would support "Navigation - Under the Cooperative Agreement with the U.S. Army Corps of Engineers, those areas of the cooperatively managed lands to

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		allow for operation and maintenance of the 9-foot navigation channel, including but not limited to placement of dredged material and regulating structures."
18 and 133	Section 1.4.5.1 and Table 1, Objective 1.1	<p>Refuge Boundary: The refuge boundary is an elusive concept unless it is designated on maps and/or posted on the land/water. Surveying and posting the entire Refuge boundary (both COE and FWS fee title) is very ambitious and will be costly. A more attainable goal might be to survey and post 100% of areas where potential for encroachment exists. Funding could be a joint effort.</p> <p>The 1983 (Pools 1-10) and 1986 (Pools 11-14) LUAPs clearly note the refuge boundary, including both water and land. Appendix P mapping does not show a refuge boundary. Since the LUAP is still considered in effect, then perhaps refuge boundary mapping is not necessary in the CCP.</p>
19-23	Sections 1.4.5.1, 1.4.5.2; or 1.4.5.3	Under Landscape, Environmental Health, or Wildlife and Habitat Issues, add a heading and paragraph supporting opportunities to use dredged material to add topographic diversity to restore elevations and soil moisture or drainage conditions supporting floodplain island and/or upland floodplain forest habitats.
20	Section 1.4.5.3	Under Threatened and Endangered Species, identify the other federally listed species which occur in the adjoining areas, although they may not have been confirmed to occur on the refuge (e.g., Indiana bats). Identify those species which have been confirmed to occur in the surrounding counties.
23	Section 1.4.5.4	Management of Waterfowl Sanctuary Areas (Closed Areas): The COE supports allowing the USFWS to manage closed areas and backwater surface

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		<p>area within the boundaries of the refuge to insure the integrity of refuge values and purpose, as long as "Navigation Servitude" for main channel utilization is protected for commercial and recreational boat traffic. An ever increasing number of recreational watercraft and watercraft users will ultimately determine the USFWS' success in controlling recreational watercraft access to backwater areas. A reasonable approach is encouraged to assure success.</p>
25	Section 1.4.5.4	<p>Permanent Blinds on Savanna District: The COE concurs that permanent blinds need to be phased out. The phase-in "plan of action" for the Potter's Marsh hunt seems a logical progression of policy to provide more equitable hunting opportunities, as well as to eliminate a source of debris that finds its way onto public lands as a result of current permanent blind policies.</p>
26 and 140	Section 1.4.5.4 and Table 1, Objective 4.9	<p>Fishing tournaments: The COE requires that fishing tournaments have special events permits only when a COE administered recreational facility or boat ramp is impacted. Specifics can be found at http://www.missriver.org under the Special Events Policy section. The COE has no authority to issue permits for fishing tournaments originating from facilities not directly managed by the COE. We view this as an issue to be controlled by other political entities involved in fisheries management and enforcement such as the USFWS or the appropriate state authority.</p> <p>We do believe, however, that the COE and USFWS should cooperate on a coordinated response to fishing tournaments, as well as special</p>

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		<p>events such as beach parties. Joint news releases with background and contact information could be made. Events based out of Corps/leased landings and/or on non-refuge project areas should use the same procedures as USFWS and state Departments of Natural Resources to reduce multiple permitting requirements. This is another item that should be coordinated through the partnership agencies.</p>
27-28 and 142	Section 1.4.5.5 and Table 1, Objective 5.1	<p>Beach Use Policy: This is an aggressive and perhaps overly ambitious plan and one that is unenforceable without significant enforcement presence. See http://www.missriver.org , the Special Events Policy section, for the COE's effort to control large group events on dredge material placement sites. That policy was developed as a result of interagency coordination meetings that took place in 1987 and 1988.</p> <p>On COE fee title lands, closing a beach and/or implementing new regulations would require approval of the appropriate COE District Engineer and/or Division Engineer. The cooperative agreement does not out-grant this authority to USFWS. Also, the LUAP is dated concerning recreation low density designated beaches. (See comment above on page 12, LUAP paragraph.)</p> <p>The COE believes that problems associated with beaches should be resolved through an interagency partnership effort that involves all stakeholders and customers.</p>
27-28 and 142	Section 1.4.5.5 and Table 1,	<p>Beach Maintenance Policy: The COE believes that recreational use of beaches should be a secondary consideration to the development and</p>

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U.S. Army Corps of Engineers Comment on Draft EIS/CCP

<p>Objective 5.1</p>	<p>maintenance of sites for dredge material placement. Recreational use is a secondary outcome with dredge material placement remaining the primary goal. The COE retains the right pursuant to the Navigational Servitude and with appropriate permits to place dredged material on any federal fee title land or private land where placement is above the Ordinary High Water Mark.</p> <p>COE regulations require that recreational beaches "shall be maintained in a physically safe and efficient manner, including maintaining appropriate gradient, beach nourishment, adequate buoys, proper signing and water monitoring". In a riverine environment such as the Mississippi River, where the majority of dredge material placement sites are in remote areas, maintaining sites in a manner required by regulation is not reasonable from either a cost or liability stance. The closer dredge material placement comes to being described as "recreational beach development," the greater is the responsibility and liability for the safety of the public using these sites. The placement sites should not be referred to as recreational beaches as that implies a standard of care that is absent on the river due to river conditions, manpower, and funding.</p> <p>Instituting a fee for beach use may have unintended consequences. Under the recreational use statutes that all states in the refuge have, landowners, including the Federal government, are not liable for injuries resulting from simple negligence on recreational land made</p>
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U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		<p>available free of charge. Liability only exists for willful or malicious behavior. If a fee is charged, this immunity may disappear. (Recreational use statutes are state law and will vary with the jurisdictions involved.)</p>
27-29	Section 1.4.5.5	<p>Boat ramps, pull-offs, and other access development: The USFWS has what appears to be an aggressive and logical plan for site development and expansion of access opportunities. Opportunities for the USFWS to assume responsibility for a number of recreational access sites currently managed by the COE within the Upper Mississippi River National Wildlife and Fish Refuge may arise. Reduction in future commitment to primitive recreational facilities as a result of foreseen funding issues, as well as a realignment of COE priorities, may require divestiture of COE administered select sites. The USFWS may have an interest in managing and developing these sites as important refuge access points.</p>
28 and 142	Section 1.4.5.5 and Table 1, Objective 5.3	<p>Backwater Areas: The St. Paul District has one Limited Development Area (Pool 8) and the Rock Island has no Limited Development Areas that will be adversely affected by the establishment of the proposed non-motorized backwater areas. However, a travel corridor should be provided as has been done in the other pools. The COE would prefer that the USFWS work in partnership with the COE and the state and local governments in establishing No Wake Zones. After these are collaboratively established, the USFWS and state resource agencies with enforcement roles should manage these non-motorized backwater areas within the boundaries of the refuge to ensure integrity of refuge values and</p>

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		purpose.
29	Section 1.4.5.6	Under Administration and Operations Issues, recognize that portions of the refuge are used for commercial navigation in the main channel and recreational navigation in the main channel, side channels, and backwaters. Annual tonnages, and numbers of tows/barges, and the commodities moved are available, as are the number of towing companies, navigation industries, and grain, coal, and other commodity terminals which depend upon continuation of navigation through and over refuge lands/waters.
37 and 134	Objective 2.2 and Table 1, Objective 2.2	<p>Water level management: The COE's primary purpose of navigation must be maintained. Because of this, we have experienced a 2-3 year planning process for water level management (WLM) projects. Drawdowns have a dramatic impact on the channel maintenance program, including the availability of funds and the availability of equipment and storage space in designated placement sites. The USFWS should continue to work with the COE on the COE Channel Maintenance Program to identify long-term plans that facilitate dredging and dredged material placement associated with the pool scale drawdowns.</p> <p>Drawdowns may not be operationally feasible in every pool. Some pools may need additional dredging to implement the drawdown and even with additional dredging may not yield the desired environmental benefits. Interagency work groups have not yet proven that drawdowns are environmentally beneficial and worthwhile in every pool. We need to investigate the opportunities for drawdowns, however, drawdowns should</p>

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		be implemented as needed ecologically rather than by establishing a standard timeframe.
39, 59, 84, and 109	Goal 3, Objective 3.1, second bullet	While we appreciate the collaborative working relationship between the COE and the USFWS during the planning, design, and implementation of the Environmental Management Program (EMP), this bullet seems to imply that the USFWS will lobby Congress for additional funding for the EMP. Suggest this wording be revised to eliminate this implication.
133	Table 1, Objective 1.4	Research Natural Areas and Special Designations: Concur with CCP strategy to coordinate management plans for Research Natural Areas (RNA) with states and other Federal agencies (including Corps) by 2010 and Ramsar designation by 2008. The Corps looks forward to this coordination, especially for those Corps fee-owned lands within the RNAs and the proposed Ramsar area. Natural areas need to be re-identified. For example, Goose Island area is designated as a natural area in the LUAP, but is programmed to be converted to forest.
133-147	Tables 1 & 2	Alternatives, especially any new Alternative E, need to recognize, support, and facilitate navigation as a national Federal priority on the Upper Mississippi River System. The CCP should include corresponding general and specific Upper Mississippi River Wildlife and Fish Refuge goals and objectives to support the COE and other navigation interests as landowners and neighbors to refuge land.
134	Table 1, Objective 2.3	Invasive Plants: Another suggested strategy would be to continue coordination with the COE regarding efforts to control invasive forest plants on COE fee lands through the COE operations and maintenance

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U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		program and other potential authorities.
135	Table 1, Objective 3.1	Environmental Pool Plans: We recommend the table of 'Refuge Priority Locations and Actions that Contribute to Implementation of Environmental Pool Plans, 2005-2020' also include goals to complete forest inventory on USFWS fee lands in pools 5, 9 and 10. Also recommend that CCP narrative include a thorough explanation of the partnering aspects of pool plan implementation (i.e., funding source for various implementation tools may actually be the responsibility of a separate agency and subject to budget priority limitations beyond the control of the USFWS). We would also recommend that a strategy be added for the USFWS to seek opportunities to work with the COE Channel Maintenance Program to facilitate implementation of the Environmental Pool Plans.
135	Table 1, Objective 3.2	Guiding Principles for all habitat management programs: While guiding principles may provide consistency among the four USFWS Districts, they will need to be used in conjunction with principles from other agencies when working joint projects. Some flexibility may be needed depending on the project. Although the guidelines are excellent goals, principle #1 is written in a way that seems to limit any possibility for some traditional habitat management options, such as moist soil management and use of water control structures. We suggest clarifying this item.
137	Table 1, Objective 3.9	Forest Management: We commend the Service on their proposal to hire a refuge forester. However, this level of staffing is low in relation to the amount of forested resource on USFWS fee lands. By comparison, the COE

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		allocates approximately 4.5 FTE toward forest management on their fee lands within the Upper Mississippi River Wildlife and Fish Refuge. We suggest that additional staff support be considered to more effectively address forest management needs.
138	Table 1, Objective 4.2	Waterfowl hunting, closed areas and sanctuaries: Restricting watercraft from entry into any part of the Mississippi River System would require the concurrence of the appropriate Corps District Engineer and/or Division Engineer and quite possibly the state governments. Proposals such as this should be implemented through a partnership program involving the Corps and state Departments of Natural Resources similar to what has been done with WLM projects. The proposed 32 acre closed area expansion in pool 8 south of Wildcat Park may impact COE shoreline use permit holders. Shoreline access should be considered in all proposed closed areas. Consideration should be given to allowing boats but limiting horse power.
140	Table 1, Objective 4.10	Wildlife Observation and Photography: The CCP includes good strategies for this objective. We encourage seeking partnering opportunities to include COE developed and/or out-granted areas.
141	Table 1, Objective 4.12	Fish Floats: Fish floats have been in existence for many years and are heavily used by the public. Non-compliance issues should be addressed, however, the effort should concentrate on bringing the floats into compliance in lieu of phasing out operations. If a fish float does not, or will not comply, it should be removed and the space offered to another concessionaire that will comply. The floats provide a unique

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U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		fishing opportunity for those without watercraft to access good fishing areas.
144	Table 1, Objective 6.2	Public Access Facilities: Additional access facilities in areas of need are good, especially walk-in access since there are very few of them.
241	Section 3.4.3	Commercial Use of Refuge: Commercial navigation is barely noted as "passes through the Refuge." This statement supports the co-existence of two Congressionally recognized systems - navigation and ecosystems. Recommend that a statement be added to acknowledge that commercial navigation activities such as barge mooring and fleeting occur along the main channel border, and that some of this activity is within the refuge boundary.
Pg 245-247;249; 293	Sections 3.5; 4.2.2; and 6.2	As an important part of the Nation's heritage, the need to preserve the known cultural sites and to identify sites on Federal lands is mandated by Federal preservation laws. The Refuge contains hundreds, if not thousands, of cultural resource sites reflecting approximately 12,000 years of continual human occupation along the Upper Mississippi River. These signatures of the human legacy along the Upper Mississippi Refuge are an integral quality of the Refuge's landscape and their protection should receive equal footing with the USFWS' mandate to protect fish, wildlife and plant resources. Specifically, a variety of the proposed actions (e.g., construction of hiking trails, access areas, observation platforms, new facilities, etc.) detailed in each alternative have the potential to impact a diverse array of cultural resources, such as precontact artifact scatters, burial mounds and villages, historic trading posts, shipwrecks, and standing structures.

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1161

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		<p>Since the preferred plan and the alternative plans discussed in the report have the potential to impact cultural resources, the EIS and the implementation of the preferred plan would have benefited from USFWS action to execute a Programmatic Memorandum of Agreement, as promulgated by the National Historic Preservation Act, as amended. This would have identified the participating, affected, and executing parties which have an interest in historic properties on the Upper Mississippi River, afforded protection to undocumented historic properties, and facilitated the implementation of the preferred plan as an authorized program.</p>
245	Section 3.5, 1 st paragraph	<p>Correction: Paleo age materials (e.g., Quad/Chesrow points) are present within the Refuge (Pool 10). See Kolb and Boszhardt 2004. A <i>Geomorphological Investigation and Overview of Navigation Pool 10, Upper Mississippi River</i>. Reports of Investigations No. 456. Mississippi Valley Archaeology Center, La Crosse. Report submitted to the U.S. Army Corps of Engineers, St. Paul District.</p>
245	Section 3.5	<p>The importance of the Upper Mississippi River and its role in the development of Amercianist archaeology should be mentioned. Some of the pioneering antiquarians mapped hundreds of mound sites and prominent archaeologists worked at several sites along the Upper Mississippi River, such as at Stoddard and Effigy Mounds National Monument. This helped to establish some of the baseline cultural chronologies of the Upper Midwest. Ongoing research along the Upper Mississippi River and within the</p>

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		<p>Refuge continues to shape the discipline (e.g., the efforts to understand geomorphic processes and investigate deeply buried sites).</p> <p>Some quantification of cultural resources within the Refuge should be included, such as the number of known sites, site types and functions, eligible sites, historic districts, etc.</p> <p>Some of the cultural resource management challenges should be mentioned, such as erosion, deeply buried sites, artifact looting, etc.</p> <p>It should also be noted that many proposed actions may mutually benefit both cultural resources and environmental rehabilitation and wildlife habitat.</p>
255	4.3.3	Alternative A: The last sentence in this section should be revised to read "...maintaining navigation capability through channel dredging, river impoundment, and training structures." Training structures include wing dams, closing dams, etc.
293	Section 6.2	Add COE (St. Paul, Rock Island, and St. Louis Districts) to distribution list.
296	Section 6.3	Add Wisconsin Historical Society to list of State agencies.
311	Appendix A	Consider adding Cultural Resources to the Glossary.
589	Appendix L, Section 8	Partnerships: While the Action sections discuss cooperative projects with the Corps, the Partnership section could be strengthened with a discussion of the need to aggressively pursue improvements to coordination and communication efforts. All parties working in the refuge need to know what is happening around them, learn from each other, and work better together (e.g., EMP,

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U.S. Army Corps of Engineers Comment on Draft EIS/CCP

		Navigation and Environmental Sustainability Program, etc.) to avoid duplication of effort and maximize implementation of projects/actions. The River Resources Forum and River Resources Coordinating Team and sub-committees are good examples of what is "ongoing" coordination. This coordination/work should be spelled out specifically because many people do not realize all the ongoing efforts that exist.
Appendix P		All alternatives: Mapping which shows the Sunfish Lake and Mud Lake EMP projects in lower Pool 11 as proposed should be corrected. Sunfish Lake had been constructed. Mud Lake is under construction at this time.

U.S. Environmental Protection Agency Comment on Draft EIS/CCP



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

2479

AUG 30 2005

REPLY TO THE ATTENTION OF:

B-19J

Mr. Don Hultman
Refuge Manager
United States Department of the Interior
Fish and Wildlife Service
Upper Mississippi River National Wildlife and Fish Refuge
51 E. Fourth Street
Room 101
Winona, Minnesota 55987

RE: Comments for Draft Environmental Impact Statement for Upper Mississippi River National Wildlife & Fish Refuge EIS NO. 20050187

Dear Mr. Hultman:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U. S. Environmental Protection Agency (U.S. EPA), Region 5 has reviewed the Draft Environmental Impact Statement (EIS) and Comprehensive Conservation Plan (CCP) for the Upper Mississippi River National Wildlife and Fish Refuge (Refuge). The Refuge was established by an Act of Congress in 1924 to provide a safe haven and breeding place for migratory birds, fish, and other wildlife. The Refuge consists of 240,000 acres of Mississippi River floodplain along 261 river miles from Wabasha, Minnesota to Rock Island, Illinois. The CCP will help ensure that this Refuge will contribute to fulfilling the overall mission of the Refuge system. This Draft EIS considered four alternatives that would guide the management and administration of the Refuge for the next 15 years. These alternatives consist of: 1.) No Action, 2.) Wildlife Focus, 3.) Public Use Focus, and 4.) Wildlife and Integrated Public Use Focus. Your agency has designated the alternative "Wildlife and Integrated Public Use Focus" as the Preferred Alternative.

Based on our review, we have rated the Draft EIS as "LO". The "LO" indicates that we have a lack of objection and did not identify the need for additional information or environmental issues to be considered. However, we recommend that the Final EIS provide a narrative that explains how your agency will integrate the CCP for the Refuge with the Upper Mississippi River Navigation Ecosystem Sustainability Program, lead by the United States Army Corps of Engineers.

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U.S. Environmental Protection Agency Comment on Draft EIS/CCP

2479

Thank you for the opportunity to review and comment on the Draft EIS and Comprehensive Conservation Plan for the Upper Mississippi River National Wildlife and Fish Refuge. If you have any questions or comments, please contact Al Fenedick of my staff. Al can be reached at 312 886-6872 or by E-mail at Fenedick.al@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Science Ecosystems and Communities

Minnesota Department of Natural Resources Comment on Supplement to the Draft EIS/CCP

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-4037

January 20, 2006

2630



Mr. Don Hultman
Upper Mississippi River NW&FR
Attn: CCP Comment
Room 101
51 East Fourth St
Winona, Minnesota 55987

Dear Mr. Hultman:

The Minnesota Department of Natural Resources would like to reiterate our support for the US Fish and Wildlife Service in developing a comprehensive and diverse plan for management of the Upper Mississippi River National Wildlife and Fish Refuge over the next 15 years. We believe Alternative E, similar to Alternative D, continues to focus on the six fundamental uses of the Refuge and should drive management and use of the system. We believe the issues generated during your initial scoping meetings, and subsequent public input, identified the variety of uses and experiences sought by the public and are reflected in Alternative E.

We continue to strongly support your desire to improve habitat and water quality and your recommendations which included increased rate of land acquisition, bluffland protection, decreased sedimentation, Pool-scale drawdowns, control of invasive plants and animals, increased inventory and monitoring, and threatened and endangered species recovery. Many of our suggested changes (from our August 31, 2005 letter on Alternative D) have been incorporated into the new Alternative E. These actions should be the highest priority of the final plan, and we will continue our strong partnership with the USFWS and other agencies, NGOs, and the public to complete these activities.

We understand the complexity and variety of issues and concerns you are addressing regarding public use. Alternative E, while including fewer limited entry areas than we had recommended in Alternative D, does provide opportunities for a variety of users, including some non-motorized and slow-no wake areas, and provides much needed areas of minimal disturbance.

Providing refuge areas for migrating waterfowl is an important component of our recently released statewide waterfowl management plan. We support the Closed Areas identified in Alternative E and encourage you to monitor those areas for disturbances during the waterfowl season, and if necessary implement further restrictions to minimize disturbances.

We remain concerned about enforcement impacts and the level of USFWS staffing that will be available to enforce the new restrictions. The step-down enforcement plan recommended in Alternative E should address the issues identified in our August 31, 2005 letter and should be developed in conjunction with Minnesota DNR staff before a final Comprehensive Plan is implemented. Specifically, we request information on a schedule, issues to be addressed, and how Minnesota DNR staff will be involved in developing this plan.

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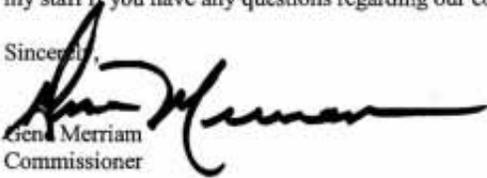
Minnesota Department of Natural Resources Comment on Supplement to the Draft EIS/CCP

January 20, 2006

Page 2

In summary, we appreciate the opportunity to comment on Alternative E and the efforts you have taken to include other partners and the public in the planning process. We strongly support Alternative E, assuming a step-down enforcement plan is developed in conjunction with Minnesota DNR enforcement staff. Please contact me or Tim Schlagenhaft (507-280-5058) of my staff if you have any questions regarding our comments and recommendations.

Sincerely,


Gen. Merriam
Commissioner

Attachment

c: John Halverson, Office of Senator Norm Coleman

Wisconsin Department of Natural Resources Comment on Supplement to the Draft EIS/CCP



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

2987
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TTY Access via relay - 711

March 6, 2006

Mr. Don Hultman
Upper Mississippi River NW&FR
51 E. Fourth St. Room 101
Winona, MN 55987

Subject: Alternative E of the Comprehensive Conservation Plan for the Upper Mississippi River National Wildlife and Fish Refuge

Dear Mr. Hultman:

Thank you for the opportunity to comment on Alternative E, the new preferred alternative presented in the Comprehensive Conservation Plan (CCP) for the Upper Mississippi River Wildlife and Fish Refuge. My staff have closely followed development of the plan and attended most of the 30 plus meetings you and your staff conducted on the river. Your agency's efforts to encourage public participation during plan development are commendable. We support Alternative E with the understanding that discussion of issues of concern to the Department, as identified below, will continue until resolution.

HABITAT RESTORATION PROJECTS

We still believe strongly that all habitat restoration projects must include the needs of the whole ecosystem and must include all cost effective measures. Alternative E asserts that components of the habitat restoration projects will be decided on a case by case basis. We had hoped to get more assurance from you on how we would proceed with all cost effective measures. We would like to sit down and establish criteria for making these important decisions, establish reasonable uniformity throughout the districts, and document how these decisions are made. We hope to have 50-years worth of habitat restoration projects on the river, so now is a good time to set the standard for us and those that follow.

ACCESS FOR ENVIRONMENTAL MONITORING AND ENFORCEMENT

I would like to reiterate that staff from WDNR and other agencies must have open access in order to conduct environmental monitoring, enforcement, and other work activities, using whatever means necessary and in any of the special designation areas. We will use prudence when working in these areas but the data collected and the knowledge gained is imperative for making good decisions for the long term sustainability of the resource.

DESIGNATION CHANGES IN THE STATE OF WISCONSIN

The closed area changes and modifications to closed area boundaries are substantially different than those promulgated by WDNR regulations in s. NR 11.032, Wis. Adm. Code. Consequently, WDNR will need to pursue changes to these state regulations through the administrative rule process, which includes public hearings, adoption by the State Natural Resources Board, and subsequent review by the State Legislature. The rules on these closed area boundaries approved by the State Legislature may end up being different

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Wisconsin Department of Natural Resources Comment on Supplement to the Draft EIS/CCP

that those proposed in Alternative E. Consequently, WDNR requests that the Service continue to work with WDNR during this process so the Federal regulations on closed area boundaries end up being the same as the state regulations.

In addition, the WDNR does not have the authority to enact or enforce rules on the Mississippi River that regulate the means of navigation, such as no wake, electric motors only, or no airboat regulations. In Wisconsin, that authority is held by local municipalities and implemented by the town, village or city board passing local ordinances that are effective in that local jurisdiction, according to s. 30.77, Wis. Stats."

ALTERNATIVE E COMPARED TO ALTERNATIVE D

It is apparent from Alternative E that you have seriously considered a large number of the concerns expressed by the public and by public agencies over Alternative D. Your expressed desire to work cooperatively with citizens and public agencies to develop and implement the plan provisions is admirable.

In Alternative D, Wisconsin DNR clearly stated that closed areas must remain open to fishing during the waterfowl season as we believe closing them to fishing would violate the intent of the Wisconsin legislation allowing establishment of the Refuge. In response, Alternative E removed the no fishing restriction in the closed areas and changed the waterfowl closed areas from no entry areas to voluntary avoidance and Slow-No-Wake from October 15 to the end of duck season or to no motor use on areas less than 1000 acres after Oct. 15. This change allows for both navigation and fishing within the closed areas and the entire refuge.

Most of the public and WDNR requested that proposed plan restrictions on navigation be greatly reduced. In response you decreased the number of electric motor/paddle areas from sixteen electric motor areas to six electric motor areas and added eight, less restrictive Slow-No-Wake areas. These reductions and new designations significantly reduce the proposed restrictions on navigation within the refuge.

We urge you to continue to work with WDNR and the public to ensure that the public has reasonable access to navigation, and fishing and hunting in the refuge, pursuant to the intent of the congressional consent legislation and the Wisconsin legislation allowing establishment of the refuge.

We recommended a law enforcement step-down plan be added to the CCP. Alternative E incorporated that recommendation. We appreciate that addition but remain concerned about the timing of this step-down plan. **We believe it is critically important that these law enforcement issues be resolved before significant new refuge regulations are enacted.** Implementing such a significant rule package, without addressing enforcement issues first, will create an enforcement headache not only for the refuge but also for state officers along the Mississippi River. Furthermore, we do not support the addition of more refuge enforcement positions until after the step-down plan is complete. This is necessary to avoid duplication of efforts, to clarify authorities, and to provide the essential information/education infrastructure so that the Refuge can meet the responsibility of responding to citizen calls and complaints of violations in progress, pertaining to the new regulations, outside normal business hours."

The public and WDNR requested that most additional beach, camping and other public use regulations not be developed without close cooperation with the public and public agencies. You agreed to restart the beach planning process and remove additional recreational use restrictions from the CCP. Your proposal to update the Land Use Allocation Plan will prove valuable in the process of establishing these recreation beaches on the refuge. We are also pleased to read that you included the public proposed glass containers ban on Refuge lands. As stated in our last letter WDNR concurs with the proposed ban and the inclusion

Wisconsin Department of Natural Resources Comment on Supplement to the Draft EIS/CCP

in Alternative E. There is some concern with how this will be enforced but we would be glad to work with you on that issue.

We also appreciate your inclusion of state listed and special concern species in alternative E and we look forward to management of these valuable species in partnership with your agency.

SPECIFIC COMMENTS FOR ALTERNATIVE E:

We recommend the minimum disturbance level for waterfowl in closed areas should be set at 1000 waterfowl or greater, rather than $\frac{1}{2}$ the waterfowl present. An average of 20 disturbances per week is also more realistic. We concur with you that agency and commercial fishing activities will not be included in the disturbance calculations.

We agree that fire and other active management will be needed to maintain existing and created habitat in many cases. These management techniques must also be applied to terrestrial habitat on islands. On another management issue we suggest that you attempt to locate canoe trails within slow no wake areas where possible.

Finally, we continue to support the proposal for land acquisition, from willing sellers, within the Refuge boundaries. These additional lands will provide habitat buffers for resident and migratory species that use the river corridor as well as provide more recreational opportunities for river users.

Thank you again for the opportunity to review and comment on the proposed Comprehensive Conservation Plan for the Upper Miss. Refuge. I appreciate the attention you have paid to most of our previous recommendations and we ask that you work with us during the process of making final changes to Alternative E. We look forward to the completion of the plan and moving forward to work cooperatively on other important river issues.

Sincerely,



Scott Hassett
Secretary

cc: Holly Stoerker, UMRBA, 415 Hamm Building, 408 St. Peters St, St. Paul, MN, 55102
Rick Nelson, USFWS, 4469 48th Ave. CT, Rock Island, IL 61201
Tim Schlagenhaft, MNDNR, 2300 Silver Creek Rd, Rochester, MN, 55906
Mike Griffin, IDNR, 206 Rose Street, Bellevue, IA 52031
Dan Sallee, ILDNR, 2317 East Lincolnway, Suite A, Sterling, IL 61081
Scott Humrickhouse, WDNR, 1300 West Clairemont Ave., Eau Claire, WI 54702-4001
Gretchen Benjamin, WDNR, 3550 Mormon Coulee RD, La Crosse, WI 54601
Patrick Henderson, Office of the Governor, State Capitol 115 E, Madison, WI 53702
Todd Ambs, WDNR, GEF II – AD/5
Tim Andryk, WDNR, GEF II – LS/5
Todd Peterson, WDNR, GEF II – WM/6
Laurie Osterndorf, WDNR, GEF II - AD/5
Tom Hauge, WDNR, GEF II – WM/6
Signe Holtz, WDNR, GEF II – ER/6
Senator Dan Kapanke

Wisconsin Department of Natural Resources Comment on Supplement to the Draft EIS/CCP

Senator Ron Brown
Senator Dale Schultz
Representative Michael Huebsch
Representative Barb Gronemus
Representative Jennifer Shilling
Representative Lee Nerison
Representative Gabe Loeffelholz

Iowa Department of Natural Resources Comment on the Draft EIS/CCP



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

STATE OF IOWA

DEPARTMENT OF NATURAL RESOURCES
JEFFREY R. VONK, DIRECTOR

February 10, 2006

Mr. Don Hultman, Refuge Manager
Upper Mississippi River NW&FR
51 E. Fourth St., Room 101
Winona, MN 55987

Dear Mr. Hultman:

The following are the Iowa Department of Natural Resources (Department) comments on the *Upper Mississippi River National Wildlife and Fish Refuge Supplement to Draft Environmental Impact Statement and Comprehensive Conservation Plan, Alternative E: Modified Wildlife and Integrated Public Use*.

The Department commends the United States Fish and Wildlife Service (Service) for listening to public, agencies, and other groups comments to the draft Comprehensive Conservation Plan. The language in this Alternative has shown that the Service made substantive changes in attempt to satisfy resource managers and users while meeting the vision and goals for the Upper Mississippi River Wildlife and Fish Refuge.

Iowa Department of Natural Resources staff has read the documents and have these general and specific comments concerning Alternative E.

General Comments:

The Department has jurisdiction over fisheries, navigation, and licensing requirements within the border of Iowa. The Department is concerned about Alternative E language related to the Service's permitting of fishing tournaments, commercial fishing, commercial mussel harvesting and commercial turtle harvesting. These activities are currently being actively managed and coordinated among the Upper Mississippi River states. The Department cannot agree with imposing additional rules and regulations for management of natural resources in which the Department has jurisdiction. We agree with the terms "one stop shopping" and "dovetail with" as described in Alternative E and as a way for the Service to comply with federal requirements without threatening state jurisdiction or causing hardship to user groups. The Department looks forward to working with the Service on elements of the plan that address jurisdictional issues in efforts to reach solutions that benefit the resources and its users.

Several "step down plans" are identified in Alternative E. The Service is encouraged to develop these additional plans in a timely manner, hold public meetings, and establish joint comment periods. This course of action will avoid confusion by the public and reduce staff time in coordinating agency responses.

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515-281-5918 TDD 515-242-5967 FAX 515-281-6794 www.iowadnr.com

Iowa Department of Natural Resources Comment on Draft EIS/CCP

February 10, 2006
Page 2 of 3

The Service should include references to the Comprehensive State Wildlife Plans recently completed by all the states along the Refuge. The plan formulated for Iowa contains scientifically based information on the status of fish and wildlife species within its borders. It was formed by experts from throughout the Midwest including numerous members of the U.S. Fish and Wildlife Service. The Upper Mississippi Refuge and its staff will be a major partner in implementing the ambitious goals of this plan.

There is several additional public use areas identified in Alternative E. The Department feels access areas are limited in the refuge. The Service is requested to develop public use areas that provide easy access and are also available for multiple recreational uses. For example, the hiking trail identified in the Pool 9 map known as Kain Switch does not have a parking lot identified with it. For canoe trails, hiking trails or other public use areas, the Service is requested to consider landings, parking lots and other infrastructure needs to enhance these areas. The Department also believes all canoe landings should be available during ice-over conditions for access by ATV's to ice fishing areas. Wherever possible the Department requests the Service to increase shoreline-angling access to provide for quality fishing opportunities. Department staff looks forward in assisting the Service in implementing its public use goals.

Specific Comments:

3.1 Wildlife and Habitat. Under strategies, the Service should add that Refuge budget shall include special funding for operation and maintenance of habitat projects.

4.1 General Hunting. The Department recommends the Service remove the No Hunting Zone in Pool 11 identified as Goetz Island No Hunting Zone.

4.2 Waterfowl Hunting Closed Areas. The Department believes that the third paragraph, on Page 22, which begins with, "*Finally, the policy on evaluating....*" should be removed from the document. This subject is already covered in objective **3.2.4 Guiding Principals for Management Program.**

4.10 Wildlife Observation and Photography. The Service is encouraged to consult the States on all planned Environmental Management Program (EMP), Habitat Rehabilitation and Enhancement Projects (HREP's) currently proposed to make sure that implementation of auto tour routes, canoe trails, hiking trails, and observation towers areas are compatible with restoration project objectives. A good Iowa example is the Turkey River HREP. The slough associated with this project is proposed to be dredged. At the mouth at the Turkey River, it is suggested that the auto tour route be located near the railroad tracks. The route should begin at the Turkey River and end at the slough; each end should feature a shoreline fishing area. A wildlife viewing platform should also be placed along the tour route. With these amenities in place all aspects of the EMP project could be showcased.

Iowa Department of Natural Resources Comment on Draft EIS/CCP

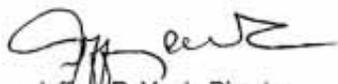
February 10, 2006

Page 3 of 3

5.2 Electric Motor Areas. The Department requests that the Electric Motor Area identified as Guttenberg Ponds Area be deleted from the Alternative E plan. This area is not normally accessible to motorboats but does provide backwater-fishing opportunities during high flow periods. Deleting this proposed action will not cause conflict between powered boaters and canoers, kayakers, and paddle boaters.

Thank you for the opportunity to comment on the Comprehensive Conservation Plan, Alternative E proposal.

Sincerely;



Jeffrey R. Vonk, Director
Department of Natural Resources

U.S. Army Corps of Engineers Comment on Draft EIS/CCP

3012



DEPARTMENT OF THE ARMY
MISSISSIPPI VALLEY DIVISION, CORPS OF ENGINEERS
P.O. BOX 90
VICKSBURG, MISSISSIPPI 39181-0090
March 7, 2006

REPLY TO
ATTENTION OF:

Mr. Don Hultman
Upper Mississippi River
National Wildlife and Fish Refuge
ATTN: CCP Comment
51 East Fourth Street, Room 101
Winona, Minnesota 55987

Dear Mr. Hultman:

I refer to the U.S. Fish and Wildlife Service (FWS) News Releases dated December 5, 2005, and January 3, 2006, regarding the public review and comment period for the new preferred alternative (Alternative E) for the draft Comprehensive Conservation Plan (CCP) and Environmental Impact Statement for the Upper Mississippi River National Wildlife and Fish Refuge.

My staff and the staffs of the St. Paul, Rock Island, and St. Louis Districts have reviewed the draft document and offer the following comments.

- a. We believe the FWS did an excellent job addressing our previous comments dated September 6, 2005.
- b. We concur with the plan with the understanding that interagency partnership activities will continue as required by the existing Cooperative Agreement and as stated in the Draft CCP.
- c. Once finalized and approved, the CCP will require many step-down plans that will involve coordination with other agencies. We feel the FWS has stressed this sufficiently in the plan, and we look forward to participation in these step-down plans. Implementation of the CCP will also require some Corps of Engineers actions, such as updating Land Use Allocation Plans, Shoreline Management Plans, and Forest Management Plans. Coordination will also be required on the Historic Properties Management Plan. Work on these plans should begin immediately after approval of the CCP.

We appreciate the willingness of the FWS staff to provide forums for communication and discussion throughout this process. We believe your communications were timely and were indicative of your acknowledgement of our close partnership with you in this region. We look forward to a continued positive relationship as

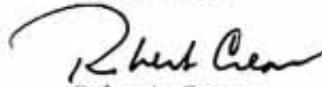
U.S. Army Corps of Engineers Comment on Draft EIS/CCP

-2-

our agencies collaboratively work to improve the ecosystem of the Upper Mississippi River National Wildlife and Fish Refuge.

If you have any questions regarding these comments, please contact Mrs. Susan Smith of my staff at (601) 634-5827.

Sincerely,



Robert Crear
Brigadier General, U.S. Army
Division Engineer

U.S. Environmental Protection Agency Comment on Supplement to the Draft EIS/CCP



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGIONS 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 01 2006

2445

REPLY TO THE ATTENTION OF:

B-19J

Mr. Don Hultman
Refuge Manager
United States Department of the Interior
Fish and Wildlife Service
Upper Mississippi River National Wildlife and Fish Refuge
51 E. Fourth Street
Room 101
Winona, Minnesota 55987

RE: Comments for Draft Environmental Impact Statement for Upper Mississippi River National Wildlife & Fish Refuge EIS NO. 20050516

Dear Mr. Hultman:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U. S. Environmental Protection Agency (U.S. EPA), Region 5 has reviewed the Supplement to the Draft Environmental Impact Statement (EIS) and Comprehensive Conservation Plan (CCP) for the Upper Mississippi River National Wildlife and Fish Refuge (Refuge). The Refuge consists of 240,000 acres of Mississippi River floodplain along 261 river miles from Wabasha, Minnesota to Rock Island, Illinois. The CCP will help ensure that this Refuge will contribute to fulfilling the overall mission of the Refuge system. The purpose of the supplement to the Draft EIS is to identify the new preferred alternative for the draft CCP. Your agency used input from comments received on the draft EIS. This input was used to make several changes to alternative E, which now is the new preferred alternative.

Based on our review, we have rated the supplement to the Draft EIS as "LO". The "LO" indicates that we have a lack of objection and did not identify the need for additional information or environmental issues to be considered. We still recommend that the Final EIS provide a narrative that explains how your agency will integrate the CCP for the Refuge with the Upper Mississippi River Navigation Ecosystem Sustainability Program, led by the United States Army Corps of Engineers.

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U.S. Environmental Protection Agency Comment on Draft EIS/CCP

Thank you for the opportunity to review and comment on the draft supplement to the Draft EIS and Comprehensive Conservation Plan for the Upper Mississippi River National Wildlife and Fish Refuge. If you have any questions or comments, please contact Al Fenedick of my staff. Al can be reached at 312 886-6872 or by E-mail at Fenedick.al@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Science Ecosystems and Communities

Representative Mark Green Comment on the Draft EIS/CCP

08/11/2005 14:10 FAX 6127135288
FAX 05-2005 11:41

MARK GREEN
8TH DISTRICT, WISCONSIN

ASSISTANT MAJORITY WHIP

REGIONAL CHIEF, NWRS R 3 - UPPER MISSISSIPPI
FISH AND WILDLIFE SERVICE 282 219 2415 P. 83



COMMITTEE ON THE JUDICIARY
COMMITTEE ON
INTERNATIONAL RELATIONS

1472

CONGRESS OF THE UNITED STATES HOUSE OF REPRESENTATIVES

August 8, 2005

Matthew Hogan
Acting Director
U.S. Fish and Wildlife Service
1849 C St., NW
Washington, D.C. 20240

Dear Acting Director Hogan:

I want to begin by complementing you on the U.S. Fish & Wildlife Service's (Service) decision to abandon the "preferred alternative" for the Comprehensive Plan and Environmental Impact Statement for the Upper Mississippi River National Wildlife and Fish Refuge. This plan is seriously flawed and desperately in need of improvement.

Frankly, I am not surprised the listening sessions on the plan resulted in the need for the Service to go back to the drawing board. The Mississippi River is one of our nation's premier recreational destinations and economic engines. It is a shining example of a successful multiple-use management strategy at work. Yet, the proposal developed by the Service pushes people away from this premier destination.

Each year, hundreds of thousands of people take advantage of the river's recreational splendor while working closely to ensure the wildlife species remain abundant and plentiful. Unfortunately, the Service's proposal restricts hunting, restricts fishing, restricts camping and restricts motorboat access - all while increasing fees. This is simply unacceptable.

While significantly restricting access to the refuge is sure to have an untold social impact, the economic impact will also be great. Many businesses will be forced to downsize or go out of business. Jobs will be lost. This simply cannot be allowed to happen.

The Service should select Alternative A as its new "preferred alternative." Hunting and fishing on the river have never been better and that water quality continues to improve. I simply do not see the need to move away from the current and successful management plan.

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MOUTH OF MISSISSIPPI PLAN

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Representative Mark Green Comment on the Draft EIS/CCP

08/11/2005 14:10 FAX 6127135288
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REGIONAL CHIEF, NWRS R 3 + UPPER MISS NWR
FISH AND WILDLIFE SERVICE

004
282 219 2415 P.84

Finally, I believe that those who use the river and whose livelihood depends on the river should have greatest voice in the management of the river. As you can imagine, in my capacity as an elected official, I have heard from a great number of folks in Wisconsin who were greatly concerned with restrictions in the current alternative. In fact, thousands have signed petitions in support of Alternative A.

I certainly hope the Service will listen closely to the comments it received during the listening session and from others who live and work along the river to make the necessary changes. I would expect a similarly strong response should the new "preferred alternative" include any of the restrictions contained in the original "preferred alternative."

I appreciate you taking the time to consider my thoughts. Please do not hesitate to contact me if you have any questions.

Best Regards,



Mark Green
Member of Congress

MAG:dr

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P. 84

Wisconsin Legislature Comment on the Draft EIS/CCP



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

Received 11/10
2469

August 29, 2005

U.S. Fish & Wildlife Service
Upper Mississippi River National Wildlife and Fish Refuge
CCP Comment: Don Hultman, Manager
51 East 4th Street
Room 101
Winona, MN 55987

Dear Mr. Hultman:

Please accept these documents as our public comments on the Comprehensive Conservation Plan for the Upper Mississippi National Fish and Wildlife Refuge. We are also state-lawmakers who represent Wisconsin portions of the refuge and, because federal enabling legislation required consent by state law before acquiring this land, we believe it is essential that we continue to be involved through the planning process.

We are opposed to Alternative D, which was initially offered as the preferred plan, because it usurps state authority on sovereign waters and unnecessarily eliminates treasured wildlife and non-wildlife based recreational opportunities and economic activity.

In 1925 our legislature consented to creation of the refuge under the conditions that we maintained the ability to preserve navigation in all waters and that the right to regulate fish and game would be a matter of state sovereignty. Additionally, we hold the right of the public to hunt and fish as a part of the right of navigation. We view new restrictions on the use of motors, areas closed to navigation, and new regulations as contrary to the agreement in our statutes and in federal law.

In our August 24, 2005 Legislative Council Memo, which is attached, we discuss these issues in detail. Again, we do not believe that the State of Wisconsin has the legal authority to abrogate our legal trust in the state's waters.

Clearly, the legal title to fish is Wisconsin's and, considering that our DNR is developing its own tournament fishing regulations, new federal regulations would be redundant and possibly illegal.

Our offices have heard from thousands of our constituents. Nearly every single comment has been opposed to Alternative D and supportive of maintaining the current wildlife and non-wildlife related recreational opportunities.

Wisconsin Legislature Comment on the Draft EIS/CCP

Page 2, August 29, 2005
Don Hultman, Manager

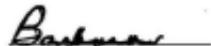
In order for your agency to be good neighbors and to preserve public support for having this refuge in our back yard, join us in advocating for maximum recreational opportunities and continuing to manage the river as a multi-purpose resource. That is not at odds with the goals of the refuge because we do not believe new restrictions will conserve fish and wildlife. From the life's work of Wisconsin's own Aldo Leopold, we know that healthy fish and wildlife habitat is the key to having good fish and wildlife populations and that is where the service should focus its efforts. We strongly believe that increasing refuge closed areas will do nothing to improve fish and wildlife populations over all. Likewise, hunter spacing, shell possession limits, and managed hunts are ultimately not wildlife conservation tools, just ways to manage people.

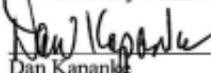
People who spend time on the river understand that the river has many friends. We co-exist with commercial and industrial uses and cooperate with other recreational users. Article 9 of Wisconsin's Constitution requires it. The effect of recreational activities is inconsequential compared to the combined forces of everything that happens on the land throughout the Mississippi River Valley. The good that comes from having so many people who love the river outweighs any benefit that could conceivably come from alienating them as your preferred alternative does. If you take away our connection to the land, you will lose public support for having federally owned land in our area.

Again, we oppose Alternative D and any plan which restricts access to recreational activities and navigation because they usurp state authority on sovereign water and unnecessarily eliminate recreational opportunities and economic activity. We support the current level of public use of this spectacular resource. Thank you for the work that you and your staff will be doing to make sure our outdoor recreation heritage is preserved on waters of the mighty Mississippi.

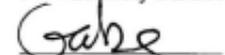
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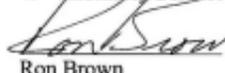

Dale Schultz
Senate Majority Leader
17th Senate District

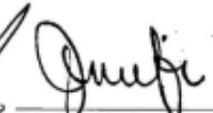

Barbara Gronemus
State Representative
91st Assembly District


Dan Kapanke
State Senator
32nd Senate District


Mike Huebsch
Majority Leader
94th Assembly District


Gabe Loeffelholz
State Representative
49th Assembly District


Ron Brown
State Senator
31st Senate District


Jennifer Shilling
State Representative
95th Assembly District


Lee Nerison
State Representative
96th Assembly District

2469

Wisconsin Legislature Comment on the Draft EIS/CCP

*Page 3, August 29, 2005
Don Hultman, Manager*

Copies to: President George W. Bush, Vice President Richard Cheney, Senator Russel Feingold, Senator Herb Kohl, Representative Ron Kind, USF&WS Regional Director Robyn Thorson

Enclosure: August 24, 2005 Wisconsin Legislative Council Memo

Wisconsin Legislature Comment on the Draft EIS/CCP



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATORS RONALD BROWN, DAN KAPANKE, AND DALE SCHULTZ, AND REPRESENTATIVES BARBARA GRONEMUS, MICHAEL HUEBSCH, GABE LOEFFELHOLZ, LEE NERISON, AND JENNIFER SHILLING

FROM: Mark C. Patronsky, Senior Staff Attorney

RE: Wisconsin Sovereignty and Jurisdiction Over Waters of the Upper Mississippi River National Wildlife and Fish Refuge

DATE: August 24, 2005

You have asked me to prepare a memorandum that provides background information and an analysis of the issue of Wisconsin sovereignty and jurisdiction over waters of the Mississippi River which are also part of the Upper Mississippi River National Wildlife and Fish Refuge. This issue is of current concern because the U.S. Fish and Wildlife Service, which manages the refuge, is in the process of planning regulatory policy for the refuge that will apply for the next 15-year period.

This memorandum addresses that part of the Comprehensive Conservation Plan for the refuge, dated May 2005, that sets forth proposed regulations in Alternative D. Alternative D is the alternative that was originally selected as the preferred alternative by the U.S. Fish and Wildlife Service. In particular, this alternative calls for banning the use of motorized watercraft in certain areas of the refuge from October 1 to the end of the regular state duck season.

There is not an express prohibition in federal law that precludes the U.S. Fish and Wildlife Service from banning the use of motorized watercraft within the refuge. However, there are a number of provisions in federal and state law that raise fundamental questions about the authority of the U.S. Fish and Wildlife Service to adopt and enforce regulations that prohibit motorized watercraft in portions of the Mississippi River, and its sloughs and tributaries.

Although it is difficult to answer this question definitively, the issues discussed in this memorandum would provide a substantial basis for a legal challenge to the regulations, if the regulations were to be implemented. It should be noted that the issues discussed in this memorandum are all legal issues. Unlike the factual issues, and decisions within the discretionary authority of the agency, legal issues are addressed and resolved by the court without deference to the decisions of the agency.

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<http://www.legis.state.wi.us/lc>

Wisconsin Legislature Comment on the Draft EIS/CCP

- 2 -

Acceptance of the Upper Mississippi River Fish and Wildlife Refuge With State-Imposed Conditions

The federal enabling legislation for the refuge requires the U.S. government to obtain the consent of the states before purchasing land for the refuge. The refuge was authorized by Congress in the Upper Mississippi River Wildlife and Fish Refuge Act (June 7, 1924); 68th Congress, ch. 346; 16 U.S.C. ss. 721 to 731. The Refuge Act expressly required the U.S. government to obtain the consent by law of Wisconsin before acquiring land for the refuge. [16 U.S.C. s. 724.]

Wisconsin did consent to establishment of the refuge in s. 1.035, Stats., which was adopted by Laws of 1925, Ch. 170, and took effect on May 23, 1925. The plain meaning of the federal enabling legislation is that if the consent of the states is required, the states may either withhold or condition that consent. The statute includes a number of conditions on the state's approval of the refuge, including the following:

- Any conditions or reservations imposed by Illinois, Iowa, and Minnesota are also adopted by Wisconsin.
- Acquisition of land by the U.S. government must be approved by the Governor on advice of the Department of Natural Resources.
- Wisconsin retains legal title to fish for the purpose of regulating the use and conservation of the fish.
- The state retains jurisdiction over civil and criminal process.

For the purposes of the legislator's request for information, one of the conditions in s. 1.035 (2), Stats., is most significant. This provides as follows:

1.035 (2) The consent hereby given is upon the condition that ... the navigable waters leading into the Mississippi and the carrying places between the same, and the navigable lakes, sloughs and ponds within or adjoining such areas, shall remain common highways for navigation and portaging, and the use thereof, as well to the inhabitants of this state as to the citizens of the United States, shall not be denied.

These conditions have apparently been accepted by the U.S. government in establishment of the refuge. This statutory restriction, which mirrors the Wisconsin Constitution (art. IX, s. 1, discussed later in this memorandum) states, as clearly as possible, that restrictions may not be imposed on navigation in any of the navigable waters leading into the Mississippi.

The Public Trust in Navigable Waters in Wisconsin

At the time of statehood, the State of Wisconsin received title to the navigable lakes and streams. The state's interest in the navigable waters is established and protected in the Wisconsin Constitution, art. IX, s. 1, which provides as follows:

Jurisdiction on rivers and lakes; navigable waters. Section 1. The state shall have concurrent jurisdiction on all rivers and lakes bordering on this

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Wisconsin Legislature Comment on the Draft EIS/CCP

- 3 -

state so far as such rivers or lakes shall form a common boundary to the state and any other state or territory now or hereafter to be formed, and bounded by the same; and the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the state as to the citizens of the United States, without any tax, impost or duty

This provision from the Wisconsin Constitution is the foundation for most of the Wisconsin law regarding navigable waters. In Wisconsin, the navigable waters are held in trust by the state for the public. The Legislature is the trustee of the public trust in navigable waters, responsible for protecting them for the benefit of the public, and the Legislature is without power to abrogate this trust. The condition described above in s. 1.035 (2), Stats., is a good example of how the Legislature protects these rights of navigation for the citizens of Wisconsin. In fact, consent by the Wisconsin Legislature to creation of the refuge without the conditions in s. 1.035 (2), Stats., would not appear to constitute valid consent.

Northwest Ordinance

Public rights in navigable waters are protected by not only the state, through its constitution and statutes, but also by federal law, through the northwest ordinance.

The historical source of Wisconsin's public trust in navigable waters is the northwest ordinance of 1787. The purpose of the northwest ordinance was to admit new states to the union on an equal footing with the original 13 states. The northwest ordinance included a provision regarding the navigable waters in art. IV, which provides in part: "...the navigable waters leading into the Mississippi and St. Lawrence and the carrying places between the same, shall be common highways and forever free, as well as to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefore...." This language was adopted with only slight changes as part of the Wisconsin Constitution in 1848.

The U.S. Supreme Court has discussed the continued viability of the northwest ordinance.

To the extent that it pertained to internal affairs, the Ordinance of 1787— notwithstanding its contractual form—was no more than a regulation of territory belonging to the United States, and was superseded by the admission of the State of Illinois into the Union "on an equal footing with the original states in all respects whatever" [citing cases]. But, so far as it established public rights of highway in navigable waters capable of bearing commerce from State to State, it did not regulate internal affairs alone, and was no more capable of repeal by one of the States than any other regulation of interstate commerce enacted by the Congress; being analogous in this respect to legislation enacted under the exclusive power of Congress to regulate commerce with the Indian tribes.

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Wisconsin Legislature Comment on the Draft EIS/CCP

- 4 -

The Court went on to say that this view was not inconsistent with previous decisions on the question:

Those cases simply hold, in effect, that a State formed out of a part of the Northwest Territory has the same power to regulate navigable waters within its borders that is possessed by other States of the Union; that is to say, until Congress intervenes, the power of the State, locally exerted, is plenary; nevertheless, where the navigation serves commerce among the states or with foreign nations, Congress has the supreme power when it chooses to act, and is not prevented, by anything the States may have done, from assuming entire control in the matter. [*Economy Light & Power Co. v. United States*, 256, U.S. 113, 121 (1921).]

The northwest ordinance has been incorporated into the Wisconsin Constitution, and subsequent Wisconsin common law as created by the Wisconsin Supreme Court has expanded the public trust in navigable waters to include recreational uses.

Federal Case Law

It does not appear that there is a federal case that is directly on point regarding the issue of whether the U.S. Fish and Wildlife Service may restrict navigation in the refuge. However, this issue was discussed as part of a 1928 federal district court case from the Western District of Wisconsin. *United States v. 2,271.29 acres more or less, of land in La Crosse, Trempealeau, Vernon, and Grant Counties, Wis., et al.*, 31 F. 2d 617. This case was a challenge to the condemnation of land for the refuge, and did not involve condemnation or regulation of navigable waters.

However, the issue of use of the navigable waters was of sufficient importance that it was part of the challenge to the condemnation. One of the grounds for challenging the federal legislation that created the refuge was that "the state holds and controls navigable waters in trust for its people, and may not delegate such trust to another sovereignty..." (p. 620). The court disposed of this issue on the grounds that the condemnation did not involve navigable waters. However, the court acknowledged that this was a "question of unlawful abdication by the state of its obligation of people in that regard." The court further recognized that the right to regulate fish and game is a matter of state sovereignty. The court reviewed the conditions of Wisconsin's consent to creation of the refuge under s. 1.035, Stats. The court cited a number of Wisconsin Supreme Court cases that show how carefully the court has protected the right of the public to hunt and fish, and the court further noted that the Wisconsin court cases further hold that the right to hunt and fish is a part of the right of navigation. (p. 621.) Although this case did not involve directly the issue of navigable waters, the court recognized that the consent given by the state could include the provisions of Wisconsin law that create and protect the public trust in navigable waters.

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Senator Norm Coleman Comment on the Supplement to the Draft EIS/CCP

NORM COLEMAN
MINNESOTA

United States Senate

WASHINGTON, DC 20510-2307

<http://ccoleman.senate.gov>

9 March 2006

Don Hultman
Refuge Manager, Upper Mississippi River NW&FR
Attn: CCP Comment, Room 101
51 East Fourth Street
Winona, MN 55987

Dear Don,

Please accept my commendations for your work in developing, presenting, listening, modifying and ultimately deciding upon an updated comprehensive plan for the Upper Mississippi Refuge. Managing natural resources is a challenge under any condition. Managing the most widely visited refuge in the system makes this challenge all the more complex.

You have shown great patience and diligence throughout your public hearing tour and I appreciate your efforts.

As for your preferred Alternative E, I would like to add my thoughts as you prepare to make a decision. Two aspects of the plan concern me:

1 – Hunting Access. I am concerned that hunting opportunities for Minnesota hunters may be unfairly eliminated. While the overall acreage open to public hunting may remain stable or grow in some areas of the refuge, I am concerned that the closure of areas like Big Lake near Wabasha unfairly penalizes Minnesota waterfowlers. I encourage you to pay particular attention to providing replacement hunting opportunities of comparable quality near where you propose closing existing hunting areas.

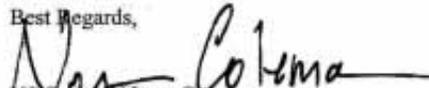
2 – Proposed Restriction to Specific Watercraft/Motor Use. I am concerned about the various proposals to restrict areas of the refuge to particular types of watercraft. While I feel it is reasonable to regulate how equipment is used, I do not favor banning use by a specific type of watercraft or propulsion type.

I understand the mission to protect habitat and I believe efforts to reduce erosion are laudable. I also am aware of safety concerns brought on by any interaction between users of different class watercraft. However, I believe that no wake zones, no wake areas or seasonal restrictions should merit consideration as a means to minimize boater conflict, protect habitat and sufficiently assist in preventing riverbank erosion prior to banning particular watercraft from areas of the river.

I hope my thoughts are helpful as you undergo final deliberation of this Comprehensive Plan.

Thank you for your service to the Upper Mississippi and the citizens who make the river an integral part of their lives.

Best Regards,



US Senator Norm Coleman

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Representative Ron Kind Comment on Supplement to the Draft EIS/CCP

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5077

Congress of the United States
House of Representatives
Washington, DC 20515

BUDGET COMMITTEE
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SUBCOMMITTEE ON ENERGY AND
MINERAL RESOURCES

March 13th, 2006

Mr. H. Dale Hall
Director
U.S. Fish and Wildlife Service
1849 C Street, N.W.
Washington, D.C. 20240

Mr. Bill Hartwig
Chief, National Wildlife Refuge System
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20240

Mr. Don Hultman
Refuge Manager
Upper Mississippi River National Wildlife and Fish Refuge
51 East Fourth Street, Room 101
Winona, MN 55987

Subject: Alternative E of the Comprehensive Conservation Plan for the Upper Mississippi River National Wildlife and Fish Refuge

Dear Gentlemen:

Thank you for the opportunity to express my comments regarding Alternative E of the Comprehensive Conservation Plan (CCP) for the Upper Mississippi River National Wildlife and Fish Refuge.

As you know, unlike other federal and state legislative officials who commented on your work prior to the close of the public comment period, I and my staff have taken a balanced approach, attending and speaking at various public meetings and conducting numerous meetings ourselves in an effort to develop a consensus CCP that addresses the Refuge's short-term and long-term needs and maintains the essential public-private partnerships in managing this important resource.

By listening and considering more than two thousand comments and holding various public listening sessions, your agency should be commended for your openness to public opinion and willingness to adjust the plan in light of public input. As reflected by the public comments in this issue, the people of this region recognize the Refuge's economic, recreational and cultural importance.

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Representative Ron Kind Comment on Supplement to the Draft EIS/CCP

Personally, as someone who has grown up near the Refuge and enjoyed the many wonders of the Mississippi River, I am proud to call myself a “river rat.” I understand how important a healthy river system is, not only to our region’s economy but also to our quality of life. As a boy, I would spend countless hours a day exploring the Mississippi or the vast stretch of Refuge territory. In the years since, I have had the great pleasure of raising two river rats of my own, taking them out as often as possible to enjoy everything from boating and swimming to hunting and fishing.

Recognizing that a healthy river system is important, not only to our region’s economy, but to our quality of life, I have worked consistently to promote land conservation and strengthen river habitat in the refuge. In fact, those individuals who have criticized the CCP’s efforts in not addressing sedimentation are encouraged to join my efforts in reforming federal agriculture conservation policy. As founder and co-chair of the bipartisan Upper Mississippi River Basin Congressional Task Force, I have fought hard for full funding of the award-winning Environmental Management Program that has become a model of interagency and interstate cooperation. I also authored legislation that aims to reduce excessive nutrients and sedimentation in the Upper Mississippi and cosponsored a bill to fight harmful invasive species.

While I commend your agency efforts in developing Alternative E, it is my hope that any final CCP will take the following into consideration:

Strengthening Efforts in Reducing Sedimentation, Enhancing Habitat Restoration and Combating Invasive Species – With the Refuge limited by its boundaries, additional efforts need to be undertaken to implement policies that reduce nutrients and sediment flows from adjacent lands. Basin-wide efforts to restore habitat and fight invasive species must also be developed.

Enhancing Public-Private Partnerships – Due to Refuge’s immense size and scope, it is important to preserve and build upon the strong partnerships that have been established on this Refuge. Any successful CCP plan must have broad community support to ensure Refuge protection and future viability.

Working with appropriate Wisconsin agencies in developing regulations – Because the USFWS shares Refuge management responsibilities with state of Wisconsin, it is important that future management decisions are harmonized and accepted by both parties. Due to the historically large federal budget deficit, the USFWS requires cooperation with state and local authorities as well as private entities in managing this resource.

Maintaining Access for all Users – With the passage of the National Wildlife Refuge System Improvement Act of 1997, Congress recognized that the Refuge must be accessible for all users, including *hunting, fishing, wildlife observation, photography, environmental education and interpretation, boating and canoeing*. While your agency should be complimented for its efforts in ensuring access for all active and passive Refuge users, any future plan must coordinate with state law.

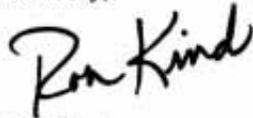
Voluntary Compliance – To ensure adoption of the final CCP, FWS must recognize existing state laws regarding the regulation of various means of navigation such as slow, no-wake areas, electric motor areas and closed areas. Since these proposed changes have caused alarm by some state officials, I strongly encourage your department to adopt “voluntary compliance” methods in place of the more restrictive slow, no-wake areas, electric motors areas and closed areas concept and then monitor the impact at these areas on other users and wildlife.

Representative Ron Kind Comment on Supplement to the Draft EIS/CCP

Thank you, again, for your efforts during this process. The Upper Mississippi River National Wildlife and Fish Refuge is a multi-use, large resource. It is clear that many individuals and groups care passionately about its management. It is equally clear that no final plan can be all things to all people so we all must recognize that it has to balance the needs of the various users as well as wildlife.

I commend your agency for your open and inclusive approach throughout the development of your plans and look forward to working with you as we move forward on developing a final plan as well as future Mississippi River and Refuge issues.

Sincerely,



Ron Kind
Member of Congress

Cc:

The Honorable Jim Doyle, Governor
The Honorable Peg Lautenschlager, Attorney General, Department of Justice
Scott Hassett, Secretary Wisconsin Department of Natural Resources
State Representative Jennifer Shilling
State Representative Lee Nerison
State Representative Mike Huebsch
State Representative Barbara Gronemus
State Representative Gabe Loeffelholz
State Representative Kitty Rhoades
State Senator Dan Kapanke
State Senator Dale Schultz
State Senator Robert Jauch
State Senator Ron Brown
State Senator Sheila Harsdorf
Steve Doyle, La Crosse County Board Chair
Mark Johnsrud, Mayor City of La Crosse

Representative Mark Green Comment on Supplement to Draft EIS/CCP

03/09/2006 20:35 FAX

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MARK GREEN
8TH DISTRICT, WISCONSIN
ASSISTANT MAJORITY WHIP



COMMITTEE ON THE JUDICIARY
COMMITTEE ON
INTERNATIONAL RELATIONS

CONGRESS OF THE UNITED STATES HOUSE OF REPRESENTATIVES

March 6, 2006

Mr. H. Dale Hall
Director
U.S. Fish and Wildlife Service
1849 C St., NW
Washington, D.C. 20240

Dear Director Hall:

I am writing to make you aware of my opposition to Alternative E of the Comprehensive Conservation Plan for the Upper Mississippi River National Wildlife and Fish Refuge. I appreciate your timely consideration of my request.

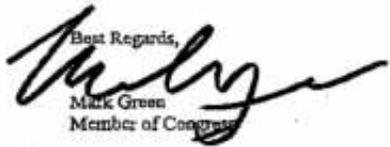
As you know from our previous correspondence about the refuge, I believe the U.S. Fish and Wildlife Service (USFWS) should abandon Alternative E and instead adopt Alternative A. I have heard from an overwhelming number of folks in Wisconsin who are opposed to the hunting and navigation restrictions contained in Alternative E.

The Mississippi River is one of our nation's premier recreational destinations and economic engines. It is a shining example of a successful multiple-use management strategy at work. I simply do not see the need to move away from a strategy that has a proven track record and enjoys strong support throughout the region.

I certainly hope the USFWS will listen closely to the comments it received during the listening sessions and from others who live and work along the river. As you know, I am greatly concerned that adoption of Alternative E will have social and economic consequences for communities on the river. This cannot be allowed to happen. That is why the USFWS should drop its support for Alternative E and instead adopt Alternative A.

Again, I want to thank you for taking the time to consider my request. I look forward to hearing back from you.

Best Regards,


Mark Green
Member of Congress

MAG:dr

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Wisconsin Legislature Comment on the Supplement to the Draft EIS/CCP



WISCONSIN LEGISLATURE

P.O. BOX 8962 • MADISON, WI 53708

March 1, 2006

U.S. Fish & Wildlife Service
Upper Mississippi River National Wildlife and Fish Refuge
CCP Comment: Don Hultman, Manager
51 East 4th Street
Room 101
Winona, MN 55987

Dear Mr. Hultman:

Please accept these documents as our public comments on the Comprehensive Conservation Plan for the Upper Mississippi River National Fish and Wildlife Refuge. As state-lawmakers who represent Wisconsin portions of the refuge and, because federal enabling legislation required consent by state law before acquiring this land, we believe it is essential that we continue to be involved through the planning process.

We are still generally opposed to Alternative E because it usurps state authority on sovereign waters and unnecessarily eliminates treasured wildlife and non-wildlife based recreational opportunities and economic activity.

In 1925 our legislature consented to creation of the refuge under the conditions that we maintained the ability to preserve navigation in all waters and that the right to regulate fish and game would be a matter of state sovereignty. Additionally, we hold the right of the public to hunt and fish as a part of the right of navigation. As we explained in earlier comments, we view restrictions on the use of motors, areas closed to navigation, and new regulations as contrary to the agreement in our statutes and in federal law.

In our January 13, 2006 Legislative Council Memo, which is attached, we discuss these issues in detail. Again, we do not believe that the State of Wisconsin has the legal authority to abrogate our legal trust in the state's waters.

Our offices have heard from thousands of our constituents, more than 3,000 in writing alone, county boards, chambers of commerce, and hunting groups. Nearly every comment has been opposed to new restrictions and supportive of maintaining the current wildlife and non-wildlife related recreational opportunities.

Our constituents have not expressed a demand for non-motorized canoe areas. In fact, we are told just the opposite. Local government and DNR Law Enforcement may not be ready to take on the additional search and rescue efforts that will be needed if gasoline

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Don Hultman, Manager*

motors are prohibited in certain areas. This is an experience that Wisconsin had in the Lower Wisconsin State Riverway.

Many people have told us that their access will be reduced by the prohibition of gasoline powered motors. Activities like trapping or hunting will be difficult for many people who are not physically able to canoe for great distances in severe weather.

We are concerned that your estimate of the acres of closed areas is misleading. For instance, the youth hunting area on Goose Island eliminates nearly all of the hunting that currently happens there. This is a favored area to hunt because people who do not have boats or other means can access this area on foot. Other areas are only open for portions of the season, but you count them as open. Open water areas, where hunting would not be allowed, are counted as open to hunting. Our constituents believe that the overall loss of hunting areas is not acceptable.

Your choice of closed areas and the precise location of boundaries remain controversial up and down Wisconsin waters of the refuge. You are proposing changes over such a broad area that you will not be able to reach agreement with user groups. Any changes should be made over time and on a pool-by-pool basis.

It is critical that you maintain the maximum amount of acres that can possibly be open to deer hunting. Besides providing an important recreational opportunity with economic benefits, this is essential for managing the herd so that disease transmission and environmental impacts are minimized.

We are very concerned about the economic impact that Plan E will have on our area. Our DNR reports that, as recently as 1988, 52% of all use of Pool 5A, for instance, was still directly related to fishing, hunting, or trapping. Other types of uses such as wildlife watching have certainly grown since then, but this growth has occurred in concert with continued use by groups like hunters. Individual businesses and chambers of commerce have told us that they cannot afford to lose one of these groups of customers. The importance of hunting and trapping to our economy is highlighted by the fact that Wisconsin has ranked as high as fourth nationwide in the number of jobs supported by the economic activity of hunters (Vander Zouwen, 1998).

We are concerned that proposed pet restrictions will eliminate people's ability to swim their dogs. Our constituents appreciate the current easy access to water and the types of dogs that are prevalent in our area need practice in the water. Plan E underestimates the value of this to local people.

We are concerned that not enough emphasis is placed on invasive species management and protection.

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*Page 3, March 1, 2006
Don Hultman, Manager*

Our constituents have expressed concern that there is not enough access to shoreline and handicapped fishing. You should work with the Corp of Engineers to improve access at locks and dams.

Many of the items contained in this plan require cooperation with the Wisconsin DNR and legislature because the regulations will need to be incorporated into our rules before there can be realistic enforcement. There will be significant resistance to many of the features of this plan and, at this point, we do not think they can be adopted by the state.

We want to reiterate our request that, in order for your agency to be good neighbors and to preserve public support for having this refuge in our back yard, you join us in advocating for maximum recreational opportunities and continuing to manage the river as a multi-purpose resource. That is not at odds with the goals of the refuge because we do not believe new restrictions will conserve fish and wildlife. From the life's work of Wisconsin's own Aldo Leopold, we know that healthy fish and wildlife habitat is the key to having good fish and wildlife populations and that is where the service should focus its efforts. We strongly believe that increasing refuge closed areas will do nothing to improve fish and wildlife populations over all.

People who spend time on the river understand that the river has many friends. We co-exist with commercial and industrial uses and cooperate with other recreational users. Article 9 of Wisconsin's Constitution requires it. The effect of recreational activities is inconsequential compared to the combined forces of everything that happens on the land throughout the Mississippi River Valley. The good that comes from having so many people who love the river outweighs any benefit that could conceivably come from alienating them as your preferred alternative still does. If you take away our connection to the land, you will lose public support for having federally owned land in our area.

Again, we oppose Alternative E and any plan which restricts access to recreational activities and navigation because they usurp state authority on sovereign water and unnecessarily eliminate recreational opportunities and economic activity. We support the current level of public use of this spectacular resource. Thank you again for the work that we are asking you and your staff to do so that our outdoor recreation heritage is preserved on waters of the mighty Mississippi.

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Don Hultman, Manager

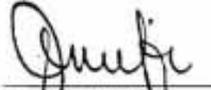
Sincerely,



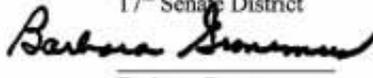
Dale Schultz
Senate Majority Leader
17th Senate District



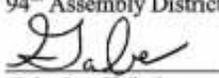
Mike Huebsch
Majority Leader
94th Assembly District



Jennifer Shilling
State Representative
95th Assembly District



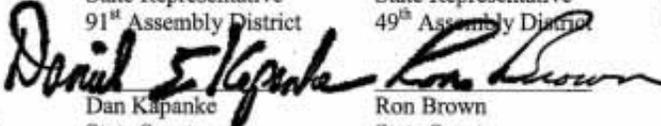
Barbara Gronemus
State Representative
91st Assembly District



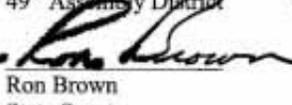
Gabe Loeffelholz
State Representative
49th Assembly District



Lee Nerison
State Representative
96th Assembly District



Dan Kapanke
State Senator
32nd Senate District



Ron Brown
State Senator
31st Senate District

Copies to: President George W. Bush, Vice President Richard Cheney, Senator Russell Feingold, Senator Herb Kohl, Representative Ron Kind, USF&WS Regional Director Robyn Thorson

Enclosure: January 13, 2006 Wisconsin Legislative Council Memo

Wisconsin Attorney General Comment on Supplement to the Draft EIS/CCP



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

EGGY A. LAUTENSCHLAGER
ATTORNEY GENERAL

Daniel P. Bach
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2/9/08

March 6, 2006

Mr. Don Hultman, Refuge Manager
Upper Mississippi River National Wildlife and Fish Refuge
51 East Fourth St., Room 101
Winona, MN 55987

Re: Comments on Alternative E of the Comprehensive Conservation Plan for
the Upper Mississippi River National Wildlife and Fish Refuge

Dear Mr. Hultman:

I have been asked by various citizens of the state to examine Alternative E, the new Fish and Wildlife Service preferred alternative presented in the Comprehensive Conservation Plan (CCP) for the Upper Mississippi River National Wildlife and Fish Refuge, to ensure that it complies with the state's obligations to its citizens under the Wisconsin Constitution. This letter constitutes concerns of the Attorney General of the State of Wisconsin regarding Alternative E. I appreciate the opportunity to comment on these proposed changes and emphasize that I share with you many common goals in protecting citizens, fish, and wildlife in the national refuge system.

The State of Wisconsin is obligated to protect the state's navigable waters for its citizens under the public trust doctrine, which emanates from art. IX, § 1 of the Wisconsin Constitution. That article provides in relevant part that "the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free . . .".

The Upper Mississippi River National Wildlife and Fish Refuge was created by an act of Congress in 1924 that authorized the federal government to acquire land for the refuge, provided that the affected states of Minnesota, Wisconsin, Iowa, and Illinois gave their consent before land acquisition could take place. See 16 U.S.C. §§ 721 to 731. Wisconsin gave its consent in 1925, provided that several conditions are met. For example, Wis. Stat. § 1.035(2) & (3) state in part:

(2) The consent hereby given is upon the condition that . . . the navigable waters leading into the Mississippi and the carrying places between the same, and the navigable lakes, sloughs and ponds within or adjoining such areas, shall remain common highways for navigation and portaging, and the use thereof, as

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Mr. Don Hultman

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well to the inhabitants of this state as to the citizens of the United States, shall not be denied.

(3) The legal title to and the custody and protection of the fish in the navigable waters leading into the Mississippi River and in the navigable lakes, sloughs and ponds within or adjoining such areas in this state, is vested in the state, for the purpose of regulating the enjoyment, use, disposition and conservation thereof.

I wish to impress upon you that the plan adopted by the Fish & Wildlife Service must assiduously abide by the reservation of all rights by the State of Wisconsin under Wis. Stat. § 1.035 and must not intrude into areas of regulation that were reserved for the State of Wisconsin at the time the Upper Mississippi National Fish and Wildlife Refuge was created. The proposed federal regulation of fish and fishing within the refuge must not conflict with this law, which demonstrates that the right to regulate these activities is vested in the State. I suggest that the U.S. Fish and Wildlife Service recognize that regulation of fishing, boating, hunting, and other state regulated activities within the Upper Mississippi National Refuge be done in the closest consultation possible with the State of Wisconsin.

Wis. Stat. § 1.035(2) is based on the constitutional provision found in Article IX, § 1 of the Wisconsin Constitution that is quoted above. Accordingly, any restrictions on navigation in the Refuge must comport with this provision. The Wisconsin Supreme Court has found that this constitutional provision, known as the Public Trust Doctrine, protects an array of public rights including, in addition to commercial navigation, a variety of purely recreational and nonpecuniary uses including boating, swimming, fishing, hunting, recreation, and scenic beauty. *R.W. Docks & Slips v. State*, 2001 WI 73, 244 Wis. 2d 497, ¶19, 628 N.W.2d 781; *Gillen v. City of Neenah*, 219 Wis. 2d 806, 820, 580 N.W.2d 628 (1998); *Hixon v. Public Service Comm.*, 32 Wis. 2d 608, 619, 146 N.W.2d 577 (1966); *Muench v. Public Service Comm.*, 261 Wis. 492, 507-08, 511-12, 53 N.W.2d 514, 55 N.W.2d 40 (1952).

While an assortment of public rights in navigable waters are required to be protected, their exercise can conflict with each other. The State must balance the exercise of these public rights as part of its affirmative duty to deliver the most benefit for public use. Thus, no public right is absolute. Wisconsin Courts have held that all of the competing public rights under the Public Trust Doctrine must be balanced with each other:

The principle established by the [Wisconsin Supreme Court] cases is that no single public interest in the use of navigable waters, though afforded the protection of the public trust doctrine, is absolute. Some public uses must yield if other public uses are to exist at all. The uses must be balanced and accommodated on a case by case basis. The principle has been reasserted in many decisions of the supreme court."

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Mr. Don Hultman

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State v. Village of Lake Delton, 93 Wis. 2d 78, 96.

No single public use may be destroyed or greatly impaired. In *State v. Public Service Comm.*, 275 Wis. 112, 118, 81 N.W.2d 71 (1957), the court stated the kinds of factors that must be considered to determine whether the balance of public rights and interests has been sufficiently struck. They include whether public bodies will control the use of the area; whether the area will be devoted to public purposes and open to the public; whether the diminution of water area available to the public will be small when compared with the whole of the water body; whether no one of the public uses of the waterway will be destroyed or greatly impaired; and whether the disappointment of those members of the public who may desire to exercise particular public rights in the area is negligible when compared with the greater convenience to be afforded those members of the public who use the area.

Accordingly, any restrictions on navigation that may be imposed under Alternative E must be reasonable restrictions that are balanced with other public rights that are protected under the Public Trust Doctrine.

I understand that there are many competing public uses in the Upper Mississippi River National Wildlife and Fish Refuge. I know that you have conducted numerous open houses in communities near the Refuge in order to give the public the opportunity to ask questions and provide comments on the CCP as a whole and on the various alternatives. In response to comments from the public, you made changes to the previously preferred Alternative D in order to forge Alternative E. This process accords with the directive found at 16 U.S.C. § 668dd(a)(4)M that there shall be "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 [National Wildlife Refuge] System are located."

In response to many comments from the public and from agencies in the affected states, you decreased both the number and the size of areas that are open only to boats powered by electric motors or paddles. You also changed closed areas from "no fishing" during waterfowl season to voluntary avoidance on all areas and no use of motors on small closed areas, and moved the start date of these restrictions from October 1 to October 15 to allow greater access. I am pleased that you have responded to the concerns of the public in these respects. As you work on finalizing the CCP, I urge you to continue to ensure that the public has reasonable access to navigation and to hunting and fishing in the Refuge.

I also share the concerns of many Wisconsin citizens that the CCP has an undue focus on controlling human uses of the Refuge, to the exclusion of dealing with resource conservation and protection issues such as non-point source pollution and sedimentation, invasive species, and habitat loss. While these issues are addressed in the CCP, they constitute a small part of the plan. As you work to finalize the CCP, I urge you to be certain to address in more detail these

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Mr. Don Hultman
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crucial issues. These issues should be carefully balanced along with any restrictions on human use of the Refuge, so that any such restrictions are reasonable and are not imposed to the exclusion of other key factors that affect the conservation of resources in the Refuge.

Thank you for your consideration of these comments.

Very truly yours,



Peggy A. Lautenschlager
Attorney General

PAG:mrb:lkw

c: Representative Gabe Loeffelholz
Representative Kitty Rhoades
Representative Mark Pettis
Representative Frank Boyle
Representative Mary Hubler
Representative Barbara Gronemus
Representative Michael D. Huebsch
Representative Jennifer Shilling
Representative Duwayne Johnsrud
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Senator Daniel Kapanke
Senator Dale Schultz
U.S. Senator Herbert H. Kohl
U.S. Senator Russell D. Feingold
U.S. Representative Paul Ryan
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U.S. Representative Ron Kind
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U.S. Representative F. James Sensenbrenner, Jr.
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U.S. Representative Mark A. Green