Appendix F: Planning and New or Expanded National Wildlife Refuge – FAQs

U.S. Fish & Wildlife Service

National Wildlife Refuge System

Planning a New or Expanded National Wildlife Refuge

Frequently Asked Questions

Where does funding for land acquisition for wildlife refuges come from?

Typically, money to acquire land for national wildlife refuges comes from the Land and Water Conservation Fund and/or the Migratory Bird Conservation Fund, both of which were established through federal law. The Land and Water Conservation Fund derives its money primarily from the sale of products on federal land, such as offshore oil and gas leases. Funds for the Migratory Bird Conservation Fund are derived from the sale of federal duck stamps.

If I own land in one of the focus areas, would I ever be forced to sell?

No. Focus areas are not refuge boundaries. They are planning units. All habitat restoration and preservation by the Service would be on a voluntary basis (willing buyer/willing seller only) and only lands in which the Service acquires a realty interest would become part of the Refuge. Actual Refuge boundaries would ultimately conform to specific land tracts as they are purchased from willing sellers within the focus areas. Lands identified in the focus areas are in private and public ownership. It is not the intent of the Service to acquire lands already in public ownership. Only the presence of willing sellers and only after detailed planning would lands be acquired for the Refuge.

Fish and Wildlife staff at Tamarac Wetland Management District staff near Detroit Lakes, Minnesota, works with a private landowner on a restoration project. Photo credit: FWS

If I own land in or around an area that the Service says has high natural resource values, will my property ever be condemned?

No. While the Service has this authority, it doesn't use it except to clear title or preserve critically imperiled endangered species (both of these scenarios are rare). The latter is not the case in with this project. Service policy is to acquire land only from willing sellers. Landowners retain all of the rights, privileges, and responsibilities of private land ownership. The presence of Refuge lands does not afford the Service any authority to impose restrictions on any private lands. Service control of access, land use practices, water management practices, hunting, fishing, and general use is limited only to those lands in which the Service purchases an appropriate realty interest.

Will my rights as a property owner be infringed as a result of refuge designation?

No. If lands are developed into a national wildlife refuge, the Service will have no more authority over private land within or adjacent to the boundaries of the refuge than any other landowner. Landowners retain all the rights, privileges, and responsibilities of private land ownership, including the right of access, control of trespass, right to sell, and payment of taxes.

If I sell my land to the Service, are there any relocation benefits?

Yes. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act) provides for certain relocation benefits to home owners, businesses, and farm operators who choose to sell and relocate as a result of federal acquisition. The law provides for benefits to eligible owners and tenants in the following areas:

- Reimbursement of reasonable moving and related expenses.
- Replacement housing payments under certain conditions.
- Relocation assistance services to help locate replacement housing, farm, or business properties.
- Reimbursement of certain expenses incurred in selling real property to the government.

Are their ways the Service can acquire an interest in land without buying it outright?

Yes. One way is by purchasing an easement from the landowner. A conservation easement involves the acquisition of certain rights that can help achieve fish and wildlife habitat objectives (for instance, encouraging certain practices such as delaying haying fields until ground nesting birds have left the nest). Easements become part of the title to the property and are usually permanent. If a landowner sells the property, the easement continues as part of the title.

Lease agreements are another tool. Leases are short-term agreements for full or specified use of the land in return for an annual rental payment that generally includes occupancy rights. For example, the Service could lease 40 acres of grassland habitat to provide safe nesting for ground nesting birds. Under this scenario, the landowner would agree not to hay or otherwise disturb the ground during the lease period.

Cooperative agreements are negotiated between the Service and other government agencies, conservation groups, or individuals. An agreement usually specifies a particular management action or activity the landowner will do, or not do, with his or her property. For example, a simple agreement would be for the landowner to agree to delay hayland mowing until after a certain date to allow ground nesting birds to hatch their young. More comprehensive agreements are possible for such things as wetland or upland restoration, or public access. Agreements are strictly voluntary on the part of the landowner and are not legally binding. As long as a landowner abides by the terms of the agreement, this protection can be effective in meeting certain refuge objectives. Because these agreements are voluntary and can be modified by either party, there is no complete assurance the terms will continue to be met.

How will the creation of a wildlife refuge affect the area's tax base?

The Refuge Revenue Sharing Act of June 15, 1935, as amended, provides for annual payments to counties or the lowest unit of government that collects and distributes taxes based on acreage and value of national wildlife refuge lands located within the county. The monies for these payments come from two sources: (1) net receipts from the sale of products from National Wildlife Refuge System lands (oil and gas leases, timber sales, grazing fees, etc.) and (2) annual Congressional appropriations. Annual Congressional appropriations, as authorized by a 1978 amendment, were intended to make up the difference between the net receipts from the Refuge Revenue Sharing Fund and the total amount due to local units of government.

Payments to the counties are calculated based on the following formulas which provides the largest return to the counties: (1) $.75 per acre; (2) 25 percent of the net receipts collected from refuge lands in the county; or (3) three-quarters of 1 percent of the appraised value. Using this method, lands are reappraised every five years to reflect current market values.

It must be noted that revenue sharing payments are only made when lands are purchased in fee title. Less-than-fee purchases (such as conservation easements) remain in private ownership and thus are subject to taxation.

Environmental education at Minnesota Valley NWR in Bloomington, Minn. Photo credit: FWS

Golden-winged Warbler. Photo credit: FWS

According to the Refuge Revenue Sharing Act which authorizes the Service to make these payments: "Each county which receives payments....shall distribute, under guidelines established by the Secretary, such payments on a proportional basis to those units of local government (including, but not limited to, school districts and the county itself in appropriate cases) which have incurred the loss or reduction in real property tax revenues by reason of existence of such area." In essence, the Act directs the counties or lowest unit of government that collects and distributes taxes to distribute refuge revenue sharing payments in the same proportion as it would for tax monies received.

In developing the Refuge, will drainage be changed in a way that could adversely affect my property?

No. Detailed hydrologic planning will be undertaken for all water-related activities on Service lands to ensure that Service activities do not alter drainage in any way that would cause flooding or drainage problems to private lands. The Service would not cause any artificial increase of the natural level, width, or flow of waters without ensuring that the impact would be limited to lands in which the Service has acquired an appropriate realty interest from a willing seller (e.g., fee title ownership, flowage easement, cooperative agreement). The Service would comply with all Federal and state regulations regarding development, some of which are specifically intended to ensure that the actions of one landowner do not adversely affect another. If Service activities inadvertently created a water-related problem for any private landowner (flooding, soil saturation or deleterious increase in water table height, etc.), the problem would be corrected at the Service's expense.

Through the Service's Partner's for Wildlife program, the Service has restored over 10,000 wetlands in the Midwest Region, which includes Wisconsin and Illinois, without consequence. The expertise gained through this experience and by coordinating with partners like the North American Waterfowl Management Plan, the States Departments of Natural Resources, the Natural Resource Conservation Service, The Nature Conservancy, and others, will help us achieve the wetland goals of this Refuge and not adversely effect others.

If the Service acquires land in an active drainage district with an easement for maintenance of drainage, does that district retain the right of access for maintenance of drainage ditches, tile and outlets?

Yes. Like any landowner, the Service is subject to any outstanding rights (easements) on any of the land it acquires.

What is the Service's policy regarding crop damage resulting from increases in the wildlife population? Does the Service intend to make wildlife food plots part of its management plan?

The Service policy is to use tools such as hunting, lure crops, and habitat manipulation to assure that wildlife, particularly local Canada Geese, do not cause depredation problems on neighboring farmland. While the development of wildlife food plots is not a primary objective of this Refuge, it does remain an option, depending on the site, type of wildlife, and type of food plot. Service policy is to use the most natural means available to meet wildlife objectives. If a localized depredation problem were to arise, the Service, working in concert with the USDA Animal Damage Control Division, would be available to assist in developing a damage abatement program specific to the problem.

Some people contend that the Service is destroying farmland when land is taken out of agricultural production and restored as wetlands, grasslands or other habitat; how do you respond?

Restoring wetlands, grasslands, and other natural habitats protects our nation's long-term ability to produce food and fiber crops. Soil will rebuild itself when indigenous vegetative cover is restored. On the other hand, development can degrade soil and extensive commercial or dense residential development makes it very unlikely that the land will ever be restored to agricultural purposes in the future. If the nation's lawmakers someday decide these areas are needed for agricultural production, it will be there.

Would the Service be required to act in accordance with the Federal Farmland Protection Policy Act as it develops this Refuge?

Yes. In compliance with this Act, the Service would implement the project in a manner that minimizes the extent to which the proposed refuge would contribute to the conversion of farmland to non agricultural uses. Refuge programs would also be administered in a manner that, to the extent practical, would be compatible with state and local government, and private programs and policies to protect farmland. In addition, Form AD-

1006, Farmland Conversion Impact Rating, would be completed for this project. This rating system evaluates the degree to which federal projects impact farmland, and results in a score of 0 to 260. If a proposed action results in a score of 160 or less, USDA regulations require only a minimal level of consideration for protection to be provided to the site, and no additional sites need be evaluated.

Is a federal national wildlife refuge automatically closed to hunting, fishing and other recreational issues?

No. The alternatives considered in refuge planning are mandated by Congress (Public Law 105-57, Oct. 9, 1997) to allow compatible wildlife-dependent recreational public uses such as hunting, fishing, wildlife observation and photography, environmental education and interpretation. Goals and objectives are identified for the refuge (with public input), and the specific public uses are determined based on their consistency with the objectives established for the refuge. A refuge that serves as production areas for a federally endangered species is likely to offer less access for people during periods when the endangered species is present than at other times of the year. In the Midwest Region, most national wildlife refuges offer public recreational opportunities. A few are closed, including small islands or caves where endangered species or colonial nesting birds are present.

Why is the federal government involved in planning wildlife refuges? Why shouldn't states manage their own refuges?

The purpose of creating new refuges and expanding existing refuges is to preserve wildlife, plants and their habitat for the benefit of present and future generations of Americans. Wildlife and habitat simply do not conform to state boundaries, and neither does citizen investment in the nation's natural resources. For example, preserving migratory waterfowl habitat requires a comprehensive approach because flight patterns for particular species can extend across the entire length of the country. Conservation practices in one state would be jeopardized or even nullified by lesser efforts in another state along the flight pattern. Citizenship, too, extends beyond state lines, and we all have an investment in preserving this country's unique or endangered species and habitats regardless of where we live. While state departments of natural resources are responsible for managing the bulk of wildlife and habitat issues, federal involvement in refuge planning reflects this broader public interest.

Some people say the federal government does not have authority to acquire land. Is this true?

No. The United States Constitution provides the following: "All legislative powers herein granted shall be vested in a Congress of the United States..." (Article 1, Section 1, Clause 1); and that, Congress shall have power, "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or any Department or Officer thereof." (Article 1, Section 8, Clause 18). One of the first related laws passed by Congress was in 1820 and is cited in the U.S. Code of Federal Regulation (41 USC 14). It states: "No land shall be purchased on account of the United States except under a law authorizing such purchase."

Section 304 of the Emergency Wetlands Resources Act of 1986 (Public Law 99-645) specifically states "The Secretary is authorized to purchase wetlands or interests in wetlands, which are not acquired under the authority of the Migratory Bird Conservation Act of 1929."

The Service is mandated by the U.S. Congress to conserve, protect and restore migratory birds, threatened and endangered species and interjurisdictional fish. These are collectively referred to as Federal Trust Resources. A system of national wildlife refuges, beginning in 1903, exists today because of this national public interest.

Mother and son birding at Big Muddy NWR in Missouri. Photo credit: FWS