Appendix G

Response to Public Comments

Introduction

In 2006, the U.S. Congress passed the Cherry Valley National Wildlife Refuge Study Act (Study Act; see also Appendix A). The Final Cherry Valley National Wildlife Refuge Feasibility Study and Environmental Assessment (Final EA) fulfills Section 603 of the Study Act, requiring a report studying the feasibility of establishing a refuge in Cherry Valley. In addition, the U.S. Fish and Wildlife Service (Service, we, our) is using the Final EA to propose the creation of a new refuge. Creating a new refuge is a federal action; therefore, the Final EA is structured as an Environmental Assessment to assist the Service in complying with the National Environmental Policy Act of 1969, as amended (NEPA). NEPA requires that any federal action consider the direct, indirect, and cumulative effects of the action, and that alternatives to the action be considered.

To assist the Service meet the requirements of the Study Act and NEPA, the Service released the Draft Cherry Valley National Wildlife Refuge Feasibility Study and Environmental Assessment (Draft EA) for public review and comment between October 31 and December 5, 2008. Two public meetings were also held during this time. Comments received during this period are summarized and addressed herein, and this document has been appended to the Final EA.

One hundred (100) people attended the public meeting on November 19, 2008 at the Christ Hamilton Lutheran Church in Saylorsburg, Pennsylvania. One hundred and twelve (112) people attended the public meeting on November 20, 2008 at the Stroudsmoor Country Inn in Stroudsburg, Pennsylvania. We received numerous public comments as oral testimony and in writing at public hearings. We also received comments electronically (i.e, emails) from local towns, conservation and recreational organizations, and local residents. Some electronic communications were from other parts of the United States.

The Service reviewed and considered all written communications: letters, e-mails, and comment forms. We summarized oral comments expressed during the public meetings into written comments. In total, 107 written comments were submitted.

Table 1. Summary of written comments concerning a proposed Cherry Valley National Wildlife Refuge, Pennsylvania.

Comments From:	Favorable	Not Favorable	No Preference
Individuals	59	2	6
Government Agencies	5		
Private/Public Groups	25		
Businesses	2		1
Federal & State Representatives	7		
Total	98	2	7

Refuge Support: Expressions of support for the refuge came from 59 individuals, four members of the U.S. Congress, four members of the Pennsylvania State government, and a variety of groups and businesses:

- U.S. Representative Paul Kanjorski
- U.S. Representative Charles Dent
- U.S. Senator Arlen Specter
- U.S. Senator Robert Casey
- Pennsylvania Governor Edward Rendell
- Pennsylvania State Senator Lisa Boscola
- Pennsylvania State Representative John Siptroth
- Pennsylvania State Representative Mario Scavello

- Appalachian Trail Conservancy
- Bloss Associates
- Blue Mountain Preservation Association
- Brodhead Watershed Association
- Cherry Valley Community Supported Agriculture
- Chestnut Hill Township
- Delaware Water Gap National Recreation Area, National Park Service
- East Stroudsburg University
- Eastern Monroe Regional Park Commission
- Friends of Cherry Valley
- Hawk Mountain Sanctuary
- Juniata Audubon Society
- Lake Mineola Home Owners Association
- Lehigh Gap Nature Center
- Lehigh Valley Horse Council
- Lehigh Valley Planning Commission
- Monroe County Board of Commissioners
- Monroe County Conservation District
- Monroe County Open Space Advisory Board
- Monroe County Planning Commission
- Natural Lands Trust
- The Nature Conservancy
- Pennsylvania Department of Conservation and Natural Resources
- Pennsylvania Equine Council
- Pennsylvania Fish and Boat Commission
- Pocono Environmental Education Center
- Pocono Avian Research Center
- Pocono Heritage Land Trust
- Pocono Mountains Visitors Bureau
- Sierra Club
- Smithfield Park and Recreation Commission
- Stroud Township
- Trout Unlimited
- University of Pennsylvania

Refuge Non-support: Two individuals opposed the establishment of a refuge in the area.

Refuge No Preference: Six individuals and one business expressed no clear support or opposition of the refuge but sought clarification on questions and concerns, which are addressed below.

Support for a Specific Alternative: There was no explicit or specific support for Alternative A – No Refuge, although two individuals did not support establishing a refuge as described in Alternatives B and C and generally preferred to retain local control of conservation efforts in the area. Of the 96 individuals and groups that supported creation of a refuge, 68 specifically encouraged support for Alternative B – Diverse Habitat and its acquisition boundary of 20,466 acres. No one specifically supported Alternative C – Wetlands and Ridge Forests over Alternatives A or B. Six individuals and one business did not express a preference for any specific alternative.

Discussion

The following discussion summarizes the substantive issues raised during the comment period and our responses to them. Many of our responses refer to the full text copy of our Draft Study/EA, and indicate how this Final EA reflects any proposed changes. Many comments were in support for the refuge as described in Alternative B and the many activities that may be promoted by a refuge such as wildlife-dependent recreational opportunities, solitude, environmental education, hunting and fishing, and overall habitat conservation for future generations. This Discussion section does not address those comments but addresses comments expressing concern, need for clarification, or opposition. Discussion topics are numbered and grouped into categories for ease in reading.

Land and Habitat Protection

1. Comment: Two individuals asked if it is possible to expand the refuge boundary beyond what has been proposed since there are other valuable habitats in the area, such as Smith Gap (including Kunkletown Rod and Gun Club property), all land from [the Appalachian] trail north to Acquashicola Creek, or lands on the north side of Godfrey's Ridge.

Response: We concluded that going beyond the study area to consider other lands and habitats would be inappropriate. We recognize, however, that protection of other areas could be accommodated in the future if appropriate need was evident and it was conducted under a separate action from the Cherry Valley refuge proposal. We would like to reemphasize statements in Chapter 2 of the Study Report that, based on comments received from the public meetings held in March 2008 along with discussions by the Cherry Valley Study Team, we decided that an area adjacent to the Study Act

boundary, south of Highway 611 and north of the Delaware Water Gap, should be included within the Study Area (Figure 2-1). This area encompasses the lower section of the Cherry Creek watershed. It had been mistakenly omitted from the official Study Act boundary and was therefore included in the Study Area.

2. Comment: Two individuals expressed concern that, based on past experience with the Federal government, they would not want there to be condemnation of private property so those parcels could be included in the refuge.

Response: As noted during the public meetings, and as described in the Land Protection Plan (Study Report Appendix E), the Fish and Wildlife Service has a long-standing policy of acquiring land only from willing sellers. We will not buy any lands or easements if the owners are not interested in selling. In rare circumstances, at the request of a willing seller, we can use "friendly condemnation" when the Service and a seller cannot agree on property value, and both agree to allow a court to determine fair market value. When we cannot determine the rightful owner of a property, we also may use friendly condemnation to clear title. In any event, we do not expect to use friendly condemnation very often, if at all.

3. **Comment:** One person believes a refuge would encourage the Pennsylvania American Water Company to sell its lands to developers since land values may rise due to an attractive refuge nearby, thus the refuge would promote unwanted development.

Response: We do not believe there is any basis to this assertion. The Pennsylvania American Water Company is free to sell its lands as it chooses with or without the presence of a refuge. The Service would encourage communications with the company in the event any valuable habitat parcels became available.

4. **Comment:** One of the local citizens asked what percentage of the 1,250 valley landowners located within the proposed refuge boundary were asked whether they would consider selling their lands to the Service, and also expressed concern that $63.4 million per year in property tax [figure taken from the Draft EA, Appendix D] would be lost and what percentage of this loss would be compensated for by the federal government. Similarly, several persons asked if a refuge or refuge acquisition boundary would result in property being removed from the tax rolls, thus diminishing the local economy and government services such as schools.

Response: The Service has not asked any Cherry Valley property owners about selling their land to the Service, although there has been an awareness of the agency's interest in potentially acquiring lands by local residents due to the public meetings and outreach that has been conducted on this study through most of 2008. We expect that some lands of high habitat value will become available, and the Service would like to protect

that land for fish and wildlife resources. Typically, once a refuge land protection boundary has been approved, we then contact landowners having high value habitat to determine whether any are interested in selling. There is generally a fairly long list of willing sellers ready to sell property.

Regarding the concern for lost tax revenue, the fiscal impact to Monroe County and its municipalities due to the establishment of a refuge will depend on both the quantity of refuge land acquired and the rate at which it is acquired. The $63 million referenced in the comment is not an estimate of lost tax revenue, but is an estimate of the total 2008 tax revenue for all of the properties within the Study Area. Most of the tax revenue is generated from the "developed" parcels that have the least value and interest from a refuge stand point. This, along with other information presented in the Draft and Final EAs (re: Appendix D – Economic Analysis) supports the conclusion that there would likely be minor economic impacts on the local tax base associated with creation of the refuge.

Additionally, while land owned by the U.S. Government is not taxable by state or local authorities, the federal government has a program in place to partially compensate local governments for foregone tax revenues. The Refuge System typically makes a revenue sharing payment, annually, to local governments. The payment made depends on the revenues that accrue to the Refuge System and the proportion of those revenues and general funds that are appropriated by Congress for revenue sharing purposes. In recent times, the payment has been less than what the government may have received through normal taxation. It should be noted that the property that is most highly assessed within the Study Area (e.g., residential, industrial, and retail) represents those parcels that have the least desirable characteristics, from a national wildlife refuge perspective. Other things to consider are that there are less infrastructure and maintenance costs associated with lands that are part of protected wildlife habitat compared to developed lands.

5. **Comment:** One person believed once the Federal government becomes involved and owns land in the valley that the people lose control over those lands, and that the government does not fulfill promises made.

Response: Lands held in trust by the National Wildlife Refuge System, as part of the Service, are public-trust lands. Broad statutes and policies of the federal government, Department of the Interior, and the Service, notably those implementing the National Environmental Policy Act and National Wildlife Refuge Administration Act (as amended), provide ample opportunity for the public to be involved in the management of a refuge. The public review opportunities for the are examples of that requirement being implemented. Working in concert with the Friends of Cherry Valley and other grass roots organizations in the valley, the Service and refuge staff will assure open and effective management of the refuge for wildlife and their habitats, and public uses that are appropriate and compatible on the refuge.

6. **Comment:** Several individuals asserted that land protection already can be promoted at the local level, that there are adequate opportunities for funding conservation easements (e.g., bond issuances and the Lackawanna County partnership with Growing Greener Program), and that a refuge is not needed. Similarly, another individual remarked that the U.S. Fish and Wildlife Service needed to evaluate land protection alternatives that involve reliance on state and local mechanisms.

Response: As noted in the Draft and Final EAs, for the past 20 years, housing starts have increased dramatically in Monroe County, including parts of the Study Area. This growth and land development pressure is expected to continue over the long term and existing pressures on wildlife habitats are greater than the current land protection programs can accommodate. Chapter 3 of the Final EA (re: No-Action Alternative) discussed current state and local land protection mechanisms, concluding they were insufficient in meeting habitat protection needs for the valley's fish and wildlife resources.

Recognizing the inability of any one organization to solve the problems of habitat displacement and fragmentation, we believe that cooperative habitat-conservation efforts, including a National Wildlife Refuge -- could effectively protect important wildlife habitat in Cherry Valley from this pressure. We would work to combine our efforts with those of many supporters as noted above, such as The Nature Conservancy, Friends of Cherry Valley, Pennsylvania Fish and Boat Commission, Pennsylvania Game Commission, and the Pocono Heritage Land Trust. A new refuge will provide local landowners with one additional tool to conserve their natural and cultural heritage as they consider the future of their land. Voters in Monroe County have consistently supported additional land protection. During our public involvement for the Draft EA, local residents and county and municipal officials expressed enthusiasm about Service land protection. Many people encouraged us to develop a larger proposal. Land protection by the Service, while aimed at protecting trust resources, watersheds, and other natural resource values, would also help maintain the rural character of the area.

7. **Comment:** One individual remarked that uplands will continue to be purchased and developed, and that such development will still impact local wetlands. How will a refuge acquiring and owning only the wetlands help in this situation?

Response: The proposed refuge boundary contains a diverse array of habitat types, including uplands and wetlands. The presence of a refuge in the valley will not prevent lands from being developed but will offer the community and landowners another tool for wildlife conservation. It is not the purpose of the refuge to prevent development but to offer the community and nation an opportunity to protect lands and habitats for a host of unique and rare wildlife, and the associated public use benefits to be derived from a refuge. The Service would acquire select habitats in priority order, as noted in the Conceptual Management Plan (Appendix B of the Final EA) and the Land Protection

Plan (Appendix E of the Final EA) and will seek where possible to protect a biologically rich and diverse mix of uplands adjacent to wetlands to maintain the overall ecological health and integrity of the ecosystem.

8. **Comment:** One local citizen believes the apparent support for a refuge is overstated and that some landowners have secured conservation easements on their property, not because they want to participate in land conservation along with a refuge, but because they want to show they can protect their lands without a refuge.

Response: The Service has not received any indication from any landowner that a conservation easement was placed on a property for the purpose of demonstrating that a refuge was not needed. The overwhelming support documented during the study process, including comments received during the public review period and public meetings, convincingly shows a community eager to have a national wildlife refuge.

9. **Comment:** One individual believed a local landowner with a long history in the valley should have been part of the study team to reflect concerns that have developed over years of engagement by the federal government to take property away from local people, noting the Tocks Dam issue of years past.

Response: The Cherry Valley Study Team (re: Final EA, Chapter 1) represented a diverse collection of recognized experts who could help the Service evaluate the value of Cherry Valley habitats for potential inclusion into the National Wildlife Refuge System. The Cherry Valley Study Team included local experts from Monroe County Planning Commission, Monroe County Conservation District, East Stroudsburg University, and Northampton Community College. Once that evaluation was completed, as documented in the Draft EA, landowners and the public at large had opportunities to provide review, input, and comments.

Wildlife Management

10. **Comment:** What will happen with invasive plants if the refuge is established?

Response: Appendix B of the Draft and Final EAs presents the Conceptual Management Plan for the refuge. Within that plan there is a series of priority activities that would be undertaken, one of which is "Work with partners to monitor and eradicate exotic or invasive plant and animal species to preclude threats to the integrity of the ecosystem." It may take time to acquire adequate staff and funding resources to meet this priority, but it is a need that is widely recognized and appreciated.

11. **Comment:** One individual believes adequate habitat for species described in the Draft EA, along with places for solitude, environmental education, and ample

opportunity for public recreational activities, exist already within the confines of the 70,000 acre Delaware Water Gap National Recreation Area.

Response: We agree that it is advantageous to have the nearby Delaware Water Gap National Recreation Area (DWGNRA) and its habitat and public recreation opportunities. Information provided in the Draft EA (re: Chapter 2), however, provides extensive justification on why habitats within the Study Area are considered by the Service as nationally significant and are suitable for inclusion into the Refuge System. Comments received from the Superintendent of the DWGNRA show strong support for a refuge, and recognize that the recreation area cannot exist as an "ecological island" surrounded by suburban development. Additionally, public wild lands will contain the essential corridors and expansive habitats that can better provide for the needs of migrating, nesting, and rare species.

Public Use Managment

12. **Comment:** Two individuals believe it is no longer safe to ride horses along valley roads, and would like to see any proposed refuge trails accommodate multi-use, trails that hikers, bikers, and horseback riders could share.

Response: Although horseback riding is an activity that may be permitted on a national wildlife refuge provided appropriate use and compatibility use policies are satisfied (re: Chapter 1 on policy discussions), it is not a priority public use. The National Wildlife Refuge System Improvement Act establishes six priority public uses on refuges: hunting, fishing, wildlife observation and photography, and environmental education and interpretation, often referred to as the "Big-6." Because of the central priority of refuges is to benefit wildlife and their habitats, many recreational activities that are not included in the Big-6 are not permitted. However, some recreational activities often are permitted (e.g., cross-country skiing, haying, grazing of livestock). The refuge manager responsible for a Cherry Valley NWR would conduct a formal compatibility determination to assess if horseback riding would be an appropriate and compatible use on the refuge. The analysis would include a process for public review.

13. **Comment:** It would be helpful to know if other refuges near large municipalities suffer damage from excessive public use.

Response: Even though some of our refuges receive heavy public use, we take all necessary precautions to manage public use to minimize negative effects to refuge habitats and wildlife. Policies of the National Wildlife Refuge System provide for careful and thoughtful management of public use so that the principal wildlife-protection purposes and goals of the refuge are not compromised (re: policy descriptions in Chapter 1). We have every expectation that as the Cherry Valley NWR reaches a size where wildlife dependent (Big-6) public uses become feasible, that such uses would be designed and structured to maximize public benefit while eliminating or minimizing any

potential negative effects. hese uses would be identified through the formulation of a detailed refuge Comprehensive Conservation Plan (CCP) and the associated Visitor Use Plan and other associated "step-down" management plans that link back to the CCP.

14. **Comment:** One public meeting attendee wants to know what will happen once a refuge is established, particularly with "future studies concerning hunting, fishing, hiking, and bird watching."

Response: We expect these activities to continue in the Cherry Valley. One of the requirements for managing a refuge is to develop a Comprehensive Conservation Plan (CCP) that identifies a vision of future conditions for the refuge, along with specific goals and objectives that set the stage for day-to-day management. The CCP covers a 15 year period. A detailed Visitor Use Plan is incorporated into this planning process. Through these planning efforts, which involve public review and input, specific activities will be identified for the Cherry Valley NWR for hunting, fishing, and other Big-6 activities.

15. **Comment:** One public meeting attendee "supports Alternative B, provided that the proposed refuge does not conflict with the purposes of the Township and Regional Park and Recreation to provide for recreation facilities on those lands that are within the Study Area."

Response: There would be no conflict for park and recreation activities that occur within the refuge acquisition boundary. Only when lands within the acquisition boundary are acquired for the refuge would the Service have the authority and obligation to determine which public use activities could be permitted.

16. **Comment:** Regarding refuge access by the public, a State Fish and Boat Commission representative encouraged opportunities for fishing.

Response: Table 1 of the Conceptual Management Plan (Draft EA, Appendix B) summarizes public uses that would likely be allowed during the interim phase and their potential limitations under current conditions in Cherry Valley. Fishing is one of the public uses that would be considered and encouraged in accordance with the National Wildlife Refuge Improvement Act. Appendix B, Attachment B.2 presents the draft compatibility determinations summarized in Table 1 of the Draft EA. Final compatibility determinations are presented in Appendix B, Attachment B.2 of the Final EA.

17. **Comment:** One individual believes public use on the refuge will be damaging and contribute to exhaust pollution, that there will be dirt bikes, horseback riders, plant thieves, and illegal hunting. They also believe the refuge will limit deer hunting thus diminishing license revenue needed for conservation while also enabling more deer to damage habitats for rare wildlife.

Response: Chapter 4 of the Draft and Final EAs – Environmental Effects – addresses impacts that may be associated with public use. We believe impacts would be minimal and that the benefits of wildlife dependent public uses would be an essential and constructive value to the community. Hunting is a priority public use and is expected to continue. The extent to which deer hunting and other forms of hunting would be allowed will be determined by the refuge manager following a formal planning and public review process. Many factors will be considered during that planning process including the level of harvest that may be appropriate to reduce excessive deer browse and habitat deterioration as well as the recreational benefits of public hunting.

Agriculture and Farming

18. **Comment:** A few individuals expressed concern that agricultural land stay in active agricultural use, and that farmlands already protect species and habitats via easements and vegetation management. One person suggested that in lieu of creating a refuge, that efforts be taken to continue to use agricultural practices to manage habitats and to perform formal research on such practices for the benefit of species conservation.

Response: The Service will work cooperatively with interested farmland owners, thus helping to maintain the rural character of the valley. Maintenance of existing grasslands and management of select agricultural lands to grassland habitat would benefit bobolink, meadowlark, grasshopper sparrow, and other grassland birds suffering from habitat loss. Conducting research on the refuge will become an integral part of refuge management, and research on the benefits of select agricultural practices is certainly conceivable.

Socioeconomic

19. **Comment:** Three individuals asked if being located within the refuge acquisition boundary would hinder or restrict business activities in the community such as fish hatcheries, machine shops, excavation operations, or concrete manufacturing facilities.

Response: Establishment of an acquisition boundary for a Cherry Valley National Wildlife Refuge would not hinder or restrict businesses located within that boundary. The term "acquisition boundary" means only that the Service can negotiate to purchase land and conservation easements from willing property owners from within the established boundary. Property owners are under no obligation to the Service and have the same options available to them as before for selling their property on the open real estate market as well as negotiating easements with other state and local governments and conservation organizations. What the refuge presence does add is that property owners have an additional potential buyer, and therefore additional land preservation options available to them.

Regarding additional regulations for businesses, there are no additional regulatory requirements placed on any facility because of the presence of a refuge. Each business and property owner is required to comply with the existing state or other regulatory entities. This is the case whether a facility is located inside the proposed refuge's acquisition boundary or not. The National Wildlife Refuge System is a land management agency and not a regulatory agency. As such, we do not anticipate any difference to the day-to-day operations or long term planning, growth, or expansion plans based on the refuge proposal.

Administrative/Planning/General Management

20. **Comment:** One individual expressed concern about how a new refuge could be established when federal funding and staffing for refuges in the Northeast has been reduced over recent years.

Response: The National Wildlife Refuge System Improvement Act of 1997 calls for the continued growth of the Refuge System in a manner that is best designed to accomplish the mission of the Refuge System, to contribute to the conservation of the ecosystems of the United States, to complement efforts of other federal agencies and of states to conserve fish and wildlife and their habitats, and to increase support for the Refuge System and participation from conservation partners and the public. We are convinced, after having thoroughly studied the valley and having the benefit of the information therein, that the habitats proposed in Alternative B of the Draft EA should be incorporated into the Refuge System for all of the purposes just mentioned. The Service is extremely demanding when considering new lands for the Refuge System, and has not established a new refuge in the Northeast Region since 1995. We are very sensitive to staffing and funding needs; however, we recognize the ever-present importance of securing lands first when they are identified as nationally significant, as Cherry Valley has been. We will move with all due diligence to make Cherry Valley refuge a reality while continuing to balance the staffing and funding needs for all refuges in the Northeast Region.

The staffing situation on national wildlife refuges is based on a number of factors including refuge size and complexity, proximity to other refuges, and funding. Based on

these and other factors, the proposed refuge may be managed as a stand alone refuge or as a unit of a refuge complex. A stand alone refuge has a dedicated staff and equipment and is managed locally whereas a unit of a complexed refuge would share staff and equipment with other refuge units. At this time it is not possible to estimate staffing specifics for the proposed Cherry Valley National Wildlife Refuge because of uncertainties associated with actual progression of land acquisition. Some examples of potential staffing models are presented in Appendix B, Attachment B.1 of both the Draft and Final EAs.

It is important to recognize that there are separate funding sources for administering refuges (staff, facilities, equipment) and purchasing lands and interests therein. Administrative operational funds are allocated annually by Congress and cannot be used to purchase lands, and funds for land acquisition cannot be used to fund refuge operational activities. Much of our funding to buy land comes from the Land and Water Conservation Fund (LWCF). Another source of funding to purchase land is the Migratory Bird Conservation Fund (MBCF), which derives from Federal Duck Stamp revenue. We plan to use both funds to buy either full or partial interests in lands within the approved acquisition boundary, if established. Another potential source for funding for land or easement acquisition is the North American Wetland Conservation Act, which supports a 1:1 federal/private matching grant program for habitat acquisition and restoration on refuges and private lands. Land may also be acquired through donation, or included in refuge management activities through agreements and other cooperative arrangements.

21. **Comment:** What is the timetable for introduction of legislation for this refuge, and will the Service speed up or slow down that process?

Response: Refuges can be established through legislation or by the Service's exercising its existing legislatively-based authority to establish the refuge through administrative means. In the case of Cherry Valley, the Service proposes to establish an acquisition boundary administratively. The Service has no control over legislation.

Copies of the Draft EA and Final EA are available online at: http://www.fws.gov/northeast/planning/Cherry%20Valley/lcphome.html. You may also request these documents by contacting Carl Melberg, Refuge Planner, at: U.S. Fish and Wildlife Service; 73 Weir Hill Rd.; Sudbury, MA 01776; 978/443 4661 x 32; 978/443 2898 fax; www.northeastplanning@fws.gov (*please include "Cherry Valley" in the subject line of your email*).