

Chapter 2. The North Dakota Limited-interest Refuge Program

2.1 Establishment of the Program

In the 1930s, the United States was faced with a depression, a massive drought, and declining waterfowl and other wildlife populations. To address these crises, the federal government developed the Program. Working with states and private landowners, beginning in 1935, dozens of limited-interest refuge agreements were signed. These refuge and flowage easements (see section 2.4 for more information), most perpetual, were established for the purposes of 1) water conservation, 2) drought relief, 3) migratory bird and wildlife conservation purposes.

The economic crisis was also addressed through this Program. The Works Progress/Programs Administration and Civilian Conservation Corps programs provided jobs in the local communities to build the structures needed to impound and control water levels. This reliable water source was not only critical to wildlife but to the livelihood of the landowners and their agricultural operations.

Although most were perpetually protected, a new status was given to these lands in the late 1930s and 1940s. Refuge lands in close proximity were combined, establishing an approved acquisition boundary, and designated as Migratory Bird Sanctuaries (later changed to national wildlife refuges) under the authorities of executive orders and conservation laws. To this day, 93 percent of these lands still remain in private ownership making them unique among the more than 540 national wildlife refuges.

Since this Program was established, it has played a vital role in the recovery and protection of water resources and the waterfowl and other wildlife that depend on these areas. However, these refuges need to be re-evaluated to determine which can truly function as national wildlife refuges as

prescribed in the Improvement Act. This should be accomplished through this CCP and future planning efforts.

2.2 Current Status of the Program

The North Dakota Limited-interest National Wildlife Refuges encompass 47,296 limited-interest refuge acres within the boundaries of 39 individual refuges ranging in size from 160 acres (Half Way Lake NWR) to 5,506 acres (Rock Lake NWR). The approved acquisition boundary for these refuges totals 54,140 acres (see figure 2 for locations of these refuges).

Six different managing stations are responsible for this Program including Arrowwood NWR Complex, Audubon NWR Complex, Devils Lake WMD, J. Clark Salyer NWR Complex, Kulm WMD, and Long Lake NWR Complex. Table 3 provides a breakdown of refuges managed by station. Most of these refuges are located east of the Missouri River except for two, Lake Patricia NWR and Pretty Rock NWR. All refuges have an overriding purpose of providing habitat for migratory birds.

No staff or funding is dedicated to this Program. Historically, management has been incidental to the station's other funded programs. Currently no volunteers or Friends Groups assist the Program.

The Limited-interest Refuge Program is not part of the more well-known grassland and wetland easement refuge programs.

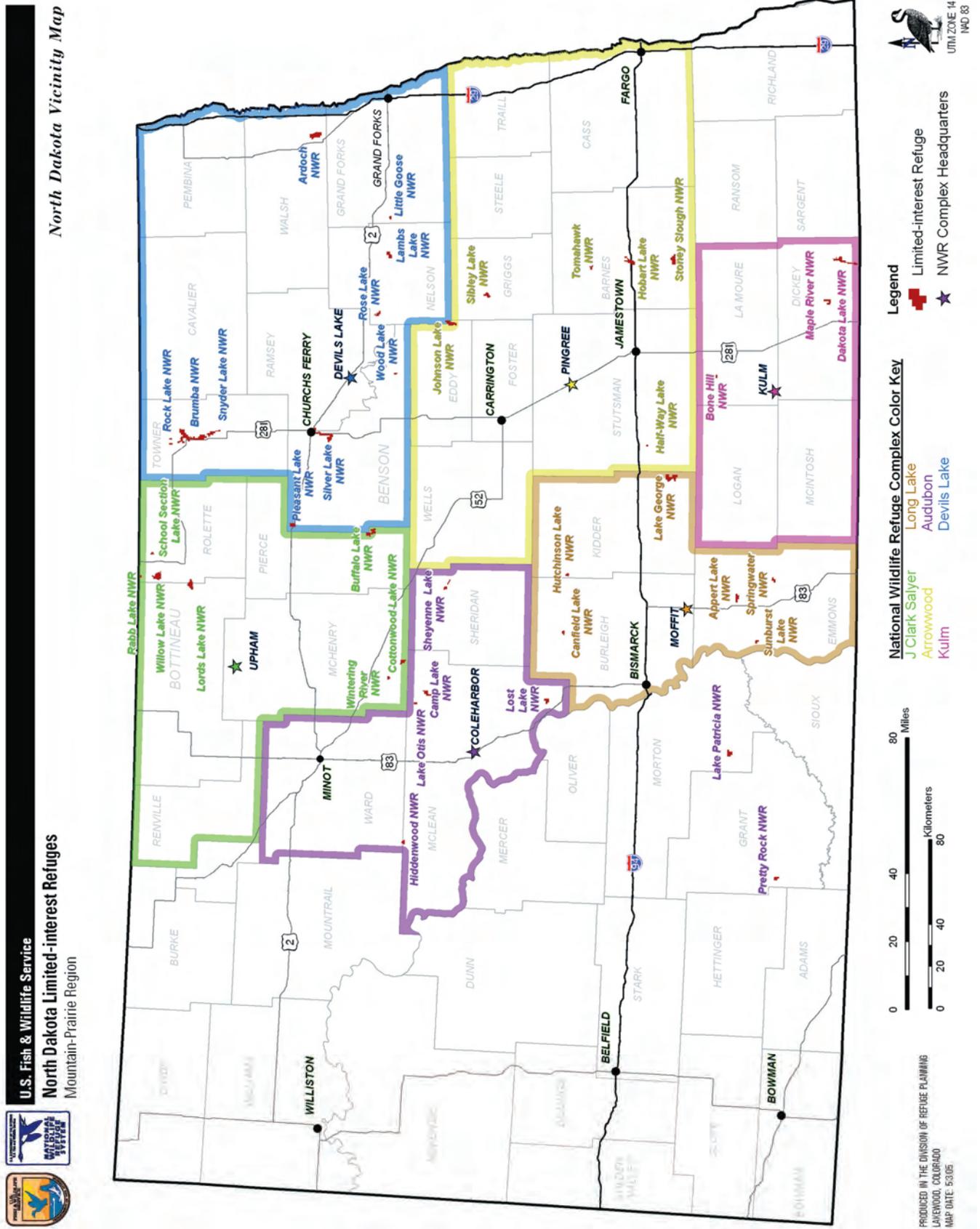


Figure 2. Location Map

Table 3. List of refuges by managing station

<i>Complex Headquarters</i>	<i>Limited-interest Refuge</i>	<i>Limited-interest Refuge Acres</i>	<i>NWR Fee Acres</i>	<i>Total Acres</i>	<i>Approved Acquisition Boundary</i>	<i>WPA Acres</i>	
						<i>Within Approved Acquisition Boundary</i>	<i>Adjacent</i>
Arrowwood NWR Complex 6 Refuges 6,392 Total Limited-interest Refuge Acres 7,445 Approved Acquisition Boundary Acres [†]	Half Way Lake	160.00	0	160.00	160.00	0	0
	Hobart Lake	1,831.21	245.89	2,077.10	1,840.00	0	0
	Johnson Lake	2,003.42	4.49	2,007.91	1,928.00	0	0
	Sibley Lake	1,077.40	0	1,077.40	1,077.00	81	496
	Stoney Slough	880.00	0	880.00	2,000.00	1,120	440
	Tomahawk	440.00	0	440.00	440.00	0	0
Audubon NWR Complex 7 Refuges 4,831 Total Limited-interest Refuge Acres 6,888 Approved Acquisition Boundary Acres [†]	Camp Lake	584.70	0	584.70	1,212.44	0	0
	Hiddenwood	568.35	0	568.35	568.00	0	0
	Lake Otis	320.00	0	320.00	640.00	0	0
	Lake Patricia	800.23	0	800.23	1,434.23	0	0
	Lost Lake	960.21	0	960.21	960.00	0	0
	Pretty Rock	800.00	0	800.00	800.00	0	0
Devils Lake WMD 10 Refuges 18,099 Total Limited-interest Refuge Acres 19,700 Approved Acquisition Boundary Acres [†]	Ardoch	2,388.50	307.63	2,696.13	2,980.00	0	0
	Brumba	1,977.48	0	1,977.48	1,977.48	0	0
	Lambs Lake	1,026.67	0	1,026.67	1,318.00	80	0
	Little Goose	288.41	0	288.41	359.04	71	0
	Pleasant Lake	897.80	0	897.80	1,020.00	103	0
	Rock Lake	5,505.96	0	5,505.96	5,587.00	0	0
	Rose Lake	836.30	0	836.30	1,280.00	0	134
	Silver Lake	3,347.64	0	3,347.64	3,348.00	0	0
	Snyder Lake	1,550.18	0	1,550.18	1,550.18	0	0
	Wood Lake	280.00	0	280.00	280.00	0	0
J. Clark Salyer NWR Complex 7 Refuges 7,886 Total Limited-interest Refuge Acres 9,221 Approved Acquisition Boundary Acres [†]	Buffalo Lake	1,539.92	23.80	1,563.72	2,105.00	0	0
	Cottonwood Lake	1,013.47	0	1,013.47	1,013.00	0	0
	Lords Lake	1,915.29	0	1,915.29	1,915.22	0	0
	Rabb Lake	260.80	0	260.80	261.00	0	0
	School Section Lake	297.30	0	297.30	680.00	0	0
	Willow Lake	2,619.69	0.69	2,620.38	2,848.00	227	19
Kulm WMD 3 Refuges 4,152 Total Limited-interest Refuge Acres 4,544 Approved Acquisition Boundary Acres [†]	Wintering River	239.26	0	239.26	399.12	160	106
	Bone Hill	640.00	0	640.00	640.00	0	0
	Dakota Lake	2,799.78	0	2,799.78	2,784.00	0	0
	Maple River	712.00	0	712.00	1,120.00	408	6

Table 3. List of refuges by managing station

Complex Headquarters	Limited-interest Refuge	Limited-interest Refuge Acres	NWR Fee Acres	Total Acres	Approved Acquisition Boundary	WPA Acres	
						Within Approved Acquisition Boundary	Adjacent
Long Lake NWR Complex 6 Refuges 5,754 Total Limited-interest Refuge Acres 6,343 Approved Acquisition Boundary Acres [†]	Appert Lake	907.75	0	907.75	1,162.76	251	0
	Canfield Lake	310.13	3.10	313.23	453.00	149	631
	Hutchinson Lake	478.90	0	478.90	478.90	0	0
	Lake George	3,089.61	29.20	3,118.81	3,113.00	0	0
	Springwater	640.00	0	640.00	640.00	0	0
	Sunburst Lake	327.51	0	327.51	494.96	178	403

[†]NWR = national wildlife refuge; WPA = Waterfowl Production Area.



Rod Krey/USFWS

Rick Coleman, assistant regional director for refuges, examines a historical 1930s boundary sign found on Buffalo Lake NWR.

herein after described, by means of dams, dikes, fills, ditches, spillways, and other structures, for water conservation, drought relief, and for migratory bird and other wildlife conservation purposes, and/or upon said lands and waters to operate and maintain a wildlife conservation demonstration unit and a closed refuge and reservation for migratory birds and other wildlife.

The planning team needed to determine which rights the Service would regulate prior to planning the future of the Program. To make this determination, the planning team examined dozens of historical documents, correspondence, and several solicitor’s opinions to better understand the intent of the Program and define such terms as “wildlife conservation demonstration unit” and “closed refuge and reservation for migratory birds.”

2.3 U.S. Fish and Wildlife Service and Landowner Rights

Since the Program was established, some have questioned what rights the government purchased from the landowners relative to the refuges. Overall, the variations in the limited-interest refuge agreements are whether the agreement was perpetual or revocable, and whether it was a flowage and/or limited-interest refuge. Most agreements include the following standard language:

The exclusive (and perpetual) right and easement to flood with water, and to maintain and operate an artificial lake, and/or to raise the water level of a natural lake or stream, upon the land

The limited-interest refuge agreements with a flowage provision focus on the impoundment or main body of water. In the 1930s and 1940s, the federal government funded the installation of dams, dikes, spillways, and other structures to impound and manage water for water conservation and wildlife habitat. The Service also has a senior water right on 38 of the refuges. The Service’s water rights to the impoundment or main body of water may be through structures or an established water right, and provide authority to manage water uses. The Service manages water uses, including fishing, boating, and water skiing, to minimize or eliminate negative impacts on

migratory birds and other wetland-dependent wildlife.

Hunting, especially market hunting, was an issue at the time the refuges were established. It was clear in the documentation that the Service was given the right to control hunting, including the right to allow it. Trapping was identified as an economic benefit of the limited-interest refuges when the Program was established. Over time, trapping has become more a recreational use than an economic use. Today, trapping has become a management tool necessary to control unnaturally high populations of predators of nesting waterfowl and other grassland birds. The Service issues special use permits to each individual trapper.

According to limited-interest refuge agreements and historical records, it appears the intent was not to control the uses that occur on the uplands or naturally occurring wetlands, apart from hunting. Many of these refuges are farmed, grazed, or have been developed. In some cases, development took place prior to the limited-interest refuge agreements, in particular, farmsteads and recreational cabins.

There is no clearly defined Service right to control activities in uplands, even though the activities may impact upland-dependent wildlife.

Some naturally occurring wetlands have a significant value to wetland-dependent wildlife. However, there appears to be no clearly defined right in the agreements or the historical records that the Service intended to control the management and uses that occur on wetlands.

The planning team developed a final list of rights and uses they felt the Service should and should not regulate based on the authority of the limited-interest refuge agreement and the intent of the Program as described in historical documents:

Uses the Service will regulate include:

- all hunting and trapping activities;
- water level management of impoundments;
- management/regulation of any activities that occur on the impoundments or main body of water to minimize or eliminate

negative impacts on migratory birds and other wetland-dependent wildlife.

Uses the Service will not regulate include:

- any development or other activities (other than hunting) that occur on the uplands;
- management of naturally occurring wetlands.

If the Service wishes to control these uses it will work with willing landowners to provide additional compensation through other programs to acquire these rights (see chapter 6 for more information).

2.4 Purposes of the Limited-interest Refuges

For this plan, the refuges are combined to evaluate them as a group and a Program. The purposes and management capabilities and challenges are similar for all 39 refuges.

All limited-interest refuges were established and are regulated by the associated refuge and/or flowage easements. Where flowage easements were acquired, the Service also filed for water rights using the process established by North Dakota law existing at the time. Even though these lands became national wildlife refuges, the refuge and/or flowage easement language (see previous section) is the overriding purpose on lands that remain in private ownership. The language of the establishing legislation is relevant only to those lands owned by the government. Information, including the refuge purpose, for each of the 39 refuges is summarized in table 4).

Starting in 1939, approved acquisition boundaries were established around adjoining limited-interest refuges and designated as Migratory Bird Sanctuaries, later renamed national wildlife refuges. The overriding purpose of these refuges is management of migratory birds.

Thirty-one refuges established under executive orders signed in 1939 by President F.D. Roosevelt: "as a refuge and breeding ground for migratory birds and other wildlife."

Seven refuges established in 1948 under a precursor to the Fish and Wildlife Coordination Act (August 14, 1946, 60, Stat. 1080): "shall be administered by him [Secretary of Interior] directly or in accordance with cooperative agreements ... and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife, resources thereof, and its habitat thereon."

In 1971 the limited-interest refuge that covers what is now Lake Otis NWR was "rediscovered" at which time the Director established it as a refuge under the Migratory Bird Conservation Act: "for use as an inviolate sanctuary, or for any other management purpose, for migratory birds."

All goals, objectives, and strategies are intended to support the individual purposes for which each refuge was established.

2.5 Vision and Goals

After public scoping, the Service developed a vision for the Program. A vision describes what will be different in the future as a result of the CCP and the essence of what the Service is trying to do for these refuges and its partners. The vision is a future-oriented statement designed to be achieved through refuge management by the end of the 15-year CCP planning horizon.

Vision Statement

Since our Nation's beginning, great flocks of wildfowl—ducks, geese and water-birds—provided sights and sounds, food and feather. These wings of migration not only inspired hunters but some of our greatest artists, photographers, and poets. In the 1930s, much of the United States, including North Dakota, was gripped by a devastating drought and depression. Hot winds that dried crops also dried wetlands. Wildfowl numbers plummeted, and the skies grew quiet.

Americans took this crisis and saw opportunity and a great partnership was formed. Conservation leaders, the state of North Dakota, the federal government, and private landowners laid the foundation for what would become the North Dakota Limited-interest Program. This Program addressed both wildlife conservation and economic needs. The Works

Progress/Program Administration and Civilian Conservation Corp brought jobs to the communities building dams and other structures to create water areas that now provide habitat and sanctuary for waterfowl and other migratory birds.

Through cooperation with the current refuge landowners and other conservation partners, the Program will realize its full potential. It will become a premier example of private land partnerships promoting fish and wildlife conservation, supporting other conservation programs while continuing to serve as sanctuaries for international migratory birds.

Goals

The Service also developed a set of goals for the Program based on the Improvement Act and information gathered during CCP planning. Five goals were identified.

Goal 1. Wetland Habitat: Maintain and manage natural and created wetlands within the approved acquisition boundary to provide habitat for international populations of waterfowl and other migratory birds along with other wetland-dependent wildlife.

Goal 2. Upland Habitat: Establish a land protection program within the approved acquisition boundary to maintain, restore, and enhance uplands to provide habitat for international populations of waterfowl, other migratory birds, and other wildlife.

Goal 3. Partnerships: Foster beneficial landowner, community, and regional partnerships to assist in achieving the Program vision while ensuring 100 percent of all partners gain a greater understanding of the management and resources of the limited-interest refuges.

Goals 4. Visitor Services: Where compatible, and in cooperation with willing landowners, allow public fishing, hunting, trapping, and other quality wildlife-dependent recreation opportunities that foster an appreciation and understanding of the management and resources of the Program and the System.

Goal 5. Administration: Secure and effectively use funding, staffing, and partnerships to ensure the Program meets its full potential of habitat protection and visitor use.

Table 4. Acres, establishment date, legislation, and purpose(s) for each refuge

<i>Refuge</i>	<i>Limited-interest Refuge Acres</i>	<i>Fee-title Acres</i>	<i>Approved Acquisition Boundary Acres</i>	<i>Establishment Date and Boundary Approval</i>	<i>Establishment Legislation or Executive Order (EO)</i>	<i>Refuge Purpose(s)</i>
Appert Lake	907.75	0	1,162.76	May 10, 1939	EO 8110	“as a refuge and breeding ground for migratory birds and other wildlife.”
Ardoch	2,388.50	307.63	2,980.00	June 12, 1939	EO 8147	“as a refuge and breeding ground for migratory birds and other wildlife.”
Bone Hill	640.00	0	640.00	May 10, 1939	EO 8162	“as a refuge and breeding ground for migratory birds and other wildlife.”
Brumba	1,977.48	0	1,977.48	June 12, 1939	EO 8148	“as a refuge and breeding ground for migratory birds and other wildlife.”
Buffalo Lake	1,539.92	23.80	2,105.00	May 10, 1939	EO 8113	“as a refuge and breeding ground for migratory birds and other wildlife.”
Camp Lake	584.70	0	1,212.44	May 10, 1939	EO 8114	“as a refuge and breeding ground for migratory birds and other wildlife.”
Canfield Lake	310.13	3.10	453.00	May 10, 1939	EO 8115 (limited-interest refuge acres) Migratory Bird Conservation Act (3.10 fee-title acres)	“as a refuge and breeding ground for migratory birds and other wildlife “for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.”
Cottonwood Lake	1,013.47	0	1,013.00	June 12, 1939	EO 8149	“as a refuge and breeding ground for migratory birds and other wildlife.”
Dakota Lake	2,799.78	0	2,784.00	May 10, 1939	EO 8117	“as a refuge and breeding ground for migratory birds and other wildlife.”
Half Way Lake	160.00	0	160.00	May 10, 1939	EO 8120	“as a refuge and breeding ground for migratory birds and other wildlife.”
Hiddenwood	568.35	0	568.00	June 12, 1939	EO 8150	“as a refuge and breeding ground for migratory birds and other wildlife.”
Hobart Lake	1,831.21	245.89	1,840.00	June 12, 1939	EO 8151	“as a refuge and breeding ground for migratory birds and other wildlife.”
Hutchinson Lake	478.90	0	478.90	May 10, 1939	EO 8121	“as a refuge and breeding ground for migratory birds and other wildlife.”
Johnson Lake	2,003.42	4.49	1,928.00	May 10, 1939	EO 8120	“as a refuge and breeding ground for migratory birds and other wildlife.”
Lake George	3,089.61	29.20	3,113.00	June 12, 1939	EO 8153	“as a refuge and breeding ground for migratory birds and other wildlife.”

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Lake Otis	320.00	0	640.00	Aug. 4, 1971	Migratory Bird Conservation Act	“for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.”
Lake Patricia	800.23	0	1,434.23	June 12, 1939	EO 8156	“as a refuge and breeding ground for migratory birds and other wildlife.”
Lambs Lake	1,206.67	0	1,318.00	June 12, 1939	EO 8159	“as a refuge and breeding ground for migratory birds and other wildlife.”
Little Goose	288.41	0	359.04	May 10, 1939	EO 8125	“as a refuge and breeding ground for migratory birds and other wildlife.”
Lords Lake	1,915.29	0	1,915.22	May 10, 1939	EO 8127	“as a refuge and breeding ground for migratory birds and other wildlife.”
Lost Lake	960.21	0	960.00	May 10, 1939	EO 8128	“as a refuge and breeding ground for migratory birds and other wildlife.”
Maple River	712.00	0	1,120.00	June 12, 1939	EO 8162	“as a refuge and breeding ground for migratory birds and other wildlife.”
Pleasant Lake	897.80	0	1,020.00	June 12, 1939	EO 8164	“as a refuge and breeding ground for migratory birds and other wildlife.”
Pretty Rock	800.00	0	800.00	Feb. 3, 1941	EO 8659	“as a refuge and breeding ground for migratory birds and other wildlife.”
Rabb Lake	260.80	0	261.00	Dec. 21, 1948	Act of August 14, 1946 (precursor to the Fish and Wildlife Coordination Act)	“shall be administered ... for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon.”
Rock Lake	5,505.96	0	5,557.00	June 12, 1939	EO 8165	“as a refuge and breeding ground for migratory birds and other wildlife.”
Rose Lake	839.30	0	1,250.00	Dec. 21, 1948	Act of August 14, 1946 (precursor to the Fish and Wildlife Coordination Act)	“shall be administered ... for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon.”
School Section Lake	297.30	0	680.00	Dec. 21, 1948	Act of August 14, 1946 (precursor to the Fish and Wildlife Coordination Act)	“shall be administered ... for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon.”

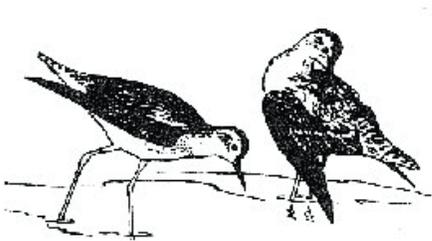
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Sheyenne Lake	797.30	0	1,273.00	Dec. 21, 1948	Act of August 14, 1946 (precursor to the Fish and Wildlife Coordination Act)	“shall be administered ... for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon.”
Sibley Lake	1,077.40	0	1,077.00	June 12, 1939	EO 8167	“as a refuge and breeding ground for migratory birds and other wildlife.”
Silver Lake	3,347.64	0	3,348.00	Dec. 21, 1948	Act of August 14, 1946 (precursor to the Fish and Wildlife Coordination Act)	“shall be administered ... for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon.”
Snyder Lake	1,550.18	0	1,550.18	Feb. 3, 1941	EO 8660	“as a refuge and breeding ground for migratory birds and other wildlife.”
Springwater	640.00	0	640.00	Feb. 3, 1941	EO 8661	“as a refuge and breeding ground for migratory birds and other wildlife.”
Stoney Slough	880.00	0	2,000.00	Feb. 3, 1941	EO 8663	“as a refuge and breeding ground for migratory birds and other wildlife.”
Sunburst Lake	327.51	0	494.96	Feb. 3, 1941	EO 8664	“as a refuge and breeding ground for migratory birds and other wildlife.”
Tomahawk	440.00	0	440.00	Feb. 3, 1941	EO 8665	“as a refuge and breeding ground for migratory birds and other wildlife.”
Willow Lake	2,619.69	0.69	2,848.00	Dec. 21, 1948	Act of August 14, 1946 (precursor to the Fish and Wildlife Coordination Act)	“shall be administered ... for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon.”
Wintering River	239.26	0	399.12	Feb. 3, 1941	EO 8667	“as a refuge and breeding ground for migratory birds and other wildlife.”
Wood Lake	280.00	0	280.00	Dec. 21, 1948	Act of August 14, 1946 (precursor to the Fish and Wildlife Coordination Act)	“shall be administered ... for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon.”
Totals	47,296.17	614.8	54,140.33			

2.6 Special Values

The planning team and public identified special values and qualities that make most of these refuges valuable for wildlife and the American people. The limited-interest refuges:

- contribute to a complex of habitats;
- complement other conservation lands;
- provide nesting, staging, and resting areas for waterfowl;
- provide habitat for other migratory birds;
- provide a reliable water source for migratory birds during critical migration periods;
- increase hunting opportunities in surrounding areas;
- maintain water quality and quantity;
- have secure senior water rights (38 of 39 refuges);
- provide cultural value
 - historical value of the Program (dustbowl, waterfowl decline)
 - local history (Works Progress/Project Administration and Civilian Conservation Corps projects);
- provide wildlife observation opportunities;
- serve as wildlife sanctuaries.



Yellowlegs

Bob Hines/USFWS

2.7 Issues

A final list of issues was developed following an analysis of all comments collected from refuge staffs, public scoping activities, and a review of the requirements of the Improvement Act and NEPA. Substantive comments (i.e., those that could be addressed within the authority of the limited-interest refuge agreement and the management capabilities of the Service) were considered during the formulation of the alternatives for future management. Major issues are summarized below.

Wetland Management

The Service acquired the rights to “flood with water, and to maintain and operate an artificial lake, and/or to raise the water level of a natural lake or stream, upon the land ... for water conservation, drought relief, and for migratory bird and wildlife conservation purposes.” The Service also was granted the right to install structures necessary to achieve this purpose. Most of the work began in the 1930s through the Works Progress/Program Administration and Civilian Conservation Corps. Since that time, no funding or staffing has been committed for management and maintenance of created wetlands and structures. Structures have been replaced as funds become available; however, most structures are original and are in disrepair, or do not meet the standards necessary to effectively manage water for wildlife purposes.

In addition, the Service has not had funding or staffing to manage naturally occurring wetlands, currently estimated at nearly 3,000 acres. This is a significant resource for a variety of wildlife species, in particular waterfowl, shorebirds, and wading birds. If the Service wishes to protect wetlands, it must work with willing landowners to determine adequate compensation for this added protection (see section 6.3).

Upland Management

The Service regulates hunting and trapping in uplands. Development, farming, and grazing existed and have expanded on many of the limited-interest refuges since this Program was initiated 70 years ago. In some cases, these activities have caused a complete loss of biodiversity and wildlife habitat. Most refuges have varying intensities of impacts including the loss of wetlands and native grasslands.

According to “Habitat and Population Evaluation Team” (HAPET) data, about 14,060 acres of native prairie occurs on the limited-interest refuges. Most of this acreage is used for grazing and haying; however, farming and development patterns change and once this prairie is broken for farming or construction, it will be lost forever. The continued loss of upland habitat, in particular native prairie, will have the greatest impact to wildlife and the future of the Program.

Partnerships

Over 225 landowners own 93 percent of the lands within the boundaries of the limited-interest refuges. Some landowners’ parents or other relatives signed the easement refuge agreements and current landowners have since inherited the properties. In some cases, landowners were unaware the easement refuge existed. There has never been an avenue or program that has allowed for consistent, quality dialogue between landowners and the Service. Some efforts have been made to work with landowners when maintenance or rehabilitation of structures has been completed, but overall there has been little contact. Several landowners prefer this lack of contact, while others wish to be more informed on management plans and opportunities to receive compensation for additional protections such as wetland and grassland easement refuges or fee title. Assistance has occasionally been requested for maintaining water level management structures.

The Program will not succeed without the partnership of these landowners. While some of the limited-interest refuges have remained unchanged over the life of the limited-interest refuge, others have been developed extensively. Many landowners would like assistance or compensation for managing their uplands for wildlife. However, except for a few acquisitions including some additional limited-interest refuges, no funding or staffing have been allocated for this Program since it was initiated.

Some partners have shown interest in providing assistance in maintaining these refuges; however, because most limited-interest refuges are on private lands, few incentives exist for national organizations to assist in maintenance and rehabilitation. The Service’s Private Lands Program has been successful in North Dakota; however, because the limited-interest refuges already have some

protection, few attempts have been made to use this program’s limited resources for the limited-interest refuges. Most of the work accomplished on the limited-interest refuges, including boundary posting, structure maintenance, and law enforcement, is incidental to the managing stations’ other funded programs.

Visitor Services

The Improvement Act recognized that wildlife-dependent recreational uses involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation, when determined to be compatible, are legitimate and appropriate public uses of the Refuge System. However, even if a use is found to be compatible on a refuge, it may not be permitted unless the resources are available to manage that use.

The NDGF was particularly interested in determining the landowner’s willingness and compatibility of opening as many refuges as possible to provide increased recreational opportunities.

No public use on any limited-interest refuge will be permitted without access being granted by willing landowners. The Service has never had the right to permit access to the public without the landowners’ permission.

In addition, the Service cannot open refuges to any uses unless they are open to the general public. Restrictions may be placed on the number of users through permits and drawings; however, no restrictions can be placed on who may participate. The following summarizes the issues related to wildlife-dependent programs.

Consumptive Uses (hunting, fishing, and trapping). The Service has the right to control all hunting, trapping, and fishing within the boundaries of the limited-interest refuges. This includes the right to allow these uses when found compatible with the purposes and funding and staffing are available to manage the program.

Hunting and Trapping. Hunting and trapping are considered by many, including the Service, to be a legitimate, traditional recreational use of renewable natural resources. National wildlife refuges exist primarily to safeguard wildlife populations through habitat preservation. The word “refuge” includes the

idea of providing a haven of safety for wildlife and, as such, hunting and trapping might seem an inconsistent use of the System. However, habitat that typically supports healthy wildlife populations produces harvestable surpluses that are a renewable resource.

A number of landowners commented about crop and landscaping damage due to the concentration of white-tailed deer and geese. In particular, during hunting seasons, wildlife concentrate in protected areas and impact crops and landscaping due to this unnatural concentration of animals and lack of food. There is no concern that these wildlife species are in peril or declining in number. The populations are at harvestable levels.

When historical records were examined, increased trapping opportunities was seen as a benefit to establishing these refuges. At that time this benefit was more economic than biological. Since established, trapping has been permitted on these refuges on a permit-only basis. The use today is minimal, less than one trapper per refuge. However, this trapping program has become vital to the success of nesting waterfowl and grassland birds, the purpose for which these refuges were established. Studies indicate that the major source of mortality for waterfowl during the breeding season is predation (Sargeant and Reveling 1992), with greater than 70% of nest failures attributed to predation (Sovada et. al. 2001). The predator community of the prairie pothole region has drastically changed as habitat was modified by agriculture. The resulting highly cultivated and heavily fragmented landscape is more conducive to smaller predators such as fox, raccoon and skunk than it is for wolves and grizzlies. Smaller predators now occur at very high densities across the prairie breeding grounds. These smaller predators prey heavily on all ground nesting birds, including ducks. The result is that we now rarely observe nesting success in ducks over 15%, which is likely the break even point for most populations of waterfowl. This is a human-caused problem and without intervention, these small predator bases would continue to expand and devastate waterfowl and other ground nesting bird populations.

Fishing. Fishing is currently permitted on only a few refuges. The Service does control this use but must receive permission for public access from the landowners. Although the Service

controls fishing, it looks to the state to assist in managing those areas open to fishing. The state currently stocks several lakes open to the public with game fish. The landowners, the state, and the managing stations requested that we examine additional opportunities for fishing on other refuges in this project area. There was particular interest in ice fishing, a popular sport throughout the state. The Service will ensure that any current or proposed uses are compatible with the purposes of each refuge.



Boy Fishing

Paul Kerris/USFWS

Nonconsumptive Uses (wildlife observation and photography, environmental education and interpretation). Wildlife-dependent nonconsumptive uses such as wildlife observation, photography, environmental education, and interpretation, are priority public uses of the System. None of these activities are currently promoted on the limited-interest refuges. Public access must be granted by the landowners and the use must be found compatible before any public uses are permitted. It is not known what opportunities exist for these uses. However, there was some interest at public meetings and from a few landowners to develop trails and provide environmental education and interpretation opportunities, in particular for students.

Administration

Since it was established almost 70 years ago, only cursory attempts have been made to provide the guidance and resources necessary to properly manage the Program. Overall, this

Program is managed and funded incidental to the managing stations' other funded programs, such as management of fee-title refuge lands and WPAs. Funding and staffing are already insufficient to manage the current fee-title and limited-interest refuge land bases. The managing stations spend an average of only 5 days per year working on the limited-interest refuges, partly as a result of limited management abilities afforded by the limited-interest refuge agreement. However, the lack of attention has equated to a loss of biodiversity and management capability as areas become developed and water management structures lose integrity.

Divestiture

The North Dakota Limited-interest Program was initiated to address a variety of issues relevant in the 1930s including a widespread depression and drought, market hunting, and wildlife preservation. This was also the era of one of the largest land conservation movements in history. Many of the national wildlife refuges in existence today were established during this era by such conservation leaders as J. Clark Salyer, Jr., Ding Darling, and Director M.O. Steen. This was also the time President Franklin Roosevelt introduced the "New Deal," which created such programs as the Works Progress/Project Administration and the Civilian Conservation Corps.

Representatives from the Bureau of Biological Survey (precursor the U.S. Fish and Wildlife Service) traveled throughout North Dakota and other states meeting with landowners and securing refuge and/or flowage easements. Hundreds of these easements were signed followed by dozens of limited-interest refuges being established through executive order and other legislation. Local communities were provided jobs as water management structures were built to provide critical water for migratory birds and livestock.

In the 1950s, there was an effort to re-evaluate each refuge to determine its ability to function as a refuge. A field team from the Service

traveled to each refuge and habitats were evaluated at a cursory level. Many refuges were heavily impacted by development, while some easement agreements had been acquired on areas that possessed little or no wildlife habitat. Although the process is not well documented, it appears that dozens of limited-interest refuges were divested based on this report.

Following this effort, several limited-interest refuges began to receive greater attention. Some of them have since become fully functioning national wildlife refuges, primarily due to land acquisitions.

The most recent divestiture of a limited-interest refuge occurred in 1999 on Lake Elsie National Wildlife Refuge. Public Law 105-312, adopted October 30, 1998 (110 Stat. 2957), terminated the Service's easement on 634.7 acres and repealed Executive Order 8152, thus abolishing the refuge. The Service requested the action, as all migratory bird values had been lost to development, which under the terms of the easement and EO creating the refuge, the Service had no authority to control. This same justification is being used for several of the limited-interest refuges proposed for divestiture in this document.

This CCP process is only the second recorded attempt to comprehensively evaluate the limited-interest refuges and determine each refuge's worthiness to be part of the System. It is critical to complete this evaluation. Any resources obtained for this Program must be used on those refuges that truly have the potential to meet the purposes for which they were established and the goals and mission of the System. Refuges that cannot meet this standard, or that have been or can be managed by the state of North Dakota, which owns many of these refuge lands, must be considered for divestiture.

