

## Appendix G



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# **Summary of Public Comments and Service Responses on the Draft Comprehensive Conservation Plan and Environmental Assessment for the Rappahannock River Valley National Wildlife Refuge**

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December 3, 2009

## Introduction

In July 2009, we completed the “Rappahannock River Valley National Wildlife Refuge Draft Comprehensive Conservation Plan and Environmental Assessment” (Draft CCP/EA). That draft refuge plan outlines three alternatives for managing the refuge over the next 15 years, and identifies Alternative B as the “Service-preferred Alternative.” We released the draft plan for 35 days of public review and comment from July 23 to August 28, 2009.

We evaluated all the letters and e-mails sent to us during that comment period, along with comments recorded in our two public meetings. This document summarizes those comments and provides our responses to them. Based on our analysis in the Draft CCP/EA, and our evaluation of comments, we modified Alternative B, and recommended it to our Regional Director for implementation. It is that modified Alternative B which is detailed in this CCP. Our modifications include additions, corrections, or clarifications of our preferred management actions. We have also determined that none of those modifications warrants our publishing a revised or amended draft CCP/EA before publishing the CCP.

These are some important changes we made.

1. We included a map of the proposed public use facilities on the Wellford Tract that we inadvertently omitted in the draft CCP/EA.
2. We inserted language recognizing the important partnership we have with state agencies and the need to follow required state regulations during construction of new facilities.
3. We clarified our position on cooperative farming.
4. We clarified our position regarding use of gas-powered boats and water access.
5. We corrected all format and typographical errors that were brought to our attention.

Our Regional Director will either select our modified Alternative B for implementation, or one of the other two alternatives analyzed in the Draft CCP/EA, or a combination of actions from among the three alternatives. He will also determine whether a Finding of No Significant Impact (FONSI) is justified prior to finalizing his decision. He will make his decision after:

- Reviewing all the comments received on the Draft CCP/EA, and our response to those comments; and,
- Affirming that the CCP actions support the purpose and need for the CCP, the purposes for which the refuge was established, help fulfill the mission of the Refuge System, comply with all legal and policy mandates, and work best toward achieving the refuge’s vision and goals.

Concurrent with release of the approved CCP, we are publishing a notice of the availability in the *Federal Register*. That notice will complete the planning phase of the CCP process, and we can begin its implementation phase.

## **Summary of Comments Received**

Given our interest in an objective analysis of the comments we received, we enlisted the U.S. Forest Service's Recreation Solutions Enterprise Team (FS) in compiling a database that would identify and code specific issues and concerns. That team has particular expertise in providing unbiased analyses of public comments on major proposals by federal land management agencies, a process called "content analysis". The team evaluated and coded all of the comments we received, including all letters, e-mails, and comments recorded at public meetings. Our responses below follow the subject headings in their coding structure.

During the comment period, we received 47 responses, both written and oral.

We gathered oral comments at the following two public meetings attended by 12 people:

July 30, 2009: Virginia Department of Game and Inland Fisheries Headquarters,  
Richmond, Virginia

July 30, 2009: Rappahannock Community College-Warsaw Campus, Warsaw, Virginia

We received a consolidated letter compiled by the Virginia Department of Environmental Quality which included comments from the eight state agencies listed below. We either refer to that letter herein as the "VA DEQ" letter, or refer to respective agency comments.

Virginia Department of Game and Inland Fisheries (VA DGIF)

Virginia Department of Environmental Quality (VA DEQ)

Virginia Department of Conservation and Recreation (VA DCR)

Virginia Department of Health (VA DH)

Virginia Department of Transportation (VA DOT)

Virginia Marine Resources Commission (VA MRC)

Virginia Department of Historic Resources (VA DHR)

Virginia Department of Forestry (VA DOF)

We also received comments from these organizations.

Animal Protection Institute  
Northern Virginia Chapter of Delta Waterfowl

In the discussions below, we address every substantive comment received. Occasionally, the FS would code the same comment under two or more subject headings. In our responses, we may refer the reader to other places in this document where we address the same comment.

Directly beneath each subject heading, you will see a list of unique letter ID numbers that correspond to the person, agency or organization that submitted the comment. The cross-referenced list appears as attachment 1 to this appendix.

In several instances, we refer to specific text in the Draft CCP/EA, and indicate how the CCP was changed in response to comments. You have several options for obtaining the full version of either the Draft CCP/EA or the CCP. They are available online at <http://www.fws.gov/northeast/planning/Rappahannock/ccphome.html>. For a CD-ROM or a print copy, contact the refuge headquarters.

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## **Service Responses to Comments by Subject**

### **Planning Process and Policy**

#### **Public Involvement**

(Letter ID#: 15, 41, 45)

Comment: Two members of the Northern Virginia Chapter of Delta Waterfowl ask the U.S. Fish and Wildlife Service (Service; we, us) to include their organizations in future planning and implementation activities at Rappahannock River Valley National Wildlife Refuge (Refuge). Both individuals write, "...We would like to be involved as much as possible."

A third commenter states there was a need to increase, "community outreach, refuge visitation, and develop new partners, work with local government and private attractions within the refuge acquisition boundary to develop a Northern Neck Visitor Trail Guide."

Response: We appreciate the interest in helping to implement the CCP. We will follow-up with those individuals and organizations with interest in our activities so we can determine specifically how they would like to be involved. We would also like to point out we currently engage many members of our community through working closely with the Rappahannock Wildlife Refuge Friends Group and our Volunteer Program.

With regard to increasing community outreach, and seeking new partners to coordinate such activities as a regional recreational guide, we whole-heartedly agree. Goal 5 in our plan is specifically intended to enhance our existing local and regional partnerships, and develop new ones. These partnerships help us make a meaningful contribution in the communities we serve and to strengthen support for the conservation missions of the Service and the Refuge System. In Chapter 4, under Goal 5, Objective 5.5—Local Partnerships, we identify a general strategy to "...collaborate on special projects with existing partners..." We have also now added a strategy under this objective to work with partners to develop a Northern Neck regional visitor's guide.

#### **Document (Clarity, Technical, Editorial, Availability of Document on Website)**

(Letter ID#: 19, 24, 44, 45, 47)

Comment: A couple of commenters state they could not access the webpage link to the documents, including a link printed in a local newspaper.

Response: We regret this inconvenience and apologize for any frustration that resulted. We submitted a news release to several media outlets, including newspapers. One publication copied our webpage link incorrectly. We are not always able to obtain proofs prior to publication, but will continue to request them to avoid this problem in the future.

Comment: Several commenters point out typographical errors, corrections, or updates they recommend we fix in the CCP. In some cases, the commenter suggests different language to use to help clarify a point we were trying to make. One commenter suggests we consistently use the Service's standard question format for all compatibility determinations. The deer hunting compatibility determination in Appendix B of the Draft CCP/EA was pointed out as an example of one that was inconsistent. This person also recommends that the previously approved compatibility determinations for cooperative farming, research, and deer hunting which were published in Appendix B be "...re-signed and dated prior to issuance of the CCP. This will ensure all of the compatibility determinations in the final CCP are current, and have the same mandatory 10 or 15 year reevaluation times."

Response: We are sure our readers can appreciate how, given the level of detail we provide in these plans, that we are bound to have typographical errors or passages in the document that need clarification. In the CCP, we correct all typographical or factual errors that were brought to our attention, and changed some text with suggested language.

With regards to re-issuing existing, approved compatibility determinations, the Refuge Manager felt that no change was needed to the three existing determinations mentioned (i.e. cooperative farming, research, and deer hunting), so they were incorporated as is. There is no requirement to re-issue them prior to their mandatory re-evaluation date if no new significant information warrants it. These approved compatibility determinations are included in their original format in the Draft CCP/EA and in the CCP. Subsequent re-evaluations of those individual compatibility determinations will incorporate the Service's recommended format.

### **Statutory and Regulatory Authority (Acts, Mandates & Policies)**

(Letter ID#: 37, 47)

Comment: One commenter, writing on behalf of the Animal Protection Institute, is concerned that the Service is not addressing specific laws and policies in the proposed actions and analysis in the Draft CCP/EA. Specifically mentioned are the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd), and Service policy (602 FW § 1.4A). This commenter states that current refuge activities have strayed from the intent of this law and policy which "...directs that wildlife comes first in the National Wildlife Refuge System" (602 FW § 1.4A). They further state "...our organization strongly believes that the Rappahannock River Valley National Wildlife Refuge should serve as a sanctuary for wildlife and as a native ecosystem preserve. Management should emphasize wildlife and habitat protection over public recreational uses." Activities they specifically mention that should receive detailed evaluations in compatibility determinations include "hunting, fishing, trapping, motor boating and jet skiing." The commenter also hopes we adopt a management policy "...stipulating that in instances where wildlife activity appears to be a threat to property, facilities, human safety, or threatened or endangered species protection, that humane, non-lethal management techniques will be used unless proven to be ineffective in the particular situation."

Response: We disagree that we have strayed from the intent of law and policies governing management of national wildlife refuges in our CCP. In Chapter 1 of the Draft CCP/EA, and Chapter 2 of the CCP, we describe the many laws, mandates, orders and Service policy

that we are consistent with in this CCP. The Refuge Improvement Act, referenced in the comment statement above, requires the Service to manage refuges as a system of lands (e.g. the National Wildlife Refuge System), not as individual field stations. The Act also defined six public uses and priority public uses to receive enhanced consideration in refuge planning documents. Those six uses are: hunting, fishing, wildlife observation, nature photography, environmental education, and interpretation. There was no priority assigned among the six uses. Refuge Managers are responsible for assessing whether a use is “appropriate” and “compatible” before they will allow it. To determine a use is compatible, the Refuge Manager must determine that the activity will not materially interfere with or detract from fulfilling the mission of the National Wildlife Refuge System or the establishing purposes of the refuge. The Refuge Manger also must be careful that the use does not detract from or conflict with other allowable uses. The use must be evaluated in terms of its anticipated impacts on refuge natural resources, and whether the staffing and funding for managing it are adequate.

In both the draft and final plans, in Appendix B, the Refuge Manger documents his decision on which compatible uses to allow for this refuge and why. Hunting and fishing are included. Activities not included are therefore not allowed, such as jet skiing and public trapping. Boating is only permitted to facilitate one or more of the six priority uses. No gas-powered motors are permitted and no launching facilities exist, or are planned, for power boats on refuge lands. In addition, we wish to point out that the Service does not have jurisdiction to control these activities on the river or in other navigable waters.

Comment: The VA DEQ letter comments extensively on the regulatory and coordination requirements of implementing the CCP. Much of what is referenced involves meeting local and state regulatory requirements and obtaining the correct permits before developing new facilities.

Response: We will adhere to all applicable permit rules and regulations required for national wildlife refuges. We will make this point in the CCP, Chapter 4, under “General Refuge Management, Refuge Staffing and Administration—Facilities Construction and Maintenance.” There were other management recommendations in the VA DEQ letter which we discuss under each respective subject heading below. Most of those recommendations are added to our CCP as strategies.

### **Request for Information**

(Letter ID#: 27, 42, 44, 47)

Comment: The VA DEQ letter requests more detailed information regarding proposed construction activities. Their letter indicated that the information provided in the Draft CCP/EA was limited and unclear and lacking detail with respect to proposed construction activities. Consequently, the reviewing state agencies felt they could not adequately comment on planned construction projects, specifically the headquarters and visitor center on the refuge’s Hutchinson tract near Tappahannock. Although aerial photographs identifying tract boundaries and other information were included in the Draft CCP/EA, the comment is that they are not a proper substitution for topographic maps and site plans for the proposed

construction projects. Also, the reviewers felt the document does not provide necessary information on utilities and other associated impacts. The agencies request that, prior to implementing construction projects, the Service submit a Federal Consistency Determination in accordance with the Coastal Zone Management Act and federal consistency regulations implementing the Act.

Response: We plan to meet with affected state agencies once we have completed detailed site plans for the proposed new Headquarters and Visitor Facility on the Hutchinson tract. We will adhere to all applicable permitting rules and regulations to insure full compliance with the Coastal Zone Management Act and the requirements for a federal consistency determination.

## **Alternatives**

(Letter ID#: 37)

Comment: One respondent, representing the Animal Protection Institute, expresses concern regarding the formulation of alternatives in the Draft CCP/EA. Their organization states a "... need for additional management alternatives." Specifically, they would like to see the following actions incorporated in an alternative: closing the refuge to hunting and trapping, prohibiting all motorized watercraft except when needed for wildlife observation or research, and the use of only non-lethal wildlife control methods when animals must be managed to reduce threats to property, facilities, human safety, or threatened or endangered species.

Response: We disagree that any of these actions warrants a separate alternative. With regards to hunting, the respective compatibility determination, in Appendix B of both the draft and final plans, explains our rationale for allowing it. Public trapping is not allowed on the refuge. We discuss trapping further under the section "Fish and Wildlife Resources" below. As stated above, boating is permitted only to facilitate one or more of the six priority uses. Launch areas are developed for small watercraft such as canoes, kayaks, and jon boats. Gas-powered motors are prohibited on refuge waters.

### **Alternative A: Current Management (No Action Alternative)**

(Letter ID#: 20, 21)

Comment: Two commenters write in support of Alternative A. Their reasons include supporting "...the good of the wildlife assets in this pristine part of our Commonwealth" and not wanting to change current conditions.

Response: Alternative A was fully analyzed as an option in the Draft CCP/EA, but is not the alternative recommended by our planning team. Our team is recommending Alternative B because we believe, in our best professional judgment, it best achieves the purposes, vision, and goals of the refuge; contributes to the mission of the Refuge System; adheres to Service policies and other mandates; addresses identified issues of significant; and, incorporates sound principles of fish and wildlife science. In summary, we believe it fully protects and enhances the wildlife resources we are entrusted to manage.

**Alternative B: Enhanced Habitat Diversity (Service-preferred Alternative**

(Letter ID#: 3, 30, 32, 33, 35, 43, 47)

Comment: Seven respondents specifically comment that they prefer Alternative B, although not all gave reasons for that support. One respondent specifically supports Alternative B's continued "...grassland/old field management rather than moving to forest management." This person feels that managed forests are already well-represented within the region and that the, "...grassland concept is something we need here in this region, in my opinion." Others indicated support because of the proposal to evaluate waterfowl and/or turkey hunting opportunities, or because it included plans to increase refuge staff and support the volunteer program.

Response: We appreciate the support for our recommended alternative.

**Refuge Physical, Natural and Biological Resources (General Comments)**

(Letter ID#: 11, 37)

Comment: One respondent emphasizes that "...This area should continue to be a refuge for animals and birds and a protected area for plant life as well." They specifically mention the proposal to expand hunting opportunities as an activity that would detract from their idea of a refuge.

Response: Using our best professional judgment, we developed goals and objectives for Alternative B in the Draft CCP/EA, and carried them forth in the CCP that would conserve and protect natural resources. Those goals and objectives were developed after consulting with wildlife experts in federal and state agencies, as well as with researchers current in their field. Chapter 5 of both the Draft CCP/EA and CCP provide a summary of our coordination and consultation with others.

Comment: One commenter felt there is a need for a "...rigorous biological assessment" to assess the biological resources on the refuge. The commenter went on to request "...that the CCP include a thorough evaluation of all recreational activities presently allowed on the refuges and their impacts on native flora and fauna, particularly threatened and endangered species."

Response: We concur that an inventory and monitoring program, coupled with needed research, are important to evaluating the effects of our management. In Chapter 2 of the Draft CCP/EA, we describe many research studies, and inventory and monitoring activities which have been done on the refuge in recent years. We considered the results of each of these projects when developing our goals and objectives. Also in the Draft CCP/EA Chapter 2, a refuge step-down plan we commit to completing within two years of CCP approval is the Inventory and Monitoring Plan. That plan will detail "why, where, when and how" we will conduct inventory and monitoring activities, including those related to recreational activities, and will prioritize them. We also discuss in Chapter 3 of the Draft CCP/EA many

activities that have an inventory and monitoring component that are “Actions Common to All Alternatives” and we identify “Monitoring Elements” under Goals 1, 2 and 3, which are specific activities we want to incorporate into the step-down plan. All of the above inventory and monitoring activities are carried forth in the CCP.

We recognize the need to enhance and prioritize our monitoring, inventory, and research activities to insure we are utilizing an adaptive management strategy and adjusting to those results, as we discussed in our introduction to Alternative B in the Draft CCP/EA. We take very seriously our responsibility to protect fish, wildlife, and plant resources, especially those that are species of conservation concern. Federal-listed species, in particular, are a focus. Strategies under Goal 3, Objective 3.1., specifically mention activities to protect the Federal-listed sensitive joint vetch from threats, which would include human activities. Our Ecological Services Virginia Field office reviewed Alternative B and concurred that implementing it is not likely to have an adverse effect on any listed species. The results of that review and consultation are included as Appendix F.

## **Global Climate Change**

(Letter ID#: 45)

Comment: One comment is on our discussion of global climate change in Chapter 2 of the Draft CCP/EA. The respondent requests that we explain other environmental factors, beyond climate change, that have contributed to the past loss and erosion of marshes. This person felt that we oversimplified this discussion and also suggested that we further explain the differences between salt water intrusion and sea level rise.

Response: We clarify several points we make in our discussion of climate change in the CCP in Chapter 3, under “Global Climate Change.”

## **Refuge Administration**

(Letter ID#: 35)

Comment: One commenter, who volunteers on the refuge, advocates for the refuge to obtain additional staff and new building facilities. He states that he sees the need for the additional assistance based on his experiences working there.

Response: We appreciate this recognition of our needs. We carried forth in the CCP the Alternative B recommendation to increase our staff to 11, and to develop new facilities and improve existing ones to better serve the public across the four refuges in the Eastern Virginia Rivers Refuge Complex.

## **Solid Waste Management/Hazardous Materials**

(Letter ID#: 47)

Comment: The VA DEQ comments on the solid and hazardous waste management requirements in Virginia. Their letter states, "...All Virginia localities are required, under the Solid Waste Management Planning Regulations, to identify the strategies they will follow on the management of their solid wastes to include items such as facility siting, long-term (20-year) use, and alternative programs such as materials recycling and composting." They suggested the Service conduct an environmental investigation to determine if there are any solid or hazardous waste sites in proximity to the property where the construction will be located and to identify any issues before construction should commence.

Response: We include these recommendations in the CCP. They have been added to Chapter 4, under "General Refuge Management, Refuge Staffing and Administration—Facilities Construction and Maintenance."

## **Resources**

### **Air Quality**

(Letter ID#: 47)

Comment: The VA DEQ letter comments on the impacts to air quality related to the open burning activities and localized effects from construction vehicles and equipment exhaust due to the construction activities proposed in the Draft CCP/EA. They indicate we would need to obtain the "necessary permits to construct and operate all stationary sources in the region as well as monitoring emissions from these sources for compliance" and "If the project includes the burning of vegetative debris and construction or demolition material, this activity must meet the requirements under 9VAC5-130 et seq. of the regulations for open burning, and it may require a permit." They also suggest methods to minimize the fugitive dust caused during construction activities and requirements for open burning, as outlined in 9VAC5-50-60 et seq. of the Regulations for the Control and Abatement of Air Pollution.

Response: We will adhere to all requirements for permits and consultations that apply to national wildlife refuges. In addition we will include the following recommendations for minimizing fugitive dust during construction as strategies in the CCP in Chapter 4 under "General Refuge Management, Refuge Staffing and Administration—Facilities Construction and Maintenance."

- Use, where possible, of water or chemicals for dust control
- Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials
- Covering of open equipment for conveying materials
- Prompt removal of spilled or tracked dirt or other materials from paved streets and removal of dried sediments resulting from soil erosion

## **Coastal Zone Management**

(Letter ID#: 47)

Comment: The VA Coastal Zone Management Program (VA CZMP) emphasized that in addition to its responsibilities under the Coastal Zone Management Act to insure consistency, it could play a partnership role in CCP planning, including land protection, blue and green infrastructure planning, and public access. They describe several initiatives they are involved to promote these programs. They suggest the Service include a brief description of these initiatives in the final CCP to “help to enhance coordination...” and also that the Service includes representatives from each of the planning district commissions in future refuge planning efforts.

Response: We now identify the VA CZMP as a prospective partner in the CCP, Chapter 4, under “General Refuge Management, Protecting Land. In addition, we include a partnership with this agency as a strategy in Chapter 4 under Goal 5, Objective 5.4—Intergovernmental Partnerships.

## **Prescribed Burning**

(Letter ID#: 39)

Comment: One commenter recommends that all prescribed burning be banned in the area, stating the “...release of fine particulate matter” contributes to medical issues such as “...lung cancer, heart attacks, strokes, pneumonia, and asthma.”

Response: We burn approximately 240 acres/year following strict protocols designed to minimize impacts to human health and safety. We only burn when wind conditions are such that smoke and particulate matter are well diluted in the atmosphere and carried away from sensitive areas such as hospitals, or concentrations of residential development. We obtain all permits and follow all regulations and notification requirements for national wildlife refuges.

## **Water Resources**

(Letter ID#: 47)

Comment: The VA DEQ letter requests that all efforts should be taken to avoid impact to adjacent streams, rivers or wetlands (including water supply). They concur “...that this project will not adversely affect surface water, wetland or groundwater resources.” Furthermore they request that Corey Chamberlain with the DEQ Piedmont Regional Office is contacted prior to land disturbing activities to ensure consistency with the Virginia Water Protection Program if surface waters or wetlands are proposed to be impacted. Comments specific to water supply include, “[Virginia Department of Health] states that potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility.” They also make specific recommendation to mitigate water resource impacts.

Response: We will adhere to all requirements for permits and consultations that apply to national wildlife refuges. In addition, we will include the following recommendations for protecting water resources as strategies in CCP Chapter 4, under “General Management, Refuge Staffing and Administration—Facilities Construction and Maintenance”:

- Grounds should be landscaped with hardy native plant species to conserve water as well as minimize the need to use fertilizers and pesticides.
- Convert turf to low water-use landscaping such as drought resistant grass, plants, shrubs and trees.
- Low-flow toilets should be installed in new facilities.
- Consider installing low-flow restrictors/aerators to faucets.
- Improve irrigation practices by upgrading with a sprinkler clock; watering at night, if possible, to reduce evapotranspiration (lawns need only 1 inch of water per week and do not need to be watered daily; over watering causes 85 percent of turf problems);
- Improve irrigation practices by installing a rain shutoff device
- Improve irrigation practices by collecting rainwater with a rain bucket or cistern system with drip lines.
- Consider replacement of old equipment with new high-efficiency machines to reduce water usage by 30-50 percent per use.
- Check for and repair leaks (toilets and faucets) during routine maintenance activities.
- Design stormwater controls to replicate and maintain the hydrographic condition of the site prior to the change in landscape. This should include, but not be limited to: Utilizing bioretention areas; and minimizing the use of curb and gutter in favor of grassed swales. Bioretention areas (also called rain gardens) and grass swales are components of low impact development. They are designed to capture stormwater runoff as close to the source as possible and allow it to slowly infiltrate into the surrounding soil. They benefit natural resources by filtering pollutants and decreasing downstream runoff volumes.
- When designing and constructing new trails, use permeable trail surfaces that allow the infiltration of groundwater into the soil.

### **Wetlands**

(Letter ID#: 47)

Comment: The VA DEQ letter requests that undisturbed forest, stream, and wetland impacts should be avoided to the maximum extent practicable. They make specific recommendations to minimize unavoidable impacts to wetlands and waterways when planning for land-disturbing activities.

Response: We will adhere to all requirements for permits and consultations that apply to national wildlife refuges. In addition, we will include the following recommendations for protecting wetlands as strategies in CCP Chapter 4 under Goal 3, Objective 3.1—General Wetlands Protection:

- Operate machinery and construction vehicles outside of stream-beds and wetlands; use synthetic mats when in-stream work is unavoidable.
- Preserve the top 12 inches of material removed from wetlands for use as wetland seed and root-stock in the excavated area.
- Place heavy equipment, located in temporarily impacted wetland areas, on mats, geotextile fabric, or use other suitable measures to minimize soil disturbance, to the maximum extent practicable.
- Restore all temporarily disturbed wetland areas to pre-construction conditions and plant or seed with appropriate wetlands vegetation in accordance with the cover type (emergent, scrub-shrub or forested). The applicant should take all appropriate measures to promote re-vegetation of these areas. Stabilization and restoration efforts should occur immediately after the temporary disturbance of each wetland area instead of waiting until the entire project has been completed.
- Place all materials which are temporarily stockpiled in wetlands, designated for use for the immediate stabilization of wetlands, on mats or geotextile fabric in order to prevent entry in state waters. These materials should be managed in a manner that prevents leachates from entering state waters and must be entirely removed within thirty days following completion of that construction activity. The disturbed areas should be returned to their original contours, stabilized within thirty days following removal of the stockpile, and restored to the original vegetated state.
- All non-impacted surface waters within the project or right-of-way limits that are within 50 feet of any clearing, grading or filling activities should be clearly flagged or marked for the life of the construction activity within that area. The project proponent should notify all contractors that these marked areas are surface waters where no activities are to occur.
- Measures should be employed to prevent spills of fuels or lubricants into state waters.
- Maintain undisturbed wooded buffers of at least 100 feet in width around all onsite wetlands and on both sides of all perennial and intermittent streams.

### **Soils and Erosion**

(Letter ID#: 47)

Comment: The VA DEQ raises concerns regarding the construction of new facilities and land disturbance. They request that we "...prepare and implement an erosion and sediment control plan to ensure compliance with state law and regulations." Also, they state "...the FWS is ultimately responsible for achieving project compliance through oversight of on-site contractors, regular field inspection, prompt action against non-compliant sites and other mechanisms consistent with agency policy." They also outlined specific recommendations for protecting soils from erosion.

Response: We will adhere to all requirements for permits and consultations that apply to national wildlife refuges. In addition, we will include the following recommendations for protecting soils in CCP Chapter 4, under “General Management, Refuge Staffing and Administration—Facilities Construction and Management”:

- Strictly adhere to erosion and sediment control, and stormwater management practices
- Establish (prior to implementation of the project) and maintain erosion and sediment control and best management practices (BMPs) during all construction/burning activities until bare soils are stabilized and vegetated to reduce the amount of surface water runoff entering the adjacent surface waters, including wetlands.
- Follow the specifications stated in the Virginia Department of Conservation and Recreation (DCR) Erosion and Sediment Control Handbook (1992, 3rd edition).

### **Historic/Cultural Resources**

(Letter ID#: 47)

Comment: The VA DHR comments on the need for the Service to consult with its department according to Section 106 of the National Historic Preservation Act. The commenter cites that “the preservation act requires federal agencies to consider the effects of federal projects on properties that are listed or eligible for listing on the National Register of Historic Places. Section 106 also applies if there are any federal involvements, such as licenses, permits, approvals or funding.”

Response: We received a letter on August 20, 2009 from Roger Kirchen, VA Department of Historic Resources after his review of the Draft CCP/EA. That letter is included as Appendix E. We will continue our consultation with his office as we plan specific activities.

### **Local Economy/Socio-Economics**

(Letter ID#: 39)

Comment: One commenter asserts that wildlife viewing activities greatly outspend hunting activities. The individual feels this greater benefit from wildlife viewing should come into consideration when developing refuge plans and programs.

Response: The six priority public uses for the Refuge System include both non-consumptive activities (i.e. wildlife observation and photography, and environmental education and interpretation) and consumptive activities (i.e. hunting and fishing). There is no priority order to these six uses. It is established in Service policy (603 FW 2) that the Refuge Manager must evaluate the compatibility of these priority activities in developing refuge programs. The process to make compatibility determinations is defined in this same policy. It considers the impacts of the activities on refuge resources and the impacts among and between other uses on the refuge. The consideration of how much a particular use contributes to the local economy is not part of the evaluation.

## **Farming**

(Letter ID#: 1, 35)

Comment: Two commenters indicate concern with a significant loss of local farmland in the area. One commenter suggests that local farming helps contribute to the local and national economy while also providing food for wildlife. The other respondent believes that a better plan than phasing out cooperative farming is to continue it on existing farmlands on the refuge and on any future farmland additions to the refuge. This commenter also feels it was important to maximize "...education and assistance to farmers to enhance their role in conservation."

Response: We have also observed the decline in farmlands in the local area. This is particularly troubling to us when the land is sold for development or otherwise results in habitat loss. We expressed our concern in more detail in the Draft CCP/EA Chapter 1, under "Issues, Concerns, and Opportunities—Land Protection." In the Draft CCP/EA, Chapter 3, "Actions Common to All Alternatives—Land Protection" we describe our land acquisition program priorities, including our easement program which is designed to protect or enhance natural resources while promoting the continuation of traditional uses of the land, including farming. In this same section, under "Cooperative Farming", we explain how this program has been an integral component of refuge habitat restoration and management over the years, and will continue to benefit us on an interim basis, while we evaluate its role in our future management direction. We also mention in this section how we will explore over the next 2 years the possibility of keeping a small area in agriculture to demonstrate and interpret best management farming practices that protect water quality and benefit wildlife habitat.

Also, in the Draft CCP/EA, Chapter 3, Alternative B, Goal 3, Objective 1.4—Grasslands/New Areas we explain a process for evaluating how we will evaluate cropland farming on existing and future refuge lands. We mention here that we would consider the potential to use fields on the Tayloe tract to conduct the demonstration and interpretation of best management farming practices.

Service policy (601 FW 3 Biological Integrity, Diversity and Environmental Health) states that "We do not allow refuge uses or management practices that result in the maintenance of non-native plant communities unless we determine that there is no feasible alternative for accomplishing refuge purpose(s). For example, where we do not require farming to accomplish refuge purpose(s), we cease farming and strive to restore natural habitats." The Refuge Manager has determined that farming is not required to achieve refuge purposes, and lands formerly in agriculture can be restored to create more benefits for wildlife than when farmed. We are taking a phased, measured approach to eliminating farming so we can appropriately restore these lands to natural habitats. If we decide that limited farming should be retained for demonstration purposes, a new compatibility determination will be required.

All of the discussions and actions mentioned above that were part of the Draft CCP/EA, are also carried forth in the CCP.

## **Fish and Wildlife Resources**

(Letter ID#: 37, 47)

Comment: The VA DGIF determines there are “likely impacts upon fish and wildlife resources and habitat, and recommends appropriate measures to avoid, reduce or compensate for those impacts” based on the proposed actions. They add recommendations to the proposed wildlife and fisheries management strategies to protect listed species and valuable resources and provide and manage hunting and fishing programs.

Response: We will include the following recommendations for protecting fish and wildlife in Chapter 4 under the respective goals and objectives noted:

- Continue to work closely with VA DGIF to develop specific wildlife and fisheries management strategies, protect listed species and valuable resources, and provide and manage hunting and fishing programs (Goal 5, Objective 5.4—Intergovernmental Partnerships).
- Continue working with VA DGIF and the National Marine Fisheries Service (NMFS) to appropriately manage the Rappahannock River and its tributaries that are designated Anadromous Fish Use Areas and protect them from degradation and coordinate with VA DGIF any time work in these waters and/or their tributaries is necessary (Goal 5, Objective 5.4—Intergovernmental Partnerships).
- Submit any proposals for a fish ladder on Wilna Pond to VA DGIF for review. More data may need to be captured to determine if target species reach the dam and whether, therefore, a fish ladder provides any benefit to the aquatic life in the streams and associated ponds (Goal 3, Objective 3.1—General Wetlands Protection).

Comment: One commenter has extensive comments opposed to trapping.

Response: We do not allow trapping as a public activity on the refuge. In the Draft CCP/EA, Chapter 3, “Actions Common to All—Controlling Pest Plant and Animals” we describe our strategies for dealing with those plants and animals that pose a safety or health concern, or are impacting refuge facilities. We describe the integrated approach we use to make decisions on what is the most effective and efficient control measures, which range from non-lethal techniques to lethal controls such as trapping. We also state in this section that public trapping is not allowed on the refuge. Trapping will be considered on a case-by case basis, and will be conducted by refuge staff or a cooperator, to help alleviate a specific problem. Trapping in this case is considered a management activity and not subject to compatibility standards.

## **Bald Eagles**

(Letter ID#: 21, 47)

Comment: The VA DGIF requests that we coordinate with them to protect the state-listed bald eagle and the habitat upon which it depends. Another respondent was specifically concerned about the impacts on bald eagles if waterfowl hunting was allowed on the refuge. The commenter states, “...concern about allowing waterfowl hunting in the refuge portion

near Catpoint Creek. As you may know, there is a significant Bald Eagle population in the vicinity of this location and I would be very concerned about the impact of increased gunfire on the eagles.”

Response: Bald eagle protection is a major priority for the refuge and is one of the reasons the refuge was established. We emphasized the importance of the refuge to the regional bald eagle population in the Draft CCP/EA, Chapter 2, under Refuge Biological Resources. In Draft CCP/EA, Chapter 3, Goal 2, Objective 2.2—Bald Eagle Roost and Nest Sites, we specifically develop management actions to further their conservation in the area. Part of our evaluation of whether to allow waterfowl hunting would include impacts on bald eagles and other wildlife and habitats that would be sensitive to that activity. We plan to engage VA DGIF in developing those plans. However, to emphasize our cooperative relationship, we will include a strategy under Goal 2, Objective 2.2 in the CCP that we will coordinate with them in developing plans that might impact bald eagles.

### **Threatened and Endangered Species**

(Letter ID#: 47)

Comment: The VA DCR comments on an error related to the status of a fish, spotted margin madtom, in Appendix A of the Draft CCP/EA. They also directed us to contact VA DNH for an update on natural heritage information if a significant amount of time passes before aspects of the plan are implemented since new and updated information is continually added their database.

Response: We incorporated their suggested edits into the document and will obtain regular updates from VA DCR on natural heritage information. In addition, our Ecological Services Virginia Field office reviewed Alternative B and concurred that implementing it is not likely to have an adverse effect on any current, Federal-listed species. The results of that review and consultation are included as Appendix F.

### **Public Use and Access**

(Letter ID#: 1, 37, 47)

Comment: The VA DCR make specific recommendations about improving or increasing access to refuge lands and waters.

In addition, individuals note the need for increased public access and/or supported our proposed efforts to increase recreational opportunities. One commenter notes the need for more access that “...would not hinder the wilderness character of the Refuge.”

Additional public access opportunities requested include:

- Allowing horseback trail access
- Adding additional hiking trails
- Opening additional refuge tracts to public access
- Increasing wildlife observation opportunities

- Increasing public access to the river
- Additional non-motorized watercraft access
- Additional wildlife-dependent use access (i.e. fishing access)
- Other boating, swimming, and beach access.

Response: In planning which public recreational uses to consider, we first evaluated the potential to expand or enhance the six priority public uses. We next considered other uses that would not materially detract from the purposes for which the refuge was established. We describe some of the uses that were determined not to be appropriate in Draft CCP/EA, Chapter 2, “Other Public Uses.” Appendix B compiles all the uses that were evaluated in detail to determine appropriateness and compatibility. We believe the combination of activities we propose in Alternative B, under Goal 4, and carried forth in the CCP, provide the best mix of activities, with emphasis on the priority public uses, that should be developed over the next 15 years.

We will incorporate the following recommendations made by VA DCR into Chapter 4, Goal 4, as strategies under Objective 4.4—Recreational Fishing, or Objective 4.5—Wildlife Observation and Photography, as indicated:

- Increase public access to the river with the addition of low impact launch sites in areas that are compatible with FWS objectives for the RRVNWR—particularly for paddle craft that would not result in noise or wake disturbance, and would not hinder the wilderness character of the Refuge (Goal 4, Objective 4.4—Recreational Fishing).
- Consider providing additional non-motorized water craft access at the following locations: Laurel Grove Unit (Laurel Grove Pond) and Island Farm Unit (Goal 4, Objective 4.4—Recreational Fishing). (\*Note: Public access points currently exist at or near Refuge lands at Hutchinson, Wilna, Wright, and Toby’s Point Units. Other waterfront tracts recommended by VA DCR for potential public water access are unsuitable due to topography, presence of wetlands, or concern for wildlife impacts).
- Consider public access to the river where it is compatible with Refuge objectives and will complement existing gaps in public access (Goal 4, Objective 4.4—Recreational Fishing).
- Ensure that all future acquisitions, development and ecological enhancements should contribute to the scenic integrity of the Rappahannock River, a potential scenic river (Goal 4, Objective 4.5—Wildlife Observation and Photography).

Comment: The VA DGIF requests that we consider largemouth bass harvest fishing on Wilna and Laurel Grove tract ponds, and re-consider a lead sinker ban for fishing in refuge ponds.

Response: We respectfully disagree with VA DGIF regarding allowing largemouth bass harvest from refuge ponds. Our current catch-and-release program is based on the advice of our Fisheries Program experts who, after assessing fish populations in Wilna Pond, are concerned that it could be over-fished, and the current trophy-sized fish known in the pond could disappear. We have not completed our assessment in Laurel Grove Pond. However, we will reconsider this restriction within one or both ponds if future fish population assessments provide a more favorable result. In fact, we intend to conduct another fish assessment in Wilna Pond, and will continue to assess Laurel Grove Pond, within two years, and will reevaluate our harvest regulations accordingly.

With regard to lead sinkers, we again must respectfully disagree in part. Our ultimate goal is to rid the refuge of lead sinkers. It is well documented how toxic they are to fish and wildlife and we want to reduce, if not eliminate, that risk. We plan to continue our ban on lead sinkers in refuge ponds because of the wide range of fishing tackle available that is lead-free. This is not true of fishing gear for use in tidal waters. As such, we will not require lead-free gear in tidal waters until such gear is reasonably available. We have changed this requirement for tidal waters in the compatibility determination for Recreational Fishing in CCP Appendix B.

### **Hunting (Non-waterfowl)**

(Letter ID#: 1, 4, 5, 6, 7, 8, 10, 12, 13, 14, 17, 18, 22, 25, 26, 28, 29, 32, 33, 34, 35, 37, 39, 40, 47)

Comment: Twenty-five respondents comment on the proposed hunting activities on the refuge. Of those, most commenters are in general support of hunting. Some suggest expanding hunting to include turkey, waterfowl, rabbit, ground hog, and upland small game hunting. The VA DGIF specifically requests developing more youth hunting programs. Some commenters felt increased hunting activity would help regulate animal populations and enhance family-oriented and outdoor activities on public lands. One commenter notes the need for more opportunities to deer hunt using hounds.

Other comments indicate opposition to any hunting activities on the refuge. Most note that hunting should not a priority of the refuge. One commenter maintains that “efforts to manage and regulate hunting and trapping can quickly detract from efforts aimed at more important refuge purposes including migratory bird and endangered species protection.”

Response: In the Draft CCP/EA, Chapter 3, Goal 4, in the rationale for Objective 4.1—Deer Hunting, we describe that our highest priorities over the next 15 years are to develop a quality hunting opportunity for deer, and to evaluate hunting opportunities for waterfowl (see also Objective 4.2) and wild turkey (see also Objective 4.3). We further explain that over the next 15 years, assuming resources and support are available and we have made progress on evaluating the waterfowl and turkey hunts, a secondary priority will be to evaluate opportunities for small game hunting. This same rationale is brought forward into the CCP, Chapter 4, Objective 4.1—Deer Hunting.

As we move forward with assessing new hunting programs, and enhancing our public deer hunt, we will consider special youth hunting events in collaboration with State and non-profit partners.

Specific comments on waterfowl hunting are discussed below.

### **Waterfowl Hunting**

(Letter ID#: 2, 3, 9, 20, 30, 46)

Comment: Several commenters feel that waterfowl hunting should be considered in the final CCP. Reasons given include the need for additional waterfowl hunting opportunities on public lands, and the importance of hunter expenditures within the local economy. One commenter also points out that hunting helps promote youth's "understanding and appreciation of natural resources and their management on lands and waters." Another respondent notes that the Refuge is partially funded by the Federal Duck Stamp which is purchased by waterfowl hunters.

Others are opposed to waterfowl hunting. Reasons include their belief that waterfowl hunting is counter to the purpose of the refuge concept and that the refuge "...sanctuary for all wildlife and opening it to hunting would hurt the overall objectives of the refuge model." One person notes that the refuge serves as a vital resting place for migratory birds and efforts to "open it up" for hunting are not in the best interest of the flyway. They further comment, "...There are ample opportunities along the Rappahannock for hunters, and the Refuge needs to remain as it is."

Response: In the Draft CCP/EA, Alternative B, Goal 4, Objective 4.2—Waterfowl Hunting, we propose to evaluate establishing a waterfowl hunt. This objective was brought forth in the CCP as well. We believe that evaluation is worth pursuing because it supports a priority public use, it is an established and traditional use in the local area, and would allow us to work with VA DGIF to control the distribution and intensity of hunting along the refuge boundary. However, we are also concerned about the potential to disturb waterfowl and would make this a major consideration in our evaluation. We hope to complete the evaluation within five years of CCP approval.

Comment: One commenter specifically mentions that stationary blinds not be allowed within the refuge. They express concern that if hunters are allowed stationary blinds, then "...those hunters would claim the spot as their own and other hunters would be unable to use the spot even if the hunters were not there." The commenter suggests the use of floating blinds instead as long as there are no "blind stake" requirements.

Response: As we note above, we have not yet initiated our evaluation to determine whether we could implement a compatible waterfowl hunting program. Therefore, no details have been discussed about how a hunt program would be implemented. However, we do understand the concerns expressed.

### **Transportation (Roads, Trails)**

(Letter ID#: 39, 47)

Comment: One commenter is against roads within the refuge and stated that no new roads should be developed on refuge lands. The VA DOT notes that if increased visitation caused the need for further road construction, the Service should comply with all VA DOT regulations,

including obtaining the proper VA DOT permits and utilizing appropriate environmental protections to access areas off the VA DOT right-of-way.

Response: No new road construction is planned on existing refuge lands; only general maintenance is planned.

### **Safety (Firearms)**

(Letter ID#: 16, 23, 37)

Comment: Three respondents comment on the issue of the safety of using and carrying firearms on the refuge. One commenter was concerned with the safety of those users not there to hunt and not carrying firearms. They state that "...hikers, bird watchers, campers, and photographers are entitled to enjoy the small percentage of public lands designated as wildlife refuges free from the dangers of stray bullets or from witnessing the maiming and killing of wildlife." The other commenters suggest that people have the right to carry legal and licensed weapons on the refuge. One of these latter respondents justifies the right by stating that each person that legally carries firearms has taken a firearms safety course and demonstrated their ability to use the firearms safely.

Response: We abide by the current Code of Federal Regulations (50 CFR Part 32) regarding possession of firearms on refuge lands. Currently, only permitted hunters are allowed to carry weapons on refuge lands. Our hunt programs are designed to promote the safety of hunters and other visitors. Hunting is segregated from other uses on the refuge for visitor safety and to prevent visitor conflicts. Effective February 22, 2010, however, new regulations will be implemented. On May 22, 2009, The President signed the Credit Card Accountability, Responsibility, and Disclosure Act. Section 512 of that Act prohibits the Secretary of Interior from promulgating or enforcing "...any regulation that prohibits an individual from possessing a firearm including an assembled or functioning firearm in any unit of the National Park System or the National Wildlife Refuge System if...possession of the firearm is in compliance with the law of the State in which the unit of the...National Wildlife Refuge System is located." Once those new regulations are in place in 50 CFR Part 32, we will abide by them.

### **Motorized Use**

(Letter ID#: 37, 39)

Comment: One commenter identifies concern with the use of motorized watercraft and two-stroke engines, while another expresses concern with the use of ATVs and snowmobiles. Both commenters note that motorized use could have negative impacts within the refuge and that potential impacts should be assessed, or the activities banned completely. The person commenting on watercraft feels the negative impacts of motorized watercraft include adverse effects on aquatic life by inducing stress, increasing the risk of mortality, and interfering with communication, reproduction, and navigation. This respondent also notes a national poll revealing that most visitors oppose jet skis and large powerboats in National Parks. They also state, "...according to the California Air Resources Board, as much as 30 percent of the gasoline used in two-stroke engines is discharged unburned into the environment."

Response: We note that use of ATVs is determined to be an inappropriate use (Appendix B). We did not specifically address use of snowmobiles due to the infrequent accumulation of snow in our vicinity. Currently, snowmobile use would not be permitted without a compatibility determination and special use permit. No access is planned for gas-powered boats; only electric motors are allowed or proposed on refuge waters.

## **Document Scope**

### **Outside the Scope of the CCP**

(Letter ID#: 37, 39, 47)

Comment: Certain comments we receive are out of the scope of the CCP, or are not substantive in nature or related to the proposed actions we describe in our Draft CCP/EA. Some are commentary of a political nature. For example, one comment we received states that "... national taxpayers should be the primary people involved in refuge planning, not "local profiteers" using national lands as an opportunity for personal riches."

Response: As a public agency, our planning documents are open and available to all who wish to comment on them.

**Attachment 1—Letter ID Numbers and Respondents**

<b>Letter ID Number</b>	<b>Name</b>
1	Delores Flessner
2	Brad Stephenson
3	Matt Teese
4	Ray and Julie Wickham
5	Ray Lough
6	Margaret Gentges
7	Donald Roberts
8	Steve Garbett
9	Tom McGinniss
10	Daniel Butkiewicz
11	Mary Miles
12	Kareem Abushar
13	David Brenningmeyer
14	David Bisbee
15, 41, 46	Jeff Browning—Northern Virginia Chapter of Delta Waterfowl
16	Elen Nox
17	Marshall Hart
18	Charles Dever
19	Mike Feehan
20	William Rees
21	Matthew Steilberg
22	John Batcheller
23	Dr. Byron Jones
24	Edward Wooldridge
25	John Pulliam
26	Randoll Carroll
27	Alex Long
28	Marion Packett
29	Curtis Packett
30	Richard Strauss

Letter ID Number	Name
31	Eric Jenkins
32	Todd Kelsey
33	Eric Lipp
34	Mark Crain—Northern Virginia Chapter of Delta Waterfowl
35	John Elkin Jr.
36	Cheri Ehrhardt
37	Camilla Fox—Animal Protection Institute
38	Jim Hines
39	B. Sachau
40	Anonymous
42	Elena Ellis
43	Judy Allen
44	Julia Wellman—Virginia Department of Environmental Quality
45	Barry Brady
47	Ellie Irons—Virginia Department of Environmental Quality (consolidates comments from 8 state agencies)