

Land Protection Planning for the National Wildlife Refuge System

The following questions are often asked when the U.S. Fish and Wildlife Service (Service) proposes to study the establishment of a new National Wildlife Refuge or expansion of an existing National Wildlife Refuge. The Service's answer follows each question.

Questions and Answers about the proposed National Wildlife Refuge.

1. What is the Service proposing?

The Service is studying the need to establish or expand a national wildlife refuge (refuge), adding land to the National Wildlife Refuge System.

2. What is a national wildlife refuge?

A national wildlife refuge (refuge) is an area of land and/or water specifically set aside for fish, wildlife, and plants. Refuges are established for the protection of wildlife and habitat, and any use of refuge lands and waters must be compatible with this purpose.

3. What is the National Wildlife Refuge System?

The National Wildlife Refuge System (Refuge System) is the world's largest and most diverse collection of public lands set aside specifically for the conservation of fish, wildlife, and plants. More than 560 national wildlife refuges have been established from the Arctic Ocean to the South Pacific, from Maine to the Caribbean. This System of lands encompasses more than 93 million acres of land and water and at least one can be found in every state and U.S. Territory.

4. Why does the Service want to establish a refuge?

The Service has identified an area as having high wildlife habitat values and good habitat restoration potential for threatened and endangered wildlife species. These species would benefit from long term habitat protection. Habitat enhancement and management would also improve habitat for migratory birds and other wildlife and could create new opportunities for the public to enjoy wildlife and the scenic beauty.

5. How will I benefit if a refuge is established?

Refuges enhance the quality of life for local residents by preserving the region's ecological value and aesthetic beauty. Communities also benefit from open space which does not burden the municipal infrastructure, but still provides revenues under the Refuge Revenue Sharing Act. Landowners within a refuge boundary wishing to sell their properties to the Service benefit from our Acquisition Program. Other benefits include increased opportunities for wildlife-dependent recreation which may attract visitors to the area, increasing tourism revenues earned by local businesses.

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Questions and Answers regarding Landowner Rights Within a Refuge Boundary. *These questions and answers apply to landowner rights within a study area for a proposed refuge, a proposed refuge boundary, and an approved refuge boundary.*

1. How will a refuge boundary affect my private property rights?

Private property rights are not affected. Landowners within a refuge boundary retain all the rights, privileges, and responsibilities of private land ownership including the rights to access, control trespass, sell to any party, and develop their properties, even if the Service has acquired interest in the land surrounding them. Development of land continues to be subject to local regulations and land use zoning.

2. Does land use regulation increase within a refuge boundary?

No, landowners within a refuge boundary retain all the rights, privileges, and responsibilities of private land ownership, even if the Service has acquired interest in the land surrounding them. Private lands remain in control of the owner until the property has been sold to the Service. Service management of access, land-use practices, water management, hunting, fishing, and general use within a refuge boundary is limited to the lands that the Service has acquired.

3. What if I don't want to sell my property to the Service?

Landowners within a refuge boundary are under no obligation to sell their property to the Service. It is the Service's long standing policy to acquire land from only willing sellers.

4. Does the Service use the power of condemnation (eminent domain) to acquire property?

It is the Service's long standing policy to acquire land from willing sellers. Eminent domain is rarely used by the Service. Service policy is to acquire land through condemnation only in order to: determine the legal owner (clear title); settle a difference of opinion of value (when the owner is agreeable to court action); or prevent uses which would cause irreparable damage to the resources that the unit (refuge, etc.) was established to protect. The Service, like many other federal agencies, has the power of eminent domain. This power is granted in the Constitution and General Condemnation Act of 1888 and can be used to acquire lands and interests in lands for the public good.

5. What if I don't want to sell my property and wish to develop it?

The refuge boundary does not preclude owners from developing their properties. You may choose to develop your land within the refuge boundary. All such development would be subject to local zoning and regulatory authorities.

6. What if I am not interested in selling my property right now?

Refuge boundaries identify important and sensitive habitat and wildlife resource areas. The Service is looking at the long-term protection of these areas. Acquisition of lands can be phased in over time as willing sellers make their lands available to the Service and funding is available. There is rarely a rigid time frame to purchase specific habitats. Because most threats are long-term in nature, phasing in land acquisitions would not cause appreciable harm to the resources. However, properties with significant development may no longer be desired for refuge purposes if development results in habitat loss.

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Questions and Answers about the Service's Land Protection Planning Process.

1. What is the Land Protection Planning (LPP) process?

The LPP process is an evaluation, planning, and compliance process. It is used by the Service to study a proposal to add lands to the National Wildlife Refuge System and gain authority to establish or expand a refuge boundary and protect habitat. Protection can be accomplished through a variety of approaches such as purchasing land or an easement or establishing a long term lease.

The LPP process is initiated when wildlife habitat areas of interest are identified in long term resource plans or brought to our attention by another agency, conservation group, or interested individuals. The Service evaluates an area to determine if detailed planning—which includes developing a National Environmental Policy Act (NEPA) compliance document, Land Protection Plan, and Conceptual Management Plan—is appropriate. The Director of the U.S. Fish and Wildlife Service (Director) makes this determination after reviewing the evaluation. Detailed planning—the LPP process—commences upon the Director's approval.

Once approval to conduct detailed planning is granted, a Planning Team consisting of Service biologists, planners, realty specialists, and refuge managers identifies a study area—a geographic area where the detailed planning and evaluation will be conducted. Next, the Team announces the refuge proposal and study area where the detailed planning and evaluation will be conducted, seeking public input to gather information and identify issues. Based on habitat protection needs and the issues and concerns raised during public involvement, the Team develops habitat conservation and refuge boundary alternatives. These alternatives are described, analyzed, and published for public review and comment in the following documents.

- A NEPA document—either an Environmental Assessment (EA) or Environmental Impacts Statement (EIS)—evaluates the effects each alternative would have on the physical, biological, social, and economic environment.

- A Land Protection Plan (LPP) is developed for affected landowners. It describes resource protection needs and the proposed Refuge boundary and identifies ownerships in priority order that may be acquired from willing sellers.
- A Conceptual Management Plan (CMP) describes potential refuge management needs, activities, and public uses, and determines which public uses would be compatible with the purpose of the proposed refuge.

Public comments are reviewed and considered during development of the final decision documents which are forwarded to the Director for approval. The Director reviews the documents and decides what course of action, if any, the Service will take. The Director's approval is necessary to establish a refuge and implement the LPP and CMP.

2. What is NEPA?

The National Environmental Policy Act, or NEPA, requires that federal planning activities be documented to insure that environmental, economic or social effects are thoroughly evaluated and disclosed to the public. The Service develops an environmental report analyzing wildlife protection needs, proposed alternatives, and the effects of the proposed alternatives on the human environment. The document also addresses compliance with other laws and regulations the Service must fulfill in order to gain authority to add land to the National Wildlife Refuge System by a number of different means such as purchase or cooperative agreement.

3. Will all the land within the study area become part of the proposed refuge?

When a study area is identified, it is normally too early in the evaluation and planning process to answer yes or no. A study area is identified to focus further habitat evaluation on a specific geographic area. Habitat conditions and other factors are evaluated by the Planning Team to determine what lands, if any, should be included in a refuge study area. After public comments are received on the study area and issues are identified, and after further analysis of wildlife use, current and past land use, and local land use planning issues, the Planning Team may modify the study area. The Team then develops alternative refuge boundary locations and potential habitat protection measures which are presented for public review and comment in a NEPA document and a LPP. These documents identify the lands and habitats within the study area which the Service needs to fulfill the purpose of the proposed refuge.

4. How is it determined what lands will be included within the final refuge boundary?

After the public comment period for the NEPA document and LPP, the Planning Team reviews and considers public comments, and develops a final preferred

alternative that identifies the preferred boundary and habitat protection measures for the decision documents that are submitted to the Director for approval. The Director determines the course of action, if any, the Service will take. The Director's approval is required to establish an approved refuge boundary.

5. What does an approved refuge boundary mean?

An approved refuge boundary identifies important and sensitive resource areas that the Service is looking to protect for a long period of time. Landowners within a refuge boundary retain all the rights, privileges, and responsibilities of private land ownership, (for more information see Refuge Planning Information Brochure 2 Landowner Rights questions and answers). After the Director approves a refuge boundary, the Service can make offers to purchase land, or enter into management agreements with willing landowners within the approved boundary. Lands do not become part of the National Wildlife Refuge System until they are purchased or are placed under a management agreement with the individual landowner.

6. How can I get involved in the planning process?

You can request to be placed on our mailing list, provide comments early in the process, review and comment on the documents, and participate in public workshops if any are held. Your input helps us identify the issues, alternatives, and solutions that make the National Wildlife Refuge System work for both wildlife and people. If you are on our mailing list, you will be notified of all the planning activities and opportunities to provide information and comments.

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Questions and Answers about the Service's Land Acquisition Program. *These questions and answers apply only if a refuge boundary has been approved.*

1. When can the Service begin acquiring lands?

After the Director approves a refuge boundary the Service can make offers to purchase land if funding is available, or enter into management agreements with willing landowners within the approved boundary. Lands do not become part of the National Wildlife Refuge System until they are purchased or are placed under an agreement with the individual landowner. Landowners within an approved refuge boundary could sell their land at any time to any buyer. Landowners would not be compelled to sell their lands to the Service; it is a long-standing Service policy to purchase lands from willing sellers.

2. How does the Service identify which lands to purchase first?

Priority lands are identified in the LPP. Priority is based on the biological significance of the land, existing and anticipated threats, and willingness of the landowner to sell or otherwise make the property available to the Service. Purchase of priority lands and easements from willing sellers would proceed according to availability of funds.

3. Does the Service intend to acquire all the lands within the refuge boundary?

Willing sellers and available funding determine the amount of land to be acquired. Another factor that can determine Service acquisition is development. An approved refuge boundary does not preclude landowners from developing their properties. Properties in different stages of development may no longer be desired for refuge purposes as development occurs and habitat is lost. Acquisition of land from willing sellers remains a critical tool in safeguarding wildlife and habitat while providing opportunity for wildlife-dependent recreation. But increasing land costs, limited acquisition funding, and the needs of existing refuges present challenges to continued and timely additions to the Refuge System.

4. What types of interests in lands does the Service acquire?

Often, the Service acquires full ownership of the property by fee-simple purchase. Other options available include a conservation easement, long-term lease, cooperative agreement, memorandum of agreement, and donation. Owners sometimes choose to donate all or a portion of their land as a lasting memorial or for tax purposes.

5. Does the Service use the power of condemnation (eminent domain) to acquire property?

It is the Service's long standing policy to acquire land from willing sellers. Eminent domain is rarely used by the Service, and we would need a compelling reason—such as a request from the landowner to clear title, or imminent threat resulting in irreparable damages to resources—to use it to purchase land for a refuge. The Service, like many other federal agencies, has the power of eminent domain. This power is granted in the Constitution and General Condemnation Act of 1888 and can be used to acquire lands and interests in lands for the public good.

6. How is land acquisition funded?

Funding for national wildlife refuge land acquisitions comes from Federal Duck Stamp sales, entrance fees to certain national wildlife refuges, import taxes on fire arms and ammunition, and appropriations under the Land and Water Conservation Fund Act, and the Migratory Bird Conservation Fund. These are all public funds and programs established to benefit wildlife.

7. Does the Fish and Wildlife Service buy at fair market value?

Yes, Federal law requires the Service to offer fair market value for all land purchases. The value is based upon a professional appraisal completed in accordance with the Uniform Standards for Federal Land Acquisitions. The appraisal is reviewed by an experienced review appraiser to insure that all purchase offers properly reflect the sale prices of comparable properties in the vicinity.

8. Does the designation of a refuge boundary affect the value of my land within or adjacent to the boundary?

The designation of a refuge boundary does not by itself affect the value of your land. Land values are determined by a number of complicated real estate market factors. The market value of lands both within and adjacent to an approved refuge boundary are affected to a much larger degree by such factors as supply and demand, interest rates, and the local economy.

9. If I sell my land to the Service, will I be reimbursed for expenses incurred in selling?

Yes, the Service pays or reimburses many of the transaction expenses. The Service pays for title evidence, mortgage prepayment penalties, mortgage releases, boundary surveys, recording fees, relocation assistance, applicable moving costs, and other expenses incidental to the transfer of title. The Service cannot pay for realtor brokerage fees or fees charged by attorneys retained by the landowner.

10. Will Service land acquisition help or hurt my community?

Communities benefit from refuges in many ways. Nearby refuges enhance the quality of life for local residents by preserving the region's aesthetic beauty, providing open space, and offering numerous wildlife-dependent recreational and educational opportunities. Bird watchers, photographers, educators, researchers, hunters, anglers, and hikers visit refuges that allow their particular use. Public uses of a refuge must undergo public assessment and be compatible with the refuge's purpose. There are more than 500 wildlife refuges in the United States. Public use programs attract 34-million visitors per year to national wildlife refuges. These visitors can be an important source of revenue for the local economy.

11. Are property tax revenues affected when land is acquired by the Service?

National Wildlife Refuges, like other Federal, State, and County-owned lands are not subject to property taxes. However, under provisions of the Refuge Revenue Sharing Act, the Service annually reimburses counties for revenue lost as a result of acquisition of fee title to private property. Payments are based on the highest value as determined by one of the following three equations—three-fourths of 1 percent of the fair market value of the land; 25 percent of net receipts; or \$.75 per acre. Congress may appropriate, through the budget process, supplemental funds to ensure full payment. The Act also requires a reappraisal of acquired lands every 5 years to ensure payments to local governments are based on current land values.