

Public Scoping Report

Comprehensive Conservation Plan and Environmental Impact Statement

Grays Lake National Wildlife Refuge

February 2012



U.S. Fish and Wildlife Service

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Background

This scoping report summarizes the issues, concerns, and opportunities identified by the Service, its partners, and the public during the public scoping phase for the Grays Lake National Wildlife Refuge (NWR) Comprehensive Conservation Plan and Environmental Impact Statement (CCP/EIS). Early in the planning process, the Service developed a list of preliminary issues, concerns and opportunities for the CCP. These planning issues were presented at public scoping meetings on August 14, 15, and 16, 2012 as well as in a Planning Update (newsletter), press releases, and in the Federal Register Notice. Information gathered through these and other sources of information is reflected in this public scoping report.

Public Outreach

Federal Register Notice of Intent

On June 22, 2012, the Notice of Intent to Prepare a Comprehensive Conservation Plan and associated NEPA document was published in the Federal Register.

Mailings

The first Planning Update was published and distributed on July 30, 2012 to a mailing list of approximately 150 recipients. In addition to the mailing, the Planning Update and comment form was posted on the Refuge website, and copies were available at the Refuge Headquarters and at the CCP open house meetings in Soda Springs, Pocatello, and Idaho Falls, ID.

The planning Update posed the following specific management questions to consider:

Habitat Management Questions to Consider

- *What are the best means to attain productive marsh habitats for Refuge wildlife, while assuring Tribal water rights are preserved in perpetuity?*
- *How can the Service protect and improve the quantity and quality of Refuge water for fish and wildlife resources?*
- *What can the Service do to prevent the introduction and dispersal of invasive plants and animals and facilitate their removal from the Refuge?*
- *What should the Refuge's role be in supporting native fish and riparian habitat restoration?*
- *How can the Refuge assist in minimizing sandhill crane conflicts with small grain farms?*
- *What are the most appropriate management techniques (e.g., fire, livestock, hay, idle) for the Refuge's wet meadow and upland habitats to maximize habitat values for key short-cover wildlife?*
- *How should the Refuge best address nest predation on Refuge lands?*
- *How can the Refuge best contribute to conserving rural character and open space in the Grays Lake basin?*
- *How can the Refuge resolve longstanding issues associated with the ownership of the Grays Lake lakebed?*
- *Should the Refuge attempt cooperative and joint watershed management strategies for resource management within Grays Lake?*
- *How can the Refuge engage or adaptively manage in response to predicted and unpredicted challenges faced by climate change?*
- *How can the Refuge inventory and monitor biotic and abiotic resources to improve understanding and better manage the Refuge?*

- *Given limited budgets and manpower, how can the Refuge most appropriately assess the efficacy of management actions at the appropriate scale?*
- *How can the Refuge best participate in large-scale land protection and help to prioritize adjoining lands that are most critical for protection of Refuge water quality and quantity, have the highest quality habitat, and provide the best opportunities for habitat restoration?*

Public Use Questions to Consider

- *Should existing public uses be continued, reduced, or eliminated?*
- *Should Grays Lake NWR improve and expand its Refuge visitor services program?*
- *What actions should be taken to minimize wildlife disturbance from public visitation and recreation?*

Media Releases

A press release was drafted and distributed with a copy of the Planning Update to media outlets within the local area, including:

Soda Springs ID

Radio:

KBRV Caribou Broadcasters Inc; KBRV 790 ID; KITT 100.1

Print:

Caribou County Sun

Pocatello, ID

Radio:

KISU-FM 91.1 Idaho State University; KLCE 97; KFTZ Z103; KCVI-KBER 101; KTHK 1055

Print:

Idaho State Journal

Idaho Falls, ID

Radio:

Newstalk 690/1260

Print:

The Post Register

TV:

KIFI-Local News 8; KPVI-News; KIDK-Channel 3 Eyewitness News

Media Publications and Broadcasts

The Caribou County Sun of Soda Springs, ID, ran an article on August 15, 2012 announcing the Grays Lake CCP public scoping meetings. An additional article ran in the Caribou County Sun on August 30 informing the public that scoping comments were still being accepted by the Refuge and encouraging the public to comment. On September 5, 2012 the Idaho State Journal of Pocatello, ID ran an article on Grays Lake NWR and the CCP scoping comment opportunity.

Public Meetings

The Service held three CCP open house meetings in: Soda Springs, Idaho on August 14, 2012; Pocatello, Idaho on August 15, 2012; and Idaho Falls, ID on August 16, 2012.

At the open house meetings Refuge staff listened and discussed Refuge management with 21 attendees and took their written comments. A total of 19 private citizens who attended the public meetings provided oral comments, including: 12 local ranchers; 5 local residents; and 2 regional residents. Of the local ranchers who attended, 7 of the 10 landowners associated with the Grays Lake lakebed ownership issue were present, 4 of the 5 ranchers who currently graze livestock on the Refuge attended, and 1 of the 2 ranchers who currently hay on the Refuge was represented. One local resident attending the Soda Springs meeting represented both themselves as a private citizen as well as the Trumpeter Swan Society. The Greater Yellowstone Coalition was represented by one individual at the Idaho Falls Meeting. The Bureau of Indian Affairs-Fort Hall Irrigation Project was represented at our Pocatello meeting. No other Federal or any Tribal, State, County, or City representatives were in attendance at the CCP public open-house meetings. Refuge staff made a visual presentation on the CCP planning process at the Soda Springs and Pocatello meetings, with discussions following the presentation. Extensive group discussions, some lasting over 2 hours, occurred at all three meetings and were very productive and informative, with 17 of the 21 attendees providing verbal comments.

A total of 27 verbal or written responses were received from individuals or organizations from June 23, 2010, through early November 2012. The vast majority of comments provided to the Refuge were received during the initial scoping period posted in the Federal Register, June 22, 2012 to August 21, 2012. One Federal agency, the Environmental Protection Agency, and one State agency, the Idaho Department of Lands, provided written comments. No written or verbal comments were received from the State of Idaho Department of Fish and Game or the Shoshone-Bannock Tribes. Three non-government organizations provided written comments, including Defenders of Wildlife (Defenders), the Greater Yellowstone Coalition, and the Trumpeter Swan Society. Of the comment forms provided at the open house meetings, one was returned at a public meeting and none were received by mail or hand delivered to the Refuge. Verbal comments from 17 of the 21 public open house meeting participants were recorded. Four additional responses were received by e-mail from one landowner who attended a public scoping meeting, one landowner who did not attend a meeting and two local residents that attended public meetings.

Interagency Coordination

The Service participated in an interagency coordination meeting with representatives of the Bureau of Indian Affairs (BIA)-Fort Hall Irrigation Project and the Shoshone-Bannock Tribes at BIA headquarters in Fort Hall, ID on September 19, 2012. The Service and the BIA discussed ongoing lakebed land appraisals and issues to be addressed in the CCP.

Tribal Consultation

During a meeting with the Shoshone-Bannock Tribes regarding Camas NWR on July 26, 2012 Southeast Idaho NWRC Project Leader Tracy Casselman participated in a brief discussion on the Grays Lake NWR CCP process. Tribal staff requested that an employee from the Water Resources Division be included in the Grays Lake CCP mailings.

Summary of Verbal and Written Comments Received

REFUGE ESTABLISHMENT AND LAKEBED OWNERSHIP

Comment: Acknowledge Contentious Refuge History and Sentiments of Mistrust

The controversy resulting from the 1965 Refuge Use and Cooperative Use Agreement requires attention in the CCP. The public needs to thoroughly understand the premise upon which the Refuge was established, how things have changed, and the resulting contention and animosity that resulted.

There was significant apprehension about establishing a National Wildlife Refuge in the valley in 1965, but ultimately it was supported because the Refuge diking project was supposed to make more lands available to grazing. Acrimony arose when Refuge projects were not completed as per the agreement. Few of the original 22 signatories to the Refuge agreement are alive today and that the people whom the Refuge impacted the most, and most deserved the resolution, are not going to be around much longer.

The Service acquired some land from private ranchers in the early 1970s under the threat of condemnation. While the threats stopped, people remember, and the Refuge needs to acknowledge these concerns in order to move forward.

***Response:** The Refuge acknowledges that continued ambiguity over ownership of land below the Meander Line at Grays Lake has resulted in conflict among private landowners, the Service, the State of Idaho, and the Bureau of Indian Affairs (BIA)/Shoshone-Bannock Tribe. The CCP/EIS will discuss not only lakebed ownership issues and the 1965 Refuge Use and Cooperative Use Agreement, but equally controversial Service actions related to the Refuge boundary expansion in the 1970s and the removal of livestock grazing in the 1990s.*

Comment: Address the Lakebed Ownership Dispute

The plan should acknowledge the 2009 letter from the landowners to the Department of Interior that rescinded the 1965 agreement, subsequently negating the original 13,000 acre Refuge established by agreement. The Service must acknowledge that the lakebed below the meander line is actually owned by the private landowners, as determined by the 2011 Grays Lake Administrative Navigability Determination conducted by the Bureau of Land Management (BLM).

Lawsuits over perceived impacts to private interests are looming and may be in Federal court soon. It is disingenuous of the Service to initiate the CCP process without acknowledging this issue.

***Response:** The CCP/EIS will describe the circumstance under which Grays Lake Refuge was established and will document issues affiliated with land ownership below the Grays Lake Meander Line and the associated conflict among private landowners, the Service, the State of Idaho, and the Bureau of Indian Affairs (BIA)/Shoshone-Bannock Tribe. The Service acknowledges that Grays Lake lakebed ownership rests on a determination of navigability for Grays Lake prior to Idaho Statehood in 1890.*

The CCP/EIS will document that Regional Directors for the Service and BIA have worked with private landowners, the State of Idaho, BIA, and the Shoshone-Bannock Tribes to seek

resolution to the lakebed ownership issue. The CCP/EIS will further document that an administrative determination conducted by the BLM, in August 2011, concluded the lakebed was a non-navigable waterway.

Major findings from the Grays Lake Administrative Navigability Determination and Omitted Lands and Avulsion Decisions drafted by BLM include:

- *Grays Lake is non-navigable and as such is not land reserved to the State of Idaho under the equal footing doctrine.*
- *The original General Land Office surveyors properly surveyed and meandered Grays Lake in 1885.*
- *There are no omitted lands from the General Land Office surveys from misidentification of the line of ordinary high water from the meanders.*
- *Since the lake is non-navigable, the lakebed is owned proportionately by the upland owners, as an incident of their riparian rights. This ownership will result in a series of “pie slices” extending in the center of the lake and intersecting the riparian rights of Bear and Bishop Islands from the side of the upland parcels.*

Subsequently, and concurrent with the development of this CCP/EIS, all parties are now pursuing Federal acquisition of un-deeded lakebed property from willing private landowners. The Service expects that the acquisition of lakebed lands from willing sellers will be a strategy consistent among all alternatives considered in the CCP/EIS.

Comment: Evaluate Damages to Private Land

The Service cut family ranches in half by impounding water longer on hay and grazing pastures after constructing partially completed dikes. The Service must assess past financial impacts from lost opportunity and revenue by maintaining high water on private landowners' lakebed property over the years and impeding the ability of landowners to use the property free of standing water for hay harvest or grazing.

The EIS must acknowledge the financial impacts to the Refuge and private landowners should the ongoing proposal to purchase the lakebed from private landowners prove unsuccessful and the Department of Interior revert to condemnation proceedings.

Response: *The Service is required to document the “no-action” alternative in the Environmental Impact Statement (EIS). The “no action” alternative may be thought of in terms of continuing with the present course of action until that action is changed by selection of a different alternative. Since the Comprehensive Conservation Plan (CCP) is essentially updating ongoing Refuge land management, the “no-action” alternative would include current management of multiple lakebed ownerships and the continuation of the existing 1942 water management regime and infrastructure. Therefore a measurable level of current management, no matter how desirable or undesirable by any party, will be described within the “no-action” alternative.*

The Refuge believes that accurately and completely describing the impacts of existing management is critical to understanding the context, duration and intensity of new impacts. If the “no action” alternative would result in predictable actions by others, including the BIA and the Service, the consequences of the “no action” alternative will be included in the analysis. Likewise, projected impacts of implementing alternative management options will

be compared in the EIS to those impacts projected for continuing with the current management direction.

Beyond the scope of the CCP: *The CCP/EIS will document private landowners' adamant sentiments and beliefs that personal damage has occurred to their property and interests from past and present Department of Interior actions. However, the CCP/EIS will not assess the validity of those claims.*

Department of the Interior and Service policy and procedure regarding property loss, property damage, personal injury, death due to alleged negligence, omissions or wrongful acts by Service employees while acting within their scope of office or employment is contained in 451 DM 1, Tort Claims Against the United States. Determination of whether a claim against the Government may be allowed on the basis of fact and applicable law is a legal or judicial responsibility of the Office of the Solicitor, not the Service or the Refuge. Independent of the CCP/EIS, Service officials and managers will work closely with the Office of the Solicitor and the U.S. Attorney toward the resolution of all claims filed against the Department of Interior or U.S. Fish and Wildlife Service.

REFUGE PURPOSES

Comment: Define Refuge Purposes from the Original Intentions of Refuge Establishment

Since Grays Lake was established by agreements with local landowners and the BIA, its purposes are not well defined. Subsequently, the Refuge will probably not attempt to thoroughly examine Refuge purposes in order to minimize promises made to local landowners in the 1960s and 1970s with regards to cattle grazing. The amendments to the 1997 NWRS Improvement Act were specifically added by Idaho Senator Dirk Kempthorne because of explicit grazing management conflicts with local ranchers regarding Refuge purposes at Grays Lake NWR in the 1990s.

The 1997 National Wildlife Refuge System (NWRS) Improvement Act requires the Service to determine Grays lake NWR purposes from the Refuge's establishing mechanisms (1964 Memorandum of Understanding with BIA, and 1965 Refuge Use and Cooperative Use Agreement with 22 landowners). The 1997 NWRS Improvement Act requires Refuge purposes to be taken from establishing documents. In absence of executive orders and legislation usually used to establish a refuge, the 1964 MOU with BIA, the 1965 Refuge Use and Cooperative Use Agreement with abutting landowners provides the legal basis for Refuge establishment and Refuge purposes.

Response: *NWRS policy from the NWRS Administration Act provides that: (A) each refuge shall be managed to fulfill the mission of the System, as well as the specific purposes for which that refuge was established. The definitions within the Act state: "(10) The terms 'purposes of the refuge' and 'purposes of each refuge' mean the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, refuge unit, or refuge subunit. Administration of the system was also developed to: "(D) ensure that the mission of the System described in paragraph (2) and the purposes of each refuge are carried out, except that if a conflict exists between the purposes of a refuge and the mission of the System, the conflict shall be resolved in a manner that first protects the*

purposes of the refuge, and, to the extent practicable, that also achieves the mission of the System.”

The designation of refuge purposes has a strict legal interpretation that drives the application of the compatibility requirement for evaluating all refuge uses. Many times historic documents that refer to refuge purposes may not meet the test of being a legal purpose, which are generally derived from the acquisition authority used to acquire Refuge property. Service policy regarding this topic specifically requires that refuges take individual refuge purposes from the refuge purposes database.

Because Grays Lake NWR was initially formalized by a series of 22 Refuge Use and Cooperative Use Agreements with private riparian landowners, there are no formal documentation (e.g., legislation, executive orders) from which to formulate Grays Lake NWR purposes. Subsequently, the Refuge Purposes Database contains generic purposes for Grays Lake NWR derived from the legislative authorities used to acquire some Refuge lands. These include the Migratory Bird Conservation Act(1929), Fish and Wildlife Act (1956), and Refuge Recreation Act (1966).

Beyond the scope of the CCP: *While we recognize the concerns about Grays Lake NWR’s purposes, revising the purposes is outside the scope of the CCP.*

REFUGE VISION

Comment: Develop a Collaborative DOI Vision between FWS and BIA

BIA and the Service have opposing and conflicting visions for Grays Lake. The BIA-Fort Hall Irrigation Project only thinks of Grays Lake as a reservoir or water source and has no interest in wildlife. A well-crafted vision for the Refuge could bring DOI together to deliver water to valid rights holders while minimizing further damage and repairing old damage. The Refuge and BIA should consider a mutual vision for: “Delivering water in the least damaging way, while honoring valid rights.”

The fundamental establishing purpose of the Refuge was for cooperation between FWS, Bureau of Indian Affairs (BIA) and abutting landowners to improve habitat for migratory birds and other wildlife, improve water management, and improve lands for grazing and haying. It is crucial that the CCP/EIS highlight the three-way cooperation that was the foundation of the establishment agreements and make that fundamental cooperation the basis of future management. These two arms of the Department of Interior have often worked at cross purposes in the past and Grays Lake and wildlife have suffered.

The Refuge should develop a vision that supports healthy wildlife habitats, while still providing economically viable ranching operations in the area.

The Refuge requires a concise conceptual vision statement. If the Service can state the problem and the direction in ten sentences or less it’s 90% solved and people will buy into it.

Response: *An opportunity exists within this Comprehensive Conservation Plan to incorporate a vision statement—an inspiring expression of Grays Lake’s special character. The Refuge staff wishes to develop a vision statement rooted in the Refuge’s purposes which describes the enduring qualities to be passed on to future generations. We will work with*

Shoshone-Bannock Tribes, BIA, and Grays Lake Residents to craft a collective vision for the conservation of natural resources and wildlife within the Grays Lake Valley.

REFUGE ALTERNATIVES FOR THE CCP/EIS

Comment: Develop CCP Objectives on Only Refuge-Owned Lands

Defining management in the CCP on lakebed lands the Service did not own or control is misleading and fraudulently suggests some amicable settlement had been reached between private landowners and the Service on this longstanding ownership issue. Until the Department of Interior acquires lakebed lands from private landowners the Refuge cannot draft a CCP for the core marsh within the lakebed.

Comment: Improve Natural Ecosystem Processes and Resiliency

The Service must ensure that it is managing the area to conserve and enhance biodiversity and the Refuge should work to restore natural flow regimes and natural biological function to the Refuge in order to maximize benefit to waterfowl and wildlife that use the area. The Service should evaluate at least one reasonable alternative that would aim to restore the Grays Lake National Wildlife Refuge to its original biological functions and natural flow regimes to the extent possible. This alternative should also include the potential of acquiring all water rights and land ownership necessary to accomplish this goal and possibly including curtailing grazing and/or cattle ranching operations within the boundary of the Refuge, especially in wetlands and riparian habitat.

The Service should promote resilience to climate change in the CCP by protecting biodiversity and habitat connectivity as climate change adaptation strategies.

Comment: Restore the Natural Hydrology

Improving water management at Grays Lake is absolutely essential and should be the overarching thrust of the CCP and without significant improvement in water management, the crucial value of Grays Lake wetlands for cranes, swans, other waterfowl, and other migratory birds and wildlife will continue to suffer significant damage.

The CCP needs to consider an alternative to restore the valley to its pre-modified natural condition. Drafting such an “extreme” alternative the Service would be doing the planning process justice in establishing sideboards for what is and isn’t possible.

***Response:** The CCP/EIS alternatives will consist of different sets of objectives and strategies for management of the Refuge. Refuge staff will develop a range of alternatives within the CCP/EIS to evaluate different approaches to Grays Lake NWR management that can reasonably be undertaken in the next 15 years to achieve Refuge goals and purposes; help fulfill the Refuge System mission; maintain and, where appropriate, restore the ecological integrity of both the Refuge and the Refuge System; meet other mandates, and resolve any significant issues identified.*

The Grays Lake NWR CCP/EIS will discuss actions or alternatives raised during scoping, including only addressing Refuge owned lands, increasing and enhancing biodiversity, and the restoration of natural hydrology. Issues that are outside the scope of the document; do not meet the purpose and need; or would violate a law, policy, or regulation will have a

detailed explanation provided for why the CCP/EIS will not evaluate those actions or alternatives further.

WATER MANAGEMENT

Comment: Grays Lake Marsh was Naturally Drier

The term “lake” is a misnomer and that there was never a “lake” at Grays Lake. Historical evidence of fall livestock grazing and haying operations extending out into the marsh show how naturally dry the wetlands are in most years the Refuge makes too much of the drawdown schedule being “un-natural.” While Clark’s cut (circa 1920s) and the north dam (circa 1930s) altered the flow from the north to the south of the marsh, the drawdown schedule still essentially mimics the depth and duration of water that would have occurred in the natural marsh.

The most un-natural alteration to the hydrology occurred when the Refuge attempted, but did not complete, construction of the 1965 agreement infrastructure (circa late-1960s to early-1970s). Failure of the Service to complete the dikes and install and operate pumps and water control structures, as agreed to in 1965, made the center marsh much drier and now impounds water on upslope private lands.

Grays Lake was naturally a “wet desert” with much smaller wetlands in the marsh that were fed by creek channels. Grays Lake is actually much wetter now as an impounded wetland than it would have been naturally and was probably naturally much like Goose Lake near Blackfoot Reservoir, which fills up very deep in the spring, but drains almost entirely very early in the summer.

Comment: Grays Lake Marsh was Naturally Wetter

The marsh is now much drier in the summer than it would be naturally. While the marsh assuredly had very wet and very dry years Grays Lake is much drier now than it was naturally due to the BIA water withdrawal into the Fort Hall Irrigation Project. The CCP/EIS needs to look at all historical information for the Grays Lake wetlands prior to water modifications by Barzilla Clark, gold miners, settlers, BIA, and the Service to identify how the marsh naturally functioned. If the marsh sustainably supported such significant muskrat harvests as reported in the 1920s through the 1960s that both the natural (pre 1924) and early BIA water withdrawal (1924 through 1960s) had to have been much wetter through the winter than the current water schedule.

Drier climate is affecting water availability and marsh levels and that snow pack, rainfall, and stream flow are all substantially much lower today than they have been in recent history.

Comment: Improved Infrastructure Now Conveys More Water

Over time the BIA water regime has decreased Refuge wetland productivity. Water seemed to persist into the fall in the early years of implementing the agreed water schedule and muskrats were “all over the place” with many local families trapping them to supplement their ranching income in the 1940s and 1950s. There is less variability in the water depths and duration today than there was in the earlier BIA water management. Some of the increased efficiency for water removal is due to the improved water infrastructure developed by the BIA and the Service in the 1960s, including more drainage ditches and larger head gates and culverts installed in Clark’s cut and Meadow Creek from the 1960s to present.

Comment: Water Management Now Inundates Private Land

In high water years BIA used to lower marsh levels well before May 10 to target the attainment of the May 10 target elevation (6,387.4 feet) as per the 1942 water schedule. Recent changes in BIA personnel in Fort Hall, ID and Portland, OR has attributed to different interpretations of how to manage the 1942 water schedule agreement. BIA was formerly easier to work with than they are now, and that the BIA would try to withdraw water from Grays Lake early in high water years so as not to flood private lands. BIA now is only concerned with storing as much water at Grays Lake as possible, no matter what effects it has on private lands and ranching.

Comment: Convey Tribal Water Rights while Accordingly Restoring Grays Lake Wetlands

Water should be the central theme to the Refuge CCP/EIS and that the Service has the opportunity to restore the biggest wetland in the intermountain west. The foremost goal of the CCP should be to: *“Develop a unified strategy with the BIA to deliver water to valid water right holders in a manner that minimizes future ecological damage and begins to reverse past damage.”*

The central issue in the CCP/EIS has to be water and that without water, the Refuge is moot. The Service’s ability to maintain wildlife at Grays Lake NWR is severely compromised without a more favorable water management agreement in place.

Ongoing Refuge land acquisition should be targeted to lead to a new water management opportunity to improve conditions for Refuge wildlife. The Refuge Improvement Act of 1997 makes clear that the Service should be using its authority to acquire and obtain water rights necessary to manage the Refuge for conservation. Restoring natural flow regimes, water elevations, and natural biological function to the Refuge is in the best conservation interest of the wildlife and waterfowl that use this area. The Service should explore restoring the Refuge, including its lands and waters, to their natural state and determine whether this would be in the best conservation interest of the Refuge and if so, how best it could accomplish this objective. Providing open water on the Refuge based on restoring the natural hydrology may provide improved habitat for wildlife, and may provide an opportunity for muskrats to recolonize to natural historic population levels. There is a need to acquire water rights and ownership of the lands surrounding the marsh and the closure and filling of Clarks Cut outlet which currently diverts unnatural flows out of the Refuge to the Blackfoot River.

The EIS should analyze the impacts of water withdrawal on wetland condition and wildlife and identify water management regimes that would fulfill the Grays Lake NWR mission.

Response: *The highest priority within this CCP/EIS will be the consideration of water for improving wildlife habitat. However, the Refuge readily acknowledges that management of Tribal water rights for Grays Lake water is the purview of the BIA and the Shoshone-Bannock Tribes and that the current primary use of this water is for the benefit of agricultural production in the Fort Hall Irrigation Project.*

The current water drawdown schedule, based on a 1942 agreement among the BIA and private landowners, requires rapid drawdown of water by June 24 each year. This annual

spring drainage and drawdown removes all but 0.5 feet of water through the summer and early fall into winter.

The Refuge expects to research and document the effects of both the natural and altered hydrology of Grays Lake. Subsequently, we will present an array of objectives and strategies to the BIA and Shoshone-Bannock Tribes with the hopes of developing a mutually beneficial water drawdown schedule that satisfies both irrigators and wildlife needs.

WILDLIFE POPULATIONS

Comment: Refuge Wildlife Populations are in Dramatic Decline

There were more nesting cranes and 80% more nesting geese in Grays Lake in the 1970s. There was a more diverse mosaic of habitats and land uses and the combination of haying and grazing made the place function, since short grass dependent wildlife evolved with grazing by native herbivores. There is less grain and hay grown in the valley now and changes in water management, grazing practices, and crop patterns in the valley and on the Refuge have significantly reduced habitat value for cranes. The fall staging populations of cranes have declined by more than 65% since the 1980s.

Crane, goose, duck, and muskrat numbers seem much lower than in the 1980s. White-faced ibis appear to be the only species on the Refuge that has increased in the last 20 to 30 years. It was the Service's failure to complete the impoundment project as agreed to in 1965 that dried the marsh and increased bulrush density. The most significant decline in waterfowl in the Valley occurred within the 10 years following the abandonment of the partially constructed perimeter dikes (circa late 1970s to early 1980s).

Comment: Some Species Deserve Special Refuge Management Attention

Grays Lake NWR is significant to the Rocky Mountain Population of greater sandhill cranes for both production and migration values. Refuge establishment in 1965 and the boundary expansion in 1972 were in large part driven by the immense value of this marsh as a breeding ground for sandhill cranes and to hold cranes in the valley in fall to reduce depredations in the Blackfoot Reservoir area. Managing the uplands in cooperation with nearby landowners to provide high quality habitat for cranes the Refuge would also benefit a wide-variety of species in the uplands.

Grays Lake National Wildlife Refuge is important as a breeding area for trumpeter swans. Improving nest habitat quality and the productivity of nesting pairs at Grays Lake would significantly increase the security of nesting swans within the Greater Yellowstone population.

Numerous federal and state resource-management agencies and non-governmental organizations have designated the Yellowstone cutthroat trout as a "species of special concern" or a "sensitive species" warranting special protections and the Service must analyze the historic and current presence or Yellowstone cutthroat trout in Refuge waters and the impacts the CCP/EIS alternatives will have on this struggling fish species.

The Service needs to ensure protection of eagles using the Refuge, consistent with the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668-668c).

Muskrats have exceptionally important roles in the Grays Lake marsh and have specific habitat relationships that have relevance to many other species. If water management practices can be improved to provide overwinter habitat sufficient to restore a thriving muskrat population, habitat conditions would be vastly improved for many marsh-dependent wildlife species, including trumpeter swans. Rebuilding a thriving muskrat population should be a CCP goal that was ecologically significant, understandable, and measurable, and would generate support from a multitude of partners.

Comment: Policy-Based Planning Approaches for Wildlife are Ineffective

A local resident commented that Service policies on biological integrity, diversity, and environmental health detract from Grays Lake NWR Purposes.

The needs of focal species should be the emphasis of habitat based strategies in the CCP and that simply attempting to provide “a diversity of habitats” is insufficient for Grays Lake. The Service should identify focal species that will provide the foundation for meaningful habitat objectives.

The Service should review the Idaho Comprehensive Wildlife Conservation Strategy’s 229 “species of greatest conservation need” and adopt the State’s eco-region management objectives for these species. The Service should review and ensure consistency with the Idaho Partners in Flight Idaho Bird Conservation Plan and the Management Plan for Conservation of Yellowstone Cutthroat Trout in Idaho.

***Response:** Given the scope of the challenges the NWRS faces, each refuge must be strategic if the Service is to succeed in ensuring sustainable populations of fish and wildlife. Now, more than ever before, it is critical that the Service makes bold but thoughtful choices to focus our work and our resources where they will have the greatest conservation benefit.*

The U.S. Fish and Wildlife Service have adopted Strategic Habitat Conservation (SHC) as the model for setting and achieving conservation objectives at multiple scales. Because it is impractical and inefficient to conserve landscapes by considering requirements for all species present, selecting a subset of focal species to serve as surrogates for a broader array of biological outcomes is a practical first step and helps fulfill an important step in the biological planning component of SHC.

Focal species are one category of surrogate species. Generally, focal species are selected based on knowledge that factors limiting their populations are sensitive to landscape-scale characteristics, such as land cover composition or connectivity. By addressing the needs of focal species, other species within a guild are expected to benefit.

Surrogate species is a commonly used term for species-based conservation planning. It includes various categories (umbrella, keystone, indicator), and its use is well documented in the scientific literature. Grays Lake NWR focal species will be used as surrogates to represent other species or aspects of the environment and represent the habitat and/or management needs of larger groups of species.

The CCP/EIS will assess local and regional population trends of wildlife, use focal species as surrogates to identify where on the landscape or Refuge scale to target conservation efforts, what types of actions to take, and how much effort is needed.

Ultimately we envision that the Grays Lake NWR CCP/EIS will:

- *Make a shift that explicitly links the management of individual resource “parts and pieces” to sustaining species, populations, communities as part of whole systems and their ecological functions and processes;*
- *Emphasize science and predictive models linking work at Refuge scales to conservation achievements on broader spatial scales, such as landscapes, major ecoregions, and entire species ranges; and*
- *Foster a strong reliance on measurable biological outcomes (e.g., sustainable fish and wildlife populations or habitat outcomes that support sustainable populations).*

WILDLIFE HABITAT MANAGEMENT

Comment: Grazing is Effective and Natural, Habitat Management

Statically there is no difference between heavy, moderate, and light grazing for wildlife. Most wildlife at Grays Lake naturally evolved with grazing pressure from bison. Therefore, weather, predators, and human disturbance are more important effects to be considered and managed for. The Refuge’s analysis of grazing as an incompatible Refuge use in 1994 was inadequate and that the attempt to remove livestock and the subsequent Refuge de-emphasis of short-cover habitat management as a significant reason why there is currently less wildlife at Grays Lake NWR.

A diversity of land uses is required, not just on the Refuge, but throughout the valley to support a diversity of abundant wildlife. It is still possible to get back to a more cooperative Valley-wide management approach to provide different levels of grazing utilization, hayed, and idle lands; and that short-cover habitat was an important element for several wildlife, notably sandhill cranes. The CCP should recognize that the Grays Lake basin evolved with bison and other large grazing mammals and that grazing is an essential tool to maintain high quality crane habitat, as well as being a purpose specified in the 1965 establishment agreement.

Grazing conflicts with wildlife are frequently overstated and most issues with livestock and wildlife were manageable. If there is evidence that cows step on crane nests or colts that simply shifting the season of use for livestock to June 15th would solve the problem.

Comment: Grazing is Destructive Habitat Management

Natural resource conservation always comes last in Idaho and livestock interests seem to trump everything. The Service must ensure that it is managing the area to conserve and enhance the biodiversity and this mission must take priority over other uses of the Refuge. The Service should use its authority to curtail all uses of Refuge lands that are not compatible with conservation goals for biodiversity, including, but not limited to, grazing activities.

Grazing is known to have significant adverse impacts on ground nesting birds and wetlands and riparian habitats require protection from the impacts of livestock grazing. The EIS should provide site-specific analysis of known livestock problem areas, particularly for wet

meadows, wetlands, and all stream reaches and consider options to minimize grazing impacts. The Service and the grazing permittee should commit necessary resources for range monitoring and herding and livestock grazing should be terminated if analyses show that grazing impacts cannot be suitably controlled to protect important and sensitive lands and waters. The Service should consider ways to reduce anthropogenic stress from livestock grazing to avoid cumulative impacts from the combination of climate stress and stresses of livestock grazing.

Comment: Current Rest-Rotation Grazing Strategies are Unwarranted

Rest-rotation grazing regimes currently utilized by the Refuge are ineffective for livestock operations and wildlife. Grazing should be managed continually on Refuge units that warrant short-cover habitat objectives to assure predictable short-cover areas for wildlife and the most palatable and nutritional forage for livestock. What is the value of the Refuge rotationally idling lands or not grazing some units at all? What is the benefit to wildlife from idled units with un-grazed standing grass when heavy snows will flatten standing grasses each winter?

Running cattle in common would be simpler than issuing and managing multiple grazing permits to individual ranchers. The Refuge would have greater ability to achieve short-cover treatments on a larger area by running one large cattle herd in comparison to individual pastures and rotations.

Comment: Rest-Rotation Grazing Techniques are Effective

Rotational grazing practices help to minimize the negative impacts of grazing, but rest-rotation management requires significant resources and is often not enforced adequately.

Comment: Continued Access to Lakebed Grazing is Needed

It is important to continue access to fall grazing within the lakebed for both water and forage, particularly “sweet grass” (i.e., sedges) within the lakebed as needed to support their fall grazing operations.

Response: The Department of the Interior and the U.S. Fish and Wildlife Service were sued on October 22, 1992, for alleged violations of the National Wildlife Refuge System Administration Act, the Refuge Recreation Act, and the National Environmental Policy Act. The suit alleged incompatible secondary uses were being permitted on nine refuges and that the Department of Interior was failing to follow legal requirements in allowing similar uses throughout the refuge system. Livestock grazing was specifically cited in the suit within the Southeast Idaho National Wildlife Refuge Complex (NWR) as an incompatible secondary use at Camas NWR.

The suit was settled out of court on October 20, 1993. The settlement agreement made several direct decisions on secondary uses on the National Wildlife Refuges identified in the suit. Through the settlement agreement, the Service discontinued grazing at Camas NWR. Subsequently, the Southeast Idaho NWR Project Leader removed grazing from the other three NWRs in the Complex, including Grays Lake NWR.

Grazing use was then brought back on Grays Lake NWR in 1996 to more thoroughly assess grazing, haying, prescribed fire, and idle management practices in a four-year USGS study. The CCP/EIS will fully incorporate the research findings from 1997-2000 and address the appropriateness and compatibility of grazing at Grays Lake NWR to provide the most

appropriate management techniques for the Refuge's wet meadow and upland habitats to maximize habitat values for key wildlife species (e.g., sandhill cranes, Canada geese), while assuring other native wildlife cover and forage requirements are still satisfied.

HABITAT RESTORATION

Comment: Restore Watershed Function

Changing tribal water delivery from Clarks Cut and the Blackfoot River (unnatural watershed function) back to Willow Creek and the South Fork of the Snake River (natural watershed function), while politically and technically complex is both necessary and achievable. The Service should design a program in the CCP to bring together a diversity of partners to repair damaged wetlands and drainages to accomplish one of the largest wetland/riparian improvement efforts in the Intermountain West.

Grays Lake NWR and the adjacent drainages of Meadow Creek and Willow Creek have been severely damaged by past Department of Interior water delivery methods. The degradation to Meadow Creek from almost 90 years of Grays Lake water diversions through Clarks Cut is severe and needs to be restored and mitigated.

The Refuge needs to model natural processes and how the marsh functioned prior to Clark's Cut. A workable model of the natural water regime is essential and that the Service would be missing a huge piece of information in the CCP without such a model.

The BIA and Refuge dikes and canals within the lakebed act as dams to impound water on private pastures. The Refuge needs to reclaim natural flows of perennial creeks from Caribou Mountain and remove the dikes which have altered the local creek water flows.

The CCP should maximize the restoration and protection of riparian areas and permanent wetlands and explore opportunities to recycle water and nutrients in the Refuge area with the goal of maximizing water quality.

Comment: Restore Degraded Grazed Areas

Grazing is known to have significant adverse impacts on wetlands and riparian areas and that the restoration of these degraded areas are of utmost importance because they represent a small subset of the landscape, provide disproportionately important ecosystem services, and they suffer disproportionate adverse impact from livestock grazing.

Comment: Restore or Maintain Smooth Brome in former Sagebrush Habitat

Removing brome monocultures to restore sagebrush is very expensive and time consuming approach to management. The Refuge should maintain brome grasses in areas that were planted for Conservation Reserve Program (CRP) or pasture improvements and not actively undertake sagebrush restoration since there was a high likelihood that restoration attempts would do nothing more than increase invasive species.

The Refuge could seed and restore the Bigler and South pasture units in the grain field where erosion and livestock had caused problems, but continue to graze the remaining portions of the unit by fencing the restoration area out from the larger portions of the unit.

Response: For the CCP/EIS to successfully develop objectives to improve degraded environments into self-maintaining ecosystems, a deep understanding of the complex principles of ecology is required.

The Grays Lake CCP/EIS will assess, and if appropriate, advance restoration ecology when restoration practices and theory can be mutually engaged to provide proactive accomplishments that are bounded by science, social, and economic acceptability at Grays Lake NWR.

“ACTIVE” AND “PASSIVE” WETLAND RESTORATION

Comment: Use Physical Management to Attain Wetland Habitat Objectives

The Refuge is too fixated on restoring more natural water regimes. Refuge habitat issues could better be alleviated through “active” habitat management projects such as excavation or burning bulrush habitats to create better waterfowl habitat, while maintaining the current water regime.

Comment: Use Natural Processes to Attain Wetland Habitat Objectives

The Service should not consider excavating the marsh to provide more open water. A reliance on “active” physical management would create more negative impacts than positive effects, and would detract from “passive” management goals for restoring the water regime to a more natural system.

Response: *The Refuge will evaluate multiple options in the CCP/EIS to provide more productive wetland habitats within the Grays Lake marsh.*

Options may include natural process oriented approaches for returning Grays Lake, to the maximum extent practicable, to the ecological condition that existed prior to the construction of Clark’s Cut. This option may include strategies for working with the BIA for the removal or plugging of drainage ditches in degraded wetlands or returning flows, meanders, and profiles to straightened or channelized streams. Additionally the refuge may seek to remove disturbing or degrading elements to enable the native habitat to reestablish or become fully functional or restore or mimic the natural hydroperiod, to the greatest extent practical, given the primary purpose of the tribal water for use in the Fort Hall Irrigation Project.

If returning Refuge ecosystems to a more natural ecological condition proves impractical, other options may exist to rehabilitate one or more of the original habitat functions. This type of applied “active” management to be evaluated in the CCP/EIS will assess the practicality of rehabilitating one or more of the original Refuge habitat functions through active manipulation of the physical environment and may include: burning or excavating monotypic bulrush habitat communities to reestablish open water areas and submerged aquatic vegetation; the installation of water control structures in a swale to simulate natural hydrological processes; or the placement of streambank or instream habitat structures in streams that cannot be restored to original conditions.

AGRICULTURAL CROPS

Comment: Increase Agricultural Crops

The north Ayers CRP field should be rented to a farmer to grow grain for sandhill cranes since a 500 acre brome grass monoculture was of no benefit to wildlife.

Comment: Eliminate Agricultural Crops

No farming or agricultural crops should be allowed on any NWR.

***Response:** The issue of crop depredation in Southeast Idaho by sandhill cranes goes as far back as the 1960s. The alleviation of crop depredation was specifically mentioned as a necessary Refuge management element in the justification to the Migratory Bird Conservation Committee for Grays Lake NWR expansion in 1972. However, a notable decline of private grain fields within the Grays Lake basin had occurred by the early 1970s with many cropland acres were then converted to pasture, alfalfa hay, or set aside under the Conservation Reserve Program.*

By the mid 1990s, crop depredations in the Soda Springs and Blackfoot Reservoir area increased with some fields being consistently damaged each year and some landowners contacted state politicians seeking action. The Idaho Fish and Game Commission directed the Idaho Department of Fish and game (IDFG) to convene a work group to seek a solution to the problem. The resulting IDFG plan, Management Plan for Reducing Sandhill Crane Crop Damage in Eastern Idaho (Idaho Department of Fish and Game 1997), called for: (i) 600-1000 acres of lure crops to be strategically located in order to reduce the problem, (ii) the new sandhill crane management plan to be adopted, and (iii) protocol developed to handle depredation problems. The latter includes lure crops, crop residue management, hazing, hunting, and kill permits issued by FWS to remove problem birds. The Commission established its first recreational crane hunt in 1996.

Grays Lake NWR planted 50-90 acres of barley on 7-8 fields through the mid-1970s; in the 1990s 7 of these fields (totaling 65 ac) were planted annually; currently an average 100 acres are in annual production in a rest-rotation farming program within 12 fields.

In the CCP, the Service will explore the most appropriate strategies for providing food for migratory waterfowl. In cooperation with the State of Idaho Lure Crop Board, the Refuge will need to consider an array of options in the CCP/EIS which keep 1,500-3,000 cranes in the valley until September 10 to minimize depredation problems.

OTHER REFUGE MANAGEMENT PRACTICES**Comment: Increase Water Resource Management**

The Service should increase the Refuge's ability to properly manage Refuge riparian water rights. The Refuge and livestock operations could both benefit by applying Eagle Creek water for late season irrigation of meadows. The Refuge needs to increase active riparian water right use and monitoring to assure Refuge riparian water rights are protected.

The Service should ensure protection of the water quality and existing beneficial uses of the Refuge, which includes ensuring water quantity and quality necessary to support fish, wildlife and bird populations and that grazing and other activities within riparian areas not lead to degradation of water quality through sediment delivery, vegetation removal, and defecation. Although currently no indication exists that waters within the Refuge area are not meeting water quality standards, that water quality should be adequately addressed during development of the CCP.

The Refuge should perform a water resources assessment for Grays Lake NWR to determine whether those rights are sufficient to meet the purposes of the Refuge and describe threats to water quantity and quality. This inventory should describe existing Refuge water, to propose management actions that respond to water resource challenges.

The Refuge should work closely with the Idaho Department of Environmental Quality and the Bureau of Indian Affairs for improving Refuge water quality and specify anti-degradation provisions. The EIS should evaluate the influence of agricultural and grazing practices on nutrient loading in Grays Lake and modify wetland structure and/or water flow to improve water quality.

***Response:** In the CCP, the Service will explore the most appropriate options for improving wildlife habitat and maintaining or improving water quality. We will consider water management and quality alternatives for Refuge wetlands and the benefits and impacts to focal wildlife species.*

The CCP and associated NEPA document will additionally address the issue of the strategies required for protecting Refuge water right and the best application and water infrastructure required to manage Refuge water rights consistent with Idaho water law.

Comment: Improve Invasive Species Management Capability

The greatest threat to biodiversity is the spread of noxious weeds and requires specific mitigation measures for preventing the spread of noxious weeds.

The Refuge does a poor job in controlling invasive species and a large increase in Canada thistle has occurred in the last few years on the Refuge.

It was the responsibility of the United States Department of Agriculture (USDA) to control invasive species and the Refuge should not have to do USDA's job for them. The USDA needs to substantially improve its invasive species management capability.

***Response:** The CCP/EIS will address invasive species issues in detail. The control of invasive species has been, and will continue to be a major management priority for the Refuge. The key questions that will be considered in developing refuge management alternatives are how to collaborate with other agencies and partners to manage invasive species the most effectively, which areas will be prioritized for treatments and whether those treatments will involve eradication or suppression.*

Comment: Minimize Effects from Off-Refuge Actions and Projects

The Refuge needs to work with local residents to assure the Bonneville Power Authority proposal for a large electric transmission line project south of the Refuge in Wayan, ID does not happen.

The Refuge needs to scrutinize United States Forest Service (USFS) actions on surrounding federal lands to assure Refuge resources are not negatively affected. Specifically, the Refuge needs to work with the USFS to ensure mining claims on Caribou Mountain are not reactivated or sold for gold mining, or that open pit mining is permitted.

Response: *As a feature common to all CCP/EIS alternatives, the Service will actively participate in protection of Refuge resources pertaining to future industrial and urban development, transportation, recreation, contamination, and other potential projects that may affect Refuge resources, as appropriate. In all alternatives of the CCP/EIS the Service will continue to cultivate working relationships with county, State, and Federal agencies to stay abreast of current and potential project proposals; and assure the Refuge is an active participant in project scoping and decisions to raise awareness of Refuge resources.*

Comment: Increase Inventory and Monitoring Efforts

The Refuge needs to assess the biological inventory and monitoring needs and develop prioritized objectives to attain them. Refuge staffing is currently inadequate to monitor the current grazing use and adaptively manage Refuge management actions.

The CCP should address climate change through the development of a comprehensive inventory, monitoring, and research program as an early warning system for climate-induced changes. The Service should coordinate regional data accumulation and analysis efforts with other federal and state agencies, conservation organizations, universities, local landowners, and climate change scientists. Identify and describe specific indicators to be monitored and monitoring strategies to inform management actions through the principles of adaptive management. It takes significant resources to manage grazing on a NWR and that the Service needs to ensure that range conditions are monitored and livestock are moved accordingly. If the Service and the grazing permittee cannot commit necessary resources for range monitoring, fencing and herding, Refuge livestock grazing should be terminated.

Monitoring is necessary and crucial to identifying and understanding the consequences of management actions and should be included in the strategies within the CCP/EIS.

Response: *Inventoring and Monitoring (I&M) are vital elements of Grays Lake NWR efforts to support science-based conservation planning and management. An I&M Plan will be developed and included in the CCP that will clearly articulate monitoring objectives and prioritized staffing and funding for plan implementation. The Refuge I&M Plan will consist of three components. The first is a prioritized list of surveys and methods. Second will be an explanation of how the survey data will be used to inform management decisions. The third component will identify the focuses on time frames (calendar) for completion of training, field work, data analyses, and reporting for each survey.*

Comments: Alleviate the Effects of Contaminants

The Refuge needs to monitor for airborne contaminants from ongoing phosphate processing (e.g., mercury), establish baseline selenium levels on the Refuge and for Refuge wildlife, and assure upstream contaminants from historic gold mines on Caribou Mountain do not affect the Refuge.

Response: *Through the CCP/EIS Grays Lake NWR will update its Contaminant Assessment and implement activities that assess and restore Refuge resources degraded by pollution in partnership with other affected state, tribal, and federal natural resource trustees. The Service will synthesize existing information thereby documenting past, present, and potential contaminant sources and receptors, contamination events, transport mechanisms, and areas vulnerable to contamination that may affect Refuge resources. As warranted, the Refuge will*

develop objectives and strategies within the CCP/EIS for remedial activities, detailed studies of potential problems affecting Refuge resources, proposals for future investigations, and pollution prevention actions.

LANDSCAPE MANAGEMENT

Perspectives for Attaining Collaborative Conservation at Larger Scales

Comment: Increase the Viability of Wildlife and the Local Economy

It is not too late to embrace the cooperative conservation and ranching approach the Refuge was founded upon. The CCP should foster an approach to enhance the whole community and its residents—not just wildlife. There were ample opportunities to solicit collaborative partnerships with organizations representing hunting, fishing, birding, agriculture, ranching, and conservation interests to advance Refuge management.

The Valley was historically a thriving community, sustained by over 60 ranches. If the Service had not been allowed to establish a Refuge in 1965, ranching would still be viable and more of their family would have continued to ranch in the valley.

Comment: Manage Cooperatively Across Broader Ecological Scales

A diversity of land uses is required, not just on the Refuge, but throughout the Basin to effectively manage wildlife. The Refuge must address management at larger scales than Refuge lands and work outside its borders more.

The CCP should work to connect discontinuous areas of terrestrial and aquatic habitat and establish protections for likely movement corridors along both latitudinal and altitudinal gradients. The Service should engage in landscape-level conservation partnerships to ensure climate change adaptation actions are developed and implemented at the appropriate scale.

The Service should take advantage of the CCP process to explore creative ways to work with agencies and private partners, in the Grays Lake basin, to manage high value resources on a watershed-level. Because the basin is well defined, with few private landowners, there is immense potential for cooperative water-shed based resource management.

***Response:** Ensuring effective conservation of the Refuge System's diverse fish, wildlife, and plant resources for the benefit of present and future generations of Americans is a complex and daunting task. Because of the mobility and migratory movements of most of these resources, the Refuge System must look beyond its boundaries and work with a variety of partners to achieve broader conservation goals beyond the boundaries of individual refuges. A landscape level approach to resource concerns, using a foundation of science-based management, will be assessed in the Grays Lake CCP/EIS, as the Refuge explores ways to work with other agencies and private partners to manage resources of concern on a landscape level.*

Comment: Increase Land Conservation and Refuge Acquisition Strategies

Portions of Grays Lake ranches are being bought out by non-ranchers. While Grays Lake has yet to see the type of summer home development experienced in other areas of Southeast Idaho, if the economy improves more parcels will be sold and more seasonal homes built

around the Refuge. If the Department of Interior cannot acquire lakebed property, many landowners will likely to sell their land to be developed for summer homes.

The CCP should include a list and description of areas within the Refuge authorized boundaries that are currently unprotected, as well as a plan for future acquisitions and potential boundary expansions. Improving habitat connectivity should also involve working beyond the Refuge's boundaries.

The Service should work to acquire Tribal water rights and rights to surrounding land that would further the conservation mission of the Refuge.

Response: *Land conservation as part of the NWRS may include land protection such as fee title acquisition, conservation easements, and cooperative agreements. Currently the Refuge can only acquire lands within its approved 32,825 acre boundary.*

The CCP/EIS will utilize landscape level biological planning as a tool to guide management decisions and to prioritize land acquisitions. The Refuge will work closely with States and other partners in determining whether a particular area is best suited for addition to the Refuge System or whether it is better protected through acquisition and/or management by another conservation entity or retained in private ownership. This landscape level concept, commonly referred to as the habitat goals process, is described in the document "A Process for Integrating Wildlife Population, Biodiversity, and Habitat Goals and Objectives on the National Wildlife Refuge System: Coordinating with Partners at all Landscape Scales" (January 2004) produced by a Fulfilling the Promise Action Team.

Expanding the Refuge boundary may be assessed as an option in the CCP/EIS. If the Refuge elects to expand the Refuge boundary, the Service would need to complete a Preliminary Project Proposal (PPP) for approval by the FWS Director. If the PPP is approved a more detailed Land Protection Planning (LPP) process would then be initiated.

The LPP would address large-scale land protection alternatives and help to prioritize adjoining lands that are most critical for protection of Refuge water quality and quantity; have the highest quality upland and wetland habitat; and provide the best opportunities for habitat conservation and restoration. Identifying where high quality or potentially restorable fish and wildlife habitats exist in the area, which species are using the habitats, and whether those habitats should be protected and managed as part of the National Wildlife Refuge System, would be key components of the document. The LPP could be produced in conjunction with the CCP/EIS or as a stand-alone effort.

Comment: Consider Affects to Idaho Department of Lands Endowment of Trust Lands
Idaho Department of Lands (IDL) have been within the approved Refuge boundary and have been acquired by the Refuge. The State of Idaho has a constitutional mandate for IDL to manage these lands for revenue of trust beneficiaries.

Response: *The Service readily acknowledges that the State of Idaho endowment assets consist of lands within and adjacent to Grays Lake NWR and that endowment assets are held in trust by the State. Furthermore, the Service understands that the Land Board is obligated to manage the assets of each trust with undivided loyalty to the beneficiaries of the trusts.*

The current extent of the Refuge boundary was established by the Service in 1982 to include Idaho Department of Lands (IDL) on the northeast portion of the Refuge. An additional 200 acres of IDL lands were included in the Refuge boundary, with the concurrence of the County Commissioners and the Idaho Department of Lands, when the Refuge acquired a 560 acre track outside the approved boundary in 2003. Should acquiring State lands or expanding the Refuge boundary be a reasonable alternative in the CCP/EIS, the Refuge will fully coordinate land acquisition, exchanges, or easement proposals on a case-by-case basis with IDL. Any Refuge acquisitions of IDL Lands will acknowledge IDL's obligations to improve the revenue of the nine endowment trusts, and provide opportunities for the State Board of Land Commissioners and the Department of Lands to utilize the land banking process to reallocate or diversify its real estate portfolio and to improve revenue for trust beneficiaries.

Comment: Incorporate the Effects of Climate Change into Refuge Management

Climate change is among the most “significant problems” affecting plants and animals today, and could result in dramatically different ecosystem compositions than currently exist on the Refuge and planning decisions should be considered in light of this issue.

The CCP should address cumulative effects of climate and other stressors that effect ecosystem change at a greater magnitude than would be expected by summing their individual effects. Actions within the CCP should limit pressure on ecosystems and foster resiliency to climate change impacts.

Climate change will add cumulative interaction to grazing stress to plants, animals, and streams. Climate change is expected to increase the intensity and duration of summer droughts resulting in increased adverse grazing impacts.

The climate is much warmer and perennial stream flows into Grays Lake have reduced from historic flows. Increased greenhouse gas concentrations will increase the number of warm days and change the amounts of seasonal distributions of rainfall and snowpack. The CCP should evaluate the potential impacts of climate change on water levels within the Refuge, and downstream water levels. The CCP needs to assure there was adequate water for wildlife if drought cycles continue to persist.

***Response:** In the CCP, the Service will review what is known about global climate change and evaluate how it might affect Refuge habitats and the wildlife that depend upon them. The Refuge's I & M plan will be tailored to monitor species predicted to be most impacted by climate change. The information we gain from our monitoring efforts will be incorporated into management of the Grays Lake NWR. The Refuge will incorporate an assessment of the cumulative interaction of climate change and grazing upon Refuge habitats and wildlife.*

PUBLIC USE AND RECREATION

WILDLIFE VIEWING AND PHOTOGRAPHY

Comment: Public Access is Too Restrictive and Should Be Increased

Grays Lake NWR has little public access in comparison to other NWRs. The causeway to Bear Island should be opened for hiking or mountain biking as a birding path and that a pedestrian gate be installed to facilitate hiking access and attract more visitors to the Refuge.

Grays Lake is one of the best areas in this region to observe rare trumpeter swans.

A warming climate may likely lead to increased opportunity for warm weather recreation.

Response: *The CCP/EIS will review all public use activities for appropriateness and compatibility. We recognize that any public use causes some degree of disturbance to wildlife. At the same time, providing wildlife-dependent public uses can increase public awareness of, and support for the mission of the Refuge System. We are mandated by law to provide wildlife-dependent public uses if such uses are compatible with the purposes for which the refuge was established. Construction of public use structures will be considered in detail in the CCP/EIS. Alternatives will vary in the area and times of year when various public uses are allowed and the facilities needed to support these uses. The CCP will balance the needs of wildlife with the legal mandate to provide compatible wildlife-dependent public uses. Disturbance to wildlife caused by public use will be considered when analyzing the environmental impacts of each alternative.*

EDUCATION AND INTERPRETATION:

Comment: Integrate Climate Change into Refuge Education and Interpretation

The Refuge should utilize environmental education opportunities to inform the public and address climate change.

Response: *Increasing public awareness and appreciation of the Grays Lake NWR will be a priority in the CCP/EIS. Public use programs, including environmental education and interpretation, will be considered in detail, with climate change being one of the themes assessed for emphasis in Refuge's environmental education and interpretation program.*

HUNTING:

Comment: Eliminate Hunting

The principles of wildlife management have been perverted by the Service's emphasis on hunting as a compatible uses and that non-consumptive wildlife activities are compromised by hunting within the NWRS.

Expand Public Hunting Opportunities:

Hunting increases the health of wildlife populations and decreases crop depredation and the Refuge should encourage hunters to volunteer for Refuge improvement projects. Special hunt permits be offered to people who volunteer for improvement projects.

Response: *Hunting will be considered in detail in the CCP/EIS. Expanding or contracting the hunting program by increasing or changing location of hunting areas will be considered in development of Refuge management alternatives. This will include an analysis of the effects of hunting on wildlife and non-consumptive users, while considering the staffing and funding required for implementing each alternative.*

Issue outside the scope of the CCP: *While the Refuge will continue to encourage and promote volunteer efforts within the CCP, the Refuge will not grant special access for those who participate in Refuge volunteer efforts.*