

Appendix J



Erin Victory/TCI

Stone cellar remains

Summary of Public Comments and Service Responses on the Environmental Assessment and Draft Comprehensive Conservation Plan for the Nomans Land Island National Wildlife Refuge

Introduction

In May 2010, we completed the “Nomans Land Island National Wildlife Refuge Environmental Assessment and Draft Comprehensive Conservation Plan” (EA/Draft CCP). That draft refuge plan outlines three alternatives for managing the refuge over the next 15 years, and identifies Alternative C as the “Service-preferred Alternative.” We released the draft plan for 36 days of public review and comment from May 28 to July 2, 2010.

We evaluated all the letters and e-mails sent to us during that comment period, along with comments recorded in our public meeting. This document summarizes those comments and provides our responses to them. Based on our analysis in the EA/Draft CCP, and our evaluation of comments, we selected Alternative C, and recommended it to our Regional Director for implementation. It is that Alternative C which is detailed in this CCP.

Based on the comments received by the public and the planning team, we modified the draft CCP slightly. 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 EA/Draft CCP before publishing the CCP. These are some important changes we made.

1. We became more aware of additional partnership opportunities on Martha’s Vineyard and have modified the final CCP to reflect these opportunities (pages 4-7 through 4-8). We also inserted language in the Rational to Objective 2.2 (page 4-30) that these partnerships would potentially provide additional resources to increase our visitor services capacity from what is proposed.
2. We added language to Chapter 4 in the final CCP (page 4-11) stating that though it would not be possible to clean up the island to pre-bombing conditions, we would continue to work with the Navy, and federal and state regulators for the five-year site reviews. If, at some point in the future, there is a major advance in technology that would allow the extraction of UXO without massive ground disturbance or impact to wildlife, then additional cleanup might warrant further consideration at that time.
3. We included language in our Habitat Management and Protection summary in Chapter 4 of the final CCP (page 4-14) and biological rationales (Objectives 1.1 (page 4-19) and 1.2 (page 4-24) to work with the MA NHESP to evaluate the appropriateness of altering the frequency of prescription burns to incorporate rare plant management, and for tern restoration efforts.
4. We added language to several sections in Chapter 3 and Chapter 4 in the final CCP to incorporate more life history information and to refine our biological objectives and management actions for piping plover (pages 3-43; 3-45; 4-21; 4-23; and 4-24). This is due to the presence of a breeding pair on the island for the first time in 30 years.
5. We also corrected typographical and grammatical errors brought to our attention.

Our Regional Director will either select our Alternative C for implementation, or one of the other two alternatives analyzed in the EA/Draft CCP, 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 EA/Draft CCP, 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 evaluated and categorized by subject or issue all of the comments we received, including all letters, e-mails, and comments recorded at the public meeting. Our responses below follow the subject headings.

During the comment period, we received 24 responses, both written and oral. We gathered oral comments at a public meeting attended by 24 people on June 23, 2010, at the Chilmark Community Center, Chilmark, MA.

We received comments from these organizations:

MVC Wind Turbine Siting Committee and O.B. Energy Committee
Chilmark Conservation Commission
Massachusetts Natural Heritage and Endangered Species Program
Martha's Vineyard Commission
The Nature Conservancy

In the discussions below, we address every substantive comment received. Occasionally, comments received fell 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 in Table J-1.

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

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Service Responses to Comments by Subject

Access

(Comment ID#: 1, 2, 3, 5, 7, 9, 11, 14, 16, 18, 19, 20, 23)

Comment: Thirteen individuals and organizations expressed concerns to the U.S. Fish and Wildlife Service (Service; we, us) regarding access to the Nomans Land Island National Wildlife Refuge (Refuge). Concerns received in both written and oral comments ranged from allowing opportunities for public visitation, allowing only restricted, supervised public visitation, not allowing any visitation except from Service and Navy staff, and allowing no visitation at all, including from Service staff. In addition, several commenters expressed confusion or concern about allowing Tribal access, but not public access.

Response: The Service has a responsibility to conserve and protect public trust resources, especially federally listed threatened and endangered species, which requires some limited access to the island by Service staff. Under Alternative C, natural processes would be given priority, and management

intervention would only occur if conditions were no longer suitable for focal species of conservation concern. We believe this will result in fewer visits by staff throughout a given year, and shorter stays per visit. Impacts of staff visits were analyzed in the EA/Draft CCP (pages 4-2 through 4-7). We believe, in our best professional judgment, these impacts will be negligible and largely offset by the population management activities that take place that benefit Refuge species of conservation concern.

Aside from Service staff, only authorized visitors will be permitted on the Refuge. Authorized visitors include Navy personnel and their contractors working on UXO review. In the transfer agreement, the Navy “retains right of access to the property” in order to uphold their responsibility to monitor and remediate any continued impacts from their tenure on the island. Though the Navy and the Service coordinate and communicate about scheduled visits to the island, the Navy has a legal right to access the property independently of Service presence.

Authorized visitors also include volunteers acting as agents of the Service. Volunteers undergo a safety briefing and read the UXO handout provided by the Navy are also permitted access when necessary, and only when accompanied by Service personnel.

On occasion, we will allow local, State or other Federal officials to accompany us on the refuge, as well as private citizens, when their presence helps us achieve refuge objectives. Any such visitors, such as a wildlife expert or member of the media, will undergo a safety briefing and read the UXO handout provided by the Navy. They must always be accompanied by Service personnel.

The federally-recognized Wampanoag Tribe of Gay Head (Aquinnah) is a sovereign nation, and as such, is treated as another government entity. Ancestors of this Wampanoag Tribe historically used Nomans Land Island long before Bartholomew Gosnold “discovered” it for Europeans in 1602. The earliest documented archaeological site on the island dates back to the Late Archaic-Early Woodland Period (5,000 to 2,700 Years Before Present (YBP)), though it is likely that every major archaeological period would be represented on Nomans Land Island as it is on Martha’s Vineyard. Because of this government-to-government relationship, the Service is committed to honor our federal trust responsibility to uphold the Tribe’s right to access the island. The extent and frequency of Tribal access to the island for ceremonial purposes has yet to be determined; however, the Service does not anticipate that these uses would be frequent or intensive. Safety and liability concerns persist, and to implement Tribal access will require communication and coordination between the Tribe, the Service, and the Navy. All visits by tribal members will be specific, defined and limited, pre-approved by the refuge manager, and always accompanied by Service staff.

The Service will continue to enforce the ban on general public access, as stipulated in the transfer agreement which authorized the transfer of management responsibility of the island from the U.S. Navy to the Service in 1998. In this agreement, it specifically states that the Service “shall administratively close the island to all public access...” Given the safety concerns and liability associated with the prevalence of UXO remaining on the island, it will not be possible to allow for any amount or type of public access to the Refuge.

Habitat Management

Prescribed Burning

(Comment ID#: 1, 10, 15, 19, 21, 23)

Comment: Six individuals and organizations expressed viewpoints on the Refuge’s use of prescribed burning. Two were opposed to it, one was in favor of it, one felt it should be burned more frequently than proposed for rare plant management, and two were concerned about impacts to Martha’s Vineyard.

Response: Historically, fires were relatively frequent in southern New England, estimated at a frequency of 7 to 12 years in coastal plains and every 13 to 25 years in more inland sites. These frequent disturbance

events helped shape the ecosystems found in this region, and provided a shifting mosaic of early successional habitat for wildlife species. Prescribed burning is an effective, important management tool that is used to restore and maintain early successional habitat, retard invasive species and regenerate fire-dependent vegetation. On the Refuge, the Service is proposing to use prescribed fire to maintain critical maritime shrubland habitat, which has been identified as an important resource for migratory birds. Impacts from prescribed burns on the Refuge were fully analyzed in the EA/Draft CCP, including air quality impacts (pages 4-3 and 4-4). Burns conducted by the Refuge would conform to all local, state, and federal air quality laws and regulations, and would seek to minimize air quality impacts.

In the recent past, prescribed burns were largely under the discretion of the Navy, in coordination with the Service, to facilitate UXO surveillance and removal. Under this alternative, burns will be conducted when necessary by the Service to meet biological goals and objectives. We will conduct burns when necessary to achieve Service objectives identified in the plan, including for state-listed species that are also the object of our management focus. Burns could also be conducted by the Navy to aid future UXO clearance efforts. This will result primarily in dormant season burns to avoid impacts to breeding wildlife. Learning from past experience, additional care will be taken to strictly adhere to smoke management guidelines, and better care will be taken to fully inform residents on Martha's Vineyard of any scheduled prescribed fires in advance of implementation. Burns will be planned when wind direction appears stable so that smoke and ash is carried away from Martha's Vineyard. However, we cannot guarantee that smoke from a prescribed burn will never impact residents and visitors to Martha's Vineyard.

Under Alternative C, natural processes would be given priority, and it is likely that the combination of salt spray and wind will maintain shrubland habitat by retarding succession longer than in more sheltered (inland) environments. Therefore, we are proposing to employ adaptive management in determining how frequently to conduct prescribed burns on the Refuge. This will be based on a combination of monitoring techniques that will evaluate habitat condition and wildlife population trends and species presence over time.

Invasive Species

(Comment ID#: 1, 7, 15, 21)

Comment: Four individuals and organizations provided comments regarding invasive species management on the Refuge. Two were in favor of invasive species control on the Refuge, one supporting the proposed 10 percent invasive species cover threshold. One was strongly opposed to "alleged" invasive species management, and the fourth was concerned about prescribed burning techniques to control invasive species and impacts that might have on Martha's Vineyard.

Response: As an agency mandated to protect public trust resources, we are also mandated to protect native species and habitats against impacts from invasive species. The unchecked spread of invasive species can have deleterious impacts on ecological processes that can result in displacement of native species, loss of habitat function and reduction in overall species diversity. Methods employed to control invasive species can include mechanical, chemical and biological alternatives. On Nomans Land Island there are 14 invasive species documented to date, and we use EPA-approved herbicides to treat these invasives. Herbicidal application has been primarily by backpack sprayer, although aerial application has occurred twice; in all cases herbicidal application on the Refuge conforms to Integrated Pest Management (IPM) guidelines to prevent or minimize impacts from the use of these herbicides. We acknowledge concerns about herbicidal drift but do not believe that past applications resulted in any inadvertent impact on neighboring Martha's Vineyard. We will use aerial applications only when absolutely necessary. Given the distance between Nomans Land Island and Martha's Vineyard, and adherence to specific protocol that includes a defined wind direction, any inadvertent impact offsite is improbable and extremely unlikely. We also employ physical removal of invasive species where possible. Environmental impacts from the use of these herbicides and other control methods were analyzed in the EA/Draft CCP (pages 4-2 through 4-5; 4-8; 4-12; 4-14 through 4-15).

We appreciate the support for continued efforts to control invasive species, and we do not anticipate changing the 10 percent invasive species cover threshold in the final CCP.

For our response to impacts from prescribed burning, please see that section above.

Monitoring Birds and Vegetation

(Comment ID#: 3, 19, 21, 22)

Comment: Four comments were received describing the importance of monitoring Refuge resources (primarily birds), and provided favorable support to continuing these efforts. Several recognized the island's role in providing nesting habitat for breeding birds and a stopover site for migrating birds, and one suggested that the Refuge's avian monitoring would provide necessary information to future wind energy development proposals. One suggested a more proactive, comprehensive monitoring regime that would provide additional information on avian predator populations, restore large tern colonies, and target rare plant communities.

Response: We concur that the Refuge's location along the Atlantic Flyway, its diversity of habitats, unique uninhabited status, and lack of mammalian predators combine to elevate its importance to migratory birds. We appreciate the support you shared in our proposed efforts to continue monitoring these important Refuge resources.

Under Alternative C, and under a wilderness designation, our management approach is to primarily allow natural processes to occur, which will result in fewer staff visits to the Refuge. Thus, monitoring efforts will be directed at those focal species we identified as being of highest conservation concern. We also propose to use adaptive management to evaluate monitoring and management needs throughout the life of the CCP in response to changing circumstances. We therefore leave open the possibility to employ more proactive methods and to incorporate additional species or monitoring methods in the future. The FWS will participate in the statewide gull census conducted every 10 years, and will conduct night heron and egret surveys on an opportunistic basis. The FWS will also continue to monitor the use of the refuge by terns. If the importance of Nomans Land Island as a potential tern colony site in the state substantially increases, we may engage in more efforts to manage habitat or wildlife to establish a colony, if funds and resources allow and as consistent with wilderness principles. In all cases, we appreciate the information and collaboration we have received from our partners at the MA DFW, and would seek to partner with them to accomplish mutual resource objectives on Nomans Land Island, some of which may allow additional monitoring and population management efforts to take place.

For our response to Refuge activities related to wind energy development, please see that section below.

Wilderness Designation

(Comment ID#: 18, 19, 22)

Comment: We received two comments in favor of wilderness designation, and one comment expressing concern about the compatibility of managing a designated wilderness near an approved wind energy development site.

Response: We appreciate the support provided for wilderness designation and the additional protection it will afford Refuge resources. Because we are proposing a wilderness designation for Nomans Land Island NWR, it will be managed as a de facto wilderness, adhering to all mandates of the Wilderness Act, upon approval of the final CCP. We will continue to do so unless or until wilderness designation is dropped from consideration as the designation process progresses.

For our response to Refuge activities related to wind energy development, please see that section below.

Species Introductions

(Comment ID#: 19)

Comment: We received one comment that opposed the release of any species that was not currently present on the island. The concern was that this would upset the ecological balance of the island's resources.

Response: Under Alternative C, we are proposing to evaluate the feasibility of releasing New England cottontail rabbits on the Refuge. We are considering this for two reasons. First, we know that this species was historically found on Martha's Vineyard and it is very likely that it was once found on Nomans Land Island as well prior to habitat degradation and use by European settlers in the 1800s; and second, because it is a native species found only in the northeastern U.S., and due to rapid population declines and habitat loss, is currently a candidate for federal listing under the Endangered Species Act. Prior to any release, we will consult with the MA DFW, other experts in the region, and our Ecological Services division to evaluate the suitability of this site for New England cottontail, the feasibility of such an introduction and associated management and monitoring activities, and the genetic viability of an isolated island population.

We analyzed impacts of such a release in the EA/Draft CCP (pages 4-7 through 4-13; 4-14 through 4-15) and we believe, in our best professional judgment, that these impacts would be minor and would not have an impact on the island's ecological processes. We do not anticipate a significant departure from our proposed management should we decide that the re-introduction of New England cottontail rabbits is warranted on the refuge.

No Management

(Comment ID#: 1, 4, 9, 11, 14, 23)

Comment: Five commenters were opposed to or questioned any management at all on the Refuge, advocating instead letting natural processes go and leaving it to the wild. Two of these comments also included questions regarding UXO clean-up since its presence has prevented access to date which was seen as a positive outcome. The sixth commenter felt that ideally it would be beneficial to explore Nomans Land Island and surrounding waters for wind and solar energy development, but stated that if it was possible to solve energy supply issues in other ways, he would favor the "hands-off" approach in Alternative C.

Response: Under the recommended alternative, Alternative C, including the proposed wilderness designation, there would be little active management on the Refuge and only a few site visits by Refuge staff (other than law enforcement) throughout a given year. This alternative prioritizes natural processes, and management intervention would occur only when it was determined through monitoring data that habitat alteration was warranted to benefit focal species of conservation concern. Management actions would be carefully evaluated before implementation, and would be required to be approved through a Minimum Requirements Analysis (MRA) under a wilderness scenario. These actions would primarily include prescribed burning at approximately every 7 to 12 years, invasive species management if the percent cover exceeded the 10 percent threshold or posed an immediate threat to environmental health, predator control if there was a large nesting tern colony, habitat improvements for federally listed beachnesting species, and maintaining existing Refuge trails for access.

UXO clean-up and Navy activities on the island are not under the jurisdiction of the Service. The Navy is mandated by federal law (CERCLA) and is in compliance with state laws and mandates to continue site surveillance and possible remedial actions so long as human use of the site is restricted. The Navy will also comply with wilderness requirements, including the preparation of MRAs for all their activities.

For our response to wind energy development with respect to Nomans Land Island, please see that section below.

Administration

(Comment ID#: 1, 2, 8, 24)

Comment: We received four comments relating to various aspects of Refuge administration. Two of these were related to Refuge finances; one opposing the annual refuge revenue sharing payments to Chilmark, and another inquiring if the Refuge had a separate budget or if there was a budget for each alternative. The other two comments had to do with realty transactions; one suggesting that the Martha's Vineyard Land Bank purchase the island, and another suggesting that the Service look into extending its jurisdiction to the Martha's Vineyard mainland to potentially protect habitat there, and work with existing partners and programs such as the MOSHUP trail project.

Response: Nomans Land Island NWR is part of the Eastern Massachusetts NWR Complex, consisting of eight refuges in total. None of the refuges in this refuge complex have a separate budget; all funding for Refuge activities comes from the refuge complex budget. None of the alternatives proposed in the EA/Draft CCP for Nomans Land Island NWR had budgets associated with them; however, Alternative B would be the most expensive.

Since the Service took over management responsibility for the island in 1998, we began making annual refuge revenue sharing payments to the Town of Chilmark starting in 1999. Refuge revenue sharing payments are mandated by federal law (Refuge Revenue Sharing Act of 1935; 16 USC 715s), and, as amended, provide annual payments to taxing authorities, based on acreage and value of refuge lands. As part of Alternative C, we would continue to provide these annual payments to the Town of Chilmark in compliance with federal law.

The Service chose to take management responsibility for Nomans Land Island in 1998 after the Navy was required to end range operations in compliance with the Base Realignment and Closure Act of 1990. We recognized the island's value to migratory birds then, and continue to manage it for that purpose now. None of the alternatives in the EA/Draft CCP included any proposal to give up management responsibility for the island, or to put it up for sale, and neither will the final CCP. Should the Service find in the future that management of the refuge is no longer consistent with the agency mission, we would follow established procedures for the disposition of Federal lands. However, there is extremely little likelihood that the Service will arrive at this conclusion.

Likewise, extending the Refuge's boundary and the Service's jurisdiction to parts of Martha's Vineyard is not proposed in Alternative C, and is likely not feasible at this time. The Service's jurisdiction ends at the normal low water line on the island, and the Refuge is at the approved acquisition boundary. However, while the Service is not currently seeking opportunities for Refuge expansion, we will continue to consider opportunities as they are brought to our attention. Should we determine that this is a feasible option in the future, and decide to pursue it, the acquisition boundary could be extended. This would involve a public notification process. We learned about the MOSHUP trail (maritime coastal heathland conservation project) as a result of the public review process, and look forward to learning more about that project and expanding our conservation partnerships on Martha's Vineyard.

Wind Energy Development

(Comment ID#: 3, 4, 13, 14, 15, 22)

Comment: Four commenters were extremely concerned about and strongly opposed to any potential wind energy development sites associated with, or in proximity to Nomans Land Island NWR. Several of them specifically referred to the site south of Nomans Land Island NWR identified by the Massachusetts State Ocean Plan as a potential wind energy development area. The primary concern in all these comments was for the protection of migratory birds and maintaining aesthetic qualities. Several commenters in particular questioned the compatibility of the Refuge's CCP and/or wilderness designation with its focus on habitat management for migratory birds and a potential future wind energy development in close proximity that

would potentially have a deleterious impact on migratory birds. A fifth commenter asked what was the Service’s position on wind energy proposals, and the sixth commenter was in favor of exploring Nomans Land Island and associated waters for wind and solar energy development.

Response: The Service’s land management jurisdiction on the refuge ends at the low water line, therefore, any proposed developments in waters off of Nomans Land Island do not fall under the jurisdiction of refuge staff but are subject to Service review because the Service is mandated to protect migratory birds and species listed under the ESA. Because of this, the Service has a responsibility to review wind energy proposals on a case-by-case basis, to evaluate any deleterious impacts to terrestrial and marine wildlife, make recommendations to minimize impacts, and/or provide guidelines within which proposals can avoid violation of federal wildlife laws. This responsibility is conducted by the Service’s New England Field Office in Concord, New Hampshire.

In the Service’s official response letter to the Massachusetts State Ocean Plan (from Thomas R. Chapman (Supervisor, New England Field Office, USFWS) to Mr. Deerin Babb-Brott (Assistant Secretary for Oceans and Coastal Zone Management), dated November 23, 2009), we stated that, “while we are not in principle opposed to the designation of the area off Nomans Land Island NWR as a potential wind energy area, we emphatically state that considerably more detailed information about migratory birds, including their flight patterns and use of the waters and food sources located with potential wind facility areas, will be required before the Service can support any specific project proposal.” The letter further states, “...and the Service needs to be included as an active participant in the planning for any activity which might occur in state waters and have an impact on the species that we are entrusted, by federal law, to protect, conserve and restore.”

In addition, with regard to the Refuge’s closure restrictions on public use and use by others, the letter further states, “This restriction, along with federal laws that all public uses of a refuge must be appropriate, compatible and contribute to the purpose of the refuge if it is an economic use, signifies that no infrastructure to support offshore wind facilities will be allowed on Nomans Land Island NWR.”

We recognize information gaps exist with respect to birds and other wildlife that utilize these potential development areas, and the proximity of these areas to Nomans Land Island NWR. To address this, we included in the EA/Draft CCP and will include in the final CCP, that Refuge staff will work with other Service staff to recommend environmental studies to fill known data gaps, specifically with regard to impacts of wind turbines on bats and birds, as well as the proposed wilderness designation of the Refuge. We will consider requests on a case by case basis to install radar or other temporary structures that would provide information about bird and bat use on the refuge and nearby lands and waters, with the intention that data collected would be used to avoid or significantly reduce the impacts of offshore wind production to species of concern. Any temporary structure designed to provide biological information must be found appropriate, compatible, and manageable under wilderness principles. Wind turbines or any other structure designed to measure wind or to generate electricity will not be allowed on the refuge.

Table J-1. Comment ID Numbers and Respondents.

Comment ID Number	Name
1	Jean Public
2	David Agin
3	Beverly L. Burke
4	M.A. Whitton
5	Unknown (oral comment at public meeting)
6	Unknown (oral comment at public meeting)

7	Gus Ben David
8	Unknown (oral comment at public meeting)
9	Unknown (oral comment at public meeting)
10	Unknown (oral comment at public meeting)
11	Unknown (oral comment at public meeting)
12	Matt Pelikan, The Nature Conservancy
13	Unknown (oral comment at public meeting)
14	Richard Toole, MVC Wind Turbine Siting Committee and O.B. Energy Committee
15	Nan Doty
16	Pamela Goff, Chilmark Conservation Commission
17	Nan Doty
18	Pamela Goff, Chilmark Conservation Commission
19	Harriette Poole Otteson, Chilmark Historian
20	Kenneth Malcolm Jones, Deputy Shellfish Warden, W. Tisbury
21	Tom French, MA Natural Heritage Endangered Species Program
22	Jo-Ann Taylor, Martha's Vineyard Commission
23	S. Epstein
24	Megan Sargent