

Chapter 1



Ron Holmes/USFWS

Bald eagle in flight

The Purpose of, and Need for, the Action

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1.1 Introduction

A comprehensive conservation plan (CCP) is a document that outlines and guides long-term management for a national wildlife refuge (NWR). This draft CCP details and evaluates three management alternatives for the James River National Wildlife Refuge (NWR, the refuge) over the next 15 years.

This draft CCP was prepared pursuant to the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Refuge Improvement Act) (Public Law 105-57; 111 Stat. 1253); in conformance with United States Fish and Wildlife Service (Service, we, our) policy and legal mandates (see “The Service, its Policies and Legal Mandates,” below). The development of a CCP is also subject to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.; 83 Stat. 852) because the adoption and implementation of management actions analyzed in a CCP have the potential to affect the natural and human environment.

In an effort to streamline the administrative requirements of the CCP development process and NEPA, this document combines required elements of a CCP and an Environmental Assessment (EA). This document has five chapters and additional supporting content:

- Chapter 1 explains the purpose of, and need for, preparing a CCP, and sets the stage for four subsequent chapters and the appendices. Chapter 1 also:
 - ❖ Defines the refuge’s regional context and planning analysis area.
 - ❖ Presents the mission, policies, and mandates affecting the development of the plan.
 - ❖ Identifies other conservation plans we used as references.
 - ❖ Clarifies the vision and goals that drive refuge management.
 - ❖ Describes the planning process we followed, including public and partner involvement, in the course of developing this plan.
- Chapter 2, “Affected Environment,” describes the refuge’s regional and local setting, physical attributes, habitats, species, and other natural resources, and human-created environment of roads, trails, croplands, impoundments, and buildings.
- Chapter 3, “Alternatives,” presents three management alternatives and their objectives and strategies for meeting refuge goals and addressing public issues. It also describes the activities that the Service expects to occur regardless of the alternative selected for the final CCP.
- Chapter 4, “Environmental Consequences,” assesses the environmental effects of implementing each of three management alternatives. It predicts the foreseeable benefits and consequences affecting the socioeconomic, physical, cultural, and biological environments described in chapter 2.

- Chapter 5, “Consultation, Coordination, and Preparation,” summarizes how the Service involved the public and our partners in the planning process. Also, it includes a list of Service and non-Service contributors to the planning effort.
- A bibliography, glossary, list of acronyms and abbreviations, list of species scientific names, and six appendices provide additional supporting documentation and references used in this document.

This draft CCP will be available for at least a 30-day public review and comment period.

After completing this CCP, approximately every 15 years the Service will review, evaluate, and update it. However, if and when significant new information becomes available, ecological conditions change, major refuge expansion occurs, or when we identify the need to do so, the plan can be reviewed sooner. All plan revisions will require NEPA compliance.

Project Area

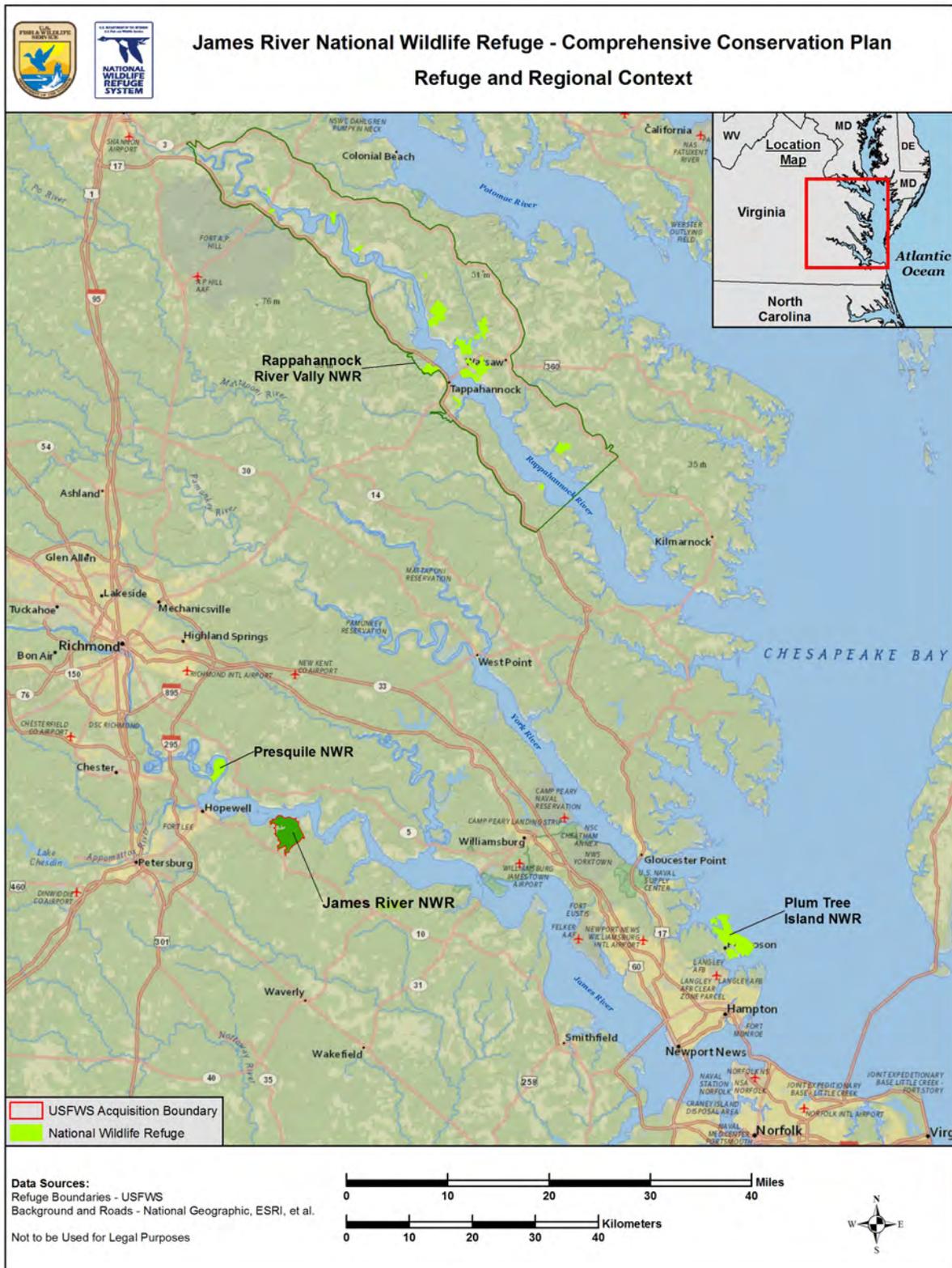
James River NWR is located in Prince George County, Virginia, along the south bank of the Lower James River. The refuge is approximately 6 miles east of Hopewell, Chesterfield County, Virginia, and approximately 30 miles southeast of Richmond, the State capital. The refuge encompasses 4,324 acres of pine-dominated, moist hardwood, and floodplain forests; freshwater marsh and shrub swamp; aquatic habitats; erosional bluffs; and non-forested upland.

The refuge is bounded to the north by the James River, to the west by Powell Creek, to the southeast by Flowerdew Hundred Creek, and to the south by Route 10. The regional context of the project area is defined by the interactions of the nearby metropolitan area, the James River watershed, and the Chesapeake Bay Estuary (maps 1.1 through 1.3).

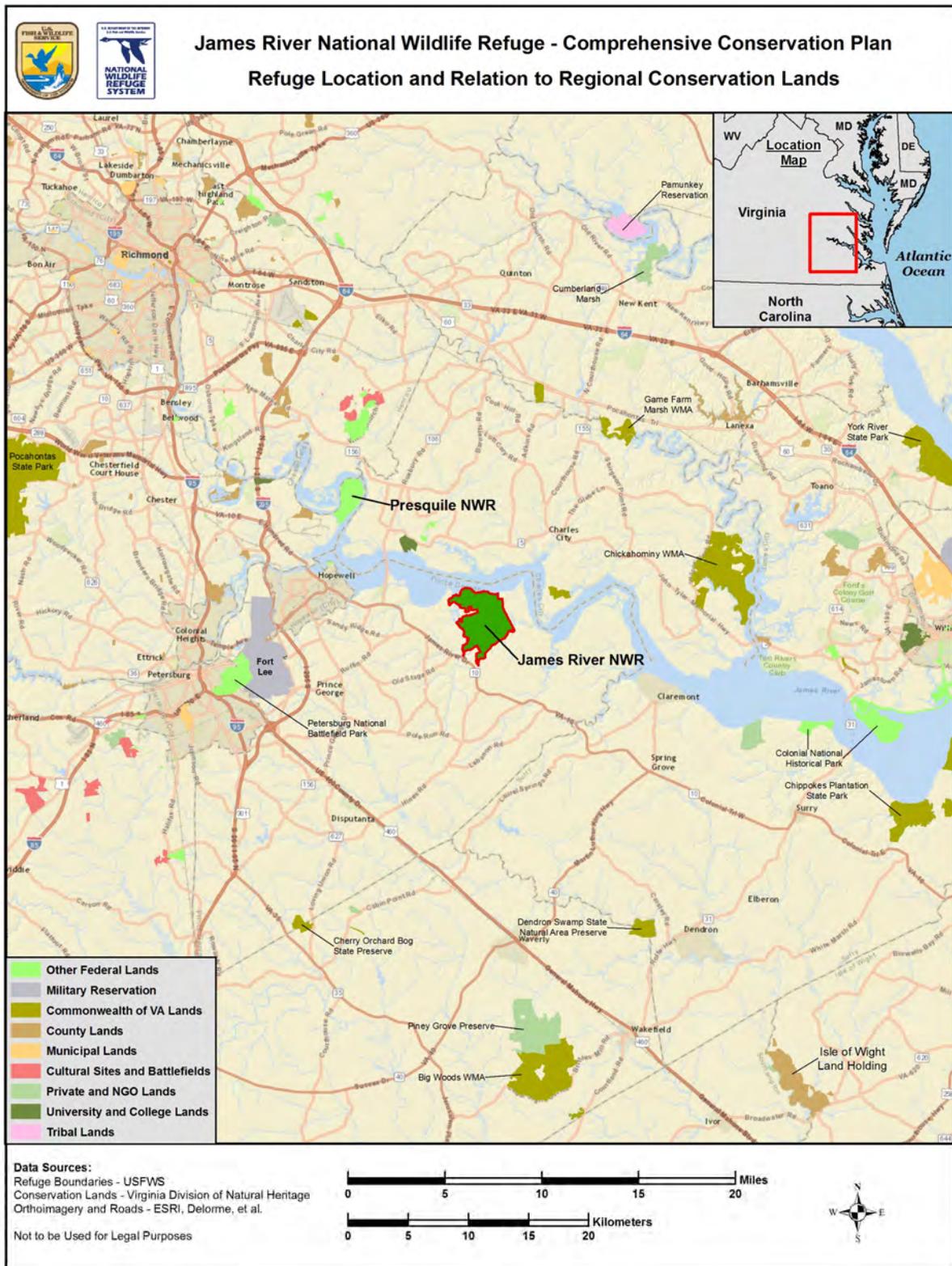
In 1991, James River NWR was the fourth refuge established specifically for the protection of bald eagles. At that time, the bald eagle was federally listed as endangered. Throughout its range, successful recovery efforts resulted in delisting of the bald eagle from the Federal list in 2007 and from the Virginia List of Endangered and Threatened Species (4VAC15-20-130) on January 1, 2013. Along the James River in southeastern Virginia, the bald eagle population has increased from zero pairs in the 1970s to more than 200 nesting pairs in 2013 (Center for Conservation Biology 2013). The bald eagle remains a species protected under the Federal Bald and Golden Eagle Protection Act (BGEPA) and the Federal Migratory Bird Treaty Act.

To increase management efficiencies, James River NWR was administratively organized with Rappahannock River Valley NWR, Presquile NWR, and Plum Tree Island NWR as the Eastern Virginia Rivers NWR Complex (refuge complex) and James River NWR became an unstaffed refuge in 2003. Today, refuge complex staff share responsibility for the four refuges and are located at Rappahannock River Valley NWR in Warsaw, Virginia, and in Charles City, Virginia. Each of the four refuges has, or soon will have, its own CCP. The CCP for Rappahannock River Valley NWR was completed in December 2009, and the CCP for Presquile NWR was completed in October 2012. The CCP for Plum Tree Island NWR is anticipated to be completed in 2015, after the CCP for the James River NWR.

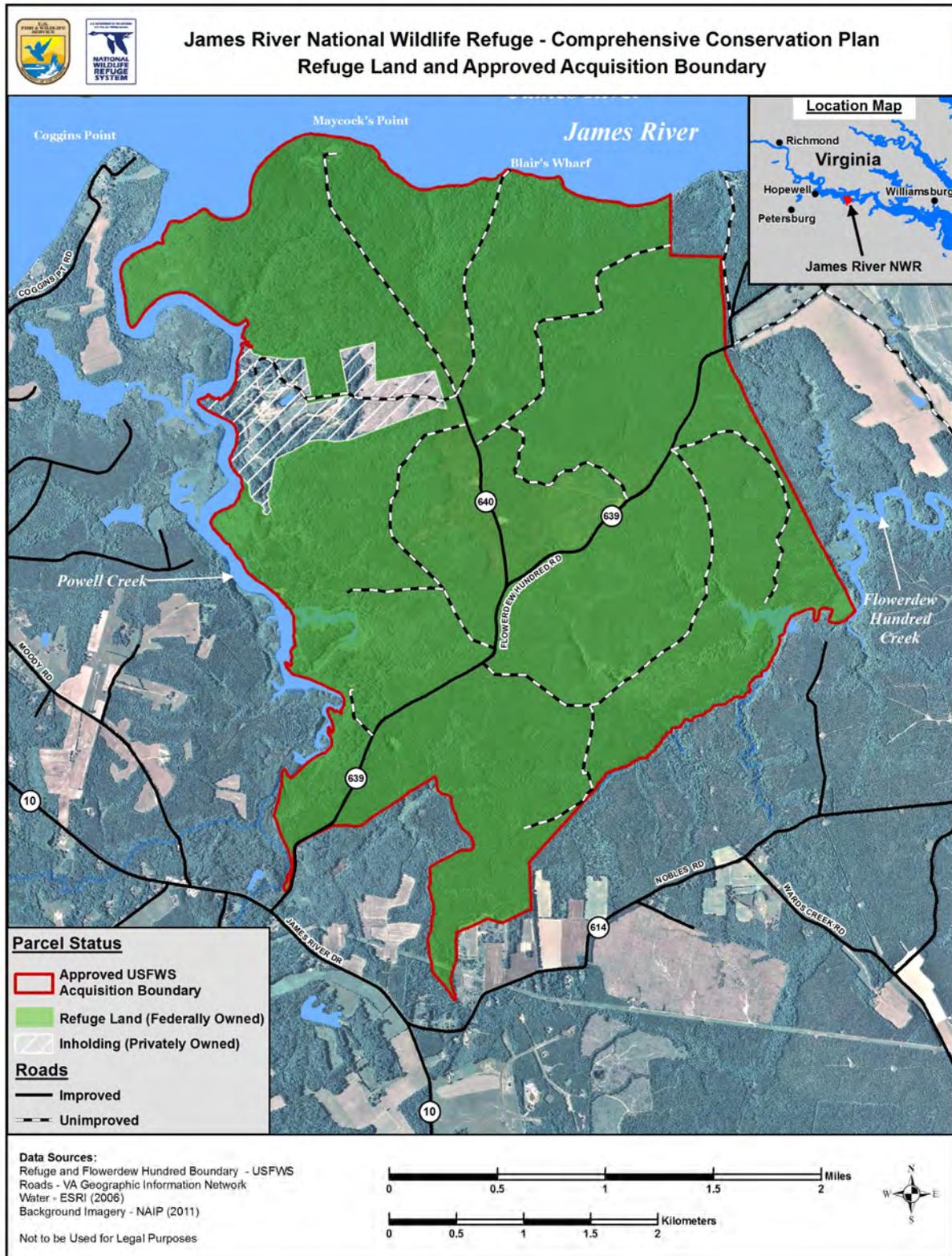
Map 1.1 James River NWR and Regional Context



Map 1.2 Refuge Location and Relation to Regional Conservation Lands



Map 1.3 Refuge Land and Approved Acquisition Boundary



1.2 Purpose of, and Need for, the Action

The Service proposes to develop a CCP for the refuge that, in the Service's best professional judgment, achieves the purposes and goals of the refuge; contributes to the mission of the National Wildlife Refuge System (Refuge System); adheres to Service policies and other mandates; addresses identified issues of significance; and incorporates sound principles of fish and wildlife science. The CCP provides strategic management direction for the next 15 years. "Strategic" means we will implement approaches that are ecologically sound and sustainable in light of physical and biological change, and are also practical, viable, and economically realistic.

There are three primary reasons why each national wildlife refuge has a CCP. First, the Refuge Improvement Act requires that all refuges have a CCP in place to help fulfill the mission of the Refuge System by October 9, 2012. Although the final CCP for James River NWR did not meet this deadline, the Service identified that initiation of public scoping by that date was sufficient and that the refuge should continue toward generation of a final CCP.

Second, the refuge's closest equivalent to a CCP is a Station Management Plan, dated September 1991 (USFWS 1991). The region's natural environment, human uses, and management direction have all changed over the past 23 years since refuge establishment. This CCP has been developed in the context of a changing and dynamic environment. This CCP is designed to address management and protection of valuable natural resources into the future, a future where continued change is even more likely to occur.

Third, management should be consistent with current policies. The CCP will bring the refuge into conformity with all current law and policies. The CCP will also help the Commonwealth of Virginia's natural resource agencies, our conservation partners, local communities, and the public understand our priorities and work with us to achieve common goals.

1.3 The Service and Refuge System Policies and Mandates Guiding Planning

Several Service policies providing specific guidance on implementing the Refuge Improvement Act have been developed since the refuge was established. A CCP incorporates those policies, and develops strategic management direction for the refuge for 15 years, by

- Stating clearly the desired future conditions for refuge habitat, wildlife, visitor services, staffing, and facilities.
- Explaining concisely to state agencies, refuge neighbors, visitors, partners, and other stakeholders the reasons for management actions.
- Ensuring that refuge management conforms to the policies and goals of the Refuge System and legal mandates.
- Ensuring that present and future public uses are appropriate and compatible.

- Providing long-term continuity and consistency in management direction.
- Justifying budget requests for staffing, operating, and maintenance funds.

In addition to the laws already mentioned, this section highlights Service policy, legal mandates, and existing regional, State, and local resource plans that directly influenced development of this draft CCP.

1.3.1 The U.S. Fish and Wildlife Service Mission and Policies

The U.S. Fish and Wildlife Service (USFWS) is a bureau within the Department of the Interior. The Service's mission is, "*Working with others, to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people.*"

Congress entrusts to the Service the conservation and protection of these national natural resources: migratory birds and fish, federally listed endangered or threatened species, interjurisdictional fish, wetlands, certain marine mammals, and national wildlife refuges. The Service also enforces Federal wildlife laws and international treaties on importing and exporting wildlife, assists states with their fish and wildlife programs, and helps other countries develop conservation programs.

The Service Manual (USFWS 2012c) contains the standing and continuing directives on implementing our authorities, responsibilities, and activities. The Service publishes special directives that affect the rights of citizens or the authorities of other agencies separately in the Code of Federal Regulations (CFR); the Service Manual does not duplicate them (<http://www.fws.gov/policy/direct.html>; accessed March 2013).

1.3.2 The National Wildlife Refuge System Mission

The Service administers the Refuge System, which is the world's largest network of lands and waters set aside specifically for the conservation of wildlife and the protection of ecosystems. More than 560 national wildlife refuges encompass more than 150 million acres of lands and waters in all 50 states and several island territories. Each year, more than 40 million visitors hunt, fish, observe, and photograph wildlife, or participate in environmental education and interpretation on refuges (USFWS 2007a).

In 1997, President Clinton signed into law the Refuge Improvement Act. This act establishes a unifying mission for the Refuge System and a new process for determining the compatibility of public uses on refuges, and requires us to prepare a CCP for each refuge. The act states that the Refuge System must focus on wildlife conservation first. It also states that the mission of the Refuge System, coupled with the purpose(s) for which each refuge was established, will provide the principal management direction on that refuge. The mission of the Refuge System is, "*To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.*" (Refuge System Improvement Act; Public Law 105–57).

1.3.3 Policy on the National Wildlife Refuge System Mission, Goals, and Purposes

This policy (601 FW 1) sets forth the Refuge System mission noted above, how it relates to the Service mission, and explains the relationship of the Refuge System mission and goals, and the purpose(s) of each unit in the Refuge System. In addition, it identifies the following Refuge System goals:

- Conserve a diversity of fish, wildlife, and plants;
- Develop and maintain a network of habitats;
- Conserve those ecosystems, plant communities, and wetlands that are unique within the United States (U.S.);
- Provide and enhance opportunities to participate in compatible, wildlife-dependent recreation; and
- Help to foster public understanding and appreciation of the diversity of fish, wildlife, and plants and their habitats.

This policy also establishes management priorities for the Refuge System:

- Conserve fish, wildlife, and plants and their habitats;
- Facilitate compatible wildlife-dependent recreational uses; and
- Consider other appropriate and compatible uses.

1.3.4 Policy on Maintaining Biological Integrity, Diversity, and Environmental Health

This policy (601 FW 3) provides guidance on maintaining or restoring the biological integrity, diversity, and environmental health of the Refuge System, including the protection of a broad spectrum of fish, wildlife, and habitat resources in refuge ecosystems. It provides refuge managers with a process for evaluating the best management direction to prevent the additional degradation of environmental conditions and restore lost or severely degraded components of the environment. It also provides guidelines for dealing with external threats to the biological integrity, diversity, and environmental health of a refuge and its ecosystem.

1.3.5 Policy on Coordination and Cooperative Work with State Fish and Wildlife Agencies

This policy (601 FW 7) establishes procedures for coordinating and working cooperatively with state fish and wildlife agency representatives on management of units of the Refuge System. Effective conservation of fish, wildlife, plants, and their habitats depends on the professional relationship between managers at the state and Federal level. We acknowledge the unique expertise and role of state fish and wildlife agencies in the management of fish and wildlife. It encourages refuge managers to invite, coordinate, cooperate, and collaborate with state fish and wildlife agencies in a timely and meaningful opportunities to participate in the development and implementation of programs conducted under this policy. This opportunity will most commonly occur through state fish and wildlife agency representation on the CCP planning team.

1.3.6 Policy on Refuge System Planning

This policy (602 FW 1, 2, 3) establishes the requirements and guidance for

Refuge System planning, including CCPs and step-down management plans. It states that the Service will manage all refuges in accordance with an approved CCP that, when implemented, will help:

- Achieve refuge purposes;
- Fulfill the Refuge System mission;
- Maintain and, where appropriate, restore the ecological integrity of each refuge and the Refuge System;
- Achieve the goals of the National Wilderness Preservation System and the National Wild and Scenic Rivers System; and
- Conform to other applicable laws, mandates, and policies.

This planning policy provides step-by-step directions and identifies the minimum requirements for developing all CCPs. Among them, the Service is to review any existing special designation areas such as wilderness and wild and scenic rivers, specifically address the potential for any new special designations, conduct a wilderness review, and incorporate a summary of that review into each CCP (602 FW 3).

1.3.7 Policy on Appropriateness of Refuge Uses

Federal law and Service policy provide the direction and planning framework for protecting the Refuge System from inappropriate, incompatible, or harmful human activities and ensuring that visitors can enjoy its lands and waters. This policy (603 FW 1) provides a national framework for determining appropriate refuge uses to prevent or eliminate those that should not occur in the Refuge System. It describes the initial decision process the refuge manager follows when first considering whether to allow a proposed use on a refuge. An appropriate use must meet at least one of the following four conditions:

- The use is a wildlife-dependent recreational use as identified in the Refuge Improvement Act.
- The use contributes to fulfilling the refuge purpose(s), the Refuge System mission, or goals or objectives described in a refuge management plan approved after October 9, 1997, the date the Refuge Improvement Act became law.
- The use is within the boundaries set by state regulations for the take of fish and wildlife.
- The use has been found to be appropriate after concluding a specified findings process using 10 criteria.

Findings of appropriateness, including the list of 10 criteria, for specific public uses at James River NWR can be reviewed in appendix B.

1.3.8 Policy on Compatibility

This policy (603 FW 2) complements the appropriateness policy. Once a refuge manager finds a use appropriate, they conduct a further evaluation

through a compatibility determination assessment. Compatibility determinations completed for those public uses determined to be appropriate are included in appendix B as part of this document.

The direction in this policy provides guidelines for determining compatibility of uses and procedures for documentation and periodic review of existing uses. Highlights of the guidance in that chapter follows:

- The Refuge Improvement Act and its regulations require an affirmative finding by the refuge manager on the compatibility of a public use before the Service allows it on a refuge.
- A compatible use is one “that will not materially interfere with or detract from the fulfillment of the mission of the Refuge System or the purposes of the refuge.”
- The act defines six wildlife-dependent uses that are to receive enhanced consideration on refuges: “hunting, fishing, wildlife observation and photography, and environmental education and interpretation.”
- The refuge manager may authorize those priority uses on a refuge when they are compatible and consistent with public safety.
- When the refuge manager publishes a compatibility determination, it will stipulate the required maximum reevaluation dates: 15 years for wildlife-dependent recreational uses or 10 years for other uses.
- However, the refuge manager may reevaluate the compatibility of a use at any time, including sooner than its mandatory date or even before the Service completes the CCP process, if new information reveals unacceptable impacts or incompatibility with refuge purposes (603 FW 2.11, 2.12).
- The refuge manager may allow or deny any use, even one that is compatible, based on other considerations such as public safety, policy, or available funding.

1.3.9 Policy on Wildlife-dependent Public Uses

This policy (605 FW 1) of the Service manual presents specific guidance on implementing management of the priority public uses, including the following criteria for a quality, wildlife-dependent recreation program that:

- Promotes safety of participants, other visitors, and facilities.
- Promotes compliance with applicable laws and regulations and responsible behavior.
- Minimizes or eliminates conflict with fish and wildlife population or habitat goals or objectives in an approved plan.
- Minimizes or eliminates conflicts with other compatible wildlife-dependent recreation.
- Minimizes conflicts with neighboring landowners.

- Promotes accessibility and availability to a broad spectrum of the American people.
- Promotes resource stewardship and conservation.
- Promotes public understanding and increases public appreciation of America’s natural resources and our role in managing and conserving these resources.
- Provides reliable and reasonable opportunities to experience wildlife.
- Uses facilities that are accessible to people and blend into the natural setting.
- Uses visitor satisfaction to help to define and evaluate programs.

1.3.10 Refuge System Vision — Conserving the Future (2011)

In July 2011, the Refuge System convened the “Conserving the Future — Wildlife Refuges and the Next Generation” conference to renew and update its 1999 vision document, originally called “Fulfilling the Promise.” After the conference and an extensive public engagement process, the Service finalized a renewed vision document in October 2011 (USFWS 2011a). The document has 24 recommendations, covering a variety of topics from habitat and species management, visitor services, refuge planning, land conservation, communications, building partnerships, and urban refuges. Currently, implementation teams are developing strategies to help us accomplish the vision. We will incorporate implementation strategies as appropriate, in our step-down plans and refuge programs.

1.3.11 Other Mandates

Federal laws require the Service to identify and preserve its important historic structures, archaeological sites, and artifacts. NEPA mandates our consideration of cultural resources in planning Federal actions. The Refuge Improvement Act requires that the CCP identify the refuge’s archaeological and cultural values. In addition, we consult with the State Historic Preservation Officer (SHPO) on the draft and final CCPs. The following four Federal laws also cover historic and archaeological resources on national wildlife refuges:

- The Archaeological Resources Protection Act (ARPA; 16 U.S.C. § 470aa–470ll; Pub.L. 96–95), approved October 31, 1979 (93 Stat. 721). The ARPA establishes detailed requirements for issuance of permits for any excavation for, or removal of, archaeological resources from Federal or Native American lands. It also establishes civil and criminal penalties for the unauthorized excavation, removal, or damage of those resources; for any trafficking of those resources removed from Federal or Native American land in violation of any provision of Federal law; and for interstate and foreign commerce in such resources acquired, transported, or received in violation of any state or local law.
- The Archaeological and Historic Preservation Act (16 U.S.C. § 469–469c; Pub.L. 86–523), approved June 27, 1960 (74 Stat. 220), as amended by Pub.L. 93–291 approved May 24, 1974 (88 Stat. 174). The Archaeological and Historic Preservation Act carries out the policy established by the

Historic Sites Act (see below). It directs Federal agencies to notify the Secretary of the Interior whenever they find that a Federal or federally assisted licensed or permitted project may cause the loss or destruction of significant scientific, prehistoric, or archaeological data. The act authorizes the use of appropriated, donated, or transferred funds for the recovery, protection, and preservation of that data.

- The National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. § 470–470b, 470c–470n), Pub.L. 89–665, approved October 15, 1966 (80 Stat. 915), and repeatedly amended. The NHPA establishes the National Register of Historic Places (National Register). It requires Federal agencies like us to consider the effects of their activities on sites listed in or eligible for listing on the National Register. The act and regulations require that the Service inventory its lands for archaeological sites and historic structures. Until sites and structures have been evaluated for Register eligibility, they are treated as if eligible. This requirement to consider eligible cultural resources in planning activities applies to activities using Federal funds, a Federal permit, or taking place on Federal land. Important regulations of this act (36 CFR 800) define the roles of the SHPOs, the national Advisory Council on Historic Preservation, and Tribal Historic Preservation Offices. Under this act and regulations, the Service is to consult with federally recognized Tribes and the public about the effects of activities in relation to historic properties. The act created the Historic Preservation Fund, which partially funds State and Tribal Historic Preservation Offices.
- The Native American Grave Protection and Repatriation Act (NAGPRA) directs the Service to consider during project planning whether an activity is likely to expose human remains, funerary objects, sacred objects or objects of cultural patrimony. If so, we are to consult with appropriate Tribes about developing a Plan of Action to manage the impacts. In addition, such remains and objects, when inadvertently discovered, shall be repatriated to descendent Tribes.

Under ARPA and NHPA above, archaeological artifacts and site documentation such as field records must be preserved and made available for study. The Service also owns and cares for historic objects, environmental specimens, art, and historical documents as museum property at non-government repositories such as museums and at refuges. Each refuge maintains an inventory of its museum property. Our Regional museum property coordinator in Hadley, Massachusetts, guides the refuges in caring for that property, and helps us comply with the NAGPRA and Repatriation Act and Federal regulations governing Federal archaeological collections. Our program ensures that those collections will remain available to the public for learning and research.

Other Federal resource laws are also important to highlight as they are integral to developing a CCP.

- The Wilderness Act of 1964 (16 U.S.C. 1131–1136; Pub.L. 88–577) establishes a National Wilderness Preservation System that is composed of federally owned areas designated by Congress as “wilderness areas.” The act directs each agency administering designated wilderness to preserve the wilderness character of areas within the National

Wilderness Preservation System, and to administer the National Wilderness Preservation System for the use and enjoyment of the American people in a way that will leave those areas unimpaired for future use and enjoyment as wilderness. This act also directs the Secretary of the Interior, within 10 years, to review every roadless area of 5,000 acres or more and every roadless island (regardless of size) within Refuge System and National Park System for inclusion in the National Wilderness Preservation System. Service planning policy requires that the Service evaluate the potential for wilderness on refuge lands, as appropriate, during the CCP development process. Our wilderness review is included in this document as appendix E.

- The Wild and Scenic Rivers Act of 1968, as amended, selects certain rivers of the Nation possessing remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, preserves them in a free-flowing condition, and protects their local environments. Service planning policy requires that the Service evaluate the potential for wild and scenic rivers designation on refuge lands, as appropriate, during the CCP development process. Because the potentially eligible 62-mile segment of the James River does not occur within the refuge boundary, a wild and scenic river review was not conducted for this refuge.

Our mandates also include orders and initiatives by the President, Secretary of the Interior, or Director of the Service. We highlight six of those below.

- Presidential Executive Order (EO) 13508 – Chesapeake Bay Protection and Restoration, was issued on May 12, 2009. This order furthers the purpose of the Clean Water Act of 1972, as amended (33 U.S.C. 1251 et seq.), and other laws “...to protect and restore the health, heritage, natural resources, and social and economic value of the Nation’s largest estuarine ecosystem and the natural sustainability of its watershed.” It recognizes the Chesapeake Bay as “a national treasure constituting the largest estuary in the United States and one of the largest and most biologically productive estuaries in the world.”

It directs the establishment of a Federal Leadership Committee chaired by the Administrator of the U.S. Environmental Protection Agency (EPA), or their designee, with participation by all Federal agencies with jurisdiction in the bay. The Committee’s purpose is to lead the effort to restore the health of the Chesapeake Bay under a renewed commitment to control pollution from all sources as well as protect and restore habitat and living resources, conserve lands, and improve management of natural resources, all of which contribute to improved water quality and ecosystem health.

The strategic plan for implementing this EO was issued in 2010 and emphasized: (1) water quality; (2) sources of pollution from agricultural lands and Federal lands and facilities; (3) protecting the Chesapeake Bay’s resources as the climate changes; (4) expanding opportunities for public access; (5) conserving landscapes and ecosystems; and (6) the monitoring and accountability of activities. Annual work plans and accomplishment reports document progress toward meeting objectives detailed in the strategic plan

(<http://executiveorder.chesapeakebay.net/page/Reports-Documents.aspx>; accessed November 2013).

- EO 13653 – Preparing the United States for the Impacts of Climate Change was issued on November 1, 2013. This order builds on prior Presidential directives (e.g., memoranda; EOs 12893, 13514, and 13604) to promote interagency coordination and modernization of Federal infrastructure. EO 13653 establishes an interagency Council on Climate Preparedness and Resilience, whose members include senior officials from various departments of the Federal government. This Council shall work across agencies and offices, and in partnership with state, local, and Tribal governments, academic and research institutions, and the private and nonprofit sectors to: (1) develop, recommend, coordinate interagency efforts on, and track implementation of priority Federal government actions related to climate preparedness and resilience; (2) support regional, state, local, and Tribal action to assess climate change related vulnerabilities and cost-effectively increase climate preparedness and resilience of communities, critical economic sectors, natural and built infrastructure, and natural resources; (3) facilitate the integration of climate science in policies and planning of government agencies and the private sector, including by promoting the development of innovative, actionable, and accessible Federal climate change related information, data, and tools at appropriate scales for decisionmakers and deployment of this information through a Governmentwide web-based portal; and (4) such other functions as may be decided by the Council.
- Secretarial Order 3330 – Improving Mitigation Policies and Practices of the Department of the Interior was issued on October 31, 2013. This order establishes a Departmentwide mitigation strategy that will ensure consistency and efficiency in the review and permitting of infrastructure development projects and in conserving our Nation's valuable natural and cultural resources. Central to this strategy will be: (1) the use of a landscape-scale approach to identify and facilitate investment in key conservation priorities in a region; (2) early integration of mitigation considerations in project planning and design; (3) ensuring the durability of mitigation measures over time; (4) ensuring transparency and consistency in mitigation decisions; and (5) a focus on mitigation efforts that improve the resilience of our Nation's resources in the face of climate change.
- The Department of the Interior's Energy and Climate Change Task Force has been directed to: (1) develop a coordinated Departmentwide, science-based strategy to strengthen mitigation practices so as to effectively offset impacts of large development project of all types through the use of landscape-level planning, banking, in-lieu fee arrangements, and other possible measures; (2) conduct a comprehensive review of the mitigation aspects of existing land and water management practices and procedures, permitting, and environmental review authorities, regulations, and guidance; (3) identify any new policies or practices, revisions to existing policies or practices, or regulatory or other changes that could be implemented to incorporate landscape-scale planning into mitigation-related decisions; and (4) draft a strategy for developing additional policies and practices or any regulatory or other

changes, including a timeline for implementation with designated agency leads.

- Secretarial Order 3289 – Addressing the Impacts of Climate Change on America’s Water, Land, and Other Natural and Cultural Resources was issued on September 14, 2009, and amended in February 2010. This order establishes a Departmentwide, science-based approach to increasing our understanding of climate change and to coordinate an effective response to its impacts on Tribes and on the land, water, ocean, fish and wildlife, and cultural heritage resources that the Department of the Interior manages.

The order establishes a Climate Change Response Council that will execute a coordinated Departmentwide strategy to increase scientific understanding and the development of adaptive management tools to address the impact of climate change on our natural and cultural resources. The council will help coordinate activities within and among Federal agencies. Land management agencies are directed to pursue appropriate activities to reduce their carbon footprint, adapt water management strategies to address the possibility of a shrinking water supply, and protect and manage land in anticipation of sea level rise, shifting wildlife populations and habitats, increased wildland fire threats, and an increase in invasive and exotic species. As of October 2013, the Department of the Interior has developed climate adaptation policies, plans, and strategies and will continue to further develop important climate adaptation tools.

- Presidential Initiative America’s Great Outdoors (AGO) was issued on April 16, 2010. President Obama launched the AGO Initiative as a conservation and recreation effort that would help increase connections with American citizens and the outdoors. AGO takes as its premise that lasting conservation solutions should come from citizens who share in the responsibility to conserve, restore, and provide better access to our lands and waters.

In February 2011, a report was generated to lay the foundation for implementing this initiative (<http://americasgreatoutdoors.gov>; accessed March 2013). This report identifies 10 major goals and 75 action items to advance this initiative, from expanding youth programs to increasing public awareness about conservation to better managing our public lands. Among these are three major place-based goals to focus the collective conservation and recreation efforts of the Federal government: create and enhance urban parks and green spaces, renew and restore rivers, and conserves large, rural landscapes.

During the spring and summer of 2011, the Secretary sought recommendations for two specific projects in each state that would highlight opportunities to support the three place-based goals of the AGO Initiative. In Virginia, the two projects identified are the Fort Monroe National Historical Park, in Hampton, Virginia, and the Captain John Smith Chesapeake National Historic Trail (NHT). The Captain John Smith Chesapeake NHT crosses much of eastern tidal Virginia, including a passage adjacent to James River NWR. Additional details on the trail are provided below in section 1.4. We also discuss more on our efforts to

cooperate on this project in chapter 2, section 2.9.1.

- Presidential EO 13443 – Facilitation of Hunting Heritage and Wildlife Conservation was issued on August 16, 2007. The purpose of this order is to direct Federal agencies that have programs and activities affecting public land management, outdoor recreation, and wildlife management, including the Department of the Interior and the Department of Agriculture (USDA), to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat. Federal agencies are directed to pursue certain activities listed in the order, consistent with their missions. Those activities include managing wildlife and wildlife habitats on public lands in a manner that expands and enhances hunting opportunities, and working with state and tribal governments to manage wildlife and habitats to foster healthy and productive populations and provide appropriate opportunities for the public to hunt those species.

Chapter 4, “Environmental Consequences,” evaluates this plan’s compliance with the acts noted above, and with the Clean Water Act of 1977 as amended (33 U.S.C. 1251, et seq.; Pub.L. 107–303), the Clean Air Act of 1970 as amended (42 U.S.C. 7401 et seq.), and the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531–1544), as amended. Finally, the Service designed this document to comply with NEPA and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508).

Pursuant to the Federal Coastal Zone Management Act, the National Oceanic and Atmospheric Administration (NOAA) approved the Virginia Coastal Zone Management Program in 1986. In accordance with the Virginia Coastal Zone Management Program requirements, a Federal Consistency Determination was prepared for the proposed action and is included in appendix F of this document. We will share the results of that determination with the Regional Director for consideration while making a final decision regarding this EA.

While Service and Refuge System policies and each refuge’s purpose(s) provide the foundation for management, national wildlife refuges are administered consistent with a variety of other Federal laws, EOs, treaties, interstate compacts, and regulations on the conservation and protection of natural and cultural resources. The “Digest of Federal Resource Laws of Interest to the U.S. Fish and Wildlife Service” lists them (<http://www.fws.gov/laws/Lawsdigest.html>; accessed March 2013).

1.4 Conservation Plans and Initiatives Guiding the Proposed Action

Important guidance for habitat management and visitor service management at James River NWR has already been provided by a series of plans and their priorities. The following plans and initiatives that were available early in the CCP and EA development phase.

1.4.1 National, Regional, and Local Plans and Priorities

Landscape Dynamics: Land Cover and Land Use

North Atlantic Landscape Conservation Cooperative Operations Plan (USFWS 2009a)

The Service is developing a coordinated network of landscape conservation cooperatives across the U.S., in part to address major environmental and human-related factors that limit fish and wildlife populations at the broadest of scales, including developing adaptation strategies in response to climate change. The landscape conservation cooperative is utilizing principles of strategic habitat conservation to develop and communicate landscape-scale scientific information to shape conservation across the northeastern U.S. This initial plan outlines the regional threats to conservation, priority species and habitats, as well as active regional partnerships.

Strategic Habitat Conservation (USGS and USFWS 2006)

Strategic Habitat Conservation (SHC), the conservation approach the Service is using to achieve its mission in the 21st century, is a framework that utilizes adaptive management to redefine broad-scale conservation. It departs from the general pursuit of conserving more habitat and species to a more planned approach based on scientific data, at a landscape level, and in cooperation with partners. Starting with explicit, measurable objectives that are based on testable assumptions that can be evaluated, it is enacted through an iterative process of biological planning, conservation design, conservation delivery, assumption-driven research, and outcome-based monitoring. The goal is to set specific population objectives for selected species of fish, wildlife, and plants, which become our conservation targets. We refer to this select group of species as representative or surrogate species because they represent other species or aspects of the environment. Such identified species are used for comprehensive conservation planning that supports multiple species and habitats within a defined landscape or geographic area.

Some of the surrogate species that have been identified for the Mid-Atlantic Landscape Conservation Cooperative (LCC), in which the refuge is located, include the bank swallow, black-and-white warbler, brown-headed nuthatch, grasshopper sparrow, marsh wren, ovenbird, prothonotary warbler, red-shouldered hawk, whip-poor-will, wood thrush, eastern box turtle, marbled salamander, alewife, American eel, and American shad. Appendix A includes additional information about these and other species considered as potential resources of concern for the James River NWR CCP.

Through the SHC approach, we coordinate and link actions that various programs within the Service, other Federal agencies, and our State, nonprofit and private conservation partners take at individual sites, so the combined effort of all our work will enable the realization of biological outcomes at the larger landscape, regional, or continental scale. Inherent in the process is a continual evaluation of biological outcomes and approaches, with the intent to adapt the overall conservation strategy to respond to changing circumstances and new information.

The Nature Conservancy's Chesapeake Bay Lowlands Ecoregional Plan (Draft) (TNC 2003)

The Chesapeake Bay Lowlands ecoregion is centered on the Chesapeake Bay and includes most of Delaware, all of the coastal plain in Maryland and the

District of Columbia, and coastal Virginia south to the James River. Five major types of conservation targets were identified in the Chesapeake Bay Lowlands ecoregion: (1) matrix forest blocks; (2) aquatic ecosystems; (3) “significant conservation areas” in tidal waters (for estuarine, coastal, and marine targets); (4) natural communities; and (5) species. To the extent that some of these conservation targets overlap with the species and habitats found on James River NWR, they have been considered as part of this plan development.

The National Park Service’s Captain John Smith Chesapeake National Historic Trail (NPS 2010)

The National Park Service (NPS) administers the Captain John Smith Chesapeake NHT, the first national water trail in the U.S. Established in 2006, the trail consists of a series of water routes extending over 3,000 miles along the Chesapeake Bay and its tributaries in the States of Virginia, Maryland, Delaware, New York, Pennsylvania, and in the District of Columbia, tracing the 1607 to 1609 voyages of Captain John Smith to chart the land and waterways of the Chesapeake Bay. The trail complements the diverse resources of the Chesapeake Bay Gateways Network—a partnership of existing water trails, parks, museums, wildlife refuges, and other sites that provide interpretation and bay access—to make additional opportunities for education, recreation, and heritage tourism. As the Nation’s first national water trail, the Captain John Smith Chesapeake NHT will be most fully experienced by watercraft and at water access sites. However, visitors will also be able to view the trail setting and learn the stories from land. Numerous existing land sites along the voyage routes will interpret Smith’s explorations, native settlements and cultures, and the environment of the early 17th century.

Wildlife and Habitat

National Bald Eagle Management Guidelines (USFWS 2007d)

Under comprehensive eagle protection and management programs implemented by state and Federal agencies, bald eagle populations have increased dramatically across much of the lower 48 states since they were the first federally listed endangered species in 1967. On August 8, 2007, the bald eagle was removed from the Federal list of threatened and endangered species (72 FR 37346) and on January 1, 2013, it was also removed from the Virginia list of threatened and endangered species (VDGIF and Center for Conservation Biology 2012). However, the bald eagle continues to be protected by BGEPA (16 U.S.C. 668-668c; 50 CFR Part 22) and the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 701 et seq.; 50 CFR Parts 10, 20, 21).

The Eagle Act prohibits anyone, without a permit issued by the Secretary of the Interior, from “taking” bald eagles, including their parts, nests, or eggs. “Take” is defined as “pursue, shoot, shoot at, poison, would, kill, capture, trap, collect, molest or disturb.” Disturb is defined as “to agitate or bother a bald or golden eagle to a degree that causes . . . (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.” The MBTA extends these prohibitions to any migratory birds.

Because of these guidelines and in an effort to help people minimize such

impacts to bald eagles, particularly where they may constitute disturbance, the Service issued the National Bald Eagle Management Guidelines (USFWS 2007c). These guidelines are intended to: (1) publicize the provisions of the Eagle Act that protect bald eagles to reduce the possibility that people will violate the law, (2) advise landowners, land managers, and the general public of the potential for various human activities to disturb bald eagles, and (3) encourage additional nonbinding land management practices that benefit bald eagles.

The guidelines establish five phases of activity of the bald eagle from “courtship and nest building” to “nestlings 8 weeks through fledging” and also rank the eagle’s sensitivity to human activity during these periods. It also provides a chronology of typical reproductive stages of the eagle. Finally, it makes recommendations for avoiding disturbances to foraging and roosting bald eagles and at nest sites based upon the type of disturbance and distance from the birds. The Virginia Department of Game and Inland Fisheries (VDGIF) adopted these strategies (VDGIF and Center for Conservation Biology 2012). It notes that also applicable Virginia laws and VDGIF regulations no longer apply to the bald eagle since it was removed from the State endangered list; it is still offered State protection under its designation as a tier II species of greatest conservation need under Virginia’s Wildlife Action Plan (WAP) (VDGIF 2005). It is also protected by State laws that mimic the MBTA. Therefore, the VDGIF is still authorized by the USFWS to enforce protection of the bald eagle.

Virginia Bald Eagle Nest and Productivity Survey: Year 2011 Report (Watts and Byrd 2011)

In partnership with other government agencies, conservation organizations, and researchers, the VDGIF has led the annual bald eagle surveys since 1997 as part of the Chesapeake Bay Bald Eagle Recovery Team. This team’s objectives are: (1) to monitor the recovery of the bald eagle in Virginia, (2) to document the status, distribution, and productivity of breeding bald eagles in Virginia, (3) to provide information to the government agencies charged with the management and protection of Virginia bald eagle population, (4) to provide information to land holders about the status of bald eagles on their properties, and (5) to increase our understanding of bald eagle natural history in Virginia.

These surveys are performed using aircraft to systematically survey at altitudes of 100 meters to detect eagle nest activity twice during each year. The first flight is performed between late February and mid-March to locate active nests and the second is conducted from late April through mid-May to assess active nests for productivity.

In 2011, a total of 726 occupied bald eagle territories were identified in Virginia. This was a 6.2 percent over 2010 with more than 130 new nests mapped in 45 counties and 10 cities. Most of these territories occurred on the Coastal Plain with less than 5 percent of pairs occurring in the piedmont and mountains. The highest number of chicks ever recorded in the history of the survey was 938 chicks. In the 35 years of study, 11,030 bald eagle chicks have been recorded; 8.5 percent of these were produced in 2010 and 73.2 percent have been produced since 2000.

USFWS Birds of Conservation Concern (USFWS 2008a)

This report identifies the migratory and non-migratory bird species (beyond those already designated as federally threatened or endangered) that represent the Service's highest conservation priorities and draws attention to species in need of conservation action. The geographic scope includes the U.S. in its entirety, including island territories in the Pacific and Caribbean. Bird species considered for inclusion on lists in this report include nongame birds, gamebirds without hunting seasons, subsistence-hunted nongame birds in Alaska; and ESA candidate, proposed endangered or threatened, and recently delisted species. Assessment scores are based on several factors, including population trends, threats, distribution, abundance, and area importance.

USFWS Migratory Bird Program Strategic Plan (USFWS 2004a)

The Migratory Bird Program Strategic Plan provides direction for the Service's migratory bird management over the next decade (2004 to 2014). The plan contains a vision and recommendations for the Refuge System's place in bird conservation. It defines strategies for the Service, including the Refuge System, to actively support bird conservation through monitoring, conservation, consultation, and recreation. Considerations for, to the extent it is practical, standard monitoring protocols, habitat assessment and management, and promoting nature-based recreation and education to forward the vision of the Migratory Bird Program Strategic Plan have been incorporated into this plan.

North American Waterfowl Management Plan (NAWMP 2004) and Joint Venture Plans

Originally written in 1986, the North American Waterfowl Management Plan describes a 15-year strategy for the U.S., Canada, and Mexico to restore and sustain waterfowl populations by protecting, restoring, and enhancing habitat. The plan committee, including representatives from all three countries, has modified the 1986 plan twice to account for biological, sociological, and economic changes that influenced the status of waterfowl and to allow cooperative habitat conservation. The most recent modification in 2004 updates the needs, priorities, and strategies for the next 15 years, and guides partners in strengthening the biological foundation of North American waterfowl conservation and stakeholder confidence in the direction of the plan (NAWMP 2004).

To convey goals, priorities, and strategies more effectively, that 2004 modification comprises two separate documents: Strategic Guidance and Implementation Framework. The former is for agency administrators and policy makers who set the direction and priorities for conservation. The latter includes supporting technical information for use by biologists and land managers.

The plans are implemented at the regional level in 14 habitat joint ventures and 3 species joint ventures (Arctic Goose, Black Duck, and Sea Duck). James River NWR lies in the Atlantic Coast Joint Venture (ACJV), which includes all the Atlantic Flyway states from Maine to Florida and Puerto Rico. The ACJV Waterfowl Implementation Plan (ACJV 2005) was completed in June 2005. The refuge lies within the plan's Lower James River Focus Area.

The waterfowl goal for the ACJV is to, "*Protect and manage priority wetland*

habitats for migration, wintering, and production of waterfowl, with special consideration to black ducks, and to benefit other wildlife in the joint venture area.” The Black Duck Joint Venture Final Draft Strategic Plan (USFWS and CWS 1993) also relates to our CCP. American black ducks use the refuge during the winter and migration, but are less common during their breeding season as their primary breeding grounds are in Canada. We referred to both joint venture plans in developing the management objectives and strategies under goals 1 and 2.

Bird Conservation Plan for the Mid-Atlantic Coastal Plain (Physiographic Area 44) (PIF 1999)

Partners in Flight is a partnership of government agencies, private organizations, academic researchers, and private industry throughout North America focused on coordinating voluntary bird conservation efforts to benefit species at risk and their habitats. Bird conservation regions (BCRs) have been developed to guide management on a regional scale. Version 1.0 of the Mid-Atlantic Coastal Plain BCR was completed in 1999. James River NWR is located within the Coastal Plain Physiographic Province and thus is considering the conservation priorities of this plan along with other conservation plans.

Mid-Atlantic Coast Bird Conservation Region Implementation Plan (BCR 30) (USFWS 2008b)

The implementation plan for the BCR 30 combines continental and regional plans, assessments, and research completed over the past two decades to develop continental-based bird conservation efforts. The BCR 30 planning area is approximately 9,885,700 hectares in size and extends from southern coastal Maine through coastal Virginia, encompassing several major estuaries, including Chesapeake Bay. James River NWR is located within the southern extent of the mid-Atlantic Coastal Plain. Priority species for this region are mostly waterbirds (over 50 percent) and waterfowl because it covers mostly coastal areas. Priorities also focus on many declining species of forested upland birds. Many of the priority species listed for BCR 30 are also species of concern listed within the BCR 27 and Virginia Wildlife Action Plan (WAP).

South Atlantic Migratory Bird Initiative (BCR 27) (Watson and McWilliams 2005)

The South Atlantic Migratory Bird Initiative is a vision and process of integrated bird conservation planning and implementation of the Management Board of the ACJV. The planning area is the eastern portion of BCR 27, the Southeastern Coastal Plain, and includes the coastal plain of Virginia, North Carolina, South Carolina, Georgia, and Florida. This Plan provides a regional scale framework for the conservation of waterfowl, shorebirds, waterbirds, landbirds, and upland game birds. This framework seeks to integrate common goals and objectives of these national and regional plans, providing conservationists a strategy for meeting the challenge of sustaining healthy ecosystems and healthy bird populations in the midst of increasing threats along the Atlantic Coast. This plan identifies priority species, priority habitats, priority areas, and strategies to achieve the conservation of “*all birds across all habitats*” in this region. James River NWR is located just north of the northern extent of the Southeastern Coastal Plain. Many of the priority species listed for BCR 27 are also species of

concern listed within the BCR 30 and Virginia WAP.

Virginia Wildlife Action Plan (VDGIF 2005)

The Virginia WAP was completed in 2005 (VDGIF 2005). While creating a strategic focus for State fish and wildlife management agencies, this plan attempts to provide a Statewide perspective on conservation, presenting geographic, species, and habitat priorities. James River NWR protects several habitats that support species determined to be of conservation need by the State. As such, species of conservation priority noted in the WAP were considered in development of the refuge's resources of concern.

1.5 Refuge Establishment Authority and Refuge Purpose

An EA was prepared in 1989 for the proposed establishment of James River NWR (USFWS 1989). The purpose of James River NWR is "...to conserve (A) fish or wildlife which are listed as endangered species or threatened species...or (B) plants" (Endangered Species Act of 1973, 16 U.S.C. § 1534).

1.5.1 Refuge-specific Plans

Existing refuge program-specific plans have been consulted either in their draft or final format to help guide decision making. These plans will also be maintained and updated as necessary to ensure accordance with the recommendations of the final CCP.

Following refuge establishment, a Station Management Plan was developed and provided the refuge management team with direction to begin developing long-term programs for: (1) creating wildlife and habitat database, (2) managing eagle and other wildlife habitat, (3) accommodating certain public uses, (4) minimizing losses caused by wildfire, (5) protecting historic and archaeological resources, and (6) developing a concept for protecting additional eagle habitat (USFWS 1991).

Refuge Operational Plans (Step-down Plans)

The chapter Refuge Planning Policy (602 FW 4) identifies more than 25 step-down management plans that may be completed for each refuge, and refuge management determines which of the 25 step-down plans should be completed for their refuge. Those plans provide the details necessary to "step-down" general goals and objectives to specific strategies and implementation schedules. Some require annual revisions; others are revised on a 5- to 10-year schedule. Some require additional NEPA analysis, public involvement, and compatibility determinations before they can be implemented.

The following step-down plans have been completed and will be updated in accordance with the Service's revision schedule:

- Safety Management Plan (1993)
- Hunt Management Plan (1993, as amended)
- Spill Prevention, Control, and Countermeasures Plan (2001)
- Forest Management Plan (2003)

- Fire Management Plan (2006)
- Chronic Wasting Disease Surveillance and Contingency Plan (2008)
- Hurricane Action Plan (2013)

The following step-down plans are our highest three priority step-down management plans, to be prepared within 5 years of CCP approval:

- Habitat Management Plan (HMP)
- Inventory and Monitoring Plan (IMP)
- Visitor Services Plan (VSP)

1.5.2 Refuge Vision

The CCP planning team developed the following vision statement to provide a guiding philosophy and sense of purpose for refuge management:

James River National Wildlife Refuge safeguards nationally significant habitats along the lower James River for bald eagles and vulnerable species of the Chesapeake Bay. Healthy, contiguous forests of pine and mixed hardwoods offer respite to diminishing wildlife populations. As a living laboratory, the refuge supports environmental studies conducted by partner organizations and institutions recognized for their scientific excellence.

Visitors to this wild place are welcomed by gobbling wild turkeys, fragrant spring flowers, lush fall leaves, and inconspicuous wildlife awaiting discovery. Tracing the steps of native peoples and early settlers in a serene landscape invigorates the mind, body, and spirit, while nurturing a stewardship ethic. Recreational hunting opportunities at the refuge promote America's hunting heritage.

1.5.3 Refuge Goals

The CCP planning team developed refuge goals after considering the vision statement, the purposes for establishing the refuge, the missions of the Service and the Refuge System, and the mandates, plans, and conservation initiatives noted above. These goals are intentionally broad, descriptive statements of purpose. They highlight elements that we will emphasize in its future management.

In developing and adopting a CCP for James River NWR, we want to accomplish the following goals:

- Goal 1. Forest Habitat: Protect, enhance, and restore the ecological integrity of inner coastal plain forest ecosystems of the lower James River to support native wildlife and plant communities, including species of conservation concern, and to ensure those ecosystems are resilient in anticipation of climate change.
- Goal 2. Non-forest Habitat: Protect, enhance, and restore the ecological integrity of non-forest ecosystems of the lower James River to support native wildlife and plant communities, including species of

conservation concern, and to ensure those ecosystems are resilient in anticipation of climate change.

- Goal 3. Cultural Resources: Protect and conserve the refuge's cultural resources and landscape, and seek opportunities to increase knowledge and appreciation of the refuge's history as part of the lower James River.
- Goal 4. Wildlife-dependent Recreation: Provide wildlife-dependent recreational opportunities for visitors to connect with nature and foster enhanced stewardship of the lower James River, Chesapeake Bay estuary, and the National Wildlife Refuge System.
- Goal 5. Partnerships: Develop new partnerships and strengthen existing partnerships to promote natural and cultural resource stewardship and the mission of the National Wildlife Refuge System.

1.6 The Comprehensive Conservation Planning Process

Service policy (602 FW 3) establishes a planning process that also complies with NEPA (<http://policy.fws.gov/602fw3.html>; accessed March 2013). We followed the process depicted below in developing this draft CCP. The planning process for this draft CCP involved three primary steps: (1) initial planning, (2) public scoping, and (3) plan development. These steps are described below in more detail and depicted in figure 1.1. Additional information regarding the preparation of this document is detailed in chapter 5.

Step A: Initial Planning

We began preparing a CCP for James River NWR in April 2009. Initially we focused on collecting information on the refuge's natural and cultural resources and public use program. We identified members of the CCP core team. We received confirmation of the VDGIF participation on May 11, 2009.

Development of a CCP for James River NWR was delayed from 2009 until early 2012. James River NWR staff is shared with three other refuges in the Eastern Virginia Rivers NWR Complex. Refuge staff worked to finalize the Rappahannock River Valley NWR CCP during 2009 and focused on developing a CCP for Presquile NWR from 2010 through 2012. Also during this time, we experienced turn-over in five of the eight refuge staff positions.

We reconfirmed VDGIF's participation on our CCP core team on January 11, 2012. On March 27 and 28, 2012, the CCP core team of refuge, Regional Office staff, and one representative from VDGIF held an internal scoping meeting to discuss existing information, draft a vision statement and goals, and prepare for the public scoping meeting, and a technical meeting of State and Federal partners.

Step B: Public Scoping

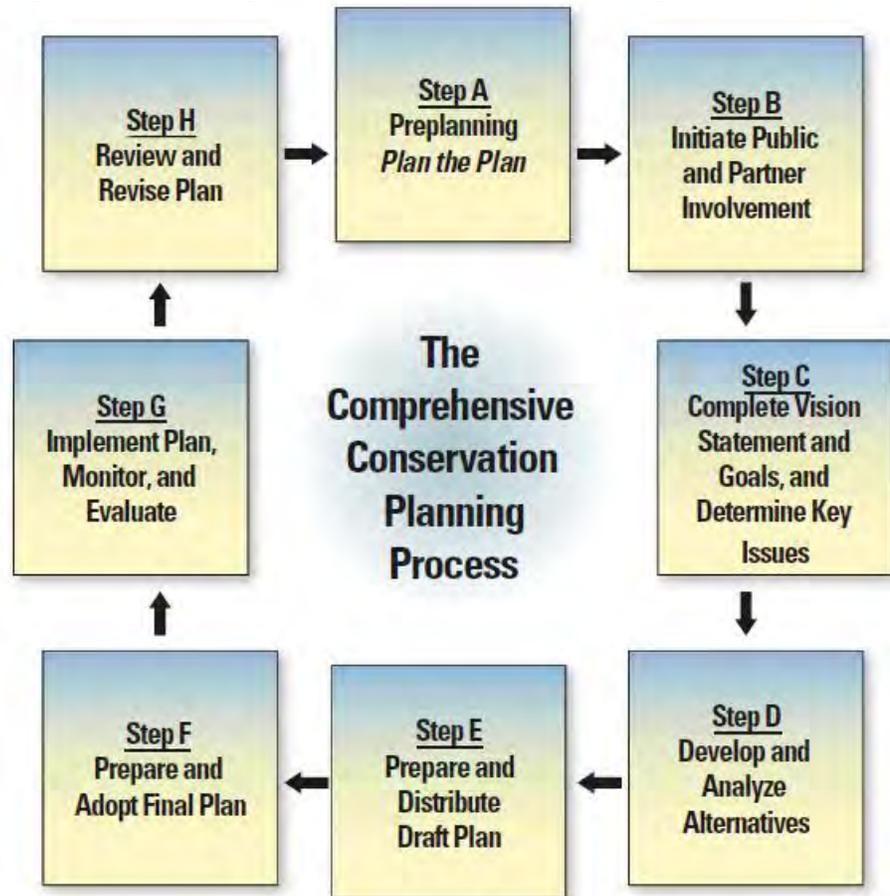
We initiated the public scoping process when the notice of intent to prepare a CCP for James River NWR was published in the *Federal Register* on January 11, 2012 (77 FR 1716). Our first planning newsletter was distributed in late August 2012 to 557 parties on our mailing list (including media outlets) and posted announcements on the refuge website. The planning newsletter included location, date, and time information about upcoming public scoping

meetings that would serve to inform the public about current refuge management and elicit input on topics of interest to the public.

We hosted two public scoping meetings in Prince George, Virginia, at the Prince George County Human Services Building on September 12, 2012. These meetings were open houses, held from 2 to 4 p.m. and from 6 to 8 p.m. A total of 16 individuals attended these meetings. Planning team staff was also in attendance at both meetings, but not included in the participant attendance noted.

We received 34 correspondences (i.e., emails, letters, scoping comment forms, faxes, and phone calls) containing comments from interested parties since our announcement to prepare a CCP was published in the *Federal Register* on January 12, 2012. We asked that comments be provided by October 15, 2012. General information inquiries and requests to be added to our mailing list are not included in this total.

Figure 1.1. The Comprehensive Conservation Planning Process



Steps C and D: Vision, Goals, and Alternatives Development

We invited 83 representatives of various local, State, and Federal agencies and 6 Virginia Indian Tribes to attend an agency scoping meeting to be held on September 11, 2012, from 10 a.m. to 3 p.m. The workshop was attended by eight representatives from various State and Federal agencies, as well as the Crater Planning District Commission. Refuge and planning team staff were also in attendance at this workshop, but not included in the participant

attendance noted. The purpose of the meeting was to identify issues, determine the significant resource values attributed to the refuge, and seek advice from technical experts on what resources of conservation concern in the refuge planning area should be a management priority. We continued to consult with experts throughout 2012, 2013, and 2014. We met regularly as a core team to develop draft alternatives that incorporate the scoping comments received.

On November 30, 2012, we distributed a planning newsletter update and public comment summary to 594 parties on our mailing list, including media outlets, and posted announcements on our website.

Step E: Draft CCP and NEPA Document

This document represents planning step E to prepare a draft plan and NEPA document. We will publish a notice of availability (NOA) in the *Federal Register* announcing our release of this draft for at least a 30-day period of public review and comment. During the comment period, we will also hold a public meeting to obtain comments directly from individuals. We expect to receive comments by regular mail, email, or at the public meetings. After the comment period ends, we will review and summarize all of the comments received, develop our responses, revise the CCP as warranted based on the comments, and publish the comments and our responses in an appendix to the final CCP.

Step F: Adopt Final Plan

Once we have prepared the final CCP, we will submit it to our Regional Director for approval. If our Regional Director approves adoption of the plan, we would prepare a Finding of No Significant Impact (FONSI) to satisfy NEPA requirements. If the Regional Director has concerns, we may be required to revise the EA or complete an environmental impact statement (EIS). We will announce the final decision by publishing an NOA in the *Federal Register*, where we will also notify people of the availability of the final CCP. That action will complete planning step F to prepare and adopt a final CCP.

1.7 Issues, Concerns, and Opportunities

The Service defines an issue as “*any unsettled matter requiring a management decision*” (USFWS 2012c). Issues can include an “*initiative, opportunity, resource management problem, threat to a resource, conflict in use, or a public concern.*” Issues arise from many sources, including refuge staff, other Service programs, state agencies, other Federal agencies, our partners, neighbors, user groups, or Congress. One of the distinctions among the proposed management alternatives is how each addresses those issues.

From agency and public meetings and planning team discussions, we developed a list of issues, concerns, opportunities, and other items requiring a management decision. We placed them in two categories: key issues and issues outside the scope of this analysis in this EA.

Key issues are those the Service has the jurisdiction and authority to resolve. The key issues, together with refuge goals, form the basis for developing and comparing the different management alternatives we analyze in chapter 3. The varying alternatives were generated by the wide-ranging opinions on how to address key issues and conform with the goals and objectives. We describe them in detail below.

Issues and concerns outside the scope of this analysis are topics fall outside the jurisdiction and authority of the Service or were deemed impractical to analyze in this CCP. We discuss them after “Key Issues,” below, but this plan does not address them further.

The following summary provides a context for the issues that arose during the scoping process.

1.7.1 Key Issues

We derived the following key issues from public and partner meetings and further team discussions. How they are addressed and how well they support refuge goals primarily distinguishes the three management alternatives in chapter 3.

Natural Resource Management

James River NWR was originally established for the protection of an endangered species, the bald eagle. Although the bald eagle has recently been removed from the Federal and State lists of endangered species, it remains a species protected under BGEPA and the Federal MBTA. We must comply with all applicable Federal laws, regulations, and policies to ensure continued protection of bald eagles and their habitats at James River NWR.

Given that the specific legal authority used to establish this refuge was the ESA, we must also determine if other federally listed species occur at the refuge today or have the potential to benefit from refuge management actions in the future. We will explore how management of this refuge for the benefit of bald eagles could benefit species that are currently listed or are candidates for endangered or threatened status.

We will consider a variety of factors to evaluate how the refuge contributes to the ecological integrity of the inner Coastal Plain forested and non-forested ecosystems for the benefit of native plants and animals, especially species of conservation concern. Shoreline erosion, invasive nonnative species management, and climate change are among the factors influencing refuge management decisions.

Cultural Resource Protection

We have identified that nationally significant cultural resources may occur at James River NWR. The limited archaeological investigations on the refuge and on adjacent properties have yielded evidence and information about Native Indian occupations, early European settlements, and military actions. Seven previously identified archaeological sites are located on the refuge, including one site on the National Register and one site that is eligible for listing on the National Register. In recent years, additional sites and areas of high probability for having archaeological resources have been inventoried but have not yet been recorded by the Virginia Department of Historic Resources (VDHR). National Register eligibility status of these additional

sites and areas of high probability has not been evaluated. Until their National Register eligibility has been evaluated, they are treated as if eligible. Archaeological sites at the refuge are threatened by natural processes, refuge management and operations, and illegal activities by refuge visitors.

In addition to archaeological sites, the refuge's cultural resources include museum collections, historic structures, and indigenous cultural landscapes. To ensure the continued protection of the diversity of cultural resources associated James River NWR, we must comply with all applicable Federal laws, regulations, and policies. We will explore opportunities to maintain the refuge's management and protection of its cultural resources.

Public Use

Limited public use opportunities are offered on the refuge, and we will explore opportunities to provide an acceptable level of public use of the refuge that will not impede our ability to fulfill the refuge's primary purpose. During the public scoping period, we received comments requesting consideration of options ranging from closing the refuge to some uses we currently allow to expanding existing opportunities and considering that additional public uses be allowed on the refuge.

We will explore how the refuge can offer high quality visitor services programs on- and off-refuge, while promoting stewardship of this refuge for the benefit of wildlife along the lower James River, Chesapeake Bay watershed, and NWR System.

Partnerships

The physical location and role of the refuge in the larger landscape or regional context is strongly considered during the planning process for the refuge. However, there is concern that refuge management activities in several different areas including biological resource management, environmental education, and visitor services will be done independent of the needs and goals of area agencies, business, and organizations. Refuge management is driven by several Service policies and mandates (see earlier sections in chapter 1) along with the legislative acts used to create the refuge. Using these guidelines, management of the refuge will build on existing partnerships and explore additional opportunities in support of resource conservation and visitation at James River NWR and the surrounding area.

During the public comment period, we received extensive feedback providing examples of opportunities to collaborate with a broad array of organizations, both governmental entities and non-governmental organizations.

Commenters recommended nurturing current partnerships and developing new partnerships to expand and improve biological resource management, visitor service opportunities, and cultural resource protection and interpretation.

1.7.2 Outside of Scope

We determined that the following public comments are outside the scope of this refuge's CCP:

- Rezone properties adjacent to the refuge—Public comments suggested that the Service work with Prince George County to rezone properties

along Route 10 and adjacent to the refuge for commercial development, establishing the refuge vicinity as a tourist destination. The Service does not have the authority to rezone areas within or surrounding the refuge. Prince George County recently updated its comprehensive plan, including zoning information (Prince George County Planning Commission 2012). Future rezoning of County land adjacent to the refuge is outside the scope of the refuge's CCP.

- Leasing refuge lands to private entities—Public comments noted concern about how leasing Federal lands to private entities is believed to alter the availability of that land to be used by the general public. Since none of the lands or facilities within James River NWR are leased to private entities and we have received no notice of interest from private entities, we determined this topic is outside the scope of the refuge's CCP.
- Chesapeake Bay water quality—Public comments noted concern about land use and bacteria throughout the Chesapeake Bay. Addressing water quality issues of the Chesapeake Bay in its entirety is beyond the scope of this refuge's CCP. However, we are aware that the impaired water quality of the refuge's streams contributes to the local water quality concerns in the James River. In this CCP, we describe the existing water quality conditions in the refuge vicinity and identify strategies to improve water quality on and adjacent to the refuge to the maximum extent practicable.
- Allow concealed carry firearms on the refuge—Public comments noted interest in allowing lawfully licensed concealed carry permit holders to carry their firearm on the refuge during their visit for self-defense purposes. Federal legislation allows for a person legally in possession of a firearm under State code to possess it on the refuge (50 CFR 27.42). This has been in effect since February 2010.



Cyrus Brame/USFWS

Bald eagle perched at James River NWR