

Appendix N



Kate Iaquinto/USFWS

View of Monomoy National Wildlife Refuge

Record of Decision

Monomoy National Wildlife Refuge

Barnstable County, Massachusetts



Record of Decision for the Final Comprehensive Conservation Plan and Environmental Impact Statement

U.S. Fish and Wildlife Service



March 2016

U.S. Fish and Wildlife Service
Monomoy National Wildlife Refuge
Barnstable County, Massachusetts

The Department of the Interior, U.S. Fish and Wildlife Service (Service; we, our), has prepared this “Record of Decision” (ROD) on the final Comprehensive Conservation Plan (CCP) for Monomoy National Wildlife Refuge (NWR, refuge), which lies in the town of Chatham, Massachusetts, in Barnstable County. This ROD includes a summary of the alternatives we considered in the Final CCP and Environmental Impact Statement (EIS), a description of the environmentally preferable alternative, an overview of public and partner involvement in the decision-making process, our basis for selecting alternative B for the CCP, and a summary of the practicable measures to minimize environmental harm. The Monomoy NWR CCP will provide guidance for conserving the refuge’s natural, cultural, and wilderness resources, and for managing public use activities, for the next 15 years.

Management Alternatives Considered in the Final CCP/EIS

We evaluated three management alternatives in the final CCP/EIS for Monomoy NWR. Below is a summary of the key features of each alternative. More detailed information on the alternatives can be found in chapter 3 of the final CCP/EIS.

Alternative A (Current Management): Alternative A would simply extend the way we now manage the refuge over the next 15 years. Resource management priorities and actions, and public use opportunities, would not change. This alternative provides a baseline for comparing alternatives B and C. This serves as the “no action” alternative required by regulations under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.).

Alternative B (Enhanced Management of Habitat and Public Uses): This alternative is the one we believe would best meet the purposes and need set out in the EIS. In the view of the Service, it is the alternative that will most effectively achieve refuge purposes, vision, and goals. It represents an extension and progression of all areas of refuge management. Under alternative B, new biological program activities would be initiated. Special emphasis would be placed on obtaining baseline data on wildlife populations and habitat conditions, or filling in information gaps as needed. The new information would be used to develop more detailed step-down plans. Wildlife population and habitat monitoring surveys and inventories would continue to provide data needed to evaluate the effectiveness of refuge programs and practices, and to adapt management as warranted to achieve long-range refuge goals and objectives.

Under alternative B, new compatible wildlife-dependent recreational opportunities would be provided consistent with the refuge’s designation as part of the National Wilderness Preservation System. Emphasis would be placed on providing enhanced, but sustainable, opportunities for all six priority wildlife-dependent recreational uses defined in the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Refuge System Improvement Act; 16 U.S.C. 688dd-688ee). Most existing refuge uses would continue and a few new uses are proposed. However, some uses currently occurring on the refuge would be curtailed to preserve wilderness character in the federally designated Monomoy Wilderness. Staffing would be modestly increased to accommodate new programs and activities. Proposed new visitor contact facilities would provide better access to information and support quality educational and interpretive programs. In addition, a seasonal parking fee would be instituted.

Alternative C (Natural Processes): This alternative proposes less intensive management on all refuge lands. It would be guided by a philosophy of allowing natural processes and succession of habitats to progress, consistent with preserving wilderness character, and to the extent that it does not compromise refuge purposes and goals. Generally, wildlife and habitat management, and inventory and monitoring efforts, would be reduced from those planned under alternative A. Under alternative C, there would be fewer interpretation and environmental education programs conducted on and off the refuge compared to current levels, less emphasis would be placed on providing wildlife observation and photography opportunities, fewer visitor facilities would be constructed, and the Monomoy light station would not be maintained. In addition to the uses that would not be allowed under alternative B, motorized boat use would be eliminated. Fewer refuge staff would be hired since refuge lands, in particular the Monomoy Wilderness, would be managed less intensively.

Other Alternatives or Actions Considered but Eliminated From Further Study: In addition to the three alternatives discussed above, we considered several other alternatives and actions, but eliminated them from detailed analysis. These alternatives or actions include:

- Managing the refuge strictly based on wilderness designation and no active management.
- Closing the refuge to clamming.
- Discontinuing the predator management program.
- Allowing horseshoe crab harvesting.
- Installing a wind turbine at Monomoy Point Light Station.

The full rationale for eliminating these alternatives or actions can be found in chapter 3 of the final CCP/EIS.

Environmentally Preferable Alternative

The Service, in accordance with the Department of the Interior's NEPA Code of Federal Regulations (43 CFR part 46) and the Council on Environmental Quality's Forty Most Asked Questions, defines the environmentally preferable alternative (or alternatives) as the alternative that "causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources" (43 CFR 46.30). NEPA does not require the decisionmaker to select the environmentally preferable alternative or prohibit adverse environmental effects. Indeed, Federal agencies often have other concerns and policy considerations to take into account in the decision-making process, such as social, economic, technical, or national security interests. NEPA requires decision-makers be informed of the environmental consequences of their decisions.

After considering the environmental consequences of the three management alternatives, including consequences to the human environment, we have concluded that alternative B is the environmentally preferable alternative. Alternative B prioritizes management actions to conserve federally listed and other regionally significant wildlife, as well as protecting wilderness resources. Some of these priority species require active management to sustain them, including predator management and the use of fire and other mechanical means to promote certain habitat characteristics. We would also increase efforts to reduce invasive species and restore native vegetation in uplands and saltmarsh, and work closely with partners to restore eelgrass beds and submerged aquatic vegetation in and surrounding refuge waters. Alternative B would also increase inventory and monitoring activities to better evaluate the effectiveness of our management and assess climate change impacts. Under alternative B, we would implement all of these actions following development of detailed step-down management plans. Adaptive management would be the framework for evaluating and responding to what we learn from our actions. No major construction is planned, although there could be a small expansion of the refuge's facilities footprint for a visitor station. All cultural resources would be protected and maintained. Additionally, this alternative eliminates several public use activities that are not appropriate or not compatible to ensure the year-round protection of species of concern and the refuge's wilderness values.

Public and Partner Involvement

Public and partner involvement has occurred throughout the planning process in numerous ways. Opportunities for outreach and engagement has occurred through public informational meetings, public hearings, technical expert exchanges, planning update mailings, media releases, and meetings with local community organizations. **Federal Register** (FR) notices were published several times during the development of this CCP (64 FR 9166, February 24, 1999; 66 FR 10506, February 15, 2001; 69 FR 72210, December 13, 2004; 79 FR 19920, April 14, 2014; 80 FR 66928, October 30, 2015). Early in the planning process, the public and partner comments and concerns that we received were used to identify issues and draft preliminary management alternatives. Meetings with experts, stakeholders, and State and Federal agency partners helped us refine those alternatives and prepare a draft CCP/EIS. An extensive review process occurred when the draft CCP/EIS was released for public comment. The public comment period ran from April 10 to October 10, 2014. During this period, we held one public hearing and four open house meetings. In total we received 39 oral comments

at the hearing and 255 separate written comments. We also received 2 petitions with 1,576 and 650 individual signatures, respectively. The comments came from a range of sources, including numerous national, State, and local organizations, the town of Chatham, State agencies, neighboring landowners, user groups, and a number of interested citizens. We evaluated all letters and e-mails sent to us during that comment period, along with comments recorded at our public hearing. A summary of all comments, and our responses to them, was included in appendix K in the final CCP/EIS.

Based on comments we received, we made several modifications to alternative B in the final CCP/EIS. All substantive issues raised in the comments on the draft CCP/EIS were addressed through revisions incorporated into the final CCP/EIS text, or in our responses contained in appendix K of the final CCP/EIS.

Comments Received On the Final CCP/EIS

The final CCP/EIS was distributed for a 37-day review period from October 30 to December 7, 2015. We received 35 responses from sources that included local organizations, State agencies, State elected officials, the town of Chatham, local residents, user groups, and other individuals. In our review and evaluation of these comments, we categorized them into the 14 topic areas listed below:

- (1) Kiteboarding.
- (2) Service jurisdiction within the 1944 Declaration of Taking boundary's open waters and submerged lands.
- (3) Shellfishing.
- (4) Commercial guiding.
- (5) Horseshoe crab harvesting.
- (6) Wilderness management.
- (7) Dogwalking.
- (8) Dredging.
- (9) Right-of-way.
- (10) Socio-economic impacts.
- (11) Law enforcement.
- (12) Submerged aquatic vegetation.
- (13) Hunting.
- (14) Beachcombing.

None of the comments received on these topics are significant new issues, nor require significant changes to either our proposed action or our analysis of impacts. All substantive comments were previously addressed in appendix K of the final CCP/EIS. However, in response to some of these final CCP/EIS comments, we clarify our rationale for certain management strategies in the CCP as indicated below.

- With regards to the comments that we misinterpreted the Colonial Ordinances of 1641 and 1647 which bestow public access for fishing, fowling, and navigation, in chapter 2 of the CCP, we clarify that the Federal Government has authority to regulate the exercise of these State-law rights under the Supremacy Clause of the Constitution. State law rights may only be exercised if not prohibited by the Federal laws governing national wildlife refuges and wilderness areas designated under the Wilderness Act (16 U.S.C. 1131-1136, 78 Stat. 890).

- With regards to the comment that we should distinguish ribbed from blue mussels and allow some harvest, in appendix D of the CCP we clarify in our finding of appropriateness for this activity our concerns with harvest of either species.
- With regards to the comment that it is impractical to require commercial fishing guides operating on the refuge to obtain refuge permits, we clarify that our intent is require refuge permits for only those commercial fishing guides landing on the refuge or allowing people to disembark from their boat above mean low water. This clarification is made in the CCP in appendix D in our compatibility determination for “Commercial Tours, Ferry Service, Guided Trips, and Outfitting,” and in chapter 4 as a strategy under goal 2, objective 2.5.
- With regards to the comment that we have too high an allowance for beachcombing on the refuge, in appendix D of the CCP we clarify the limits in our compatibility determination for this activity.

Decision to Select Alternative B for the CCP

Alternative B is the Service’s selected alternative. Alternative B was also specified as the Service-preferred alternative in the final CCP/EIS. Alternative B is the most effective alternative at addressing the key issues and concerns identified during the planning process and will best achieve the purpose and need for developing the CCP, the purposes and goals of the refuge, and the mission and goals of the National Wildlife Refuge System (Refuge System) and the National Wilderness Preservation System. It is also the environmentally preferable alternative as discussed above. Implementation of the CCP will occur over the next 15 years, as funding permits.

The decision includes adoption of stipulations and measures referenced in the “Measures to Minimize Environmental Harm” section below. It also includes all the changes made between draft and final CCP/EIS’s, in appendix K of the final CCP/EIS, and the clarifications referenced above in “Comments Received in the Final CCP/EIS.”

The required “wait period” before approval of the ROD was initiated on November 6, 2015, with the Environmental Protection Agency’s **Federal Register** notification of the filing of the final CCP/EIS. This ROD is not the final agency action for those elements of the selected action that require promulgation of regulations to be effective. Promulgation of such regulations will constitute the final agency action for such elements of the selected action, including the implementation of a waterfowl hunt program.

Factors Considered in Making the Decision

This decision to adopt alternative B for implementation was made after considering the follow factors:

- How well the alternative achieves the stated purpose and need for a CCP and the six goals presented in chapter 1 of the final CCP/EIS.
- How well the alternative addresses the relevant issues, concerns, and opportunities identified in the planning process and summarized in chapter 1 of final CCP/EIS.
- The results of public, partner, town of Chatham, Federal and State agency, and other stakeholder comments on the draft and final CCP/EISs.
- The projected impacts identified in chapter 4 of the final CCP/EIS.
- Other relevant factors, including fulfilling the purposes for which the refuge was established, contributing to the mission and goals of the Refuge System and National Wilderness Preservation System, and statutory and regulatory guidance.

Compared to the alternative A and C, alternative B includes the suite of actions that best meet the factors above using the most balanced, reasonable, practicable, and integrated approach, and with due consideration for impacts on both the biological and human environment. The refuge’s establishment purposes emphasize

the conservation of migratory birds and the protection of wilderness character and values; thus, protecting those resources on Monomoy NWR is paramount. These resources are enhanced the most under alternative B. Alternative B will best fulfill the refuge's biological goal with expanded management for migratory birds and other Federal trust species and habitats that are of national and regional conservation concern. Alternative B targets more acres for active habitat management to benefit a wider array of species of conservation concern, compared to alternatives A and C. In addition, alternative B specifically strives to increase the number of breeding migratory birds, and increase their productivity, more than the other two alternatives. Alternative B also includes a more extensive inventory and monitoring program that will help the most in evaluating the effectiveness of our actions and ensuring our management into the future is adaptive and strategic, including considerations of the impacts of climate change.

Alternative B best balances the long-term protection and management of wilderness resources with consideration of historic and traditional uses. It would not eliminate motor boat access as proposed in alternative C, but would impose a new restriction on the use of wheeled carts for harvesting shellfish. Alternative B also includes the most actions to engage and educate people about Monomoy Wilderness.

Alternative B is best at promoting high-quality, wildlife-dependent recreation on the refuge, while providing sufficient protection for wildlife and wilderness resources. Compared to alternative A, there are enhanced or increased opportunities for our priority public uses: hunting, fishing, wildlife observation, wildlife photography, environmental education, and interpretation. Directional signage will also be improved from what exists today, and we will work with town officials to explore opportunities for a visitor contact facility, additional parking, a shuttle service, and safer pedestrian and bicycle access to the refuge from town. Alternative B will also expand existing American Disabilities Act-compliant facilities. Compared to alternative C, alternative B provides more options for access to refuge islands since motorized boat use will not be eliminated. Under alternative B, we have also determined that there are some public use activities that are not appropriate or not compatible with resource protection and will not be allowed. Some of these activities may be occurring today. Our rationale for allowing certain activities, and not allowing others, are detailed in appendix D.

Alternative B best recognizes how important Monomoy NWR is to the local community and the larger social and economic region of the Outer Cape. It includes the most strategies for improving communications and coordination with the town of Chatham, State fish, wildlife, and marine agency officials, and the National Park Service, who collectively represent the other entities with management authority in the area surrounding the refuge. Alternative B objectives and strategies also specifically identify actions to improve outreach and engagement with residents in the local community, and to increase appreciation and enjoyment of the refuge.

Alternative B complies with all major Federal laws that apply to this type of Federal action, including those noted below under "Findings Required by Other Laws and Executive Orders." The final CCP/EIS was developed to comply with the NEPA. The CCP/EIS was developed with sufficient detail to account for the greatest potential impacts that could result from proposed actions identified under all alternatives. However, additional NEPA analysis will be necessary for certain types of actions, even once we adopt a final CCP. We identified some of the actions we anticipate will require further NEPA analysis and public involvement in chapter 3 of the final CCP/EIS. Appendix N in the CCP includes documentation of compliance with the Coastal Zone Management Act (Public Law 92-583, as amended); Endangered Species Act (ESA) (Public Law 93-205, as amended); and, National Historic Preservation Act (NHPA) (Public Law 89-665).

In summary, we selected alternative B for implementation because it best meets the factors identified above when compared to alternatives A and C. Alternative B provides the greatest number of opportunities for Monomoy NWR to contribute to the conservation of fish, wildlife, habitat, and wilderness resources at local, regional, and national levels. It will also increase our capacity to meet refuge purposes and contribute to the Refuge System mission, enhance visitor use and enjoyment, and will provide the means to better respond to changing ecological conditions within the surrounding environment.

Measures to Minimize Environmental Harm

Congress charged the Service with the mission of the Refuge System "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). Furthermore, the Service is directed to “ensure that the biological integrity, diversity, and environmental health of the Refuge System are maintained for the benefit of present and future generations of Americans.” As a result, the Service routinely evaluates and implements measures to minimize harm whenever conditions occur that could adversely affect the biological integrity, diversity, and environmental health of refuge resources.

All practicable measures to avoid or minimize environmental impacts that could result from implementation of alternative B have been identified and incorporated into chapter 3 (Alternatives Considered, including the Service-preferred Alternative), chapter 4 (Environmental Consequences), and appendix D (Findings of Appropriateness and Compatibility Determinations) of the final CCP/EIS. The findings of appropriateness and the stipulations identified in the compatibility determinations in appendix D ensure that refuge uses and visitor activities are appropriate and compatible with the purposes for which the refuge was established. The compatibility determination stipulations and other mitigation measures identified for alternative B in chapters 3 and 4 are adopted in this ROD and will be followed or enforced by refuge staff or their designee.

Findings Required by Other Laws and Executive Orders

The final CCP/EIS complies with all Federal laws and Executive Orders (EO) related to the planning process and Monomoy Refuge. These include, but are not limited to, the Refuge System Improvement Act; NEPA; the ESA; Marine Mammal Protection Act (16 U.S.C. 1361-1407); the NHPA; Archeological Resources Protection Act (16 U.S.C. 470aa-4701); the Coastal Zone Management Act; the Wilderness Act; EO 12898, Environmental Justice; EO 11988, Floodplain Management; EO 11990, Protection of Wetlands; EO 12372, Intergovernmental Review; EO 13186, Protection of Migratory Birds; and EO 13175, Consultation and Coordination with Indian Tribal Governments.

For Further Information

For further information, contact Elizabeth Herland, Project Leader, Eastern Massachusetts NWR Complex, 73 Weir Hill Road, Sudbury, MA 01776, phone (978) 443-4661, ext. 11. Copies of the final CCP/EIS and the CCP may be viewed at the Eastern Massachusetts NWR Complex (see Project Leader’s address); at Monomoy NWR, 30 Wikis Way, Chatham, MA 02633, phone (508) 945-0594; and, at the Eldredge Public Library, 564 Main Street, Chatham, MA 02633, phone (508) 945-5170. The CCP and this ROD will be available for viewing and downloading online at: http://www.fws.gov/refuge/Monomoy/what_we_do/conservation.html



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Date

