

COMPATIBILITY DETERMINATION

Uses: Land Exchange on Currituck and Mackay Island NWR

Refuge Name: Currituck and Mackay Island National Wildlife Refuges.

Date Established: Currituck: August 2, 1983, Mackay Island: December 30, 1960.

Establishing and Acquisition Authority(ies): 16 U.S.C. Sec. 664 (Migratory Bird Conservation Act of 1929).

Refuges Purposes: The purpose of Currituck and Mackay Island National Wildlife Refuges, as reflected in each refuge's authorizing legislation, is to protect and conserve migratory birds, and other wildlife resources through the protection of wetlands, in accordance with the following laws:

...for use as an inviolate sanctuary, or for any other management purpose, for migratory birds... 16 U.S.C. Sec. 664 (Migratory Bird Conservation Act of 1929);

...for (1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species and threatened species... 16 U.S.C. Sec 460k-1 (Refuge Recreation Act of 1962)

These refuge's purpose and importance to migratory birds, particularly waterfowl, are to *preserve wintering habitat for waterfowl and wintering and production habitat for wood ducks and snow geese to meet the habitat goals presented in the Ten-Year Waterfowl Habitat Acquisition Plan and the North American Waterfowl Management Plan.*

National Wildlife Refuge System Mission:

The mission of the System, as defined by the National Wildlife Refuge System Improvement Act of 1997, 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.

Other Applicable Laws, Regulations, and Policies:

Antiquities Act of 1906 (34 Stat. 225)

Migratory Bird Treaty Act of 1918 (15 U.S.C. 703-711; 40 Stat. 755)

Migratory Bird Conservation Act of 1929 (16 U.S.C. 715r; 45 Stat. 1222)

Migratory Bird Hunting Stamp Act of 1934 (16 U.S.C. 718-178h; 48 Stat. 451)

Criminal Code Provisions of 1940 (18 U.S.C. 41)

Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d; 54 Stat. 250)

Refuge Trespass Act of June 25, 1948 (18 U.S.C. 41; 62 Stat. 686)

Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j; 70 Stat. 1119)

Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4; 76 Stat. 653)

Wilderness Act (16 U.S.C. 1131; 78 Stat. 890)

Land and Water Conservation Fund Act of 1965

National Historic Preservation Act of 1966, as amended (16 U.S.C. 470, et seq.; 80 Stat. 915)
National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd, 668ee; 80 Stat. 927)
National Environmental Policy Act of 1969, NEPA (42 U.S.C. 4321, et seq. 83 Stat. 852)
Use of Off-Road Vehicles on Public Lands (Executive Order 11644, as amended by Executive Order 10989)
Endangered Species Act of 1973 (16 U.S.C. 1531 et seq. 87 Stat. 884)
Refuge Revenue Sharing Act of 1935, as amended in 1978 (16 U.S.C. 715s; 92 Stat. 1319)
National Wildlife Refuge Regulations for the Most Recent Fiscal Year (50 CFR Subchapter C; 43 CFR 3101.3-3)
Emergency Wetlands Resources Act of 1986 (S.B. 740)
North American Wetlands Conservation Act of 1990
Food Security Act (Farm Bill) of 1990 as amended (HR 2100)
The Property Clause of The U.S. Constitution Article IV 3, Clause 2
The Commerce Clause of The U.S. Constitution Article 1, Section 8
The National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57, USC668dd)
Executive Order 12996, Management and General public Use of the National Wildlife Refuge System. March 25, 1996
Title 50, Code of Federal Regulations, Parts 25-33
Archaeological Resources Protection Act of 1979
Native American Graves Protection and Repatriation Act of 1990

Description of Use: *Land Exchange*

Currituck NWR is a mixture of marshes, managed wetlands (moist soil areas), and maritime forests and scrub, dunes, and interconnected streams, ditches, and back swamps. The forests have a great variety of species that includes live oak, loblolly pine, eastern red cedar, flowering dogwood, American holly, yaupon holly, waxmyrtle, beautyberry, greenbrier, muscadine grape, and Virginia creeper. This forest provides good habitat for a number of game species including white-tailed deer, squirrel, and raccoon.

Mackay Island NWR is a mixture of marshes, managed wetlands (moist-soil areas), and forest blocks of loblolly pine and bottomland hardwoods, and interconnected streams, ditches, and backswamps. The forests have a great variety of tree species that includes bald cypress, loblolly pine, oak, red maple, black gum, hickory, elm, green ash, and willow. These rich forested wetlands and marshes provide good habitat for a number of game species including white-tailed deer, squirrel, raccoon, king rail, woodcock and waterfowl.

The Service proposes to exchange lands with little wildlife value at Currituck NWR for high quality wildlife and migratory bird lands adjacent to Mackay Island NWR while ensuring the majority of divested properties remain within the conservation estate by placing deed restrictions on divested lands. Seven to nine acres of Currituck NWR will remain unrestricted to allow for visitor safety and habitat/shoreline protection improvements.

Availability of Resources:

- 1) Lands identified for exchange are based on a value for value exchange. Given the appraised values of these tracts the Service will be divesting of more acreage than it is acquiring.
- 2) Extreme visitation pressures on the lands divested at Currituck NWR require significant inputs to become marginal wildlife habitat and minimally meet the Refuges mission.
- 3) The lands being added at Mackay Island are already high quality migratory bird habitats.

Combined, these factors eliminate the need for additional resources to manage new lands and actually reduce current inputs needed to maximize habitat quality for migratory birds.

Anticipated Impacts of the Use:

At Currituck NWR anticipated negative impacts will be minimal and directly affect only the 7-9 acres of land conveyed unrestricted. No negative impacts are anticipated on the remaining land, (approximately 713 acres) due to conservation deed restrictions placed on the lands at time of transfer.

At Mackay Island NWR all impacts anticipated are positive impacts. The refuge will gain up to 374 acres of high quality marsh and uplands that will reserve these lands for use by wildlife in perpetuity. The marshes are excellent habitat for king rail and waterfowl especially black ducks. The uplands consist of both forest and grasslands important to neotropical, migratory, and local birds.

Combined, completion of this project will secure up to an additional 365-367 acres in conservation lands and protected habitats.

Public Review and Comment:

The acquisition planning process for this exchange required the Service to administratively change the acquisition boundary of the refuge through a formal Minor Expansion Planning (MEP) process. The MEP required public notification and comment period. Both the notification and comment period were completed.

A portion of the lands within this exchange required the Service to amend the boundary of lands eligible for Land and Water Conservation funding approved by the Migratory Bird Commission. This process required the Service to acquire support and approval from state agencies. The North Carolina Governor's office approved and signed this amended boundary request.

A request for comment to this compatibility determination was posted in the refuge office, Knotts Island Post Office and Knotts Island Market along with all refuge kiosks on December 21, 2015. It was also sent as a Legal Notice to the Virginian Pilot newspaper and Daily Advance newspapers. The comment period was opened for 30 days and ended on January 19, 2016.

Determination (check one below):

Use is Not Compatible

Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

Property identified adjacent to Mackay Island NWR would be added to the Refuge and specific tracts within Currituck NWR would no longer be refuge holdings. All but seven to nine acres of the land to be divested would be deed restricted and would remain in conservation under new ownership due to restrictive language in the deed at the time of transfer.

Justification:

Mandatory 10- or 15-year Re-evaluation Date: _____

Approval of Compatibility Determination

Refuge Manager: _____
(Signature/Date)

**Regional Compatibility
Coordinator:** _____
(Signature/Date)

Refuge Supervisor: _____
(Signature/Date)

**Regional Chief, National
Wildlife Refuge System,**

Southeast Region:

(Signature/Date)