



Stephanie Koch/USFWS

Nomans Land Island's Rocky Shore

Purpose of and Need for Action

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Introduction

Nomans Land Island National Wildlife Refuge (NWR; Refuge) is a 628-acre island located in Dukes County, Massachusetts three miles southwest of Martha's Vineyard in the Atlantic Ocean (Map 1-1). The U.S. Fish and Wildlife Service (USFWS; Service; we; our) first began managing the eastern third of Nomans Land Island in 1970 under a Joint Management Agreement with the U.S. Navy, while they were actively using the island for military training purposes. In 1998, management of the entire island was transferred from the U.S. Navy to the Service for the protection and management of migratory birds.

Both the island and its surrounding waters have been closed to public access since the Navy began leasing it in the 1940's as an aerial bombardment and gunnery range (see Map 1-2 for an aerial photo of the island taken in 1938). Though range operations ended in 1996 and management responsibility for the island was transferred to the Service in 1998 to become a national wildlife refuge, the continued presence of unexploded ordnance (UXO) throughout the island requires that it remain administratively closed to the public. Waters surrounding the island continue to be restricted; however, this is not under the jurisdiction of the Service.

In Massachusetts, most public and private property extends to the normal low water line, but no farther than 1,650 feet from the high water line. Therefore, when we refer to Service management responsibility for Nomans Land Island NWR, or describe Refuge shoreline management actions, we generally mean those areas above the normal low water line. The Refuge encompasses its entire approved acquisition boundary (Map 1-1).

The Refuge is one of eight refuges that comprise the Eastern Massachusetts NWR Complex, which is headquartered in Sudbury, Massachusetts. Nomans Land Island is 1.6 miles east to west, and about one mile north to south (Stone and Webster 1996). Located in the Atlantic Ocean, it is heavily influenced by maritime processes (Map 1-3). Average tidal rise and fall is 8.5 feet, with extremes from 8.0 to 14.0 feet in storm or hurricane induced tides. Harsh oceanic winds, salt spray, and lack of shelter have created a brush, forb, grass, and sedge vegetative complex on the island.

This draft comprehensive conservation plan (CCP) and environmental assessment (EA) for the Refuge combine two documents required by federal law into one:

- a draft CCP, required by the National Wildlife Refuge System (Refuge System; NWRS) Administration Act of 1996, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Public Law (PL) 105-57; 111 Stat. 1253; (Improvement Act)); and,
- an EA, required by the National Environmental Policy Act (NEPA) of 1969 (42 USC 4321 et seq., 83 Stat. 852), as amended.

Following public review of this EA/draft CCP, our regional director will decide on the components of a final CCP to guide Refuge management decisions over the next 15 years. We will use the CCP to promote understanding of and support for Refuge management among state agencies in Massachusetts, tribal governments, our conservation partners, local communities and the public.

Chapter 1 explains the purpose of and need for preparing a CCP/EA, and sets the stage for four subsequent chapters and nine appendices. Specifically, it

- defines our planning analysis area,
- presents the mission, policies and mandates affecting the development of the plan,
- identifies other conservation plans we used as references,

- lists the purposes for which the Refuge was established and its land acquisition history,
- clarifies the vision and goals that drive Refuge management,
- describes our planning process and its compliance with NEPA regulations, and,
- identifies public and partner issues or concerns that surfaced as we developed the plan.

Chapter 2, “Alternatives Considered, Including the Service-Preferred Alternative,” presents three management alternatives and their objectives and strategies for meeting Refuge goals and addressing public and partner issues. It also describes the activities that we expect to occur regardless of the alternative selected for the final CCP. The range of alternatives includes continuing our present management of the Refuge unchanged, increasing habitat management and species monitoring activities while increasing visitor services on Martha’s Vineyard, and managing for focal species in priority habitat types, while moderately increasing visitor services on Martha’s Vineyard. We also include the results of our wilderness review in this chapter.

Chapter 3, “Affected Environment,” describes the physical, biological, and human environments of the Refuge.

Chapter 4, “Environmental Consequences,” assesses the environmental consequences 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 3.

Chapter 5, “Consultation and Coordination with Others,” summarizes how we involved the public and our partners in the planning process. Public involvement is vital for the future management of this Refuge and all national wildlife refuges.

Nine appendices, a glossary with acronyms, and a bibliography (literature cited) provide additional documentation and references to support our narratives and analysis.

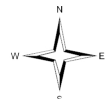
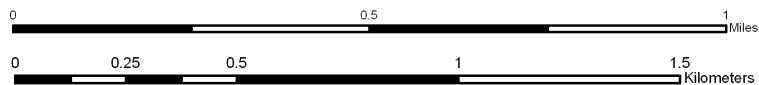


Nomans Land Island National Wildlife Refuge - Comprehensive Conservation Plan

Nomans Land Island National Wildlife Refuge

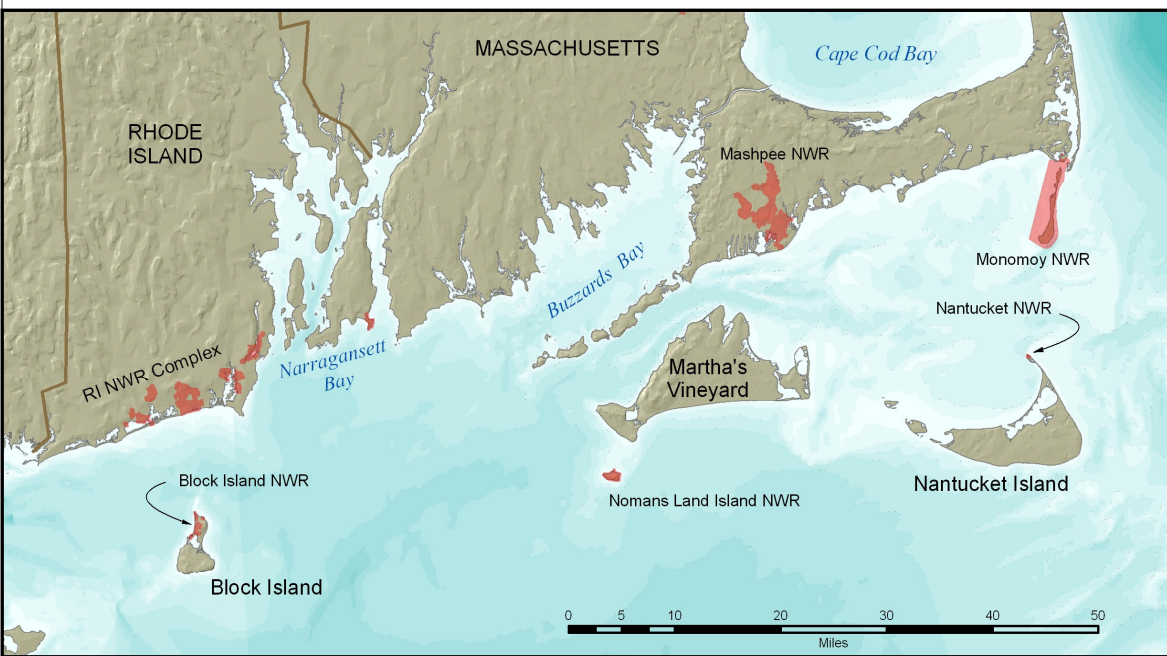
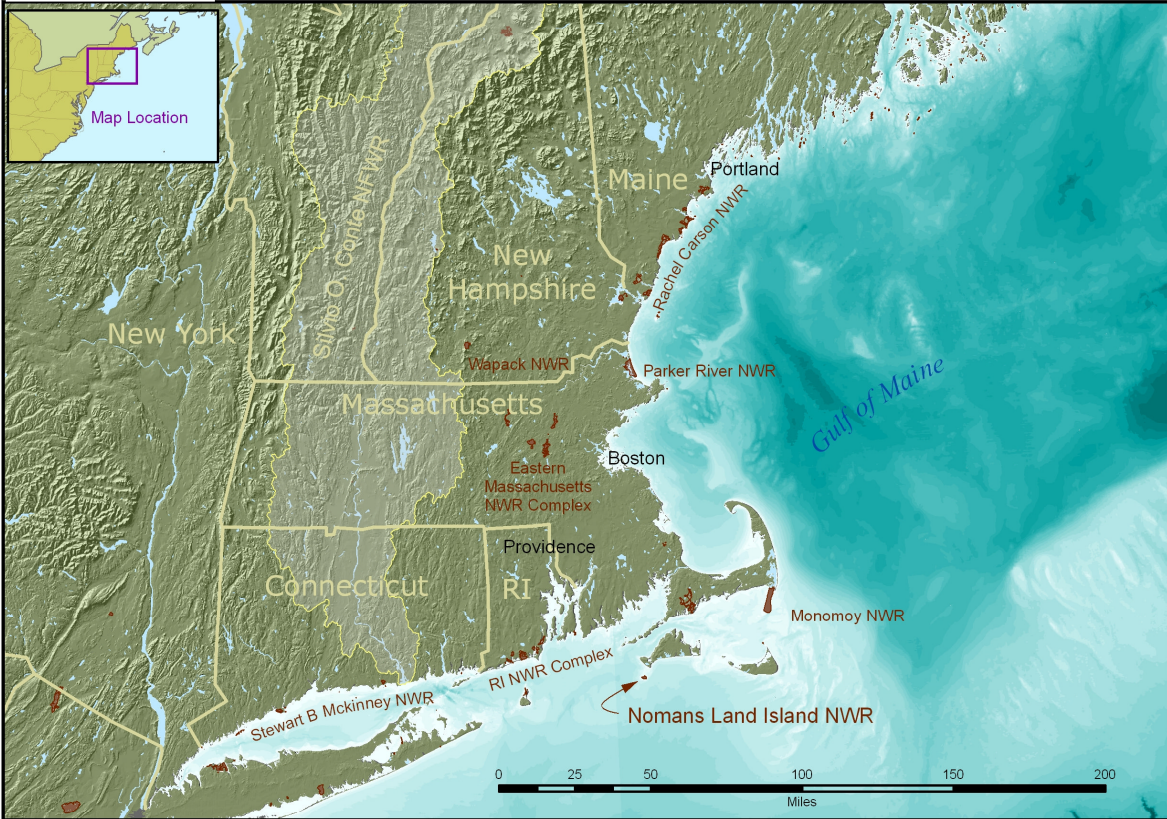


Sources:
Orthophoto from MassGIS





  **Nomans Land Island National Wildlife Refuge - Comprehensive Conservation Plan**
Location of Nomans Land Island National Wildlife Refuge



Sources:
Connecticut River watershed and Refuge Boundaries from USFWS.
Basemap USGS 1:250,000 DEM's. Bathymetry from MassGIS



The Purpose of and Need for the Proposed Action

We propose to develop a CCP for the Refuge that, in the Service's best professional judgment, best achieves the purposes, goals and vision of the Refuge and contributes to the National Wildlife Refuge System's mission, adheres to the Service's policies and other mandates, addresses identified issues of significance, and incorporates sound principles of fish and wildlife science.

NEPA regulations require our evaluation of a reasonable range of alternatives, including a proposed or preferred action and no action. The no-action alternative can be either (1) taking no management action, or (2) not changing current management. In this draft plan, Alternative A is the latter.

The purpose of adopting a CCP for this Refuge is to accomplish the following goals:

Goal 1. Perpetuate the biological integrity and diversity of coastal island habitats to support native wildlife and plant communities, including species of conservation concern.

Goal 2. Promote awareness and stewardship of our coastal natural resources by working with our partners to provide off-site interpretation, education and outreach opportunities.

Goal 3. Recognize the archaeological and cultural importance of the island.

Goal 4. Protect, maintain, enhance, and preserve the wilderness character of Nomans Land Island NWR.

The need for a CCP is manifold. First, the Improvement Act requires us to write CCPs for all national wildlife refuges by 2012 to help fulfill the mission of the Refuge System. New policies to implement the strategic direction in the Improvement Act have 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;
- evaluating wilderness values;
- providing long-term continuity and direction for refuge management; and,
- justifying budget requests for staffing, operation and maintenance funds.

Second, this Refuge lacks a master plan to implement that strategic management direction and guide our decisions. Several things have changed since the Service began managing a portion of the island as a refuge in 1970. Most notably, the Refuge has increased in size to encompass the entire island. In addition, new ecosystem and species conservation plans have developed that bear directly on refuge management. We have a better understanding about the vegetation and wildlife found on the Refuge than we did in 1970. Finally, as responsible stewards of federal lands, conveying our vision and priorities for the Refuge to our partners, local communities, and interested and affected individuals is imperative.

The Service and the Refuge System: Policies and Mandates Guiding Planning

The U.S. Fish and Wildlife Service and its Mission

As part of the Department of Interior, the Service administers the National Wildlife Refuge System. The Service 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, federal-listed endangered or threatened species, inter-jurisdictional fish, wetlands, certain marine mammals, and national wildlife refuges. We also enforce federal wildlife laws and international treaties on importing and exporting wildlife, assist states with their fish and wildlife programs, and help other countries develop conservation programs.

The Service Manual, available online at <http://www.fws.gov/policy/manuals>, contains the standing and continuing directives on implementing our authorities, responsibilities, and activities. The 600 series of the Service Manual addresses land use management and sections 601-609 specifically address management of national wildlife refuges. We publish 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 (see 50 CFR 1–99 at <http://www.gpoaccess.gov/cfr/index.html>).

The National Wildlife Refuge System and its Mission and Policies

The National Wildlife Refuge System, of which Nomans Land Island NWR is a part, is the world’s largest collection of lands and waters set aside specifically for the conservation of wildlife and the protection of ecosystems. More than 545 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.

In 1997, President Clinton signed into law the National Wildlife Refuge System 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. It also states that the Refuge System must focus on wildlife conservation and 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 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.”

—National Wildlife Refuge System Improvement Act; Public Law 105–57

The Refuge Manual contains policy governing the operation and management of the Refuge System that the Service Manual does not cover, including technical information on implementing refuge policies and guidelines on enforcing laws. You can review that manual at refuge headquarters. These are a few noteworthy policies instrumental in developing this CCP. You may view them on the Web at <http://www.fws.gov/policy/manuals/part.cfm?series=600&seriestitle=LAND%20USE%20AND%20MANAGEMENT%20SERIES>

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;
- 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.

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 we 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 including reviewing any existing special designation areas such as wilderness and wild and scenic rivers, specifically addressing the potential for any new special designations, conducting a wilderness review, and incorporating a summary of that review into each CCP (602 FW 3).

Policy on the 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 (when the Refuge is open to public use). 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.

1. The use is a wildlife-dependent recreational use as identified in the Improvement Act.

2. 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 Improvement Act became law.
3. The use involves the take of fish and wildlife under state regulations.
4. The use has been found to be appropriate after concluding a specified findings process using 10 specific criteria included in the policy.

You may view that policy on the Web at <http://www.fws.gov/policy/603fw1.html>.

Policy on Compatibility

This policy (603 FW 2) complements the appropriateness policy. The refuge manager first must find a use appropriate before undertaking a compatibility review of that use. If the proposed use is not appropriate, the refuge manager will not allow it, and a compatibility determination is unnecessary. However, the refuge manager must evaluate an appropriate use further, through a compatibility determination. The direction in 603 FW 2 provides guidance on how to prepare a compatibility determination. Other guidance in that chapter follows.

- The Improvement Act and its regulations require an affirmative finding by the refuge manager on the compatibility of a public use before we allow it on a national wildlife 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; 10 years for other uses.
- The refuge manager may reevaluate the compatibility of a use at any time: for example, sooner than its mandatory date, or even before we complete 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.

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.

Policy on Wilderness Stewardship

This policy (610 FW 1-3) provides guidance for managing Refuge System lands designated as wilderness under the Wilderness Act of 1964 (16 USC 1131–1136; PL 88–577). The Wilderness Act establishes a National Wilderness Preservation System (NWPS) 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 NWPS, and to administer the NWPS 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. Our wilderness stewardship policy also provides guidance on development of wilderness stewardship plans and clarifies when prohibited uses may be necessary for wilderness preservation.

Service planning policy requires that we evaluate the potential for wilderness on refuge lands, as appropriate, during the CCP planning process (610 FW 1). Section 610 FW 4 of our Wilderness Stewardship Policy provides guidance on the wilderness review process. Sections 610 FW 1-3 provide management guidance for designated wilderness areas.



Erin Victory/TCI

Autumn Refuge colors

Policy on Wildlife-dependent Public Uses

This policy (605 FW 1) presents specific guidance about wildlife-dependent recreation programs within the Refuge System. We develop our wildlife-dependent recreation programs on refuges in consultation with state fish and wildlife agencies and stakeholder input based on specific criteria. Since the Refuge is administratively closed to the public (as required by the terms of the transfer from the U.S. Navy), the criteria that are specifically relevant to the off-site interpretation and education that we could offer are identified below:

1. promotes compliance with applicable laws and regulations and responsible behavior;
2. promotes resource stewardship and conservation;
3. promotes public understanding and increases public appreciation of America’s natural resources and our role in managing and conserving these resources;
4. uses facilities that are accessible to people and blend into the natural setting; and,

5. uses visitor satisfaction to help define and evaluate programs.

Native American Policy

Since the inception of the United States, the U.S. government has recognized the sovereignty of American Indian Tribes by entering into treaties with them. Moreover, the Constitution ascribes the official duties of conducting relations with the Tribes to the federal government, not the states (Tallbear undated), and judicial decisions have upheld this relationship over time. This government-to-government relationship provides the framework for all interactions between the U.S. government and American Indian Tribes. The U.S. government has also recognized the federal trust responsibility it has to, in the most general terms, assist American Indian Tribes in protecting their rights and property (Tallbear undated).

In addition, the Departments of the Interior and Commerce released a Secretarial Order (#3206) regarding American Indian Tribal rights and the Endangered Species Act that acknowledges this government-to-government relationship. Further, it states “Accordingly, the Departments will carry out their responsibilities under the act in a manner that harmonizes the federal trust responsibility to tribes, tribal sovereignty and statutory missions of the Departments....” All branches of the U.S. government have the responsibility to uphold the tenets of this relationship and to consider the rights, needs and values of Native American Tribes.

The Service developed and adopted a Native American Policy in 1994. The Service’s purpose in creating this policy is to “articulate the general principles that will guide the Service’s government-to-government relationship to Native American governments in the conservation of fish and wildlife resources.”

The Native American Policy of the U.S. Fish and Wildlife Service (1994) is outlined as follows:

- The Service recognizes the sovereign status of Native American governments.
- There is a unique and distinctive political relationship between the United States and Native American governments...that differentiates Native American governments from other interests and constituencies.
- The Service will maintain government-to-government relationships with Native American governments.
- The Service recognizes and supports the rights of Native Americans to utilize fish and wildlife resources on non-reservation lands where there is a legal basis for such use.
- While the Service retains primary authority to manage Service lands, affected Native American governments will be afforded opportunities to participate in the Service’s decision-making process for Service lands.
- The Service will consult with Native American governments on fish and wildlife resource matters of mutual interest and concern to the extent allowed by the law. The goal is to keep Native American governments involved in such matters from initiation to completion of related Service activities.
- The Service will assist Native American governments in identifying federal and non-federal funding sources that are available to them for fish and wildlife resource management activities.
- The Service will involve Native American governments in all Service actions that may affect their cultural or religious interests, including archaeological sites.
- The Service will provide Native Americans reasonable access to Service managed or controlled lands and waters for exercising ceremonial, medicinal and traditional activities recognized by the Service and by Native American governments. The Service will permit these uses if the activities

are consistent with treaties, judicial mandates, or federal and tribal law and are compatible with the purposes for which the lands are managed.

- The Service will encourage the use of cooperative law enforcement as an integral component of Native American, federal, and state agreements relating to fish and wildlife resources.
- The Service will provide Native American governments with the same access to fish and wildlife resource training programs as provided to other government agencies.
- The Service's basic and refresher fish and wildlife law enforcement training courses that are provided to other governmental agencies will also be available to Native Americans.
- The Service will facilitate the education and development of Native American fish and wildlife professionals by providing innovative educational programs and on-the-job training opportunities. The Service will establish partnerships and cooperative relationships with Native American educational institutions. The Service will also ensure that Native American schools and children are included in its environmental education outreach programs.
- The Service will actively encourage qualified Native Americans to apply for jobs with the Service, especially where the Service is managing fish and wildlife resources where Native Americans have management authority or cultural or religious interests.
- The Service will work with Native Americans to educate the public about Native American treaty and federally-reserved rights, laws, regulations and programs and programs related to fish and wildlife.

You may view this policy on the Web at http://www.fws.gov/northeast/nativeamerican/imp_plan.html.

Other Mandates

Although Service and Refuge System policy and the purpose(s) of each refuge provide the foundation for its management, other federal laws, executive orders, treaties, interstate compacts, and regulations on conserving and protecting natural and cultural resources also affect how we manage refuges. 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 Improvement Act requires the CCP for each refuge to identify its archaeological and cultural values. Many of these that are relevant to Nomans Land Island are summarized below.

The following summaries were taken, in most cases, directly from our "Digest of Federal Resource Laws of Interest to the U.S. Fish and Wildlife Service," located at <http://www.fws.gov/laws/lawsdigest/indx.htm>, and from our Draft U.S. Fish and Wildlife Service Tribal Consultation Guide (Monette 2009).

The Antiquities Act of 1906 as amended (PL 59-209; 34 Stat. 225; 16 USC 431-433) is the earliest and most basic legislation for protecting cultural resources on federal lands. It provides misdemeanor-level criminal penalties to control unauthorized uses. Appropriate scientific uses may be authorized through permits, and materials removed under a permit must be permanently preserved in a public museum. The 1906 act is broader in scope than the 1979 Archaeological Resources Protection Act, which partially supersedes it. Uniform regulations at 43 CFR Part 3 implement the act.

The Historic Sites, Buildings and Antiquities Act (16 USC 461-462, 464-467; 49 Stat. 666) of August 21, 1935, popularly known as the Historic Sites Act, as amended by Public Law 89-249, approved October 9, 1965, (79 Stat. 971), declares it a national policy for the first time to preserve historic sites and objects of national significance, including those located on refuges. It provides authorization to the Secretary of the Interior through the National Park Service to conduct archaeological surveys, and to designate, acquire, administer, protect and purchase properties of historic significance. National Historic and Natural

Landmarks are designated under the authority of this act, which are eventually incorporated into the National Historic Register under the 1966 National Historic Preservation Act.

The Archeological and Historic Preservation Act (16 USC 469–469c; PL 86–523,) approved June 27, 1960, (74 Stat. 220) as amended by Public Law 93–291, approved May 24, 1974, (88 Stat. 174) carries out the policy established by the Historic Sites Act (see above). It directs federal agencies to notify the Secretary of the Interior whenever they find that any alteration of terrain caused by a federal or federal-assisted licensed or permitted project may cause the loss or destruction of significant scientific, prehistoric or archaeological data. This expands the number of federal agencies responsible for carrying out this law. The act authorizes the use of appropriated, donated or transferred funds for the recovery, protection and preservation of those data.

The National Historic Preservation Act of 1966 (16 USC 470–470b, 470c–470n), Public Law 89–665, approved October 15, 1966 (80 Stat. 915) and repeatedly amended, provides for the preservation of significant historical properties (buildings, objects and sites) through a grant-in-aid program to the states. It establishes a National Register of Historic Places and a program of matching grants under the existing National Trust for Historic Preservation (16 USC 468–468d). This act establishes an Advisory Council on Historic Preservation, which became a permanent, independent agency in Public Law 94–422, approved September 28, 1976 (90 Stat. 1319). The act created the Historic Preservation Fund. It directs federal agencies, and any state, local or private entity associated with a federal undertaking, to conduct a Section 106 Review, or to identify and assess the effects of their actions on items or sites listed or eligible for listing on the National Register. Most significantly, this act established that archaeological preservation was an important and relevant component at all levels of modern society, and it enabled the federal government to facilitate and encourage archaeological preservation, programs and activities in the state, local and private sectors.

American Indian [Native American] Religious Freedom Act of 1978 as amended (PL 95-431; 92 Stat. 469; 42 USC 1996) resolves that it shall be the policy of the United States to protect and preserve for the American Indian, Eskimo, Aleut, and Native Hawaiian the inherent right of freedom to believe, express, and exercise their traditional religions, including access to religious sites, use and possession of sacred objects, and freedom to worship through ceremonial and traditional rites. Federal agencies are directed to evaluate their policies and procedures to determine if changes are needed to protect such rights and freedoms from agency practices. The act is a specific expression of First Amendment guarantees of religious freedom. It is not implemented by regulations.

The Archaeological Resources Protection Act (16 USC 470aa–470ll; Public Law 96–95) approved October 31, 1979, (93 Stat. 721), referred to as ARPA, largely supplanted the resource protection provisions of the Antiquities Act of 1906 for archaeological items. 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 provides detailed descriptions of prohibited actions, thereby strengthening enforcement capabilities. It establishes more severe civil and criminal penalties for the unauthorized excavation, removal, or damage of those resources; for any trafficking in those 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.

Native American Graves Protection and Repatriation Act (NAGPRA) of 1990, as amended (PL 101-601; 104 Stat. 3048; 25 USC 3001 et seq.) establishes rights of American Indian tribes and Native Hawaiian organizations to claim ownership of certain cultural items, including human remains, funerary objects, sacred objects, and objects of cultural patrimony, held or controlled by federal agencies and museums that receive federal funds. It requires agencies and museums to identify holdings of such remains and objects, and to work with appropriate Native Americans toward their repatriation. Permits for the excavation and/or removal of cultural items protected by the act require Native American consultation, as do discoveries of cultural items made during federal land use activities. The Secretary of the Interior's implementing regulations are at 43 CFR Part 10. In the case that human remains are discovered on the

Refuge, NAGPRA establishes a procedural framework to follow, and this process may also be coordinated with the Commonwealth of Massachusetts and its laws and procedural framework as necessary.

The Environmental Justice program, established by Presidential Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), requires federal agencies, including the Service, to ensure that all environmental policies and the disposal of toxic waste do not adversely impact minority and low-income communities, including Tribes. The common concern is that these communities are exposed to unfair levels of environmental risk arising from multiple sources, often coupled with inadequate government response.

Executive Order 13007 (Indian Sacred Sites), dated May 24, 1996, establishes new requirements for the protection and preservation of Indian religious practices. Each federal agency is required to accommodate access to, and ceremonial use of, Indian sacred sites by Indian practitioners, and avoid adversely affecting the physical integrity of such sacred sites. Each agency is required to develop and implement procedures in compliance with the Presidential memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments," including consultation with Tribal governments. The developed procedures, where practicable and appropriate, are to ensure that reasonable notice is provided about proposed actions or land management policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of, sacred sites. Each agency is to report to the President the procedures implemented or proposed to facilitate consultation with appropriate Tribes and religious leaders and the expeditious resolution of disputes relating to agency action on federal lands that may adversely affect access to, ceremonial use of, or the physical integrity of sacred sites.

On June 5, 1997, the Secretaries of the Interior and Commerce jointly issued Secretarial Order 3206 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act). This order provides guidance about the federal-tribal relationship, and its relationship to Tribal rights, trust responsibilities, and the Endangered Species Act. It clarifies responsibilities when action is taken under the Endangered Species Act effect (or may effect) Indian lands, Tribal trust resources, or the exercise of Indian Tribal rights. It further acknowledges the trust responsibility and treaty obligations of the United States toward Tribes and Tribal members, and the government-to-government relationship in dealing with Tribes. It directs that the responsibilities under the Endangered Species Act are to be carried out in a manner that harmonizes trust responsibilities, Tribal sovereignty, statutory missions, and strives to ensure that Tribes do not bear a disproportionate burden for the conservation of listed species.

Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), was signed on November 6, 2000. This EO is intended primarily to ensure adequate consultation with Tribal governments in developing policies that have direct effects on Indian Tribes, to respect Tribal administrative authority pertaining to these policies, and to prevent the imposition of unfunded mandates on Tribal governments. In recognition of this, the Service has created its own Tribal Consultation Guide as a tool for Service employees to better communicate with Native American Tribal governments in carrying out Service actions and policies.

The Service also owns and cares for museum properties. The most common are archaeological, zoological, botanical collections, historical photographs, historic objects, and art. Each refuge maintains an inventory of its museum property. Our museum property coordinator in Hadley, Massachusetts, guides the refuges in caring for that property, and helps us comply with the Native American Grave Protection 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.

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 USC 1251, et seq.; Public Law 107-303), the Clean Air Act of 1970 as amended (42 USC 7401 et seq.), and the Endangered Species Act (ESA) of 1973 (16 USC 1531-1544), as amended. Finally, we designed this EA/draft CCP to comply with NEPA and the Council on

Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508).



Stephanie Koch/USFWS

American oystercatcher eggs

Conservation Plans and Initiatives Guiding the Project

Strategic Habitat Conservation

The Service has a goal of establishing and building capacity for science-driven landscape conservation on a continental scale. Our approach, known as Strategic Habitat Conservation, applies adaptive resource management principles to the entire range of species, groups of species, and natural communities of vegetation and wildlife. This approach is founded on an adaptive, iterative process of biological planning, conservation design, conservation delivery, monitoring and research. The Service is refining this approach to conservation in a national geographic framework. We will work with partners to develop national strategies to help wildlife, with a focus on declining species populations, adapt in a climate-changed world. This geographic frame of reference will also allow us to more precisely explain to partners, Congress and the American public why, where and how we target resources for landscape-scale conservation and how our efforts connect to a greater whole.

Climate Change

Secretarial Order 3289, issued on March 11, 2009, establishes a commitment by the Department of Interior to address the challenges posed by climate change to tribes and to the cultural and natural resources the Department oversees. Because tribes are likely to be disproportionately impacted by climate change due to their reliance on natural resources, the Department is committed to in-depth government-to-government consultation with tribes and Alaska Natives on the Departments' climate change policies and initiatives. This order promotes the development and use of renewable energy on public lands, adapting land management strategies to mitigate the effects of climate change, initiating multi-agency coalitions to address issues on a landscape level, and incorporating climate change priorities in long-term planning. These and other actions will be overseen by a Climate Change Response Council which is responsible for creating a Department-wide climate change strategy.

As the principal agency responsible for the conservation of the nation's fish, wildlife, and plant resources, the Service has drafted a Climate Change Strategic Plan and a Five-Year Action Plan to jump-start implementation of the strategic plan. These plans provide a framework in which the Service works with others on a landscape-scale to promote the persistence of native species, habitats, and natural communities. Specifically, these plans are based on three overall strategies. These are: Adaptation (management actions the Service will take to reduce climate change impacts on wildlife and habitats), Mitigation (consuming less energy and using less materials in administering land and resources), and Engagement (outreach to the larger community to build knowledge and share resources to better understand climate change impacts). Both plans can be found at http://www.fws.gov/home/climatechange/strategic_plan.html.

Birds of Conservation Concern 2008 Report

The Service developed this report (USFWS 2008a) in consultation with leaders of ongoing bird conservation initiatives and such partnerships as Partners In Flight (PIF), the North American Waterfowl Management Plan (NAWMP) and Joint Ventures, the North American Waterbird Conservation Plan (NAWCP), and the U.S. Shorebird Conservation Plan. It fulfills the mandate of the 1988 amendment to the Fish and Wildlife Conservation Act of 1980 (100 Public Law 100-653, Title VIII), requiring the Secretary of the Interior, through the Service, to "identify species, subspecies, and populations of all migratory non-game birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act of 1973."

The report contains 46 lists that identify bird species of conservation concern at national, regional, and landscape scales. It includes a principal national list, regional lists corresponding to the regional administrative units of the Service, and species lists for each of the 35 bird conservation regions (BCRs) designated by the North American Bird Conservation Initiative (NABCI) in the United States, and two additional BCRs we created to fulfill the purpose of the report that include island "territories" of the United States. NABCI defined those BCRs as ecologically-based units in a framework for planning, implementing, and evaluating bird conservation.

We hope those national and regional reports will stimulate federal, state, and private agencies to coordinate, develop, and implement integrated approaches for conserving and managing the birds deemed most in need of conservation. This is one of the plans we considered in identifying species of concern in Appendix A and developing management objectives and strategies in Goal 1.

North American Waterfowl Management Plan (update 2004) and Atlantic Coast Joint Venture Implementation Plan (ACJV 2005)

Originally written in 1986, the North American Waterfowl Management Plan (NAWMP) describes a 15-year strategy among the United States, Canada, and Mexico to restore and sustain waterfowl populations by protecting, restoring and enhancing habitat. The plan committee, including representatives from each nation, has modified the 1986 plan twice to account for biological, sociological, and economic changes that influenced the status of waterfowl and the conduct of cooperative habitat conservation. The most recent modification, in 2004, (NAWMP 2004) updates the needs, priorities, and strategies for the next 15 years, increases stakeholder confidence in the direction of its actions, and guides partners in strengthening the biological foundation of North American waterfowl conservation. You may review the plan at <http://www.fws.gov/birdhabitat/NAWMP>.

To convey goals, priorities, and strategies more effectively, NAWMP 2004 is comprised of two separate documents: Strategic Guidance and Implementation Framework. The former is geared towards 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, American black duck, and sea duck. Our project area lies in the Atlantic Coast Joint Venture

(ACJV), which includes all the Atlantic Flyway states from Maine to Florida and Puerto Rico. The waterfowl goal for the Atlantic Coast Joint Venture is “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.”

In 2009, a revision of the original ACJV Implementation Plan (ACJV 2009) was completed. The ACJV 2009 plan presents habitat conservation goals and population indices for the ACJV consistent with the NAWMP update, provides status assessments of waterfowl and their habitats in the joint venture, and updates focus area narratives and maps for each state. That document is intended as a blueprint for conserving the valuable breeding, migration and wintering waterfowl habitat present within the ACJV boundary based on the best available information and the expert opinion of waterfowl biologists from throughout the flyway. You may review the ACJV 2009 at http://www.acjv.org/acjv_publications.htm.

The Black Duck and Sea Duck Joint Venture plans also relate to Nomans Land Island NWR. American black ducks (*Anas rubripes*) have used the Refuge to breed and also as a stopover during migration. Multiple species of sea ducks can be found in the nearshore waters of the Refuge throughout the year, and may use Refuge beaches for resting. These plans can be viewed at <http://www.pwrc.usgs.gov/bdjv/>, and <http://www.seaduckjv.org/pdf/sdjvprospectus.pdf>.

We considered these plans in identifying species of concern in Appendix A, and in developing management objectives and strategies under Goal 1.

New England/Mid-Atlantic Bird Conservation Region (BCR 30) Implementation Plan (2008)

The Refuge lies in the New England/Mid-Atlantic BCR 30 (see Map 3-1). BCR 30 provides important resources for migratory birds whose ranges span the western hemisphere. The habitats associated with coastal ecosystems provide the highest habitat values and critical staging areas for migratory waterfowl, waterbirds, shorebirds, and landbirds. Forested upland communities are the second most important habitats for migratory birds in this BCR. Though the plan specifically highlights the Chesapeake and Delaware Bays, the Massachusetts Cape Cod and Islands area provides crucial resources for many migrating birds as they journey from their breeding sites in the north to non-breeding sites in Mexico, Central America, the Caribbean and South America.

Unfortunately, most of the lands in BCR 30 have been altered from their historic condition. Urban development and agriculture dominates much of the landscape. The loss or degradation of habitat (e.g., by fragmentation, agriculture, and invasive species) are the greatest threats to bird populations in BCR 30. This plan identifies the bird species and habitats in greatest need of conservation action in this region, activities thought to be most useful to address those needs, and geographic areas believed to be the most important places for those activities. This plan is meant to start a regional bird conservation initiative of partners across BCR 30 communicating their conservation planning and implementation activities to deliver high-priority conservation actions in a coordinated manner. You may view the BCR 30 implementation plan (Steinkamp 2008) at http://www.acjv.org/bcr30_draft.htm.

We considered this plan in identifying species of concern in Appendix A, and in developing management objectives and strategies under Goal 1.

North American Waterbird Conservation Plan (Version 1, 2002)

This plan (Kushlan et al. 2002) represents a partnership among individuals and institutions with the interest in, and responsibility for, conserving waterbirds and their habitats. The plan is just one element of a multi-faceted conservation program. Its primary goal is to ensure that the distribution, diversity, and abundance of populations and habitats of breeding, migratory, and non-breeding waterbirds are sustained or restored throughout the lands and waters of North America, Central America, and the Caribbean. It provides a framework for conserving and managing nesting water-dependent birds. In addition, it facilitates continent-wide planning and monitoring, national, state, and provincial conservation, regional coordination,

and local habitat protection and management. You may access the plan at <http://www.nawcp.org/pubs/ContinentalPlan.cfm>.

In 2006, the Mid-Atlantic New England Working Group developed the Waterbird Conservation Plan for the Mid-Atlantic/New England/Maritimes (MANEM) Region (MANEM Waterbird Working Group 2006). This plan is being implemented between 2006 and 2010. It consists of technical appendices on (1) waterbird populations including occurrence, status, and conservation needs, (2) waterbird habitats and locations within the region that are crucial for waterbird sustainability, (3) MANEM partners and regional expertise for waterbird conservation, and (4) conservation project descriptions that present current and proposed research, management, habitat acquisition, and education activities. Summarized information on waterbirds and their habitats provides a regional perspective for local conservation action. You may access the plan at <http://www.fws.gov/birds/waterbirds/manem/index.html>.

We considered this plan in identifying species of concern in Appendix A, and in developing management objectives and strategies under Goal 1.

U.S. Shorebird (2001, 2nd Edition) and North Atlantic Regional Shorebird Plans

Concerns about shorebirds led to the creation of the U.S. Shorebird Conservation Plan in 2000 which was updated in 2001 (Brown et al. 2001). Developed in a partnership with individuals and organizations throughout the United States, the plan presents conservation goals for each U.S. region, identifies important habitat conservation and research needs, and proposes education and outreach programs to increase public awareness of shorebirds and of threats to them. You may read the plan at <http://www.fws.gov/shorebirdplan/USShorebird/downloads/USShorebirdPlan2Ed.pdf>.

In the Northeast, the North Atlantic Regional Shorebird Plan (Clark & Niles, North Atlantic Shorebird Habitat Working Group, 2000) was drafted to step down the goals of the continental plan to smaller scales to identify priority species, habitat and species goals, and implementation projects. You may view the North Atlantic Regional Shorebird Plan at <http://www.fws.gov/shorebirdplan/RegionalShorebird/RegionalPlans.htm>.

We considered this plan in identifying species of concern in Appendix A, and in developing management objectives and strategies under Goal 1.

Partners In Flight Bird Conservation Plans



Berlin Heck/USFS

Female eastern towhee

In 1990, PIF began as a voluntary, international coalition of government agencies, conservation organizations, academic institutions, private industries, and citizens dedicated to reversing the population declines of bird species and “keeping common birds common.” The foundation of PIF’s long-term strategy is a series of scientifically-based bird conservation plans using physiographic areas as planning units.

The goal of each PIF plan is to ensure the long-term maintenance of healthy populations of native birds, primarily non-game birds. The plan for each physiographic area ranks bird species according to their conservation priority, describes their desired habitat conditions, develops biological objectives, and recommends

conservation measures. The priority ranking factors are habitat loss, population trends, and the vulnerability of a species and its habitats to regional and local threats.

Our project area lies in Physiographic Area 09 (see Map 3-1), the Southern New England Region (Dettmers and Rosenberg 2000). This plan can be accessed at http://www.blm.gov/wildlife/plan/pl_09_10.pdf.

We referred to this plan in developing our list of species of conservation concern in Appendix A, as well as our habitat objectives and strategies under Goal 1.

Partners in Amphibian and Reptile Conservation, National State Agency Herpetological Conservation Report (Draft 2004)

Partners in Amphibian and Reptile Conservation (PARC) was created in response to the increasing, well-documented national declines in amphibian and reptile populations. Many consider it the most comprehensive effort in herpetofaunal conservation in the nation. PARC members include state and federal agencies, conservation organizations, museums, the pet trade industry, nature centers, zoos, the energy industry, universities, herpetological organizations, research laboratories, forest industries and environmental consultants. Its five geographic regions—Northeast, Southeast, Midwest, Southwest and Northwest—can focus on national and regional challenges in herpetofaunal conservation. Regional working groups allow for region-specific communication. The Northeast working group has developed “Model State Herpetofauna Regulatory Guidelines” which we consulted as we developed our strategy. This document can be found at <http://www.pwrc.usgs.gov/neparc/products/modelherpregs.htm>.

The National State Agency Herpetological Conservation Report (NHCR) is a summary report (PARC 2004) sponsored by PARC that provides a general overview of each state wildlife agency’s support for reptile and amphibian conservation and research through September 2004. It lists amphibian and reptile species of concern for each state. Each state report was compiled in cooperation with its agency’s lead biologist on herpetofaunal conservation. That report can be accessed at <http://www.parcplace.org/documents/PARCNationalStates2004.pdf>. Its purpose is to facilitate communication among state agencies and partner organizations throughout the PARC network to identify and address regional and national herpetological priorities.

PARC intends to expand the scope of the NHCR to include other states, provinces, and territories. It will include other state agencies that are supporting herpetofaunal conservation and research, such as transportation departments, park departments, and forest agencies. The next NHCR report will integrate a list of the Species of Conservation Concern into each state’s comprehensive conservation wildlife strategy (see below).

Massachusetts Comprehensive Wildlife Conservation Strategy (Revised September 2006)

In 2002, Congress created the State Wildlife Grant Program (SWG), and appropriated \$80 million in state grants. The purpose of the program is to help state and tribal fish and wildlife agencies conserve fish and wildlife species of greatest conservation need. The funds appropriated under the program are allocated to each state according to a formula that takes into account each state’s size and population.

To be eligible for additional federal grants, and to satisfy the requirements for participating in the SWG program, each state and U.S. territory was charged with developing a statewide “Comprehensive Wildlife Conservation Strategy” and submitting it to the National Advisory Acceptance Team by October 1, 2005. Each plan must address eight required elements, and each plan is to identify and focus on “species of greatest conservation need,” yet address the “full array of wildlife” and wildlife-related issues, and “keep common species common.”

The Massachusetts plan (MA DFG 2006), commonly referred to as the Massachusetts Comprehensive Wildlife Conservation Strategy (CWCS), resulted from that charge. It creates a vision for conserving

Massachusetts's wildlife and stimulates other state and federal agencies, and conservation partners to think strategically about their individual and coordinated roles in prioritizing conservation.

In addressing the eight elements below, the MA CWCS helps supplement the information we gathered on species and habitat occurrences and their distribution in our area analysis, and identify conservation threats and management strategies for species and habitats of conservation concern in the CCP. The expertise convened to compile this plan and its partner and public involvement further enhance its benefits for us. We used the MA CWCS in developing our list of species of concern in Appendix A, and the management objectives and strategies for Goal 1. These are its eight elements:

1. information on the distribution and abundance of species of wildlife, including low and declining populations as the state fish and wildlife agency deems appropriate, that are indicative of the diversity and health of the state's wildlife;
2. descriptions of locations and relative condition of key habitats and community types essential to the conservation of species identified in element 1;
3. descriptions of problems that may adversely affect species identified in element 1 or their habitats, and priority research and survey efforts needed to identify factors which may assist in restoration and improved conservation of these species and habitats;
4. descriptions of conservation actions necessary to conserve the identified species and habitats and priorities for implementing such actions;
5. plans proposed for monitoring species identified in element 1 and their habitats, for monitoring the effectiveness of the conservation actions proposed in element 4, and for adapting those conservation actions to respond appropriately to new information or changing conditions;
6. descriptions of procedures to review the plan at intervals not to exceed 10 years;
7. plans for coordinating, to the extent feasible, the development, implementation, review, and revision of the plan strategy with federal, state, and local agencies and Native American tribes that manage significant areas of land and water within the state, or administer programs that significantly affect the conservation of identified species and habitats; and,
8. plans for involving the public in the development and implementation of plan strategies.

The State of Massachusetts submitted its CWCS in October, 2005, and it was revised in September, 2006. You may view it at http://www.mass.gov/dfwele/dfw/habitat/cwcs/pdf/mass_cwcs_final.pdf.

Other Information Sources

We also consulted the plans and resources below as we refined our management objectives and strategies, especially those with a local context.

Continental or National Plans

- Ducks Unlimited Conservation Plan; available at <http://www.ducks.org/Conservation/ConservationPlan/1516/InternationalConservationPlan.html>
- National Audubon Society Watchlist (Butcher et al. 2007); available at <http://web1.audubon.org/science/species/watchlist/>
- National Wetlands Research Center Strategic Plan; available at <http://www.nwrc.usgs.gov/about/5-year-plan.htm>

- Coastal Zone Management Act of 1972; available at http://www.nps.gov/history/local-law/FHPL_CstlZoneMngmt.pdf
- Marine Mammal Protection Act of 1972, as amended in 2007; available at <http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa.pdf>

Regional Plans

- Gulf of Maine-Ecosystem Priorities (Taylor 2008); available at <http://www.gulfofmaine.org/ebm/toolkitsurvey/GulfofMaineEBMToolkitSurveyReport.pdf>

State Plans

- BioMap Program (MA Natural Heritage Endangered Species Program (NHESP) 2004); available at <http://www.mass.gov/dfwele/dfw/nhesp/nhbiomap.htm>
- Living Waters Program (MA NHESP 2004); available at http://www.mass.gov/dfwele/dfw/nhesp_temp/land_protection/living_waters/living_waters_home.htm
- Massachusetts Natural Communities (Swain and Kearsley 2001); available at http://www.mass.gov/dfwele/dfw/nhesp/natural_communities/natural_community_classification.htm
- Our Irreplaceable Heritage-Protecting Biodiversity in Massachusetts; available at <http://mass.gov/dfwele/dfw/nhesp/nhesp.htm>

Local Plans

There are no local conservation plans that encompass the Refuge. Five prominent land conservation organizations – Martha’s Vineyard Land Bank Commission, the Sheriff’s Meadow Foundation, The Nature Conservancy, The Trustees of Reservations (TTOR), and the Vineyard Conservation Society – work together to conserve land for wildlife, scenic values, and preservation of the rural environment. Most of these organizations have developed management plans for their properties. TTOR manages the Cape Poge Wildlife Refuge and Wasque Reservation on Chappaquiddick Island, in part, to assist with the regional recovery of Piping Plovers, American Oystercatchers, and terns. Menemsha Hills, another TTOR property, is managed to restore and maintain maritime shrublands, grassy shrublands, glades and barrens. The Massachusetts Audubon Society manages the woodlands, meadows, ponds, saltmarsh and barrier beach habitat on its Felix Neck Wildlife Sanctuary for the benefit of wildlife. While there is no one overriding local conservation plan, the cooperative effort to protect, restore and manage natural lands on Martha’s Vineyard is certainly a benefit to some of the species that also use Nomans Land Island Refuge, and vice versa.

Individual Species Plans

- Business Plan for the American Oystercatcher (National Fish and Wildlife Federation 2008); summary available at http://www.nfwf.org/Content/ContentFolders/NationalFishandWildlifeFoundation/GrantPrograms/Keystones/BirdConservation/AMOY_Biz_Plan.pdf
- A Landowner’s Guide to New England Cottontail Habitat Management (Arbuthnot 2008); available at <http://www.edf.org/article.cfm?contentID=8829&redirect=cottontail>
- New England Cottontail Spotlight Species Action Plan (Tur 2009); available at http://www.fws.gov/filedownloads/ftp_NewEnglandFieldOffice
- Roseate Tern Recovery Plan (USFWS 1998); available at <http://ecos.fws.gov/speciesProfile/SpeciesReport.do?spcode=B070>

Refuge Establishing Purposes, Land Acquisition History, and Boundary

In 1970, the Service began managing the eastern third of Nomans Land Island, formally used as a naval bombing range, under a joint management agreement with the U.S. Navy. In 1998, management responsibility of the island was transferred in full to the Service for the following purpose and under the following authority, “for use as an inviolate sanctuary, or for any other management purpose, for migratory birds....” [16 USC §715d (Migratory Bird Conservation Act)]. This transfer was based on a set of terms set forth in a transfer agreement between the Navy and the Service. These terms reflect the presence of an unknown amount of UXO on the island, and the Navy’s continuing commitment to UXO removal. The terms mandate that the Service keep the island closed to the public because of the safety and liability concerns posed by UXO. The Navy is committed to continue surface ordnance clearing operations to a level commensurate only with minimal access by Service staff for management needs (see Appendix G, H).

Map 1-1 above depicts the current Refuge boundary. Table 1.1 below summarizes the land acquisition history of the Refuge.

Table 1.1. History of land acquisition for Nomans Land Island Refuge.

Year	Acres	Authority
1970	200+/-	Joint Wildlife Management Agreement with U.S. Navy
1998	628	Act Authorizing the Transfer of Certain Real Property for Wildlife (16 USC 667b)
TOTAL	628	

Refuge Administration

The Service administers Nomans Land Island Refuge as part of the Eastern Massachusetts NWR Complex, which also includes Assabet River, Great Meadows, Mashpee, Massasoit, Monomoy, Nantucket and Oxbow refuges. The refuge complex headquarters is located in Sudbury, Massachusetts.

The refuge complex has 15 permanent staff. Twelve are located at the complex headquarters in Sudbury: a project leader, a deputy project leader, two wildlife biologists, a visitor services manager, a refuge planner, two law enforcement officers, two maintenance staff and two administrative staff. The other three permanent staff are located on site at Monomoy NWR: a refuge manager and two biologists, one of whom has maintenance and boat operations as part of his duties. Three additional biologists are funded on a yearly term basis. In addition, seasonal interns and volunteers assist throughout the year. Nomans Land Island NWR does not have any dedicated staff.

Refuge Operational Plans ("Step-down" Plans)

Refuge planning policy lists more than 25 step-down management plans that generally are required on refuges. Those plans contain specific strategies and implementation schedules for achieving refuge goals and objectives. Some plans require annual revisions; others require revision every 5 to 10 years. Some require additional NEPA analysis, public involvement, and compatibility determinations before we can implement them.

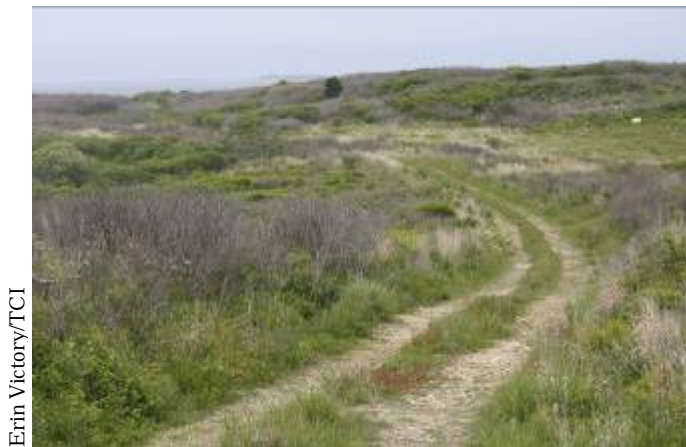
The status of step-down plans on the Refuge follows. This draft incorporates by reference those that are up-to-date. Chapter 2 provides more information about the additional step-down plans needed and their schedule for completion.

The following step-down plans have been completed, and apply to all eight refuges in the Eastern Massachusetts NWR Complex.

- Fire Management Plan (FMP)—completed in 2003
- Avian Influenza Surveillance and Contingency Plan—completed in 2007
- Hurricane Action Plan—completed in 2009

We plan to complete the following step-down plans after completion of the CCP (see Chapter 2). Additional plans may be required depending on the alternative selected for the final CCP. An updated Fire Management Plan is scheduled to be completed in 2010. Please see Appendix F for general fire program direction.

- Annual Habitat Work Plan (AHWP)
- Safety Management Plan, which includes UXO Inspection Logs
- Habitat Management Plan (HMP)
- Inventory and Monitoring Plan (IMP)
- Law Enforcement Management Plan
- Cultural Resources Management Plan



Erin Victory/TCI

Refuge trails

Refuge Vision Statement

Our planning team developed this vision statement to provide a guiding philosophy and sense of purpose in the CCP.

We envision Nomans Land Island NWR to be a vital and unique maritime resource for migratory birds along the Atlantic Flyway. Our management will perpetuate the diversity of nesting, resting, and foraging habitats used by passerines, raptors, waterfowl and seabirds throughout the island. In particular, species of regional conservation concern including the peregrine falcon will benefit from land which is free from mammalian predators and from present-day human disturbances.

Nomans Land Island has a culturally rich human history that began thousands of years ago and our management will ensure that this legacy endures. Culturally sensitive management actions on the island, and strong partnerships with the Wampanoag Tribe of Gay Head (Aquinnah) and other partners, will foster cultural awareness and an appreciative and knowledgeable public.

With its recent history of human use, Nomans Land Island NWR will be a place few people can experience firsthand; yet we will provide meaningful alternatives for members of the public to experience the beauty and singularity of the Refuge. Through partnerships, education, interpretation and outreach, we hope to instill a sense of wonder about complex and dynamic coastal ecosystems, and underscore the value of the Refuge in conserving those resources.

Refuge Goals

We developed these 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 above. These goals are intentionally broad, descriptive statements of purpose. They highlight elements of the vision for the Refuge that we will emphasize in its future management. The biological goals take precedence; but otherwise, we do not present them in any particular order. Each offers background information on its importance.

Goal 1. Perpetuate the biological integrity and diversity of coastal island habitats to support native wildlife and plant communities, including species of conservation concern.

Goal 2. Promote awareness and stewardship of our coastal natural resources by working with partners to provide off-site interpretation, education and outreach opportunities.

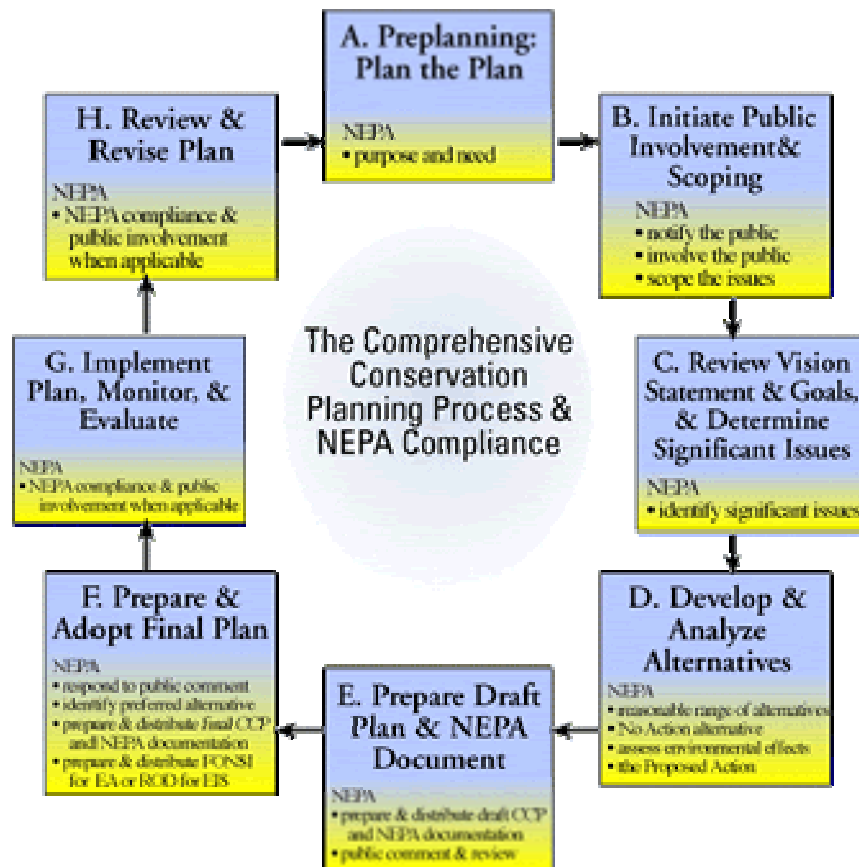
Goal 3. Recognize the archaeological and cultural importance of the island.

Goal 4. Protect, maintain, enhance, and preserve the wilderness character of Nomans Land Island NWR.

The Comprehensive Conservation Planning Process

Service policy (602 FW 3) establishes an eight-step planning process that also facilitates compliance with NEPA (Figure 1.1). Our planning policy and CCP training course materials describe the eight steps in detail. We followed the process depicted below in developing this EA/draft CCP.

Figure 1.1. The NEPA planning process.



Since 1970, we have focused on conserving lands within the approved refuge boundary, managing habitat for migratory birds, and establishing relationships with the community on Martha's Vineyard and our partners. In 1999, we began to prepare a CCP that would encompass all of the refuges in the Eastern Massachusetts NWR Complex. We published a Notice of Intent in the Federal Register, and began public scoping. By 2001, we determined that writing a plan for eight refuges was too cumbersome, and to focus on CCPs for the three northernmost refuges in the complex. The efforts for Nomans Land Island NWR were halted at that time.

In 2004, we began preparations for developing a joint CCP for Nomans Land Island and Monomoy refuges by collecting information on refuge resources and convening our core planning team, which consisted of refuge complex staff, regional division staff, representatives from the Wampanoag Tribe of Gay Head (Aquinnah), and the Massachusetts Department of Fish and Game (MA DFG). Public scoping meetings were held in April 2005 in Chilmark, Massachusetts. We discussed management issues, and compiled a project mailing list of known stakeholders, interested individuals, organizations, and agencies. Most of the

planning effort during this period was focused on the CCP for the Monomoy Refuge. We developed a draft of the vision statement and goals and objectives for Nomans Land Island NWR, and also initiated a wilderness review. We initiated all of those steps as part of “Step A: Preplanning.”

In September 2008, we resumed this process after a delay due to the transfer of refuge personnel, and decided to split apart Nomans Land Island and Monomoy refuges into separate CCPs for efficiency. We once again engaged the public (“Step B: Initiate Public Involvement and Scoping”) for Nomans Land Island Refuge by distributing a planning update newsletter to approximately 530 individuals, organizations and agencies that announced the continuation of the planning process, and a public meeting to be held in October. We asked people if they wanted to remain on our mailing list.

Early in October 2008, we held both partner and public meetings in Chilmark on Martha’s Vineyard to discuss previously identified public issues and concerns, determine whether new issues existed or previously identified issues had changed, share our draft vision statement and tentative goals, describe the planning process, and explain how people could become involved and stay informed about the process. Those meetings helped us refine stakeholder and public concerns we would need to address in the planning process. We announced the location, date, and time of the public meeting in local newspapers, in the planning update, and on our website. Twenty-three people attended the public meeting. This meeting was followed by a month-long comment period where we continued to receive public and partner issues and concerns through email, letters, and comment form submissions.

Our next planning team meeting was held in mid-December 2008 where we worked on “Step C: Review Vision Statement, Goals, and Identify Significant Issues.” We also initiated “Step D: Develop and Analyze Alternatives.” We identified key issues, decided upon our three management alternatives, and identified strategies under each alternative.

In May 2010 we distributed a newsletter summarizing the three management alternatives we analyzed in detail for the CCP/EA. That completed Step D.

This EA/draft CCP represents “Step E: Prepare Draft Plan and NEPA document.” We will publish a Notice of Availability in the “Federal Register” announcing our release of this draft for its 30-day period of public review and comment. During that comment period, we will also hold a public meeting to obtain your comments. We expect to receive them by regular mail, electronic mail, or at the public meetings. After the comment period ends, we will review and summarize all of the comments we have received, develop our responses, and publish them in an appendix to the final CCP.

Once we have prepared the final CCP, we will submit it to our Regional Director for approval. He will determine whether it warrants a Finding of No Significant Impact (FONSI), and he may find its analysis adequate to issue a decision at that same time. If so, our implementation of the final CCP can begin immediately. If he has concerns, he may require us to revise the EA or complete an Environmental Impact Statement (EIS). We will announce his final decision by publishing a Notice of Availability in the “Federal Register,” where we will also notify people of the availability of the final CCP. That will complete “Step F: Prepare and Adopt a Final Plan.”

Then “Step G: Implement Plan, Monitor and Evaluate” can begin. As part of “Step H: Review and Revise Plan,” we will modify or revise the final CCP as warranted following the procedures in Service policy (602 FW 1, 3, and 4) and NEPA requirements. Minor revisions that meet the criteria for categorical exclusions (550 FW 3.3C) will require only an environmental action memorandum. As the Improvement Act and Service policy stipulate, we will review and revise the CCP fully every 15 years.

Issues, Concerns, and Opportunities

We define an issue as “any unsettled matter requiring a management decision.” That can be an “initiative, opportunity, resource management problem, threat to a resource, conflict in use, or a public concern.” Issues arise from many sources, including our 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. The following summary provides a context for the issues that arose during the scoping process.

Habitat and Species Management

National wildlife refuges primarily propose the conservation of wildlife and habitats. This is our highest priority, and serves as the foundation for all that we do. Many refuges were established for a very specific purpose, such as protecting a particular species or habitat. Based on the purpose of this Refuge, and the discussions that took place up to the time of its establishment, the primary justifications for creating it were to protect a regionally important avian migration and feeding area.

How best to protect, restore, and/or enhance migratory bird habitat on the Refuge is an important issue we address in this draft plan. Much of the Refuge’s acreage is maritime shrubland habitat. Many migratory birds of conservation concern depend on this upland habitat type when breeding, wintering, or migrating. We heard a range of opinions on how to enhance these habitats, some of which can be labor-intensive and would require planting, mowing, or fire to maintain. The presence of UXO warrants particular care in determining management activities and requires further evaluation to ensure safety. The alternatives in Chapter 2 analyze different habitat management priorities.

The following key issues and concerns arose concerning habitat and species management.

- To what extent are Refuge species, such as the double-crested cormorant and gray seal, affecting local fisheries and what, if any, management actions to mitigate these effects could or should be taken on the Refuge?
- How will the presence of UXO affect habitat and wildlife management?
- How can we best monitor and manage for migratory and nesting avian species on the Refuge to include nest success and productivity information given restrictions in staff availability and access around the island due to safety issues?
- In what ways can we incorporate monitoring for impacts due to climate change?
- How can we effectively increase our survey and inventory efforts to account for rare plants and invertebrates present, as well as gain more access throughout the island to better quantify species abundance and richness?
- What are the most effective and efficient measures we can undertake to protect, restore, and conserve shrubland habitats on the Refuge?
- How can we best partner with the U.S. Navy to integrate our respective management plans for Nomans Land Island, coordinate schedules for burning, surveillance and cleanup operations, create a cultural resource protocol, and increase access around the island for staff?

Wilderness Review

As noted in the sections, “Policy for Refuge System Planning” and “Policy on Wilderness Stewardship,” we are required to review current Refuge lands and waters for their wilderness potential in the CCP planning

process. We conducted an inventory of the Nomans Land Island NWR and determined that the lands and waters within the Refuge boundary meet the minimum criteria established in Section 2(c) of the Wilderness Act. Lands that meet these criteria are called wilderness study areas (WSAs).

The following key issues and concerns concerning the potential for new wilderness designations addressed in development of this CCP are:

- Is the Nomans Land Island WSA suitable for wilderness designation?
- If so, can we manage Nomans Land Island NWR to maintain wilderness values and character long-term, without jeopardizing our management to achieve the Refuge's established purposes and Refuge System mission?

Cultural Resource Protection

Nomans Land Island has a richly diverse human history. Native American ancestors of the federally recognized Wampanoag Tribe of Gay Head (Aquinnah) used the island perhaps as early as the Late Archaic Period (5,000 years before present; Jacobson 2000). Its use as a summer camp up until the late 1600's is likely, as shell heaps and arrowheads have been found on the island (Snow 1975). One thought about the island's name is that it stems from its ownership by Tequenomen, one of the last Native American residents of the island. In the 1800's, European Americans lived and farmed on the island, and in the 1900's, it became a bombing range for the U.S. Navy. The island was used for both prehistoric Native American and European American burials. Stone walls and cellar holes remain from nineteenth and early twentieth century farms. The Navy left an old airstrip and remains of equipment and ordnance from their use of the island as a bombing target.

The maritime influence on the island, the unconsolidated geological deposits, and the absence of forest make it susceptible to erosion. Wind and water continue to have an effect on the cliffs and beaches of the island and these dynamic processes can reveal long-buried artifacts of past occupation. This constitutes the biggest threat to the archaeological sites on the island. The Service is required to identify and preserve historic structures and archaeological sites and artifacts, and to assess the cultural value of the Refuge in this CCP. During scoping, we heard a desire to maintain the Luce cemetery, the only known and marked cemetery on the island, free of vegetation, and to document other remnants of human habitation on the island. We also heard many comments that recommended creating a protocol to delineate the protection of these resources, including human burials. We evaluate and address those concerns in our proposed management alternatives.

The following key issues and concerns arose regarding cultural resource protection and acquisition.

- How can we coordinate with partners to develop and implement a cultural resources protocol that best addresses future findings of archaeological human remains to ensure their protection, preservation and transfer to appropriate parties?
- What administrative steps (e.g., partnership agreement, Special Use Permits, Job Hazard Assessment, etc.) need to be taken to address future maintenance of the Luce Cemetery?
- Can we preserve eroding archaeological sites?
- How can we best inventory the known human habitation remains on the Refuge given limitations with respect to access, funding, and personnel, and what are the possibilities of partnering with the Chilmark Historical Commission for inventorying stone walls, cellar holes and other historical structures?

Tribal Relations

The Wampanoag Tribe of Gay Head (Aquinnah) has a historical, cultural and religious interest in Nomans Land Island, or Cappaquidnet (the Wampanoag name for Nomans Land Island). In order to implement the Service's Native American Policy, this and other opportunities for closer cooperation and communication will be explored. These include recognizing the expertise of their biological and cultural resource professionals, and working together to strengthen our respective programs. The Tribe has invaluable resources in their educators and interpreters who have worked with living history museums and filmmakers. The Refuge could provide professional development and employment opportunities to the Tribe and learn Wampanoag history and increase cultural awareness through interactions with the Tribe. These and other factors are all opportunities for cooperation and implementation of our Native American Policy, and the issues related to the Refuge's unique government-to-government relationship with the Tribe will be addressed in the CCP.

The following key issues and concerns arose about cultural resource protection and acquisition.

- What opportunities are there to partner with the Tribe for the mutual benefit of our biological and cultural resources?

Public Use/Community Relations

We are interested in increasing awareness and stewardship of our coastal natural resources, including those on Nomans Land Island Refuge, by providing interpretation and education opportunities on Martha's Vineyard. The lack of public access to the Refuge means that community relations need to be conducted in a different manner than traditional refuges. During public scoping, we learned that many people are in favor of keeping the Refuge closed to the public, given the safety issues and added benefits to wildlife. There were also some that advocated small group tours, or granting researchers more access. Some suggested ways we might conduct additional outreach. Increasing interpretation and education programs on Martha's Vineyard in cooperation with conservation partners was suggested. Others advocated the use of the media to provide updates and notification of management activities, particularly if there was any perceived impact on Martha's Vineyard.

In response to those comments and the issues below, our alternatives evaluate a range of quality visitor services opportunities for people to experience the Refuge through interpretation and education, and propose measures to promote Service visibility, community understanding and support for Refuge programs.

The following are key issues or concerns that arose about public uses and community relations.

- How can we communicate effectively with our partners and the public about the management activities we perform on the Refuge, including aerial herbicide spraying and prescribed burns, and the impacts, if any, there are for nearby residents and visitors?
- How can the status of contamination and remediation of the Refuge, and soil and water quality information, best be communicated with the public? How best can the Service provide regular updates on Refuge activities and species?
- How can we engage members of the public through increased interpretation and environmental education opportunities to provide an experience of the Refuge in other ways given the ban on public access?

Issues and Concerns Outside the Scope of this Analysis or Not Completely Within the Jurisdiction of the Service

The resolution of these issues falls outside the scope of this CCP or outside the jurisdiction or authority of the Service. These issues are only briefly addressed elsewhere, or are not addressed again in this EA/draft CCP.

- Conduct more studies to determine existence of depleted uranium and the impacts of contamination on residents of Martha's Vineyard. The Navy began environmental baseline studies in anticipation of the transfer of the island to the Service beginning in 1996. In 1998, the Navy addressed questions about the existence of depleted uranium (DU) on Nomans Land Island. At that time, they indicated that while DU can be used in combat as needed, firing during peacetime was very strictly regulated and could only be fired at test ranges that had a specific permit issued by the Naval Radiation Safety Committee. Furthermore, the accidental firing of DU was subject to a special investigation and formal report to the Chief of Naval Operations. Based on information from the Navy's Radiological Support Office, the U.S. Air Force, the Department of Defense Explosives Safety Board, and historical records, no accidental firings of DU ammunition occurred at Nomans Land Island, nor had the island ever been an authorized or permitted DU test area. In fact, DU was developed after live munitions testing ceased at Nomans Land Island. Despite this, repeated speculation about the presence of DU on the Refuge continued to surface. As a result, the Massachusetts Department of Environmental Protection required that the ordnance debris removed from the island in 1998 be surveyed for the potential presence of DU. Two surveys were completed in 1998. Both concluded that there were no unusual or elevated levels of gamma radiation associated with the ordnance. Please refer to Appendix H for more information on this and other contaminants surveys conducted on behalf of the U.S. Navy.
- Open the island up to public access, or at least to small groups for organized tours. While it is one of the Service's highest priorities to provide opportunities for the public to enjoy these public lands, it is not within our authority to grant any public access to Nomans Land Island. The terms of the transfer agreement with the U.S. Navy stipulate that this refuge remain "administratively closed" to public access. In addition, the transfer agreement places responsibility for UXO disposal on the U.S. Navy; requiring UXO disposal to the level required to safely open the island to public access is beyond the expertise and jurisdiction of the Service. The Navy has conducted three major UXO removal operations on the island, and has adopted an operations and maintenance plan containing procedures for maintaining the safety of those personnel managing the island. The Navy is preparing a Phase III/Feasibility Study Report selecting a final remedy for UXO and other contamination issues under CERCLA (Comprehensive Environmental Response, Compensation and Liability Act of 1980) and the Massachusetts Contingency Plan. The nature of that final remedy is beyond the jurisdiction of the Service and beyond the scope of this EA/draft CCP. Congressional approval of a wilderness designation by the Service, as recommended herein, may limit the mechanisms available to the Navy for site remediation. In the unlikely event that the Navy selects a remedy that invalidates any of the assumptions or factual bases for this EA/draft CCP, or the wilderness recommendation, or, if a CCP has been adopted, we may need to reopen the planning process.
- Conduct erosion control studies and/or dune rehabilitation on Refuge dune habitat. Due to safety concerns, it will not be possible to carry out an erosion control study or consider dune rehabilitation measures given the prevalence of UXO throughout the island.
- The island would be a good place for an anemometer or wind energy production. The installation of any such structure is outside the scope of this analysis at this time. Generally, such uses cannot be considered due to the prevalence of UXO throughout the island and would constitute a violation

of the terms of the transfer agreement with the Navy. Additionally, siting wind energy facilities on the Refuge would not be considered an appropriate use of the Refuge. However, we will continue to review proposals as they come in, and will address specific concerns as warranted.

- Open nearshore waters and Refuge beaches to provide opportunities for traditional fishing. The U.S. Navy placed access restrictions to the Refuge and the waters surrounding the island, due to public safety concerns with the presence of UXO. It is outside the scope of this CCP and the Service's authority to remove these restrictions.
- Create a structure on-site to house Refuge staff. The presence of UXO and the terms of our transfer agreement with the U.S. Navy preclude any construction on the island, and any on-site staff. The terms were to maintain it as an "unmanned, unstaffed" national wildlife refuge.
- Partner with Massachusetts Audubon to create an interpretive boat tour around Nomans Land Island. Due to Naval water restrictions around the island, this will not be possible. Changing this policy is outside of the Service's authority.