



October 10, 2014

Libby Herland, Project Leader,
Eastern Massachusetts National Wildlife Refuge Complex,
73 Weir Hill Road,
Sudbury, MA 01776

**Re: Monomoy National Wildlife Refuge Draft Comprehensive Conservation Plan
and Environmental Impact Statement Comments**

Dear Ms. Herland:

The Association to Preserve Cape Cod (APCC) was founded in 1968 to promote policies and programs that foster preservation of Cape Cod's natural resources. APCC is a regional nonprofit environmental organization with more than 5,000 members Cape-wide. Our goals include protection of critical habitats, protection of groundwater, surface water, and wetland resources; preservation of open space; promotion of responsible, planned growth; and the achievement of an environmental ethic (see, www.apcc.org). To achieve these goals, we provide technical assistance, outreach, advocacy for science-based policies, and education. We appreciate the opportunity to comment on the draft management plan for the Cape's only National Wildlife Refuge designated as a federal wilderness area. The uniqueness and importance to the region of the Monomoy National Wildlife Refuge cannot be overstated.

The Monomoy National Wildlife Refuge deserves the best management plan available, including creative means to guarantee funds will be available to protect the refuge. There is a great deal about the draft plan that is positive and laudable, and that supports the mandates of the Migratory Bird Conservation Act and the Wilderness Act, i.e. the overall vision for the reserve is a positive step. APCC with the noted exceptions contained herein support the more holistic and system management approach described throughout the plan. However, we cannot support the plan at this time or until the comments contained herein are fully addressed by the Service. We recognize that the National Wildlife Refuge Improvement Act of 1997 is the guide for this plan. The Service has previously interpreted that Act to establish the following priorities:

1. Wildlife has first priority in the management of refuges.
2. Wildlife dependent recreation activities, namely hunting, fishing, shellfishing, wildlife observation and photography, and environmental education and interpretation are priority public uses of refuges. The Service will facilitate these activities when

they do not interfere with the ability to fulfill the refuge's purpose or the mission of the refuge system, i.e. protecting wildlife and particularly migratory birds. .

3. Other uses of the refuges will only be allowed when determined appropriate and compatible with refuge purposes and mission of the refuge system.

While this approach may be appropriate for the Great Meadows National Wildlife Refuge, it lends itself to cut and paste plans that overlook unique characteristics and challenges. Monomoy is the only wilderness area designated refuge in all of southern New England. In its present form, the Monomoy plan fails to fully embrace the purpose and mandates of the Wilderness Act. The purpose of the Wilderness Act is to protect land in its natural state. The Act recognizes that wilderness areas are "where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain . . . retaining its primeval character and influence." The Service appears to be advocating for a hybrid of wilderness status and public recreation.

Process for updating the plan: APCC is disappointed with the process that the Service chose to engage the public and work with stakeholders to update the plan. There are so many supporters and stakeholders of the refuge that feel ignored or left out of the process. Our only hope is that the extended comment period will provide an opportunity for the Service to reflect upon the vocal disappointment across a broad spectrum of public interests. A gymnasium full of citizens at the public hearing without any measurable support for a "good" management plan is strong feedback that something is seriously amiss. This is especially disturbing when you consider the backbone of the plan is sound. Providing the public opportunities simply to vent frustration is not a good process particularly if public support is a goal of the plan. The Service should reexamine both the team and the process it has elected to follow in protecting one of the most important refuges in the northeast and the only designated wilderness refuge. Specific examples of process failure include:

1. Failure to have any meaningful public engagement for the 10 years preceding the issuance of the draft plan;
2. Failure to openly and candidly share important background and reasoning, e.g. legal reasoning and survey data for amending the refuge boundaries;
3. Failure to meet with local weir fisherman to discuss the specific weir fishing techniques used in the Monomoy area. Public comments during the hearing indicate that there is potential to develop strategies and procedures that prevent turtle entanglements, bottom disturbances or how to permit weir fishing on a case by case basis (a historic use that reportedly predates the refuge). This may be wishful thinking on the part of the weir fishermen but they deserve an opportunity to make their case;
4. Failure to meet and engage local shellfisherman on how to protect the refuge and the resources. It is noteworthy that hunting is embraced and shellfishing is not;
5. Failure to engage the town and local officials. The Service's withdrawal from the MOU process (allowing MOU to lapse) on the boundary is both puzzling and disturbing;
6. Failure to effectively collaborate and cooperate with the National Park Service including developing a plan for shared federal resources;

7. Failure to engage the harbormaster concerning navigational maintenance dredging. APCC believes that there are opportunities for reasonable reduction of maintenance dredging in and around the refuge. It is problematic for a governmental agency "to have previously supported dredging" and change course without engaging local officials and citizens;
8. Failure to properly assess, inventory and delineate uses established prior to adoption of the Wilderness Act designation; and
9. Limiting public comment to 3 minutes while placing no limits on the Service's ability to comment and speak during the public hearing.

Refuge boundary: State law and particularly Massachusetts unique body of coastal law will ultimately decide the boundary of the refuge. Indeed Massachusetts has two different sets of rules for accretion and erosion related to coastal properties depending on whether the subject property is recorded land or registered land. The former set of rules require survey data and geometric inferences related to all abutting properties not simply drawing new tidal lines. Under the latter set of rules boundaries remain fixed even if the land becomes submerged or accreted. The best solution for the boundary dispute is for the Service, National Park Service, Commonwealth of Massachusetts, Town of Chatham and any directly impacted private property owners to negotiate both the boundary and a system for updating the boundary lines. If negotiation fails, the matter should be resolved in the state Land Court where judges have unique and highly specialized experience in resolving such disputes.

Because the Judgment on the Declaration of Taking was clear on accretion and reliction, we believe the conclusions in the Draft Plan are likely erroneous as to all boundaries. This is a dynamic area (one of the most dynamic in the nation) and it is critical to have an agreed system in place to adjust boundaries as warranted.

The Secretary is required to make specific findings related to the expansion of the refuge in accordance with Section 6 of the National Wildlife Refuge System Improvement Act of 1997. We were unable to locate any such findings.

Good will: Monomoy has been for many years the poor stepchild of the absentee Service parents busy with work in Sudbury or elsewhere. In the 1960's the Service actively pursued transferring the refuge to the Park Service and later denied the transfer was seriously being considered. More recently the Service disappointed many in the community with poorly planned and executed management strategies aimed at coyotes and gulls. There was a long history of camp lessees and the Service which was characterized by poor communication and with an inconsistent changing vision for private camps. Any new plan should recognize the history and the deteriorated state of good will between the Service and the local community. The public hearing testimony is direct evidence of the poor status of the Service in the community. The community was very familiar with Service operations and was not complimentary about any actions down the smallest detail. The plan should be revised to acknowledge and move aggressively toward correcting this reality.

Hunting: Hunting should be carried out only as part of maintaining a natural ecological balance. The plan outlines efforts to enhance certain waterfowl populations for the apparent sole purpose of enhancing hunting targets. Hunting for waterfowl essentially for sport does not promote sound ecological management. Much of the management efforts within the plan are directed toward protecting common eiders so that they can be hunted. This seems to be a contradiction of the basic premise of the Migratory Bird Conservation Act, which is “the conservation of migratory birds” and creation of “inviolate sanctuaries for migratory birds.” There appears to be no means of actively monitoring and managing the impacts of hunting on the protected resources. This may be part of the refuge hunt plan to be developed but APCC believes that such monitoring should be integral to the overall management plan.

Case for change: APCC does not believe the Service has made a compelling case for a change in its management approach to Monomoy or fully explored improved management partnerships with the National Seashore the state or the Town of Chatham Department of Natural Resources. The underlying reason for change appears to be revenue based as opposed to ecology based. APCC does not oppose the implementation of equitable user fees but questions whether Monomoy will simply become a revenue source for Service endeavors and programs that run contrary to a wilderness designation.

Internal inconsistencies within the plan: There are a number of internal inconsistencies within the plan or obvious questions left unanswered. These include:

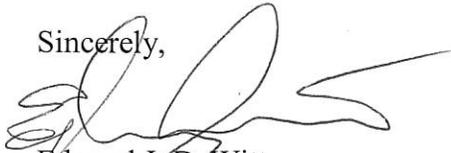
1. The priority of the plan seems to be revenue generation as opposed to migratory bird protection and ecology. This is especially true in the view that most recreation (park type) activities will be prohibited but the plan promotes park like entrance fees. According to Service publications “No revenues may be spent on monitoring of threatened and endangered species.” This is inconsistent with the purpose of the refuge.
2. The plan is focused on “high quality visitor services” needed for revenue generation. This approach is incompatible with a designated wilderness area.
3. Embracing hunting and limiting shellfishing is inconsistent.
4. In some places in the plan the refuge boundary is limited to the Declaration of Taking boundary and in others the newly declared boundary is utilized.
5. There is a theme of promoting increased use of the refuge, e.g. commercial seal watching, noting the potential adverse impacts but never placing limits or monitoring of those impacts.

Wilderness designation significance: In 1970 Congress designated certain lands of the Monomoy Wildlife Refuge a wilderness area “within the National Wildlife Refuges”. Congress did so despite having less than the normally required 5,000 acres assumingly because it was practicable to preserve it in “unimpaired condition” and Monomoy contained “ecological, geological, or other features of scientific educational, scenic or historic value.” P.L. 91-504 quoting the Wilderness Act. Congress designated two thousand six hundred acres of the refuge as wilderness and depicted the wilderness area on a map filed with the legislation. After reading

the plan this significant designation, while acknowledged, is not the focal point of management actions. The plan in our opinion does not properly respect this wilderness designation. Additionally, the wilderness areas boundaries subject to erosion, accretion and reliction should also be adjusted.

Thank you for the opportunity to comment. We urge the Service to consider redrafting the plan with more stakeholder input during the redraft process and focusing on the wilderness designation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward J. DeWitt', with a long horizontal flourish extending to the right.

Edward J. DeWitt
Executive Director