

Land Protection Plan
for the

Proposed Accokeek Creek National Wildlife Refuge

A. Introduction

The U.S. Fish & Wildlife Service is conducting NEPA compliance and planning (see draft and final Environmental Assessment) for the establishment of Accokeek Creek National Wildlife Refuge in Stafford County, Virginia. The purpose of this Land Protection Plan is to provide landowners with an outline of the Service's policies, priorities and potential methods for protecting lands within the proposed Accokeek Creek Refuge. A list of ownership information and a map depicting priorities are included so that landowners can better comprehend the Service's interest in preservation and management of lands, and the impacts on them as landowners.

B. Project Description

The proposed Accokeek Creek National Wildlife Refuge is located in Stafford County, Virginia, within the confluence of Potomac and Accokeek Creeks in the northern portion of the State. The refuge would include a peninsula locally known as Crow's Nest that is 2 miles wide and 5 miles long and entirely forested in a diverse mix of hardwoods, including several globally imperiled vegetative communities. Surrounding the peninsula is Accokeek and Potomac Creeks and 700 acres of freshwater tidal marshes. The refuge would also include an additional 1,000 acres of floodplain forests and agricultural lands north of Accokeek Creek and south of Potomac Creek. The proposed refuge would protect these diverse communities that provide important habitats to the Federally threatened bald eagle, neotropical migratory birds, waterfowl, anadromous fish species, and rare plants. The area has been recognized for its resource values by the U.S. Fish & Wildlife Service, Chesapeake Bay/Susquehanna River Ecosystem Team, the State of Virginia, the Chesapeake Bay Foundation, and the Ramsar Convention.

C. Threats to Resources

Although Crow's Nest has been largely undisturbed in the past, the growing demand for residential and recreational development associated with the growth of Stafford County and suburban sprawl from the Washington D.C. Metropolitan areas has begun to threaten the Peninsula. Stafford County is one of the fastest growing counties in Virginia, with a population growth of 130 percent between 1980 and 1998. Additionally, the Crow's Nest Peninsula is located less than a mile from the Richmond, Fredericksburg, and Potomac Railroad's station in the Village of Brooke. A portion of the Peninsula, approximately 960 acres, has been plotted for several hundred residential lots. Another 3,000 acres of the Peninsula is owned by a development corporation located in McLean, Virginia. Although the development of the Peninsula is somewhat constrained by steep slopes and wetland zoning, its proximity to the railroad

station, the existing network of dirt roads, and its viewshed of the two creeks make the Peninsula a likely candidate for residential development. A 500-acre parcel of land at the northern portion of the proposed Refuge boundary is currently being subdivided for residential homes.

More immediate than the threat of residential development is the potential for major timber harvesting and water-oriented recreational activities. The large size of the trees and well-maintained network of logging roads make this property very favorable to timber harvesting. In February of 1999, thousands of mature trees were marked for harvesting. Requests from conservation organizations delayed the harvest while opportunities to protect the area were explored. With today's strong economy and Stafford's growing population, demand for water-oriented recreational activities have been rapidly increasing. Both the State and the County is planning boat/canoe trails to attract visitors to the area. Certain recreational water sports and associated activities, such as unregulated boating, jet-skiing, construction of piers, and stream stabilization would disturb wildlife, damage aquatic vegetation, and decrease water quality of the two creeks.

Large, unfragmented hardwood forest have largely been on the decline along the mid-Atlantic coastal states. The group most impacted by the fragmentation of loss of hardwood forest is the neotropical migratory landbirds. Between 1978 and 1987, scientists found population declines in 71 percent of neotropical migrant species in the United States, with forest nesting species registering some of the most significant declines. Reasons for these declines are generally attributed to a combination of fragmentation and loss of habitat in breeding, wintering, and migrating habitats, and increased predation.

D. Proposed Action and Objectives

The Service proposes to acquire 6,700 acres of mature hardwood forest, forested wetlands, freshwater tidal marsh, and associated upland habitats in Stafford County, Virginia to provide long term protection to the numerous species of neotropical migratory landbirds, waterfowl, sport and commercial fish, and rare and threatened plant species that reside within proposed Refuge boundary. The objectives are to:

1. Protect the Peninsula's heterogeneous mature forest communities to support a diversity of plants and animals, particularly migrating and nesting Neotropical migratory birds.
2. Protect the freshwater marsh habitat surrounding the Peninsula to benefit waterfowl and anadromous fish.
3. Assemble a biologically significant, administratively effective management unit that contributes to the long term sustainability of the forested and marsh habitats.

E. Protection Alternatives

This section describes and evaluates four land protection alternatives to protecting the biological resources in the proposed Accokeek Creek Refuge. It is the Service's policy is to acquire only the minimum interest necessary to meet the Refuge objectives.

1. No Action Alternative

Under the “No Action” alternative, the Service would not establish a national wildlife refuge at the Crow’s Nest Peninsula. We would rely on existing Federal, State, and local land use regulations to preserve the wildlife values of the Peninsula. We would provide technical assistance on Federally regulated species, particularly through Section 7 consultation provided by the Endangered Species Act. Under this alternative, the Peninsula would probably be timbered and/or developed for residential homes and associated recreational facilities (i.e. docks, swimming areas, golf course, etc.).

2. Acquisition and Management by Others

Under this alternative, the Service would encourage other organizations and agencies, such as Virginia Department of Conservation and Recreation, Northern Virginia Conservation Trust, and the Trust for Public Land to protect and manage resources within the proposed Refuge boundary, while providing technical and/or resource support as needed.

Protection and management of the Crow’s Nest Peninsula by other agencies and organizations had been considered but was not pursued in detailed. The protection of Crow’s Nest was a local effort initiated by private individuals and organizations a couple of year prior to Service involvement. Several organizations and the State had considered protection and management of the Crow’s Nest peninsula, and did not take the lead in protection due to funding and staffing limitation and/or the resources at Crow’s Nest did not match their priorities and goals. They approached the Service because they felt we were the most appropriate agency to protect and manage the Peninsula.

3. Non-Purchase Protection

Under this alternative, the Service would obtain authority to manage land without purchasing interest in the land. This can be accomplished through permits, licenses, leases, and cooperative agreements. These agreements are straight forward and generally easier to negotiate than acquisition of title interest. However, all these agreements are short-term; thus any protection using this alternative is temporary. The Service generally uses these methods to accomplish short-term goals, such as conducting wildlife inventory and providing temporary access for public use or management purposes. In the proposed refuge, the Service may enter into cooperative agreements with other conservation organizations where long term protection of habitats would be guaranteed, or to provide temporary access to the refuge. An example would be cooperating with the Northern Virginia Conservation Trust to cooperatively monitor and manage the heron rookery.

4. Less than Fee Acquisitions

Under this alternative, the Service would protect and manage land through conservation easement (purchase of partial interest). This method of protection allows lands to remain in private ownership, while allowing the Service control over the management of the land. An easement is any partial interest or right to a property, and can be purchased for a set period of time or in perpetuity. Once purchased, an easement is a legal restriction on the use of a property, and is binding even if the ownership changes. Conservation easements generally will decrease the value of the land and would decrease tax revenue. The Service does not make Revenue Sharing payments on lands

owned in partial interest.

In order to meet the refuge goal of providing long term protection to the biological resources, any conservation easement the Service acquires must preclude destruction or degradation of a habitat, and allow the refuge staff to adequately manage use of the area for the benefit of wildlife. Generally, this means purchasing the development right to the property in perpetuity. On the east coast, development rights often account for 80 to 95% of the land cost. To effectively protect the diverse forest communities at Crow's Nest, the Service would also have to acquire the timbering rights, further increasing the cost of conservation easements. The Service will use conservation easements where it is cost-effective or where owners of important habitats do not wish to sell in fee title.

5. Fee Acquisition

Under this alternative, the Service would protect the properties through acquisition of all interest in land. This method of protection ensures the long term protection of the resources at Crow's Nest, and allows the Service to fully manage the habitats to benefit Trust resources. This protection alternative will be used as the primary method for conserving the proposed refuge.

F. Acquisition Alternatives

The Secretary of the Interior is authorized to acquire full or partial interests in land via direct purchase, donation, or exchange, or transfer of funds. A brief description of each method follows.

1. Purchase

This is the most direct means of obtaining fee title or an interest in land. The Service negotiates the sale of some or all rights to a property from a willing seller. Lands would be purchased with Land and Water Conservation Fund, Migratory Bird Conservation Fund, or donated funds. In all acquisitions, the Service is required by Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, to offer fair market value as determined by an approved appraisal that meets professional standards and Federal requirements. The Act further entitles landowners, tenants, and others to certain payments related to relocation if they are displaced by a Federal land acquisition program. These entitlements include housing differential, moving expenses, and other incidental expenses associated with selling the property. These payments are in addition to the purchase price of the property and are not taxable under Federal tax laws. Public Law 91-646 describes the entitlement and prerequisites required to establish eligibility. Relocation advisory services will be provided to all persons displaced from their lands by acquisition for refuge purposes.

2. Donation

A citizen or private organization may wish to make a gift of land or interests in land to the Service for wildlife purposes. Aside from the cost factor, these acquisitions are no different than purchase of land. Donated lands would be appraised for tax purposes.

3. Exchange

The Service may exchange lands under Service ownership for land having greater habitat or wildlife

value. Inherent in the exchange concept is the requirement to get dollar value for dollar value. Exchanges are attractive in that they usually do not increase Federal land holdings or require funds for purchase, but they may be very labor intensive and take a long time to complete.

D. Transfer

Lands may be transferred to the Service from another Federal agency. The Service has acquired substantial lands from excessed military property. Since all lands within the proposed refuge boundary are privately owned, this method of acquisition is not an option for the proposed Accokeek Creek Refuge.

E. Condemnation

As a Federal agency, the Service does have the power of eminent domain. However, the Service has a strict policy of acquiring land from only willing sellers, has not condemned land in over ten years. In certain circumstances where the Service and the willing seller cannot reach an agreement on the value of the property, or where the rightful owner of a property cannot be determined, the condemnation process may be used as a tool to determine fair market value or to clear title. In these “friendly condemnations,” the Service will only initiate the condemnation process at the request of a willing seller or a town in the latter case.

G. Coordination

The Accokeek Creek National Wildlife Refuge was planned in full consultation of Federal and State agencies, elected officials, Stafford and King George Counties, private organizations, and the general public. The planning process for the establishment of the refuge began in November of 1999. This proposal was developed with technical expertise from Virginia Department of Conservation and Recreation, Division of Natural Heritage, the Army Corps of Engineers, Stafford County, and private individuals that volunteered their time to collect baseline information within the study area. In February of 2000, we held two public meetings in Stafford County. The meetings were advertised in two local papers, the Richmond Times, and the Stafford Sun for a week prior to the meeting. Articles also appeared in the Stafford Sun regarding the meeting.

The draft Environmental Assessment and Conceptual Management Plan were distributed to Federal, state, and local elected officials, NRCS, EPA, the Army Corps of Engineers, Virginia Department of Conservation and Recreation, Department of Historic Resources, Department of Game and Inland Fisheries, Department of Forestry, Department of Environmental Quality, Stafford County, private organizations, landowners within the proposed acquisition boundary and others that requested the Environmental Assessment for comment and review for 30 days. Copies of the draft EA were also made available at the Stafford County Courthouse, the Potomac River Refuge Complex Headquarter Office, and on the internet. The final EA and LPP will be distributed to the same individuals for 30 days prior to initiating any land acquisition process.

H. Socioeconomic and Cultural Aspects

There will be no significant economic or cultural impacts associated with the acquisition of the refuge. Acquisition of lands will occur on a willing seller basis over a period of many years. The County would receive Refuge Revenue Sharing payments approximately equal to its current tax revenue for the lands identified in the refuge boundary. Refuge acquisition is expected to have a positive impact on landowners within the Crow's Nest Harbor subdivision who have had difficulties selling their lands due to the lack of road and utility access. The preservation of the Peninsula would have a positive social impact on adjacent landowners by providing a natural scenic area where they may enjoy an abundance of wildlife and extraordinary vistas. The refuge would also provide some revenue to the local merchants from out of town visitors. Although difficult to quantify, we also expect an appreciation in value of those houses adjacent and across the creeks from the refuge. The establishment of the proposed refuge would have a positive impact on the cultural resources in the area. Under Service ownership, unidentified archeological sites on the Peninsula and in adjacent area would be protected against unintentional disturbance or destruction by logging and development. The refuge would protect known sites against vandalism and work with partners to promote the interpretation and understanding of Native American, Colonial, and Civil War history in the area.

I. Acquisition Priorities

The proposed 7,480-acre Accokeek Creek National Wildlife Refuge is comprised entirely of private ownerships. The acquisition boundary does include approximately 400 acres of State-regulated open water which the Services does not intent to acquire. The majority of the land within the boundary, approximately 4,500 acres is owned by Stafford Lakes Limited Partnership. Within the proposed refuge acquisition boundary, three levels of acquisition priorities were identified (see **Map D-1**), based on the importance of a parcel's protection to meeting refuge goals and objectives. These priorities are resource-oriented, and do not reflect the landowner's preference to sell the land. As the Service only acquires land from willing sellers, the order of actual land acquisition may not follow that of the priorities identified below. **Table 1** lists parcels within each priority area by its tax identification number so that landowners can better comprehend the Service's acquisition priorities and how the proposed Refuge may impact their lands.

Priority 1. The number one priority for acquisition would be the approximately 2,900 acres of land owned by Stafford Lakes Limited Partnership identified as Map 48, lot 1 and Map 49, lot 27. The protection of these two parcels will be crucial to ensuring the biological integrity of the proposed Accokeek Creek National Wildlife Refuge. As such, we would not acquire other parcels prior to assuring the permanent protection of these tracts.

Priority 2. The second priorities for acquisition are lands within the Crow's Nest Harbor subdivision east of Raven Road, and the freshwater marsh habitat that surrounds the Peninsula and associated upland habitats. The acquisition of the Crow's Nest Harbor subdivision will expand the contiguous forest habitat to 3,500 acres, and facilitate access and administration of the proposed refuge. There are approximately 246 parcels in Sections A, C and D of the subdivision. About 72 of these lots are privately owned. The rest are owned by Stafford Lakes Limited Partnership and Diversified Mortgage

Investors. The lands north of Accokeek Creek and south of Potomac Creek consists of freshwater tidal marsh, forested wetlands, upland forests, farms, and residential lots. Within this Priority 2 area, we would focus on acquiring wetland habitats and large, undeveloped tracts first. This Priority 2 area contains some developed lands, including a small neighborhood on Main Street, off Marlborough Point Road. These properties are low priorities for acquisition and were included in the refuge boundary to ensure the long term ecological integrity of the refuge and the two creeks.

Priority 3. The Priority 3 acquisition area includes approximately 1,350 acres of forested habitat between Raven Road and Brooke Road, including Section B (100 lots totaling 466 acres) of the Crow's Nest Harbor subdivision. Protection of this area would expand the forested habitat to approximately 5,000 acres for the benefit of neotropical migrating birds. This Priority 3 acquisition area includes residential houses along Brooke Road and at the end of Raven Road. At this time, the Service does not intend to acquire these dwellings. Inclusion of these parcels within the refuge boundary allows the Service to start negotiations with landowners without additional planning should they wish to sell. Over the long term, Service ownership to Brooke Road would facilitate access for management and public use purposes.

Table 1. Parcels within the proposed Accokeek Creek Refuge listed by Protection Priority.

PRIORITY 1

Map No.	Insert	Parcel No.	Acres
48	--	1 (1 of 3)	2,385.51
49	--	27 (1 of 2)	519.06
		Count = 2	Total = 2,904.57

PRIORITY 2

Map No.	Insert	Parcel No.	Acres
40	--	26	56.22
40	--	24D	33.56
40	--	25H	12.02
40	--	56A	100.03
40	--	57	129.58
41	--	17	98.05
47	--	23	23
47	--	24	27.6
47	--	24A	11.49
47	--	25	23
47	--	53	46

APPENDIX D. LAND PROTECTION PLAN

47	--	54	82.8
47	--	55	73.6
47	--	68	135.34
47F	--	1	5.78
47F	--	2	12
47F	--	3	10.96
47F	--	4	38.13
47F	--	5	25.02
47F	--	A	11.54
47F	--	B	14.24
47F	--	C	30.26
47F	--	E	110.5
48	A1	1 thru 14	268.66
48	A2	1 thru 24	514.17
48	--	1 (2 of 3)	28.92
48	--	5	120.24
48	--	6	87.03
48	--	18	56.46
48	--	19	10.27
48	--	17A	3.31
48	--	19B	0.25
49	A1	1	0.3
49	A1	2	0.34
49	A1	3	
Map No.	Insert	Parcel No.	Acres
49	A1	4	0.36
49	A1	5	0.37
49	A1	6	0.36
49	A1	7	0.32
49	A1	8	0.34
49	A1	9	0.33
49	A1	10	0.33
49	A1	11	0.34
49	A1	12	0.37
49	A1	13	0.52
49	A1	14	0.5
49	A1	15	0.53
49	A1	16	0.46

APPENDIX D. LAND PROTECTION PLAN

49	A1	17	0.92
49	A1	18	1.64
49	A1	13A	1.44
49	A1	13B	0.28
49	A1	9A	0.26
49	A1	A	0.31
49	A1	B	0.29
49	A1	B1	0.31
49	A1	C	0.02
49	A1	D	0.67
49	A1	E	0.25
49	A1	F	0.25
49	C1-1	7	135.81
49	--	2	3.08
49	--	4	26.79
49	--	5	38.58
49	--	6	18.23
49	--	11	16.18
49	--	13	2.97
49	--	14	1.94
49	--	14A	0.35
49	--	14B	0.53
49	--	14E	4.28
49	--	14F	16.57
Map No.	Insert	Parcel No.	Acres
49	--	14G	0.11
49	--	14H	4.27
49	--	14J	0.45
49	--	14L	1.04
49	--	14M	7.59
49	--	14P	2.18
49	--	2A	57.73
49	--	4C	20.67
49D	A	1 thru 100	240.07
49D	C	101 thru 143	99.17
49D	D	1 thru 103	217.38
Count = 322			Total = 2,935.92

PRIORITY 3

Map No.	Insert	Parcel No.	Acres
49D	B	1 thru 100	227.94
39	--	107	3.07
39	--	107C	1.14
39	--	107D	3.14
39	--	107E	2.11
39	--	113	1.86
39	--	114	28.77
39	--	114A	7.41
39	--	114B	3.81
39	--	115	4.29
39	--	115A	1.67
39	--	116	9.91
39	--	117	34.81
39	--	117A	30.77
39	--	118	2.57
39	--	119	8.09
39	--	119A	0.99
39	--	121	2.24
39	--	123	26.43
39	--	123A	2.94
39	--	123B	3.09
39	--	126	16.85
Map No.	Insert	Parcel No.	Acres
39	--	127A	77.94
39	--	129	16.77
47	--	34	23.86
47	--	29	3.60
47	--	30	0.42
47	--	31	1.22
47	--	32	6.08
47	--	34A	0.69
47	--	34B	8.57
47	--	34C	1.73
47	--	34D	1.04
47	--	34E	2.09
47	--	34F	2.88
47	--	35	6.93

APPENDIX D. LAND PROTECTION PLAN

47	--	36	5.64
47	--	37	26.64
47	--	38	22.21
47	--	39	80.48
47	--	41	52.43
47	--	43	14.75
47	--	44	49.36
47	--	45	25.60
47	--	45A	1.16
47	--	45C	3.29
47	--	46	24.85
47	--	47	6.30
47	--	47A	19.86
47	--	48	42.28
47	--	48A	1.05
47	--	48B	1.65
47	--	48C	2.11
47	--	48D	1.46
47	--	48E	0.44
47	--	48E	1.00
47	--	48F	3.45
47	--	48G	3.12
47	--	48G	4.68
47	--	48H	3.13
Map No.	Insert	Parcel No.	Acres
47	--	49	6.51
47	--	49A	4.29
47	--	49B	2.01
47	--	49C	1.53
47	--	49D	0.89
47	--	49E	1.17
47	--	49G	1.05
47	--	49H	1.48
47	--	49X	5.34
47	--	50	56.70
47	--	50A	5.73
47	--	51	10.89
47	--	52A	70.0
48	--	1 (3 of 3)	123.50
49	--	27 (2 of 2)	68.60

		Count = 174	Total = 1,334.35
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