

*Bird Conservation Committee
Nongame Migratory Bird Consultation
Working Group Report*

Prepared by

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International Association of Fish and Wildlife Agencies

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Contents

EXECUTIVE SUMMARY	5
INTRODUCTION	7
DOES THE CONCEPT OF A FORMAL STATE-FEDERAL CONSULTATION PROCESS HAVE MERIT?	8
WHY IS THE PROCESS NECESSARY?	8
WHAT ARE THE OBJECTIVES OF A FORMAL NONGAME MIGRATORY BIRD CONSULTATION PROCESS?	9
WHAT IS OUR COLLECTIVE VISION FOR THE OUTCOME OF SUCH A SYSTEM OR PROCESS?	10
WHAT EXISTING ORGANIZATIONS MIGHT BE ABLE TO PERFORM THIS FUNCTION OR IS A NEW ORGANIZATION REQUIRED?	10
Status Quo	10
Regional Associations of State Fish and Wildlife Agencies.....	11
Joint Ventures.....	13
Flyway Councils	14
Expanded Flyway System	16
New independent Structure.....	19
RECOMMENDATIONS	23
REFERENCES	25
APPENDIX A- BACKGROUND INFORMATION	27
Background on Status Quo	27
Background on Regional Associations of State Fish and Wildlife Agencies.....	28
Background on Joint Ventures	28
Background on Flyway System	30
APPENDIX B – IAFWA RESOLUTION NO. 10	35
APPENDIX C – PREAMBLE OF NATIONAL FLYWAY COUNCIL	37
APPENDIX D – EXAMPLE OF FLYWAY COUNCIL MOU	39
APPENDIX E – EXAMPLE OF FLYWAY COUNCIL MOU	43
APPENDIX F – SAMPLE PROJECTS FUNDED BY THE FLYWAY COUNCILS	47
APPENDIX G – MISSION AND VISION STATEMENTS FOR THE FLYWAY SYSTEM	49

Executive Summary

At the International Association of Fish and Wildlife Agencies' September 2004 annual meeting, a working group was created under the Bird Conservation Committee to explore developing a process whereby the States and the U.S. Fish and Wildlife Service could consult more effectively on nongame migratory bird issues of mutual concern. The Working Group was given the specific charge to “*evaluate the feasibility of creating a formal State-Federal consultation process for nongame migratory bird issues of mutual concern. The existing Flyway Councils and regional associations of State fish and wildlife agencies should be considered as possible models or entities to serve the function, but other options may also be evaluated. The Working Group should consider and comment on how other federal agencies and non-governmental bird organizations could participate in the process.*” The Working Group was asked to complete its work and submit its findings and recommendations to the Bird Conservation Committee at the March 2005 North American Wildlife and Natural Resources Conference.

Working Group members include State agencies representatives (Larry Niles [New Jersey], David Cobb [North Carolina], Randy Kreil [North Dakota], Tom Hauge [Wisconsin], and Terry Johnson [Arizona]), and U.S. Fish and Wildlife Service representatives (Marvin Moriarity [USFWS, R5 director, with support from Scott Johnston, USFWS R5], Dave Sharp [USFWS, Central Flyway representative], and Brad Andres [USFWS, Shorebird Plan Coordinator]). Debbie Hahn (IAFWA) and Brian Millsap (USFWS) staffed the effort. The Working Group was asked to present a report at the North American Wildlife and Natural Resources Conference in March 2005. This report accomplishes that task by addressing (1) the merit of developing such a process, (2) the objectives of the process, and (3) the pros and cons of maintaining the status quo or using five potential alternatives or structures (regional association of state fish and wildlife agencies, Joint Ventures, the Flyway System, an Expanded Flyway System, and an independent structure).

Examples of regulatory and policy issues affecting nongame migratory birds that would benefit from a more effective consultation process include but are not limited to population management (double-crested cormorants, terns, golden eagles, and black and turkey vultures); fisheries by-catch of migratory birds; bald eagle management; falconry and other raptor propagation; delisting proposals and post-delisting proposals and management plans; scientific collecting of migratory birds; wind power development; and collision mortality.

In the absence of a formal consultation process, the U.S. Fish and Wildlife Service has no clear avenue to conduct meaningful coordination with State management partners on these issues, except to invoke ad hoc arrangements. Similarly, there is no formal process for States to work together to develop shared positions on these issues. The need for a structure or process to deal with nongame migratory bird regulatory issues is clear. Many of the reasons that a structure is needed for nongame migratory birds are the same as those deemed necessary for migratory game birds that resulted in the development of the Flyway System.

The vision of the Working Group is that a nongame migratory bird consultation process should, first and foremost, provide a consolidated forum for entities having legal jurisdiction over migratory nongame birds and their habitats (i.e., U.S. Fish and Wildlife Service and the State Fish and Wildlife Agencies) to discuss, plan, and coordinate actions to address nongame migratory bird conservation issues. Secondly, cooperative research and monitoring could be addressed where appropriate.

The Working Group recommends that the Expanded Flyway System and independent structure alternatives be considered for further refinement and widespread evaluation.

1. The Working Group recommends the Expanded Flyway System and the independent structure alternatives be considered further by determining the specifics of developing each alternative. This includes determining costs (time, staff), assessing the development Memoranda of Understanding, determining the necessary committees and councils, delineating a timeline for committee and council meetings, assessing the benefits to maintaining an administrative connection to the flyway system, assessing how the process could reduce the number of nongame migratory bird meetings, etc.
2. The Working Group recommends a presentation of the specifics be made to the Bird Conservation Committee at the September 2005 IAFWA meeting with the intent of choosing a structure at the IAFWA meeting and moving forward with the development of the structure to be implemented in spring (March-April) 2006.
3. The Working Group recommends that State Directors, Flyway Councils, the FWS staff, and the Regional Associations of State Fish and Wildlife Agencies and other interested parties discuss the two alternatives from March to August 2005 and provide feedback and comment to the Working Group in August before the September 2005 IAFWA meeting.
4. The Working Group recommends that its current membership be maintained for the work recommended above, and that the Working Group be authorized to solicit participation by four more State members (i.e. one per regional state wildlife association), three more Flyway Council members (i.e. Pacific, Mississippi, and Atlantic), and one member each from Canada and Mexico. The Working Group recommends that the new Working Group begin their work through conference calls and emails and schedule a meeting in July to finalize the specifics of the two potential structures.

Introduction

At the September 2004 International Association of State Fish and Wildlife Agencies (IAFWA) meeting in Atlantic City, New Jersey, a Nongame Migratory Bird Consultation Working Group (Working Group) was established at the direction of the Bird Conservation Committee. The Working Group was given the specific charge to “*evaluate the feasibility of creating a formal State-Federal consultation process for nongame migratory bird issues of mutual concern. The existing Flyway Councils and regional associations of State fish and wildlife agencies should be considered as possible models or entities to serve the function, but other options may also be evaluated. The Working Group should consider and comment on how other federal agencies and non-governmental bird organizations could participate in the process.*” The Working Group was asked to submit its findings and recommendations to the Bird Conservation Committee at the March 2005 North American Wildlife and Natural Resources Conference. Working Group members were selected by the Bird Conservation Committee and the U.S. Fish and Wildlife Service (FWS) to represent a broad cross section of migratory bird perspectives from agencies with direct responsibility for management of this trust resource (see Table 1).

Through a series of conference calls and e-mail discussions, the Working Group set out to answer the following questions: (1) does the concept of a formal State-Federal consultation process for nongame migratory birds have merit; and if so (2) why is a process necessary; (3) what are the objectives of such a process; (4) what is our collective vision for the outcome of such a system or process; and (5) what are the pros and cons of using one or more existing organizations to perform this function, or is a new organization required? This report summarizes the Working Group’s responses to the questions. The report also contains Appendices A-G. Appendix A provides background information that was used to help inform the development of pros and cons of each of the potential alternatives. Appendices B through G are referenced in Appendix A and provide supporting documents on the existing Flyway Councils.

Table 1: Nongame Migratory Bird Consultation Working Group Members

Name*	Affiliation	Title
Larry Niles	New Jersey Division of Fish and Wildlife	Chief, Endangered and Nongame Species Program
David Cobb	North Carolina Wildlife Resources Commission	Chief, Division of Wildlife Management
Tom Hauge	Wisconsin Department of Natural Resources	Director, Bureau of Wildlife Management
Randy Kreil	North Dakota Game and Fish Department	Wildlife Division Chief
Terry Johnson	Arizona Game & Fish Department	Nongame and Endangered Wildlife Program Chief
Brad Andres	U.S. Fish and Wildlife Service	Shorebird Plan Coordinator
Marvin Moriarty	U.S. Fish and Wildlife Service	Northeast Regional Director
Dave Sharp	U.S. Fish and Wildlife Service	Representative, Central Flyway

*Brian Millsap and Scott Johnston, USFWS and Debbie Hahn, IAFWA provided staff support

Does the Concept of a Formal State-Federal Consultation Process Have Merit?

The concept of a formal State-Federal migratory bird consultation process makes good sense for nongame migratory birds. We believe that a vehicle for coordination between the State fish and wildlife agencies and the FWS on nongame migratory bird activities is timely and critical. Such a vehicle would also allow evolution of an international approach to the conservation of nongame migratory birds. Working Group members with experience in nongame bird conservation noted that the absence of such a formal mechanism has stymied the advancement of coordinated, broad-scale conservation of nongame migratory birds for many years. On the other hand, existing systems such as habitat and species Joint Ventures, Flyway Councils, and regional associations of fish and wildlife agencies have served a variety of roles to address and coordinate regulatory actions and other management issues for migratory game birds.

Why is the Process Necessary?

A variety of reasons why a formal consultation process is needed were identified. The pros and cons of maintaining the status quo (no formal process) are listed later in this Report. From the perspective of the FWS, such a process would result in a more collaborative environment with State trust migratory bird management partners for the development of regulations and policies addressing nongame migratory bird conservation needs. Currently, nongame migratory bird issues, particularly regulatory or quasi-regulatory ones, are addressed either without up-front involvement of State agency partners, or after the time consuming and inefficient establishment of *ad hoc* committees of State partners. States, in turn, are forced to respond to FWS regulatory proposals independently, a situation that often results in widely divergent views that later cannot be easily reconciled. Relying solely on notices and proposed rules in the Federal Register is a poor substitute for an interactive process among partners. A formal State-Federal consultation process would facilitate up-front, joint interaction in the development of nongame bird regulations and policies, and enhance coordination of State responses to proposed FWS actions.

The most obvious and immediate advantage of such a consultation process is in the development of nongame migratory bird regulations and policies. Current areas of regulation/policy development where such a process would have immediate benefits include:

1. Delisting and post-delisting management policies and procedures (e.g., bald eagle).
2. Population management (e.g., double-crested cormorants, brown-headed cowbirds, turkey vultures, Caspian terns).
3. Development of falconry and raptor propagation regulations.
4. Management of recurrent migratory bird mortality issues. (E.g. fisheries by-catch, electrocution, wind turbines, and tower collisions).

5. Development of migratory bird scientific collecting regulations and/or policies.
6. Regulations governing migratory bird rehabilitation, and education activities.
7. Policies and regulations regarding commercial uses of nongame migratory birds (e.g., use of trained raptors to control depredation, and public health threats).
8. Cooperative monitoring and evaluation of regulation and policy effectiveness.

A formal consultation process could eventually have broader benefits in terms of offering a forum for overall direction and coordination of management-oriented survey, monitoring, and research activities, to the extent that priorities in these areas are driven by management issues like those outlined above.

A final advantage to establishing a formal process is that it should result in travel and timesavings for management agencies by serving as a consolidated forum for discussing and resolving nongame migratory bird issues. Currently, in the absence of such a forum, nongame migratory bird issues are addressed in an *ad hoc* fashion at a number of different meetings. Consolidating the agendas into one or two meetings annually would be considerably more effective and efficient.

What Are the Objectives of a Formal Nongame Migratory Bird Consultation Process?

The Working Group identified the following objectives for a nongame migratory bird consultation process:

1. To build more consensus between the FWS and States, and among States, on solutions to nongame migratory bird regulatory and quasi-regulatory issues.
2. To be more efficient addressing nongame migratory bird regulatory issues.
3. To improve cross State coordination on nongame migratory bird regulatory issues, including providing a forum for discussions about coordinated bird management and associated monitoring as it relates to regulatory issues.
4. To serve as a focal point for nongame migratory bird regulatory discussions, thereby reducing the number of other meetings that need to be arranged and attended by agency staff.
5. To build support among, and more involvement by upper-level agency administrators on nongame migratory bird regulatory issues

What Is Our Collective Vision for the Outcome of Such a System or Process?

Taking the above objectives into consideration, our collective vision is that a nongame migratory bird consultation process should, first and foremost, provide a consolidated forum for entities having legal jurisdiction over migratory nongame birds and their habitats (i.e., FWS and the State Fish and Wildlife Agencies) to discuss, plan, and coordinate actions to address nongame migratory bird conservation issues.

What Existing Organizations Might Be Able To Perform This Function or Is A New Organization Required?

Given that the Working Group concluded that a nongame migratory bird consultation process was needed, the Working Group then proceeded to evaluate several delivery alternatives: the status quo, four existing entities/organizations, and a new structure as possible alternatives to achieve the objectives and vision outlined above. The arguments for and against or the pros and cons of using each of these alternatives to coordinate on nongame migratory bird issues are discussed below. Appendix A provides background information that was used to help inform the Working Group's analysis of each alternative.

STATUS QUO

Summary

The status quo, whereby the nongame bird initiatives, Joint Ventures, and regional fish and wildlife associations provide a basic structure to coordinate regulatory and other management issues related to nongame migratory bird conservation, has not proven to be an effective or efficient means to achieve the objectives outlined on page 10. While these existing entities fulfill critically important technical roles, they do not collectively or individually provide a coordinated structure that maximizes efforts among the States and the FWS on regulatory and management issues.

Arguments for using the status quo

1. Regional initiatives have a historical precedent and, in some parts of the country, can adequately manage the coordination and collaboration among States and other representatives with no additional costs.
2. Taxonomically specific groups gather the expertise needed to address initiative-specific issues.
3. Current working groups include a wide variety of stakeholders.
4. Current efforts of Joint Ventures to embrace all-bird conservation and regional working groups to coordinate nongame meetings has in some parts of the country increased efficiency of nongame migratory bird conservation.

Arguments against using the status quo

1. There is no current forum for the FWS to formally consult with the collective States on regulatory actions that affect nongame migratory birds. Collaborative consultation would improve regulations and the rule-making process.
2. Regional fish and wildlife associations do not have a uniform forum for science-based, technical evaluations of potential regulations designed to satisfy specific population management goals or objectives, have no established process for making recommendations to the FWS on regulatory matters, and do not have a process to reach consensus across Associations.
3. Some Joint Venture Management Boards have already rejected taking on a role with regard to regulatory issues, to avoid conflicts that might fragment the existing, successful partnerships.
4. Travel costs associated with independent meetings are higher than if numerous cross-taxa issues could be dealt with a single meeting.
5. Individual biologists, particularly within the States, are asked to participate in too many meetings on too many topics in multiple locations. Often these biologists are the only nongame bird experts for their jurisdiction.
6. Regional and fragmented efforts throughout the country by States and the FWS make for an unfocused and inefficient approach to dealing with these issues.
7. National and regional initiatives/groups, which do not exist in every part of the Country, do not currently have the structures in place to adequately manage issues that require a national approach, elevate important issues to higher-level administrators for action, and allow time for thorough discussions of important issues.
8. Regional initiative meetings are generally one-day long to reduce travel time and costs, and there is rarely sufficient time to discuss and recommend more proactive or significant regional issues.
9. Current groups vary widely in their geographic coverage and stakeholder participation, which is often lacking due to travel restrictions and limited staff.

REGIONAL ASSOCIATIONS OF STATE FISH AND WILDLIFE AGENCIES

Summary

Regional associations of State Fish and Wildlife Agencies are not a ready fit to deliver the objectives outlined on page 10. The regional associations primarily focus on resident wildlife issues; do not have a standardized technical format for review and resolution of issues; are not constructed geographically along lines that make any biological sense relative to the distribution

of bird populations; and have no existing formal mechanism for interacting with the FWS on nongame migratory bird regulatory issues.

Arguments for Using Regional Associations of State Fish and Wildlife Agencies

1. Regional fish and wildlife associations have become increasingly involved, albeit from primarily an advisory perspective, in migratory nongame bird conservation.
2. Regional fish and wildlife associations include representation of all States and Canadian provinces.
3. Regional fish and wildlife associations have well-established cooperative endeavors with other agencies and Nongovernmental Organizations (NGOs).
4. Some regional fish and wildlife agencies also have well-established mechanisms for forwarding issues to and through IAFWA, to seek and when possible provide a unified nation-wide “State” position on key issues of mutual concern.
5. Regional fish and wildlife associations have established and scheduled meetings.

Arguments against Using Regional Associations of State Fish and Wildlife Agencies

1. Regional fish and wildlife associations do not have a process to reach consensus among Associations on nongame migratory bird issues.
2. Regional fish and wildlife associations have no established formal process for making recommendations to the FWS on regulatory matters.
3. Regional fish and wildlife associations do not have a uniform forum for science-based, technical evaluations of potential regulations designed to satisfy specific population management goals or objectives.
4. Boundaries of regional fish and wildlife associations are geopolitically based and have little relevance to the spatial associations or temporal habitat use patterns of most migratory nongame birds.
5. Regional fish and wildlife association goals and objectives primarily address resident wildlife and the aspects of migratory wildlife under the purview of member States.
6. The Western Association of Fish and Wildlife Associations is the only association that has an “all bird” conservation committee. It was approved in January 2005 and will meet for the first time in July 2005.
7. Boundaries of regional fish and wildlife associations would require some States to participate in the decision making process of more than one regional fish and wildlife association.

JOINT VENTURES

Summary

The Working Group does not recommend that Joint Ventures be designated to deliver a consultation process with the objectives outlined on page 10. The likely downside of injecting regulatory issues into the Joint Ventures partnerships, which are focused on voluntary, proactive, habitat-based conservation activities, is alone sufficient to warrant using another approach.

Arguments for Using Joint Ventures

1. Joint Ventures exist across most of the United States and parts of Canada and Mexico, have an established presence in bird conservation, and have staff to ensure continuity of presence and follow-through.
2. The FWS and most State Fish and Wildlife Agencies participate in Joint Ventures.
3. Joint Ventures would provide an appropriately diverse forum for discussion of regulatory and other issues.
4. Joint Ventures have adopted an all-bird management approach, and some have developed structures that facilitate integration of all the bird initiatives.

Arguments against Using Joint Ventures

1. Joint Ventures primarily focus on habitat conservation. Involvement in regulatory discussions/actions could distract from, or impede, the primary mission of delivering on-the-ground all-bird conservation.
2. Some Joint Venture Management Boards have already rejected taking on a role with regard to regulatory issues, to avoid conflicts that might fragment the existing, successful partnerships.
3. Joint Venture funding successes have been built on voluntary, proactive partnerships. Debate on regulatory issues could alienate established partners, possibly reducing funding support for on-the-ground conservation actions.
4. Joint Ventures do not exist for all areas of the United States, Canada, or Mexico, and do not exist for other Western Hemisphere countries or other countries with vested interests in nongame migratory bird conservation.
5. Joint Ventures are not constructed geographically along lines that match the current flyway framework for migratory (game) bird management and conservation. Assuming that structure would provide consistency, and therefore some advantages in dealing with nongame birds, the patchwork mosaic formed by Joint Ventures could result in numerous States being compelled to participate in more than one Joint Venture for nongame bird regulatory purposes.

6. Joint Ventures operate independently, under Management Boards of Joint Venture partners, which would presumably need to approve any positional statements taken by the participants on regulatory or other issues.
7. Not all State Fish and Wildlife Agencies participate actively in Joint Ventures, and some participate in several that include varying combinations of other States. Thus, consensus on regulatory and other issues broader than the boundaries of a single Joint Venture could be difficult to generate

FLYWAY COUNCILS

Summary

The Working Group does not recommend that the existing Flyway Councils, as currently operated, be designated as the delivery mechanism of a consultation process for nongame migratory bird conservation with the objectives as outlined on page 10. Current financial resources and the current membership on Flyway Councils and supporting technical committees are not sufficient and may not be appropriate to implement this change. The infusion of additional responsibilities for nongame migratory birds into the currently configured Flyway Council technical structures for migratory game birds without additional staff and financial resources would overload, disrupt, and compromise the historically-effective traditional system for managing migratory game birds. See the next section for a discussion on a potential Expanded Flyway System.

Argument for using the current Flyway Councils

1. Flyway Councils are administrative units geographically organized on a biological basis that reflect the general annual cycle of migratory birds, which includes breeding, migration, and wintering habitats. This approach allows each Flyway to focus conservation on stocks, populations, and species that are more similar within a Flyway than across Flyways.
2. Flyway Councils are composed of administrators that are designated by State/Provincial wildlife agency directors. They are guided by Flyway Council technical committees composed of biologists. The combination of administrative and technical professionals creates an effective system for addressing problems with realistic political, socially acceptable, and scientifically derived solutions.
3. Flyway Councils build partnerships through collective action that include: cooperative funding, habitat and population planning, research, and consensus driven decision-making.
4. Flyway Councils promote the coordination of migratory bird conservation activities, including research, habitat management, and population management, that form the basis for all regulatory actions.
5. Flyway Councils have developed a Memorandum of Understanding with FWS to consult on regulatory issues, thus establishing an exclusive relationship between State and Federal agencies.

6. The FWS has designated four full-time staff members (Flyway Representatives) to work as a liaison with each of the four Flyway Councils, in an ex-officio manner, to maintain the unique relationship between State and Federal governments.
7. Flyway Councils have existed for over half a century, developed mission and goal statements, and operated under established bylaws, all which create consistency across the continent.
8. The National Flyway Council uses a representative from each of the four Flyway Councils to address common issues that transcend individual Flyway boundaries.
9. Flyway Councils have completed, endorsed, and implemented 57 Flyway Management Plans for game bird species and population of high management importance.

Arguments against using the current Flyway Councils

1. Focus is currently oriented to the annual process of establishing migratory game bird hunting regulations in the U.S. There is a need – but not the capacity -- to expand responsibilities into all areas of bird conservation.
2. Current meeting schedules support the annual promulgation of early and late hunting seasons.
3. The Flyway Council System currently suffers from the lack of financial and staff resources at both the administrative and technical levels.
4. Increased responsibilities of State/Provincial Directors and/or their lack of time for Flyway Council participation have resulted in decisions to designate subordinate staff to represent their respective State/Province on the Council. Not all of these staff are equally prepared or authorized to act as decisional surrogates for their Director.
5. Flyway Councils currently need to improve coordination and communication with partners and stakeholders not represented on the Councils; expanding the partner and stakeholder pool would exacerbate the problem.
6. Active Flyway Council members are already fully engaged and committed; adding more responsibilities without additional resources would reduce effectiveness and morale
7. Flyway System technical Committees lack expertise to address nongame migratory bird issues.
8. Four States (Montana, Wyoming, Colorado, and New Mexico) and two provinces (Alberta and Saskatchewan) are currently members of two Flyway Councils. The splitting of financial resources and the need for additional staff for these jurisdictions compromises full participation in both Flyways.
9. There is not sufficient coordination between the Flyway Councils and staff associated with the North American Waterfowl Management Plan, and the other major bird initiatives.
10. Flyway Council membership needs to be more inclusive of all North American agencies with regulatory authority (e.g. aboriginal peoples, tribal interests, etc. [only the Alaskan Co-

Management Boards, Indian tribes are consistent participants in a Flyway Council – the Pacific Flyway])

11. There is currently a need for increased Flyway Council participation by Canada and there is only minimal participation by Mexico. This coordination is especially important in addressing international issues.
12. Some member States/Provinces place a low priority on Council participation and have not participated as fully as other members.

EXPANDED FLYWAY SYSTEM

Summary

The Working Group believes that maintaining a connection to the administrative aspects of the existing Flyway Councils would be advantageous for consulting on nongame migratory bird regulatory issues. The Working Group believes that some economies might be gained because the same entities would be making the decisions. The Working Group recommends that the Expanded Flyway System alternative be considered for the delivery of a consultation process for nongame migratory birds.

The Working Group has carefully considered the workload and annual involvement of the Flyway Council in the annual migratory game bird regulations development cycle and concluded that the Flyway Councils are essentially at their "administrative carrying capacity" with existing responsibilities for coordinating migratory game bird management issues (see preceding section and Appendix A). Although migratory game bird management is a 12-month activity, the peak in coordinated discussion and decision-making occurs from January to August in association with the early and late season regulations timetable (See Appendix A, Background on the Flyway System). Injecting nongame migratory bird issues into this cycle, or prolonging this cycle to accommodate nongame issues, would de-synchronize essential State-Federal coordination and jeopardize if not preclude timely setting of harvest seasons in one or more States. Such an outcome would be legally and socially unacceptable.

To avoid burdening the administrative structure of the Flyway Councils during the early and late-season regulatory schedules, nongame regulatory issues would need to be processed primarily from September through January. For example, the FWS could use the January Service Regulatory Committee (SRC) meeting to discuss potential nongame migratory bird issues needing attention in the next nongame regulations cycle just as they currently use this meeting to discuss game bird issues. The FWS could then publish proposed nongame regulations anytime during the spring and early summer, ending the comment period sometime in late fall. Final FWS decision-making could be done in January by expanding the January SRC meeting to a two-day format or by holding a separate SRC meeting in early December.

To minimize the costs associated with travel and lodging for a Council meeting to address nongame bird issues, Council meetings could be scheduled in association with the September IAFWA meeting. Most representatives already attend this meeting. A Technical Committee meeting could

also be scheduled for August to give Technical Representatives time to consolidate and distribute their recommendations for Council consideration in September.

A critical consideration in using the current administrative structure of the Flyway System for nongame regulatory issues is the limits on current staff time and expertise for both the FWS and the States. Frankly, at both the State and federal level, current Flyway staffing is fully employed executing the annual game bird regulatory decision-making. In many States game and nongame migratory bird issues are handled by separate staff, due to workload and the need for different technical knowledge.

As a result, the Flyway Councils could only achieve this improved coordination if the following conditions were addressed:

- The FWS would need to assign additional staff to serve as Flyway Representatives on nongame migratory bird issues.
- One or more standing technical committees (e.g. “general” nongame, or perhaps separate falconry, depredation, etc.) would need to be developed to address the nongame migratory bird regulatory issues.
- States would need to appoint technical representatives to serve on the new committees.
- States would need the option to appoint separate Council members to address the game and nongame issues, if they deem appropriate.
- States need a stable funding source to cover the costs of travel and staff work on nongame regulatory issues. State Wildlife Grants may be such a source. Existing State Flyway funding sources should not be stretched or diverted to cover these new work demands.

In Appendix A, the Working Group described the Flyway Council's role in developing population management plans for migratory game species. The immediate need for Flyway population management plans for nongame birds would seem to be much less. However, there may be situations where nongame regulatory decisions should be tied to population status. For example, there may be situations where depredation permits (or conditions within a permit) or listing/delisting proposals would be tied to population status for a species.

In recent years, the Flyways have devoted considerable discussion to role of the North American Waterfowl Management population goals to the Adaptive Harvest Management regulatory decision process. Similarly, there may be population goals in the other major continental bird plans that will need discussion in terms of how those goals relate to regulatory decisions.

As stated elsewhere in this report, "*Flyway Councils facilitate a unique approach to the cooperative funding and the leveraging and pooling of resources for research, surveys, and other projects of great importance to the management of migratory game birds.*" Background material appended to this report includes an extensive list of cooperative projects implemented by the Central Flyway, as an example of the effectiveness of this approach (Appendix A). For the most part, Flyways have successfully pooled their funding toward projects needed to answer important population status questions for migratory game birds. In similar fashion, if the Flyways determine that cooperative projects are needed to answer important population status questions related to a key nongame migratory regulation they could fund such a project.

An expanded Flyway Council system has the potential to be an effective delivery coordination mechanism for development of nongame migratory bird conservation regulation issues. The Working Group recommends that the specifics of this alternative be discussed and that a report of the more specifics be provided at the 2005 IAFWA meeting. The report should include an assessment of costs (time, staff), administrative procedures (e.g., assessing the need and process to develop required Memoranda of Understanding, determining the necessary committees and councils, delineating a timeline for committee and council meetings, assessing the benefits to maintaining an administrative connection to the flyway system, etc.).

Arguments for Using an Expanded Flyway System

1. Arguments in support of using the current Flyway Council system identified under the Flyway Council alternative above could apply to this Expanded Flyway System alternative.
2. There is no current forum for the FWS to formally consult with the collective States on regulatory actions that affect nongame migratory birds.
3. Flyway Council consideration of nongame issues as well as game issues would lead to more thorough and well integrated State-level participation through State Directors' appointments and delegates in decision-making for migratory bird management. Just as the current Flyway system has developed a core of State-level expertise and institutional knowledge on harvest management, similar expertise and history would be developed on nongame migratory bird regulatory issues.
4. Flyway Councils, which are composed of administrators designated by State/Provincial wildlife agency Directors, would be better informed on decision alternatives if both game and nongame information flowed through the Council recommendation and decision paths from technical professionals addressing problems with realistic political, socially acceptable, and scientifically sound solutions.
5. Travel costs associated with meetings might be offset by savings accrued through reduction of meetings now being held under independently operating regional and national initiatives, technical groups, etc.
6. Based on the Flyway Council alternative, formal MOUs would encourage stronger commitment by USFWS and State partners for nongame migratory bird issues.
7. National-level issues could be discussed within the National Flyway Council.
8. An Expanded Flyway System would augment technical staff and not burden current committees/councils with nongame migratory bird issues.
9. Additional migratory nongame bird council meetings could be scheduled to not interfere with the current game bird regulation process.
10. FWS could designate staff members to work as a liaison with each of the four Flyway Councils in an ex-officio manner on nongame migratory bird issues, maintaining the unique relationship between State and Federal governments.

Arguments against Using an Expanded Flyway System

1. All inadequacies identified under the Flyway Council alternative could apply to the Expanded Flyway System alternative.
2. Unless funding and staff are available, current Flyway Councils and technical committee members may not support addressing nongame migratory bird issues.
3. Traditional nongame biologists may feel disenfranchised by a Federal-State system and argue that current communication structures engage the greatest number of stakeholders.
4. Administrators may not view nongame migratory bird issues as a high priority and consequently not delegate decision-making authority.
5. Focus is currently heavily oriented to the annual process of establishing migratory game bird hunting regulations in the U.S. Limiting Flyway Council attention on non-game issues to the August to January time period will limit the ability to respond to time-sensitive issues.
6. There is **not sufficient coordination** between the Flyway Councils and staff associated with the North American Waterfowl Management Plan. This could carry over with other major bird initiatives.

NEW INDEPENDENT STRUCTURE

Summary

Given the arguments against using the existing Flyway Councils as the delivery mechanism for formal State-Federal consultation on nongame migratory bird management, the Working Group recognizes even the Expanded Flyway System alternative may not be sufficient to satisfactorily resolve concerns. Accordingly, the Working Group recommends that, simultaneous with the exploration of the Expanded Flyway System, the Working Group also explore the pros and cons associated with starting a new, independent delivery mechanism. The Working Group recommends that the specifics of developing a new, independent structure be discussed and that a report of the specifics be provided at the 2005 IAFWA meeting. The report should include an assessment of both costs (time, staff) and administrative procedures (e.g., assessing the need and process to develop required Memoranda of Understanding, determining the necessary committees and councils, delineating a timeline for committee and council meetings, assessing the benefits to maintaining an administrative connection to the flyway system, etc).

Argument for developing a new, independent structure

1. There is no current forum for the FWS to formally consult with the collective States on regulatory actions that affect nongame migratory birds.
2. Collaborative consultation would improve regulations and the rule-making process.

3. Travel costs associated with meetings of the new structure might be offset by savings accrued through reduction of meetings now being held under independently operating regional and national initiatives, technical groups, etc.
4. No one existing structure (e.g., regional associations, joint ventures, regional initiative groups, flyway system) is an obvious fit to address nongame migratory bird issues, especially regulatory ones on a national scale.
5. The philosophy behind and rationale for the development of the Flyway System (e.g., partnerships, strategic approach, organize functions, expand efforts for bird conservation, etc.) exist for nongame migratory birds as well.
6. The new Structure could be built using all possible models including the Flyway Councils and designed specifically to meet resource and agency needs for migratory nongame birds.
7. An independent structure could be more inclusive of all stakeholders than the Expanded Flyway System alternative.
8. Existing efforts for nongame migratory bird communication could be the core of an independent structure.
9. An independent structure would not burden the current Flyway Councils or Joint Ventures with additional nongame migratory bird regulation issues.

Arguments against developing a new, independent structure

1. There would be no connection with the current Flyway Council system, and any benefits and economies that such an affiliation would produce will be lost (e.g. game and nongame issues would or could be explored by different administrative and technical groups without immediate benefit of each other's counsel, and travel costs associated with independent meetings would be additive for all active Flyway Council members).
2. The new structure would be built from scratch, thus requiring post-design education efforts to increase partner awareness, understanding, acceptance, and participation.
3. New State-Federal Memoranda of Understanding would need to be developed.
4. Initial costs may be high for travel, conference calls, and other means of communication to build the process.
5. FWS nongame migratory bird staff may not have the time or resources to commit to a new structure and process.
6. An independent structure could not guarantee the unique State-Federal relationship developed through the Flyway Councils.
7. Commitment by State Directors to delegate decision-making authority may be more difficult with an unfamiliar structure.
8. With a broad constituency, consensus on issues might be difficult to obtain.

9. Increased stakeholders could require additional administrative costs to meet Federal Advisory Committee Act (FACA) requirements.
10. An independent structure may not address nongame migratory bird issues in a more efficient manner than current efforts.
11. Stakeholders of an independent structure may not be content to address only regulatory issues.

Recommendations

The existing Flyway System for game birds was created by a vision for collaboration and management. This vision included the recognition that State and Federal agencies share major conservation responsibilities that require a specific and committed structure to manage regulatory and management issues. Those needs clearly exist for nongame migratory birds and establish the need for a formal structure.

Despite the many obstacles to such an approach for nongame migratory birds, the Working Group views the need for improvements as critical. The Working Group believes that a decision on which of these two structures is more viable should not be made without more carefully weighing the details of each alternative, and therefore recommends the following 4 steps.

1. The Working Group recommends the Expanded Flyway System and the independent structure alternatives be considered further by determining the specifics of developing each alternative. This includes determining costs (time, staff), assessing the development Memoranda of Understanding, determining the necessary committees and councils, delineating a timeline for committee and council meetings, assessing the benefits to maintaining an administrative connection to the flyway system, assessing how the process could reduce the number of nongame migratory bird meetings, etc.
2. The Working Group recommends a presentation of the specifics be made to the Bird Conservation Committee at the September 2005 IAFWA meeting with the intent of choosing a structure at the IAFWA meeting and moving forward with the development of the structure to be implemented in spring (March-April) 2006.
3. The Working Group recommends that State Directors, Flyway Councils, the FWS staff, and the Regional Associations of State Fish and Wildlife Agencies and other interested parties discuss the two alternatives from March to August 2005 and provide feedback and comment to the Working Group in August before the September 2005 IAFWA meeting.
4. The Working Group recommends that its current membership be maintained for the work recommended above, and that the Working Group be authorized to solicit participation by four more State members (i.e. one per regional state wildlife association), three more Flyway Council members (i.e. Pacific, Mississippi, and Atlantic), and one member each from Canada and Mexico. The Working Group recommends that the new Working Group begin their work through conference calls and emails and schedule a meeting in July to finalize the specifics of the two potential structures.

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Appendix A- Background Information

BACKGROUND ON STATUS QUO

Currently, there is no common forum in which to regularly discuss regulatory and management issues pertinent to nongame migratory birds. Regional working groups or technical committees that include States, Federal agency representatives, and NGOs exist for many, but not all, nongame bird initiatives. However, only a few groups meet on a regular schedule and attendance by State representatives has sometimes been lacking due to limited staff and travel restrictions.

The geographic scale at which these regional groups operate varies markedly across the country, and few cross international boundaries. Numerous other taxonomically oriented groups operate at smaller geographic scales and address issues that are important to a smaller audience. In the Northeast, for example, the Southern New England/Long Island Colonial Waterbird Working Group exists to help coordinate and report on breeding colony research, monitoring, and management. States are an integral part of these smaller groups and play a key role in the twice per year, one-day meetings.

Many habitat Joint Ventures are moving toward an all-bird approach and use various methods to involve a wide variety of nongame issues and expertise within their operations. For example, various waterfowl surveys are beginning to be coordinated among bird initiatives, to the extent that some waterfowl mid-winter surveys now collect data on wintering waterbirds.

Generally, the issues and actions addressed by the groups and entities mentioned above are relatively technical and are concerned about solving immediate management needs. The groups compare results on the past year's fieldwork, share ideas on improving methods, and suggest ways to improve coordination among partners. There is usually no formal chain-of-command to raise these issues with agency and organization administrators. However, regional working groups often report results to their national initiative councils, which, in turn, encourage regional groups, as they are the on-the-ground implementers of bird conservation plans.

The current situation requires that many State biologists who work on nongame issues attend numerous meetings throughout the year. Some may be asked to represent their State on a regional waterbird initiative and also to participate in a shorebird initiative, for example. In many cases, a nongame biologist has responsibility for all nongame taxa within his or her State. The biologists are also asked to attend specific geographic meetings within their jurisdiction, to represent their State on teams addressing specific management issues (e.g., predator control), and to serve on working groups contributing to regional or even national efforts. The consequences of this are that a single biologist is often expected to attend multiple meetings throughout the year, each requiring a different area and level of expertise, all within a limited budget.

BACKGROUND ON REGIONAL ASSOCIATIONS OF STATE FISH AND WILDLIFE AGENCIES

In the United States and Canada, there are four regional associations of fish and wildlife agencies providing a forum for interaction among State Fish and Wildlife Agencies, the IAFWA, and other governmental agencies and non-governmental organizations (NGOs). The Western Association of Fish and Wildlife Agencies includes 19 western States and Alberta, British Columbia, Saskatchewan, and Yukon provinces. The Midwest Association of Fish and Wildlife Agencies includes 14 mid-western States and Manitoba, Ontario, and Saskatchewan. The Northeastern Association of Fish and Wildlife Resource Agencies includes 13 northeastern States and New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, and Quebec. The Southeastern Association of Fish and Wildlife Agencies includes 16 southeastern States, Puerto Rico and the Virgin Islands. Twelve States, Arkansas, Colorado, Kansas, Maryland, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Virginia, and West Virginia, each participate in two associations.

State Fish and Wildlife Associations: (1) work to protect the jurisdictional rights of member States over wildlife resources that occur on public and private lands; (2) scrutinize State and federal wildlife legislation and regulations offering support or opposition in accordance with the best interests of member States; (3) consult with federal wildlife and public land management agencies so that federal programs and those providing federal aid to member States are conducted in the best interests of member States; and (4) serve as a clearinghouse for exchange of ideas concerning wildlife and fisheries management, research techniques, wildlife law enforcement, hunting and outdoor safety, and information and education programs. Cooperative fish and wildlife programs among member States and other entities are sponsored to address issues of mutual interest regarding fish and wildlife resources under the jurisdiction or that inhabit member States. Finally, these associations provide effective, efficient, and allied representation for member States regarding fish and wildlife conservation, particularly in matters that are beyond the purview or jurisdiction of individual States.

State fish and wildlife associations operate through a variety of committees consisting of fish and wildlife professionals who analyze a wide range of issues affecting fish and wildlife resources. These committees make recommendations to the directors for action as appropriate.

BACKGROUND ON JOINT VENTURES

Joint Ventures have been, and are being, created to “deliver national and international management plans that conserve habitat for migratory birds and other wildlife” (see <http://birdhabitat.fws.gov/NAWMP/jv.htm>). The authority to do this stems from the North American Waterfowl Management Plan (NAWMP or Plan). With the FWS as the central convening agency, these partnerships include individuals, corporations, conservation organizations, and local, State, Provincial, and Federal agencies. Concerned with conserving migratory birds and their habitats, partners come together in Joint Ventures to accomplish collectively what is often difficult or impossible to do individually.

According to the referenced website, 15 habitat Joint Ventures operating under the Plan existed as of December 2004: 11 in the United States and 4 in Canada. One has international status

(Canada/United States¹). Partners from Canada and the United States also support three species Joint Ventures under the Plan. Habitat Joint Ventures restore, and enhance wetlands and associated uplands habitats. The three species Joint Ventures address monitoring and research needs of black ducks, Arctic nesting geese, and seaducks.

The FWS's Joint Venture website (see above) lists the top 10 reasons (in reverse order) for considering a Joint Venture as the first option in delivering habitat conservation:

10. Joint Ventures already deliver all types of habitat: grassland, bottomland hardwood forest, coastal, prairie pothole, and riparian, to name a few.
9. Uniqueness. Each Joint Venture is uniquely adapted to the cultural conditions in their part of the country. There is no single Joint Venture template.
8. Proven ability to work with many different types of constituents. Joint Venture partners include federal, State, and local governmental agencies, tribes, conservation groups, sportsmen's groups, farmers, ranchers, small businesses, and corporations, among others.
7. Joint Venture boundaries cross ecosystem units delineated by both private- and public sector organizations.
6. States support Joint Ventures. Each Joint Venture has at least one State representative on its management board.
5. Accountability. Work is planned and done on the basis of objectives and accomplishments. It is opportunistic but not random.
4. Joint Ventures leverage funds. Resources are pooled. Partners accomplish together what could not be done alone.
3. Expertise. Joint Ventures have proven they can deliver habitat. Each partner brings a special expertise to the table that makes problem solving not a problem.
2. Track Record. Joint Ventures deliver the goods. Since 1986, Joint Ventures have invested more than \$3.3 billion to protect, restore, and/or enhance more 13.1 million acres.
1. Becoming a Joint Venture partner is the smart thing to do.

Most, if not all, Joint Ventures have defined Mission Statements, Goals, and/or Objectives. Although variation occurs among and between the Joint Ventures, most have a mission statement much like the one for the Intermountain West Joint Venture:

Our mission is to provide for the long-term conservation of key avian habitat including planning, funding, and developing habitat projects that benefit all biological components of Intermountain ecosystems.

We achieve our mission by developing partnerships with private and public landowners who support habitat conservation. The Joint Venture promotes the restoration and maintenance

¹ The Sonoran Joint Venture covers parts of the southwestern United States and northwestern Mexico, but might not yet have been recognized under the NAWC Plan.

of all bird populations; fosters the protection, restoration, and enhancement of wetlands, riparian habitats, and the widely diverse uplands characteristic of the region.

Since 1999, we have evolved and expanded our vision to embrace all bird habitat conservation. This includes habitat for waterfowl, shore birds, wading birds, and song birds as well as other game and non-game avian species.

Joint Venture work centers on implementation of the conservation goal and objectives of the major bird initiatives that include but are not limited to the following.

[The North American Waterfowl Management Plan \(NAWMP\)](#), an international agreement developed in 1986, recognizes the recovery and perpetuation of waterfowl and other wetland wildlife that depend on restoration of wetlands and associated ecosystems throughout North America. As a result, it established cooperative initiatives (joint ventures) to reverse declines in wetland habitats and associated wildlife.

[Partners in Flight \(PIF\)](#) is a cooperative effort involving partnerships among federal, State and local government agencies, philanthropic foundations, and other individuals interested in bird conservation not covered by existing conservation initiatives. Their goal is to focus resources on the improvement of monitoring, and inventory, research, management, and education programs involving birds and their habitats.

[The U.S. Shorebird Conservation Plan \(USSCP\)](#) is a partnership of organizations throughout the United States committed to conservation of shorebirds. The organizations and individuals working on the plan have developed conservation goals for each region of the country, identified critical habitat conservation needs, and proposed education and outreach programs to increase awareness of shorebirds and the threats they face.

[The North American Waterbird Conservation Plan \(NAWCP\)](#) was developed to create a cohesive, multi-national partnership for conserving and managing waterbirds (seabirds, wading birds, gulls, terns, pelicans, and marshbirds) and their habitats throughout North America. Their goal is to produce a plan whose implementation results in maintaining healthy populations, distributions, and habitats of waterbirds in North America, throughout their breeding, migratory, and wintering ranges.

Some Joint Ventures have enhanced their all-bird management through structures such as the Integrated Bird Conservation Committee of the Atlantic Coast Joint Venture. This Committee includes representation from all the Southeast and Northeast game and nongame bird initiatives, and reports directly to the Management Board.

BACKGROUND ON FLYWAY SYSTEM

Prior to 1916, U.S. States and Canadian Provinces had the legal authority for the conservation and management of migratory birds. The ratification of the Convention between the United States and Great Britain (for Canada) for the Protection of Migratory Birds transferred this responsibility to the Federal governments of the signatory nations. In the U.S., the implementing legislation for the Federal authority for migratory birds, the Migratory Bird Treaty Act, was enacted in 1918. During the 1920's, waterfowl populations were high, hunting seasons were liberal, and little controversy

accompanied the annual establishment of hunting regulations by the Federal Governments. However, widespread drought in the 1930's resulted in record low waterfowl populations and led to the adoption of more restrictive hunting seasons.

At this time in the U.S., the responsible agency for the establishment of migratory game bird hunting regulations was the Department of Agriculture. A strategy of setting national hunting regulations on a three-tiered latitudinal basis, progressing from the north to south was adopted. To complement the information being gathered by the Federal Government, the States through the International Association of Game, Fish, and Conservation Commissioners successfully promoted a Federal Grant program for wildlife investigations and management activities. The funds for this grant program were raised through a Federal tax on firearms and ammunition and allocated to State wildlife agencies. Additionally, the grant program, through eligibility requirements, protected State hunting license revenues from being diverted by State legislatures for other purposes. These new secure funding sources allowed States to improve their information about migratory birds.

In 1940, the responsibility for managing migratory wildlife was transferred from the Department of Agriculture to the newly formed the FWS. Banding information was being reviewed and F.C. Lincoln formulated the idea that North America could be divided into four major longitudinal corridors or flyways for the purpose of managing migratory waterfowl. Additional biological information provided a more detailed description of migratory patterns of waterfowl and collectively this information provided the basis for a new strategy of setting annual hunting regulations along the four (Atlantic, Mississippi, Central, and Pacific) conceptual Flyways.

The adoption of the International Association of Fish and Wildlife Agencies' Resolution #10 in 1951 (Appendix B) urged the formation of four waterfowl Flyway Councils along geographic borders that were described by F.C. Lincoln in 1935. Although some Flyway Councils were formed before this date, this resolution was undoubtedly the catalyst that facilitated official recognition of the four waterfowl flyways. In 1952, the four Waterfowl Flyway Councils and a National Waterfowl Flyway Council independently held meetings. This served as the official establishment of the administrative Flyway Council System. To support this administrative structure, technical committees were subsequently established for each Council.

Flyway Council Bylaws.--The National, Atlantic, Mississippi, Central, and Pacific Flyways have established, and regularly update, individual bylaws. Although each set of bylaws is unique, the preamble of the National Flyway Council (1998) contains the following resolution, in which the underlying principles are supported by the Bylaws and Operating Procedures of the four individual Flyway Councils (Appendix C).

Flyway Council / U.S. Fish and Wildlife Service Memorandum of Understanding.--Each of the four Flyway Councils and the FWS have signed two Memoranda of Understanding for the cooperative exchange, interpretation, and evaluation of data and information used for developing annual hunting regulations (Appendix D and Appendix E). These documents allow for discussion of Federal regulation issues during the established public comment period.

Flyway Council Population Management Plans.--The National Waterfowl Management Plan (1982) advocated that the FWS cooperatively work with the Flyway Councils and other interested parties to identify distribution problems and develop joint management guidelines or plans to solve them. These Species/Population Management Plans (Plans) have been commonly referred to as "Flyway Management Plans". These Plans were cooperatively developed and revised by staff participation from the FWS, State Fish and Wildlife Agencies; inconsistently with input from

agencies in Canada, Mexico, Japan, and Russia; occasionally with input by other invited authorities and scientists; and rarely with input from Native American or other aboriginal interests and the public at large.

Flyway Councils currently endorse 57 Flyway Management Plans. Of these, the Pacific Flyway endorsed 28, the Central Flyway 16, the Mississippi Flyway 7, and the Atlantic Flyway 6 plans. Functionally, these Plans have proven to be valuable documents for Flyway Councils, the FWS, the Canadian Wildlife Service, other agencies, organizations, and individuals in coordinating and guiding comprehensive management activities for certain migratory bird species or populations. Over 85% of the Plans have been prepared for hunted migratory bird species.

The FWS supports the use of Flyway Management Plans for both hunted and non-hunted migratory bird species, subspecies and discrete population units. Harvest management guidelines contained in Plans do not preclude the existing process for setting annual hunting season regulations, as guided by the Administrative Procedures Act, National Environmental Policy Act, Migratory Bird Treaty Act, or other legal constraints. The FWS and Canadian Wildlife Service should continue to provide input into their development and updating. Harvest strategies contained in the Plans should be considered as guidelines, along with other input, in making annual hunting season recommendations to the Secretary of Interior. The FWS should continue to encourage widespread International and scientific involvement in the development, updating, and implementation of Flyway Management Plans.

Flyway Council Cooperative Funding.--Flyway Councils facilitate a unique approach to the cooperative funding and leveraging of resources for research, surveys, and other projects of great important to the management of migratory game birds. For example, since 1973, the Central Flyway Council has approved 31 projects for cooperative funding and contributed over \$1.9 million to the projects (through 2008) (See Appendix F). Similar records are not available for other Flyways; however, comparable cooperative funding approaches have been developed for the other Flyways.

Flyway Council Review.--In 1995, a project to review the Flyway Council System was funded by the States and the FWS and administered by the International Association of Fish and Wildlife Agencies. This was the first comprehensive review of the system since it was established in 1952. The purpose was to conduct a comprehensive review of the Flyway Council System, its basic purpose, structure and function, identify contemporary issues facing the Flyway Councils, and develop recommendations for actions to insure the long-term effectiveness of the system. Mission and vision statements are contained in Appendix G.

While migratory game bird management is a 12-month activity, the peak in coordinated discussion and decision-making occurs from January to August in association with the early and late season regulations timetable. For example, the following timetable describes the migratory game bird regulations cycle for 2005.

SCHEDULE OF 2005 ACTIVITIES AND MEETINGS
RELATING TO THE MANAGEMENT OF MIGRATORY GAME BIRDS

January 27

The Service Regulations Committee (including Flyway Council Consultants) will meet to identify and discuss preliminary issues concerning the 2005-06 migratory bird hunting regulations. Public attendance is permitted at the Service Regulations Committee meeting, but participation is limited to observation.

March 15

The Service Regulations Committee recommendations are scheduled to be published as part of a proposed rulemaking in the Federal Register. Proposed regulatory alternatives for the 2005-06 duck-hunting season will be contained in this rule. Public comment periods will tentatively end on July 30 for early-season proposals and on September 5 for late-season proposals. The FWS will forward copies of the proposals to States, Flyway Councils, and other interested parties for review and comment. The FWS will consider all comments received.

May 16

The FWS plans to publish a supplemental proposed rulemaking on early- and late-season regulations frameworks and final regulatory alternatives for the 2005-06 duck-hunting season in the Federal Register.

June 22 & 23

The Service Regulations Committee (including Flyway Council Consultants) will meet to develop early-season regulations frameworks recommendations. Public attendance is permitted at the Service Regulations Committee meetings, but participation is limited to observation.

July 15

The FWS plans to publish the proposed frameworks for early-season regulations in the Federal Register. As noted earlier, the public comment period on early-season proposals ends July 30. The FWS will forward copies of the proposals to State conservation agencies.

July 27 & 28

The Service Regulations Committee (including Flyway Council Consultants) will meet to develop regulations frameworks recommendations for late seasons. Public attendance is permitted at the Service Regulations Committee meetings, but participation is limited to observation.

August 19

The FWS plans to publish the final frameworks for early seasons in the Federal Register. Advance copies of the document will have been sent to State Fish and Wildlife Agencies who must advise the FWS not later than August 1 of specific season dates selected.

August 22

The FWS plans to publish the proposed late-season frameworks in the Federal Register. As noted earlier, the public comment period on late-season proposals ends September 7. The FWS will forward copies of the proposals to State Fish and Wildlife Agencies.

August 31

The FWS plans to adopt, by publication in the Federal Register, the amendments establishing season dates, bag and possession limits, and shooting hours for the 2005-06 early seasons.

September 16

The FWS plans to publish the final late-season frameworks in the Federal Register. Advance information will be provided to State Fish and Wildlife Agencies who must advise the FWS not later than September 1 of specific season dates selected.

September 21

The FWS plans to adopt, by publication in the Federal Register, the amendments establishing season dates, bag and possession limits, and shooting hours for the 2005-06 late seasons.

Appendix B – IAFWA Resolution No. 10

Resolution No. 10 – Executive Committee of the International Association of Fish and Wildlife Agencies, Forty-first Convention, Rochester, NY, September 1951:

WHEREAS, the flyway plan of administering the waterfowl resources of the Continent has been adopted by the U.S. Fish and Wildlife Service as the basis for migratory waterfowl regulations and

WHEREAS, each of the states within the several flyways should participate more actively in annual surveys, both on the nesting grounds and in wintering areas, to determine the status of waterfowl and especially the development of more adequate midwinter inventories and

WHEREAS, the state wildlife agencies within the several flyways bear a major share of the burden for enforcing migratory bird hunting regulations in the shaping of which they have practically no voice and

WHEREAS, conditions prevail in each of the flyways which present difficult problems for both the states and the federal government, including waterfowl depredations on agricultural crops in some flyways and

WHEREAS, in order to bring about better understanding and cooperation, representatives of the official state agencies should participate fully in the formulation of the annual migratory bird hunting regulations of the United States.

NOW, THEREFORE, it is hereby recommended that there be established a flyway council in each flyway composed of representatives of the official state wildlife conservation agencies and that each flyway council in turn appoint or elect two of its members to serve on a national waterfowl council, and that the federal government departments of Canada and Mexico in charge of waterfowl management each be invited to appoint two advisory members, without voting powers, to meet with this national waterfowl council; said national waterfowl council to meet with the U.S. Fish and Wildlife Service to recommend annual regulations and such management practices and policies as they deem fitting.

Be it further resolved that coordinators be selected and assigned to each flyway by the U.S. Fish and Wildlife Service to act as liaison agents for the coordination of research and management work of the various states and the federal government, and to combine state and federal findings and make such findings available to the respective flyway councils.

Appendix C – Preamble of National Flyway Council

PREAMBLE OF THE NATIONAL FLYWAY COUNCIL (1998)

Whereas,

- the Flyway plan of administering the waterfowl resources of the continent has been adopted by the U.S. Fish and Wildlife Service as the basis for migratory waterfowl regulations; and
- each of the states within the several Flyways should participate more actively in annual surveys, both on the nesting grounds and in wintering areas, to determine the status of waterfowl and especially the development of more adequate midwinter inventories; and
- the state wildlife agencies within the several Flyways bear a major share of the burden for enforcing migratory bird hunting regulations in the shaping of which they have practically no voice; and
- conditions prevail in each of the Flyways which present difficult problems for both the states and the Federal Government, including waterfowl depredations on agricultural crops in some Flyways; and
- in order bring about a better understanding and cooperation, representatives of the official state agencies should participate fully in the formulation of the annual migratory bird hunting regulations of the United States;

Now, Therefore,

- it is hereby recommended that there be established a Flyway Council in each Flyway composed of representatives of the official state wildlife conservation agencies; and that each Flyway Council in turn select one of its members to serve on a National Flyway Council, and that the Federal Government Departments of Canada and Mexico in charge of waterfowl management each be invited to appoint two advisory members, without voting powers, to meet with this National Flyway Council; said National Flyway Council to meet with the U.S. Fish and Wildlife Service to recommend annual regulations and such management practices and policies as they deem fitting.

Be it further resolved that coordinators be selected and assigned to each Flyway by the U.S. Fish and Wildlife Service to act as liaison agents for the coordination of research and management work of the various states and the Federal Government, and to combine state and Federal findings and make such findings available to the respective Flyway Councils.

To fulfill the responsibility of the states of the U.S. as directed by resolution Four (4) of the Forty-second Convention of the International Association of Fish and Wildlife Agencies, as follows:

Whereas,

- Resolution 10 of the Forty-first Annual Convention of the International Association of Fish and Wildlife Agencies established among the states, Flyway Councils, and National Flyway Council to work with the U.S. Fish and Wildlife Service in an effort to insure the participation of the States in National Waterfowl Management, and
- the several states have efficiently organized such Councils for the four Flyways and the National Councils; and
- this principle and program has been accepted and implemented by the U.S. Fish and Wildlife Service, which agency has recognized these State groups and has cooperated fully with them by setting up machinery for further close teamwork on a year around basis;

Now, Therefore, be it resolved that the International Association of Fish and Wildlife Agencies in an annual convention assembled at Dallas, Texas, this 12th day of September, 1952 does hereby commend the U.S. Fish and Wildlife Service for its progressive action which, through the coordinated activities of the Federal and State agencies, will lead to better and more effective waterfowl management; and

Be it further resolved that the International Association of Fish and Wildlife Agencies hereby instruct the National Flyway Council to complete its permanent organization in accordance with the previous resolution of the International Association of Fish and Wildlife Agencies, and to adopt by-laws for the government and procedure of the National Flyway Council and the several Flyway Councils under uniform provisions, and

Be it still further resolved that the President of the International Association of Fish and Wildlife Agencies be instructed to appoint from the membership of the National Flyway Council a temporary Chair with power to call meetings, to appoint a committee to draft by-laws, and to serve as and perform the usual duties of a Chair until the permanent organization is completed.

Appendix D – Example of Flyway Council MOU

MEMORANDUM OF UNDERSTANDING

between

THE U.S. FISH AND WILDLIFE SERVICE

and

THE CENTRAL FLYWAY COUNCIL

for the

COOPERATIVE EXCHANGE, INTERPRETATION, AND EVALUATION OF DATA AND
INFORMATION USED FOR DEVELOPING ANNUAL WATERFOWL HUNTING
REGULATIONS

This MEMORANDUM OF UNDERSTANDING is between the Central Flyway Council, represented by the Chairman, and hereinafter referred to as the Council; and the U.S. Fish and Wildlife Service, represented by the Director, and hereinafter referred to as the Service.

WHEREAS, the Central Flyway Council has the responsibility under its Bylaws to represent the States comprising the Central Flyway, namely, Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, regarding cooperative State-Federal management and research on migratory waterfowl of the Central Flyway; and

WHEREAS, the Service has the responsibility under various acts, laws, and treaties of the United States, notably the Migratory Bird Treaty Act of 1918, as amended, to manage the designated migratory bird resources of North America while they are within the United States; and

WHEREAS, the management of the migratory waterfowl resources in the Central Flyway has traditionally been conducted cooperatively between the Service and member States of the Council, and includes such activities as banding and marking birds; conducting population surveys; cooperating in harvest and hunter activity surveys; conducting experiments on the effects of regulatory changes on harvest, hunting activities, and migratory waterfowl populations; inventorying, monitoring, acquiring, and managing migratory waterfowl habitats; assisting in the development of flyway and species management plans; and conducting public information and education programs; and

WHEREAS, the expenses of conducting the above necessary management and research functions are provided jointly by the Service and member States of the Council, the latter utilizing both federally provided and State monies; and

WHEREAS, the issuance and enforcement of waterfowl hunting regulations occurs at both the Federal and State levels as a primary means of affording adequate protection to the migratory waterfowl resource while permitting reasonable sport harvest of this resources by hunters within the Central Flyway;

NOW, THEREFORE, it is mutually agreed that:

1. The Service will annually request the Central Flyway Council to name no more than two waterfowl authorities, hereinafter named Flyway Consultants, to represent the Council in working with the Service.

2. The Flyway Consultants shall be a person who, because of education, training, and/or experience, have gained a position of prominence in flyway or national waterfowl expertise. The determination of their stature shall be based upon biological and/or administrative accomplishments and recognition. Flyway Consultants or—in the event they find themselves unable to serve—their Council-appointed alternatives shall be available for participation in meetings of the Service Regulations Committee, particularly during the period from mid-July through mid-August.
3. The Flyway Consultants will serve on a calendar year basis, in order to best provide technical input into each waterfowl hunting season regulatory cycle. Except in the first year in which this MEMORANDUM OF UNDERSTANDING is in effect, the Council will inform the Service prior to January 1 of individuals selected by the Council to serve as the Flyway Consultants during the ensuing calendar year.
4. The Flyway Consultants shall serve without compensation.
5. The Flyway Consultants will participate in meetings of the Service Regulations Committee, and other meetings as may be deemed appropriate, by providing statistical data and information, including interpretation thereof, to the Service Regulations Committee. The purpose of this technical input will be to assist the Service Regulations Committee to develop Central Flyway waterfowl hunting regulations recommendations for consideration by the Director. Final decisions are reserved for the Director.
6. To facilitate the participation of the Flyway Consultants, the Service shall reimburse the participants directly for actual travel from their normal places of employment to and from meeting locations of the Service Regulations Committee and such other meetings as may be deemed appropriate, and for per diem at authorized rates.
7. In exchange for the participation of the Flyway Consultants, the Service shall provide continental, national, flyway, and available State information on waterfowl populations, hunter activities, harvests, and habitats, along with necessary technical assistance required for the interpretation, evaluation, and analysis of such information and data. Such materials may include technical publications, administrative reports, and unpublished data.
8. In turn, the Flyway Consultants shall provide to the Service, additional materials from Flyway Council member States related to the subjects listed in item 7 which may not otherwise be available to the Service. Such materials may include technical publications, administrative reports, and unpublished data.
9. Each and every provision of this MEMORANDUM OF UNDERSTANDING is subject to the laws of the United States and the laws and regulations of the various States from which the Flyway Consultants may be selected.
10. Nothing in the MEMORANDUM OF UNDERSTANDING shall be construed as obligating either party hereto to the expenditure of funds or for the future payment of money in excess of appropriations authorized by law.

11. Nothing contained herein shall be construed as limiting in any way the responsibility and authority, as defined by law, of the Director, U.S. Fish and Wildlife Service, and as defined by Bylaws, of the Chairman, Central Flyway Council.
12. This MEMORANDUM OF UNDERSTANDING shall become effective when signed by the parties hereto and shall continue in force until terminated by either party upon notice in writing to the other of his intention to do so. Amendments to this MEMORANDUM OF UNDERSTANDING may be proposed by either party and shall become effective upon written approval by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this MEMORANDUM OF UNDERSTANDING as of the date last signed below.

U.S. FISH AND WILDLIFE SERVICE

By: _____
DIRECTOR (Date)

CENTRAL FLYWAY COUNCIL

By: _____
CHAIRMAN (Date)

Appendix E – Example of Flyway Council MOU

MEMORANDUM OF UNDERSTANDING

between

THE U.S. FISH AND WILDLIFE SERVICE

and

THE CENTRAL FLYWAY COUNCIL

for the

COOPERATIVE EXCHANGE, INTERPRETATION, AND EVALUATION OF DATA AND
INFORMATION USED FOR DEVELOPING ANNUAL EARLY-SEASON MIGRATORY
GAME BIRD HUNTING REGULATIONS

This MEMORANDUM OF UNDERSTANDING is between the Central Flyway Council, represented by the Chairman, and hereinafter referred to as the Council; and the U.S. Fish and Wildlife Service, represented by the Director, and hereinafter referred to as the Service.

WHEREAS, the Council has the responsibility under its Bylaws to represent the States comprising the Central Flyway, namely, Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and the Central Flyway portions of Colorado, Montana, New Mexico, and Wyoming, regarding cooperative State-Federal management and research on migratory game birds of the Central Flyway; and

WHEREAS, the Service has the responsibility under various acts, laws, and treaties of the United States, notably the Migratory Bird Treaty Act of 1918, as amended, to manage the designated migratory bird resources of North America while they are within the United States; and

WHEREAS, the management of the migratory game bird resources in the Central Flyway has traditionally been conducted cooperatively between the Service and member States of the Council, and includes such activities as banding and marking birds; conducting population surveys; cooperating in harvest and hunter activity surveys; conducting experiments on the effects of regulatory changes on harvest, hunting activity, and migratory game bird populations; inventorying, monitoring, acquiring, and managing migratory game bird habitats; assisting in the development of flyway and species management plans; and conducting public information and education programs; and

WHEREAS, the expenses of conducting the above necessary management and research functions are provided jointly by the Service and member States of the Council, the latter utilizing both federally provided and State monies; and

WHEREAS, the issuance and enforcement of migratory game bird hunting regulations occurs at both the Federal and State levels as a primary means of affording adequate protection to the migratory game bird resource while permitting reasonable sport harvest of this resources by hunters within the Central Flyway;

NOW, THEREFORE, it is mutually agreed that:

13. The Service will annually request the Council to name no more than two migratory game bird authorities, hereinafter named Early-Season Flyway Consultants, to represent the Council in working with the Service.
14. The Early-Season Flyway Consultants shall be a person who, because of education, training, and/or experience, have gained a position of prominence in flyway and national migratory game bird expertise. The determination of their stature shall be based upon biological and/or administrative accomplishments and recognition. Due to specialization and particular expertise, the Early-Season Flyway Consultants may be different personnel than the Flyway Consultants. Early-Season Flyway Consultants or—in the event they find themselves unable to serve—their Council-appointed alternatives shall be available for participation in meetings of the Service Regulations Committee during the period from May to mid-July.
15. The Early-Season Flyway Consultants will serve on a calendar year basis, in order to best provide technical input into each migratory game bird hunting season regulatory cycle. Except in the first year in which this MEMORANDUM OF UNDERSTANDING is in effect, the Council will inform the Service prior to January 1 of individuals selected by the Council to serve as the Early-Season Flyway Consultants during the ensuing calendar year.
16. The Early-Season Flyway Consultants shall serve without compensation.
17. The Early-Season Flyway Consultants will participate in meetings of the Service Regulations Committee, and other meetings as may be deemed appropriate, by providing statistical data and information, including interpretation thereof, to the Service Regulations Committee. The purpose of this technical input will be to assist the Service Regulations Committee to develop Central Flyway migratory game bird hunting regulations recommendations for consideration by the Director. Final decisions are reserved for the Director.
18. To facilitate the participation of the Early-Season Flyway Consultants, the Service shall reimburse the participants directly for actual travel from their normal places of employment to and from meeting locations of the Service Regulations Committee and such other meetings as may be deemed appropriate, and for per diem at authorized rates. The Service will only make reimbursements for two consultants from each flyway at any given set of meetings.
19. In exchange for the participation of the Early-Season Flyway Consultants, the Service shall provide continental, national, flyway, and available State information on migratory game bird populations, hunter activities, harvest, and habitats, along with necessary technical assistance required for the interpretation, evaluation, and analysis of such information and data. Such materials may include technical publications, administrative reports, and unpublished data.
20. In turn, the Early-Season Flyway Consultants shall provide the Service additional materials from Council member States related to the subjects listed in item 7 which may not otherwise be available to the Service. Such materials may include technical publications, administrative reports, and unpublished data.

21. Each and every provision of this MEMORANDUM OF UNDERSTANDING is subject to the laws of the United States and the laws and regulations of the various States from which the Early-Season Flyway Consultants may be selected.
22. Nothing in the MEMORANDUM OF UNDERSTANDING shall be construed as obligating either party hereto to the expenditure of funds or for the future payment of money in excess of appropriations authorized by law.
23. Nothing contained herein shall be construed as limiting in any way the responsibility and authority, as defined by law, of the Director, U.S. Fish and Wildlife Service, and as defined by Bylaws, of the Chairman, Central Flyway Council.
24. This MEMORANDUM OF UNDERSTANDING shall become effective when signed by the parties hereto and shall continue in force until terminated by either party upon notice in writing to the other of his intention to do so. Amendments to this MEMORANDUM OF UNDERSTANDING may be proposed by either party and shall become effective upon written approval by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this MEMORANDUM OF UNDERSTANDING as of the date last signed below.

U.S. FISH AND WILDLIFE SERVICE

By: _____ (Date)

DIRECTOR

CENTRAL FLYWAY COUNCIL

By: _____ (Date)

CHAIRMAN

Appendix F – Sample Projects Funded by the Flyway Councils

Central Flyway Council Cooperative Project Funding (1973-2008).

Project	Amount
Light Goose Monitoring	\$ 297,100
Hudson Bay Light Goose Study	\$ 289,100
CF Preseason Duck Banding	\$ 227,000
Sandhill Crane Satellite Telemetry	\$ 117,500
White-fronted Goose Banding	\$ 112,100
Operational Duck Banding	\$ 108,000
Karrak Lake Light Goose Study	\$ 100,000
Central Arctic Goose Study	\$ 94,000
Small Unit Management Study	\$ 75,000
Concrete Culvert Modeling Study	\$ 75,000
SGP Canada Goose Survey	\$ 61,500
Duck Recruitment Study	\$ 60,000
CRP Nesting Study	\$ 54,000
Snow Goose Banding	\$ 53,000
Non-Toxic Shot I & E Program	\$ 45,000
TGP Canada Goose Marking	\$ 36,000
MT Duck Recruitment Study	\$ 25,000
Canada Goose DNA Study	\$ 16,500
Nest Structure Evaluation	\$ 16,000
MO Mourning Dove Study	\$ 13,250
Mallard Model Development	\$ 10,000
AK White-fronted Goose Banding	\$ 10,000
Snow Goose Nutrient Study	\$ 9,000
Snow Goose Marking Project	\$ 9,000
CF Website Development	\$ 5,300
Migratory Bird Use of Rice Fields	\$ 5,000
Central Flyway I & E Program	\$ 5,000
Predator Foraging Study	\$ 4,800
RMP Sandhill Crane Survival	\$ 4,000
Mallard Sex Ratio Study	\$ 1,500

Appendix G – Mission and Vision Statements for the Flyway System

Mission and Vision Statements for the Flyway Council System (1995)

Mission Statement: The Flyway Council System will provide leadership in the International conservation of migratory birds and build partnerships among public and private groups interested in this valuable wildlife resource.

Near Term Vision: The Flyway Council System is responsible for the conservation of migratory game birds. The system is internationally based and comprehensive, dealing with all conservation issues. An open process encourages participation by all those interested in migratory game bird management. Voting membership is inclusive of entities having legal jurisdiction over migratory birds and their habitats and having significant financial resources and personnel dedicated to their management.

Long-term Vision Statement: The Flyway Council System will achieve effective conservation of all migratory birds by linking efforts of all concerned partners in a scientifically based, publicly supported program of coordinated actions for the benefit of migratory birds, their habitats, and the uses they provide.

With respect to the long-term vision of including all migratory birds in the system, the following statement was made:

The (Flyway Review) Steering Committee concluded that although the (Flyway Council System) model for all migratory birds has considerable merit, its development (in 1995) would be premature until after all affected resource groups can be involved and consensus reached. The Steering Committee further understood that the International Association of Fish and Wildlife Agencies established an Ad Hoc Committee at its September 1994 meeting to review recommendations concerning management of all migratory birds. It is recommended that this Committee explore the potential for coordinating all migratory bird management within a single system. Further it is recommended that the Federal governments of the U.S. and Canada immediately convene a policy level group, called “The International Migratory Game Bird Management Ad Hoc Committee” representing Flyways and the Federal Governments to determine how best to implement the new system. Recommendations from this committee should be made to the International Association of Fish and Wildlife Agencies by their September 1995 meeting. Due consideration should be given to appointing several Steering Committee members to the International Migratory Bird Management Ad Hoc Committee to insure continuity.