



Preserve Plum Island Coalition

October 25, 2012
Mr. Philip Youngberg
c/o John Dugan
U. S. General Services Administration
10 Causeway Street, Room 925
Boston, MA 02222

R.E.: Comments on the Draft Environmental Impact Statement for the Public Sale
of Plum Island, New York.

Dear Mr. Youngberg:

I am writing on behalf of the Preserve Plum Island Coalition (PPIC) an association of more than 50 conservation, environmental, business, civic organizations (who represent more than 250,000 members), and elected officials and individuals who are working to protect the critical natural and cultural resources of Plum Island, NY preferably through its dedication as a National Wildlife Refuge.

To this end PPIC appreciates the opportunity to provide comments on the above-referenced document. In summary, as detailed below, we believe that although the Draft Environmental Impact Statement (DEIS) contains some useful information and is well written, it is a very incomplete and superficial document which fails to meet its mandate pursuant to the National Environmental Policy Act (NEPA). Specifically, PPIC believes the DEIS fails to adequately catalog and characterize the natural and cultural resources of the Island and thus fails to reasonably assess and evaluate the numerous adverse impacts of the two residential development scenarios on these resources. It also fails to provide a discussion of an alternative that is clearly provided for in the Congressional language contained in Section 540 of PL 110-329 and which was specifically requested for by the U.S. Fish and Wildlife Service and PPIC - to consider dedicating a significant fraction of the Island to the U.S. Fish and Wildlife Service as a National Wildlife Refuge. Because of the DEIS's significant shortcomings and inadequacies as a document for informed decision-making we strongly urge the General Services Administration (GSA) to revise the Draft EIS to respond to and address the numerous concerns and issues detailed in the letter.

For ease of presentation our review of the DEIS is broken into two major areas: 1) A review of the alternatives assessed and 2) A review of the discussion of the "affected

environment”, i.e. the natural and cultural resources that might be affected by the proposed action to sell Plum Island and an assessment of the “consequences”, of this action on those resources. Please note that the use of the phrase and words “affected environment” and “consequences”, respectively, relate to their use in the headings of the DEIS.

Alternatives Discussed and Assessed

GSA has consistently contended, as most recently evidenced by the options considered in this DEIS, that it has no flexibility but to sell all of Plum Island to another party given the language provided for in Section 540 of Public Law 110-329 of 2008. In reaching this determination the GSA insists on the following language “...the Secretary shall liquidate the Plum Island asset by directing the Administrator of General Services to sell through public sale all real and related personal property and transportation assets...”. We believe that a reading of the full section as stated below allows for a more expansive and flexible view (emphasized passage mine):

“Notwithstanding any other provision of law, should the Secretary of Homeland Security determine that the National Bio and Agro-defense Facility be located at a site other than Plum Island, New York, the Secretary shall liquidate the Plum Island asset by directing the Administrator of General Services to sell through public sale all real and related personal property and transportation assets **which support Plum Island operations, subject to such terms and conditions as necessary to protect government interests and meet program requirements...**”

This bolded section qualifies Congressional intent and makes it clear that the GSA may restrict its sale in order to “protect government interests” and to those parts of Plum Island which are necessary for “supporting Plum Island operations”. This more expansive view is not widely shared just by the conservation community but by the U.S. Fish and Wildlife Service too, as reflected in their 7-page October 19, 2010 letter to your agency. In this letter the Service makes a very strong legal case as to why the transfer of the Island to the Service to create a National Wildlife Refuge is highly consistent with the intent of Section 540, based on the “protect government interests” clause. As their letter details these “government interests” include endangered and threatened species, resident and migratory bird species (protected pursuant to the Migratory Bird Treaty Act), and marine mammals (Marine Mammal Protection Act), among other statutes and areas of federal interest.

Moreover, we contend that Real property that “support[s]” the federal government’s “operations” on Plum Island does not necessarily mean all of Plum Island. Taken literally, the part of the island that “supports government’s operations” is the land on which the laboratory buildings, parking lots and other built aspects are located. The built “footprint” of these operations is limited to approximately 42 acres in the

southwestern part of the island, a fraction of the total 843 acre island. The remainder of the island is in a mostly natural state, with the exception of the federally designated Plum Island lighthouse and the remains of Fort Terry, a culturally significant fortification from the Spanish-American War situated on the eastern tip of the island. Surely that abandoned fort, for example, does not “support” the operations of the animal laboratory, nor does the large wetland situated in the southwestern corner of the island, nor does the coastline along the eastern reaches of the island frequented by a large wintering seal population. Yet the DHS and GSA have, without any discussion of the point, declared that they are under a Congressional mandate to sell this fort, wetland and rocky coastline along with every other square foot of the island. If Congress had intended to direct the sale of the entire Plum Island, it could easily have said that in Section 540, but it did not do so. In the face of this more ambiguous and broadly conditional language, there simply is no Congressional mandate to sell the entire island.

We are not aware that the DHS or GSA has explained, with reference to legislative history or factual aspects of the lay-out of the built facilities on Plum Island, why Section 540 should be construed to mean the entire island. The language in Section 540 could just as easily mean something else, such as the western portion of the island where the laboratory and other buildings are located. If so, then GSA is under no requirement to sell the rest of the island and may even lack the authority to do so.

We respectfully suggest that until these two conditional issues are explained by the GSA and resolved through factual documentations, such as a detailed legal memorandum supporting its interpretation that it has no discretion but to sell all of the Plum Island, GSA is vulnerable to legal attack on these grounds. For the foregoing reasons, we strongly believe GSA is overreaching when it says there is a mandate to sell the whole island and can only say there is a mandate to sell the part(s) of the island which “supports federal government’s operations”, and which does not jeopardize the protection of “government interests”.

Therefore, we once again reiterate our request that the DEIS contain an alternative which discusses the transfer of those portions of the Island which do not “support government operations” but for which there has been demonstrated “government interest” (as clearly and forcefully made clear in the USFWS 10.19.2010 letter) to the USFWS to establish a National Wildlife Refuge. We also strongly urge that this alternative become the agency’s preferred alternative under NEPA.

2. Affected Environment and Impacts or Consequences of Alternatives on Island Resources

Matrix

We appreciate the inclusion of the matrix (Table 2.4-1) entitled “Comparison of

Environmental Impacts and Mitigation for Alternatives”. While we disagree with some of the determinations, the matrix format makes for ease of comparison between different options and their impacts.

NYNHP Biodiversity Report

In May of 2012 the New York Natural Heritage Program published a 55-page report entitled “Biodiversity and ecological potential of Plum Island, NY”. A public presentation on the findings in the report was made on May 22, 2012 in Southold Town. As this is the definitive work describing the biological and ecological resources of Plum Island, and its information and data is quite current and comprehensive, it is deeply troubling that none of the voluminous amount of information or recommendations in the report found its way into the DEIS, especially since it was published two full months prior to the issuance of the DEIS in July 2012. Instead, the DEIS refers to limited preliminary correspondence between DEIS consultants and NYHNP staff that took place in 2010.

On a related note, the DEIS references a detailed paper authored by Dr. Eric Lamont and Richard Stalter titled “Historical and Extant Rare, Protected, and Noteworthy Plants of Plum Island, New York” but goes on to say that “A survey for rare, exploitable, endangered, or threatened plant species was not conducted in support of the EIS”. **We strongly urge that this highly relevant and informative NYNHP report be incorporated and integrated fully into the DEIS and that the Natural Heritage element sites (both communities and species) become property attributes clearly marked on the attribute maps to assist in delineating sites where development may occur without impacting critical ecological resources. Once identified and delineated, the DEIS should assess and recommend ways to mitigate impacts to these Natural Heritage ranked elements. This report should be included in the appendices of the DEIS. We further recommend that the DEIS incorporate the information provided in the Lamont & Stalter paper on rare plant species.**

Four-season Ecological Inventory

With regard to the biological and ecological species, communities, and resources found on Plum Island a number of organizations, including PPIC, requested at the DEIS Scoping hearing that a full four-season biological inventory of the Island take place. This is essential to accurately capture, characterize and catalog the biodiversity of the Island and thus serve as a platform for most accurately evaluate adverse ecological impacts. Given the nature of the action (the sale of Plum Island) and the fact Congress placed no specific timetable on the sale of the Island it is entirely feasible and reasonable to complete this highly desired inventory. **To adequately catalog and characterize Plum Island’s ecological resources PPIC once again calls upon the GSA to conduct a full year, four-season biological and ecological inventory, including a rare plant survey and to incorporate into the DEIS the ecological data gained from the inventory along with an assessment of the numerous potential adverse impacts to these species and communities.**

Seal haul-out site

According to marine mammal experts Plum Island possesses the largest seal haul-out site in southern New England. Several hundred harbor and grey seals overwinter on the beach and numerous rocks immediately offshore on the Island's eastern tip. While the DEIS makes passing mention of this important wildlife congregation, it fails to provide any meaningful information or details about this phenomenon such as the number of seals and population trends in the seal population overwintering here, all information easily obtainable from the Riverhead Foundation for Marine Research and Preservation. Nor does the DEIS discuss and evaluate potential adverse impacts to the seal population from disturbance associated with the construction of the residential development under Options 2 and 3, as well as many hundreds of people that may eventually live there and frequent the shoreline or immediate offshore waters where the seals congregate. **The DEIS should be amended to include relevant information characterizing the seal haul-out site and evaluate, in a more rigorous way, potential adverse impacts from the various development scenarios.**

Birds

From periodic censuses conducted by researchers from the local Audubon chapter, it is clear that Plum Island supports a remarkable array of bird species and provides important migratory stopover habitat for several dozen migratory bird species. Yet, the DEIS fails to characterize the important role the Island plays for resident and migratory species, provides out-of-date information on the number of birds which have occurred on the Island (stating in one paragraph 130 species have been identified on the Island and in another paragraph 72 species; the actual current number stands at 191 species), and inadequately assesses the potential impacts to bird populations here from various development scenarios. For example, the leading cause of bird decline - habitat destruction and associated fragmentation - is briefly mentioned but is not discussed in sufficient detail to determine or quantify impacts. Other common causes of avian mortality such as predation from feral and pet cats and window/building collisions are not discussed at all. **The DEIS should provide current information on the number of bird species found on the Island, better characterize their populations and use by habitat and season, and assess potential adverse impacts related to the various development scenarios.**

Water and Wetland Impacts

The DEIS identifies the presence of wetlands on Plum Island, including, most notably, the large freshwater wetland situated in the southwestern part of the Island. Yet the DEIS superficially describes this freshwater wetland community and fails to present and evaluate potential adverse impacts, both qualitative and quantitative in nature, to the wetland caused by extensive residential development. Water quantity impacts can result from a lowering of the water table due to over-pumping of the aquifer (the DEIS states that safe yield is between 150,000 and 200,000 gallons per day and projects a 194,000 gallon a day pumping rate under Option 3) which could dry out the wetland, cause

saltwater intrusion of the aquifer system, or both. Quality impacts to both the aquifer and the freshwater wetland to which it is hydrologically connected include nutrient enrichment and contamination from potential use of lawn and landscape fertilizers. **The DEIS should evaluate potential water quality impacts to the Island's underlying aquifer and the Island's wetlands using readily available nitrogen and contaminant models. Further, the DEIS should assess potential adverse impacts to the aquifer system and wetland resources associated with over-pumping of the aquifer system to meet water supply demands. Lastly, the DEIS should do a more complete job of characterizing the structure and species composition of the large wetland in the southwestern portion of the Island.**

Other Biological Impacts

The DEIS makes mention of certain bat species that may occur on the Island. However, several of the bat species mentioned are probably not accurate in that neither Indiana Bat or Northern Bat are known to occur on, or pass through, Long Island. For example, neither species is mentioned in Paul Connor's definitive work on the subject - the 1971 New York State Museum Publication, "The Mammals of Long Island, New York.". This lack of certainty underscores the need for a full-year, four season inventory of the Island's living resources, as stated earlier. Additionally, the DEIS mentions that several of these species may be provided shelter by existing buildings, bunkers, and batteries found on Plum Island. **The DEIS should document the resident and migratory bat species that utilize Plum Island's natural and human-created habitats, and assess the impact on them from significant numbers of people living on the Island and presumably frequenting or exploring the structures they use for shelter.**

Page 3-86 of the DEIS makes a unsupported statement: "Species that do not utilize upland resources would not be expected to be affected by redevelopment". This unsubstantiated assertion flies in the face of common sense. Species found in wetland areas, along the beach, and in adjacent off-shore waters most certainly could be affected by human disturbance associated with the two residential development scenarios. **The DEIS should provide substantiation for the unsupported above-referenced statement.**

Geological Impacts

The DEIS fails to discuss basic and ongoing coastal processes that affect the shape and shoreline character of Plum Island, i.e. the erosion and accretion that certain sections of shoreline have experienced, notably the bluffs along the north, south-central and western shore, nor does it discuss possible shoreline hardening strategies that residential property owners would likely undertake to protect their properties from erosion, strategies which likely would have adverse environmental impacts. **The DEIS should include a thorough description of the coastal processes, most notably erosion, affecting the island and evaluate the environmental impact of homeowner strategies proposed in response.**

Program Consistency

The GSA proposal to sell all of Plum Island is not consistent with a number of policies implemented by the federal and state governments designed to safeguard the environment. These include efforts to protect Long Island Sound and the Peconic Estuary. **The DEIS should discuss all relevant programs and discuss the extent to which the proposed action is, or is not, consistent with them.**

Conclusion

In conclusion, the Preserve Plum Island Coalition appreciates the opportunity to provide the aforementioned comments and looks forward to continuing its efforts to protect the key cultural and natural resources of Plum Island.

Sincerely,

John L. Turner
Spokesperson
PPIC

Cc: Honorable Charles Schumer, US Senator
Honorable Kirsten Gillibrand, US Senator
Honorable Richard Blumenthal, US Senator
Honorable Joseph Lieberman, US Senator
Honorable Timothy Bishop, US Congressman
Honorable Peter King, US Congressman
Honorable Rosa DeLauro, US Congresswoman
Honorable Scott Russell, Southold Town Supervisor