

## RECORD OF DECISION

### PUBLIC SALE OF PLUM ISLAND, NEW YORK

The General Services Administration (GSA) and the Department of Homeland Security (DHS) have proposed to transfer Plum Island, New York and its support facilities out of federal ownership by way of public sale. This Record of Decision (ROD) documents the decision to proceed with that process.

#### BACKGROUND

Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council of Environmental Quality Regulations for Implementing NEPA (40 CFR Parts 1500-1508), GSA and DHS, acting as Joint Lead Agencies (Joint Lead Agencies), have prepared a Final Environmental Impact Statement (EIS) for the sale of Plum Island, located in the Town of Southold (Town), Suffolk County, New York. The U.S. Environmental Protection Agency (EPA) and the U.S. Fish and Wildlife Service (FWS) are “cooperating agencies” as that term is defined in 40 CFR 1501.6 with the Joint Lead Agencies for the preparation of the EIS. The Draft and Final EIS are incorporated into this ROD by reference, and are available from the Joint Lead Agencies and online at <http://www.plumislandny.com/>.

The following parcels of land support the Plum Island Animal Disease Center (PIADC) mission and constitute the property that will be sold: an island, known as “Plum Island,” situated in Long Island Sound, New York, containing approximately 840 acres of land, and a support facility known as the “Orient Point Facility” containing approximately 9.5 acres of land with a nearby small parcel of land containing a substation, both of which are situated in Orient Point, New York. The above-described assets are collectively referred to as the “Property” in this ROD.

The proposed action by the Joint Lead Agencies is the administrative act of transferring ownership of the Property out of federal ownership via public sale (Proposed Action) as required by the Section 540 of the Consolidated Security, Disaster Assistance and Continuing Appropriations Act of 2009; Public Law 110-329, as amended (Act). The Property, after transfer would become subject to the land use regulations and taxing authority of the Town of Southold and Suffolk County. Future development or reuse of the Property by a future owner will be subject to local land use and development regulations; zoning controls and approvals processes; and permitting requirements.

After the publication of the Final EIS on June 25, 2013, additional comments were received from various stakeholders, including the EPA, which comments have been added to the administrative record. The Joint Lead Agencies have taken note of these comments and will give them further consideration as the time of the sale approaches.

The Joint Lead Agencies made diligent efforts to solicit public input from all potentially impacted parties and to keep the community fully informed through various outreach efforts during the NEPA process. Various methods were used to inform the public about the EIS process, including local newspaper public notices, Federal Register notices, mailings, emails, phone calls, public meetings, site visits, outreach activities, and public website postings. This ROD communicates the Joint Lead Agencies’ decision to implement the Proposed Action which is the administrative act of transferring ownership of the Property out of federal ownership via public sale as required by the Act. The Act mandates the sale of the Property if DHS makes the decision to locate a new National Bio and Agro-Defense Facility (NBAF) to a site other than Plum Island. In January of 2009, DHS determined that the research and laboratory work performed on Plum Island would be moved to a new site in Manhattan, Kansas. That decision by DHS resulted in the need to sell the Property, and it is the anticipated sale of the Property that created the need for the EIS.

At current projections, and subject to the availability of funds, construction of NBAF in Manhattan, Kansas, is estimated to be completed in 2019; at that time, the mission at PIADC will begin transitioning to the new facility, with the goal of completion by 2021. From the January 2009 date of DHS's decision until the time of PIADC mission cessation, there will be an interim period for DHS operations (Interim Period). During the Interim Period, DHS will continue to budget for costs associated with maintaining and sustaining critical mission operations on the Property while also fulfilling its regulatory compliance requirements to support PIADC operations.

When the construction of the NBAF facility is funded and a completion date is known, DHS will determine the schedule to transfer operations to Kansas. At that time, the Joint Lead Agencies will update the information in the EIS with a supplemental EIS and ROD, as necessary. At the time of any such supplemental EIS and ROD, the Joint Lead Agencies will be able to conduct a re-evaluation to determine what further work should be done to the EIS to address any environmental data gaps or new or changed environmental conditions and to ensure that the federal government's disposition responsibilities are met.

## ALTERNATIVES CONSIDERED

The EIS considers two alternatives: the No Action Alternative, which is to retain the Property under federal ownership, and the Action Alternative, which is to dispose of the Property by transfer out of federal ownership via public sale as directed by Congress. In conjunction with the Action Alternative, and in order to disclose potential impacts and/or benefits that could result from the reuse of Plum Island after disposition, several potential reuse options were reviewed. These options are illustrative of what the Joint Lead Agencies believe to be a range of reasonably foreseeable reuses that might be implemented on the Property by a future owner. In developing the possible reuse options under the Action Alternative, the Joint Lead Agencies sought input from federal, state, county, and local governments, including a number of meetings with the Town of Southold Planning Director. This helped to develop a better understanding of potential development areas on the Property in light of its physical and environmental characteristics. These meetings also clarified the interests and concerns of the Town government, as well as the public.

### No Action Alternative – Retain in Federal Ownership

The No Action Alternative is based on the assumption that the Property would not be sold after PIADC is relocated, and thus the Property would remain in federal ownership. Although GSA is directed by the Act to sell the Property, the No Action Alternative serves as a base line for analysis. Under the No Action Alternative, the PIADC mission would transition to Kansas in 2021 and the Property would likely be placed in a mothball status with reduced funding for operation and maintenance. In the short term, the Property would likely operate at a reduced capacity, with reduced staff for maintenance of the buildings and infrastructure. The Property, facilities, and infrastructure would likely deteriorate, and the federal government would seek an alternate federal use for the Property. This No Action alternative is presented in the EIS so that the consequences of abandoning or mothballing the Property can be fully examined.

### Action Alternative – Sale of the Property

The Action Alternative assumes that the Property would be conveyed out of federal ownership by public sale as directed by the Act. It is important to note that GSA's role in the sale process is strictly to conduct the real estate transaction(s) and perform the various related functions required under federal law.

Three reuse options are considered in the analysis:

1. Adaptive Reuse: With adaptive reuse, the existing buildings, infrastructure, and transportation assets would be adapted for other purposes and continue to function at current or similar levels with no additional development.

2. **Development:** Drawing from the information provided by the Town, a range of residential density has been determined for the Development reuse scenario, for purpose of analysis. The “minimum” density level is one housing unit on the island, consistent with that of Robbins Island as reported by the Town. The “comparable” density level is one housing unit per five acres, consistent with the reported approximate density of Fishers Island and Orient Hamlet. The total number of housing units resulting from the comparable density of one unit per five acres is 168. The “maximum” density level is based on a calculation of the capacity of the island’s aquifer to support residential use. The resulting maximum total of 500 housing units is equal to one housing unit per 1.68 acres based on ratio of units to total island area.
3. **Conservation/Preservation:** The primary result of the conservation/preservation scenario would be the protection, management, and enhancement of the natural and cultural resources on the Property should the Property be purchased for conservation or preservation purposes. This reuse option was added for consideration based on public comments received during the scoping period.

## ENVIRONMENTAL CONSEQUENCES AND MITIGATION

The EIS provides a narrative description and a tabular summary of the presently foreseeable potential environmental consequences of each of the generalized reuse options under the Action Alternative. It was found that the sale of the Property by GSA would not have a direct effect on the physical, biological, or manmade environment and there were no potentially significant environmental impacts attributable to the sale of the property. The reuse options described in the EIS include future development activities that may be performed by others and describe potential forms of mitigation that may be needed for each of those reuse options. Ultimately, specific development plans to reuse the Property would be subject to applicable federal, state, and local laws and regulations that would ensure proper mitigation of associated environmental impacts.

The Joint Lead Agencies have no authority to implement any of the reuse or development options described. After the transfer of title out of federal ownership, future development and/or reuse of the Property will be subject to local land use and development regulations; zoning controls and approval processes; permitting requirements; and review and approval under New York State Environmental Quality Review (SEQR). SEQR requires that an environmental review be conducted when a state or local agency in New York makes a discretionary decision regarding approval of a project; the objective of this review is to prevent or eliminate damage to the environment from these projects. For example, local agencies that issue land disturbance or construction permits trigger the SEQR process. Similar to the federal NEPA process, a SEQR review identifies and evaluates impacts from a proposed project on natural resources, cultural resources, aesthetics, population patterns, community character, and human health. Because of SEQR, environmental impacts that may occur after transfer of the Property out of federal ownership would be mitigated through this State-level review of proposed development and/or reuse activities. SEQR review for a specific proposed project would be far more comprehensive than any review that could be conducted by the Joint Lead Agencies because the analysis in the EIS is based on speculative reuses. The end result of SEQR review of a specific project or projects proposed for the Property could include legally binding mitigation of environmental impacts enforced at the State or local level. Furthermore, relevant federal agencies have resources to assist both landowners and state and local reviewers in mitigating impacts of development. For example:

- EPA's Clean Construction program offers resources for developers that address a variety of air quality issues associated with construction and development from exposure reduction to diesel exhaust to

green building standards. Information on EPA's Clean Construction program can be found here: <http://www.epa.gov/cleanschoolbusconstruct-overview.htm>

Water pollution prevention and control measures are critical to improving water quality and reducing the need for costly wastewater and drinking water treatment. Because water pollution can come from many different sources, a variety of pollution prevention and control measures are needed. Additional information on pollution control is available here: <http://water.epa.gov/polwaste/>

Low impact development (LID) is an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. Low impact development design and guidance manuals are available here: <http://water.epa.gov/poiwaste/2reeni#guide>

As part of the NEPA analysis conducted by the Joint Lead Agencies, the flora, fauna, and marine resources present on the Property were examined based on currently available data. The EIS determined that there would be negligible impacts to existing biological resources under the No Action Alternative, as well as under Action Alternative reuse options 1 (Adaptive Reuse) and 3 (Conservation/Preservation). Under reuse option 2 (Development), minor to moderate impacts would occur. In addition, all reuse options presumed that federal, state and local regulatory agencies would exercise their authorities to regulate development and protect sensitive habitat and wetlands. As previously noted, the reuse options discussed in the EIS are purely speculative and are used for general comparison purposes only. During the EIS process, the Joint Lead Agencies received numerous requests to gather additional biological information. Biological studies reflect resource assessments at a specific point in time, and these assessments can change over time; therefore, the Joint Lead Agencies will continue to consult with the FWS and other entities regarding the need for additional biological studies. Because the sale of the Property will not occur for a number of years, the Joint Lead Agencies will supplement the EIS and ROD as necessary when the timing of sale becomes clearer. At the time of any such supplemental EIS, the Joint Lead Agencies will be able to re-examine what further work should be done to bring it up to date to ensure that the federal government meets its responsibilities under requirements such as the Endangered Species Act and Marine Mammals Protection Act, including the government's responsibility to properly identify to potential buyers the presence of protected flora and fauna, migratory birds, and marine mammals, and their habitat. Additional information gathered in the future can be analyzed at a time much closer to the actual transfer of the Property, and therefore would be much more relevant to the assessment of impacts.

The EIS process and previous and ongoing efforts under Section 110 of the National Historic Preservation Act (NHPA) have identified historic properties (i.e., prehistoric archaeological resources, historic archaeological resources, and historic architectural resources) on Plum Island. The analysis in the EIS determined that impacts to existing National Register (NR) eligible historic properties would be negligible under the No Action Alternative. All of the reuse options examined in the EIS have the potential to affect historic properties. The EIS determined that impacts under reuse option 2 (Development) would be minor, particularly development activities in areas on Plum Island having high probability for potential prehistoric archaeological resources. The EIS recommends that in accordance with Section 106 of NHPA, deed covenants may be necessary under all of the reuse options to protect identified historic properties. In accordance with Section 110 of NHPA, DHS will identify, nominate to the NR, and protect historic properties under its ownership. Pursuant to these requirements, the Plum Island Light House was nominated and listed on the NR in 2011. In addition, the Joint Lead Agencies are currently developing NR nominations for additional eligible historic properties located on Plum Island, such as those associated with a former military fortification known as Fort Terry. While Plum Island remains in federal ownership, DHS will continue to comply with its Section 110 responsibilities. GSA

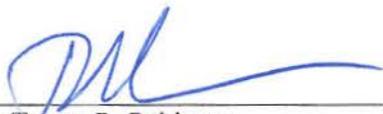
undertakings (in this case, the sale of the Property) on resources that are listed or eligible for listing on the NR. Because the sale of the Property will not occur for a number of years, the Section 106 process has not yet been completed.

The federal government has an obligation under the Comprehensive Environmental Response, Compensation, and Liability Act to protect human health and the environment by certifying the environmental condition of the Property prior to transfer of title. The federal government will comply with all appropriate environmental laws and requirements so that the remedial actions for the Property have been accomplished for the protection of human health and the environment. Any corrective actions required, including deed restrictions, land use controls, or other requirements based on environmental conditions of the Property, will be followed and all appropriate regulator protocols with the New York State Department of Environmental Conservation and with the EPA will be completed prior to transfer.

#### DECISION

Having given consideration to all of the factors discovered and analyzed during the NEPA process, it is the Joint Lead Agencies' decision to proceed with the Proposed Action. When the timeframe for the DHS relocation from PIADC to NBAF in Kansas is known, the Joint Lead Agencies will re-examine the EIS specifically for the purpose of ensuring that it reflects the then current knowledge of the conditions on the property, versus those conditions that existed on the date of this ROD, and will supplement the EIS as necessary.

The ROD is hereby approved as of the 29<sup>th</sup> day of August, 2013.



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