

Noah Kahn  
Chief of Hunting and Sport Fishing  
U.S. Fish and Wildlife Service  
300 Westgate Center Drive  
Hadley, MA 01035-9587

**Re: Opposition to the August 2021 Silvio O. Conte National Fish and Wildlife Refuge  
Recreational Hunting and Fishing Plan for New Hampshire and Vermont**

Mr. Noah Kahn,

My name is Joseph Mullin and I am the Northeastern States Manager for the Congressional Sportsmen's Foundation (CSF). As a New England resident and avid sportsman, I write to you opposing the anti-sporting provisions included within the August 2021 Silvio O. Conte National Fish and Wildlife Refuge (Refuge) Recreational Hunting and Fishing Plan for New Hampshire and Vermont (Final Plan) and the process by which these provisions were included within the Final Plan. Sportsmen and women have a tenured history of supporting the conservation efforts of the U.S. Fish and Wildlife Service (FWS), but the manner in which they were treated regarding this matter, wherein anti-hunting provisions were included within the Final Plan and not mentioned in the original version, is inexplicable. **For that reason, I request the FWS re-open the comment period and provide all relevant information and justifications for proposed management alternatives in a truly clear and transparent manner.**

Since 1989, CSF has dedicated itself to the mission of working with Congress, governors, and state legislatures to protect and advance hunting, angling, recreational shooting and trapping. The unique and collective force of the Congressional Sportsmen's Caucus, the Governors Sportsmen's Caucus, and the National Assembly of Sportsmen's Caucuses, working closely with CSF, and with the support of major hunting, recreational fishing and shooting, and trapping organizations, serves as an unprecedented network of pro-sportsmen elected officials that advance the conservation interests of America's hunters and anglers.

My concerns rest not only with the restrictions that were included within the Final Plan, but also with the process that was taken to incorporate several anti-hunting limitations within this framework. Sportsmen and women in New Hampshire and Vermont, as well as those who frequent the Refuge, deserve a full accounting of why certain decisions were made that detract from the ability to pursue our nation's time-honored hunting traditions, and how these limitations are inconsistent with the six priority elements of public use under the National Wildlife Refuge System (NWRS).

The restrictions that I oppose are as follows:

1. Hunters using more than two dogs must possess a Special Use Permit issued by the refuge manager;
2. Restricting the use of dogs only for their use when hunting ruffed grouse at the Putney Mountain Unit;

3. Limiting the training of dogs to August 1 through the last Saturday in September during daylight hours, and only if the trainer possesses a Special Use Permit issued by the refuge manager; and
4. Prohibiting night hunting, except by Special Use Permit at the Nulhegan Basin Division.

Hunting is statutorily designated as one of six priority public uses of the NWRS by the NWRS Administration Act of 1966 (as amended by the NWRS Improvement Act of 1997) and Department of the Interior Secretarial Order 3356 (September 15, 2017). The language of both is written to ensure that these priority uses receive enhanced consideration in planning and management over other uses. The Final Plan recognizes that “Regulated sport hunting and fishing has been an important management tool and recreational activity at Silvio O. Conte NFWR for over a decade,” so it is perplexing as to why it proceeds to then eliminate previously available opportunities that sportsmen and women have historically been afforded within the Refuge. If there were concerns with certain practices, such as the training and use of dogs and night hunting, then they should have been included in the initial plan so that the hunting community would have had ample opportunity to provide public comment.

In late September, I took part in a virtual meeting that included members of the FWS who helped develop the Final Plan. During this meeting, representatives from the FWS stated that it received over 600 comments on the initial plan that called for an end to hounding on the Refuge. I was told that the FWS did not agree with a ban on hounding, but FWS members did read several pieces of testimony that raised concerns with the effects that dogs have on nesting birds. I was then told that the FWS performed its own research into the matter and found peer-reviewed scientific studies and reports showcasing the referenced detrimental impacts.

In the Office of the Federal Register’s *A Guide to the Rulemaking Process*, which outlines the normal processes for the Administrative Procedures Act, it states:

If the rulemaking record contains persuasive new data or policy arguments, or poses difficult questions or criticism, the agency may decide to terminate the rulemaking. Or, the agency may decide to continue the rulemaking but change aspects of the rule to reflect these new issues. **If the changes are major, the agency may publish a supplemental proposed rule** (*Emphasis added*). If the changes are minor, or a logical outgrowth of the issues and solutions discussed in the proposed rules, the agency may proceed with the final rule.<sup>1</sup>

Understanding that hunting is one of the six priority public uses of the NWRS, altering the plan to include four restrictive provisions is undoubtedly a major change. With the FWS’ research having been performed after the comment period closed, coupled with the fact that the FWS heavily relied on independent studies that were not made available for public review and comment in preparing the Final Plan, the FWS should have terminated the original rulemaking and reopened it to include these concerns or published a supplemental proposed rule. Either approach would have afforded the sportsmen and women affected by these changes ample opportunity to review the research and provide comment. These restrictions were also not logical outgrowths of the plan as introduced,

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<sup>1</sup> *A Guide to the Rulemaking Process*. Office of the Federal Register. Accessed on December 15, 2021. Available at: [https://www.federalregister.gov/uploads/2011/01/the\\_rulemaking\\_process.pdf](https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf).

nor should they have been of concern to our community, as I was told in the September conversation with the FWS that it did not initially agree with the anti-hunting provisions, intimating they would not be included in the final plan. The utter lack of transparency calls into question the integrity of the FWS, as it sets a precedent by which sportsmen and women may read future rulemaking proposals and expect that they are not receiving accurate and complete information and transparency during the public process. This precedent creates distrust among a historically strong and trusted supporter of the FWS.

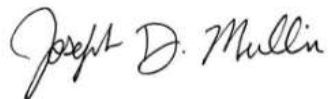
The guidelines produced by the Office of the Federal Register continue to state that:

An agency may extend or re-open a comment period when it is not satisfied that it has enough high quality comments or when the public comments make a good case for adding more time. Similarly, an agency may find that people have raised new issues in their comments that were not discussed in the initial proposed rule. **As new issues or additional complexity arises, the agency may publish a series of proposed rules in the *Federal Register* (Emphasis added).**<sup>2</sup>

If the FWS was willing to state in the September conversation that new issues came to light, such as the effects that dogs may have on nesting birds, then there is no doubt that it should have come forward with a series of proposed rules for public comment. Understanding the significance of the relationship that it has with in-state and national conservation and sportsmen's organizations, it is puzzling why the FWS did not follow the guidelines of the Administrative Procedures Act.

CSF enjoys a strong working relationship with the FWS towards enhanced access and opportunities for many recreational purposes, but the restrictions put forth in the Final Plan and the process by which these restrictions were included are deeply troubling. **Therefore, I request the Service re-open the comment period and provide all relevant information and justifications for proposed management alternatives in a clear and transparent manner.**

Sincerely,

A handwritten signature in cursive script that reads "Joseph D. Mullin". The ink is dark and the signature is fluid, with a large initial 'J' and a clear 'M'.

Joseph Mullin

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<sup>2</sup> IBID.