



U.S. Fish and Wildlife Service

Silvio O. Conte
National Fish and Wildlife Refuge
New Hampshire and Vermont
Recreational Hunting and Fishing Plan
June 2023



Nulhegan River – Tom LaPointe/USFWS

Appendix A – Hunting Compatibility Determination
Appendix B – Supplemental Environmental Assessment
Appendix C – Intra-Service Section 7 Evaluation
Appendix D – Finding of No Significant Impact

**Silvio O. Conte National Fish and Wildlife Refuge
Recreational Hunting and Fishing Plan
for New Hampshire and Vermont**

June 2023

U.S. Fish and Wildlife Service

**Silvio O. Conte National Fish and Wildlife Refuge
5396 VT Route 105
Brunswick, VT 05905**

Submitted By:
Project Leader

ANDREW FRENCH Digitally signed by ANDREW FRENCH
Date: 2023.06.02 13:04:17 -04'00'

Signature

Date

Concurrence:
Acting Refuge Supervisor

META MINER Digitally signed by META MINER
Date: 2023.06.02 13:11:15 -04'00'

Signature

Date

Approved:
Regional Chief,
National Wildlife Refuge System

SCOTT KAHAN Digitally signed by SCOTT KAHAN
Date: 2023.06.02 14:24:36 -04'00'

Signature

Date

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Silvio O. Conte National Fish and Wildlife Refuge Recreational Hunting and Fishing Plan

I. INTRODUCTION

National wildlife refuges are guided by the mission and goals of the National Wildlife Refuge System (Refuge System), the purposes of an individual refuge, U.S. Fish and Wildlife Service (Service, FWS) policy, laws, and international treaties. Relevant guidance includes the National Wildlife Refuge System Administration Act (NWRSA) of 1966, as amended by the Refuge System Improvement Act of 1997, Refuge Recreation Act of 1962, and selected portions of the Code of Federal Regulations (CFR) and Fish and Wildlife Service Manual.

Silvio O. Conte National Fish and Wildlife Refuge (Silvio O. Conte NFWR, Conte Refuge, refuge) was established pursuant of the Silvio O. Conte National Fish and Wildlife Refuge Act (Public Law 102-212). Additional lands were acquired under the Migratory Bird Conservation Act of 1929 (16 U.S.C. 715-715r, 45 Stat. 1222), as amended, and the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).

The primary purposes of the refuge are:

- To conserve, protect, and enhance the Connecticut River populations of Atlantic salmon, American shad, river herring, shortnose sturgeon, bald eagles, peregrine falcons, osprey, black ducks, and other native species of plants, fish and wildlife;
- To conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species and the ecosystem upon which these species depend within the refuge;
- To protect species listed as endangered, threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.);
- To restore and maintain the chemical, physical, and biological integrity of wetland and other waters within the refuge;
- To fulfill the international treaty obligations of the United States relating to fish, wildlife, and wetlands; and
- To provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access to the extent compatible with the other purposes stated in this section.

The Conte Refuge was established in 1997 when the Connecticut River Watershed Council donated Third Island in Deerfield, Massachusetts to the Service. Named in honor of Silvio O. Conte, the late Congressman who represented Massachusetts's First Congressional District from 1959 until his death in 1991, Conte Refuge was established in the 7.2 million-acre Connecticut River Watershed in Connecticut, Massachusetts, New Hampshire, and Vermont to conserve native fish, plants, and wildlife. Since its establishment, refuge-owned lands have grown to 22 units and divisions totaling more than 39,816 acres. These lands encompass a variety of unique

habitats including northern forest, valuable as nesting habitat for migrant thrushes, warblers, and other birds; rivers and streams used by mussels, shad, salmon, trout, herring and other migratory fishes; floodplains, forested swamps and peatlands which support a high diversity of rare plants and invertebrates; and an internationally important complex of high quality tidal fresh, brackish, and salt marshes.

Regulated sport hunting and fishing has been an important management tool and recreational activity at Silvio O. Conte NFWR for over a decade. Hunting and fishing pressure on the New Hampshire and Vermont divisions can be described as moderate to light with a limited number of hunters and anglers participating.

The New Hampshire portion of the refuge encompasses 12,929 acres and receives approximately 25,000 visitors each year. We estimate that hunters account for about 500 of the visits and anglers account for 400 visits annually. The Vermont portion of the refuge encompasses 26,887 acres and receives approximately 30,000 visitors each year. We estimate that hunters account for 1,000 of the visits and anglers account for 500 visits annually.

The mission of the Refuge System, as outlined by the NWRSA, as amended by the Refuge System Improvement Act (16 U.S.C. 668dd et seq.), is:

“to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.” (Refuge System Improvement Act of 1997).

The act further mandates the Secretary of the Interior in administering the Refuge System to (16 U.S.C. 668dd(a)(4):

- Provide for the conservation of fish, wildlife, and plants, and their habitats within the Refuge System;
- Ensure that the biological integrity, diversity, and environmental health of the Refuge System are maintained for the benefit of present and future generations of Americans;
- Ensure that the mission of the Refuge System, described at 16 U.S.C. 668dd(a)(2) and the purposes of each refuge are carried out;
- Ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the Refuge System are located;
- Assist in the maintenance of adequate water quantity and water quality to fulfill the mission of the Refuge System and the purposes of each refuge;
- Recognize compatible wildlife-dependent recreational uses as the priority general public uses of the Refuge System through which the American public can develop an appreciation for fish and wildlife;

- Ensure that opportunities are provided within the Refuge System for compatible wildlife-dependent recreational uses; and
- Monitor the status and trends of fish, wildlife, and plants in each refuge.

II. STATEMENT OF OBJECTIVES

Based on the mixture of habitat types and staff observations, the most popular hunting on the Conte NFWR is for white-tailed deer, snowshoe hare, American woodcock, and ruffed grouse. The refuge adopted State hunting regulations for the divisions/units in both states along with some additional refuge-specific regulations to minimize conflicts with other refuge objectives and visitor activities. The cold-water stream habitats provide excellent fishing opportunities for brook trout and is the most popular species for anglers. The refuge follows State fishing regulations for all areas open to anglers. The hunting and fishing programs will be reviewed annually.

The objectives of hunting and fishing programs on Silvio O. Conte NFWR are to:

- Provide the public with a high-quality recreational experience on refuge lands and increase opportunities and access for hunters and anglers;
- Design a hunting and fishing program that is administratively efficient and manageable with existing staffing levels and that aligns with State regulations when possible;
- Implement a hunting and fishing program that is safe for all refuge users;
- Provide hunting and fishing opportunities for youth and those that need assistance; and
- Design a hunting and fishing program that aligns with refuge habitat management objectives.

III. DESCRIPTION OF HUNTING AND FISHING PROGRAM

A. Areas to be Opened to Hunting or Fishing

The five refuge units and divisions in New Hampshire and the two in Vermont have a diversity of habitat types from early to late successional forests, grasslands, wetlands, streams to open water. This matrix of lands, including some lands with high densities of target species, supports a wide variety of species. The hunting and fishing program on refuge lands in each State will be in accordance with Federal, State and refuge-specific regulations.

We are proposing all refuge lands, existing and future, that are found to be compatible with hunting and fishing be opened. See Table 1 below for the units and divisions that are open to hunting.

Table 1. Silvio O. Conte Division and Unit Acres Open to Hunting

Division/Unit	Acres Open to Hunting
New Hampshire	
Blueberry Swamp Division	1,236
Fairgrounds Unit	48
Pondicherry Division	6,471
Saddle Island Unit	1
Mascoma River Division	5,173
Total Acres (NH)	12,929
Vermont	
Nulhegan Basin Division	26,602
Putney Mountain Unit	285
Total Acres (VT)	26,887
TOTAL	39,816

Recreational fishing would be conducted on and from the banks of all water bodies open to fishing within the boundaries of the Conte Refuge in New Hampshire and Vermont. See Table 2 below for the rivers, streams and ponds located within the refuge boundary that provide fishing opportunities:

Table 2. Rivers, Streams and Ponds by Division/Unit Open to Fishing

Division/Unit	Areas Open to Fishing
New Hampshire	
Blueberry Swamp Division	East Branch of Simms Stream
Fairgrounds Unit	None
Pondicherry Division	John’s River, Stanley Slide Brook, Ayling Brook, Cherry Pond, Little Cherry Pond, Hazen’s Pond
Saddle Island	Connecticut River
Mascoma River Division	Mascoma River and Clark Pond and tributaries
Vermont	
	Black Branch, Logger Branch, North Branch, Nulhegan River, Tim Carrol Brook, Yellow Branch, Lewis Pond
Putney Mountain Unit	Beaver Ponds

B. Species to be Taken, Periods, and Access

New Hampshire Species and Regulations

Approximately 12,929 acres would be open to hunting on New Hampshire refuge lands for the following species:

Big Game – Moose, white-tailed deer, black bear, and turkey hunting would be permitted on the New Hampshire units of the refuge.

Furbearers – Coyote, fisher, fox (red and gray), opossum, porcupine, skunk, raccoon, mink, muskrat, opossum, weasel, and woodchuck hunting would be permitted on the New Hampshire units of the refuge.

Small Game – Eastern cottontail rabbit, snowshoe hare and gray squirrel hunting would be permitted on the New Hampshire units of the refuge.

Game Bird – Coot, crow, pheasant, ruffed grouse, duck, light geese, dark geese, Wilson's snipe, and woodcock hunting would be permitted on the New Hampshire units of the refuge.

Vermont Species and Regulations

Big Game – Moose, white-tailed deer, black bear, and turkey hunting would be permitted on Vermont units of the refuge.

Furbearers – Bobcat, coyote, red and gray fox, raccoon, skunk, muskrat, opossum, weasel, and woodchuck hunting would be permitted on the Vermont units of the refuge.

Small Game – Eastern cottontail, snowshoe hare and gray squirrel hunting will be permitted on the Vermont units of the refuge.

Game Bird – Coot, crow, pheasant, ruffed grouse, duck, light geese, dark geese, Wilson's snipe, and woodcock hunting would be permitted on the Vermont units of the refuge.

Refuge lands would be open to hunting consistent with the State of New Hampshire and State of Vermont hunting seasons with some additional restrictions to protect wildlife and habitat, and to reduce potential public use conflicts. Access to refuge hunting land would be from public roads and adjoining public lands and water.

Fishing

The Connecticut River Watershed supports a diversity of fishery resources. Cold, cool, and warm water species are abundant throughout the watershed. The cold-water tributaries within the New Hampshire and Vermont portion of the refuge provide important habitat for brook trout, rainbow trout, and brown trout. Refuge ponds provide habitat for the usual warm water

fish species including pumpkinseed, yellow perch, and pickerel.

Recreational fishing would be conducted under the State of New Hampshire's regulations for open water and ice fishing and State of Vermont regulations for inland fisheries with some additional restrictions to protect fish, wildlife, and habitat and to reduce potential public use conflicts. During the State fishing seasons, fishing may occur between 1 1/2-hour before sunrise to 1 1/2-hour after sunset.

C. Permit Requirements

No refuge-specific permit is required.

D. Consultation and Coordination with the State

Silvio O. Conte NFWR will work with the New Hampshire Fish and Game (NHDFG) and Vermont Fish and Wildlife (VTDFW) staffs to ensure safe and enjoyable recreational hunting and fishing opportunities. The States were key partners and engaged throughout the Comprehensive Conservation Planning (CCP) process completed in 2016, which addressed hunting and fishing.

Refuge and Regional Office staffs have continued to meet and discuss hunting and fishing opportunities on all refuge lands with State partners, most recently in 2023. Law Enforcement Officers from both agencies work together to conduct patrols, safeguard hunters and visitors, and protect both game and nongame species.

E. Law Enforcement

Enforcement of refuge violations is associated with the management of a national wildlife refuge and is the responsibility of Refuge Law Enforcement Officers. Other Fish and Wildlife Officers include FWS Special Agents, NH Conservation Officers, and VT Game Wardens. Local police department officers occasionally assist Refuge Law Enforcement Officers.

F. Funding and Staffing Requirements

Annual hunt administration costs for Silvio O. Conte NFWR, including salary, equipment, law enforcement, maintenance of sites, and communication with the public is approximately \$45,000 annually, including an additional \$15,000 the first year for new infrastructure. Specific to the recreational fishing program, annual costs are anticipated to average \$8,000 per year (primarily for law enforcement).

Table 3. Anticipated Costs for Hunt Administration

Identifier	Cost
Maintenance Workers	\$10,000
Refuge Managers	\$10,000
Visitor Services Manager	\$5,000
Supplies/Brochures*	\$5,000
Kiosks Signs*	\$10,000
Trail/parking lot maintenance	\$5,000
Total to implement (hunt)	\$45,000
Supplies/Brochures	\$1,000
Monitoring Resource Impacts	\$1,000
Signage (Parking, etc.)	\$1,000
Law Enforcement	\$5,000
Total to implement (fish)	\$8,000
TOTAL (hunting and fishing)	\$53,000
*Not an annual cost	

IV. CONDUCT OF THE HUNTING AND FISHING PROGRAM

Listed below are refuge-specific regulations that pertain to Silvio O. Conte NFWR as of the date of this plan. These regulations may be modified as conditions change or if refuge expansion continues or occurs.

A. Application, Selection and Registration Procedures

No special application or registration is needed for hunting or fishing.

B. Refuge-Specific Hunting and Fishing Regulations

To ensure compatibility with refuge purposes and the mission of the Refuge System, hunting and fishing must be conducted in accordance with State and Federal regulations, as supplemented by refuge-specific regulations (50 CFR Chapter 1, Subchapter C), and information sheets/brochures. Refuge-specific stipulations are also detailed in the Hunting Compatibility Determination (CD) (Appendix A).

- Excluding the Nulhegan Basin Divisions, refuge lands are closed to night hunting. Hunters are allowed on refuge lands from 1 ½-hour before sunrise and 1 ½-hour after sunset.
- We prohibit shooting from, over, or within 25 feet of the traveled portion of any road that is accessible to motor vehicles, with the exception of a permanently disabled hunter with the proper state and refuge issued special use permit.
- Tree stands, blinds and other hunting equipment must be removed from the refuge within 72 hours after the regulated hunting season has ended.

- At the Putney Mountain Unit, we allow the use of dogs only for hunting American woodcock, turkey (fall season), gray squirrel and ruffed grouse.
- We will allow training of dogs following State regulations, from August 1 through the last Saturday in September during daylight hours.
- Take of amphibians, reptiles and baitfish is prohibited.

C. Other Relevant Rules and Regulations

Hunting

Hunting has been permitted on Silvio O. Conte NFWR lands through pre-acquisition compatibility determinations for many years since most of the refuge land was known hunting grounds historically. When deemed compatible, all refuge lands will be open to hunting unless posted closed, and hunting will conform to State seasons when applicable and be in accordance with Federal, State, and refuge-specific regulations for archery, firearms, and muzzleloader. Hunt brochures and maps for all hunting opportunities will be updated regularly and made available to hunters on the refuge website.

Hunters will be able to access the refuge by public roads and by foot. Areas may be closed if there are unacceptable resource impacts such as soil erosion, repeated disturbance to susceptible wildlife, or unresolvable conflicts with other compatible priority public uses. The need for site closures will be considered by the refuge manager on a case-by-case basis. We will maintain a safe hunt by establishing safety/no hunt zones around refuge residences, buildings, and high-use public use trails as necessary.

Lead is a well-known toxin to people and wildlife and even small amounts can have adverse health effects. Hunters are encouraged to use non-lead ammunition.

Fishing

At the discretion of the refuge manager, some areas may be seasonally, temporarily, or permanently closed to fishing if wildlife impacts, habitat impacts, or user conflicts are documented. Unauthorized introductions of both non-native and native fish can disrupt aquatic ecosystems and destroy natural fisheries. No fish of any species may be introduced onto the refuge without appropriate State and refuge permits. This includes unused bait fish and viable eggs.

Anglers may access refuge lands via public roads, bicycle, or pedestrian access. Areas may be closed if there are unacceptable resource impacts such as soil erosion, repeated disturbance to susceptible wildlife, or unresolvable conflicts with other compatible priority public uses. The need for site closures will be considered by the refuge manager on a case-by-case basis.

Hunting and fishing programs will be reviewed annually or as needed to assess its effectiveness and to ensure wildlife populations and habitat quality are managed appropriately.

V. PUBLIC ENGAGEMENT

A. Outreach for Announcing and Publicizing the Hunting and Fishing Program

The refuge maintains a mailing list of newspapers, radio, television stations, and websites for news release purposes. Special announcements and articles may be released in conjunction with hunting seasons. In addition, information about hunting and fishing will be available at refuge office and on the refuge website.

B. Anticipated Public Reaction to the Hunting and Fishing Program

While there are members of the public that do not support hunting and fishing on refuges, we are supported by many people who are eager to engage in these long-standing conservation activities. Hunting and fishing are important economic and recreational uses of natural resources and can be important wildlife management tools.

On April 24, 2023, the Service issued a supplemental EA for a 30-day public comment period which ended on May 25, 2023. The supplemental EA was posted on the refuge website and a news release was emailed to interested parties, local partners, and media contacts.

A total of 1,514 individuals and organizations offered input to the refuge. Of the substantive responses received, there were three main categories of comments:

1) support the Service's preferred Alternative A (29 people); 2) support alignment with State regulations Alternative B (832 people); 3) opposition to the use of hounds (alternative considered and dismissed) (653 people).

No public use conflicts are expected to occur on the refuge during the hunting seasons. The refuge has managed hunting for over a decade with little to no conflict among refuge user groups. Overall, impacts to visitor services and recreation opportunities are considered short-term, minor, and local. Conflicts and negative interactions among hunters are possible if they compete for hunting areas. The refuge reserves the right to implement new regulations, close areas to hunting, or revoke current and future access to the refuge from hunters.

A supplemental Environmental Assessment (EA or supplemental EA) was prepared in response to recent litigation and was an effort to avoid further litigation over issues that can be easily remedied. Therefore, the Service reconsidered its August 2021 decision regarding dog training and hunting on the Conte NFWR. The new Conte NFWR New Hampshire and Vermont Recreational Hunting and Fishing Plan (the plan or the rule) provided the public with a fulsome opportunity to comment on the proposed rule and the Service will then issue a final rule that will supersede the current rule. Notably, the 2021 final Hunting and Fishing plan, prepared and approved by the Service in August 2021 is hereafter referred to as the 2021 EA. The Service issued a Finding of No Significant Impact (FONSI) for the proposed action and 2021 EA on August 17, 2021. Reference 86 Fed. Reg. 48,822, 48, 879f or the 2021 FONSI and 2021 final rule. A list of laws and executive orders evaluated through this EA is included at the end of this document.

C. How Users Will Be Informed of Relevant Rules and Regulations

Directions and maps are available on the station website at:

https://www.fws.gov/Refuge/silvio_o_conte/ and at the refuge office. General information regarding hunting and other public uses can be obtained by calling 802-962-5240 or at the Nulhegan Basin Division office at 5396 VT Route 105, Brunswick, VT 05905.

VI. COMPATIBILITY DETERMINATIONS

Hunting, fishing, and all associated program activities proposed in this plan are compatible with the purposes of the refuge. See Appendix A for included CD.

VII. REFERENCES

New Hampshire Hunting Seasons & Regulations- 2023.
<https://www.wildlife.state.nh.us/hunting/index.html>

Vermont Hunting Seasons & Regulations- 2023.
<https://vtfishandwildlife.com/hunt/hunting-regulations>

U.S. Fish and Wildlife Service. 2017. Waterfowl: Population Status, 2017. USFWS, Laurel, MD. 74pp.

Figure 1. Map of Silvio O. Conte NFWR Divisions and Units within New Hampshire and Vermont

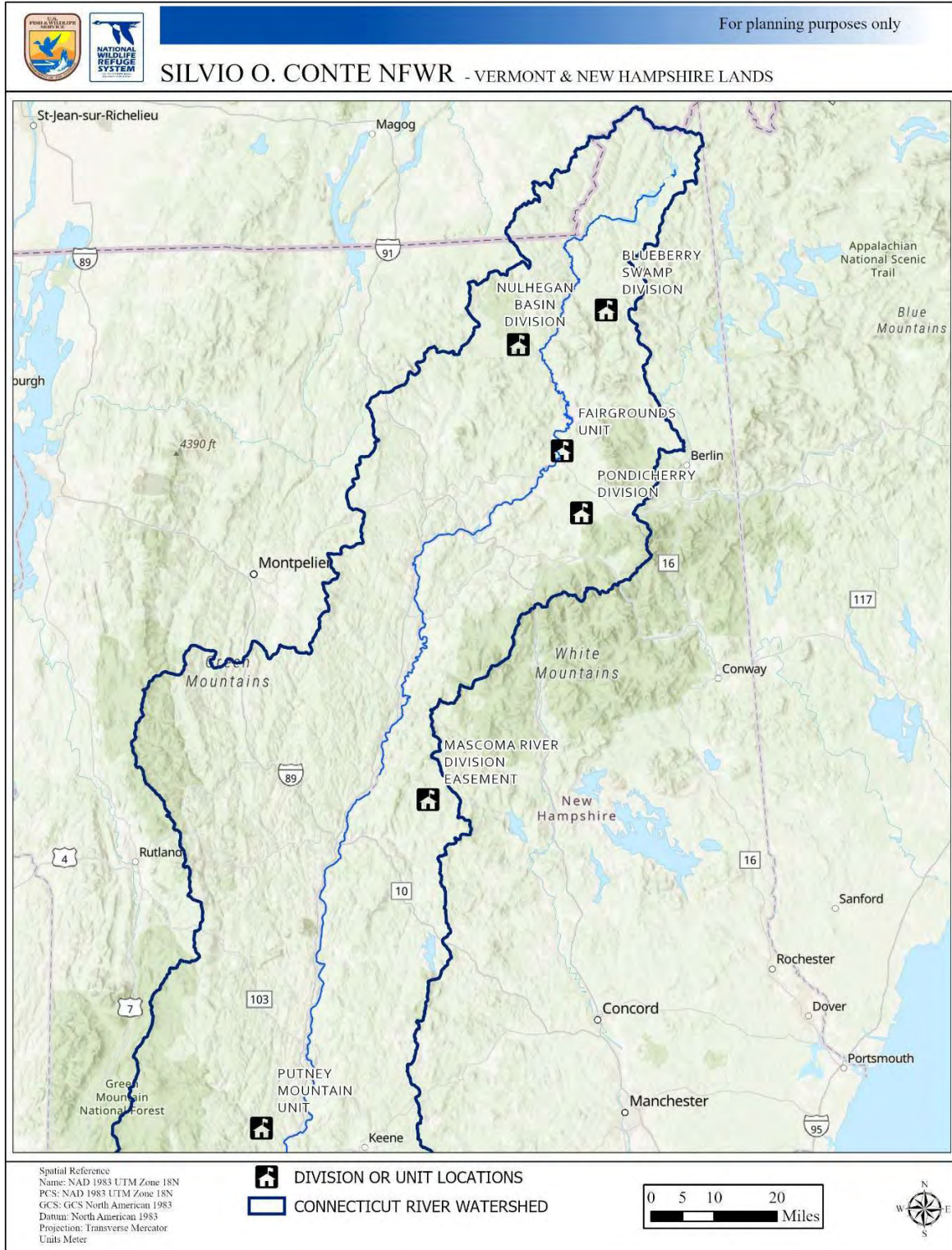


Figure 2. Map of the Blueberry Swamp Division of Silvio O. Conte NFWR

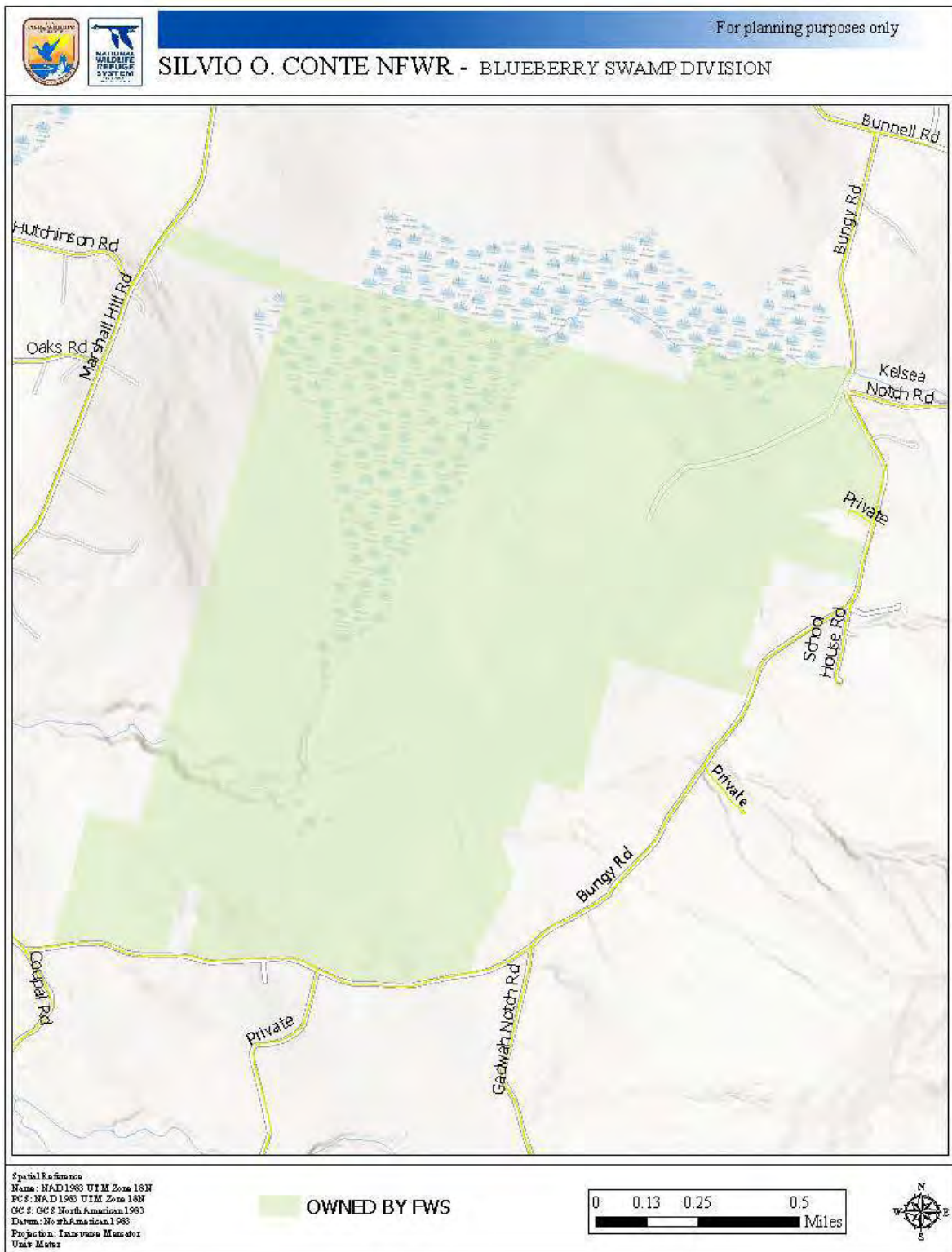


Figure 3. Map of the Fairgrounds Unit of Silvio O. Conte NFWR

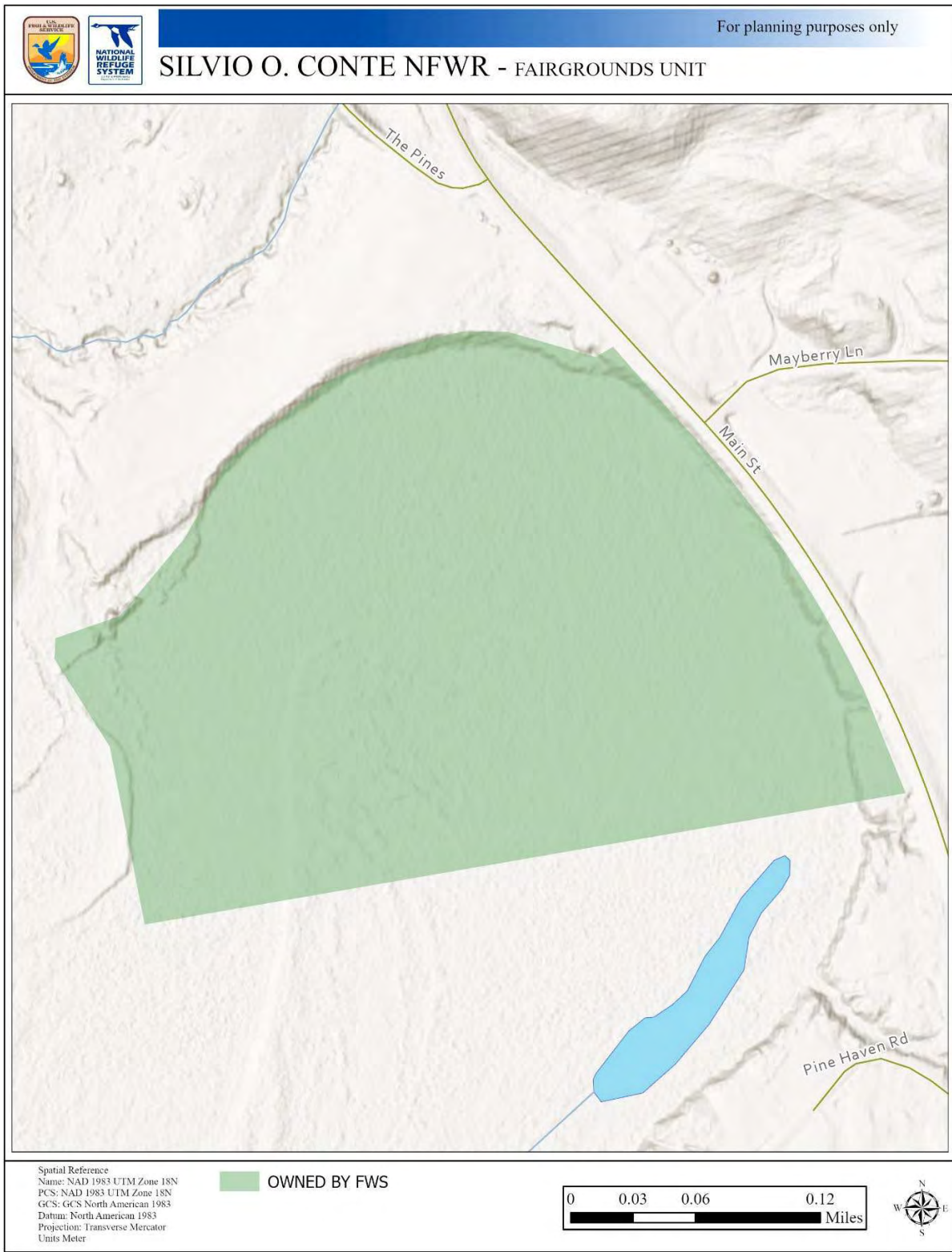


Figure 4. Map of the Pondicherry Division of Silvio O. Conte NFWR

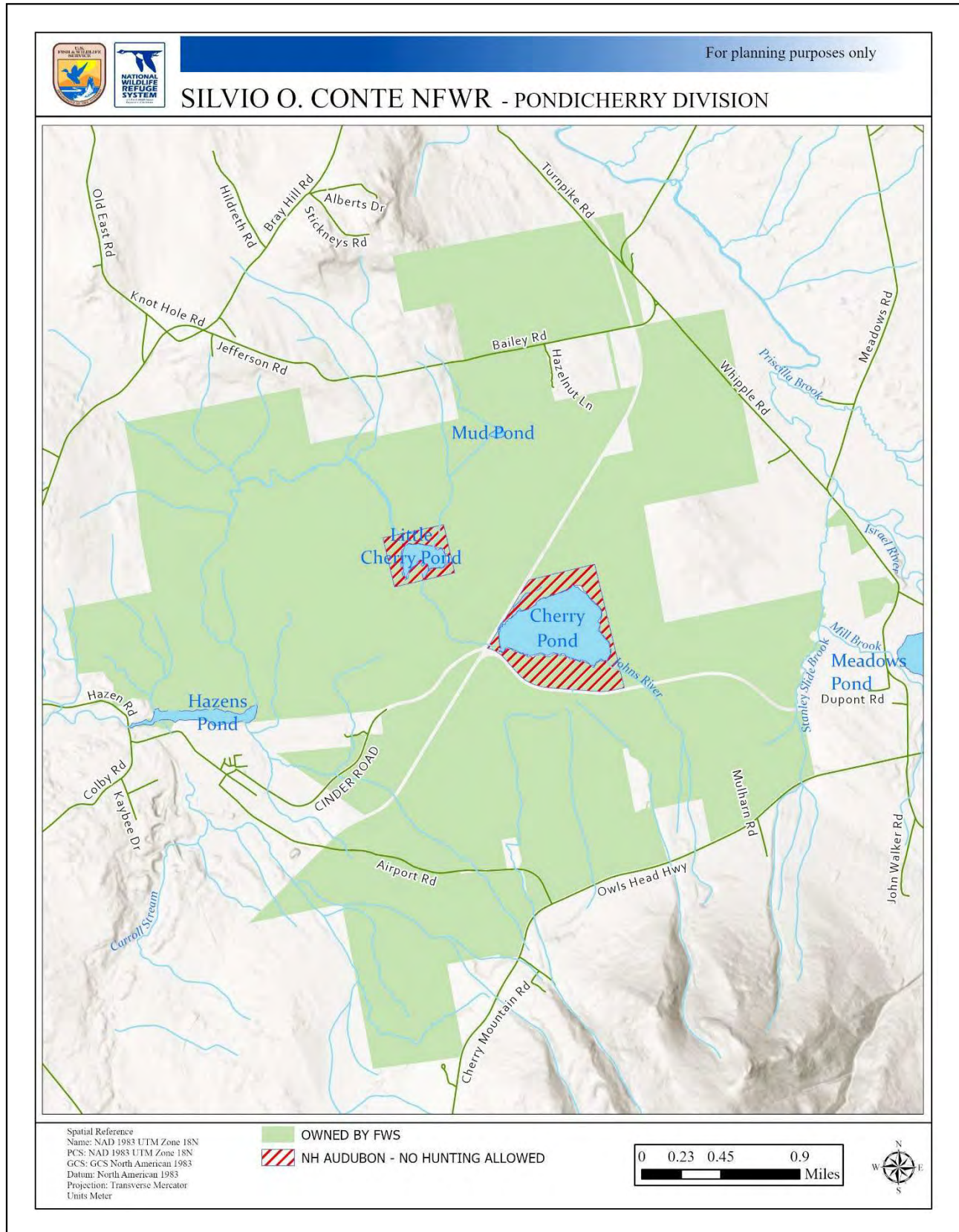


Figure 5. Map of the Saddle Island of Silvio O. Conte NFWR



Figure 6. Map of the Mascoma River Division of Silvio O. Conte NFWR



Figure 7. Map of the Nulhegan Basin Division of Silvio O. Conte NFWR

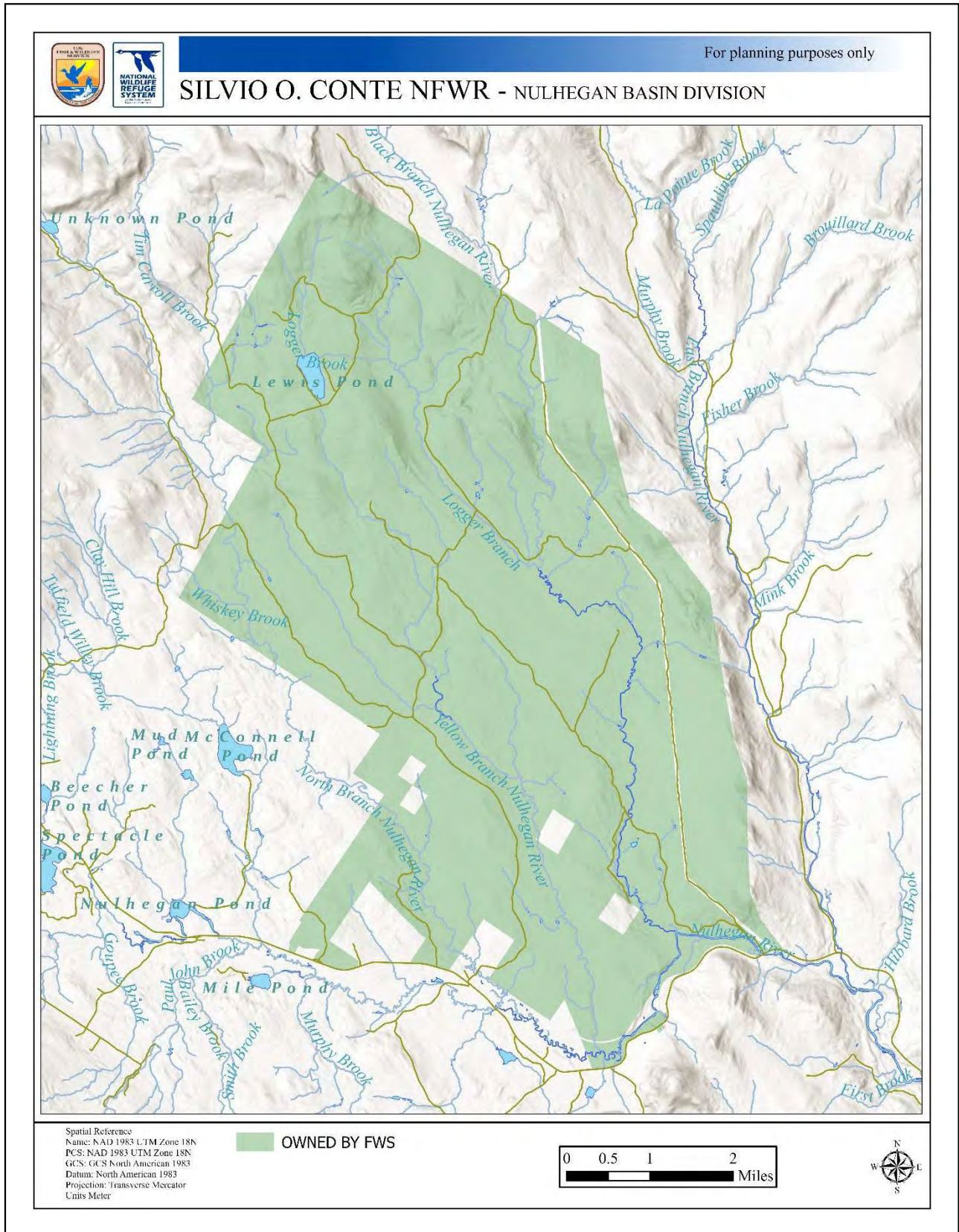
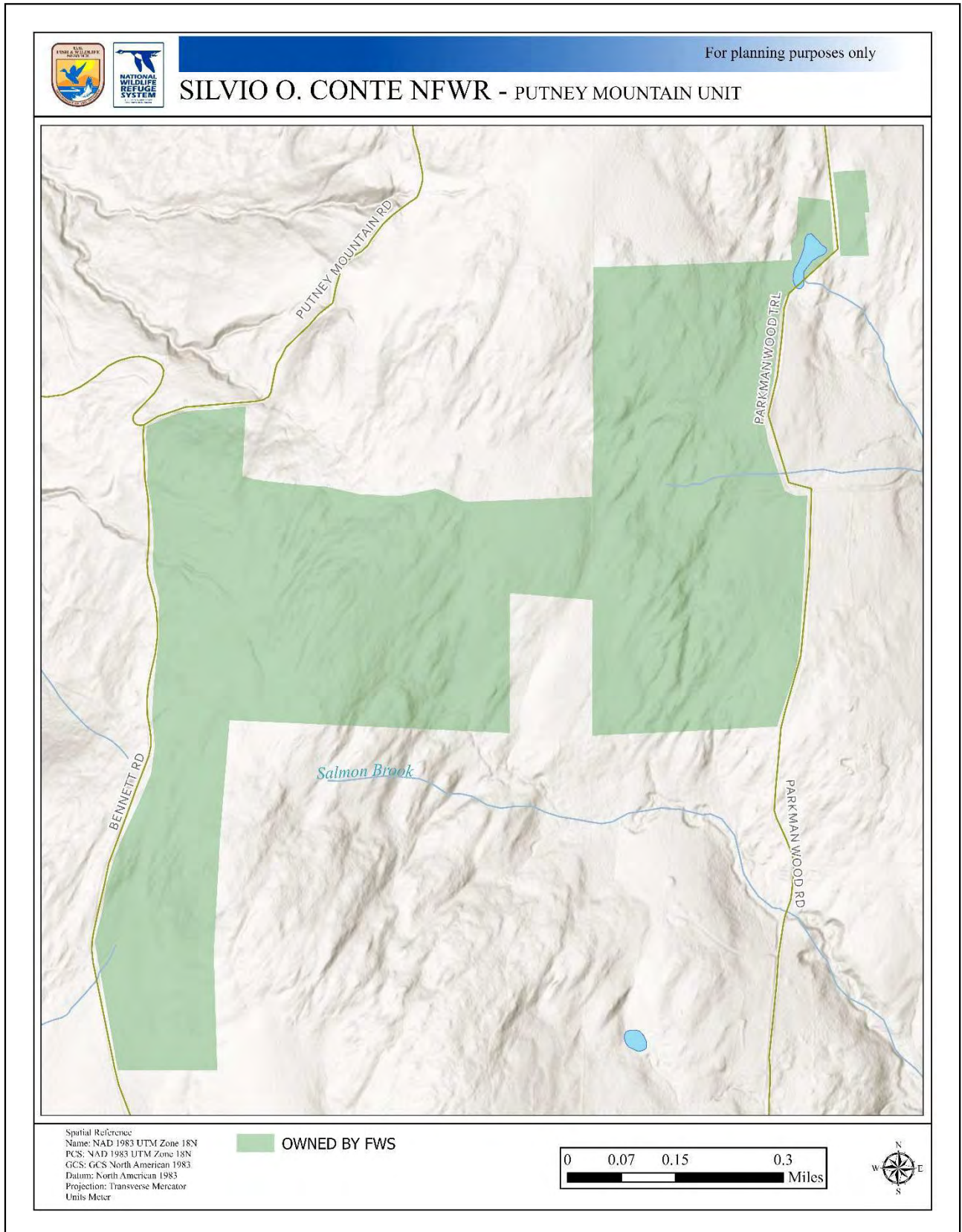


Figure 8. Map of the Putney Mountain Unit of Silvio O. Conte NFWR



COMPATIBILITY DETERMINATION

USE: Hunting (in New Hampshire and Vermont)

REFUGE NAME: Silvio O. Conte National Fish and Wildlife Refuge

DATE ESTABLISHED: October 3, 1997

ESTABLISHING and ACQUISITION AUTHORITY(IES):

- Silvio O. Conte National Fish and Wildlife Refuge Act (Public Law 102-212).
- Migratory Bird Conservation Act of 1929, as amended, (16 U.S.C. § 715d).
- Land and Water Conservation Fund Act of 1965 (Public Law 88-578)

REFUGE PURPOSE(S):

The purposes of the Silvio O. Conte National Fish and Wildlife Refuge (NFWR, Conte Refuge, refuge) are:

- “To conserve, protect, and enhance the Connecticut River populations of Atlantic salmon, American shad, river herring, shortnose sturgeon, bald eagles, peregrine falcons, osprey, black ducks, and other native species of plants fish and wildlife;
- To conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species, and the ecosystem upon which these species depend within the refuge;
- To protect species listed as endangered or threatened, or identified as candidates for listing, pursuant to the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.);
- To restore and maintain the chemical, physical, and biological integrity of wetland and other waters within the refuge;
- To fulfill the international treaty obligations of the United States relating to fish, wildlife, and wetlands;
- To provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access to the extent compatible with the other purposes stated in this section” Public Law 102-212 (Silvio O. Conte National Fish and Wildlife Refuge Act).
- “...for use as an inviolate sanctuary, or for any other management purpose, for migratory birds” 16 U.S.C. § 715d (Migratory Bird Conservation Act);

- “...for the development, management, advancement, conservation, and protection of fish and wildlife resources by purchase or exchange of land and water or interests therein ” 16 U.S.C. § 460l (Land and Water Conservation Fund Act of 1965, as amended).

NATIONAL WILDLIFE REFUGE SYSTEM MISSION:

The mission of the National Wildlife Refuge System (Refuge System) is “... to administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans” (Refuge System Improvement Act of 1997, Public Law 105-57).

DESCRIPTION OF USE:

(a) What is the use? Is the use a priority public use?

The use is public hunting of big game, small game, and migratory game birds on Conte Refuge lands in New Hampshire and Vermont. Hunting was identified as one of six priority public uses of the Refuge System by the National Wildlife Refuge System Administration Act (NWRSA of 1966, as amended by the Refuge System Improvement Act of 1997 (Public Law 105-57), when found to be compatible. While dog training is not a priority public use, it is often associated with hunting activities (i.e., hunting birds, furbearers, big game, and small game) as a component of the hunting experience.

(b) Where would the use be conducted?

Hunting would occur on five refuge units and divisions in New Hampshire and two in Vermont. Hunting with and training of dogs will be conducted on the portions of the refuge open to hunting with the exception of the Putney Mountain Unit, where dogs may only be used for American woodcock, turkey (fall season), gray squirrel and ruffed grouse hunting.

In New Hampshire, the units and divisions opening to hunting would be the Blueberry Swamp Division in Columbia, the Fairgrounds Unit in Lancaster, the Pondicherry Division in Carroll, Jefferson and Whitefield, the Saddle Island Unit in Bath, and the Mascoma River Division in Canaan, Dorchester, Hanover, and Lyme (see Recreational Hunting and Fishing Plan, Figures 2 through 6). Hunting on new lands acquired and added to the refuge may be allowed if the uses are found compatible.

In Vermont, the Nulhegan Basin Division in Bloomfield, Brunswick, Ferdinand and Lewis, and the Putney Mountain Unit in Putney would open to hunting. (see Recreational Hunting and Fishing Plan, Figures 7 and 8). Hunting on new lands that are acquired and added to the refuge may be allowed if the uses are found compatible.

(c) When would the use be conducted?

Refuge lands would be open to hunting consistent with the State of New Hampshire and State of Vermont hunting seasons with some additional restrictions to protect wildlife and habitat, and to reduce potential public use conflicts. Refuge property would be open to hunting from 1 1/2-hour before sunrise to 1 1/2-hour after sunset. Night hunting is prohibited except by special use permit at the Nulhegan Basin Division.

Hunting with dogs will be consistent with the State of New Hampshire and State of Vermont hunting seasons with the exception of the Putney Mountain Unit, where dogs may only be used for American woodcock, turkey (fall season), gray squirrel and ruffed grouse hunting. Dog training will occur from August 1 to the last Saturday in September during daylight hours.

(d) How would the use be conducted?

All refuge lands would be open to hunting unless posted closed and hunting will conform to State seasons and be in accordance with State, Federal, and refuge-specific regulations for archery, firearms, and muzzleloader. Hunt brochures and maps for all hunting opportunities will be updated regularly and made available to hunters on the refuge website. Hunters would access refuge lands via public roads or by foot. Areas may be closed if there are unacceptable resource impacts such as soil erosion, repeated disturbance to susceptible wildlife, or unresolvable conflicts with other compatible priority public uses. The need for site closures will be considered by the refuge manager on a case-by-case basis.

The hunting program will be reviewed annually or as needed to assess its effectiveness and to ensure wildlife populations and habitat quality are managed appropriately.

(e) Why is the use being proposed?

Hunting is one of the priority public uses outlined in the Refuge System Improvement Act. The Service supports and encourages priority uses when they are appropriate and compatible on refuges. Hunting is a recreational use of renewable natural resources that is deeply rooted in America’s heritage. Hunting is also an important wildlife management tool.

The hunting program will further align the refuge with the Department of the Interior’s Secretarial Order 3356, which directs the Service to enhance and expand public access to lands and waters on national wildlife refuges for hunting, fishing, recreational shooting, and other forms of outdoor recreation. Hunting will promote a priority public use of the Refuge System and support the stewardship of our natural resources and increase the public’s appreciation and support for the refuge. While dog training is not a priority public use, it is closely associated with the hunting experience.

AVAILABILITY OF RESOURCES:

There are sufficient funds within the refuge’s annual operating budget to administer this hunting program. All hunts will be administered in accordance with existing Federal and State regulations.

Table A-1. Estimated Costs of Hunting

Identifier	Costs
Maintenance Workers	\$10,000
Refuge Managers	\$10,000
Visitor Services Manager	\$5,000
Supplies/Brochures*	\$5,000
Kiosks Signs*	\$10,000
Trail/parking lot maintenance	\$5,000

Total to implement	\$45,000
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*Not an annual cost

ANTICIPATED IMPACTS OF THE USE:

Hunting has occurred on some refuge lands for many years with no discernible adverse impacts to resources. Hunting provides wildlife-dependent recreational opportunities that can foster a better appreciation and more complete understanding of wildlife and habitat, which can translate into stronger support for wildlife conservation, the refuge, the Refuge System, and the Service.

Vegetation

The current number of hunters comprises a small fraction of the refuge’s total visitation. Hunters traverse areas that are open to other refuge visitors and often travel on existing roads and game trails. Some foot travel is anticipated from hunting, but it will generally be dispersed over large areas. The physical effects on refuge vegetation from hunters is expected to be minimal.

Hunting could create a positive, indirect effect on vegetation through controlling the white-tailed deer and moose populations. The impacts of dense deer and moose populations on forest regeneration and the composition and diversity of the herbaceous understory have been well documented (Tierson et al. 1966, Behrend et al. 1970, Tilghman 1989, Cote et al. 2004, White 2012, Bergeron et al. 2011, Andreozzi et al. 2014). Opening the refuge to deer and moose hunting will help to maintain habitat in its current form, prevent habitat degradation due to over browsing, and promote successful natural regeneration and a more sustainable plant community. A well-managed hunting program can effectively control deer and moose populations and produce dramatic changes in the forest vegetation (Behrend et al. 1970, Warren R.J. 2011, Rae et al. 2014). An overabundance of deer and moose can suppress native vegetation, which may facilitate the success of invasive species in forested habitats (Knight et al. 2009, Averill et al. 2016, DiTommaso et al. 2014, and De la Cretaz et al. 2002). Lessening the impact of excessive deer and moose herbivory is a key forest management strategy (White 2012, Nuttle et al. 2013, Warren R.J. 2011, Knight et al. 2009, De la Cretaz et al. 2002, Rae et al. 2014, and Jenkins et al. 2015) and will likely become even more important as the climate warms (Galatowitsch et al. 2009). Deer and moose hunting on the refuge can create a positive effect on vegetation through better regeneration of forest canopy species and an increase in the diversity of the herbaceous understory.

Possible negative impacts of recreational hunting include the temporary trampling of vegetation and light soil erosion. Spring turkey season could cause some trampling effects to emerging plants, especially in wet areas; however, we do not expect these impacts to be substantial, because turkey hunter density is expected to be low and dispersed. Most hunting occurs during the fall, but hunters tend to disperse when in the woods; we do not anticipate substantial hunter-related impacts to habitats. Some hunt seasons extend into winter when plants are dormant, and the ground is either frozen and/or covered in snow. Hunters would have little impact on plants during this period. For these reasons, impacts to plant communities and soils are not likely to be significant during either the fall or spring hunting seasons.

Soils

It is anticipated that hunting on the refuge will have minor impacts to soils. Soils can be compacted or eroded due to repeated foot traffic, especially in wetland habitats. The potential for

soil erosion will vary during the year based on soil moisture and temperatures. At the anticipated use levels, and because hunters tend to disperse when searching for game and training their dogs, impacts to soils are not likely to be significant.

Hydrology (Water Resources and Wetlands)

Hydrology impacts from hunting would be minimal and only result from the use of roads and trails. Unsurfaced trails are susceptible to a variety of impacts including vegetation loss and compositional changes, soil compaction, erosion and muddiness, exposure of plant roots, trail widening, and the proliferation of visitor-created side trails (Marion and Leung 2001). However, these effects are considered minimal as hunters are generally dispersed, which reduces repeated erosive actions on soils. Hunters are not permitted to use vehicles off designated refuge roads.

Big Game

White-tailed Deer

The regulated hunting of deer in accordance with State regulations would not compromise the persistence of deer on the refuge or surrounding lands. Deer populations are maintained in accordance with the available habitat through regulated hunting. High deer densities have been shown to negatively affect plant and animal communities. Therefore, a hunting program would help to facilitate ecological diversity by mitigating the effects of high deer densities. Deer densities, if maintained through regulated hunting, will sustain the native vegetation and forest regeneration associated with the natural communities in those regions. Regulated deer hunting will also maintain a deer herd in good physical condition that staves off malnutrition and disease.

There are an estimated 120,000 deer in New Hampshire. A total of 14,082 deer were harvested in New Hampshire in 2022 (<https://www.wildlife.state.nh.us/hunting/harvest-summary.html>). There are an estimated 140,000 deer in Vermont. A total of 17,461 deer were harvested in Vermont in 2022 (<https://vtfishandwildlife.com/learn-more/fish-wildlife-library/hunting-trapping-information/library-white-tailed-deer-harvest-summary-reports>). The New Hampshire Department of Fish and Game (NHDFG) and the Vermont Department of Fish and Wildlife (VTDFW) actively monitor their respective State's deer populations and the overall physical condition of the herd by collecting harvest numbers and biological parameters. The biological data from harvested deer, habitat data and other information are used by biologists to manage the deer herd throughout each state. Deer harvested on the refuge would likely be replaced by other deer within a relatively short time. Hunting other game species (e.g., turkey or small game) will have a transient effect on deer, as both species flush and move away from hunters. Deer will use energy and experience physiological stress when avoiding hunters and other refuge visitors.

Moose

The regulated hunting of moose in accordance with State regulations would not compromise the persistence of moose on the refuge or surrounding lands. Moose populations are maintained in accordance with the available habitat through regulated hunting. High moose densities have been shown to negatively affect plant and animal communities (Bergeron, et al. 2011, Andreozzi, et al. 2014). Therefore, a hunting program would help to facilitate ecological diversity by mitigating the effects of high moose densities. Moose densities, if maintained through regulated hunting, will sustain the native vegetation and forest regeneration associated with the natural communities in those regions (Behrend, et al. 1970, Warren, R.J. 2011, Rae, et al. 2014). Regulated moose hunting will also maintain a physically healthy moose herd that staves off malnutrition and disease.

There are an estimated 3,500 moose in New Hampshire. A total of 25 moose were harvested in New Hampshire in 2022 (<https://www.wildlife.state.nh.us/hunting/harvest-summary.html>). There are an estimated 2,200 moose in Vermont. A total of 51 moose were harvested in Vermont in 2022. The NHDFG and VTDFW actively monitor their respective State's moose population and the overall physical condition of the herds by collecting harvest numbers and biological parameters. The biological data from harvested moose, habitat data and other information are used by biologists to manage the moose herd throughout each State. Moose harvested on the refuge would likely be replaced by other moose within a relatively short time. Hunting other game species (e.g., turkey or small game) will have a transient effect on moose, as the species flush and move away from hunters. Moose will use energy and experience physiological stress when avoiding hunters and other refuge visitors.

Black Bear

The black bear is cherished by hunters in New Hampshire and Vermont as a valuable game species for both its meat and pelt. Black bears are the largest predator in New England and have few natural enemies. In the two states, the annual bear harvest serves as the primary tool to regulate bear population growth while monitoring the population to ensure that the legal harvest is sustainable. Desired harvest levels typically result in bear densities that are consistent with or moving towards bear population objectives in each of the States' management regions. Regulated hunting of these species in accordance with State regulations will not compromise the persistence of them on the refuge or surrounding lands.

There are an estimated 6,000 black bears in New Hampshire. A total of 892 bears were harvested in New Hampshire in 2021 (<https://www.wildlife.state.nh.us/hunting/harvest-summary.html>). Vermont's bear population is currently estimated to be within the population objective of 3,500 to 5,500 bears called for in the Big Game Management Plan, 2020-2030. A total of 841 black bears were harvested in Vermont in 2021. Hunting is a critical tool in maintaining this population objective. Although considered a valuable game species, black bears annually cause extensive agricultural and property damage and are capable of inflicting injuries to humans. Most bear-related human injuries have involved bears that were not afraid of humans. Hunting is used not only as a tool to manage population size and health, but also as a means of keeping bears wary of humans.

Wild Turkey

Wild turkeys are native to New Hampshire and Vermont but disappeared from these states over 150 years ago due to overharvesting and habitat loss. In 1969 and 1970, NHDFG re-introduced wild turkey to the State. This attempt failed but was tried again in 1975. Twenty-five wild turkeys were relocated from New York. With this successful reintroduction and 15 additional reintroduction efforts over the course of 20 years, an estimated 40,000 turkeys now range throughout the State (Silverberg, J. 2012). In 2019, over 5,092 wild turkeys were harvested, and turkeys have become a valuable game species in the State.

In Vermont, from the 1950s through the late 1960s, attempts at turkey restoration through artificial propagation were largely unsuccessful, largely due to the release of farm-raised birds unable to survive Vermont's harsh winters. A breakthrough in restoration efforts occurred in 1969 and 1970, when the VTDFW in coordination with the New York Department of Environmental Conservation live-captured and translocated a total of 31 free-roaming wild

turkeys from New York to Vermont's Rutland County. This introduction was successful, and by the mid-1980s, VTDFW captured and transferred Vermont birds to other parts of the State. These releases and subsequent population expansion have resulted in the successful restoration of wild turkeys across the entire state (VTDFW 2009). Around 5,800 wild turkeys are harvested each year in Vermont and turkey has become a valuable game species in the State. Regulated hunting of these species in accordance with State regulations will not compromise the persistence of them on the refuge or surrounding lands.

Populations of turkeys that exceed the biological carrying capacity of their habitat can be decimated by diseases (including avian pox that can spread to other bird species) and are capable of degrading their habitat. Populations that are allowed to exceed the cultural carrying capacity can cause extensive agricultural damage. The U.S. Department of Agriculture Wildlife Services reports that many farms within the Connecticut River Valley already sustain damage to their stored silage and corn crops from turkeys. Regulated hunting plays an important role in limiting the damage to agriculture from turkeys.

Small Game

Based on State regulations, small game species to be hunted within each state may vary. Small game in New Hampshire and Vermont includes gray squirrel, snowshoe hare and Eastern cottontail.

Many small game species present on the refuge are strategist species, demonstrating high productivity and mortality rates, with population densities often tied to the quality of available habitat. Most of the small game species' populations are positively influenced by increasing percentages of younger forest age classes that provide the mix of cover and foods for these animals. When appropriate, some refuge lands are managed to promote early successional habitat. This provides a high-quality habitat foundation to support higher densities of these species. Even so, population fluctuations can be driven by weather, changes in predator populations, or annual fluctuations in food supplies. Hunting mortality is compensatory and generally not considered to be a factor affecting population size (Edwards et al. 2003). The number of hunters pursuing small game is predicted to be low and is not expected to have negative impacts on populations.

Furbearing Species

Because the furbearer hunting seasons are set at a time of year when pelts are prime and of highest value, the harvest of furbearers during the regulated hunting seasons provides citizens an opportunity to utilize these sustainable, renewable fur resources. Several of these furbearing species are commonly viewed as nuisance animals due to their feeding behaviors.

Migratory Game Birds

Migratory game birds are managed on a flyway basis and hunting regulations are established in each State based on flyway data. Federal and State regulations would apply. Hunting migratory game birds on the refuge would reduce the total numbers of birds in the flyway, but harvest would be within allowable limits as determined by the Service annually. Hunting waterfowl on the refuge would make the birds more skittish and prone to disturbance, reduce the amount of time they spend foraging and resting, and alter their habitat usage patterns (Raveling 1979, Owen 1973, White-Robinson 1982, Madsen 1985, Bartelt 1987). Overall, the effects on migratory game birds are expected to be minimal due to the low number of hunters on refuge

lands.

Federally Listed Species

Northern long-eared bat, Jessup's milk vetch, Canada lynx and Northeastern bulrush have been documented on or in the vicinity of the Conte NFWR divisions and units in New Hampshire and Vermont. Due to the species' specific habitat requirements, the status of species and the time of year that hunting and dog training would take place, hunting and the training of dogs, may affect, but is not likely to adversely affect these species. A recent endangered species consultation determined that the refuge's current dog training season, which occurs from August to September, reduces the potential impacts to Canada lynx. Dog training that occurs between May and August may have indirect and direct impacts to lynx kittens if they are present and vulnerable in den sites. Dwarf wedge mussel occupies sites within the vicinity of the refuge. This species has not been documented on refuge lands in New Hampshire and Vermont, therefore, there will be no effect on this species due to hunting and fishing activities. Refuge staff will continue to monitor for the presence of threatened or endangered species on the refuge. If they are found on the refuge, the effects of hunting on these species will be evaluated.

Other Wildlife and Non-Target Species

Hunting and dog training can have direct and indirect impacts on both target and non-target species. These impacts include direct mortality of individuals, changes in wildlife behavior, changes in wildlife population structure, dynamics, and distribution patterns, and disturbance from noise and hunters walking on- and off-trail (Cole and Knight 1990, Cole 1990, Bell and Austin 1985). In general, refuge visitors engaged in hunting would be walking off-trail. General disturbance from recreational activities, including hunting, vary with the wildlife species involved and the activity's type, level, frequency, duration, and the time of year it occurs. The responses of wildlife to human activities like hunting, include avoidance or departure from the site (Owen 1973, Burger 1981, Kaiser and Fritzell 1984, Korschen et al. 1985, Kahl 1991, Klein 1993, Whittaker and Knight 1998), the use of suboptimal habitat (Erwin 1980, Williams and Forbes 1980), altered behavior or habituation to human disturbance (Burger 1981, Korschen et al. 1985, Morton et al. 1989, Ward and Stehn 1989, Havera et al. 1992, Klein 1993, Whittaker and Knight 1998), attraction (Whittaker and Knight 1998), and an increase in energy expenditure (Morton et al. 1989, Belanger and Bedard 1990). Burger (1986) found the level of disturbance in birds tends to increase when the distance is decreased between visitors and birds.

Migratory Bird Treaty Act

The Service is the principal Federal agency responsible for upholding the Migratory Bird Treaty Act. Migratory birds are a trust resource that are protected on the refuge by the Migratory Bird Treaty Act, as a legislated purpose of the refuge is 'to fulfill the international treaty obligations of the United States relating to fish and wildlife and wetlands.' National wildlife refuges are legislatively mandated to target the conservation of native species, which includes the protection of migratory birds during the breeding season (May, June, and July). It is widely recognized in the scientific literature that domestic dogs can negatively impact the distribution, abundance, ability to provision young and overall productivity of nesting birds. The associated impacts from domestic dogs are based on the type of species, time of year, location, type of use, frequency, and duration (Hennings 2016, Weston et al. 2014, Hughes 2013, Steven et al. 2011, Young et al. 2011, Showler et al. 2010). Based on the available literature pertaining to recreation disturbances on wildlife (Doherty et al. 2017; Lepe et al. 2017; Hennings 2016; Weston et al. 2014; Macdonald 2013; Showler et al. 2010; and Sime

1999), the training of dogs will occur outside of the migratory bird breeding season to limit disturbance to ground/shrub nesting migratory birds during the breeding season.

Further, the loss of avian species is well documented. Rosenberg et al estimates a net loss of almost 3 billion birds across North America since 1970, with an estimated loss of 1 billion birds within forested ecosystems. Eastern forests have seen a decline of 23 million neotropical bird species with 9 species lost (Rosenberg et al 2019). The most recent Birds of Conservation Concern report was released in 2021 by the Service's Migratory Bird Program. This report is developed by the FWS and its partners to identify species, subspecies, and populations of all migratory birds that without additional conservation action are likely to become candidates for listing under the Endangered Species Act. The Birds of Conservation Concern 2021 represents the highest migratory bird conservation priorities for the FWS. In 2008, 8 species of forest nesting birds on the Conte Refuge that breed in the northern part of the Connecticut River watershed were listed in the Birds of Conservation Concern report. In 2021, 11 species of forest nesting birds on the Conte Refuge that breed in the northern part of the Connecticut River watershed were in the Birds of Conservation Concern report. The increase in the number of species of forest nesting birds that are of conservation concern on the refuge indicates populations of additional species are declining within the region. Of particular interest to the Conte Refuge are Canada warbler, rusty blackbird and veery, as these three ground/shrub nesting birds are likely to be impacted from disturbances associated with frequent pursuit dog training on the refuge. These three species of conservation concern are known to breed and nest on the refuge in areas that are regularly used for dog training.

Nulhegan Basin

Furthermore, as part of the development of the Conte Refuge's 2018 Habitat Management Plan for the Nulhegan Basin Division, the refuge identified focal conservation species (American woodcock, blackburnian warbler, black-throated blue warbler, Canada warbler and rusty blackbird). All but the blackburnian warbler are ground/shrub nesting species that are protected by the FWS as trust resources that will likely be impacted during the breeding season due to repeated disturbances associated with dog training. Recognizing that the Nulhegan Basin is one of the largest remaining intact lowland softwood habitats in New England (outside of Maine), the refuge provides critical habitat to forest nesting migratory birds. Based on the observations of the FWS, lowland softwood sections of the refuge have received daily visitation throughout the breeding season from individuals that train their dogs in the same areas where listed Birds of Conservation Concern and focal conservation species are known to nest. To avoid disturbances to ground/shrub nesting birds, dog training will be prohibited during the migratory bird breeding season.

Spruce grouse are listed as endangered in the state of Vermont and are protected by the Vermont Endangered Species Act. The Conte Refuge's legislated purpose 'to conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species, and the ecosystem upon which these species depend within the refuge' requires that the State listed spruce grouse be afforded protections to limit the species from being negatively impacted by hunting and dog training on the refuge. Though spruce grouse are known to nest on the Wenlock Wildlife Management Area and Victory Basin Wildlife Management Area, the Vermont Department of Fish and Wildlife's 2012 Spruce Grouse Recovery Plan identifies the Nulhegan Basin of the Conte Refuge as providing three quarters of Vermont's current spruce grouse habitat. The VDFW advises hunters not to hunt ruffed

grouse in areas where spruce grouse are known to occur. Dog training is prohibited on the refuge during the breeding season to protect nesting spruce grouse.

Other Visitors and Users

The refuge is open to all six of the Refuge System’s priority public uses (hunting, fishing, wildlife observation, wildlife photography, environmental education and environmental interpretation) where found compatible. Conflicts between hunters and other refuge visitors can occur, particularly where there is concentrated use by both groups. The Pondicherry Division in Jefferson, New Hampshire is a location that attracts both hunters and an increasing number of non-hunting refuge visitors.

Cherry and Little Cherry Ponds were acquired in 1963 by NH Fish and Game and NH Audubon and are designated as a waterfowl refuge. Hunting is prohibited on the two bodies of water. The trail network at the Pondicherry Division provides accessible recreation opportunities that are very popular with refuge visitors. The refuge staff will monitor the use of the recreational trails and if circumstances warrant, modify public access such that conflicts are avoided (e.g., restricted hunting zones, enhanced outreach). Because hunting is generally a long-standing use in the area and is dispersed across a large landscape, it is anticipated that there would be negligible impacts to those individuals participating in fishing, wildlife observation and photography, environmental education, and wildlife interpretation.

PUBLIC REVIEW AND COMMENT:

This Compatibility Determination will be released with a supplemental Environmental Assessment and revised Hunt Plan for a 30-day comment period. Comments will be reviewed and analyzed at the end of the comment period.

DETERMINATION (CHECK ONE BELOW):

Use is not compatible

Use is compatible, with the following stipulations

STIPULATIONS NECESSARY TO ENSURE COMPATIBILITY:

To ensure compatibility with refuge purpose(s) and the Refuge System mission, hunting can occur at Silvio O. Conte NFWR in accordance with State and Federal regulations, and refuge-specific restrictions to ensure that wildlife and habitat management goals are achieved and that the program is providing a safe, high quality hunting experience for participants. We will evaluate this program annually and if monitoring indicates that this use or any of its components are not compatible (materially interferes with or detracts from fulfillment of the Refuge System mission or the purposes of the refuge), we would curtail, modify, or eliminate the use or component.

Lead is a well-known toxin to people and wildlife and even small amounts can have adverse health effects. Hunters are encouraged to voluntarily use non-lead ammunition.

The following stipulations are necessary to ensure compatibility:

- Excluding the Nulhegan Basin Divisions, refuge lands are closed to night hunting. Hunters are allowed on refuge lands from 1½-hour before sunrise to 1½-hour after sunset.
- We prohibit shooting from, over, or within 25 feet of the traveled portion of any road that is accessible to motor vehicles, with the exception of a permanently disabled hunter with the proper state and refuge issued special use permit.
- Tree stands, blinds and other hunting equipment must be removed from the refuge within 72 hours after the regulated hunting season has ended.

We will allow training of dogs following state regulations from August 1 through the last Saturday in September during daylight hours.

- At the Putney Mountain Unit, we allow the use of dogs only for hunting American woodcock, turkey (fall season), gray squirrel and ruffed grouse.

JUSTIFICATION:

Hunting is a priority wildlife-dependent use for the Refuge System through which the public can develop an appreciation for fish and wildlife. Service policy is to provide expanded opportunities for wildlife-dependent uses when compatible and consistent with sound fish and wildlife management and ensure that they receive enhanced consideration during planning and management. Dog training is not a priority public use but is closely associated with hunting experience. To ensure compatibility with refuge purposes, the dog training season will not coincide with the breeding season of migratory birds and when lynx kittens are vulnerable in den sites.

Hunting satisfies a recreational need, but hunting on refuges can also be an important, proactive management tool that can prevent overpopulation and the deterioration of habitat. Disturbance to other species will occur, but this disturbance is generally short-term. Suitable habitat exists on refuge lands to support hunting as proposed.

We do not expect this activity to conflict with any of the other priority public uses or adversely impact biological resources. The use will not cause an undue administrative burden. We will manage the use in accordance with Federal and State regulations, as well as refuge-specific regulations to ensure that wildlife and habitat management goals are achieved, and that the use is providing a safe, high-quality experience for participants. Annual adjustments can be made to the use or any of its components to ensure its continued compatibility. Therefore, through this compatibility determination process, we have determined that hunting on Silvio O. Conte NFWR, in accordance with the stipulations provided above, is a compatible use that will not materially interfere with, or detract from, the fulfillment of the Refuge System mission or the purposes of the refuge.

SIGNATURE:
Refuge Manager

ANDREW
FRENCH
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ANDREW FRENCH
Date: 2023.06.02
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(Signature)

(Date)

CONCURRENCE:
Regional Chief

SCOTT
KAHAN
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SCOTT KAHAN
Date: 2023.06.02
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(Signature)

(Date)

MANDATORY 15 YEAR RE-EVALUATION DATE:

6/1/2038

(Date)

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Supplemental Environmental Assessment for Recreational Hunting and Fishing on Silvio O. Conte National Fish and Wildlife Refuge

Executive Summary

This Supplemental Environmental Assessment (EA or Supplemental EA) is being prepared in response to recent litigation and is an effort to avoid further litigation over issues that can be easily remedied. Accordingly, the Service is reconsidering its August 2021 decision regarding dog training and hunting on the Silvio O. Conte National Fish and Wildlife Refuges (NFWR, Conte NFWR, refuge). Notable, the 2021 final Hunting and Fishing plan, prepared and approved by the Service in August 2021 is hereafter referred to as the 2021 EA. The Service issued a Finding of No Significant Impact (FONSI) for the proposed action and 2021 EA on August 17, 2021. Reference 86 Fed. Reg. 48,822, 48,879 for the 2021 FONSI and 2021 final rule. This new Conte NFWR New Hampshire and Vermont Recreational Hunting and Fishing Plan (the plan or rule¹) will provide the public with a fulsome opportunity to comment on the proposed rule. The Service will then issue a new decision that will supersede the 2021 EA, FONSI and previous rule. A list of laws and executive orders evaluated through this EA is included at the end of this document.

This Supplemental EA includes additional information, primarily associated with the potential impacts of training dogs, and utilizes the latest research and best available science where applicable. The majority of the written text was transferred from the 2021 EA and remains unchanged. The Service's preferred alternative allows dog training on the refuge from August 1 to the last Saturday in September because domestic dogs can negatively impact the distribution, abundance, ability to provision young and overall productivity of nesting birds. Additionally, the use of dogs is limited to only ruffed grouse hunting on the Putney Mountain Unit to mitigate issues with the Unit's limited acreage (285 acres) such as trespass onto private lands while training or in pursuit of game.

Purpose and Need

The purpose and need for the proposed action have not been significantly modified from the 2021 EA. The purpose of the proposed action is to provide expanded recreational hunting and fishing opportunities on the refuge. Hunting and fishing are recreational uses of renewable natural resources deeply rooted in America's heritage, and they can be important wildlife management tools. The National Wildlife Refuge System Administration Act (NWRSA) of 1966, the National Wildlife Refuge System

¹ The APA defines rule" as "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing..." See 5 U.S.C. § 551(4). The Conte Hunt Plan falls within this definition of a rule.

Improvement Act of 1997, other laws, and the Service's policies permit fishing and hunting on a national wildlife refuge when it is compatible with the purposes for which the refuge was established and acquired.

The Conte NFWR's Comprehensive Conservation Plan (CCP) addressed hunting and fishing with broad objectives.

Objective 3.1 - Hunting: Support quality public hunting opportunities in the Connecticut River Watershed in cooperation with willing landowners to promote a unique understanding and appreciation of natural resources and their management including the role of the Service and other public lands in resource conservation while also protecting a traditional outdoor pastime deeply rooted in America's natural and cultural heritage and conservation history.

Objective 3.2 - Fishing: Support quality public fishing opportunities in the Connecticut River Watershed in cooperation with willing landowners to promote an understanding and appreciation of natural resources and their management, including the role of the Service and other public lands in resource conservation, while also protecting a traditional outdoor pastime deeply rooted in America's natural heritage and conservation history.

The Recreational Hunting and Fishing Plan further defined and enhanced these objectives. The objectives of a big game, small game, and migratory game bird hunting program, and a fishing program, on Silvio O. Conte NFWR are to:

1. Provide the public with a high-quality recreational experience on refuge lands and increase opportunities and access for hunters and anglers;
2. Design a hunting and fishing program that are administratively efficient and manageable with existing staffing levels and that better aligns with State regulations;
3. Implement a hunting and fishing program that are safe for all refuge users;
4. Provide hunting and fishing opportunities for youth and those that need assistance; and
5. Design a hunting and fishing program that are in alignment with refuge habitat management objectives.

The need for the proposed action is evidenced by the requirement to meet the Service's priorities and mandates as outlined by the NWRSA of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, to "recognize compatible wildlife-dependent recreational uses as the priority general uses of the Refuge System" and "ensure that opportunities are provided within the Refuge System for compatible wildlife-dependent recreational uses" (16 U.S.C. 668dd(a)(4)). Department of the Interior Secretarial Order 3356 directs the Service to enhance and expand public access to lands and waters on refuges for hunting, fishing, recreational shooting, and other forms of outdoor recreation. The

proposed action would also promote two of the priority public uses of the National Wildlife Refuge System (Refuge System). By providing opportunities for visitors to hunt and fish, we can promote stewardship of our natural resources and increase public appreciation and support for the Refuge System. However, the Service must balance its statutorily mandated conservation responsibilities with compatible recreational use of the refuge.

Alternatives

For this Supplemental EA, two alternatives are considered. Both alternatives continue the refuge's hunting and fishing program established in the 2021 New Hampshire and Vermont Recreational Hunting and Fishing Plan that expanded hunting and fishing opportunities across the refuge lands in New Hampshire and Vermont. The two alternatives include: The No Action (Service's Preferred) Alternative A, and Alternative B.

The No Action Alternative (Alternative A) would continue the refuge's hunting and fishing program as identified in the 2021 Hunt Plan. Under Alternative A, the dog training season is adjusted to limit negative impacts to migratory birds and Threatened or Endangered species; and dogs may only be used for ruffed grouse hunting on the Putney Mountain Unit.

Alternative B expands the dog training season to include when migratory birds are breeding. Alternative B also allows hunting and training of dogs consistent with State regulations on the Putney Mountain Unit.

The refuge has prepared a Recreational Hunting and Fishing Plan, which is summarized in this document as the No Action Alternative (Alternative A). This alternative includes additions and changes made in the 2021 Final rule discussed previously.

Environmental Consequences

The only potential environmental stressor added to sections of this Supplemental EA, that may not have been addressed as fully in the 2021 EA, are the potential effects from training dogs on the refuge. All other stressors associated with hunting and fishing activities remain the same as in the 2021 EA, and the analysis and effects remain fundamentally the same. Due to the associated impacts from domestic dogs on wildlife based on the type of species, time of year, location, type of use, frequency, and duration, the FWS is reviewing impacts associated with dog training on the refuge.

The FWS is the principal federal agency responsible for complying with the Migratory Bird Treaty Act and the Endangered Species Act. Migratory birds are a trust resource that are protected on the refuge, as a legislated purpose of the refuge is 'to fulfill the international treaty obligations of the United States relating to fish and wildlife and wetlands.' The refuge is legislatively mandated to target the conservation of native species, which includes the protection of migratory birds during the breeding season (May, June, and July). It is widely recognized in the scientific literature that domestic dogs can negatively impact the distribution, abundance, ability to provision young and overall productivity of nesting birds.

The training of dogs occurs when Canada lynx kittens are within den sites and vulnerable to encounters with dogs. Since females establish dens where hares are abundant, dogs being

trained to hunt snowshoe hare may encounter den sites. These encounters may result in indirect mortality from disturbance or direct mortality through predation. Therefore, the dog training season is restricted to August 1 to the last Saturday in September, at which point lynx kittens are believed to be weaned and likely able to avoid encounters with dogs.

Under Section 7 of the Endangered Species Act, an evaluation of impacts to threatened and endangered species at the Silvio O. Conte NFWR was completed with the 2021 EA. A determination of “May affect, but not likely to adversely affect” or “No effect” was made for each species at that time, as the proposed action was expected to cause insignificant or discountable effects to individuals given the minimal chance of overlap with potential hunting and fishing activities. We understand that re-initiation of consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law), and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action.

Public Review

With the 2021 EA, the public had the opportunity to review and comment on the draft from May 3 through August 8, 2022, a total of 97 days. We distributed a press release to news organizations and alerted visitors to the plan’s availability on the refuge website. Over 700 comment letters were submitted from the public that offered input to the refuge for the 2021 EA.

This Supplemental EA has been thoroughly coordinated with all interested and/or affected parties. The public will be notified of the availability of the Supplemental EA and associated documents for review and will include no less than a 30-day comment period. We will inform the public through local venues and the refuge website. Comments received from the public will be considered, and modifications may be incorporated into the final plan and decision documents. This proposed action is often iterative and evolves over time during the process as the agency refines its proposal and learns more from the public, Tribes, and other agencies. Therefore, the final proposed action may be different from the original. The final decision on the proposed action will be made at the conclusion of the public comment period for the EA.

Silvio O. Conte National Fish and Wildlife Refuge Hunting and Recreational Fishing Supplemental Environmental Assessment

This Supplemental Environmental Assessment (SEA) is being prepared to evaluate the effects associated with the proposed action and complies with the National Environmental Policy Act (NEPA) in accordance with Council on Environmental Quality regulations (40 CFR 1500-1509) and Department of the Interior (43 CFR 46; 516 DM 8) and U.S. Fish and Wildlife Service (Service) (550 FW 3) regulations and policies. This document is a supplement to, and updates, the EA for the Silvio O. Conte National Fish and Wildlife Refuge (NFWR, Conte NFWR, refuge) Recreational Hunting and Fishing Plan, prepared and approved by the Service in August 2021 (hereafter referred to as the 2021 EA). The Service issued a Finding of No Significant Impact (FONSI) for the proposed action and 2021 EA on August 16, 2021. NEPA requires examination of the effects of proposed actions on the natural and human environment. A list of laws and executive orders evaluated through this EA is included at the end of this document.

Proposed Action

The Conte Refuge was established in 1997 in the 7.2 million-acre Connecticut River Watershed in Connecticut, Massachusetts, New Hampshire, and Vermont to conserve native fish, plants, and wildlife. Since its establishment, refuge-owned lands have grown to 22 units and divisions totaling more than 40,081 acres. These lands encompass a variety of unique habitats including Northern forest valuable as nesting habitat for migrant thrushes, warblers, and other birds; rivers and streams used by mussels, shad, salmon, trout, herring, and other migratory fishes; floodplains, forested swamps and peatlands which support a high diversity of rare plants and invertebrates; and an internationally important complex of high quality tidal fresh, brackish, and salt marshes.

Regulated sport hunting and fishing has been an important management tool and recreational activity at Silvio O. Conte NFWR for over a decade. The Service is proposing that refuge owned lands remain open to fishing and hunting opportunities for big game, small game, furbearers and migratory game birds in New Hampshire and Vermont on the Silvio O. Conte National Fish and Wildlife Refuge in accordance with the refuge's Recreational Hunting and Fishing Plan. The Conte Refuge is proposing all refuge-owned land in the two States remain open for hunting and fishing when found to be compatible, and consistent with Federal, State, and refuge-specific hunting and fishing regulations. The dog training season would be shortened to reduce impacts to Threatened or Endangered species and migratory birds.

This proposed action is often iterative and evolves over time during the process as the agency refines its proposal and learns more from the public, Tribes, and other agencies. Therefore, the final proposed action may be different from the original. The final decision on the proposed action will be made at the conclusion of the public comment period for the EA.

Background

National wildlife refuges are guided by the mission and goals of the National Wildlife Refuge System (Refuge System), the purposes of an individual refuge, Service policy, laws and international treaties. Relevant guidance includes the Refuge System Administration Act (NWRSA) of 1966, as amended by the Refuge System Improvement Act of 1997, Refuge Recreation Act of 1962, and portions of the Code of Federal Regulations and Service Manual.

The refuge was established pursuant to The Silvio O. Conte National Fish and Wildlife Act (Public Law 102-212 H.R.794). The purpose of the refuge is to:

- To conserve, protect, and enhance the Connecticut River populations of Atlantic salmon, American shad, river herring, shortnose sturgeon, bald eagles, peregrine falcons, osprey, black ducks, and other native species of plants fish and wildlife.
- To conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species, and the ecosystem upon which these species depend within the refuge.
- To protect species listed as endangered or threatened, or identified as candidates for listing, pursuant to the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.).
- To restore and maintain the chemical, physical, and biological integrity of wetland and other waters within the refuge.
- To fulfill the international treaty obligations of the United States relating to fish, wildlife, and wetlands; and
- To provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access to the extent compatible with the other purposes stated in this section.

The mission of the Refuge System, as outlined by the NWRSA, as amended by the National Wildlife Refuge System Improvement Act (16 U.S.C. 668dd et seq.), is

“... to administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.”

The act mandates the Secretary of the Interior in administering the Refuge System to (16 U.S.C. 668dd(a)(4):

- Provide for the conservation of fish, wildlife, and plants, and their habitats

within the Refuge System;

- Ensure that the biological integrity, diversity, and environmental health of the Refuge System are maintained for the benefit of present and future generations of Americans;
- Ensure that the mission of the Refuge System as described at 16 U.S.C. 668dd(a)(2) and the purposes of each refuge are carried out;
- Ensure effective coordination, interaction, and cooperation with owners of land adjoining Refuges and the fish and wildlife agency of the States in which the units of the Refuge System are located;
- Assist in the maintenance of adequate water quantity and water quality to fulfill the mission of the Refuge System and the purposes of each refuge;
- Recognize compatible wildlife-dependent recreational uses as the priority general public uses of the Refuge System through which the American public can develop an appreciation for fish and wildlife;
- Ensure that opportunities are provided within the Refuge System for compatible wildlife- dependent recreational uses; and
- Monitor the status and trends of fish, wildlife, and plants in each refuge.

The refuge has managed hunting and fishing on some refuge lands for over a decade through pre- acquisition Compatibility Determinations (CDs) that were completed when lands were acquired. The New Hampshire portion of the refuge receives approximately 25,000 visitors each year, with estimates of 500 hunting and 400 fishing visits per year. The Vermont portion receives approximately 30,000 visitors, with estimates of about 1,000 hunting and 500 fishing visits.

Purpose and Need for the Action

Hunting and fishing are healthy and recreational uses of renewable natural resources deeply rooted in America's heritage and can be important wildlife management tools. NWRs, including the Silvio O. Conte NFWR, conduct hunting and fishing programs within the framework of Federal, State, and refuge regulations. The NWRSA of 1966, the Refuge System Improvement Act of 1997, and Service policy permit hunting and fishing on a refuge as a priority wildlife-dependent recreational opportunity when it is compatible with the purposes for which the refuge was established and acquired. Hunters and anglers on the refuge are expected to be ethical and respectful of other users, wildlife species, and the environment while on refuge lands.

The purpose of the proposed action is to provide compatible wildlife-dependent recreational hunting and fishing opportunities on Conte NFWR. The stated objectives of a hunting and fishing program on Conte NFWR are to:

1. Provide the public with a high-quality recreational experience on refuge lands and

increase opportunities and access for hunters and anglers;

2. Design a hunting and fishing program that are administratively efficient and manageable with existing staffing levels and that better aligns with State regulations;
3. Implement a hunting and fishing program that are safe for all refuge users;
4. Provide hunting and fishing opportunities for youth and those that need assistance; and
6. Design a hunting and fishing program that are in alignment with refuge habitat management objectives.

The need for the proposed action is evidenced by the requirement to meet the Service's priorities and mandates as outlined by the NWRSA of 1966, as amended by the Refuge System Improvement Act of 1997, to "recognize compatible wildlife-dependent recreational uses as the priority general uses of the Refuge System" and "ensure that opportunities are provided within the Refuge System for compatible wildlife-dependent recreational uses" (16 U.S.C. 668dd(a)(4)). Department of the Interior Secretarial Order 3356 directs the Service to enhance and expand public access to lands and waters on refuges for hunting, fishing, recreational shooting, and other forms of outdoor recreation. The proposed action would also promote two of the priority public uses of the Refuge System. By providing opportunities for visitors to hunt and fish, we can promote stewardship of our natural resources and increase public appreciation and support for the Refuge System. The purpose of the proposed action is to provide compatible wildlife-dependent recreational opportunities on the Silvio O. Conte NFWR.

The need of the proposed action is to meet the Service's priorities and mandates as outlined by the NWRSA to "recognize compatible wildlife-dependent recreational uses as the priority general uses of the Refuge System" and "ensure that opportunities are provided within the Refuge System for compatible wildlife-dependent recreational uses" (16 U.S.C. 668dd(a)(4)). Department of the Interior Secretarial Order 3356 directs the Service to enhance and expand public access to lands and waters on refuges for hunting, fishing, recreational shooting, and other forms of outdoor recreation. The proposed action would also promote two of the priority public uses of the Refuge System and providing opportunities for visitors to hunt and fish can promote stewardship of our natural resources and increase public appreciation and support for the refuge.

The EA serves as the NEPA document which analyzes the impacts on environmental, cultural, and historical resources of providing additional hunting and fishing opportunities on the refuge.

Alternatives

For this Supplemental EA, two alternatives are analyzed: the No Action (Service's Preferred) Alternative and Alternative B (Expansion of the Dog Training Season).

Alternative A: No Action (Service's Preferred Alternative):

The refuge has prepared a Recreational Hunting and Fishing Plan, which is presented in this

Supplemental EA as the No Action Alternative. There would be no change to the current public use and wildlife management programs on the refuge. This alternative is the Service's proposed action because it offers the best opportunity for public hunting and fishing that would result in a minimal impact on physical and biological resources, while meeting the Service's mandates under the NWRSA and Secretarial Order 3356. The Service believes that hunting and fishing on the refuge will not have a significant impact on local or regional wildlife populations because the percentage likely to be harvested on the refuge, though possibly additive to existing hunting takes, would be a tiny fraction of the estimated populations.

Hunting

New Hampshire Species and Regulations

Hunting on refuge lands will follow the New Hampshire Department of Fish and Game's (NHDFG) hunting regulations with some additional restrictions to protect wildlife and habitat, and to reduce potential public use conflicts. The Saddle Island Unit and Mascoma River Division will open to hunting for the first time. Hunters can access refuge lands by public roads and adjoining public lands and water.

Approximately, 10,293 acres will be open to hunting on New Hampshire refuge lands for the following species:

Big Game – Moose, white-tailed deer, black bear, and turkey hunting would be permitted on New Hampshire units of the refuge.

Furbearers – Red and gray fox, raccoon, coyote, skunk, muskrat, opossum, weasel, fisher, and mink hunting would be permitted on New Hampshire units of the refuge.

Small Game – Eastern cottontail, snowshoe hare and gray squirrel hunting would be permitted on New Hampshire units of the refuge.

Game Bird – Wilson's snipe, coot, crow, pheasant, ruffed grouse, duck, light geese, dark geese, and woodcock hunting would be permitted on New Hampshire units of the refuge.

Vermont Species and Regulations

Hunting on refuge lands will follow Vermont Department of Fish and Wildlife's (VTDFW) hunting regulations with some additional restrictions to protect wildlife and habitat, and to reduce potential public use conflicts. Hunters can access refuge lands by public roads and adjoining public lands and water.

Approximately, 26,887 acres would be open to hunting on Vermont refuge lands for the following species:

Big Game – Moose, white-tailed deer, black bear, and turkey hunting would be permitted on Vermont units of the refuge.

Furbearers – Bobcat, red and gray fox, raccoon, coyote, skunk, muskrat, opossum, weasel, and woodchuck hunting would be permitted on Vermont units of the refuge.

Small Game – Eastern cottontail, snowshoe hare and gray squirrel hunting will be permitted on Vermont units of the refuge.

Game Bird – Wilson’s snipe, coot, crow, pheasant, ruffed grouse, duck, light geese, dark geese, and woodcock hunting would be permitted on Vermont units of the refuge.

Fishing

The Connecticut River watershed supports a diversity of fishery resources. Cold, cool, and warm water species are in general abundance throughout the watershed. The cold-water tributaries within the New Hampshire and Vermont portion of the refuge provides important habitat for brook trout, rainbow trout, and brown trout. Refuge ponds provide habitat for the usual warm water fish species including pumpkinseed, yellow perch, and pickerel.

Recreational fishing would be conducted under the State of New Hampshire’s regulations for open water and ice fishing, and the State of Vermont’s regulations for inland fisheries with some additional restrictions to protect fish, wildlife, and habitat and to reduce potential public use conflicts. During the seasons specified in the fishing regulations established annually by the States, fishing could occur between one-half-hour before sunrise to one-half-hour after sunset. Anglers can access refuge waters from refuge roads, refuge lands, public roads and adjoining public lands.

Special Refuge Specific Regulations

- Excluding the Nulhegan Basin Divisions, refuge lands are closed to night hunting. Hunters are allowed on refuge lands from one and a-half-hour before sunrise to one and a-half-hour after sunset.
- A person shall not take or attempt to take any wild animal by shooting a firearm, muzzleloader, bow and arrow or crossbow within 25 feet of a traveled portion of a public road, with the exception of a permanently disabled hunter with the proper state and refuge issued special use permit.
- Tree stands, blinds, or other hunting equipment must be removed from the refuge within 72 hours after the regulated hunting season has ended.
- Take of amphibians, reptiles and baitfish is prohibited.

- We allow the training of dogs following State regulations from August 1 through the last Saturday in September during daylight hours, if the trainer possesses a special use permit.
- We allow the use of dogs consistent with State regulations, except hunters using more than two dogs must possess a special permit.
- At the Putney Mountain Unit, we allow the use of dogs only for hunting ruffed grouse. This regulation mitigates issues with the Unit's small size (285 acres) such as potential trespass of hunting dogs onto private property while training or in pursuit of game

This proposed alternative offers opportunities for public hunting and fishing and fulfills the Service's mandate under the Refuge System Improvement Act of 1997. The Service has determined that the hunting and fishing plan is compatible with the purposes of the Conte Refuge and the mission of the Refuge System.

Alternative B; Expansion of the Dog Training Season

Alternative B would expand the dog training season to follow the Vermont State dog training season which occurs in the months of June, July, August, and September. Additionally, dog use would be consistent with State regulations for hunting and training on the Putney Mountain Unit.

Alternative(s) Considered, But Dismissed From Further Consideration

The closure of the dog training season on refuge lands during the entirety of Vermont and New Hampshire State seasons was considered but dismissed from further review. However, the Service will continue to monitor population trends of endangered and threatened species, and migratory birds. If there is evidence that trust resource populations decline, then the Service may revisit impacts associated with the dog training season.

In developing hunting plans for national wildlife refuges, we regularly receive comments and requests from some members of the public to eliminate hunting. An alternative that would close the refuge to all hunting was therefore considered but dismissed from detailed analysis. A "No Hunting Alternative" would not accomplish the purposes we seek to accomplish by the adoption of this hunting and fishing plan, as described in the "purpose and need" section of this Supplemental EA.

Closing the refuge to hunting would conflict with the Refuge System Improvement Act, which provides that hunting is an appropriate and priority use of the Refuge System, shall receive priority consideration in refuge planning and management, mandates that hunting opportunities should be facilitated when feasible, and directs the Service to administer the Refuge System so as to "provide increased opportunities for families to experience compatible wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting." Furthermore, Department of the Interior Secretarial Order 3356, signed in 2017, directs the Service to enhance and expand public access to lands and waters on national wildlife refuges

for hunting, fishing, recreational shooting, and other forms of outdoor recreation. An alternative that failed to provide any opportunity to participate in hunting activities, where such activities are compatible with the purposes of the Refuge System, would also fail to meet the goals of the Refuge System.

Mitigation Measures to Avoid Conflicts

- Safety zones will be posted in areas of high visitation such as around buildings to reduce the interaction between hunters and other user groups.
- Current hunting and fishing information will be available at the refuge's headquarters and posted on the refuge's website and at onsite kiosks.
- Hunting and fishing will take place during daylight hours only to avoid nighttime disturbance to wildlife except on the Nulhegan Basin Division where night hunting is allowed with a special permit.

Affected Environment and Environmental Consequences

The only potential environmental stressor added to sections of this Supplemental EA that may not have been addressed as fully in the 2021 EA would be the potential effects of dogs on wildlife. All other stressors associated with hunting and fishing activities remain the same as in the 2021 EA, and the analysis and effects remain fundamentally the same. This section is organized by affected resource categories and for each affected resource discusses both (1) the existing environmental and socioeconomic baseline in the action area for each resource and (2) the effects and impacts of the proposed action and any alternatives on each resource. The effects and impacts of the proposed action considered here are changes to the human environment, whether adverse or beneficial, that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives. This Supplemental EA focuses on the written analyses of the environmental consequences on a resource only when the impacts on that resource could be more than negligible and therefore considered an "affected resource." Resources that will not be more than negligibly impacted by the action may be dismissed from further analyses. We determine significance by considering the degree of effects to that environment, and connected actions are used to assist in determining significance.

As stated above, this section predicts the foreseeable impacts of implementing the hunting and fishing program in each of the alternatives. When detailed information may be deficient or unavailable, we base our comparisons on professional judgment and experience. We usually identify potential impacts within a long-range timeframe (i.e., 15 years); beyond that timeframe they become more speculative.

Please keep in mind the relatively small total land mass of the hunting and fishing areas of the refuge in comparison with the entire Atlantic Flyway or the breeding ranges of the many birds and wildlife that use it. We recognize that the refuge is not isolated ecologically from the land around it; however, we may have overstated positive or negative impacts in that

larger geographic context. Nevertheless, the actions we propose conform with the CCP and other regional landscape plans, and provide positive, incremental contributions to those larger landscape goals.

The New Hampshire portion of the Conte Refuge consists of five units and divisions, located within the Connecticut River Watershed in Northern New Hampshire (see Figure 1 within the Recreational Hunting and Fishing Plan). The Vermont portion of the Conte Refuge consists of one division and one unit within in the Connecticut River Watershed in Vermont. The refuge is made up of a wide range of habitat types (see Table C-1) depending on the unit or division.

Table B-1. Silvio O. Conte NFWR Habitat Types

Habitat Type	Description
Hardwood Forest	Hardwood forest communities represent a large matrix community throughout the watershed. They include deciduous-dominated forests, such as Northeast interior dry-mesic oak, Central Appalachian dry oak-pine, North Atlantic coastal plain dry hardwood forest, and Laurentian-Acadian Northern hardwood forests, as well as mixed wood communities, such as Laurentian-Acadian pine-hemlock-hardwood, and Appalachian hemlock-Northern hardwood. Tree species common to this habitat are sugar and red maple, American beech, yellow and white birch, and to a lesser extent basswood, white ash, and black cherry. Mixed-wood forests are often along transitional zones between deciduous and coniferous dominated habitats, and thus are characterized by plant species and soil properties that stem from both. Most often these are found on either gently sloping benches or plateaus or at higher elevations (2,000 to 2,500 feet), where soils are typically shallow above a restricting pan layer. These forests are important for several priority species including wood thrush, American woodcock, and black-throated blue warbler.

Hardwood Swamp	<p>Forested swamps can be found in large and small patches within and around the larger upland formations. They grow on terrain with little to no slope, in topographic depressions and sumps, and often in watershed headwater basins. Hardwood forested swamps vary in their hydrological regimes from wetlands having standing water for only a small part of the year to very wet wetlands that seasonally flood and/or saturate surfaces for a substantial part of the year. Forested swamps provide important wildlife habitat; for example, forested wetlands tend to have more total birds as well as more bird species nesting in a given area than upland forested sites (Newton 1988). Red maple swamps can be found in a wide range of settings and provide habitat for a large variety of wetland-dependent species including wood ducks, marbled salamanders, and beaver.</p>
Pasture/Grassland	<p>In the Connecticut River Watershed, pasture, hay, and grasslands are primarily the result of agricultural production activities. Although historically there were natural grasslands in the region most likely in major river valleys and along the coast, very little natural grassland remains today (Dettmers and Rosenberg 2000). Although agricultural lands are not native wildlife habitat, they can serve the needs of many species. Forage lands or pasture, hay fields, open vegetable patches and sod fields can be valuable to many species of birds, mammals, reptiles, and amphibians. These grassland ecosystems have since been impacted by development and fragmentation.</p>
Shrub Swamp/ Floodplain Forest	<p>Shrub swamps are wetlands dominated by woody shrubs. They can be found throughout the watershed and are highly variable depending on climate, past disturbance, hydrology, and mineral enrichment. They are often found in transitional zones between marshes and forested wetlands along pond margins, lake margins, and along rivers and streams (Gawler 2008, Thompson and Sorenson 2000).</p>
Floodplain Forest	<p>Annual spring high water flows in the Connecticut River Watershed have created a substantial number of floodplains. In areas without constant scouring, floodplains host rich forest habitats. Connecticut River floodplain forests are usually dominated by silver maple, Eastern cottonwood, and black willow with an understory of ostrich fern, wood nettle, and false nettle. These riverside forests provide critical nursery habitats (e.g., shade, cover) for some fish and important migratory stopover habitat.</p>

Freshwater Marsh	Freshwater marshes are open wetlands found throughout the watershed. They are dominated by herbaceous vegetation such as sedges, grasses, and cattails with little or no woody vegetation present. Freshwater marshes are rich and very productive biological communities. They are identified as having high ecological and functional importance within the State Wildlife Action Plan. Marshes support a variety of emergent plants such as cattails, grasses, and sedges.
Open Water	Open water habitats include rivers, streams, ponds, lakes and associated transitional habitats influenced by fluctuating water levels. Diadromous and indigenous fish, freshwater mussels, mayflies, dragonflies, and amphibians each rely on these communities for some stage of their life cycle. These habitats also provide foraging opportunities for other species including waterfowl, herons, egrets, mink, and otter.

For more information regarding descriptions of all refuge resources, please see the refuge’s CCP, Volume 2, State of New Hampshire Lands at:

https://www.fws.gov/Refuge/Silvio_O_Conte/what_we_do/finalccp.html.

Affected Resources and Anticipated Impacts

Big Game

Description of Affected Resource

Big game includes White-tailed Deer, Black Bear, Moose, and Wild Turkey. Populations of these species have generally remained steady to slight increases in New Hampshire and Vermont. Both States will adjust seasons and limits to maintain healthy populations.

Impacts on Affected Resource

No Action Alternative

White-tailed deer, black bear, moose, and wild turkey are currently hunted on refuge lands. State wildlife agencies manage populations at or below carrying capacity to maintain healthy wildlife populations and ecologically sound habitats. These species would continue to be hunted following State regulations. No additional impacts are expected.

Alternative B

Impacts from hunting White-tailed deer, black bear, moose, and wild turkey would be similar to the No Action Alternative.

Small Game

Description of Affected Resource

Small game includes Coyote, Red and Gray Fox, Raccoon, Skunk, Muskrat, Opossum, Weasel, Woodchuck, Fisher, Porcupine, Bobcat, Mink, Eastern Cottontail, Snowshoe Hare, and Gray Squirrel.

Impacts on Affected Resource

No Action Alternative

All small game species would be open to hunting under this alternative. The number of hunters pursuing skunk, muskrat, opossum, weasel, woodchuck (sometimes referred to as groundhog), fisher, porcupine and mink is predicted to be low and is not expected to have negative impacts on populations. These species are mainly considered nuisance species in populated areas causing human-wildlife conflicts. Hunting of these species is more likely to occur off refuge lands surrounding more populated areas.

Alternative B

All small game species would be open to hunting following State regulations. Impacts to coyote, red and gray fox, raccoon, bobcat, Eastern cottontail, snowshoe hare and gray squirrel would be similar to the No Action Alternative.

Game Birds

Description of Game Birds

Game bird species include Wilson's Snipe, Coot, Crow, Pheasant, Ruffed Grouse, Duck, Light Geese, Dark Geese, and Woodcock.

Impacts on Affected Resource

No Action Alternative

All of these species would be open to hunting under this alternative. Woodcock and ruffed grouse are the most pursued game bird on refuge lands. Ruffed grouse populations are monitored, and hunting regulations are enforced by the State wildlife agencies. Waterfowl and woodcock seasons and bag limits are set by States within a framework set by the Service and based on surveys, harvest data, and habitat data. Populations of these species have remained relatively stable. The number of hunters pursuing geese and crow are relatively low. Pheasant are not native to the area and are typically released on private or State lands for hunting purposes. The release of pheasant on refuge lands is not allowed because it is not a native species. Hunting of pheasant would only occur if a bird found its way to refuge lands from adjoining properties. At this time, birds are not released on lands adjacent to refuge lands. Wilson's snipe is often an incidental species taken while hunting woodcock. It is not a highly pursued game species. Refuge lands do not support large numbers of these species and they are not popular hunted game birds on the refuge.

Alternative B

Wilson's snipe, coot, pheasant, ruffed grouse, duck, light geese, dark geese, and woodcock are all ground nesting birds that may be affected by training dogs on the refuge during the breeding season.

Other Wildlife and Aquatic Species

Description of Affected Resource

The refuge supports a diversity of wildlife species in New Hampshire and Vermont, including reptiles, amphibians, and invertebrates, which are important contributors to the overall biodiversity on the refuge. Some songbirds and raptors breed at the refuge, whereas others utilize the refuge for wintering and during migration.

Impacts on Affected Resource

No Action Alternative

The current level of hunting and fishing taking place on refuge lands may cause a short-term disturbance to wildlife. The number of overall hunters is relatively low with peak numbers during the first week of deer rifle season. This season occurs in November when the breeding season of most wildlife species has ended and migratory species have moved further South. We feel that the disturbance to other wildlife is minimal due to the short time period of disturbance. The overall number of hunters during all hunting seasons is low and dispersed across large acreage, leaving many parts of the refuge undisturbed. The refuge works closely with each State wildlife agency to minimize impacts to game species that look similar to other protected species such as spruce grouse and Canada lynx. Spruce grouse is a species of concern in New Hampshire and endangered in Vermont. Female spruce grouse look very similar to female ruffed grouse. VTDFW posts signs in the Nulhegan Basin Division to educate hunters about key identification characteristics and habitat preferences of spruce grouse. Canada lynx, a federally listed species, can be misidentified as bobcat. We work closely with VTDFW to educate hunters about lynx (see Section 7 for details). We follow State hunting and fishing regulations and distribute each State wildlife agency hunting and fishing guides. These guides provide each State's hunting and fishing regulations and educational tools to minimize impacts on other species. State regulations and seasons also take into account impacts on other wildlife species.

Alternative B

Domestic dogs can negatively impact the distribution, abundance, ability to provision young and overall productivity of nesting birds. The associated impacts from domestic dogs are based on the type of species, time of year, location, type of use, frequency, and duration. Based on the available scientific peer reviewed literature pertaining to recreation disturbances on wildlife, the training of dogs during the migratory bird breeding season is likely to adversely affect ground/shrub nesting birds. (Doherty et al. 2017, Lepe et al. 2017, Hennings 2016, Weston et al. 2014, Hughes et al. 2013, Steven et al. 2011, Young et al. 2011, Showler et al. 2010, and Sime 1999).

Threatened and Endangered Species (T&E) and Other Special Status Species

Description of Affected Resources

These species include Northern long-eared bat, Northeastern bulrush, Canada lynx, Dwarf Wedgemussel, and Jessup's milk-vetch.

Impacts on Affected Resources

An Intra-Service Section 7 analysis under the Endangered Species Act (ESA) of 1973, as amended was conducted in cooperation with the Service's New England Field Office.

Northern long-eared bats – No new mitigation measures would be necessary to protect Northern long-eared bats even though there is the possibility that they live on refuge lands. Impacts to Northern long-eared bats will be minimal as there is very little overlap with hunting activities and the bats' maternity and volant periods.

Northeastern bulrush – Refuge staff would monitor recreational use and the population status of Northeastern bulrush on the refuge. Impacts to Northeastern bulrush populations will likely be minimal; hunters and anglers would not use the area the species occupies frequently because the wetland type provides limited habitat for fish and waterfowl.

Canada lynx – Canada lynx may or may not be present on the refuge, but refuge staff would monitor their presence. Hunters frequently mistake Canada lynx for bobcat, which look very similar and are allowed to be hunted in Vermont. The refuge would work with VTDFW to educate hunters on key identifiable differences between Canada lynx and bobcat. Due to the species' specific habitat requirements, the status of the species and the time of year that hunting and dog training would take place, hunting and the training of dogs, may affect, but is not likely to adversely affect Canada lynx. A recent endangered species consultation determined that the refuge's current dog training season, which occurs from August to September, reduces potential impacts to Canada lynx. Dog training that occurs between May and August may have indirect and direct impacts to lynx kittens when they are vulnerable in den sites.

Jessup's milk-vetch – Refuge staff would monitor recreational use and population status of the Jessup's milk-vetch growing on the refuge. Impacts to Jessup's milk-vetch would be minimal based on the current use patterns of the island by anglers and other user groups.

Dwarf wedgemussel – No mitigation measures would be taken for protecting dwarf wedgemussels. Although there is no dwarf wedgemussel population on the refuge, there are populations within the vicinity of the refuge. Because there are none living in the refuge, there would be no impacts to dwarf wedgemussel populations.

Refuge staff will continue to monitor for the presence of threatened or endangered species on the refuge. If they are found on the refuge, the effects of hunting on these species will be evaluated. See Intra-Service Section 7 for additional details.

Vegetation

Description of Affected Resources

This section includes vegetation of special management concern. Vegetation varies widely throughout refuge lands, encompassing shrubby and herbaceous communities, as well as forested communities with a wide array of canopy types.

Impacts on Affected Resources

No Action Alternative

Overbrowsing of vegetation is one consequence of populations that are beyond their carrying capacity (Behrend et al. 1970, White 2012, Bergeron et al. 2011). VTDFW increased hunting pressures on moose populations in Northeast Vermont due to an unexpected spike in their population. Impacts of moose overbrowsing is evident throughout the forests of the Nulhegan Basin Division. Hunting is used as a tool to maintain game populations at or below carrying capacity, which will minimize impacts on vegetation. Hunters and anglers could negatively affect vegetation by trampling and creating footpaths. Current levels of use for hunting and fishing have had negligible impacts to vegetation (i.e., factors include low number of users, low frequency of use, and dispersed use patterns).

Alternative B

Training groups of dogs repeatedly in the same habitat may affect, but not likely to adversely affect vegetation by trampling and creating footpaths.

Water Resources

Description of Affected Resources

Recreational fishing would be open for the season and species as regulated by the States.

Impacts on Affected Resources

No Action Alternative

Recreational fishing would continue to occur on refuge lands following State regulations and seasons. The States strive to ensure maintenance of healthy and diverse fish species populations. Anglers must abide by the State's seasons, catch limits, and regulations which were designed to protect the State's fish populations. The refuge's fishing pressure has been light and sustainable. We do not anticipate an increase in recreational fishing activities.

Alternative B

Impacts would be similar to those mentioned under the No Action Alternative

Wetlands

Impacts on Affected Resources

No Action Alternative

Hunters are permitted to walk on lands throughout designated hunting areas without restriction. Migratory bird hunters are permitted to place blinds on the refuge but must remove them daily, minimizing impacts to vegetation. As bird hunting occurs in the fall and early winter, impacts to vegetation are negligible and short-term. No impacts to any wetland habitats have been observed by refuge staff.

Alternative B

Impacts to wetlands will be similar to the No Action Alternative as the number of people training dogs in wetland areas is minimal.

Visitor Use and Experience

Description of Use

The refuge is open to all priority public uses (hunting, fishing, wildlife observation, wildlife photography, environmental education and environmental interpretation) on lands where found compatible.

Impacts on Use

No Action Alternative

Currently, the refuge is open to all six priority wildlife-dependent uses. The lands that are open to hunting and fishing follow State seasons and regulations. There have been very few conflicts among user groups that have involved hunting or fishing. Public health and safety are addressed through clearly delineated safety zones and increased outreach to all users.

Alternative B

It is expected that the number of people training their dogs to pursue wildlife in the early summer will not cause conflicts among the user groups. We do not expect to see an increase in the number of conflicts among user groups.

Cultural Resources

The Service, as the lead Federal agency, has chosen to use the NEPA substitution process to fulfill obligations under the National Historic Preservation Act of 1966, as amended (NHPA). While obligations under NHPA and NEPA are independent, the regulations implementing NHPA allow for the use of NEPA review to substitute for various aspects of the NHPA section 106 (16 U.S.C. 470f) review to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that a project may have on the human environment (36 CFR 800.3 through 800.6).

Section 106 of the NHPA requires the Service to evaluate the effects of any of its actions on cultural resources (historic, architectural, and archeological properties) that are listed or eligible for listing in the National Register of Historic Places (NRHP).

Under each alternative, hunting, regardless of the method or species targeted, will not pose a threat to cultural resources. There are no historic buildings or other obvious cultural resources on the refuge that would be readily susceptible to impacts from hunting.

Refuge Management and Operations – Land Use

Description

The refuge currently owns and maintains a Visitor Contact Station in Brunswick, Vermont, various parking lots, hiking trails, informational kiosks, and gravel roads.

Impacts on Use

No Action Alternative

It is expected that the number of hunters and anglers pursuing these species will be low. These users would use existing infrastructure to access the refuge. The frequency and extent of maintenance and improvement of current facilities is not expected to differ from that required to support other public uses. We do not expect any conflicts among user groups, crowding, or overuse of the refuge's infrastructure.

Alternative B

The use of the refuge's infrastructure will be similar to the existing use occurring on the refuge.

Refuge Management and Operations – Administration

Description

There are currently three full time positions that oversee this portion of the refuge. Management and biological staff work together to ensure hunting and fishing programs are safe, successful, and biologically sound.

Impacts

No Action Alternative

Annual operating costs to administer the Vermont and New Hampshire portion of the refuge's current program including infrastructure, signs and staff time is approximately \$53,000.

Alternative B

The costs to implement the fishing and hunting programs under this alternative are expected to be similar to the No Action Alternative.

Socioeconomics and Environmental Justice

Description

The refuge lands in Vermont and New Hampshire are situated in mostly rural communities. The more populated areas are in the southern portion of the States. People come to the region throughout the year to participate in activities such as hunting, fishing, camping, hiking, canoeing, kayaking, snowmobiling, skiing, and driving the scenic roads. Hotels, restaurants, and the associated service industry all benefit from the infusion of tourism dollars.

Impacts

No Action Alternative

The current program has a minor, long-term and beneficial impact to the local economy. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, involves Federal agencies to incorporate environmental justice into their missions by identifying and addressing disproportionately high or adverse human health or environmental effects of their programs and policies on minorities and low-income populations and communities. No additional impacts are expected.

Alternative B

It is expected that the number of hunters pursuing these species will be low. Impacts will be similar to the No Action Alternative.

Other Impacts

This section includes those effects with a reasonably close causal relationship to the proposed action or alternatives but may be later in time or farther removed in distance from the proposed action or alternatives. For more information on the national cumulative impacts of the Service's hunting and fishing program on the Refuge System, see "U.S. Fish and Wildlife Service, *Cumulative Impacts Report 2021-2022 National Wildlife Refuge and National Fish Hatchery Proposed Hunting and Sport Fishing Openings* (2021)."

Table B-2. Potential Impacts Associated with Environmental Trends

<p>Hunting/Fishing Hunting and fishing occur on public and private lands that are found adjacent to several units and divisions of the refuge.</p> <p>Hunting and fishing is part of the culture in the Connecticut River watershed. The refuge currently runs fishing events to try to connect people with nature and the outdoors.</p>	<p><i>Big Game</i> – The Service considers hunting to be an important tool for wildlife management. Hunting gives resource managers an effective means to control populations of some species that might otherwise exceed the carrying capacity of their habitat and threaten the well-being of habitats (composition, structure, and function) and other wildlife species, and in some instances, threaten human health and safety. A lack of hunting on the refuge lands diminishes the refuge’s ability to manage wildlife populations, and by extension, NHDFG and VTDFW ability to manage populations. Likewise, an increase in deer and moose densities may negatively affect forest regeneration and plant diversity, resulting in degradation of habitat for woodcock, nesting songbirds, and the wide array of other migratory birds that use early successional forests. Overabundant deer and moose populations on refuge lands may have detrimental impacts to forest conditions on adjacent lands as well. Heavy browsing by refuge deer and moose could influence forest regeneration and plant diversity on neighboring properties.</p> <p><i>Migratory Birds</i> – Waterfowl populations throughout the United States are managed on a flyway basis. The Conte Refuge is located in the Atlantic Flyway. In North America, the process for establishing waterfowl hunting regulations is conducted annually. In addition, public hearings are held, and the proposed regulations are published in the Federal Register to allow public comment.</p> <p>Annual waterfowl assessments are based upon the distribution, abundance, and flight corridors of migratory birds. An Annual Waterfowl Population Status Report is produced each year and includes the most current breeding population and production information available for waterfowl in North America (USFWS 2017a). An Annual Adaptive Harvest Management Report (AHM) provides the most current data, analyses, and decision-making protocols (USFWS 2017b). These reports are intended to aid the development of waterfowl harvest regulations in the United States for each hunting season.</p> <p>Hunting on the refuge will not add significantly to accumulative impacts of migratory waterfowl management on local, regional, or Atlantic Flyway waterfowl populations,</p>
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	<p>as the percentage taken on the refuge, though additive to existing hunting takes, would be a tiny fraction of the estimated populations. In addition, overall populations will continue to be monitored and future harvests will be adjusted as needed under the existing processes.</p> <p>The proportion of the national waterfowl harvest that occurs on refuges is only 6 percent (US DOI 2009) and there are no waterfowl populations that exist wholly and exclusively on refuges. Annual hunting regulations within the United States are established at levels consistent with the current population status and refuges cannot permit more liberal seasons than provided for in Federal frameworks. Refuges purchased with funds derived from the Federal Duck Stamp must limit hunting to 40 percent of the available area.</p> <p><i>Resident Wildlife</i> – Refuges, including Silvio O. Conte NFWR, conduct hunting programs within the framework of State regulations. Hunting frameworks and take limits are set by the State. The proposed refuge hunting program rules will follow hunting regulations set by the State of New Hampshire or the State of Vermont with some changes. The refuge coordinates with the States about the hunting and fishing programs.</p>
<p>Use of Lead Ammunition/Tackle Lead ammunition is permitted in New Hampshire and Vermont, and on the refuge for all hunts except for migratory birds.</p> <p>New Hampshire prohibits the sale and use of lead fishing sinkers and lead jigs weighing less than 1 ounce in all inland freshwater. Vermont prohibits the sale of any lead fishing sinkers and lead jigs weighing less than 1 ounce.</p>	<p>The refuge receives approximately 3,500 hunting and fishing visits each year. Use of the refuge is not expected to increase significantly. The refuge will encourage voluntary use of non-lead ammunition and tackle when hunting or fishing on the refuge.</p>

Monitoring

The refuge will be adaptive with harvest management under the hunt program. Refuge-specific hunting regulations may be altered to achieve species-specific harvest objectives in the future. Many game species populations are monitored by NHDFG and VTDFW through field surveys and game

harvest reports which will provide an additional means for monitoring populations. Each State has determined that populations of game species are at levels acceptable to support hunting and these assessments are reviewed and adjusted periodically.

Summary of Analysis

This Supplemental EA provides sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

Alternative A: No Action (Service's Preferred Alternative):

There would be no change to the current public use and wildlife management programs on the refuge. This alternative is the Service's proposed action because it offers the best opportunity for public hunting and fishing that would result in a minimal impact on physical and biological resources, while meeting the Service's mandates under the NWRSA and Secretarial Order 3356. The Service believes that hunting and fishing on the refuge will not have a significant impact on local or regional wildlife populations because the percentage likely to be harvested on the refuge, though possibly additive to existing hunting takes, would be a tiny fraction of the estimated populations.

Alternative B; Expansion of the Dog Training Season

The dog training season under this alternative would be expanded to follow the Vermont State season during the months of June, July, August, and September. Expanding the dog training season on the refuge into the months of June and July may affect, but is not likely to adversely affect Canada lynx, which is federally listed as threatened and protected by the Endangered Species Act. Expanding the dog training season into the months of June and July may adversely affect ground/shrub nesting migratory birds, which are protected by Migratory Bird Treaty Act. Expanding the dog training season on the refuge into the months of June and July may adversely affect spruce grouse, which are protected by the Vermont Endangered Species Rule.

List of Preparers

U.S. Fish and Wildlife Service, Silvio O. Conte National Fish and Wildlife Staff

Andrew French – Project Leader
Steve Agius – Refuge Manager
Rachel Cliche – Wildlife Biologist
Jeremy Goetz – Forester

U.S. Fish and Wildlife Service, Northeast Regional Office Staff

Thomas Bonetti – Senior Planner
Graham Taylor – Refuge Supervisor, North Zone
Meta Miner – Assistant Refuge Supervisor

State CCP Coordination

Extensive coordination and consultation occurred in advance of the development of the hunting and fishing programs as a part of the CCP process which was signed in January of 2017. Prior to completion of the CCP, hunting and fishing were allowed where they had previously occurred before coming under the stewardship by the Service as a part of a national wildlife refuge.

During this public process, there was considerable interest and support for these public use opportunities, especially by the States of New Hampshire and Vermont. Each State was a member of the CCP Core Planning team.

Tribal Consultation

Tribal consultation to expand hunting and fishing occurred during the development of the CCP that was completed in 2017. No additional consultation was completed for this plan as there are no federally recognized tribes in Vermont or New Hampshire.

Public Outreach

The public will be notified of the availability of the Silvio O. Conte NFWR Recreational Hunting and Fishing Plan, EA, and CD for review and will include a 30-day comment period. We will inform the public through local venues and the refuge website. Comments received from the public will be considered, and modifications may be incorporated into the final plan and decision documents.

Determination

This section will be filled out upon completion of any public comment period and at the time of finalization of the Environmental Assessment.

- The Service’s action will not result in a significant impact on the quality of the human environment. See the attached **“Finding of No Significant Impact”**.

- The Service’s action **may significantly affect** the quality of the human environment and the Service will prepare an Environmental Impact Statement.

Preparer Signature: ANDREW FRENCH  Date: 6/2/2023

Name/Title/Organization: Andrew French, Project Leader

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OTHER APPLICABLE STATUTES, EXECUTIVE ORDERS AND REGULATIONS

Cultural Resources

- American Indian Religious Freedom Act, as amended, 42 U.S.C. 1996 – 1996a; 43 CFR Part 7
- Antiquities Act of 1906, 16 U.S.C. 431-433; 43 CFR Part 3
- Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa – 470mm; 18 CFR Part 1312; 32 CFR Part 229; 36 CFR Part 296; 43 CFR Part 7
- National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470-470x-6; 36 CFR Parts 60, 63, 78, 79, 800, 801, and 810
- Paleontological Resources Protection Act, 16 U.S.C. 470aaa – 470aaa-11
- Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001-3013; 43 CFR Part 10

- Executive Order 11593 – Protection and Enhancement of the Cultural Environment, 36 Fed. Reg. 8921 (1971)

Fish and Wildlife

- Bald and Golden Eagle Protection Act, as amended, 16 U.S.C. 668-668c, 50 CFR 22
- Endangered Species Act of 1973, as amended, 16 U.S.C. 1531-1544; 36 CFR Part 13; 50 CFR Parts 10, 17, 23, 81, 217, 222, 225, 402, and 450
- Fish and Wildlife Act of 1956, 16 U.S.C. 742 a-m
- Lacey Act, as amended, 16 U.S.C. 3371 et seq.; 15 CFR Parts 10, 11, 12, 14, 300, and 904
- Migratory Bird Treaty Act, as amended, 16 U.S.C. 703-712; 50 CFR Parts 10, 12, 20, and 21
- Executive Order 13186 – Responsibilities of Federal Agencies to Protect Migratory Birds, 66 Fed. Reg. 3853 (2001)

Natural Resources

- Clean Air Act, as amended, 42 U.S.C. 7401-7671q; 40 CFR Parts 23, 50, 51, 52, 58, 60, 61, 82, and 93; 48 CFR Part 23
- Wilderness Act, 16 U.S.C. 1131 et seq.
- Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq.
- Executive Order 13112 – Invasive Species, 64 Fed. Reg. 6183 (1999)

Water Resources

- Coastal Zone Management Act of 1972, 16 U.S.C.1451 et seq.; 15 CFR Parts 923, 930, 933
- Federal Water Pollution Control Act of 1972 (commonly referred to as Clean Water Act), 33 U.S.C. 1251 et seq.; 33 CFR Parts 320-330; 40 CFR Parts 110, 112, 116, 117, 230-232, 323, and 328
- Rivers and Harbors Act of 1899, as amended, 33 U.S.C. 401 et seq.; 33 CFR Parts 114, 115, 116, 321, 322, and 333.Safe Drinking Water Act of 1974, 42 U.S.C. 300f et seq.; 40 CFR Parts 141-148
- Executive Order 11988 – Floodplain Management, 42 Fed. Reg. 26951 (1977)
- Executive Order 11990 – Protection of Wetlands, 42 Fed. Reg. 26961 (1977)

INTRA-SERVICE SECTION 7 BIOLOGICAL EVALUATION FORM

Originating Person: Rachel Cliche
Refuge Biologist
Silvio O. Conte NFWR
Telephone Number: (802) 962-5240
Date: April 5, 2023

I. Region: Northeast, Region 5

II. Service Activity (Program): NWRS, Silvio O. Conte NFWR

III. Pertinent Species and Habitat:

A. List species and/or their critical habitat within the action area:

- Northern long-eared bat (*Myotis septentrionalis*)
- Northeastern bulrush (*Scirpus ancistrochaetus*)
- Canada lynx (*Lynx canadensis*)
- Jessup's milk-vetch (*Astragalus robbinsii* var. *jesupii*)

B. Proposed species and/or proposed critical habitat within the action area:

None

C. Candidate species within the action area:

None

IV. Geographic area of station name and action:

Opening of Silvio O. Conte NFWR lands in Vermont and New Hampshire to fishing, big game, small game, furbearer and migratory bird hunting.

V. Location:

A. Ecoregion Number and Name:

- Adirondack- New England Mixed Forest – Coniferous Forest, Alpine Meadow Province; M212 (R.G. Bailey, Ecoregions of the United States, 1995)

B. County and State:

Vermont

- Windham and Essex County

New Hampshire

- Coos and Grafton County

C. Section, township, and range (or latitude and longitude):

Vermont

- 44.810083, -71.739043 Nulhegan
- 42.984990, -72.602261 Putney

New Hampshire

- 44.376199, -71.512900 Pondicherry
- 44.840594, -71.402452 Blueberry
- 44.161837, -72.041428 Saddle Island

- 43.735830, -72.054305 Mascoma Easement
- 44.518204, -71.574391 Fairgrounds

D. Distance (miles) and direction to nearest town:

The refuge in Vermont is within the towns of Bloomfield, Brunswick, Ferdinand, Lewis and Putney. The refuge in New Hampshire is within the towns of Carrol, Jefferson, Lancaster, Columbia, Woodsville, Lebanon and Lancaster.

E. Species/habitat occurrence:

The species considered in this document were identified through consultation with the U.S. Fish and Wildlife Service's (Service) New England Field Office and from a query of the Service's Information for Planning and Conservation (IPaC) System. See attachment for IPaC Official Species List and Report generated for this project (Project Code: 2023-0064484). Silvio O. Conte NFWR uses IPAC to identify threatened and endangered species, including for purposes of this Biological Evaluation. This is done because the IPAC database is the better of the Service's databases for the refuge and may contain the best available information on species presence. Nevertheless, in order to ensure a thorough review, this Biological Evaluation considers all threatened and endangered species identified by both the IPAC and ECOS databases. Note, however, that these databases are updated regularly, approximately every 90 days, and, thus, it is possible that the specific threatened and endangered species identified as present on or near the refuge may change between the finalization of this Biological Evaluation and its publication and/or between finalization and your reading this document.

Staff present on the refuge and conducting this evaluation may have the best available information about presence of fish and wildlife species. Thus, where species are identified by either database, but the refuge has information that the species is not actually present within the "action area," we have explained that as basis for our determination that any hunting activity will have no effect on the species.

Northern long-eared bat: The project area contains habitat used by the northern long-eared bat for roosting and foraging. No hibernacula are present within the project area.

Northeastern bulrush: Occupies small beaver wetlands within the Putney Mountain Unit.

Canada lynx: A transient population of Canada lynx have occupied habitats within the Nulhegan Basin Division and the vicinity since 1998 (Chris Bernier, personal communication 2013). Up to 5 individuals have been documented at one time, including a family group in 2012 and 2013. Since that time, individual lynx have been detected by winter track and camera trap monitoring in 2014 and 2017. Canada lynx have been detected elsewhere in Vermont as recently as 2019. Blueberry Swamp and Pondicherry Divisions contain habitat used by lynx, but no observations of this species have been documented at these sites. Canada lynx have been documented elsewhere in New Hampshire consistently.

Jessup's milk-vetch: This species was introduced to Saddle Island in 2014. A robust population occupies the southeast portion of the island.

Dwarf wedgemussel: There is no known occurrence of dwarf wedgemussel on refuge lands. This species occupies sites within the vicinity of the Fairgrounds Unit along the Connecticut River mainstem (Nedeau 2010).

VI. Description of Proposed Action

The refuge division and unit in Vermont and the 4 divisions and unit in New Hampshire contain a diversity of habitat types from hardwood and spruce-fir forest, open water, grasslands, swamps, shrublands, and floodplain forest. We are proposing to open these lands to hunting and fishing. This matrix of lands supports a variety of game species with target species being found in higher densities on some lands. The hunt program on refuge lands in Vermont and New Hampshire will be in accordance with Federal and state regulations, and additional Refuge-specific regulations. These regulations include allowing the Refuge to modify the timing of activities in response to changed circumstances such as additional information about Federally listed species, including future detections of Canada lynx on the Refuge or in the surrounding area. If project activities and/or potential impacts to Federally listed species change, reinitiation of Section 7 consultation may be necessary.

To facilitate hunting of certain species, such as bear, game birds and hare, trained dogs are used to flush and locate game species during a hunt. The training of hunting dogs also occurs outside of the target game species hunting seasons. We are proposing all refuge lands that are found to be compatible with hunting and fishing to be open to these activities. However, training of hunting dogs during the current state open seasons may impact lynx kittens when they are most vulnerable, and training of hunting dogs may disturb ground/shrub nesting migratory birds. To limit negative impacts to listed species and breeding migratory birds, we will only allow dog training on refuge lands from August 1st through the last Saturday in September following State regulations. Hunting was found not to be compatible on some lands where safety zones were established to protect private residences.

Fishing

Recreational fishing would be conducted on, and from the banks of, all water bodies within the boundaries of the Conte Refuge that are open to fishing, including lakes, ponds, streams, and rivers. At present, this includes reaches on the following rivers and ponds:

Vermont – Nulhegan River and its tributaries (Nulhegan Basin Division) and Lewis Pond (Nulhegan Basin Division)

New Hampshire – Simms Stream East Branch (Blueberry Swamp Division), John’s River, Cherry and Little Cherry Ponds (Pondicherry Division), Connecticut River (Saddle Island), Clark Pond and Mascoma River (Mascoma Easement)

Big Game, Small Game, Furbearer and Migratory Game Bird Hunting

Vermont Species and Regulations

Approximately, 26,886 acres will be open to hunting on Vermont refuge lands for the following species:

Moose	Skunk	Turkey	Crow
White-tailed Deer	Woodchuck	Light Geese (Snow Geese)	Grouse
Black Bear	Porcupine	Dark Geese (Canada Goose, Brant)	Woodcock
Coyote	Squirrel	Sea Duck	Pheasant
Fox	Rabbit & Hare	Duck	Snipe
Raccoon	Bobcat	Muskrat	Opossum
Weasel	Coot		

Hunting on refuge lands will follow Vermont Department of Fish and Wildlife’s (VTFW)

hunting regulations. The training of hunting dogs will be allowed from August 1st through the last Saturday in September. Access to refuge lands for hunting is from public roads and adjoining public lands and water.

New Hampshire Species and Regulations

Approximately, 10,293 acres will be open to hunting on New Hampshire refuge lands for the following species:

Moose	Skunk	Turkey	Crow
White-tailed Deer	Woodchuck	Light Geese (Snow Geese)	Grouse
Black Bear	Porcupine	Dark Geese (Canada Goose, Brant)	Woodcock
Coyote	Squirrel	Sea Duck	Pheasant
Fox	Rabbit & Hare	Duck	Snipe
Raccoon	Fisher	Mink	Opossum
Muskrat	Weasel	Coot	

Hunting on refuge lands will follow New Hampshire Fish and Game hunting regulations. The training of hunting dogs will be allowed from August 1st to the last Saturday in September. Access to refuge lands for hunting is from public roads and adjoining public lands and water.

VII. Determination of Effects

A. Explanation of effects of the action on species and critical habitats in items III. A, B, and C:

Northern long-eared bat

The hunt area contains habitat used by the Northern long-eared bat for roosting and foraging. Hunting activities may cause disturbance to roosting bats if roost trees are disturbed or used to erect tree stands. Disturbance to foraging bats is not anticipated, as bats are least active during hunting hours, which are 1 1/2 hour before sunrise to 1 1/2 hour after sunset. The training of dogs also occurs during daylight hours and will not have an impact on foraging activities. There is also limited overlap between hunting seasons, dog training activities and the Northern long-eared bats’ maternity and volant periods.

Some hunters might choose to use tree stands while hunting, but hunters generally use healthy trees to secure their stands, not dead or dying ones with cavities that are preferred by bats. Tree stand placement and gun noise near bats’ roosting trees could flush the bats from the trees, but it is more likely that the bats would remain in the tree than be flushed and instances of flushing would not result in bat mortality. There is no hunting near any cave or mine where Northern long-eared bats could hibernate (i.e., hibernaculum), and hunting activities would not result in any tree cutting or other habitat alteration. The majority of hunting seasons fall within the bats spring and fall migratory period or during winter when bats are hibernating and least active on the landscape, further reducing the risk to bat disturbance.

Northeastern bulrush

Northeastern bulrush is a sedge plant that occupies small beaver wetlands within the Putney Mountain Unit. This population tends to fluctuate in numbers from year to year, with some years experiencing no occupancy by the species. The majority of the wetlands lack substantial amount of water for fishing and limited habitat for waterfowl. Activities such as

filling or ditching in a wetland can destroy or degrade this species' habitat and pose a threat. There is no habitat alternation associated with hunting or fishing activities at the Putney Mountain Unit. We believe that these wetlands, in their current state, will receive limited use by hunters and anglers; therefore, impacts to the bulrush will be insignificant.

Canada lynx

Canada lynx have occupied habitats intermittently within the Nulhegan Basin Division and the vicinity since 1998 (Chris Bernier, personal communication 2013). A family group was detected within the Division in the winters of 2012 and 2013. Since that time, individual lynx have been detected on the Division by winter track and camera trap monitoring in 2014 and 2017. Lynx have been documented elsewhere in VT with most recent confirmed sightings in Averill, Burke, and Jericho in 2018 and Stowe in 2019 (Brehan Furfey, personal communication 2023). Lynx sightings in NH are most often documented in Pittsburg where a breeding population has established (Jillian Kilborn, personal communication 2023). Refuge staff have no documentation of lynx occurrences on NH Divisions. Occupancy by lynx seems to coincide with increased snow-depth within a long winter period (Siren 2017). These conditions decrease competition with other predators and increase the survival rate of snowshoe hare (*Lepus americanus*), a main prey species for lynx.

In the northern portion of their range, lynx breed in March and April. Kittens are born 8 to 10 weeks later in May and June. Litter size is generally 2-3 kittens but can be as many as 5 in high quality habitat with an abundance of hare (Interagency Lynx Biology Team 2013, USFWS 2017). Dens are typically located in areas of dense cover that contains coarse woody debris and tip-up mounds for security and thermal cover. Den sites are often located near foraging habitat to sustain dependent kittens and to minimize the females' time spent away from them. Kittens are attended by the female in the den until they are 6-10 weeks old (USFWS 2017). At around two months old, kittens are supplementing nursing with solid food and are mobile enough to travel with the female (Olson et al. 2011). The kittens remain with the female until they are approximately 9-10 months old, after which they disperse to establish their own home ranges (USFWS 2017, Olson et al. 2011).

It is unlikely that the limited presence of anglers and hunters during the hunting season, with their potential foot traffic and gun noise, will have any significant impact on Canada lynx. Canada lynx adults and juveniles may be disturbed by human presence during the hunting season. However, effects of human presence from this activity would be insignificant because Canada lynx would only be temporarily disturbed. We also expect the likelihood of adverse effects on lynx would be discountable. This is because the chance of Canada lynx occurring in the same area, at the same time, as a hunter or angler is very low due to few Canada lynx observations in recent years on the Refuge or in the nearby area, and the relatively short hunting season over a large area.

The hunting seasons for game species where hunting dogs are used to facilitate a hunt occurs from September 1st to March 31st. Canada lynx adults and juveniles may be disturbed by hunting dog presence during the hunting season and could be tracked or chased by hunting dogs if they are present in the same area at the same time, which may result in indirect or direct injury or mortality. However, it is not anticipated that the use of hunting dogs within this time frame will negatively impact lynx. We expect the likelihood of adverse effects to Canada lynx adults or juveniles from the use of hunting dogs during the hunting season is discountable. The likelihood of hunting dogs encountering Canada lynx is expected to be low due to there being very few Canada lynx observations in recent years, and the relatively short hunting season and large land area where hunting with dogs may occur. Further, the

bobcat hunting season, in which mistaken identity or incidental pursuit of lynx may be most likely, is less than one month long, and the Refuge issues very few permits for this activity (i.e., one permit in 2022).

Hunting of lynx is prohibited but hunting of bobcat is allowed in Vermont from January through February. There is potential for hunters or hunting dogs to mistake a lynx for a bobcat while hunting and result in harassment, injury, or death. Lynx and bobcat look similar in color and stature, but there are distinguishing features that hunters should pay attention to before harvesting an animal. These are described below.

Bobcat

- Reddish brown fur with distinct spots and streaks
- Tail has black bars with a white tip on top and white on the bottom

Lynx

- Gray fur with faded spots
- Tail tip is completely black top and bottom
- Feet are twice the size of bobcat
- Hind legs are disproportionally longer, causing them to have a stooped appearance

Vermont Department of Fish and Wildlife educates hunters about these key identification features on their website at <https://vtfishandwildlife.com/hunt> and in their annual Vermont Hunting and Trapping Guide booklet. They encourage hunters to identify tracks before pursuing an animal and to identify the animal before harvesting to minimize risk of taking a lynx. VTFW also identifies the Wildlife Management Units that have been occupied by lynx. The lynx population within the Nulhegan Basin Division is low (<5 individuals) and transient. The likelihood of a hunter or hunting dogs coming across a lynx while bobcat hunting is low, due to low likelihood that lynx are present on the Refuge in any one year and the limited duration of the bobcat hunting season. In addition, a well-educated hunter will know the distinguishing characteristics between a bobcat and a lynx. For these reasons, we believe that the risk to Canada lynx of adverse effects, including harassment, injury, or death during bobcat hunting season is discountable.

The training season for hunting dogs, however, occurs throughout the year in NH, except for a closed season for bear dogs from March 1 – June 30. The dog training season in Vermont occurs from June 1st to the last Saturday in September. The training of dogs during the Vermont dog training season occurs when lynx kittens are within den sites and vulnerable to encounters with dogs. Since females establish dens where hares are abundant, dogs being trained to hunt snowshoe hare may encounter den sites. These encounters may result in harassment, indirect mortality from disturbance, or direct mortality through predation. To offset this risk, the dog training season on the Refuge will occur from August to September when lynx kittens are weaned and can travel away from den sites and, therefore, are more likely to be able to avoid encounters with dogs. The likelihood of adverse effects of dog training on Canada lynx kittens and adult females at den sites is discountable because the Refuge's proposed dog training season will not overlap with the time of year when Canada lynx are present in and around den sites.

Jessup's milk-vetch

Jessup's milk-vetch was introduced to Saddle Island in 2014. A robust population occupies the southeast corner of the island and is monitored annually. Based on current observations,

this area receives no to very little use by the public. Recreational activities, such as fishing and wildlife observation, can occur on the west side of the island at the Connecticut River where there is easy access and productive fishing opportunities. We feel that impacts to this species will be minimal based on the current and proposed use of the 1-acre island by anglers and hunters.

Dwarf wedgemussel

There is no known occurrence of dwarf wedgemussel on refuge lands. This species occupies sites within the vicinity of the 48-acre Fairgrounds Unit along the Connecticut River mainstem (Nedeau 2010). The Fairgrounds Unit boundary does not provide access to the mainstem of the river. The lack of waterbodies within this Unit provides no opportunity for recreational fishing. Therefore, there will be no impact to dwarf wedgemussel populations.

Potential effects of lead ammunition

Lead ammunition can be used on the refuge for upland and big game hunting as detailed in the Hunting and Fishing Plan, in accordance with State and refuge-specific regulations. The amount of lead introduced to the environment because of proposed changes to the hunting and fishing program, however, is negligible given that we expect a small number of hunters on the refuge; hunters take few shots, if any, per hunt; and any lead shot would be dispersed over a large area. The bioaccumulation of lead is a potential concern, but it will have little impact on threatened and endangered species on the refuge, including Northern long-eared bat and Canada lynx. Northern long-eared bats forage on insects, and the likelihood of these prey species having high lead levels from lead ammunition is discountable. For example, herbivorous insects could only be lead contaminated through eating contaminated plants, and plants do not take up lead from the soil unless the levels reach a critical threshold. Further, the foraging ecology of the bats (i.e., preying on flying insects) limits their potential direct exposure to lead ammunition in the environment. A transitory Canada lynx population of a few individuals occupy the more than 36,000 acres of huntable refuge lands. Lynx' main prey, snowshoe hare, could be hunted with lead ammunition. We are not aware of any information suggesting that lynx are being impacted by lead ammunition on the refuge or elsewhere in the species' range. We believe the chance of a Canada lynx being exposed to lead from the proposed hunting program is discountable, because (1) lynx do not occupy the refuge every year; (2) when lynx are present, they use refuge lands in low numbers; and (3) the chance of a lynx encountering a snowshoe hare that has been wounded by lead ammunition and not recovered by the hunter is extremely low. We encourage use of non-toxic alternatives and will educate hunters and the public to the potential adverse impacts of lead. The Service anticipates no significant adverse effects to Northern long-eared bats or Canada lynx from hunting activities. For these reasons, we expect the likelihood of adverse effects from lead ammunition is discountable.

The two plants of concern will not be affected by lead ammunition, as plants only uptake lead when it is in soil at substantially elevated levels, and the proposed hunting expansion in wetlands would not introduce enough lead for that possibility.

The amount of lead introduced to the environment because of sport fishing is also negligible given regulations currently in place by the States. New Hampshire prohibits the sale and use of lead fishing sinkers and lead jigs weighing less than 1 ounce in all inland freshwater systems. Vermont prohibits the sale of any lead fishing sinkers and lead jigs weighing less than 1 ounce. The refuge and the States would provide education and outreach on the hazards of lead sinkers and discarded fishing tackle.

B. Explanation of actions to be implemented to reduce adverse effects:

Northern long-eared bats

Action - no action

Status – may occur

Explanation - Impacts to Northern long-eared bats will be minimal as there is very little overlap with hunting activities and the bats' maternity and volant periods.

Northeastern bulrush

Action – monitor recreational use and population status

Status – occurs

Explanation – Impacts to Northeastern bulrush populations will be minimal. The wetlands the species occupies provides limited habitat for fish and waterfowl, and therefore, will receive limited use by hunters and anglers.

Canada lynx

Action – monitor presence; training of hunting dogs on refuge lands will be open from August 1 to the last Saturday in September; work with VTFW to educate hunters on identification of lynx and bobcat

Status - may occur

Explanation - Impacts to Canada lynx by hunting activities will be minimal due to the few individuals that occupy habitats on a transient basis. However, training of hunting dogs during the current state open seasons may impact lynx kittens when they are most vulnerable.

Jessup's milk-vetch

Action - monitor recreational use and population status

Status – occurs

Explanation - Impacts to Jessup's milk-vetch will be minimal based on the current use patterns of the island by anglers and other user groups.

Dwarf wedgemussel

Action – no action

Status – does not occur

Explanation – Dwarf wedgemussel does not occur on refuge lands, therefore, there will be no impact.

Refuge staff will continue to monitor for the presence of threatened or endangered species on the refuge. If they are found on the refuge, the effects of hunting on these species will be evaluated.

VIII. Effect determination and response requested:

A. Listed species/designated critical habitat:

Determination

No effect/no adverse modification
(species: dwarf wedgemussel)

Response Requested

Concurrence

May affect, but is not likely to adversely
affect species/adversely modify critical habitat
(species: Northern long-eared bat, Northeastern bulrush,
Canada lynx, Jessup's milk-vetch)

Concurrence

May affect, and is likely to adversely
affect species/adversely modify critical habitat
(species: : _____)

_____ Formal Consultation

B. Proposed species/proposed critical habitat:

Determination

No effect/no adverse modification
(species: : _____)

Response Requested

_____ Concurrence

Is likely to jeopardize proposed species/
Adversely modify proposed critical habitat
(species: : _____)

_____ Conference

C. Candidate species:

Determination

No effect
(species: : _____)

Response Requested

_____ Concurrence

Is likely to jeopardize
(species: : _____)

_____ Conference

Rachel M Cliche

Rachel Cliche, Biologist, Silvio O. Conte NFWR

05/31/2023

Date

IX. Reviewing Ecological Services Office Evaluation:

A. Concurrence X

Non-concurrence _____

B. Formal consultation required _____

C. Conference required _____

D. Informal conference required _____

E. Remarks (attach additional pages as needed)

AUDREY MAYER Digitally signed by AUDREY MAYER
Date: 2023.05.31 14:45:11 -04'00'

Audrey Mayer, Supervisor, New England Field Office

Date

Literature Cited

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FINDING OF NO SIGNIFICANT IMPACT
RECREATIONAL HUNTING AND FISHING PLAN
SILVIO O. CONTE NATIONAL FISH AND WILDLIFE REFUGE
New Hampshire and Vermont

Executive Summary

The U.S. Fish and Wildlife Service (Service) is proposing to continue the refuge's hunting and fishing program on the Silvio O. Conte National Fish and Wildlife Refuge (NFWR, Conte Refuge, refuge) in accordance with the refuge's 2021 Recreational Hunting and Fishing Plan (Conte Hunt Plan) with some additional modifications. This plan expanded and opened fishing and hunting opportunities for big game, small game, furbearers and migratory game birds in New Hampshire and Vermont. The Conte Refuge is proposing all refuge-owned land in the two States be open for hunting and fishing when found to be compatible, and consistent with Federal, State, and refuge-specific hunting and fishing regulations. The Service is committed to continuing to work with the State of Vermont on further evaluating the science related to impacts on migratory birds due to the training of dogs during the nesting season.

While the Service intends that the Conte Recreational Hunting and Fishing Plan closely align with the New Hampshire and Vermont hunting regulations, it must be noted that state and federal wildlife management agencies have different missions, statutory mandates and legal obligations. Even within a given state, hunting regulations are not always consistent within state wildlife management areas. As such, regulations on state wildlife management areas may occasionally differ from those pertaining to federal wildlife refuges. That is the case here with respect to the duration of the dog training season on the refuge and use of dogs at the Putney Unit. The Conte Hunt Plan predominantly aligns with both states' hunting regulations despite the fact that the two states involved in this Conte Hunt Plan are not entirely aligned with one another. Hunters are responsible for understanding and following state and federal hunting and fishing regulations, and in this case, they are responsible for following federal, New Hampshire and Vermont laws. Additionally, hunters come across property boundaries that have different rules and regulations throughout the hunting seasons, whether it is posted private property, a land trust, state lands or federal lands. In summary, the Service selected Alternative A with minor modifications. These minor modifications to Alternative A are: 1) a permit will not be required for hunting with or training of dogs on the refuge; 2) on the Putney Mountain Unit the use of dogs will be allowed for hunting gray squirrel, American woodcock, and turkey (fall season) in addition to ruffed grouse.

Selected Alternative

Selected Alternative - Alternative A – with minor modifications

The Selected Alternative (Alternative A – with minor modifications) continues the refuge’s hunting and fishing program as identified in the 2023 Recreational Hunting and Fishing Plan with minor modifications. Under this Alternative, hunting opportunities will remain open and will include the species that were identified in the supplemental Environmental Assessment. Hunting on refuge lands in New Hampshire and Vermont will be consistent with Federal and State regulations unless otherwise noted. Federal refuge-specific hunting regulations can be more restrictive (but not more liberal) than state regulations and often are more restrictive in order to help meet specific refuge objectives and to ensure compatibility of the use. We will continue with the current recreational fishing program, conducted under the State of New Hampshire’s regulations for open water and ice fishing, and the State of Vermont’s regulations for inland fisheries with some additional restrictions to protect fish, wildlife, and habitat and to reduce potential public use conflicts.

In New Hampshire, the units and divisions open to hunting will be the Blueberry Swamp Division in Columbia, the Fairgrounds Unit in Lancaster, the Pondicherry Division in Carroll, Jefferson and Whitefield, the Saddle Island Unit in Bath, and the Mascoma River Division in Canaan and Lyme (see Recreational Hunting and Fishing Plan, Figures 2 through 6).

In Vermont, the Nulhegan Basin Division in Bloomfield, Brunswick, Ferdinand and Lewis, and the Putney Mountain Unit in Putney are open to hunting (see Recreational Hunting and Fishing Plan, Figures 7 and 8).

To ensure compatibility with the refuge purposes and mission of the Refuge System, hunting and fishing are conducted in accordance with Federal and State regulations, as supplemented by refuge-specific regulations. Under this Alternative and to ensure compatibility, refuge specific regulations are used to limit negative impacts to migratory birds and Threatened and Endangered species.

Minor modifications made to Alternative A in response to public comments received include:

- No Special Use Permit will be required for hunting with or training dogs.
- The use of dogs on the Putney Mountain Unit is allowed for hunting gray squirrel, American Woodcock, and turkey (fall season) in addition to ruffed grouse.

Other refuge-specific regulations apply under this alternative, and include:

- We will allow training of dogs following state regulations from August 1 through the last Saturday in September during daylight hours.
- Refuge property will be open to hunting and fishing from 1 1/2-hour before sunrise to 1 1/2-hour after sunset.
- Night hunting is prohibited except by special use permit at the Nulhegan Basin Division.
- We prohibit shooting from, over, or within 25 feet of the traveled portion of any road that is accessible to motor vehicles, with the exception of a permanently disabled hunter with the proper state and refuge issued special use permit.

- Tree stands, blinds and other hunting equipment must be removed from the refuge within 72 hours after the regulated hunting season has ended.
- Take of amphibians, reptiles and baitfish is prohibited.

Hunt brochures and maps for all hunting opportunities will be updated regularly and made available to hunters on the refuge's website. Hunters will access refuge lands via public roads or by foot. Areas may be closed if there are unacceptable resource impacts such as soil erosion, repeated disturbance to susceptible wildlife, or unresolvable conflicts with other compatible priority public uses. The need for site closures will be considered by the refuge manager on a case-by-case basis. The refuge manager may, upon annual review of the hunting and fishing program, take the necessary steps to impose further restrictions, recommend that the refuge be closed to hunting or fishing, or further liberalize hunting regulations up to the limits of the State. We will restrict hunting if it became incompatible with other priority refuge programs or endangered refuge resources or public safety.

Refuge staff have worked with stakeholders and State agency staff to develop this plan and ensure safe and enjoyable recreational hunting opportunities. The changes proposed by this action are not expected to have harmful impacts to the ecological, aesthetic, historic, cultural, economic, social, or health aspects of the refuge and surrounding communities. Additionally, the proposed action builds on an existing and well-established hunt program and is consistent with the refuge's 2016 Comprehensive Conservation Plan (CCP). Therefore, the Service does not need to consider additional alternatives (43 CFR 46.310(b)).

This alternative was selected over the other alternative because: (1) it helps fulfill the statement of objectives detailed in the Recreational Hunting and Fishing Plan; (2) it will result in a minimal impact on physical and biological resources; and (3) it meets the Service's mandates under the National Wildlife Refuge System Administration Act (NWRSA) of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act). The Service believes that expanding hunting and fishing opportunities on the Conte Refuge will not have a significant impact to wildlife, other uses, or refuge administration. This alternative will best meet the purpose and need, refuge objectives, and Service mandates.

The selected alternative will also promote two of the priority public uses of the Refuge System as identified by the National Wildlife Refuge System Improvement Act of 1997, and providing opportunities for visitors to hunt and fish will promote stewardship of our natural resources and increase public appreciation and support for the refuge.

Other Alternatives Considered and Analyzed

Alternative B

Alternative B will continue the refuge's hunting and fishing program as proposed in the refuge's Draft 2021 Recreational Hunting and Fishing Plan which proposed the dog training season to overlap with the migratory bird breeding season and allow hunting and training of dogs consistent with State regulations on Putney Mountain Unit. This alternative will have long-term impacts to breeding migratory birds and other user groups. This alternative will not be compatible with the refuge purposes and mission of the Refuge System.

Considered but dismissed from further review

The Service considered eliminating the dog training season and hunting with dogs but dismissed this alternative from further review in the supplemental EA. Hunting is an important management tool for land managers. Hunting with dogs can facilitate a more successful hunt and more predictable harvest that is important to wildlife managers when striving to maintain habitat and populations of game species at an optimum and sustainable level. Dogs are well adept at locating harvested wildlife which reduces waste. A successful hunt and retrieval of game is what helps achieve a successful harvest. These desired outcomes are shared by the hunting community and wildlife managers, as they represent an important component of the demand for a larger conservation mosaic which supports a variety of compatible public uses in an amicable and sustainable manner.

Summary of Effects of Selected Action

A supplemental Environmental Assessment (EA) was prepared in compliance with the National Environmental Policy Act of 1969, as amended (NEPA) to provide a decision-making framework that: (1) explored a reasonable range of alternatives to meet project objectives; (2) evaluated potential issues and impacts to the refuge, resources and values; and (3) identified mitigation measures to lessen the degree or extent of these impacts. The supplemental EA evaluated the effects associated with Alternative A, as well as the effects of Alternative B. It is incorporated as part of this finding.

Implementation of the agency's decision will be expected to result in the following environmental, social, and economic impacts:

Affected Resources and Anticipated Impacts

Big Game

Description of Affected Resource

Big game includes White-tailed Deer, Black Bear, Moose, and Wild Turkey.

Impacts on Affected Resource

White-tailed deer, black bear, moose, and wild turkey are currently hunted on refuge lands. State wildlife agencies manage populations at or below carrying capacity to maintain healthy wildlife populations and ecologically sound habitats. These species will continue to be hunted following State regulations. No additional impacts are expected.

Small Game

Description of Affected Resource

Small game includes Coyote, Red and Gray Fox, Raccoon, Skunk, Muskrat, Opossum, Weasel, Woodchuck, Fisher (NH only), Porcupine, Bobcat (VT only), Mink, Eastern Cottontail, Snowshoe Hare, and Gray Squirrel.

Impacts on Affected Resource

All small game species will be open to hunting under this alternative. The number of hunters

pursuing skunk, muskrat, opossum, weasel, woodchuck, fisher, porcupine and mink is predicted to be low and is not expected to have negative impacts on populations. These species are mainly considered nuisance species in populated areas causing human-wildlife conflicts. Hunting of these species is more likely to occur off refuge lands surrounding more populated areas.

Game Birds

Description of Affected Resource

Game bird species include Wilson's Snipe, Coot, Crow, Pheasant, Ruffed Grouse, Duck, Light Geese, Dark Geese, and American woodcock.

Impacts on Affected Resource

All of these species will be open to hunting under this alternative. Ruffed grouse and American woodcock are the most pursued game birds on the refuge. Ruffed grouse populations are monitored, and hunting regulations are enforced by the State wildlife agencies. Waterfowl and American woodcock seasons and bag limits are set by States within a framework set by the Service and based on surveys, harvest data, and habitat data. Populations of these species have remained relatively stable. The number of hunters pursuing geese and crow are relatively low. Pheasant are not native to the area and are typically released on private or State lands for hunting purposes. The release of pheasant on refuge lands is not allowed because it is not a native species. Hunting of pheasant will only occur if a bird found its way to refuge lands from adjoining properties. At this time, birds are not released on lands adjacent to refuge lands. Wilson's snipe is often an incidental species taken while hunting American woodcock. It is not a highly pursued game species. Refuge lands do not support large numbers of these species and they are not popular hunted game birds on the refuge.

Other Wildlife and Aquatic Species

Description of Affected Resource

The refuge supports a diversity of wildlife species in New Hampshire and Vermont, including amphibians, reptiles and invertebrates, which are important contributors to the overall biodiversity on the refuge. Some songbirds and raptors breed at the refuge, whereas others utilize the refuge for wintering and during migration.

Impacts on Affected Resource

The current level of hunting and fishing taking place on refuge lands may cause a short-term disturbance to wildlife. The number of overall hunters is relatively low with peak numbers during the first week of deer rifle season. This season occurs in November when the breeding season of most wildlife species has ended and migratory species have moved further South. We feel that the disturbance to other wildlife is minimal due to the short time period of disturbance. The overall number of hunters during all hunting seasons is low and dispersed across large acreage, leaving many parts of the refuge undisturbed.

The current level of dog training taking place on refuge during August - September, based on science, is believed to be compatible with ground/shrub nesting birds, as the majority of the breeding season has ceased. Dog training is known to take place in site specific areas where the habitat is suitable for game species. We feel that the disturbance to wildlife species is greatest in areas where people routinely run pursuit dogs for game species with small home ranges. In particular, running multiple pursuit dogs after game species that have a small home range and generally utilize established trails increases the likelihood of disturbing ground/shrub nesting birds during the breeding season.

The refuge works closely with each State wildlife agency to minimize impacts to hunting opportunities when game species look similar to other protected species. For example, ruffed grouse look like female spruce grouse, and bobcat look similar to Canada lynx. Spruce grouse is a species of concern in New Hampshire and endangered in Vermont. The Vermont Department of Fish and Wildlife (VTDFW) posts signs in the Nulhegan Basin Division to inform hunters about key identification characteristics and habitat preferences of spruce grouse. Canada lynx, a federally listed species, can be misidentified as bobcat. We work closely with VTDFW to inform hunters about lynx (see Section 7 for details).

To ensure compatibility with the refuge purposes and mission of the Refuge System, hunting and fishing are conducted in accordance with Federal and State regulations, as supplemented by refuge-specific regulations. We distribute each State wildlife agency hunting and fishing guides. These guides provide each State's hunting and fishing regulations and educational tools to minimize impacts on other species.

Threatened and Endangered Species (T&E) and Other Special Status Species

Description of Affected Resources

These species include Northern long-eared bat, Northeastern bulrush, Canada lynx, Dwarf Wedgemussel, and Jessup's milk-vetch.

Impacts on Affected Resources

An Intra-Service Section 7 analysis under the Endangered Species Act (ESA) of 1973, as amended was conducted in cooperation with the Service's New England Field Office.

Northern long-eared bats – No new mitigation measures will be necessary to protect Northern long-eared bats even though there is the possibility that they live on refuge lands. The potential for impacts to Northern long-eared bats will be minimal as there is very little overlap with hunting activities and the bats' maternity and volant periods.

Northeastern bulrush – Refuge staff will monitor recreational use and the population status of Northeastern bulrush on the refuge. The potential for impacts to Northeastern bulrush populations will likely be minimal; hunters and anglers will not use the area the species occupies frequently because the wetland type provides limited habitat for fish and waterfowl.

Canada lynx – Canada lynx are known to intermittently use the refuge. Refuge staff will continue to conduct annual surveys to monitor their presence. Hunters could mistake Canada lynx for bobcat, which look very similar and are allowed to be hunted in Vermont. The refuge will work with VTDFW to inform hunters on key identifiable differences between Canada lynx and bobcat. We do not anticipate negative impacts to adult and juvenile Canada lynx during the hunting season which occurs from September 1st to March 31st. The likelihood of hunters, and hunters with hunting dogs encountering adult and juvenile lynx during the hunting season is low due to the few lynx observations in recent years, the relatively short hunting season and large land area where hunting may occur. Due to the species' specific habitat requirements, the status of the species and the time of year that hunting and dog training will take place, hunting and the training of dogs, may affect, but is not likely to adversely affect Canada lynx. A recent endangered species consultation determined that the refuge's current dog training season, which occurs from August to September,

reduces potential impacts to Canada lynx. Dog training that occurs between May and July may have indirect and direct impacts to lynx kittens when they are vulnerable in den sites.

Jessup's milk-vetch – Refuge staff will monitor recreational use and population status of the Jessup's milk-vetch growing on the refuge. The potential for impacts to Jessup's milk-vetch will be minimal based on the current use patterns of the island by anglers and other user groups.

Dwarf wedgemussel – No mitigation measures will be taken for protecting dwarf wedgemussels. Although there is no dwarf wedgemussel population on the refuge, there are populations within the vicinity of the refuge. Because there are none living in the refuge, there will be no impacts to dwarf wedgemussel populations.

Refuge staff will continue to monitor for the presence of threatened or endangered species on the refuge. If they are found on the refuge, the effects of hunting on these species will be evaluated. See Intra-Service Section 7 for additional details.

Vegetation

Description of Affected Resources

This section includes vegetation of special management concern. Vegetation varies widely throughout refuge lands, encompassing shrubby and herbaceous communities, as well as forested communities with a wide array of canopy types.

Impacts on Affected Resources

Overbrowsing of vegetation is one consequence of populations that are beyond their carrying capacity (Behrend et al. 1970, White 2012, Bergeron et al. 2011). VTDFW increased hunting pressures on moose populations in Northeast Vermont due to an unexpected spike in their population. Impacts of moose overbrowsing is evident throughout the forests of the Nulhegan Basin Division. Hunting is used as a tool to maintain game populations at or below carrying capacity, which will minimize impacts on vegetation. Hunters and anglers could negatively affect vegetation by trampling and creating footpaths. Current levels of use for hunting and fishing have had negligible impacts to vegetation (i.e., factors include low number of users, low frequency of use, and dispersed use patterns).

Water Resources

Description of Affected Resources

Recreational fishing will be open for the season and species as regulated by the States, with additional restrictions for reptiles, amphibians and baitfish.

Impacts on Affected Resources

Recreational fishing will continue to occur on refuge lands following State regulations and seasons. The States strive to ensure maintenance of healthy and diverse fish species populations. Anglers must abide by the State's seasons, catch limits, and regulations which were designed to protect the State's fish populations. The refuge's fishing pressure has been light and sustainable. We do not anticipate an increase in recreational fishing activities.

Wetlands

Description of Affected Resources

Wetland habitats include freshwater marsh, shrub swamp, floodplain forest, forested wetlands and

peatlands. These habitats are dominated by wetland vegetation characteristic to the ecosystem type and vary in hydrological regimes. Wetland habitats are distributed throughout the refuge and interspersed with upland habitats.

Impacts on Affected Resources

- Hunters are permitted to walk on lands throughout designated hunting areas without restriction. Migratory bird hunters are permitted to place blinds on the refuge, but blinds must be removed from the refuge within 72 hours after the regulated hunting season has ended. As bird hunting occurs in the fall and early winter, impacts to vegetation are negligible and short-term. No impacts to any wetland habitats have been observed by refuge staff.

Visitor Use and Experience

Description of Use

The refuge is open to all priority public uses (hunting, fishing, wildlife observation, wildlife photography, environmental education and environmental interpretation) on lands when found compatible.

Impacts on Use

Currently, the refuge is open to all six-priority wildlife-dependent uses. The lands that are open to hunting and fishing follow State seasons and regulations. There have been very few conflicts among user groups that have involved hunting or fishing. Public health and safety are addressed through clearly delineated safety zones and increased outreach to all users.

Cultural Resources

Description

The Service, as the lead Federal agency, has chosen to use the NEPA substitution process to fulfill obligations under the National Historic Preservation Act of 1966, as amended (NHPA). While obligations under NHPA and NEPA are independent, the regulations implementing NHPA allow for the use of NEPA review to substitute for various aspects of the NHPA section 106 (16 U.S.C. 470f) review to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that a project may have on the human environment (36 CFR 800.3 through 800.6).

Section 106 of the NHPA requires the Service to evaluate the effects of any of its actions on cultural resources (historic, architectural, and archeological properties) that are listed or eligible for listing in the National Register of Historic Places (NRHP).

Impacts

Hunting, regardless of the method or species targeted, will not pose a threat to cultural resources. There are no historic buildings or other obvious cultural resources on the refuge that will be readily susceptible to impacts from hunting.

Refuge Management and Operations – Land Use

Description

The refuge owns and maintains a visitor center in Brunswick, Vermont, and various parking lots, hiking trails, informational kiosks, and gravel roads across the various refuge divisions and units.

Impacts on Use

It is expected that the number of hunters and anglers pursuing these species will be low. These users will use existing infrastructure to access the refuge. The frequency and extent of maintenance and improvement of current facilities is not expected to differ from that required to support other public uses. We do not expect any conflicts among user groups, crowding, or overuse of the refuge's infrastructure.

Refuge Management and Operations – Administration

Description

There are currently three full time positions that oversee this portion of the refuge. Management and biological staff work together to ensure hunting and fishing programs are safe, successful, and biologically sound.

Impacts

Annual operating costs to administer the Vermont and New Hampshire portion of the refuge's current program including infrastructure, signs and staff time is approximately \$53,000.

Socioeconomics and Environmental Justice

Description

The refuge lands in Vermont and New Hampshire are situated in mostly rural communities. The more populated areas are in the southern portion of the States. People come to the region throughout the year to participate in activities such as hunting, fishing, camping, hiking, canoeing, kayaking, snowmobiling, skiing, and driving the scenic roads. Hotels, restaurants, and the associated service industry all benefit from the infusion of tourism dollars.

Impacts

The current program has a minor, long-term and beneficial impact to the local economy. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, involves Federal agencies to incorporate environmental justice into their missions by identifying and addressing disproportionately high or adverse human health or environmental effects of their programs and policies on minorities and low-income populations and communities. No additional impacts are expected.

While refuges, by their nature, are unique areas protected for conservation of fish, wildlife and habitat, the selected action will not have a significant impact on refuge resources and uses for several reasons:

2. In the context of local and State hunting and fishing programs, the selected action will only result in a tiny fraction of the estimated populations and harvest. The Service works closely with the States to ensure that additional species harvested on a refuge are within the limits set by each state to ensure healthy populations of the species for present and future generations of Americans.
3. The Refuge System uses an adaptive management approach to all wildlife management on refuges, monitoring and re-evaluating hunting opportunities on the refuge on an annual basis to ensure that the program continues to contribute to the biodiversity and ecosystem health of the refuge, and that the impacts from these opportunities do not add up to significant impacts in combination with the environmental trends and planned actions on and near the refuge

4. The adverse effects of the selected action on air, water, soil, habitat, wildlife, aesthetic/visual resources, and wilderness values are expected to be non-existent, minor and/or short-term. The benefits to long-term ecosystem health from the selected action, in conjunction with other existing refuge programs, will far outweigh any of the short-term adverse impacts discussed in the supplemental EA and document. The action will result in beneficial impacts to the human environment, including the biodiversity and ecological integrity of the refuge, as well as the wildlife-dependent recreational opportunities and socioeconomics of the local economy, with only negligible adverse impacts to the human environment as discussed above.
5. The refuge-specific regulations detailed in 50 CFR are measures that will reduce or avoid impacts. Hunting and fishing regulations will be published in 50 CFR and can be enforced by Federal law enforcement officers. Providing information through various forums will ensure the public is aware of applicable laws and policies.
6. The selected action, along with the proposed mitigation measures, will ensure that there is low danger to the health and safety of refuge staff, visitors, and hunters and anglers themselves.
7. The action is not in an ecologically sensitive area.
8. The action is not likely to adversely affect any threatened or endangered species; and will have no effect to federally designated critical habitat.
9. The action will not impact any cultural or historical resources.
10. The action will not impact any wilderness areas.
11. The proposal is not expected to have any significant adverse effects on wetlands and floodplains, pursuant to Executive Orders 11990 and 11988 because hunters and anglers must use established access points that will not be located near sensitive habitats.

Additionally, the following stipulations are necessary to ensure compatibility:

- Excluding the Nulhegan Basin Division, refuge lands are closed to night hunting. Hunters are allowed on refuge lands from 1 ½-hour before sunrise and 1 ½-hour after sunset.
- We prohibit shooting from, over, or within 25 feet of the traveled portion of any road that is accessible to motor vehicles, with the exception of a permanently disabled hunter with the proper state and refuge issued special use permit.
- Tree stands, blinds, or other hunting equipment must be removed from the refuge within 72 hours after the regulated hunting season has ended.
- We allow the use of dogs consistent with State regulations except;

- At the Putney Mountain Unit, we allow the use of dogs only for hunting ruffed grouse, American woodcock, turkey (fall season), and gray squirrel.
 - We will allow training of dogs following state regulations from August 1 through the last Saturday in September during daylight hours.
 - We do not allow the training of dogs at the Putney Mountain Unit.
- Take of amphibians, reptiles and baitfish is prohibited.

These measures to mitigate and/or minimize adverse impacts have been incorporated into the proposal. The proposal is compatible with the purpose of the refuge and the mission of the Refuge System (see the Compatibility Determinations in the Recreational Hunting and Fishing Plan). Furthermore, the action is consistent with applicable laws and policies regarding the establishment of hunting on national wildlife refuges.

Public Review

On April 24, 2023, the Service issued a supplemental EA for a 30-day public comment period which ended on May 25, 2023. The supplemental EA was posted on the refuge website and a news release was emailed to interested parties, local partners, and Vermont media contacts.

A total of 1,514 individuals and organizations offered input to the refuge. Of the substantive responses received, there were three main categories of comments:

1) support the Service's preferred Alternative A (29 people); 2) support alignment with State regulations Alternative B (832 people); 3) opposition to the use of hounds (alternative considered and dismissed) (653 people). Of the total comment letters received, the following agencies, groups and organizations were represented:

- National Wildlife Refuge Association
- New England Chapter of Backcountry Hunters and Anglers
- Protect Our Wildlife Vermont
- Vermont Traditions Coalition
- Sportsmen's Alliance
- Safari Club International
- New Hampshire Wildlife Federation
- New Hampshire Department of Fish and Game
- Vermont Department of Fish and Wildlife

We address and respond to substantive comments, which are those that suggest our analysis is flawed in a specific way (e.g., challenge the accuracy of information presented; challenge the adequacy, methodology, or assumptions of the environmental or social analysis and supporting rationale; present new information relevant to the analysis; present reasonable alternatives, including mitigation, other than those presented in the document).

Our discussion does not require responses to any comments we determined to be non-substantive, such as comments that support or object to our statements without providing reasoning that meet the criteria for a substantive comment; comments that do not pertain to the project area or proposal; or typographical corrections.

It is important to understand that commenting on a proposed action is not a “vote” on whether the proposed action should take place (CEQ Citizens Guide to the NEPA, 2009). Substantive comments allow refuge management to consider additional information into their analysis and address any substantive concerns. We grouped similar comments together and organized them by Alternative and subject in the discussion below:

Alternative A

Comment: Favor alignment with Alternative A

Commenters noted that they opposed hunting with hounds but, given the proposed Alternatives in the supplemental EA, they favor Alternative A which reduces the dog training season to August-September and only permits hunting with dogs for ruffed grouse on the Putney Mountain Unit.

Response: The Service allows hunting on refuge lands only if such activity has been determined compatible with the established purpose(s) of the refuge and the mission of the Refuge System, as required by the National Wildlife Refuge System Administration Act (NWRSA) of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act). When practicable, hunting of resident and migratory wildlife species on refuges generally occurs consistent with state regulations, including seasons and bag limits. Refuge-specific hunting regulations can be more restrictive (but not more liberal) than state regulations and often are more restrictive in order to help meet specific refuge objectives and to ensure compatibility of the use. These objectives include conservation and management of resident and migratory wildlife populations and habitats, minimizing disturbance impacts to wildlife, maintaining high-quality opportunities for wildlife-dependent recreation, eliminating, or minimizing conflicts with other public uses and/or refuge management activities, and protecting public safety. While Alternative A remains largely the same as presented in the supplemental EA, we are modifying the refuge specific regulations to allow the use of dogs for hunting American woodcock, gray squirrel and turkey (fall season) in addition to ruffed grouse on the Putney Mountain Unit. We also will rescind the requirement for hunters to obtain a permit when hunting with three or more dogs and when training dogs.

Comment: The biodiversity on National Wildlife Refuges should be protected.

National Wildlife Refuges are established to ensure that the biological integrity, diversity, and environmental health are maintained for the benefit of present and future generations of Americans.

Response: The National Wildlife Improvement Act of 1997 provides that each refuge will be managed to fulfill refuge purposes and fulfill the USFWS mission by ensuring that the biological integrity, diversity, and environmental health are maintained on refuges, and where appropriate, restored (See also 601 FW 3, Biological Integrity, Diversity, and Environmental Health). The Improvement Act also directs refuge managers to facilitate priority wildlife-dependent public uses on refuges when compatible with the refuge purposes and USFWS

mission. We are responsible for balancing conservation of our trust resources and providing outdoor recreational opportunities, including hunting and fishing when found compatible.

We actively manage refuge habitats to maintain and/or restore the biological integrity, diversity, and environmental health of refuge habitats. The Service considers hunting to be an important wildlife management tool used to maintain wildlife populations at or below carrying capacity. Species that are above carrying capacity have negative impacts on habitats (composition, structure and function), and therefore on the wildlife species that rely on those habitats (Behrend et al. 1970, White 2012, Bergeron et al. 2011). An increase in deer and moose densities, for example, may negatively affect forest regeneration and plant diversity, resulting in degradation of habitat for American woodcock and other migratory bird species.

We have determined that hunting and fishing are compatible with the refuge purposes. We have found, however, that the training of hunting dogs, is not compatible during the migratory bird breeding season due to potential impacts to landbirds from dogs during this vulnerable period. To minimize impacts on ground nesting birds, we shortened the training season to occur outside the breeding bird season. We will continue to monitor the effects of these uses on trust resources and habitats, and we may reevaluate in the future if negative impacts are observed or if new science becomes available that provides the impetus for further consideration and public involvement.

Alternative B

Comment: Favor alignment with State regulations for hunting with and training dogs

Many commenters expressed the opinion that the refuge should fully align with Vermont State regulations for hunting with and training dogs (Alternative B). Commenters want the hunting regulations for the Putney Mountain Unit to align with Vermont State regulations for hunting with and training dogs

Response: The Silvio O. Conte National Fish and Wildlife Refuge was established to “conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species, and the ecosystem upon which these species depend within the refuge.” Furthermore, the refuge was also established to “provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access to the extent compatible with the other purposes...” We are responsible for balancing conservation of our trust resources, which includes migratory birds and fish, federally listed species and wetlands, and providing outdoor recreational opportunities, including hunting and fishing when found compatible.

The USFWS is the principal federal agency responsible for upholding the Migratory Bird Treaty Act. Migratory birds are a trust resource that are protected on the refuge by the Migratory Bird Treaty Act, as a legislated purpose of the refuge is ‘to fulfill the international treaty obligations of the United States relating to fish and wildlife and wetlands. While there are no specific studies indicating that hunting dogs do not negatively impact ground nesting birds, there is enough scientific evidence that show dogs on and off leash can negatively impact wildlife including disturbance response by fleeing or flushing (George et al. 2006, Miller et al. 2001, Sime, C.A. 1999, Miller et al. 2020), avoidance of areas of high recreational use (George et al. 2006, Lenth et al. 2008, Parsons et al. 2016, Reilly 2015, Miller et al. 2020), shift in daily

activities (George et al. 2006, Lenth et al. 2008, Randler C. 2006, Sime, C.A. 1999, Reilly 2015, Miller et al. 2020), and mortality (Young et al. 2011, Sime, C.A. 1999, Miller et al. 2020). Dogs are related to wolves, and wildlife perceive dogs as predators. The presence of dogs in habitats disrupts wildlife, no matter if they are dogs trained to track scent or an untrained domestic dog off-leash.

Migratory landbirds nest on the refuge from early June to early August. Many of these species are considered interior forest nesting species, which require large tracts of intact habitat for breeding. These species nest in the tree canopy, shrub layer and on the ground. Eggs require incubation to hatch, and hatchlings require warmth and food provided by the parent bird. Disturbance to these species during this vulnerable period may decrease nest and brooding success (Gutzwiller et al. 1998, Thompson, B. 2015). Nesting success is critical to maintain the population of game and non-game species. Many non-game species of migratory birds are declining across their range. Canada warbler, rusty blackbird, wood thrush and veery for example, have been listed as species in greatest need of conservation in the Birds of Conservation Concern 2021 by the Service's Migratory Bird Program. Canada warbler, rusty blackbird, and wood thrush are also high priority bird species of greatest conservation need as identified in Vermont's 2005 and 2015 Wildlife Action Plans (VFWD State Wildlife Action Plan 2015) and NH Fish and Game 2015 Wildlife Action Plan (NHFGD 2015). These species breed within forested habitats of the Conte Divisions in New Hampshire and Vermont. Veeries and Canada warblers nest on or near the ground and their eggs and altricial hatchlings are vulnerable to disturbance, predation and trampling. These, and many other species are also vulnerable to climate change, and the Division habitats provide refugia for these species.

Further, the abundant loss of avian species is well documented. Rosenberg et al. estimates a net loss of almost 3 billion birds across North America since 1970, with an estimated loss of 1 billion birds within forested ecosystems. Eastern forests have seen a decline of 23 million neotropical bird species with 9 species lost (Rosenberg et al 2019).

Training dogs during the migratory bird breeding season, June and July, is not compatible with the purposes of the refuge. Even unintentional minor harassment or disturbance during critical biological times, in critical locations, especially when repeated over time (frequency and duration) exceeds the compatibility threshold. While hunting is a priority public use of the Refuge System by the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57), training of dogs is not. Hunting is the legal authorization to take/harvest a game species. There is no legal authorization to take any species for the purpose of dog training on the refuge. We recognize that dog training is a component of the hunting experience, and with stipulations to shorten the training season, it is currently found compatible. Migratory landbirds are a trust resource, and based on our professional opinion and available science, dog training as a compatible use during the breeding season is not supported by science.

To protect the most vulnerable species and those that are most affected from disturbance by dogs, we will continue to prohibit dog training from occurring outside the months of August and September of each year. We will continue to monitor the effects of dog training on trust resources and habitats and may reevaluate in the future if negative impacts are observed or if new science becomes available that provides the impetus for further consideration and public

involvement. Dogs may be used when hunting only ruffed grouse, American woodcock, turkey (fall season), and gray squirrel on the Putney Mountain Unit.

Comment: No additional restrictions at the Putney Mountain Unit

Commenters want the hunting regulations for the Putney Mountain Unit to align with Vermont State regulations for hunting with dogs and not be restricted to only hunting ruffed grouse with dogs (Alternative A as presented in the supplemental EA).

Response: The Putney Mountain Unit (Putney) of the Conte Refuge is 285 acres with much of its boundary surrounded by property that has been posted by private landowners. The USFWS strives to provide the public with quality wildlife dependent recreational opportunities where appropriate and compatible. The USFWS limited the use of dogs for only ruffed grouse, American woodcock, turkey (fall season), and gray squirrel at Putney because the pursuit of other species of harvestable game when using dogs generally requires a much greater area than 285 acres. If the use of dogs for other species on the Putney Mountain Unit were allowed, the USFWS would not be able to provide hunters with a quality hunt and would be creating a conflict with abutting landowners that have posted their property. All other game species allowed by the State are open to hunting without the use of dogs at the Putney Mountain Unit.

Comment: Permits should not be required for hunting with or training dogs on the refuge.

Commentors requested that the USFWS be consistent with state regulations on the refuge and that permits should not be required for dog training or hunting with three or more dogs.

Response: The selected Alternative A with modifications will not require hunters to obtain a refuge specific permit for hunting with or training dogs on the refuge. Hunting with and training of dogs is allowed on the refuge consistent with state regulations when found compatible with refuge purposes, as outlined elsewhere in this document.

Comment: Dog training is a traditional use

Commentors stated that dog training and the heritage of running dogs should continue to be an allowed tradition on the Conte Refuge.

Response: Humans have utilized dogs to assist with the harvest of game species for millennia. Over time, technological advances have allowed humans to track the spatial location of collared dogs while they pursue wildlife. In some cases, dog training has become a form of recreation as well as preparing for the fall harvest, when hunting game species with dogs. As the technology to track pursuit dogs has evolved over time, so has the body of science and peer reviewed literature on the impacts that domestic dogs have on wild animals. Since the Conte Refuge was established a quarter of a century ago, the field of recreation ecology has expanded to include consumptive and non-consumptive forms of recreation. The scientific literature clearly shows that domestic free running dogs negatively impact wildlife (George et al. 2006, Miller et al. 2001, Sime, C.A. 1999, Miller et al. 2020, Lenth et al. 2008, Parsons et al. 2016, Reilly 2015, Young et al. 2011).

Sound, effective wildlife management is based on using the most current available science to adapt to our everchanging environment. Wildlife management is not binary or static; it is adaptive and dynamic. In the face of climate change, the spread of invasive species, habitat

fragmentation/loss, adjacent land uses, and declining populations of wildlife, traditional consumptive practices must be assessed to determine whether they negatively impact wildlife. As society evolves, so do our management practices. In some states it is acceptable to bait game species or push/drive game, while in other states these practices are prohibited. The training of dogs is not compatible with refuge purposes during the breeding season (June-July), but the Service has determined that currently this practice is a compatible use during the months of August and September.

Comment: Shortening the dog training season constitutes a major regulatory change

Commenters felt that the decision to shorten the dog training season should have gone through public comment period as it was a major regulatory change.

Response: The decision made by USFWS to shorten the dog training season has gone through public notice and comment as required by the Administrative Procedure Act. The proposed rule and supplemental EA were issued on April 24, 2023. The document was available for public review for the full 30-day comment period at <https://www.fws.gov/refuge/silvio-o-conte/visit-us/activities/hunting>. The document could also be located on the refuge's website by using the search function to locate the draft document. Additionally, the draft document was provided as an 'alert banner' for 30 days on the refuge's website landing page. The 'alert banner' expired on May 23rd. However, the document was still available on the refuge's website. USFWS also emailed local media and individuals/organizations that commented on the Conte Hunt Plan to inform them of the proposed rule. The public was allowed 30 days to comment on the documents. More than 1,500 comments were received by USFWS during the public comment period.

Moreover, the changes that were made to the dog training season in the Conte Hunt Plan were minor, as the dog training season was shortened and not closed. Therefore, the change does not constitute a major change. Changes in the length of the dog training season were incorporated into the Hunt Plan to allow dog training to be deemed a compatible activity on the refuge. We did not eliminate dog training on the refuge, we shortened the season so that the use would not materially interfere or detract from the legislated purposes of the refuge.

The Service shortened the dog training season to limit disturbance to wildlife, specifically ground/shrub nesting migratory birds during the breeding season as a way for the activity to be compatible as required by the National Wildlife Refuge System Improvement Act. The modification to the dog training season better aligned the activity with the Conte Refuge's legislated purposes and diminished the potential for actions that are prohibited by the Migratory Bird Treaty Act. The shortened training season could also have beneficial impacts to other breeding non-game and game species using the refuge.

Of the more than 1,500 individuals that commented on the 2023 Draft Hunt Plan, not a single individual, organization or wildlife management agency provided any evidence that training dogs during the breeding season does not negatively impact migratory birds. The USFWS's policy on Compatibility (USFWS 603 FW 2 Compatibility) places the burden of proof on the proponent of a use to show that a proposed use does not materially interfere with or detract from the legislated purpose of the Refuge. A determination was made there was insufficient evidence to adequately state that nesting migratory birds would not be negatively impacted

by the use of dogs on the refuge during the breeding season. Even unintentional minor harassment or disturbance during critical biological times, in critical locations, or repeated over time (frequency or duration) may exceed the compatibility threshold.

Other Comments

Comment: Opposition to any training or hunting with dogs on the refuge

Many commenters expressed concerns about the adverse impacts hunting with dogs and training dogs; in particular, “hounds” will have on wildlife on refuge lands. Concerns included harassment by dogs to ground nesting birds, Canada lynx, and on target species including black bear, bobcat and coyote. Commenters noted that hunting hounds can run miles from their handlers and may create conflicts with other user groups or private landowners. Some commenters felt that hunting with dogs was unethical and inhumane. They also expressed concerns with dog training and the length of time dogs are allowed to pursue wildlife on refuge lands. Commenters stated that hunting with dogs and training dogs is not compatible with the refuge or a priority public use.

Response: The closure of the dog training season on refuge lands during the entirety of Vermont and New Hampshire State seasons was considered but dismissed from further review in the supplemental Environmental Assessment for the reasons explained below. However, the Service will continue to monitor population trends of endangered and threatened species, and migratory birds. If there is evidence that trust resource populations are negatively impacted by the use, then the Service may revisit impacts associated with the dog training season and take action to limit impacts.

Congress, through the Improvement Act, envisioned that hunting, fishing, wildlife observation and photography, and environmental education and interpretation would all be treated as priority public uses of the Refuge System. Therefore, the Service facilitates all of these uses on refuges, as long as they are found compatible with the purposes of the refuge, and the mission of the Refuge System. Furthermore, we manage refuges to support healthy wildlife populations that in many cases produce harvestable surpluses that are a renewable resource. As practiced on refuges, hunting and fishing do not pose a threat to wildlife populations.

We have found hunting with dogs to be compatible with the refuge purposes and with further stipulations to ensure compatibility; hunting with dogs will be limited to only gray squirrel, American woodcock, turkey (fall season), and ruffed grouse on the Putney Mountain Unit. However, training of dogs during the migratory bird breeding season is not compatible and will be restricted to August – September.

Comment: Opposition to hunting with and training dogs due to 3 billion bird loss

Specific comment addressing concern with declining migratory bird numbers

Response: The refuge provides important breeding habitat for many migratory bird species, including those that have been listed as species in greatest need of conservation (USFWS

2021) and state species of greatest conservation need (VTDFW 2015, NHDFG 2015). Your reference to the precipitous decline of avian species in North America provides evidence to their precarious state, and the importance of continued conservation efforts for these species.

The Conte Refuge is responsible for balancing conservation of our trust resources, which includes migratory birds, and providing outdoor recreational opportunities, including hunting and fishing when found compatible.

Migratory landbirds are most vulnerable during the breeding season. Eggs require incubation to hatch and hatchlings require warmth and food provided by the parent bird. Disturbance to these species during this vulnerable period may decrease nest and brooding success (Gutzwiller et al. 1998, Thompson, B. 2015). Nesting success is important to maintain the population of these species. We have determined that dog training during the breeding season is not compatible with the purposes of the refuge.

While hunting is a priority public use of the Refuge System by the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57), training of dogs is not. We recognize that dog training is a component of the hunting experience, and with stipulations to shorten the training season, it is currently found compatible. We will continue to monitor the effects of dog training on trust resources and habitats, and we may reevaluate in the future if negative impacts are observed or if new science becomes available that provides the impetus for further consideration and public involvement.

Comment: Adverse effects of hunting with hounds

A commenter cited the paper *Adverse effects of hunting with hounds on participants and bystanders* and its findings that hunting with hounds introduces threats to non-target wildlife including endangered species.

Response: We were not aware of this publication and will add it to our list of references. While many studies provided evidence of dogs on and off leash negatively impacting wildlife, we did not come across specific studies on hunting dog interactions or impacts on non-target species. This study examines hound interactions with wolves and human bystanders and how handlers might play a role in these interactions. This study provides additional evidence that the presence of dogs in habitats disrupt wildlife, no matter if they are dogs trained to track scent or an untrained domestic dog off-leash. Also of note is the negative interactions and conflicts human bystanders experienced with hounds and their handlers, including trespass and property damage.

The Silvio O. Conte Refuge is responsible for balancing conservation of our trust resources, which includes migratory birds and fish, federally listed species and wetlands, and providing outdoor recreational opportunities, including hunting and fishing when found compatible.

Based on the best available science and our professional opinion, prohibiting dog training from occurring outside the months of August and September of each year will protect the vulnerable species that are affected from disturbance by dogs. Hunting with dogs, and the training of dogs is currently found to be compatible with this stipulation in place. We will continue to monitor the effects of dog training on trust resources and habitats and reevaluate

the use if negative impacts are observed or if new science becomes available that provides the impetus for further consideration and public involvement.

While dogs are highly trainable for a variety of tasks, dogs are known to travel considerable distances in a short period of time depending upon the game species being pursued. The Putney Mountain Unit is 285 acres and is bounded by posted private property. Keeping dogs within the Unit boundaries is not practical when pursuing certain species of harvestable game because trespassing onto private lands will likely occur, causing conflict between hunters and neighboring property owners. To avoid these conflicts, we will allow the use of dogs only for hunting of ruffed grouse, American woodcock, turkey (fall season), and gray squirrel on the Putney Mountain Unit.

Comment: No dog hunting allowed on the refuge

A few individuals asked why dog hunting isn't allowed on the refuge

Response: Dogs are not a game species and therefore the USFWS does not allow dog hunting on the refuge. However, hunting with dogs has been allowed on the refuge since 1999.

Comment: Lack of transparency and short comment period

Numerous individuals stated that the comment period was only 4 days in length. Other commenters state that there was a lack of transparency in the decision-making process and not enough time was provided for stakeholders to review the document and provide meaningful feedback.

Response: The National Environmental Policy Act requires that draft Environmental Assessments are made available for public review for 30 days. On April 24, 2023, the Service issued a supplemental Environmental Assessment for a 30-day public comment period which ended on May 25, 2023. The supplemental Environmental Assessment was posted on the refuge website and a news release was emailed to interested parties, local partners, and Vermont media contacts. Comments were reviewed daily throughout the 30-day public comment period. The Service reviewed the comments until June 2nd. More than twice the number of comments were received for the draft 2023 Hunt Plan (1,514 comments) than the 2021 Hunt Plan (711 comments). The number of comments received represents a robust public comment period and substantial public comment engagement.

It should be noted that some proponents of Alternative B shared inaccurate information to their memberships about the draft Conte Hunt Plan. The dissemination of inaccurate information (e.g., No Dog Training on the Conte Refuge, Only Grouse Hunting Allowed at the Putney Mountain Division and No Science Behind the Hunting Restrictions) led many commentors to provide comments that did not accurately respond to the proposed Alternatives in the draft Hunt Plan.

Comment: The USFWS decisions were not based on science.

Some commenters felt that the USFWS decision to restrict the dog training season to outside the migratory breeding bird season is not based on science.

Response: The USFWS is a science-based agency. Our decision to allow a dog training season outside the migratory breeding bird season, during the months of August and September, is based on the best available science. While we acknowledge that there are no specific studies indicating that hunting dogs do not negatively impact ground nesting birds, there is enough scientific evidence that show dogs on and off leash can negatively impact wildlife including disturbance response by fleeing or flushing (George et al. 2006, Miller et al. 2001, Sime, C.A. 1999, Miller et al. 2020), avoidance of areas of high recreational use (George et al. 2006, Lenth et al. 2008, Parsons et al. 2016, Reilly 2015, Miller et al. 2020), shift in daily activities (George et al. 2006, Lenth et al. 2008, Randler C. 2006, Sime, C.A. 1999, Reilly 2015, Miller et al. 2020), and mortality (Young et al. 2011, Sime, C.A. 1999, Miller et al. 2020). Dogs are related to wolves, and wildlife perceive dogs as predators. The presence of dogs in habitats disrupts wildlife, no matter if they are dogs trained to track scent or an untrained domestic dog off-leash.

The USFWS is the principal federal agency responsible for upholding the Migratory Bird Treaty Act. Migratory birds are a trust resource that are protected on the refuge by the Migratory Bird Treaty Act, as a legislated purpose of the refuge is ‘to fulfill the international treaty obligations of the United States relating to fish and wildlife and wetlands. The abundant loss of avian species is well documented (USFWS 2021, Rosenberg 2019). Rosenberg et al estimates a net loss of almost 3 billion birds across North America since 1970, with an estimated loss of 1 billion birds within forested ecosystems. Eastern forests have seen a decline of 23 million neotropical bird species with 9 species lost (Rosenberg et al 2019).

The refuge provides important breeding habitat for many migratory bird species, including those that have been listed as species in greatest need of conservation (USFWS 2021) and state species of greatest conservation need (VTDFW 2015, NHDFG 2015). We have not come across literature that shows dogs do not have a negative impact to ground nesting birds during the breeding season. Based on the best available science and our professional opinion, we have determined that dog training during the breeding season is not compatible with the refuge purposes. To protect the most vulnerable species and those that are most affected from disturbance by dogs, we will prohibit dog training from occurring outside the months of August and September of each year.

This decision will be reevaluated if new research shows that dog training during the migratory bird breeding season has no impact on ground nesting birds, or negative impacts are observed from dog training on trust resources and habitats or if new science becomes available that provides the impetus for further consideration and public involvement.

Comment: The Hunting/Fishing plan makes no mention of trapping on the refuge.

A commenter was curious why trapping was not mentioned in the Recreational Hunting and Fishing Plan.

Response: The draft Silvio O. Conte National Fish and Wildlife Refuge New Hampshire and Vermont Recreational Hunting and Fishing Plan April 2023 is a document that pertains to
Appendix D – Finding of No Significant Impact

hunting and fishing, and it is not a document that pertains to trapping or trapping regulations. Trapping on National Wildlife Refuges is done through a separate trapping plan provided the activity is found to be compatible. A trapping plan will be developed in the future when staff resources allow the time to commit to developing the plan in consultation with the public, our state partners, and other supporting documents and related information.

Comment: Spruce grouse hunting

A commenter mentions that we were in error when we stated that VTDFW advises hunters not to hunt ruffed grouse in areas where spruce grouse are known to occur.

Response: The VTDFW has posted signs on the refuge in areas where spruce grouse are known to occur that state: “Attention Hunters SPRUCE GROUSE AREA – VT FISH & WILDLIFE RECOMMENDS NOT HUNTING RUFFED GROUSE (PARTRIDGE) IN THIS AREA”. Additionally, the VTDFW has posted notices at the Wenlock Wildlife Management Area (which abuts the Nulhegan Basin Division) advising the public to “Keep dogs on-leash at all times” and “This area contains Endangered ground-nesting Spruce Grouse”. Notably, the Nulhegan Basin Division includes approximately three-fourths of Vermont’s current spruce grouse habitat.

Comment: Consistency between state and federal regulations.

Commenters expressed concerns that not having consistency between refuge and state regulations will put a strain on law enforcement.

Response: State and federal wildlife management agencies have different missions, statutory mandates and legal obligations. As such, regulations on state wildlife management areas may be different than regulations on federal wildlife refuges. Hunters are responsible for understanding and following state and federal hunting and fishing regulations. Hunters come across property boundaries that have different rules and regulations throughout the hunting seasons, whether it is posted private property, a land trust, state lands or federal lands. Hunters are responsible for adhering to and respecting the rules of the property they intend to hunt. Law enforcement officers are highly skilled professionals whose job is to understand these laws to ensure hunters abide by these regulations while engaged in hunting activities. Regarding the Conte Refuge, there are very few refuge specific regulations that are different from state regulations. We have not received complaints from law enforcement that these few regulations have impacted their ability to enforce the law.

Comment: Shooting across public roads.

A commenter did not understand why we did not allow shooting across public roads.

Response: Roads on National Wildlife Refuges that are open to vehicular traffic are considered public roads by the FWS. These roads are maintained for public ingress and egress, and open to the public a variety of priority public uses. They are not held to the varying definitions of public roads by the individual States. Shooting across, from, or within 25 feet of a road within the Refuge and open to public use is not permitted. We appreciate and understand the issues surrounding disabled hunters. The refuge issues special use permits for disabled hunters to shoot from their vehicles when appropriate and in accordance with state regulations and the restriction mentioned above. Disabled hunters with an approved permit often utilize early successional management areas, log landings and fields for hunting from their vehicle. To date, only one individual has requested and received a permanently disabled hunting permit (Nulhegan Basin Division)

Comment: Use of non-lead ammunition on the refuge.

A comment was made about the requirement for non-lead ammunition while hunting migratory game birds and whether it was required for hunting American woodcock and Wilson's snipe.

Response: Lead is a well-known toxin to people and wildlife and even small amounts can have adverse health effects. Hunters are encouraged to use non-lead ammunition. In 1991, the USFWS implemented a nationwide ban on the use of lead shot for hunting waterfowl. While the use of lead shot is prohibited for waterfowl hunting, its use is currently allowed for hunting American woodcock and Wilson's snipe. We appreciate the support for the use of non-lead ammunition which continues to be deposited in the environment through firearm hunting.

Comment: A comment was made specifically about training bobcat hounds outside of the breeding bird season (winter).

Response: The Service may consider this activity in a future rulemaking cycle in consultation with the public and our state partners.

Comment: A comment was made that coyote is not listed as a furbearer

Response: Coyote is listed in the draft Hunt Plan as a harvestable species.

Comment: Collection of amphibians, reptiles and baitfish on the refuge

A commenter did not understand why we did not allow the collection of amphibians, reptiles and baitfish on the refuge.

Response: One of the purposes of the Silvio O Conte NFWR is: To conserve, protect, and enhance the natural diversity and abundance of plant, fish, and wildlife species and the ecosystem upon which these species depend within the refuge. There is no information that

indicates the refuge has a surplus of any of these categories that would indicate the need to remove them via "hunting." In fact, many turtles are in decline across their ranges, and the typical method for taking these species is through traps, which capture all species. Taking these species would be contradictory to one of the establishing purposes of the Conte NFWR. The Service may consider this activity in future rulemaking cycle in consultation with the public and our state partners.

Comment: Hunters frustrated with houndmen tarnishing their reputation.

A commenter expressed concern over people using dogs and GPS tracking devices for the purpose of harvesting game.

Response: The use of the GPS tracking devices as allowed by the states for the purposes of harvesting game is allowed on the refuge, consistent with applicable state laws and deemed compatible by the Service.

Comment: The refuge is out of compliance with the Department of the Interior's Secretarial Order 3356.

A commenter stated that by restricting the use of dogs for hunting inside the refuge puts the refuge out of compliance with the Department of the Interior's Secretarial Order 3356

Response: The Department of the Interior's Secretarial Order 3356 directs the Service to enhance and expand public access to lands and waters on National Wildlife Refuges for hunting, fishing, recreational shooting and other forms of outdoor recreation. The National Wildlife Refuge System Administration Act (NWRSA) of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) establishes hunting as a priority public use. However, any use or activity on a refuge, regardless of its priority status, must first be found compatible. This process of determining compatibility ensures that proposed or existing recreational opportunities and other activities on refuges will not materially interfere with the primary purpose(s) for which the refuge was established. Additionally, a significant directive of the Refuge Administration Act is to ensure that we maintain the biological integrity, diversity, and environmental health of the National Wildlife Refuge System for present and future generations of Americans. During the compatibility determination process, the refuge manager may institute further stipulations to ensure a use or activity remains compatible. Hounds are known to travel considerable distances in a short period of time, while upland bird dogs (pointers and spaniels) remain close to their handler/s for the duration of a hunt. Hunting with dogs has only been restricted on the 285-acre Putney Mountain Unit to ensure compatibility and limit negative impacts to other user groups and private property. On the Putney Mountain Unit we allow hunting with dogs only for ruffed grouse, American woodcock, turkey (fall season), and gray squirrel. All other game species allowed by the State are open to hunting at the Putney Mountain Unit without the use of dogs.

The Silvio O. Conte Refuge is not out of compliance with Secretarial Order 3356 as the Service has expanded recreational opportunities to the extent compatible with the establishing purposes of the refuge.

Comment: Reauthorize night hunting/fishing across the entire refuge.

A commenter requested that we reauthorize night hunting/fishing across the refuge.

Response: National Wildlife Refuges are typically closed from sunset to sunrise unless an activity is specifically allowed. Those activities are usually something the public engages in and provided the use is still compatible with the purposes of the individual NWR. The Silvio O. Conte National Fish and Wildlife Refuge Recreational Hunting and Fishing Plan for New Hampshire and Vermont does not pertain to the refuge divisions and units in Massachusetts and Connecticut. The Nulhegan Basin Division of the Conte Refuge is the only division of the Conte Refuge that remains open to the public at night, all other divisions/units are closed to the public from 1 ½ hour after sunset to 1 ½ hour before sunrise. In order to monitor and mitigate potential disturbances to wildlife and neighboring landowners, hunting at night at the Nulhegan Basin requires a SUP issued by the wildlife refuge manager. In the last decade no requests have been made to hunt at night at the Nulhegan Basin Division.

Comment: Assessment of other uses such as vehicle-based recreation.

Commenter suggests that we assess other activities that may impact nesting birds, such as vehicle-based recreation.

Response: Congress, through the Improvement Act, envisioned that hunting, fishing, wildlife observation and photography, and environmental education and interpretation would all be treated as priority public uses of the Refuge System. Therefore, the Service facilitates all of these uses on refuges, as long as they are found compatible with the purposes of the refuge, and the mission of the Refuge System.

Comment: Lack of communication with VTDFW

A commenter was surprised that we had not coordinated with VTDFW since 2020.

Response: This was an error in the Supplemental EA. In fact, refuge staff have engaged with the state of Vermont on numerous occasions since 2020, most recently in February of 2023.

Comment: The Plan was not accessible during the public comment period.

The draft Silvio O. Conte National Fish and Wildlife Refuge Recreational Hunting and Fishing Plan

for New Hampshire and Vermont April 2023 was removed from the Conte Refuge's webpage before the close of the public comment period.

Response: The National Environmental Policy Act requires that draft Environmental Assessments are made available for public review for 30 days. The draft Silvio O. Conte National Fish and Wildlife Refuge Recreational Hunting and Fishing Plan for New Hampshire and Vermont was released to the public for review on April 24th, 2023. The public comment period closed on May 25th, 2023. The draft document was available for public review for the full 30-day comment period at <https://www.fws.gov/refuge/silvio-o-conte/visit-us/activities/hunting>. The document could also be located on the refuge's website by using the search function to locate the draft document. Additionally, the draft document was provided as an 'alert banner' for 30 days on the refuge's website landing page. The 'alert banner' expired on May 23rd. However, the document was still available on the refuge's website.

Summary of Plan

After reviewing all the comments, we will move forward with the proposed plan including the following conditions:

- At the Putney Mountain Unit, we will allow the use of dogs only for hunting of ruffed grouse, turkey (fall season), gray squirrel, and American woodcock. All other game species allowed by the State are open to hunting without the use of dogs.
- At all other Conte Refuge Divisions and Units, we will allow the use of dogs for hunting consistent with state regulations.
- We will allow training of dogs following state regulations from August 1 through the last Saturday in September during daylight hours.
- We do not allow the training of dogs at the Putney Mountain Unit.
- We will no longer require hunters to obtain a permit for hunting with dogs or training of dogs on the refuge.

Determination

Based upon a review and evaluation of the information contained in the supplemental EA, as well as other documents and actions of record affiliated with this proposal, the Service has determined that the proposal to continue implementation of the 2021 Recreational Hunting and Fishing Plan which allows hunting and fishing opportunities at Silvio O. Conte NFWR does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of NEPA. As such, an environmental impact statement is not required. A supplemental EA has been prepared in support of this finding (Appendix C) and is available upon request to the refuge.

The Service has decided to select the proposed action as described in the supplemental EA and implement the Recreational Hunting and Fishing Plan for Silvio O. Conte NFWR upon publication of the final 2023-2024 Station-Specific Hunting and Sport Fishing Regulations. This action is compatible with the purpose of the refuge and the mission of the Refuge System, and

consistent with applicable laws and policies. See attached Compatibility Determinations (Appendix A and Appendix B).

SCOTT KAHAN Digitally signed by SCOTT KAHAN
Date: 2023.06.02 15:38:16 -04'00'

Regional Chief
National Wildlife Refuge System

Date

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