

Appendix B

MOU for Pheasant Hunting 1968 and 1971



ONLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

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DEC 30 1968
FISH & GAME DIV.

December 20, 1968

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COMMONWEALTH OF MASSACHUSETTS, DIVISION OF
FISHERIES AND GAME
AND
THE NATIONAL PARK SERVICE
RELATING TO WILDLIFE MANAGEMENT IN
CAPE COD NATIONAL SEASHORE

This MEMORANDUM OF UNDERSTANDING is between the Massachusetts Division of Fisheries and Game, represented by the Director, and hereinafter referred to as the Division, and the National Park Service represented by the Director, and hereinafter referred to as the Service.

Whereas the Division has been created under the constitution of the Commonwealth of Massachusetts to provide an adequate and flexible system of control, propagation, management, protection and regulation of all wildlife within Massachusetts, and

Whereas Congress provided in Section 7 of the act establishing the Cape Cod National Seashore (herein referred to as the "Seashore"):

(c) The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the Seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State and Federal law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that

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the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in Section 1 of this act.

Whereas Congress further provided in Section 7 of the act establishing the Seashore:

(a) Except as otherwise provided in this Act, the property acquired by the Secretary under this Act shall be administered by the Secretary subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by the Act of August 8, 1953 (67 Stat. 496); except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate:

.....

Provided further, that the Secretary may develop for appropriate public uses such portions of the Seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod and other activities of similar nature.

Whereas, on March 12, 1965, the Service issued the following statement on "Wildlife Management Policy--National Recreation Areas" which was developed in cooperation with the International Association of Game, Fish and Conservation Commissioners:

Public hunting and fishing are resource uses which are desirable and compatible with fulfilling the mission of the national recreation areas administered by the National Park

Service. This policy has its foundation not alone in the legislation affecting specific areas but also in the report of the Secretary of the Interior's Special Advisory Board on Wildlife Management in the National Parks, approved by the Secretary on May 2, 1963. It is the responsibility of the National Park Service to implement this policy through sound administration, management, and use of the wildlife and fisheries resources in these recreation areas.

Fish and Wildlife management involves two principal management functions; i.e., (1) The management of the habitat--soils, water, and vegetation; and (2) the management of harvesting fish and wildlife populations by the public.

In national recreation areas administered by the National Park Service, this latter function is recognized as being within the regulatory authority of the individual states. The states should regulate the taking of fish and wildlife by the public, including such matters as season, bag limits, and licensing, and provide for the joint cooperative enforcement of such regulations.

The first management function is recognized as the responsibility of the National Park Service. In carrying out this function, as well as its responsibility for the overall recreation program of the area, the Service may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or other public use and enjoyment of the area. Regulations prescribing such restrictions shall be issued after consultation with the states.

The management of fish and wildlife in recreation areas must be a cooperative endeavor with the states. These cooperative endeavors will be effected through Memorandums of Understanding with the respective states.

Whereas the parties to this agreement wish to implement the aforesaid act and policy through joint and cooperative endeavors which will focus the skills and abilities of the Division and the Service toward achieving maximum public benefit and proper management of the lands and waters involved:

Now, therefore,

- A. The Service agrees, on lands within the Seashore which are administered by the Service:

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1. To cooperate with the Division through a separate agreement with the Massachusetts Department of Natural Resources, Division of Law Enforcement, in the joint enforcement of applicable game and fish laws through appointments as Deputy Natural Resource Officers, without compensation, for certain uniformed employees of the Service.
2. To practice those forms of resources management that will benefit fish and wildlife, and enhance opportunities for their harvest by the public, compatible with other authorized uses of the Seashore.
3. To consult with the Division prior to issuing regulations which affect hunting and fishing in the Seashore for reasons of public safety, administration, or public use and enjoyment, or to designating zones where, or establishing periods when, no hunting and fishing will be permitted, as provided for in Section 7 of the act establishing the Seashore.
4. To permit the harvest of fish and wildlife by the public in accordance with State laws and regulations when areas are open to hunting and fishing, as provided for in Section 7 of the act establishing the Seashore.

B. The Division agrees:

1. To consult with the Service before establishing any special hunting or fishing seasons and regulations

pertaining to the Seashore.

2. In the performance of work under this agreement and any supplemental agreement which may result from this agreement, to comply with Section 202 of Executive Order 11246, dated September 24, 1965, as amended by Executive Order No. 11375, dated October 13, 1967, which is attached and made a part of this agreement.

C. The Division and the Service mutually agree:

1. To meet jointly on the first Monday in February and to provide for other meetings as deemed necessary for discussion of matters relating to the management of natural resources on lands and waters within Cape Cod National Seashore.
2. To encourage the joint publication of press releases and the interchange between parties of all pertinent agency policies and objectives, statutes, rules and regulations, and other information required for the wise use and perpetuation of the natural and historic resources of the Cape Cod National Seashore.
3. To enter into working arrangements as occasion demands for the use of lands, buildings, and other facilities owned and operated by either party hereto, for special projects.
4. To jointly evaluate fish and wildlife resources and to initiate and carry out jointly approved management programs, such as, but not limited to, the restocking and introduction of game fish and wildlife species.

5. To jointly consider and evaluate probable overall ecological effects of any proposal to control fish and wildlife populations by toxic chemicals or trapping and the introduction of plant and animal species into Cape Cod National Seashore.

6. Each and every provision of this Memorandum of Understanding is subject to the laws of the Commonwealth of Massachusetts and the laws of the United States, and to the delegated authority in each instance.

7. Nothing in this Memorandum of Understanding shall be construed as obligating either party hereto to the expenditure of funds or for the future payment of money in excess of appropriations authorized by law.

8. Nothing contained herein shall be constructed as limiting in any way the responsibility and authority, as defined by law, of the Director, Massachusetts Division of Fisheries and Game, and the Director, National Park Service, in connection with the administration and protection of lands and resources under their respective administrations.

9. No member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the Memorandum of Understanding or to any benefit to arise therefrom, unless it is made with a corporation for its general benefit.

10. This Memorandum of Understanding shall become effective when signed by the parties hereto and shall

continue in force until terminated by mutual agreement or by either party upon six (6) months notice in writing to the other of his intention to do so. Amendments to this Memorandum of Understanding may be proposed by either party and shall become effective upon approval by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the date last signed below.

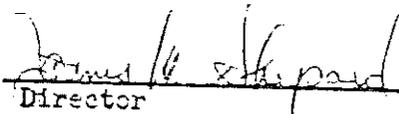
NATIONAL PARK SERVICE

DATE FEB 6 1969

By: 
Associate Director

MASSACHUSETTS DIVISION OF FISHERIES
AND GAME

DATE 12/31/68

By: 
Director

PERSONAL COPY.

SOUTHEAST WILDLIFE DISTRICT HEADQUARTERS
Division of Fisheries and Game
Buzzards Bay, Massachusetts

December 29, 1971

Evaluation of Experimental Wildlife Management Area
Located Within the Cape Cod National Seashore-1971
Marconi Beach Area, Wellfleet, Massachusetts

With completion of the 1971 operation, the following observations, comments, and statistics are submitted for discussion and evaluation prior to submitting a formal report at the annual meeting scheduled for late February, 1972. The opinions submitted here relating to the success of program are assessed in the primary interest of the Division.

The overall operation should be considered a complete success, far exceeding our utmost expectations, that is, at least from the viewpoint of the local sportsmen and the Division. Although several minor problems developed, which required immediate adjustments in the scope of our original operational plan, (stocking/patrol routes, and selected stocking sites) and several other suggestions remain to be discussed at this meeting.

I will endeavor to summarize the program and problems as follows:

1. Location, size, and evaluation of physical characteristics.
2. Site preparation, before and after season.
3. Stocking, before and during season.
4. Hunting pressure and control.
5. Recovery factors.
6. Comments (pro and con)
7. Recommendations for present and future operations.

1. Location: It has proven to be ideally situated for relieving the heavy hunting pressure on towns comprising the lower Cape. This statement is supported by statistics extracted from information gathered during the 14 days when hunter utilization forms were accomplished, and includes information gathered while conducting 7 pre-stocking checks. (Referenced Plates #1

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2. Size: Very sufficient. It should remain adequate even with the anticipated increase in utilization resulting from the population explosion now taking place on Cape Cod. Although this will require some minor adjustments in accessibility, parking, and stocking, in addition to limited habitat management.

3. Evaluation of Physical Characteristics: Of the 1150 acres available for hunting, the western and northern 750 acres varies from good to very good cover for hunting with or without dogs. This area could use limited brush cutting to reopen existing trails for ease of access.

There is approximately 260 acres running south of beach parking area, and continuing slightly beyond ^{the} old air strip, which is rated fair to poor due to being so heavily overgrown with scrub oak that even old ^A Army trails are indistinct from the surrounding cover. If this area could be managed by the brush cutting of old trails and possible gridding on 100 yd. intervals, it could be on a par, or superior to, the northern section.

The remaining 140 acres south of the air strip, and abutting the southern boundary, is covered by semi-mature stands of hard wood and pine. At present, hunting pressure or penetration does not justify any management other than alternate cutting of brush threatening to close boundary road. This area may be well suited for attempting to reestablish the Ruffed Grouse, and thereby extending its primary range beyond its present Brewster/Orleans limits. If studies indicate this potential, then the area should remain in its present state as it seems nearly ideal Grouse cover. The only question seems to be fresh water, and where the natural habitat boundary exists.

2. Site Preparation:

- a. Control signs--concur with this year's erection, with the possible reduction in the number of signs required along beach bluff and southern boundary.
- b. Access signs--sufficient at present, but will require additional arrows and signs when and if additional parking areas are desired (to be

c. Bird Recovery boxes and signs: Sufficient—four located as follows: 3 in area and 1 on power line.

d. Club and Local Participation: Expand! By inviting the Highland Rod and Gun Club to assist in erection of control signs. Contact other local Scout troops so they can participate in releasing the pheasants as part of their conservation training. This was accomplished last year with the Eastham Rod & Gun Club, in conjunction with Eastham Scout Troop #83 with outstanding results in the public relation phase of conservation. Their efforts could also be utilized in future habitat improvement programs and in clearing trails and paths where mechanical methods are not suitable, due to adverse terrain or soil conditions.

3. Stocking: The present quota of 400 cock pheasants seem to be sufficient, considering the local hunter population, and the amount of private land still being stocked, but indications of the impending loss of several more stocking sites in the Towns of Truro and Wellfleet may require implementing an in-week token stocking. If this is determined to be necessary, it is recommended that a 25 bird release be made on Tuesday or Wednesday nights during the first four weeks of the 1972 season. The 500 banded pheasants would be color coded to continue the survival and recovery studies initiated in 1971. The spring stocking of surplus brood stock at the ratio of 36 hens to 4 or 8 cocks in the vicinity of Fresh Brook should be continued. Also, the early fall stocking of 12 week old cocks will be continued at least one more year to allow additional evaluation. All banded birds released in this phase of the study will be color coded to eliminate any confusion with bands recovered in other areas.

Several adjustments in stocking sites and amounts were made during the past season. Release sites #4 & 5 were eliminated, and their birds adjusted into sites #1, 2, 6, and 8. This was necessitated due to poor recovery encountered

in the first release, as the hunters would not pursue the birds into the

Hunting Pressure and Control: The seasonal hunting pressure was determined by utilizing statistics obtained from daily hunter utilization reports and spot checks. By use of the Lincoln method of computation, an estimated total utilization was projected. (Reference 14 daily utilization reports and 7 spot checks as related on Plates #1 thru #6.)

Plate #1 correlates information derived from utilization sheets compiled by the Fish & Game representative while on duty within the management area.

- a. 289 cars counted
- b. 629 hunters counted
- c. 481 hunters contacted
- d. 946 hunters estimated for the 14 days covered by this phase of the study.

785 spot
405 hunters

Plate #2 spot checks; accomplished late in the afternoon just prior to stocking provided the following information:

- a. 22 cars counted
- b. 34 hunters contacted —No effort to estimate totals was attempted as stocking was the primary objective.

Plate #3 combines information from Plates #1 & #2 for an estimated total of 980 hunters utilizing the area during 21 days.

Plate #4 using information contained in Plates #1 thru #3, a daily average of 27 hunters was determined for the remaining 15 week days, for an estimated total of 1,385 hunters utilizing the management area in 1971.

Plate #5 indicates frequency of utilization by those vehicles identified during utilization checks: 104 cars were recorded once, 25 cars checked at least twice, and 13 cars were counted 3 times. In addition, 4 cars were recorded 4 times, 3 cars were seen 5 times, with 2 vehicles being recorded 6 times, and 1 car was recorded in the parking lot 10 times.

Plate #6 provides a breakdown of Cape hunters contacted by towns and indicated below:

Provincetown 63, Truro 55, Wellfleet 60, Eastham 63, Orleans 53,
Brewster 16, Chatham 32, Dennis 5, Harwich 11, Yarmouth 5,
Barnstable 0, Sandwich 12, Bourne 13, and Falmouth 0.

The towns of Falmouth and Barnstable have some type of public shooting areas

Springfield, Boston, and Manchester, Conn., many of whom were visiting on the lower Cape and participated in our program.

Control: Overall hunter cooperation and compliance with rules and regulations were commendable; a few (14) violations were recorded as follows: 3 for hunting early, 6 lacked hunter orange, 2 hunters were late in leaving area, 2 hunters for discharging firearms within 150 ft. of a paved highway, 1 involving excessive speed, and 2 signs were reported to have been damaged by "shot". I feel the sign with shotgun pellets resulted from one of the reported weapons being discharged within 150 ft. of the road. The other incident, when examined proved to be made by 22 cal. bullets, and point of exit was well weathered, indicating the incident had taken place prior to the establishment of the management program.

All of the 14 violations were recorded and verbal warnings issued. The hunters lacking orange hats were directed to leave area until suitable attire was obtained. The three early hunters were booked, their offenses discussed with local Natural Resources officer, and the decision was to place them on file for a year. The other minor offenses were handled similarly with verbal warnings issued.

I feel that as the local hunters become more familiar with the rules and regulations governing the operation of a management area the incidents mentioned above will become nearly non-existent. If not, offenses such as speeding, shooting near the road, or hunting early will be discussed at the Orleans rotary.

4. Recovery Factors:

Of the 400 color coded banded birds released, 56.25%, or 225 pheasants were recovered as indicated by band returns. The first year's recovery factor of 56% compares favorably with our desired 60 to 65% recovered on our more extensively managed areas. It is felt that changes indicated in evaluation of area (limited brush cutting of access trails and grid lines) and changes in

desired objective.

Along with the above recovery data, at least two of the sixteen 12 week old cock pheasants released during August in the vicinity of Fresh Brook were recovered (this was verified by band wear and discoloration). At least three native birds were taken in the vicinity of Fresh Brook and the old air strip. The native bird shot on November 6th was examined, and verified by me as a young mature cock pheasant. (This was determined by appearance of bill, legs, and wing areas). These birds are the product of surplus brood stock released last spring.

This bird had been feeding on insects, greenery, and pokeberry, and appeared to be well developed, and healthy. Approximately nine banded birds were checked and found to be feeding on the usual grit, insects, (ants, woollyworms, and undistinguishable matter), greenery, pokeberries, acorns, plant buds, and root buds of the hog cranberry plant. Two other birds were reported to be full of hog cranberries, but those examined by me did not so indicate. (Room for more extensive study next year). I examined two other birds, thin but healthy, yet were not feeding at all as indicated by field dressing.

From information contained in preliminary study, and that obtained this year, it is felt that a small native or residual population could be maintained.

Also, stocked birds remaining at the end of the season should have no problem in surviving once they adapt to the local habitat and food conditions.

6. Comments from Rangers, Hunters, and Other Interested Parties: considered to have merit for consideration or discussion:

Rangers: Hunter's parking illegally near beach building, and in "no parking" areas on access road. Location of hunters parking moved to northern end of parking lot. Parking violations continued, but now offenders were identified as surfers, beach watchers, and campers. The only other area of dispute was in the vicinity of the ticket booth turn-around, which had been used for parking by several elderly or handicapped hunters. (to be discussed

in parking lot near central pump station.

Other Interested People: Numerous compliments on opening of the management area have been received from local merchants and business men of Eastham, Orleans, and Wellfleet. The sporting clubs, and related businesses are staunch supporters of the program. The activities of the Eastham Rod & Gun Club, and Eastham Boy Scout Troop #83 received much deserved publicity in the Orleans Oracle on November 18, 1971.

The only non-complimentary comments I received were from a lady walking her dog on the old railroad bed who jokingly stated that since the opening of bird season she couldn't walk her dog in the locust grove above the pot hole. Also met several irate archers who had a big, black Labrador dog spook several deer they were stalking. However, they too said if they had been bird hunting, it would have been fine as they moved three pheasants and a covey of quail that morning along the power line.

9. Recommendations (for present and future operations).

Present:

- a. Continued support and expansion of the management study, including the possibility of increasing the stocking quota upward to 500 pheasants in anticipation of increased utilization during the 1972 fall season.
- b. Increasing accessibility to, and within, the area by limited control of undesirable ground cover by mechanical brush cutting.
- c. Possible reduction and/or relocation of certain control signs within management area.
- d. Expand the existing club and local interest by inviting other clubs scout troops, and interested individuals to participate in the management program.
- e. A more complete and extensive coverage of objectives, rules, and regulations through the two major Rod & Gun Clubs, and advance notice to the Cape Cod, Orleans, and Provincetown newspapers.

Future:

- a. To consider a tentative study to determine the feasibility of

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The Commonwealth of Massachusetts

OFFICE OF THE SECRETARY
STATE HOUSE, BOSTON, MASS.

*Rules and Regulations filed in this Office under the provisions of
CHAPTER 30A as amended.*

Filed by DIVISION OF FISHERIES & WILDLIFE
PUBLIC SHOOTING GROUNDS - WILD MANAGEMENT AREAS

Date Filed November 29, 1978

Date Published December 7, 1978

Chapter 233, sec. 75

Printed copies of rules and regulations purporting to be issued by authority of any department, commission, board or Officer of the Commonwealth or any city or town having authority to adopt them, or printed copies of any ordinances or town by-laws, shall be admitted without certification or attestations, but if this genuineness is questioned, the court may require such certifications or attestations thereof as it deems necessary.

Attested as a true copy
PAUL GUZZI

Paul Guzzi

SECRETARY OF THE COMMONWEALTH

