

# H.R. 1370, THE REFUGE CONCESSION BILL

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## LEGISLATIVE HEARING

BEFORE THE  
SUBCOMMITTEE ON FISHERIES CONSERVATION,  
WILDLIFE AND OCEANS  
OF THE  
COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED SEVENTH CONGRESS  
FIRST SESSION

September 20, 2001

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## **LEGISLATIVE HEARING ON H.R. 1370, THE REFUGE CONCESSION BILL**

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**Thursday, September 20, 2001  
U.S. House of Representatives  
Subcommittee on Fisheries Conservation, Wildlife and Oceans  
Committee on Resources  
Washington, DC**

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The Subcommittee met, pursuant to notice, at 2:10 p.m., in Room 1324, Longworth House Office Building, Hon. Walter Jones presiding.

### **STATEMENT OF THE HON. WALTER JONES, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA**

Mr. JONES. Thank you. We are going to begin the hearing, and I am serving as temporary Chairman substituting for Mr. Wayne Gilchrest.

I would like to open with some prepared remarks. I certainly want to first thank the panel and the ranking member, Mr. Underwood, who will be here shortly. So I will begin my prepared remarks.

First of all, good afternoon. I am pleased to convene this hearing on H.R. 1370, a bill introduced by our distinguished colleague from Indiana, Mark Souder, to establish a new policy for those concessionaires within our National Wildlife Refuge System.

While anyone who has visited a national park is quite familiar with the many valuable services provided by private commercial concessionaires, there is only a handful of refuges where the public is offered the opportunity to rent a canoe, to ride a ferry, or to enjoy the thrill of traveling over a snow-covered landscape on a horsedrawn sleigh. In fact, there are fewer than 20 refuges that have some kind of concession services.

These services vary greatly; however, they have certain common elements. For example, the title to all property within the Refuge System is held by the Federal Government. In addition, there is no statutory provision which allows a concessionaire to be given any credit or compensation for spending any money to repair, maintain, or improve the buildings they use to enhance the public refuge viewing experience.

Sadly, with a maintenance backlog in excess of \$800 million, the U.S. Fish and Wildlife Service lacks the resources and the motiva-

tion to maintain these properties. The net result is that most of the buildings utilized by concessionaires are in fair to poor condition, and there is no incentive for refuge managers to encourage additional commercial enterprises within the system.

H.R. 1370 will establish a new policy for the upkeep and maintenance of property used by refuge concessionaires.

I look forward to hearing from our witnesses on how this legislation will provide for better-maintained and safer recreational opportunities, allowing expenses to be treated as compensation by concessionaires and not undermine the National Wildlife Refuge Fund.

If the ranking member were here at this time, I would yield time to him to make an opening statement.

At this time, I ask unanimous consent that Mr. Souder be allowed to sit with the Subcommittee today.

I hear no objection.

Mr. Souder?

[The prepared statement of Mr. Jones follows:]

**Statement of the Honorable Walter B. Jones, Jr., A Representative in  
Congress from the State of North Carolina**

Good afternoon, I am pleased to convene this Hearing on H. R. 1370, a bill introduced by our distinguished colleague from Indiana, Mark Souder, to establish a new policy for those concessionaires within our National Wildlife Refuge System.

While anyone who has visited a National Park is quite familiar with the many valuable services provided by private commercial concessionaires, there are only a handful of refuges where the public is offered the opportunity to rent a canoe, to ride a ferry or to enjoy the thrill of traveling over a snow covered landscape on a horse drawn sleigh. In fact, there are less than 20 refuges that have some type of concession services.

These services vary greatly. However, there are certain common elements. For instance, the title to all property within the Refuge System is held by the Federal government. In addition, there is no statutory provision which allows a concessionaire to be given any credit or compensation for spending any money to repair, maintain or improve the buildings they use to enhance the public's refuge viewing experience.

Sadly, with a maintenance backlog in excess of \$800 million, the U.S. Fish and Wildlife Service lacks the resources and the motivation to maintain this property. The net result is that most of the buildings utilized by concessionaires, are in fair to poor condition and there is no incentive for refuge managers to encourage additional commercial enterprises within the Refuge System.

H. R. 1370 will establish a new policy for the upkeep and maintenance of property used by refuge concessionaires. I look forward to hearing from our witnesses on how this legislation will provide for better maintained and safer recreational opportunities, allow expenses to be treated as compensation by concessionaires and not undermine the National Wildlife Refuge Fund.

I am now pleased to recognize the distinguished Ranking Democratic Member, Mr. Underwood.

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**STATEMENT OF THE HON. MARK SOUDER, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF INDIANA**

Mr. SOUDER. First of all, let me start by thanking you, Mr. Chairman, as well as the Chairman of the Subcommittee, Mr. Gilcrest, for holding a hearing on this very important legislation.

The Fish and Wildlife Service has been working for many years on a bill like this which gives the Service the tools to properly maintain concession facilities located in National Wildlife Refuges and to provide the refuge visitor with safe places for recreation. I am pleased to be part of this process and am proud to be the House

sponsor of H.R. 1370, the National Wildlife Refuge Concessions Reform Bill.

This bill amends the National Wildlife Refuge System Administration Act to establish a new policy for the basic maintenance of facilities as well as Fish and Wildlife Service-authorized improvements of facilities that are leased by concessionaires in the National Wildlife Refuges.

Specifically, this bill authorizes the Secretary of Interior to include in any contract with a concessionaire provisions that authorize the concessionaire to maintain and/or repair facilities and to treat the costs incurred as a form of payment toward the leasing fees of the facilities. It is important to note that the Fish and Wildlife Service ultimately retains the right to decide which repairs are consistent with the mission of the National Wildlife Refuge System and thus should be authorized. This bill outlines specific lists of authorized projects that concessionaires are permitted to maintain and/or repair.

Finally, the bill states that funds spent by concessionaires to maintain or repair a facility will not affect the National Wildlife Refuge Fund.

Like most Americans, I regard wildlife refuges as national treasures where one can observe a variety of animals living in their natural habitats. Over 500 refuges have been established in the United States, not only to carry out conservation missions but also to act as living laboratories for the many visitors. Historically, refuges have sought to educate people about the importance of wildlife and plant habitats.

In order for wildlife refuges to continue to carry out their important missions, refuge facilities must be able to adequately support visitors. This bill seeks to improve refuge facilities and properties by permitting the local concessionaires to fund maintenance projects. In a sense, concession operations provide visitors with a means to access refuge facilities and appreciate wildlife. Concession operations also provide a means for the refuge manager to build community support for the refuge by attracting visitors to the areas.

Under current law, the Fish and Wildlife Service does not have the tools needed to adequately maintain our refuges' facilities. Restrooms, campgrounds, boat docks and buildings have fallen into a state of disrepair at refuges across the country. I know from personal experience that this is the case. Every year, my family travels to Sanibel Island, Florida, which is home to Ding Darling National Wildlife Refuge. I have witnessed firsthand the need for roof repairs, deck replacement, and additional restrooms that are handicapped-accessible because of the tremendous number of people who go through this refuge.

This bill seeks to correct the problem that is becoming commonplace at refuges across our Nation. The primary goal of this bill is to provide safe and properly-maintained facilities for the public to enjoy the experience of visiting a wildlife refuge. With enhanced facilities, it may even attract increased visitors to the refuges, which will in turn raise the awareness of wildlife refuges.

As habitat decreases in many areas of the United States due to business and home expansion, it is critical that the public appre-

ciate and understand the need for wildlife refuges. I encourage my colleagues to support this important piece of legislation.

Thank you.

[The prepared statement of Mr. Souder follows:]

**Statement of the Honorable Mark Souder, a Representative in Congress  
from the State of Indiana**

First of all, let me start out by thanking you, Mr. Chairman, for holding a hearing on this very important legislation. The Fish and Wildlife Service has been working for many years on a bill like this which gives the service the tools to properly maintain concession facilities located in National Wildlife Refuges and to provide the refuge visitor with safe places for recreation. I am please to be a part of this process, and I am proud to be the House sponsor of HR 1370, the National Wildlife Refuge Concessions Reform Bill.

*Purpose of this Bill*

This bill amends the National Wildlife Refuge System Administration Act to establish a new policy for the basic maintenance of facilities as well as Fish and Wildlife Service authorized improvements of facilities that are leased by concessionaires in National Wildlife Refuges.

Specifically, this bill authorizes the Secretary of Interior to include in any contract with a concessionaire, provisions that authorize the concessionaire to maintain and/or repair facilities and to treat the costs incurred as a form of payment towards the leasing fees of the facilities. It is important to note that the Fish and Wildlife Service ultimately retains the right to decide which project repairs are consistent with the mission of the National Wildlife Refuge System and thus should be authorized. This bill outlines specific lists of authorized projects that concessionaires are permitted to maintain and/or repair.

Finally, the bill states that funds spent by concessionaires to maintain or repair a facility will not affect the National Wildlife Refuge Fund.

*Why this Bill is Important*

Like most Americans, I regard wildlife refuges as national treasures where one can observe a variety of animals living in their natural habitats. Over 500 refuges have been established in the United States not only to carry out conservation missions, but also to act as living laboratories for the many visitors. Historically, refuges have sought to educate people about the importance of wildlife and plant habitats.

In order for wildlife refuges to continue to carry out their important missions, refuge facilities must be able to adequately support visitors. This bill seeks to improve refuge facilities and properties by permitting the local concessionaires to fund maintenance projects. In a sense, concession operations provide visitors with a means to access refuge facilities and appreciate wildlife. Concession operations also provide a means for the refuge manager to build community support for the refuge by attracting visitors to the areas.

Under the current law, the Fish and Wildlife service does not have the tools needed to adequately maintain our refuge's facilities. Restrooms, campgrounds, boat docks and buildings have fallen into a state of disrepair at refuges across our country. I know from personal experience that this is the case. Every year, my family travels to Sanibel Island, Florida which is home to Ding Darling National Wildlife Refuge. I have witnessed first hand the need for roof repairs, deck replacement and additional restrooms that are handicapped accessible.

This bill seeks to correct the problem that is becoming commonplace at refuges across our nation. The primary goal of this bill is to provide safe and properly maintained facilities for the public to enjoy the experience of visiting a wildlife refuge. With enhanced facilities, it may even attract increased visitors to the refuges, which will in turn raise the awareness of wildlife refuges.

I encourage my colleagues to support this important piece of legislation. Thank you.

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Mr. JONES. Thank you, Mr. Souder.

At this time, I would like to recognize the gentleman from American Samoa for comments.

Mr. FALEOMAVEGA. Thank you, Mr. Chairman.

I would like to ask unanimous consent that our ranking member, Mr. Underwood's, statement be made part of the record.

Mr. JONES. Without objection.

[The prepared statement of Mr. Underwood follows:]

**Statement of the Honorable Robert Underwood, A Delegate to Congress from Guam**

Thank you Mr. Chairman. I realize that you are anxious to begin, so my opening remarks will be brief.

Earlier this year, this committee met in March to learn more about the significant operations and maintenance budget backlog affecting the National Wildlife Refuge System.

I think it is safe to conclude that the majority of members were greatly concerned, if not shocked, by the scale and extent of the deterioration of buildings and other vital facilities within the Refuge System such as utilities, dikes, levees, boat launches and public roads. This backlog not only presents pernicious hazards for the visiting public, but it also perpetually retards efforts to open the Refuge System to broader public use and dampens the public's enjoyment.

It is with these thoughts in mind that I read through Mr. Souder's legislation, H.R. 1370. Considering the magnitude of the problem, I commend my colleague from Indiana for his creativity. Now more than ever, Congress will have to be innovative if we ever hope to find the necessary resources to rectify the budget backlog.

However, despite my admiration for Mr. Souder's ingenuity, I do have concerns about the approach proposed in H.R. 1370 and its practical implications for the Refuge System.

For example, what would be the affect on refuge revenue sharing payments to surrounding counties? Also, how many buildings and facilities identified under the Refuge Operations Needs System (RONS) or listed in the Maintenance Management System (MMS) are currently leased by concessions? Furthermore, how many of these facilities would actually be fixed up under this approach?

I also question whether Mr. Souder's approach might exacerbate existing differences among individual refuges and further undermine consistency within the Refuge System as a whole.

None of these questions raise insurmountable hurdles, but they do have to be answered. I am hopeful that many of them will be answered today. But until they are, this committee should proceed with caution until the need for this legislation and its practical affects on the Refuge System are clearly understood.

Thank you Mr. Chairman.

**STATEMENT OF THE HON. ENI F.H. FALEOMAVAEGA, A DELEGATE TO CONGRESS FROM AMERICAN SAMOA**

Mr. FALEOMAVAEGA. I would also certainly like to commend my good friend, the gentleman from Indiana, for his proposal in the legislation now before our Subcommittee for consideration.

It has certainly been my privilege over the years, not only working with my good friend from Indiana, but I am 70 percent sure that the gentleman's intent and the purpose of this legislation is going to be a positive one for the care and providing for our National Wildlife Refuge System, and initially, I want to say that I will lend my support for the gentleman's proposed legislation, and I look forward to hearing from our friends with the administration.

Thank you, Mr. Chairman.

Mr. JONES. I thank the gentleman.

Mr. JONES. The panel consists of Mr. Dan Ashe, Chief of the National Wildlife Refuge system, accompanied by Mr. Louis Hinds; Mr. Evan Hirsche, President of the National Wildlife Refuge Association; and Mr. Chip Campbell, President of Okefenokee Adventures.

You are welcome, and we are glad to have you here.

Please begin, Mr. Ashe.

**STATEMENT OF DANIEL M. ASHE, CHIEF, NATIONAL WILDLIFE REFUGE SYSTEM, U.S. FISH AND WILDLIFE SERVICE, ACCOMPANIED BY LOUIS HINDS, REFUGE SUPERVISOR FOR AREA IV, U.S. FISH AND WILDLIFE SERVICE**

Mr. ASHE. Thank you, Mr. Chairman, and thanks for the opportunity to come before the Subcommittee today. As I explained to a few of you, I have to apologize to the Subcommittee because somewhere today, I somehow misplaced my jacket, but I will say that it is at least a sign of my willingness to come and roll up my sleeves and work with the Subcommittee.

As we think about America's National Wildlife Refuge System and where we find ourselves today, we are on the verge of celebrating the 100th anniversary of this system of lands. We are still growing, at nearly 94 million acres and 548 units across the United States. We are protecting more and more of our Nation's richest wildlife habitat. In many respects, we are stronger than we ever have been, and in many respects, we are more challenged than we ever have been.

I think the discussion that we are having today about providing authority for us to use and manage concessions in a better way is a good example of what we need to do. Americans have a passion for wildlife and wild places. They are increasingly turning to the out-of-doors for recreational opportunities. They are increasingly turning to us and the National Wildlife Refuge System to provide those opportunities to get outdoors, to experience wildlife, to bring their families and to bring their friends.

Currently, we are struggling to provide the services that are necessary to meet the demand and the expectations that people have of us and the portion of America's public lands that we manage.

Congressman Jones, I believe, mentioned our maintenance backlog, our operations backlog, our backlog of construction projects. When you add all of those up, the total is about \$2.7 billion worth of needs within the Refuge System.

I think that concessions and better and stronger partnerships with business to provide the kinds of services that people expect and deserve when they come to National Wildlife Refuges is a key to meeting the needs, the growing needs and demands of the public for quality outdoor recreation.

Just last week in dealing with an issue regarding a public use program at one of our refuges and one of our existing cooperative agreements, one of the attorneys in the Department's Solicitor's Office looked at me and told me: "Dan, the problem is the Service is trying to deal with big business using small tools."

So I think that what I have to do mostly today, Congressmen, is applaud your leadership in introducing H.R. 1370 and applaud the Subcommittee and the Committee for holding this hearing and taking an important step to help give us some bigger tools to manage the challenges that lie before us.

Ultimately, we will all be serving America by providing expanding opportunities for high-quality outdoor recreation. The administration supports the goals of H.R. 1370. As we have gone through the process of reviewing the legislation, we have identified some concerns—and maybe "concerns" is too strong a word to express in some regards, because they are simply suggestions and rec-

ommendations about how to make the legislation stronger, to ensure that as we move in this direction, we are accountable for the use of any dollars that are collected and to ensure they are directed toward providing services for people who ultimately will be paying the fees and the price of admission that concessionaires are charging.

These are specific and not serious concerns on our part, but they are concerns that we feel we need to sit down with the Subcommittee and address as you consider moving forward with this bill today and in the weeks ahead.

Those concerns are articulated in our testimony. Specifically outlined in the testimony—and I will not go through each of them here today—but as an example, one of the things that we want to make sure of is that in section 5(a)(2) for instance, we need to talk and think about specifically what kinds of maintenance and repairs would be appropriate for a concessionaire to provide in lieu of a cash payment, because certainly as we think about these relationships, we do not want to provide the opportunity where a concessionaire would essentially be getting credit, I will say, for something that they would do normally and should provide normally as a part of their business investment in the refuge. But I think those are issues that we can resolve through discussion, as we have with the Subcommittee and the Committee on many other things, and we look forward to working with you and moving this legislation forward.

I will again briefly say that I do believe this is an important opportunity for us to work together to provide us with the bigger tools that we need if we are going to meet the challenges ahead and as we look forward to celebrating the 100th anniversary of the Refuge System and inviting America to come and experience what wonderful places they are.

Thank you.

Mr. JONES. Thank you very much.

Mr. Hinds, did you want to add anything at this point?

Mr. HINDS. Not at this time, thank you.

Mr. JONES. Mr. Hirsche?

[The prepared statement of Mr. Ashe follows:]

**Statement of Dan Ashe, Chief, National Wildlife Refuge System, U.S.  
Department of the Interior**

Mr. Chairman, I want to thank you for the opportunity to present the Administration's views of H.R. 1370. The bill would amend the National Wildlife Refuge System Administration Act of 1966 to authorize the Secretary of Interior to provide for maintenance and repair of buildings and properties located on lands in the Refuge System. The Administration supports the goals of this legislation; however, we have a number of concerns with the bill and would like to work with the committee to address these concerns to help improve the management and accountability of the refuge concession program.

**HISTORY AND NEED FOR LEGISLATION**

A brief review of relevant legislation and background information will help explain the need for this type of bill.

Concessions (i.e., secretorially granted privileges) are defined as businesses operated by private enterprise that provide recreational, educational, and interpretive opportunities for the visiting public. A concession provides a public service and, generally, requires some capital investment by the concessionaire and the Fish and Wildlife Service (Service) for facilities and products. The Secretary of the Interior

(Secretary) delegated the authority to approve such ventures to the Director of the Fish and Wildlife Service in October 1957. It has since been delegated to the Regional Directors.

Since 1935, the Secretary has been authorized to sell or otherwise dispose of surplus products, to grant privileges on units of the Refuge System and to have the receipts be reserved in a separate fund known as the Refuge Revenue Sharing Fund (See Section 401 of the Act of June 15, 1935, 16 U.S.C. 715s). Subsection (b) of 16 U.S.C. 715s stipulates that the Secretary may pay any necessary expenses incurred in connection with the revenue-producing measures set forth in 715s(a). However, public recreation-related concession-generated revenues have not been utilized to offset concession-related refuge administration, capital improvements, and maintenance expenses because of competing priorities for refuge resources. Subsection (c) requires that the balance of the Fund be paid to counties in which lands are reserved from the public domain or acquired in fee and managed by the Service. In fiscal year 2000, the Refuge Revenue Sharing Fund received deposits of \$6.7 million from sales and the disposal of property. Only \$204,000 was deposited into this account from refuge concession programs.

The Refuge Recreation Act of 1962 (16 U.S.C. Sec. 460k through 460 k-3), as amended, allows for public recreation in fish and wildlife conservation areas as long as it is compatible with conservation purposes, is an incidental or secondary use, and is consistent with other Federal operations and primary objectives of the particular area.

Pursuant to the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee), the Secretary is authorized to negotiate and enter into contracts with any person, public agency, or private enterprise for the provision of public accommodations when the Secretary determines such accommodations would not be inconsistent with the primary purpose for which the affected area was established.

Subsequent to that, in 1983, the Service's Regional Director from Region 3 requested that concessionaires at the Crab Orchard National Wildlife Refuge in Marion, Illinois, be allowed to pay for repairs to facilities there in lieu of making concessions payments to the refuge. This request was denied. On January 12, 1983, the Service's Solicitor in Fort Snelling, Minnesota, ruled that 40 U.S.C. 303c (an exemption to 40 U.S.C. 303b which requires all payments for leasing of buildings and property to be monetary in nature) was issued only with regard to the National Park Service. At that time, the Regional Director requested that the Service proceed with securing a similar exemption. This request was prepared by the Service's Legislative Counsel in 1984 and was forwarded to Honorable Thomas P. O'Neill, Jr., then-Speaker of the U.S. House of Representatives. Unfortunately, this was never acted upon.

In 1995, the Office of the Inspector General identified the need to improve the condition of concession facilities, to increase the fees paid to refuges by concessionaires, and the need to have concessionaires make repairs and improvements to the facilities (Audit Report No. 95-I- 376). The Office of the Inspector General has issued numerous reports on the management and administration of National Park Service concessions and Concessionaire Improvement Accounts. The National Park Service has an extensive concession program and any legislation to improve the refuge concession program should consider the recommendations included in these reports on managing concessions.

The Government Accounting Office (GAO) conducted an audit of government agencies providing concession opportunities in 1996. The GAO found that competition resulted in a higher rate of return from concession operations and that agencies that were allowed to retain the fees received a better rate of return. In agencies retaining fees, the average return to the government was 11.1 percent. In contrast, the concessions managed by agencies that did not retain fees averaged a 2.6 percent rate of return.

Most recently, the Refuge Improvement Act of 1997 (16 U.S.C. 668dd) established priority uses for the National Wildlife Refuge System. Hunting, fishing, wildlife observation and photography, environmental education and interpretation are the six priority uses that the System must provide, if they are deemed compatible with the purpose for which the refuge was established.

Finally, the Service is supplementing this statutory framework by developing policy on concession operations to provide guidance for issuing concession agreements under our current legislative mandates and authorities.

THE VALUE OF CONCESSIONS IN THE NATIONAL WILDLIFE REFUGE  
SYSTEM

Despite the long history of attention to the issue of concessions facilities on National Wildlife Refuges, the concessions program can be improved.

The Service utilizes concession operations as a valuable management tool by which it can provide recreational and educational services to the visiting public. In some instances, concession operations may be the best means for visitors to view and appreciate wildlife and, thus, to gain a better understanding of the purpose and mission of the National Wildlife Refuge System. In general, concessions help the Service achieve its mission to conserve, protect, and enhance fish and wildlife, plants and their habitats. They also help to educate the public about the importance of wildlife habitat preservation and the protection of ecosystems.

Concession operations also help refuge managers demonstrate that refuges can be an economic asset by attracting visitors to areas perhaps otherwise not visited. Current concession operations include services such as canoe rentals, guided naturalist tours, ferry operations to remote refuge islands, and fishing guides. All of these operations afford the public the opportunity to experience "hands on" the many features and advantages of a wildlife refuge, and to come away with a greater appreciation of how their tax dollars are being spent.

Despite the many advantages of concession operations, the Service currently has very few operations in place compared to the total number of refuges. Part of the reason for such few numbers of concessions is that current law (40 U.S.C. 303b) requires leasing of buildings and properties by concessionaires to be paid for monetary consideration only. Some refuge managers believe their best efforts to provide a cost-effective means of maintaining refuge facilities are hampered by not allowing non-monetary consideration be paid by concessionaires for such leases. Although the Service can pay for the administration, capital improvement, and maintenance expenses involved with a concession operation (as is allowed under subsection (b) of 16 U.S.C. 715s), other priorities exist.

We believe that improving the existing concessions program could begin with legislation similar to H.R. 1370 which, among other things, would allow the Fish and Wildlife Service to accept non-monetary considerations in lieu of concessions payments.

H.R. 1370

Legislation could improve refuge concessions management and accountability. The Administration supports the goals of H.R. 1370 and would like to work with the committee to strengthen and clarify provisions as described below.

H.R. 1370 would create a new Section 5(a)(1) which authorizes a concessionaire to maintain or repair any improvement on or in such land or water that the concessionaire is authorized to use for such purposes. This language is vague and should be modified to ensure that the maintenance and repairs are to lands and waters directly related to the concession.

Section 5(a)(2) allows the Secretary of the Interior to treat costs incurred by the concessionaire for maintenance or repair as consideration for the use of the refuge lands. In order to maintain accountability, the bill should specifically say what kind of maintenance and repairs qualify as consideration for use of the refuges. Otherwise, concessionaires could include a number of costs not intended to be included under the bill and would normally be considered part of doing business or carrying out a concession agreement. The Service would be happy to help identify specific costs to include.

H.R. 1370 should be amended to address possessory interests as they relate to improvements or new structures constructed by the concessionaire.

Issues with possessory interests have caused problems with National Park Service concessions and should be explicitly addressed in any bill designed to improve the refuge concession program. We will be more than happy to work with the committee to address this issue.

Additionally, the bill does not indicate how the non-monetary consideration would be calculated. Based on past experience with the National Park Service concession program, H.R. 1370 should ensure that concessionaire improvement accounts are not established.

Section 5(b) of the bill establishes that concession-related receipts shall be available to the Secretary for expenditure, without further appropriation, to increase the quality of the visitor experience and enhance the protection of resources. This means that an appropriate share of the concessionaire's gross receipts would be available to the refuge for contract administration, backlogged repair and maintenance projects, interpretation, signage, habitat or facility enhancement, resource preserva-

tion, annual operation, maintenance and law enforcement relating to public use. Precedent for returning a portion of revenues to the collecting field station is provided by the National Parks Omnibus Management Act of 1998 (P. L. 105–391). This law authorizes the return of 80 percent of the franchise fees (and other monetary considerations) collected at each Park Service unit to be used for visitor services and resource management programs and operations. The remaining 20 percent is returned to the National Park Service to address National Park Service-wide concessions costs.

If there is a mechanism to allow a portion of revenues to remain where they are generated, the Department believes that field stations with existing concessionaires will provide a higher quality experience for the visiting public. In addition, more field stations will be willing to pursue the option of providing recreational opportunities to the public through the use of concessions, benefiting neighboring communities in meaningful ways. The key, however, in the spirit of being accountable to the users, is that there must be a linkage between the revenue coming in and the use of those funds. The bill should clearly establish this linkage to prevent fees and other payments from simply supplementing annual appropriations for the refuge system.

We do need to point out, however, these funds would no longer be available to communities through the Refuge Revenue Sharing Fund. Without knowing how to calculate non-monetary consideration it is difficult to estimate what the overall impact of this section would be on individual counties. We would be happy to prepare such information for further consideration of this bill.

Finally, section 5(b)(3) should be clarified. We would be happy to work with the committee to strengthen this language.

#### CONCLUSION

The Administration supports the goals of H.R. 1370 and looks forward to working with the Committee to address its concerns during this exciting time. As the National Wildlife Refuge System approaches its centennial anniversary in 2003, the Service is working hard to ensure that visitors find national wildlife refuges welcoming, safe, and accessible, with a variety of opportunities to enjoy and appreciate America's fish, wildlife and plants. We intend to host thousands of activities for the public nationwide throughout and beyond 2003. We want people in communities to become aware of local national wildlife refuges, to understand that each refuge is part of the National Wildlife Refuge System, and to realize how refuges can contribute to tourism and enhance local economies even while placing wildlife first.

Providing quality wildlife-dependent recreational opportunities is part of the Service's vision for the Refuge System. Concession operations can provide the visiting public with a means to access and interpret refuge ecosystems. Yet due to disincentives in current concessions law, concessions are greatly underutilized throughout the refuge system. We look forward to working together to help ensure that the Service's concessions system will be more efficient and economical and improve the quality of the visitor experience at existing concessions operations without compromising overall management and accountability of the refuge concessions program.

A properly managed concessions program will help accomplish the Service's desire to build a broader base of public support for wildlife conservation by reaching out and involving a larger cross section of the American public in public use programs and community partnership efforts. Further, concession-generated visitation can demonstrate to local communities that refuges are an economic asset. Part of the dialogue with communities and their leaders should be a full accounting of the impacts refuges have in local communities, both economically and through intangible contributions to quality of life.

Thank you, Mr. Chairman, for giving me the opportunity to discuss this legislation with you. I will be happy to answer any questions the Committee might have.

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#### STATEMENT OF EVAN HIRSCH, PRESIDENT, NATIONAL WILDLIFE REFUGE ASSOCIATION

Mr. HIRSCH. Thank you, Mr. Chairman.

Mr. Chairman and members of the Subcommittee, on behalf of the National Wildlife Refuge Association comprised largely of current and former refuge employees and also refuge "Friends" group members from around the United States, I thank you for the oppor-

tunity to offer comments on H.R. 1370, which concerns the use of concession fees to offset maintenance needs on refuges.

I would also like to thank Representative Souder for introducing this legislation and directing attention to the dual issues of concessions on refuges and the crippling Refuge System maintenance backlog.

As the only national organization dedicated solely to the protection, enhancement, and expansion of the Refuge System, the Refuge Association has a fundamental interest in how concessions are operated and managed on refuges, particularly in light of the rapidly growing number of visitors to the System witnessed in the last few years, and we expect a significant increase in the coming years.

The Association applauds H.R. 1370 for allowing concessionaires to allocate fees to improving concession facilities that would otherwise be directed off-refuge. The intent, as we understand it, is that funding otherwise allocated to concession facility upkeep could then be directed to other critical refuge needs.

However, H.R. 1370 does raise a few important issues as well as questions, and we look forward to working with the Committee to address these as the legislation moves forward.

From the outset, we want to affirm that although the Refuge Association is an ardent supporter of the Refuge System's "wildlife first" mission, we do understand and recognize that allowing people good opportunities for compatible wildlife-oriented recreation on refuges is a great way to get communities excited about and supportive of refuges.

We are concerned, however, that without adequate sideboards for how fees can be expended, creating an incentive for allowing concessions on financially stressed refuge lands, will lead to abuses in making compatibility determinations for these activities.

In the words of one current refuge manager with concessions experience: "Concessions tend to run you. They get the support of the community, and suddenly, you are at their mercy." While I think that view represents one end of the spectrum, I am confident that by and large most concessionaires are sympathetic to the conservation goals and objectives of refuges.

To minimize the potential problem the Association recommends that language be modified in H.R. 1370 to more specifically limit funds to facilities improvement and services that are directly related to the concession, as we believe the legislation intends.

As currently crafted, the language in our view allows for a broad array of uses and could lead to some level of abuse.

An additional way to better ensure that concession activities remain consistent with the conservation objectives of refuges may be to offer a right of first refusal to refuge "Friends" groups, which currently number about 210 around the system. The benefits here are twofold. First, refuge "Friends" groups by their very nature are inclined to have the best interests of the refuge in mind; and second, fees from concessions will go back to support the facilities that they are operating, while at the same time profits end up reaching the refuge in one way, shape or form over the long haul, in essence doubling the money.

Our last point concerns the Refuge Revenue Sharing Act. As we read it, by allowing concession fees to stay on refuges, H.R. 1370

will divert funds from the Refuge Revenue Sharing Fund, monies of which are used to compensate counties in which lands are managed by the Fish and Wildlife Service. Concession fees represent a very small contributing component to the overall fund, but we do have concerns about further deterioration of an already underfunded program that also serves to build community support for refuges. In effect, are we robbing Peter to pay Paul?

Because of this, we urge the Committee to review this important issue in the near future.

In conclusion, while the National Wildlife Refuge Association strongly supports the intent of H.R. 1370, we believe changes can be made to ensure that this legislation addresses maintenance needs relating to concession activities while also preserving the mission and purposes of refuges.

Thank you, Mr. Chairman.

Mr. JONES. Thank you.

Mr. Campbell?

[The prepared statement of Mr. Hirsche follows:]

**Statement of Evan M. Hirsche, President, National Wildlife Refuge Association**

Mr. Chairman and Members of the Subcommittee:

On behalf of the National Wildlife Refuge Association and its membership comprised largely of current and former refuge professionals and refuge "Friends" group members throughout the United States, thank you for the opportunity to offer comments on H.R. 1370 which concerns the use of concession fees to offset maintenance needs on refuges. I would also like to thank Representative Souder of Indiana for introducing this legislation and directing attention to the dual issues of concessions on refuges and the crippling \$700 million Refuge System maintenance backlog.

As the only national organization dedicated to the protection, enhancement and expansion of the Refuge System, the Refuge Association has a fundamental interest in how concessions are operated and managed on refuges, particularly in light of the rapidly growing number of visitors to the System. Anticipating the Refuge System's Centennial in 2003, and as a member of the Cooperative Alliance for Refuge Enhancement (CARE), we are also acutely aware of the need to address the System's massive operations and maintenance backlog if these vital conservation lands are to successfully ensure that wildlife populations are both plentiful and diverse in this new century.

In our view, H.R. 1370 raises important issues as well as questions and we look forward to working with the Committee to address these as this legislation moves forward. From the outset, we want to affirm that, while we are ardent supporters of the "wildlife first" mission of the Refuge System, we also recognize that providing opportunities for the public to engage in compatible, wildlife-oriented recreational activities on refuges contributes to building community support for these lands. Furthering public understanding and appreciation for refuges can help us ensure a well-tended Refuge System in the years ahead.

Nevertheless, in 2000, the number of visitors to refuges was 36 million, an increase of more than 80 percent since 1990. Estimates are that visitation will reach more than 40 million in 2003, the Refuge System's Centennial. In light of this, there can be no question that programs and facilities meant to provide a positive experience for visitors must be both capable of safely meeting demand while not detracting from the important conservation activities that refuges are charged with implementing.

The NWRA applauds H.R. 1370 for seeking to address this challenge by allowing concessionaires to allocate fees that would otherwise be directed off the refuge, to instead improve concessionaire facilities on site. The intent is that funding otherwise allocated to concession facility upkeep could then be directed to other critical refuge needs.

*Incentives for Allowing Concessions*

We are concerned, however, that creating an incentive for allowing concessions on financially stressed refuge lands will lead to abuses in making compatibility determinations. Specifically, while all concessions activities will be required to meet com-

patibility determinations under the National Wildlife Refuge System Improvement Act, the lure of increased maintenance funding for refuges could result in refuge professionals tilting their decisions in favor of the allowing the concession in situations where they might otherwise err on the side of caution.

Concessions currently operate on at least 20 refuges and at first glance it might appear that the opportunities to operate lucrative businesses on other units are limited. As for-profit ventures, however, private concessions must devise strategies to lure more customers and provide more services to ensure long-term profitability. From our perspective, there are numerous untapped possibilities that might represent outstanding opportunities for concessionaires where such activity may be inappropriate.

For example, the 45,000-acre Red Rock Lakes NWR, located in southwest Montana's Centennial Valley, just 30 miles west of West Yellowstone, is virtually unknown to the millions of tourists that visit Yellowstone each summer. Yet this valley that runs east-west along the continental divide is not only a haven for hundreds of bird species, moose, pronghorn, grizzly, lynx and wolves, but is also visually spectacular, with the 10,000 foot Centennial Range towering over the south side of the refuge.

By advertising heavily in West Yellowstone and creating arrangements with local outfitters, establishing a canoe or boat livery, and "updating" the refuge's two campsites to include potable water and restrooms, an entrepreneurial concessionaire could attract possibly tens of thousands of visitors to the refuge each year. In such case, the impacts to wildlife may be difficult to ascertain, yet the character of the valley, with a steady stream of vans, cars and buses through it, would clearly be altered, even if kept outside wilderness boundaries. Furthermore, a heavy volume of traffic could ultimately be used as an excuse to pave over the gravel road that lies on a route once traversed by the Pony Express. Finally, with the significant increase in visitors, there would be a justifiable need to expand and modernize the refuge's offices and visitor center. Although these activities could be construed as being benign with respect to the refuge's establishing purpose (trumpeter swan protection), there's clearly a question of whether such activity would be appropriate given the circumstances.

The lure of increased funds can be a powerful enticement to allow activities on refuges that are likely to be inappropriate. In some cases, politics can force refuge managers into accepting activities they would otherwise reject. In the words of one current refuge manager with concession experience, "concessions tend to run you...they get the support of the community and suddenly you're at their mercy."

In one extreme case, albeit prior to the enactment of the NWRSA, a regional office of the U.S. Fish and Wildlife Service placed inordinate pressure on a refuge manager to allow construction of an "eco-lodge" in the middle of whooping crane critical habitat. Risking his job to protect the resource, the now-retired refuge manager was forced to appeal to an international treaty signatory nation and organizations such as the NWRSA to place pressure on senior Interior Department officials to halt the project. Ultimately the project was rejected but this example illustrates one of the inherent risks of promoting concessions on refuges without adequate oversight and sideboards.

#### *NWRA Recommendations*

While careful monitoring of Comprehensive Conservation Plans (CCPs) by more objective parties may serve as a balance, the likelihood of consistent oversight is remote. To minimize this potential problem, the NWRA recommends that language be modified in H.R. 1370 to more specifically limit funds to facilities improvement and services that are directly related to the concession. As currently crafted, the language in Sec. 5(a)(2) could conceivably allow fees to support everything from major expansion of visitor centers to habitat restoration. In our view such a broad array of authorized uses is fertile ground for abuse.

An additional way to better ensure that concession activities remain consistent with the conservation objectives of refuges is to offer right of first refusal to refuge Friends groups on the units where they exist (currently 210). The benefits of such an approach would have a two-fold effect: Refuge Friends groups, by their very nature, have the best interests of the refuge in mind and; the refuge will benefit not only from fees returned to offset concession maintenance, but also from profits generated by the enterprise that will ultimately be returned to support the refuge in a number of different ways; in essence, doubling the money.

#### *Refuge Revenue Sharing Act*

By allowing concession fees to stay on refuges, H.R. 1370 will divert funds from the Refuge Revenue Sharing Fund, monies of which are used to compensate counties

in which lands are managed by the U.S. Fish and Wildlife Service. While representing a small contributing component of the overall Fund—\$204,000 out of \$6.7 million in fiscal year 2000—we do have concerns about further deterioration of an already underfunded program that also helps build community support for refuges. In effect, are we “robbing Peter to pay Paul?” Because of this, we urge the Committee to review this important issue in the near future.

In concluding, while the National Wildlife Refuge Association strongly supports the intent of H.R. 1370, we believe changes can be made to ensure that this legislation addresses maintenance needs relating to concession activities, while also preserving the mission and purposes of refuges. Thank you, Mr. Chairman, this concludes my testimony.

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**STATEMENT OF CHIP CAMPBELL, PRESIDENT, OKEFENOKEE ADVENTURES**

Mr. CAMPBELL. Mr. Chairman and members of the Subcommittee, I do want to thank you for giving me the opportunity to speak in support of H.R. 1370. I believe that passage of this bill is important to the public use and support of our country’s outstanding National Wildlife Refuge System.

My wife Joy and I own and operate Okefenokee Adventures in Folkston, Georgia. Last year, we were awarded the concession contract for the Okefenokee National Wildlife Refuge’s East Entrance, which is also known as the Suwannee Canal Entrance.

Our company, Okefenokee Adventures, began operations on September 1, 2000, so we are pretty new. I have included some additional information in my written statement about the character of our extraordinary refuge down on the Okefenokee Refuge, but I do want to point out that as the Okefenokee National Wildlife Refuge’s concessionaire, it is the business of our company to help visitors understand and appreciate the extraordinary ecological dynamics, wilderness values, and cultural history of the Okefenokee Swamp and in doing so, to further the mission and purpose of the National Wildlife Refuge System.

Our commitment to developing a high-quality visitor services operation was the centerpiece of our contract proposal, and we view that role as that of a cooperating partnership with the refuge’s public use program managers.

While that is necessarily and understandably a secondary priority for refuge management, it is nevertheless important. The Okefenokee attracts 400,000 visitors a year from local communities across the United States and around the world. A Georgia Department of Industry, Trade and Tourism study reveals that Okefenokee visitors produce an average annual economic impact of \$55 to \$65 million for the three Georgia counties, Charlton, Clinch, and Ware, in which the refuge is located. In 2000, overall tourism expenditures in these counties totalled \$77.2 million. According to Georgia Industry, Trade and Tourism data, tourism supports 66 businesses and provides 1,083 jobs in the same three-county area.

The management of the Okefenokee National Wildlife Refuge administers three public entrances under varying arrangements, one in each county. A private park on the north side of the swamp near Waycross in Ware County, Georgia, the Okefenokee Swamp Park, receives about 80,000 visitors per year. Operating under a lease arrangement with the U.S. Fish and Wildlife Service, Stephen C. Foster State Park, located near the small town of Fargo in Clinch

County, Georgia, provides access to the western side of the swamp for approximately 120,000 visitors per year. And about half of the Okefenokee's visitors, about 200,000, come through our entrance, the East Entrance, located in Charlton County south of Folkston, Georgia. That also serves as the primary National Wildlife Refuge entrance.

The facilities provided to our company, Okefenokee Adventures, under our concession contract with the U.S. Fish and Wildlife Service are located onsite at the East Entrance, which was formerly known as the Suwannee Canal Recreation Area and historically known as Camp Cornelia. These facilities consist of two buildings—an 1,800-square-foot, climate-controlled buildings and a 900-square-foot storage shed without climate control. Along with the refuge visitor center, these structures were build in the late sixties to replace the rather dilapidated shacks of a fish camp that had operated at the site. The buildings were completed about 1970 and are immediately adjacent to a boat basin that includes a 400-foot wooden bulkhead and dock, 25 15-foot-long finger docks, and a concrete boat ramp. We have a six-by-six oil and gas house for hazardous waste material storage and a 500-gallon above-ground storage tank located away from the water's edge.

I should note that at the time of their completion, these structures served what was still primarily an access for fishermen in the early seventies. According to refuge officials, the projected useful life of the buildings was 20 years, and obviously, they are still in use. I have observed numerous renovations of the service area over the years as the operators have sought to accommodate changing visitor needs.

When I was a youngster, I purchased my fish bait and tackle at a counter located in the half of the larger building that was wired for electricity. At that time, the other half of the building was unwired and used for storage, and other than traditional fishermen's staples, it offered little in the way of visitor amenities.

As the Okefenokee's national profile grew, and visitor numbers increased, the larger building's former storage area was enclosed and wired; the building's electricity, air conditioning and plumbing systems were extended into the expansion, and restroom facilities were constructed, although they could not and still cannot be accessed from the interior of the building.

In the 1980's and 1990's, as visitor demographics continued to shift toward traveling families and retirees, birders, wildlife photographers, canoeists, and the other outdoor recreationists that tourism officials like to call "eco-tourists" and "nature-based tourists," t-shirts, postcards, rubber alligators, and other souvenirs appeared.

The refuge removed a fish cleaning station at the end of the dock that had become an attractive nuisance—it was too attractive to the boat basin's resident alligators—and replaced it with a handicapped access ramp and a 1,100-square-foot picnic deck. The 900-square-foot outbuilding was divided into three rooms to accommodate storage and workshop needs, and a 40-foot canoe storage rack constructed. In the late 1990's, the previous concessionaire converted a back room into a small kitchen, primarily to prepare meals for organized groups.

Today, using these same families, our company, Okefenokee Adventures, provides a full range of visitor services and support. We are open 364 days a year—every day except Christmas—from half an hour before sunrise until 5:30 p.m. during daylight savings time and until 7:30 p.m. during standard time—we have long days. We have 12 employees, most of whom work full-time or nearly so for us. We conducted guided interpretive tours of the swamp's waterways by motorized boat, canoe and kayak, for individuals, families, and organized groups, by prior arrangement and on a walk-in basis. We also outfit and guide multi-day excursions into the swamp's interior on the refuge's wilderness canoe trail system. We conduct walking tours along upland trails, along an historic swamper homestead, and along the Chesser Island boardwalk.

In addition to our interpretive tours, we provide rentals of canoes, kayaks, and motorized skiffs for self-guided exploration of the swamp. We do have other rental items. We continue the tradition of selling Georgia hunting and fishing licenses, fishing tackle and provisions, and our gift shop inventory includes many kinds of swamp and nature-related souvenirs and educational toys.

In addition to prepared snacks, beverages and ice cream, our food service operation, the Camp Cornelia Cafe, services a variety of sandwiches and daily specials to the public, refuge employees, and prearranged organized groups.

We are doing a lot out of a fairly small facility. Our operations began on September 1, 2000, as I said. Our first year of operation, we received tremendous assistance and support from Okefenokee National Wildlife Refuge management, staff, and volunteers. We are especially grateful to the AmeriCorps crew that cleaned, scoured, and painted our main building in the earliest days of our operation.

At the same time, we are aware of the extremely limited funding available to repair and maintain our facilities. While critical materials, such as replacement of rotten dock board, have been obtained rapidly, other projects, such as construction of a lean-to shelter for our rental bicycles, are languishing for lack of funds.

When the invitation was extended to me to present my views on the proposed legislation, H.R. 1370, my thoughts turned to the maintenance projects that could be funded from our concession revenue. Most of these are decidedly prosaic. We need a ready supply of replacement dock boards and nails. The ceramic tiles in the original half of our main building do not match the linoleum tiles of the expansion and kitchen; they are all badly discolored and worn, and we would like to replace the tiling. Our bathroom fixtures are old and corroded and need to be replaced. We would really like to renovate the bathrooms entirely and create some kind of external access as well. We need new screens for the windows, and we can identify several repairs and upgrades to our kitchen facilities that would probably please our county health inspector.

In addition to basic maintenance and repairs, the provisions for funding of facility enhancements are appealing. Through my reading of the proposed legislation and my understanding of financial logistics, I am led to conclude that major facility enhancements such as new building construction would probably continue to require special project grants or appropriations. But as far as smaller

projects go, the proposed amendment could provide or help provide funding for substantial facility enhancements. Examples that would be of direct benefit to our company would be the proposed Mizell Prairie boardwalk, the trailhead for which is slated to be located adjacent to our facility; new observation decks and/or benches; upgrades to the composting toilets at the wilderness canoe trail campsites; construction of new canoe trail camping platforms if that is deemed compatible; and new landscaping with native plants as part of an overall renovation plan.

If, as proposed, H.R. 1370 assures that the Revenue Sharing Program payments will not be affected, it does seem reasonable to conclude that any project on our refuge receiving funds from our concession fees would be preferable to the current situation, however indirect the benefits to our business interests might be.

An important point that I would respectfully urge the Committee to consider—I would like to see the proposed change represent a net gain for the refuge public use program funding. If, as I understand it, one of the purpose of H.R. 1370 is to provide refuge manager with greater incentives to enter into concession contracts that enhance public use programs, that proposed change would need to provide revenues to supplement other funding sources rather than replacing them.

In conclusion, I do wish to thank Congressman Mark E. Souder for introducing this important and necessary legislation. It makes good business sense for refuge concessionaires, refuge managers, refuge public use programs, and by extension, it makes good business sense for the local communities in which National Wildlife Refuges are located.

I consider it a rare privilege to serve as the concessionaire on the Okefenokee National Wildlife Refuge and a tremendous honor to present my views on this matter today.

Thank you.

[The prepared statement of Mr. Campbell follows:]

**Statement of Chip Campbell, President of Okefenokee Adventures,  
Okefenokee National Wildlife Refuge Concessionaire**

Mr. Chairman and members of the Committee, thank you for giving me the opportunity to speak in support of H.R. 1370. I believe that the passage of this bill is important to the public use and support of our country's outstanding National Wildlife Refuge system.

My wife, Joy, and I own and operate Okefenokee Adventures in Folkston, Georgia. Last year, we were awarded the concession contract for the Okefenokee National Wildlife Refuge's East Entrance, also known as the Suwannee Canal Entrance. Our company, Okefenokee Adventures, began operations on September 1, 2000.

Okefenokee National Wildlife Refuge is the largest National Wildlife Refuge in the eastern United States, encompassing 396,000 acres of the 438,000-acre Okefenokee Swamp. Scientists tell us that the Okefenokee is a vast peat wetland complex of cypress, bay, gum and pine forests, dense shrub bogs, freshwater marshes, small lakes and streams, that it is the largest and best example of its ecosystem type, and that it harbors an abundance of wildlife endemic to the southeastern United States' coastal plain, including numerous threatened and endangered species - all of which is true. But the Okefenokee is far more than technical language conveys. In a region that abounds with wetlands, the Okefenokee is "The Swamp". An incomparable landscape of sometimes subtle but often breathtaking beauty, the swamp is an organic riot of teeming life and sudden death, home to hundreds of black bears and thousands of American alligators, as well as a kaleidoscope of birds and frogs and dragonflies and plants. It is a natural wildlife refuge. Accordingly, the Okefenokee National Wildlife Refuge was established in 1937. It is one of our older Refuges. Although the swamp bears fading scars from human economic endeavors,

which have included a failed drainage attempt in the late 19th century and a major cypress and pine logging operation in the early 20th century, it remains one of the most fundamentally wild places in the eastern United States. In recognition of this enduring and essential wildness, in 1974 the United States Congress designated 354,000 acres of the Okefenokee as a federal Wilderness Area.

The human history of the Okefenokee is as rich as its biological diversity and its wilderness values. Once inhabited by people of Woodland and Mississippian cultures whose burial mounds still dot The Swamp's interior islands and upland edges, the Okefenokee later served as a hunting ground for Timucuan and a sanctuary for Seminoles before being settled by frontier folk of extraordinary toughness and self-reliance who came to be called "swampers". Today, the residents of Okefenokee communities take great pride in their swamper heritage and its colorful store of history, folklore, legend and myth and determining which is which will pose a challenge for cultural historians for generations to come.

As the Okefenokee National Wildlife Refuge's concessionaire, it is the business of our company, Okefenokee Adventures, to help visitors understand and appreciate the extraordinary ecological dynamics, wilderness values and cultural history of the Okefenokee Swamp and, in doing so, to further the mission and purposes of the National Wildlife Refuge system. Our commitment to developing a high-quality visitor services operation was the centerpiece of our contract proposal, and we view our role as that of a cooperating partnership with the Refuge's public use program managers. While that is necessarily and understandably a secondary priority for Refuge management, it is nevertheless an important one.

The Okefenokee attracts approximately 400,000 visitors each year from the local communities, across the United States, and around the world. A Georgia Department of Industry, Trade and Tourism study reveals that Okefenokee visitors produce an average annual economic impact of \$55-\$65 million for the three Georgia counties, Charlton, Clinch and Ware, in which the Refuge is located. In 2000, overall tourism expenditures in these counties totaled \$77.2 million. According to Georgia Industry, Trade and Tourism data, tourism supports 66 businesses and provides 1,083 jobs in this same three county area. The management of the Okefenokee National Wildlife Refuge administers three public entrances under varying arrangements, one in each county. A private park on the north side of the swamp near Waycross in Ware County, Georgia, the Okefenokee Swamp Park, receives about 80,000 visitors per year. Operating under a lease agreement with the U.S. Fish and Wildlife Service, Stephen C. Foster State Park, located near the small town of Fargo in Clinch County, Georgia, provides access to the western side of the swamp for approximately 120,000 visitors per year. And about half of the Okefenokee's visitors, approximately 200,000 people per year, come through our entrance, the East Entrance, located in Charlton County south of Folkston, Georgia, which serves as the primary National Wildlife Refuge entrance.

The facilities provided to our company, Okefenokee Adventures, under our concession contract with the U.S. Fish and Wildlife Service are located onsite at the East Entrance, which was formerly known as the Suwannee Canal Recreation Area and historically known as Camp Cornelia. These facilities consist of two buildings: an 1800-sq. foot, climate-controlled building and a 900-sq. foot storage shed without climate control. Along with the Refuge Visitor Center, these structures were built in the late 1960's to replace the rather dilapidated shacks of a fish camp that had operated at the site. The buildings were completed about 1970 and are immediately adjacent to a boat basin that includes a 400-foot wooden bulkhead and dock, twenty-five (25) 15-foot long "finger" docks, and a concrete boat ramp. A 6'X6' oil/gas house for hazardous material storage and a 500-gallon above-ground fuel storage tank are located away from the water's edge across a paved parking area.

It should be noted that at the time of their completion, these structures served what was still primarily an access for fishermen in the early 1970's. According to Refuge officials, the projected useful life of the buildings was 20 years. They are still in use. I have observed numerous renovations of this service area over the years as the operators have sought to accommodate changing visitor needs. When I was a youngster, I purchased my fish bait and tackle at a counter located in the half of the larger building that was wired for electricity. At that time, the other half of the building was unwired and used for storage, and other than traditional fishermen's staples such as Vienna sausages, soda crackers and Coca-Cola, the little shop offered little in the way of visitor amenities. As the Okefenokee's national profile grew and visitor numbers increased, the larger building's former storage area was enclosed and wired. The building's electricity, air conditioning and plumbing systems were extended into the expansion, and restroom facilities were constructed, although they could not (and still cannot) be accessed from the building's interior. In the 1980's and 1990's, as visitor demographics continued to shift towards traveling

families and retirees, birders, wildlife photographers, canoeists, and the other outdoor recreationists that tourism officials like to call "ecotourists" or "nature-based tourists", T-shirts, postcards, rubber alligators and other souvenirs appeared on the concession shelves. The Refuge removed a fish cleaning station at the end of the dock that had become an attractive nuisance it was far too attractive to the boat basin's resident alligators and replaced it with a handicapped access ramp and beautiful 1,100-sq. foot picnic deck. The 900-sq. foot outbuilding was divided into three rooms to accommodate storage and workshop needs, and a 40-foot canoe storage rack was constructed. In the late 1990's, the previous concessionaire converted a back room into a small kitchen, primarily to prepare meals for organized groups.

Today, using these same facilities, our company, Okefenokee Adventures, provides a full range of visitor services and support. We are open 364 days a year (every day except Christmas) from half an hour before sunrise until 5:30 p.m. during Daylight Saving Time and until 7:30 p.m. during Standard Time. We have 12 employees. Most work full-time or nearly so. We conduct guided interpretive tours of the swamp's waterways by motorized boat, canoe, and kayak for individuals, families and organized groups by prior arrangement and on a walk-in basis. We also outfit and guide multi-day excursions into the swamp's interior on the Refuge's wilderness canoe trail system. We conduct walking tours along upland trails, around an historic swamper homestead, and along the Chesser Island boardwalk. In addition to our guided interpretive tours, we provide rentals of canoes, kayaks, and motorized skiffs for self-guided explorations of swamp waterways. Other rental items include bicycles, which visitors use to observe wildlife along the Swamp Island Drive, camping gear for backcountry excursions, and fishing gear. We continue the tradition of selling Georgia hunting and fishing licenses, fishing tackle, and provisions. Our gift shop inventory includes many kinds of swamp and nature-related souvenirs and educational toys. In addition to packaged snacks, beverages, and ice cream, our food service operation, the Camp Cornelia Cafe, serves a variety of excellent sandwiches and daily specials to the public, Refuge employees, and prearranged organized groups.

As I stated, Okefenokee Adventures began operations on September 1, 2000. In our first year of operation, we have received tremendous assistance and support from Okefenokee National Wildlife Refuge managers, staff and volunteers. We are especially grateful to the AmeriCorps crew who cleaned, scoured and repainted our main building in the earliest days of our operation. At the same time, we are aware of the extremely limited funding available to repair and maintain our facilities. While critical materials such as replacements for rotten dock boards have been obtained promptly, other projects, such as the construction of a lean-to shelter for our rental bicycles, languish for lack of funds. When the invitation was extended to me to present my views on the proposed legislation, H.R. 1370, my thoughts turned to the maintenance projects that could be funded from our concession revenues. Most of these are decidedly prosaic. We need a ready supply of replacement dock boards and nails. The ceramic tiles in the original half of our main building do not match the linoleum tiles of the expansion and kitchen, and they are all badly discolored and worn, so we would like to replace our tiling. Our bathroom fixtures are old and corroded and need to be replaced: indeed we would like to renovate the bathrooms completely. We need new screens for our windows. And we can identify several repairs and upgrades to our kitchen facilities that would probably please our county health inspector.

In addition to basic maintenance and repairs, the provisions for funding of facility enhancements are appealing. Though my reading of the proposed legislation and my understanding of financial logistics leads me to conclude that major facility enhancements such as new building construction would continue to require special project grants or appropriations, the proposed amendment could provide (or help provide) funding for substantial facility enhancements. Examples that would be of direct benefit to Okefenokee Adventures' interests could include the proposed Mizell Prairie boardwalk, the trailhead for which is slated to be located adjacent to our facility; new observation decks and/or benches; upgrades to the composting toilets at the wilderness canoe trail campsites; construction of new canoe trail camping platforms; and new landscaping with native plants. If, as proposed, H.R. 1370 assures that Revenue Sharing Program payments will not be affected, it indeed seems reasonable to conclude that any project on the Okefenokee National Wildlife Refuge receiving funds from our concession fees would be preferable to the current situation, however indirect the benefits to our business interests might be.

An important point that I respectfully urge the Committee to consider: the proposed change should represent a net gain for Refuge public use program funding. If, as I understand it, one of the purposes of H.R. 1370 is to provide Refuge managers with greater incentives to enter into concession contracts that enhance their

public use programs, the proposed change will need to provide revenues that supplement other funding sources rather than replacing them.

In conclusion, I wish to thank Congressman Mark E. Souder for introducing this important and necessary legislation. It makes good business sense for Refuge concessionaires, Refuge managers and Refuge public use programs and, by extension, it makes good business sense for the local communities in which National Wildlife Refuges are located. I consider it a rare privilege to serve as the concessionaire on the Okefenokee National Wildlife Refuge and a tremendous honor to present my views on this matter today. Thank you.

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Mr. JONES. I thank you each for your testimony, and I would now like to yield to Mr. Underwood.

Mr. UNDERWOOD. Thank you very much, Mr. Chairman, and I thank the witnesses for their testimony and apologize for not being here a little bit earlier. The elevators here are sometimes unreliable over in that part of Rayburn. We toyed with the idea of opening one of those emergency doors, but we thought better of it.

Basically, I know the issue of concessions. Mr. Hirsche, in your testimony, you sort of intimated that the proposed legislation might create situations where refuge managers would pursue concessions in the hope of gaining additional funding for their sites, which would perhaps allow some concessions which would be incompatible with the Refuge System.

How would you go about resolving that, because I do think that in general the legislation is a good idea; we would like to see additional revenues.

Mr. HIRSCH. Yes, Mr. Chairman, I agree.

Mr. UNDERWOOD. No, I am not the Chairman—he is.

Mr. HIRSCH. Yes, Mr. Underwood, I certainly agree, and as I mentioned in my spoken remarks, do think it is valuable to have opportunities for the public to enjoy wildlife-oriented, compatible recreation on refuges. It is a terrific way to build community support for refuges.

Again, as we read it in section 5(a)(2), the language could be interpreted as being fairly broad. The term “resource preservation” is one authorized use, and let me give you an example. Under that term monies could support rebuilding an impoundment structure which would provide a wetland for nesting birds. At many refuges around the country, there is a real need for fixing these impoundments.

As we interpret the legislation it could be claimed by a concessionaire that using the fee money to restore that water control structure would be applicable to their concession if they are running, for instance, a birdwatching program or a hunt program, and so on. The concern would be that if you allow all of these alternatives, refuge managers would suddenly see an opportunity to address a number of conservation issues on their refuges that may not be directly related to the concession and the result may be bending some of the compatibility determinations in cases where managers might instead err on the side of caution.

Mr. UNDERWOOD. Isn't it possible to suggest a process of review that would require the U.S. Fish and Wildlife Service to first make an assessment of the nature of the concessions? Perhaps Mr. Ashe or Mr. Hinds would care to respond to that.

Mr. ASHE. Mr. Underwood, yes, I would, and I would like to give Lou a chance to respond to that as well. I share Evan's concern in several regards, and I think that with some relatively simple changes as we have recommended in our testimony, we can go a long way toward addressing those concerns by specifically linking the kinds of things that we can do with the money to the provision of visitor services.

We do not want to provide an incentive for a manager to, by striking a deal with a business partner, essentially fund the operation of the refuge. What we should be trying to do is make this part of a plan to provide visitor services, and if we restrict it to that and look at the range of things that would be appropriate in supporting visitor services, then I think we can go a long way toward mitigating that concern.

The other thing is that before 1997, I would have had more concern about this, but through the hard work of this Committee, we enacted the National Wildlife Refuge System Improvement Act, which put in place some very protective standards for evaluating uses of National Wildlife Refuges, and managers have to go through a rigorous process of making a determination about compatibility of uses.

Let me let Lou Hinds make a few remarks. Lou is our refuge supervisor in Atlanta. He supervises all of our refuges in Florida and was recently the refuge manager at Ding Darling National Wildlife Refuge at Sanibel Island in Florida.

Mr. HINDS. Thank you, Mr. Underwood, for your question.

I echo Dan's statement. I think the 1997 National Wildlife Refuge System Improvement Act, which requires public disclosure through the comprehensive conservation management planning process that is required, opens up to public scrutiny what uses are going to take place on a National Wildlife Refuge. And it is not just left up to the refuge manager there; it is then bumped up to our regional office, where it goes through intense scrutiny by biologists as well as outdoor recreation planners. At that point, I think those people would, for lack of a better word, ferret out those bad decisions if there were any made and would say no to them. And if they were there, and a manager made a bad decision, that is where it would show up, and it would not be allowed.

Mr. UNDERWOOD. Well, I would hope that your managers are not making bad decisions, but I am grateful for your oversight.

Just based on the list that was given here, there are 540 refuges, and 49 have concessions. What are the dynamics that are keeping more refuges from having concessions, and what are the impediments to that?

Mr. ASHE. I think we have 49 refuges with some kind of cooperative agreement, or I will say "business partnership," going on. We have a more limited number where we have concession contracts—I think 15 is the number.

The main thing that limits or is a disincentive for a manager to enter into a concession agreement is exactly what Mr. Souder's bill is trying to address. It is a very practical question that if I enter into a concession contract, all the revenue from that contract goes into the National Wildlife Refuge Fund and is paid to counties. So that revenue goes off-refuge, essentially. In order, then, to make

improvements to the concession facilities, a manager has to use maintenance funding, annually appropriated maintenance dollars, which are very scarce. As we mentioned before and as you have heard before, Congressman, we have an \$800 million backlog, so as a manager faces that decision, it is a very pragmatic decision. So they try to be creative, and they try to do things through cooperative agreements or memoranda of understanding with other organizations to try to make sure the revenue stays on the refuge.

Mr. UNDERWOOD. Has the Service given any consideration to perhaps—since it is not a question of whether these concession-type activities are incompatible with the refuges, it is just that under current rules, they are a disincentive—have you made any estimate, perhaps, or thought about how many refuges where it would be incompatible to have any concession whatsoever, or conceivably, how many additional concessions could be established?

Mr. ASHE. It would be sheer speculation on my part. I think there could be a significant number, and by “significant,” we are talking about dozens within the Refuge System. Our mission is to protect wildlife and manage wildlife, and while we do have an expanding visitation—we are approaching 40 million visitors a year now—the opportunities for us to do these kinds of things are fairly limited within the Refuge System, but this is an important new tool, and I do think that if we had a new tool, and the managers knew they could go into a concession contract, and they could have a relationship with a business where the revenue was going to come to the refuge and was going to support that activity, the managers would be more comfortable with it, because they could say, “Maybe I can get my law enforcement officer paid from some of these revenues,” or “I will not have to build a trail and have my maintenance worker maintaining the trail system to support the concession operation.”

So I think that if we have legislation like this, our managers will look at public use a little bit differently and look to forge new kinds of partnerships with business to provide those services.

Mr. UNDERWOOD. Thank you, and thank you, Mr. Campbell, for your testimony. I have never met anyone from the Okefenokee, but I have heard a lot about it. So thank you.

Mr. SOUDER. [Presiding.] We are glad that you wear a beard, because that is what we think people from the Okefenokee do.

[Laughter.]

Mr. SOUDER. I want to come at the question that Mr. Underwood asked slightly differently. Currently—and Mr. Ashe and Mr. Hinds, maybe you can answer this, and then I would like to know how this would differ, because it is confusing—currently, Fish and Wildlife determines which buildings and structures should be maintained and repaired; is that not correct?

Mr. HINDS. That is correct.

Mr. SOUDER. How would that change under the bill, because wouldn't the concessionaire still have to get that cleared?

Mr. HINDS. Mr. Souder, that particular aspect would be handled under the actual contract instrument. In other words, when we sit down to negotiate the deal with the concessionaire, at that time, the Fish and Wildlife Service will dictate what buildings will be maintained, what trails will be maintained, and the dollars will be

negotiated as to what those maintenance costs are and how they will be handled in the contract as payment to the Government.

So we have the ability to regulate that through policy and through your law.

Mr. SOUDER. In other words, a concessionaire cannot all of a sudden decide he is going to put a new trail in, put a new building in, or a new canoe concession?

Mr. HINDS. No. That is correct. That would still be under the full control of the refuge manager, the Fish and Wildlife Service; and again, any of those uses would have to first go through the compatibility determination process.

Mr. SOUDER. And if the Fish and Wildlife Service determined that they wanted a building in fact eliminated, that would be negotiated in the contract—in other words, if there were something that you felt was incompatible with a new nesting area, this bill does not restrict your ability to remove that if that had been negotiated in the contract—in other words, the decisions are not ultimately being made by the concessionaire. We are trying to get more dollars into the hands of the concessionaires to maintain what they have, not to give them decisionmaking power to put new things in.

Mr. HINDS. That is correct. Under the present instruments that are used, the contract instruments, should we choose because of a new endangered species that pops up or something that we have to stop that use, within the contract, there are terms and conditions under which we compensate the concessionaire for the building of the building and then the loss of the building. In other words, they amortize the loss.

So that yes, we still have full control over it.

Mr. SOUDER. Mr. Hirsche, could you give your example again of something that was not related to visitor services? I did not understand it. I apologize.

Mr. HIRSCHER. The example was this. Throughout the system, you have examples of water control structures, impoundments, holding impoundments, which are broken down as a result of the massive maintenance backlog. As we read in this legislation, language is so broad for how these monies could be applied that dollars could be applied to this for repair—

Mr. SOUDER. Okay, I understand that. Let me ask the question. Currently, the way concessionaires operate in the wildlife refuge, couldn't money from the concessionaire be used for that?

Mr. HIRSCHER. I do not—I would not be able to answer that question. Dan—

Mr. SOUDER. In other words, do you have any restrictions on any money currently that you get from the concessionaire?

Mr. ASHE. If we have a typical concession contract now, and we are receiving revenue, whenever a refuge manager receives revenue, his duty is to put it into the National Wildlife Refuge Fund, and that money then goes to payments to counties. So we are restricted now, but as I said, there are ways around that, and that is where we get into the small tools thing. In the case that I was describing to you before, we have a cooperative agreement with a rather large business, and it has caused problems because it is not a very sophisticated tool. So we used that model so that we could

keep revenue on the station, and it has caused great problems both for us and for the business enterprise.

So managers will try to be creative and get around the requirement to deposit revenues into the fund, but in the case that Evan outlined, today, under a concession contract, you could not take some of those revenues and invest them into maintenance of a waterfowl impoundment without some very creative and perhaps inappropriate movement of money.

Mr. SOUDER. You have partly confused me additionally and partly answered the question. Let me see if I understand this. What you are saying is that you technically cannot use concession money to do other types of improvements on the refuge in addition to visitor services, but because this puts tremendous pressure on the refuge, you come up with creative ways to do those kinds of things in that the concessionaire can make improvements that might not be credited to him—

Mr. ASHE. Right.

Mr. SOUDER. —and therefore, this is more straightforward—

Mr. ASHE. I will be more blunt with you. We have authority to accept donations, so in most cases, what a manager would do if he wanted to keep the revenue on board is strike a deal with the co-operator and say, “You agree to make a donation to maintain the facility and keep this going up to a certain level,” and it is within the law, but then it is a difficult thing to enforce. If we get into a situation where the co-operator is not performing, it becomes very difficult for us to enforce, because in a legal sense, all they are doing is making a donation.

So we do not have the right tool. It would be much better to have concession contract authority where we have very specific agreements, as Lou has outlined here, that a concessionaire says “As part of the business plan, we will do this, this, and this,” and that is part of the payment to the United States Government. Then, if there is nonperformance, we can go back under the terms of the contract and enforce that nonperformance. So it is a much bigger tool to use.

Mr. SOUDER. And finishing up this line of questioning, let me go to a broader question again. If I understand—because the goal of the legislation is to try to clean up some of this process and make it more straightforward—but coming back to this broken water control project again, my understanding—and I am flexible in this—but I thought that part of this, modeled after what the Park Service does, is that in effect the concessionaire bids a percentage that they are going to pay based on the agreed-upon amounts of things that you are going to have them deal with directly as opposed to paying a fee—so in some areas it might be 10 percent, in some areas it might be 2 percent, depending on what they think the revenues are going to be combined with what they are being asked to do. That is correct so far, right?

Mr. ASHE. Yes.

Mr. SOUDER. Then, the next question is on that amount that is coming to the refuge, why shouldn't the refuge be able to decide whether or not they want to put the additional dollars into things other than visitor services if in fact the concessionaire is being

asked to, with their percentage and what they are bidding, address the visitor services question?

Mr. ASHE. I think that that is a fair question that you ask. I think that as you get further away from the visitor services context, it does raise additional concerns that a manager might be entering into this agreement for the purpose of supplementing the budget for the station as opposed to a specific plan to provide for high-quality visitor services.

I can imagine a context where a concessionaire might say "That impoundment is not working, so there are no birds there, and I do not have customers unless you have birds in that impoundment." So I can envision a case where work on an impoundment might be a necessary element of a visitor services experience at a particular refuge, but I think we need to make sure that that is the decision-making that is going on, and that it is not a manager saying, "I really need another biologist on my staff, so if I enter into a concession agreement over here and generate some revenue, I can get my biologist and supplement my budget."

That is not what we want managers to do, but we do want them to be able to sit down and, if an impoundment or some other wildlife management activity is a function of a quality visitor services program and public use program, that should be within the realm of possibility.

Mr. SOUDER. I want to yield back to Mr. Underwood again, but I want to put this thought out there. I am struggling with this logic, because my understanding is that if there are things that are directly visitor services, they should be in that contract, and if you want to do other things, that is fine; but the way we do it in the Park Service, they are not restricted in the concessionaire fee just to use those things for visitor services. In fact, it has been a supplement. I do not think an individual park director any more than a wildlife refuge manager can suddenly decide to do something without clearance from above because he has additional cash; you still have a check and balance system, particularly if it would affect things in his refuge. But part of this is in fact to enhance the refuge, both the visitor services, and presumably visitor services are at least somewhat connected to the quality of the refuge. We do not want to have a situation where we have great visitor services and a lousy refuge. That would be all backward.

The irony here is that we are talking as though the visitor services are a higher standard than maintaining the park or the refuge.

Mr. ASHE. I think they are not, and in some regards, the analogy to the Park Service is a good one, in some regards not. I can see in the case of the Park Service where money going back generally into the operation of a park makes more sense, because the purpose of parks is recreation; their fundamental purpose is to provide recreational opportunity for Americans. Our fundamental mission is conservation of wildlife, so we have to be more careful as we think about the intermingling of the objectives. I think we need to maintain a greater degree of separation between public use and resource management than the Park Service does. And there is some crossover; there definitely are some places where resource management is needed to support quality visitor experience, and we need

to provide flexibility for managers to make those decisions, but not too far.

Mr. SOUDER. Mr. Underwood?

Mr. UNDERWOOD. Thank you, Mr. Chairman.

Basically, I do not really have a series of questions, but I did want to offer the observation that I would like to see something come from the National Park Service in terms of their implementation of this process to see what kinds of problems they have experienced.

I would assume that in those refuges that you have a series of activities and responsibilities that you have to carry out regardless of whether you have a concession or not. So contracting out certain things and allowing concession provides an opportunity to supplement but certainly not to supplant your activities. So I guess we are trying to find out exactly what is the meaning of "supplement" in this particular case. It is sort of difficult. I guess the only thing I can compare it to is when I used to as an educator try to get Federal grants, and they always had in there a series of caveats that were "supplementing and not supplanting," and I do not know whether that has any kind of real clear definition, but in this instance, "supplement" does mean something as well; it does, in my estimation, mean going somewhat a little bit beyond a tightly-wound definition of visitor services.

I just wanted to ask Mr. Campbell, in your line of work, is there an industry-wide support organization, and have they taken a position on this, or are you just representing your concession at the Okefenokee?

Mr. CAMPBELL. I am not aware of any industry-wide associations. We have a State association in Georgia, the Georgia Nature-Based Tourism Association, which includes some concessionaires on both State and Federal operations, but it is a small association and has not taken any kind of formal position, so there is no professional association.

Mr. UNDERWOOD. All right. Thank you.

Thank you, Mr. Chairman.

Mr. SOUDER. I need to get a little more input on the earlier question, because somehow this seems backward to me. Mr. Hirsche in effect has said he wants the dollars used for visitor services. Is that not correct?

Mr. HIRSCHER. That is correct.

Mr. SOUDER. Yet the difference when I asked about the Park Service was that the Park Service could use these things for other visitor services—recreation. In fact, a biologist is not related to visitor services. A water control gate that needs repair—now, we can argue whether it should be repaired, but that is a decision that is at a higher level—obviously, it cannot be used—under current and under Mr. Hirsche's suggestion of a change would be to limit it to visitor services. What I am asking is what is wrong with having it so that it can be used for something that is not recreation-oriented or visitor service-oriented, but is actually related to preserving habitat or helping the things that are supposed to be protected in the refuge, such as a biologist or for research. I do not quite understand the objection. I am not saying that it should not be used for visitor services, and in fact one of the other questions

I have is what happens if the estimate of what the concessionaire was going to pay does not maintain visitor services the way you had hoped; how would you cover that? If you used all of your money on a biologist, you would not have the ability to cover; on the other hand, the stuff is not being maintained currently, either, so it is not necessarily a loss.

Do you want to address that?

Mr. HIRSCH. Yes, I would like to address that. This is certainly an interesting dilemma. If I am a concessionaire, I am going to enter into a contract that will ensure that I have a good business model over the long haul. That means attracting more people, providing better and more services, and having a good outfit so people have a positive experience at the refuge.

So—and Chip can respond to this further—as a concessionaire I would only enter into a contract where I knew that fees I am paying going back into the refuge are going to bolster my business in terms of reaching and involving visitors. So I do not think I would necessarily wish to see funds support a biologist if I did not see a direct relationship.

I guess the point I am making is when a concessionaire comes in with a plan and says, “Look, if we did this and this and this, and we repaired this water control structure, I can set up more trams, more operations, and generate more income. The refuge manager may see that opportunity as a good one, but the improvements may be secondary tasks to, for instance, a species recovery effort in a part of the refuge that is not going to be accessed by visitors.

So I am not sure if I am articulating myself well here, but I think that ultimately, concessionaires are going to be interested in entering into contracts where the money is going back to support their concession. The issue is whether refuge managers are going to be willing, because of the allure of having some projects or needs addressed that are not necessarily top priorities, to go ahead with those simply because the concessionaire offers an opportunity.

Mr. SOUDER. Unless somebody has a strong opinion, let me move away from that and make a brief statement, and that is that I hope—and this is what we are seeing in the parks, we are starting to see it in the forests and BLM, particularly in the wilderness areas of those, and we are certainly seeing it in the wildlife refuge—we are out of money, and we are running out at a faster rate every time we have incidents like last week; and we are going to dip in and basically wipe out what we were trying to do in paying off our debts regarding Social Security, and the budget pressure is going to be incredible.

Yet every year, including under this administration in spite—and I am saying this as a conservative Republican—in spite of the official position that we are adding no new net lands, we are going to add new net lands, particularly areas around the country where we have less public ownership than in the West—in the Midwest, the East, areas of the South, we are going to be adding additional public lands because it has become increasingly important to the psyche of this country, the desire of this country, to have everything from places to hike, for preservation, as we build more, and it does not matter whether you are a conservative Republican or a liberal

Democrat—we are going to be adding more cultural and historical and natural lands, which means there are going to be increasing amounts of public lands with a flat funding stream or less, depending on what subpart you are in. We need creative ways to address that. And while there might be temptations to expand and abuse refuges if they have the ability to bring in more concession revenue, the fact is that we have to find additional ways to do this without compromising the fundamental portions of the refuges, or some of the original purposes are going to break down themselves. The areas around the refuges are going to put more pressure on the refuges.

We are not going to have the dollars in those refuges to understand the relationships of the outside to the inside if we do not have sufficient biologists, if we do not have sufficient research, if we do not watch where the migratory patterns are changing or the pressures on the water systems that are coming in. We are not going to have the Federal dollars with which to do that, and we are looking for increased ways to do it without turning every area into commercialization.

So I have not been convinced by this debate, although we will continue to work with that.

I have a few other questions if I may go ahead, Mr. Underwood. Mr. UNDERWOOD. Go ahead.

Mr. SOUDER. How does this legislation affect the amount of money deposited in the National Wildlife Refuge Fund? I heard some mixed comments on that.

Mr. Ashe?

Mr. ASHE. The best that I think we can tell is that the immediate effect would be very negligible, because of the 15 concession contracts that we have now, only three of them, I believe, are paying into the revenue-sharing fund, which raises an important question in my mind.

Mr. UNDERWOOD. I have the same question; do you want to verbalize that a little?

Mr. ASHE. It is about \$200,000 is the total effect on the National Wildlife Refuge System Fund; the total available for revenue-sharing payments this past year was about \$25 million, so it is a negligible impact.

Mr. SOUDER. And the reason only three are paying in is because in fact the refuges need the money, and they are figuring out ways to get around it—would that be a fair statement?

Mr. ASHE. Yes—I do not know. My guess is those managers are either unaware of the requirement or those are longstanding concession agreements, and at some point in time they had worked out some other arrangements. So my answer to you is I do not know. This is information that we have just gathered in the last couple of days, so all I can do is report to you the information; I cannot tell you why 12 out of 15 are not making deposits into the revenue-sharing fund.

Mr. SOUDER. How do you think we should offset that \$200,000?

Mr. ASHE. In the current budget for 2002, both the House and the Senate have increased the appropriations for the National Wildlife Refuge System by about \$5 million each. So I think the

best way is probably the traditional way, which is to appropriate additional dollars.

It is a much larger question, Mr. Souder, but it is one I would pose to the Committee and the Subcommittee, and that is that perhaps we need to take a look at how the revenue-sharing program is structured as a whole. In the case of a refuge like Okefenokee, where that refuge is generating significant economic benefits for the surrounding community, or a refuge like Ding Darling in Florida, which is generating significant economic benefit, maybe we should be questioning whether we need to make a revenue-sharing payment.

Congressman Jones was here before, and we have a refuge like Alligator River in Hyde and Tyrrell County in North Carolina, very economically depressed counties. Those revenue-sharing payments are very important to those communities.

So maybe we need to take another look at how the revenue-sharing program is structured as well.

Mr. SOUDER. Would you oppose having all concessionaires pay into this fund?

Mr. ASHE. If you make the concessionaires pay into the fund, you defeat the purpose of making the revenue available to the refuge, or you diminish it in any regard, so—

Mr. SOUDER. In other words, in effect, you have less money to use.

Mr. HINDS. Yes, correct.

Mr. SOUDER. Let me ask the question a different way and instead bounce off of—in the testimony that you presented, Mr. Ashe, you raised the 80-20 fee that we have in the National Parks. Certainly if we did the 80-20 on top of this, we are actually headed in the wrong direction. In other words, there will be less money for repairs and maintenance if you did 80-20 plus had to put the funds in all concessionaire agreements into local offset.

Mr. ASHE. I think the issue of 80-20 is related to maintaining some kind of ability to provide oversight of a national concession program, and the same was true for the fee demonstration program that Congress initiated several years ago for public lands of which the Refuge System is a part. That legislation allows 100 percent of the revenue to stay on the station, but provides that up to 20 percent can be retained at the regional or national level. So there is also a similar model in the fee demonstration program. But that would result in less dollars remaining at the station, clearly, and in some cases in the Fish and Wildlife Service with the fee demonstration program, we have allowed all the revenues to stay at the station rather than taking any at the regional or national level.

So that requirement clearly would pull dollars away from the field station, but I do believe, too, that there does need to be some kind of ability to oversee this kind of program so we make sure that the kinds of problems that have happened in the Park Service concession program and the kinds of concerns that Evan has raised in his testimony do not take hold as we build a bigger concession program within the Fish and Wildlife Service and the Refuge System.

The question about the revenue-sharing fund is a more difficult question, and I guess I do not believe that the funds from these

concession contracts should go into the revenue-sharing fund. I think we need to find other ways to deal with the issues pertaining to payments to counties under the revenue-sharing fund, both by direct appropriations and also by looking at the possibility, as I said, of restructuring the approach that we are taking to making revenue-sharing payments.

Mr. SOUDER. What if the funds not used in maintenance went into the revenue-sharing fund?

Mr. ASHE. Portions of the payments that were not used for maintenance went into the revenue-sharing fund? You could do that. I think what that would do is create a very strong incentive on the part of a manager to come up with a lot of maintenance projects.

Mr. SOUDER. I think that that might happen as well, which could be good or bad, depending.

Mr. Hinds?

Mr. HINDS. Congressman Souder, if I might, if I could put some numbers to this to bring it a little bit more into focus, as Dan Ashe said, there are about \$204,000 right now going into the revenue-sharing payment from the three refuges that are currently inputting that money. Divided out, there are 780 counties that are receiving that money. If you do the math, it comes to about \$256 per county on average that would be reduced at this time.

However, when you look at what a concession can provide to a county like Ding Darling, where I thought I was going to have to close down our concession at one time because of the lack of maintenance funds, and I went to the county and asked them, "How much is the Ding Darling concession worth to you?" I thought they were going to come back with a number of \$2 or \$3 million. I was staggered in Florida when they came back and said approximately \$54 million in direct and indirect costs.

That is what a concession operation that is properly run and maintained, to a degree—again, I thought I was going to have to close it down—but that is what it is worth to the county.

So with these things, even though there may be some short-term losses in revenue-sharing funds to the county, the long-term gain to the county is better economic health, and that is the point I would like to make.

Mr. SOUDER. I want to pursue just a couple of other brief lines of questioning, because this is very helpful as we plunge into this. It is the first real airing of something that we have been talking about for a long time, and I appreciate your patience.

I spent a fair amount of time over the last two summers working with some of the National Park questions and have some real strong concerns with the demonstration and how it is being handled. So let me ask some fundamental questions first about the fee structure. In the fee structure, if someone enters—I know that at Ding Darling, it is \$5 when you come in—is that true at most refuges? Is there any kind of fee? I have been in some where there is no logical collection place.

Mr. ASHE. At most refuges, there is no kind of fee or controlled entry program. If you have a duck stamp or a Golden Eagle Passport, you get access to all refuges. But at most of our refuges, we do not have high enough visitation or controlled access points where you can do what we do at Ding Darling or at Chincoteague.

Mr. SOUDER. So, there are very few places where that is a revenue source.

Mr. ASHE. True.

Mr. SOUDER. And there are not that many places where concessions are a revenue source—it was something like 40. One of the goals of the demonstration fees was to try to have more parks, particularly a lot of the larger parks where they have a lot of visitation, get dollars in by using the concession fees. In some places, it has worked well, but in other places, having the passes is undermining that goal. Particularly, the more we promote the pass, the more the money is not going to the park. They are now taking an increased advertising fee out of the demonstration fee, plus they want the 20 percent in, and all of a sudden, people who had banked and made their assumptions and their budgeting on that are having problems. Similar things can occur in concession fees in planning.

One of the fundamental goals in introducing the bill was to have more control at the individual refuge level and more flexibility, and not in effect have the Federal Government in Washington and in Congress then figure out how to cover the other areas, which is kind of what you are arguing on some of this local fee question, in addition to the argument that, look, if they have a concessionaire, they are actually going to gain more than they are going to lose in the matching fees, because the property taxes, the State income taxes, the payroll taxes that come out of an expanded concessionaire business are going to exceed the amount of fees that are lost.

In the Park Service, one of the things we had in the demonstration fees, for example, the 80-20 argument, was that in effect, Yellowstone could help pay for the Apostle Islands, where the Apostle Islands do not have a logical place to get in. This is kind of a difficult accounting system in the sense that if in fact we put this to where we are underwriting part of the national program, with the exception of Ding Darling and maybe Okefenokee and a few other places, we are not talking about having lots of dollars coming in from concessionaires—is that not true?

Mr. ASHE. I think that is true. The differences are orders of magnitude.

Mr. SOUDER. We are not looking at hotels.

Mr. ASHE. In the fee demonstration program, we bring in about \$5 million a year. The Park Service brings in, I think, about \$140 million a year. So we are looking at orders of magnitude difference. I am sure the same is true with concession contracts and agreements. In our context, it is going to be a small element of our annual operating and maintenance, but it can be important on some stations. Most of that \$5 million that we collect comes from a very few—we have almost 100 refuges in the fee demonstration program now, and probably 90 percent of that \$5 million comes from 10 refuges. And I imagine concession agreements would be the same—they will gravitate toward the refuges where we have high visitation, controlled access, so the same will be true in the end.

But we cannot have it both ways. We cannot have money going into the revenue-sharing fund and going into maintenance at the ground level. It is a one-for-one tradeoff—either concession con-

tracts provide money to go into the revenue-sharing fund, or they allow flexibility at the station level to get the work done.

I think I am with you, Congressman Souder. I want that money to go onto the ground to do things. That does mean that we are making a compromise, and we are agreeing that that money will not go into the revenue-sharing fund, but I do believe that that is a sound investment, and it is an investment that we should be making at this point in time.

I think that increasingly, local governments—as you said, people support acquisition of land. There was a time when the mindsets were different, and when we went in to buy a piece of land, we had to convince people that Federal ownership of land is an economic benefit, and the establishment of a refuge or a park is an economic benefit. We do not have to do that so much anymore. In some communities, in some counties, those revenue-sharing payments are very, very important. In other places, they are less important.

Mr. SOUDER. I wanted to ask another question. Mr. Hirsche raised the question of the associations getting at least priority, if not a commitment that they could have first crack at certain concessionaire services—“friendship” groups.

In the visitor centers and in the book sales and other things—I know, for example, at Ding Darling, the “friends” group built the new visitor center—is that already basically not done for certain things, and could you go through some of the difficulties of how this might relate to other types of things like providing canoes or food services as opposed to the traditional “friends” groups?

Mr. HIRSCH. Yes. In this case, we are talking about a range of local organizations that have varying levels of sophistication and expertise. At Ding Darling, the “friends” group down there is truly remarkable in what they have accomplished in terms of raising money and setting up programs. On other refuges, you have “friends” groups that are not as large, not as successful in fundraising, and would likely pass on a concession opportunity.

But I could see a number of situations around the country where a “friends” group would be interested in pursuing a concession opportunity. And again, as we indicated in our testimony, there is a dual benefit to allowing that—and to be fair, I think most refuge managers, would choose to partner with the friends group, saying “This is great; let us go with it,” before bidding it out. But I am not sure what the guidelines would be along those lines in terms of bidding for contractors or concessionaires.

Mr. HINDS. Although I somewhat agree with Evan that it would be nice to allow our “friends” groups the ability to have the first option, it is not practical, and I will give you the reason why as it relates to Ding Darling.

Concessions are businesses which require investment. Banks are very leery of giving large sums of money to 501(c)(3) organizations that do not have collateral property or whatever to back up that loan.

At Ding Darling, they went out and got donations from the public, but would have liked to proceed much faster. They went to the bank and asked, “Would you give us a loan for \$250,000?” and the bank said, “Sure, but you have no collateral. Therefore, you as indi-

vidual members of the board must put up your homes as the collateral.”

They did not want to do that. I do not blame them.

The same thing would happen with a business investment like a concession where a refuge manager—I will give you an example—Loxahatchee. Loxahatchee, under a State agreement with Florida, needs to provide for visitor services. That was part of the agreement when establishing Loxahatchee. They have not been able to do that because they do not have the capital. Your bill would allow them to do that by asking the concessionaire in the contract to build the facility.

What that concessionaire would then do is, in the contract, build the building, and over the 10 years, amortize his losses over that 10-year period, because there is a building there, and he has a business. Banks are willing to do that. That is a long-term investment with the Federal Government. We are not going away.

However, they are not willing to do that with 501(c)(3) organizations, so even though I agree with Evan that it would be nice, it is not practical.

Mr. SOUDER. Mr. Campbell, did you have a comment?

Mr. CAMPBELL. There are several things I have thought of. One of them is—not specifically to this issue—the question of whether funds would need to return to something that directly benefitted my business. I do not know that that is necessarily a sound assumption. I would not necessarily require that. Right now, everything that I am paying in is going offsite, and I am not seeing anything returning to the refuge that I live on and operate day after day. Almost anything that worked to benefit that refuge and was being paid for out of my fees would be A-okay with me. In the long run, either directly or indirectly, it is going to return; it is going to accrue value to me as a business and as someone who personally supports the refuge.

Now, as far as giving “friends” groups the first crack at it, what Lou mentions is true. Banks are really leery of making investments that are not collateralized. Our investment in the concession that we operate at Okefenokee is collateralized by our personal assets, and we had to be able to demonstrate that in order to put the bid in on the concession in the first place. So we are pretty deeply vested in that.

I would not have any philosophical objection to seeing “friends” groups getting first crack at it. I do see some real financial hurdles there to overcome.

Mr. SOUDER. Mr. Hirsche?

Mr. HIRSCH. If I could respond to that, with respect to Chip’s first comment, I think that if we are talking about establishing profitable concessions at quite a few more refuges around the country, Okefenokee and Ding Darling are two examples of refuges that are readymade, and setting up a concession—I will not say it is easy—business is never easy—but you have a nice starting point. At other refuges in the country, you are going to want to negotiate a pretty good deal if you are going to set up a concession there. And if I were a concessionaire, if I were in business, I would say, “Look, I want to see my fees returned to support what my conces-

sion is trying to accomplish as part of a successful business plan.” That would be my response.

In terms of the “friends” groups, I think the collateral argument is a good one, but I would again go back to the point that different “friends” groups have different levels of capacity and ability, and certainly the beauty of “friends” groups is that the individuals in those groups represent an incredible cross-section of individuals, and some people are very wealthy, some people are not; they come from all political backgrounds. So you may have that opportunity for somebody who is willing to provide the collateral. But again what we are talking about here is a right of first refusal rather than immediately dictating that these people get the concession.

Mr. SOUDER. I want to thank each of you for your testimony. I am sure that we will be following up as we move this bill.

I want to reiterate that part of the reason I am interested in this is to make sure that we look at creative ways to make sure there are dollars in this, that people have access to the beauty of the wilds yet at the same time that we do not undermine the fundamental purpose. And I think that some of the very types of concessions that we may be talking about, even if they are visitor centers or food, may actually add land to the edge of the existing center so it does not impact the wildlife but provides additional dollars for the protection of the areas themselves. So we have to look at creative ways to do it. I have seen in the park system and increasingly at edges of the Fish and Wildlife and the Forest Service very creative ways to do this.

At Rocky Mountain National Park, they have a new visitor center at the edge of the park where the concessionaire built a multi-million-dollar visitor center, but part of the deal was that to get to the restrooms at the visitor center, you have to go through his gift shop and through the restaurant. It was one of the main negotiating contentions, because he could afford to build the visitor center for free and have it connected if in fact he was assured a certain amount of traffic. It does not impede the park, yet it is generating—they have a new visitor center, and the “friends” group is operating the book store in the visitor center, and it works out well.

We see lots of areas like that with potential to get additional dollars from Americans who are willing to spend if they know their dollars are being used for that refuge. They are a little less concerned or willing to just put dollars generally, not knowing where they are going to go. We have almost zero objections to the fees being charged at parks and refuges. Compared to the cost of going to a concert or to an amusement park, it is minimal. You feel that the investment is going back into protecting the resource. So I think there are tremendous opportunities.

Charles Russell Wildlife Area in northern Montana does not have many people go through it, but it is one of the last open areas in the Missouri Breaks area, and there is potential for certain things that can be done.

In Indiana, every inch of public land is a battle, but things like Mishawaka, and as we look at the areas in northwest Indiana which used to all be wetlands and try to look at how that can be preserved, unless we have ways to figure out how to do this, it is

not going to happen, and unless there is a broader base of public support, it is not going to happen.

So thank you for your testimony. I appreciate it and look forward to working with you.

We will include for the record a statement from Mr. Gerald Hoffman from Tarpon Bay Recreation at Sanibel Island, who is a very creative concessionaire whom I have used a number of times. He was not able to make it because of the tropical storm. With that, we will forgive him. That is a pretty good excuse for not showing up for a congressional hearing.

Mr. SOUDER. With that, the Subcommittee stands adjourned.  
[Whereupon, at 3:40 p.m., the Subcommittee was adjourned.]  
[The prepared statement of Mr. Hoffman follows:]

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September 18, 2001

To: Subcommittee on Fisheries Conservation, Wildlife and Oceans

Thank you for the invitation to participate and contribute testimony to support the efforts of the Honorable Congressman Mark E. Sauder for establishing a new policy (a bill H.R.1370) addressing the changes and modifications necessary for the maintenance and upkeep of buildings and properties located on lands in the National Wildlife Refuge system by concessionaires of such facilities.

Since 1987, my wife, Beatrice A. Coyne, and I have been the concessionaires of the most visited NWR in the system, the J.N.Ding Darling NWR. Over this period of time we have personally witnessed the U.S.F.W.S. management teams face the challenges and make every effort to fulfill the promises made for the wildlife and the visitors.

We are very aware that funds for this refuge are not keeping pace with its basic operation needs to adequately maintain and expand our facilities to meet the demands of the guests to the wildlife refuge. (I.e. our facility has two restrooms with one toilet each that are not A.D.A. compliant that currently accommodate approximately 180,000 people per year. Also, our docks have nailheads sticking up and splintered wood with rotted pilings that need to be replaced. Our entry roads are not properly maintained and are often times dangerously rutted as to throw people from their bicycles. Educational exhibits are not adequate for the level of visitation to this area. Our storage barn roofing has rotted trusses and leaks profusely.)

It is of utmost importance to consider the degree of public/commercial uses, which an area can sustain without degrading the resources and the visitor's experience. We believe that the funds from concession fees should remain at the refuge where the concession is located in order to facilitate needed maintenance and provide a quality experience for the guests at that refuge.

It is our goal to continue to work in cooperation with the U.S.F.W.S. to develop and increase the quality of the visitor experience and enhance the protection of resources and habitat compatible in the truest sense of "Wildlife First".

Sincerely,



Gerald L. Hoffman  
President  
Tarpon Bay Recreation, Inc.