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H.R. 1006 and H.R. 1472

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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LEGISLATIVE HEARING ON H.R. 1006, A BILL TO AMEND THE LACEY ACT AMENDMENTS OF 1981 TO FURTHER THE CONSERVATION OF CERTAIN WILDLIFE SPECIES; AND H.R. 1472, A BILL TO REQUIRE THE ADOPTION AND ENFORCEMENT OF REGULATIONS TO PROHIBIT THE INTENTIONAL FEEDING OF BEARS ON FEDERAL PUBLIC LANDS IN ORDER TO END THE HUNTING PRACTICE KNOWN AS "BEAR BAITING" AND REDUCE THE NUMBER OF DANGEROUS INTERACTIONS BETWEEN PEOPLE AND BEARS

Thursday, June 12, 2003
U.S. House of Representatives
Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
Washington, DC

The Subcommittee met, pursuant to call, at 10:05 a.m., in room 1324, Longworth House Office Building, Hon. Wayne T. Gilchrest [Chairman of the Subcommittee] presiding.

Members Present: Representatives Gilchrest, Young, Saxton, Gallegly, Pombo (ex officio), Pallone, and Bordallo.

Also Present: Representatives Kind and Moran.

STATEMENT OF THE HON. WAYNE T. GILCHREST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GILCHREST. The Subcommittee will come to order. Good morning, everyone. Welcome to the hearing and to Washington. Collin, Jim, welcome, this morning.

Mr. MORAN. Thank you, Wayne. Nice to see you.

Mr. GILCHREST. We will hear testimony on two wildlife bills this morning, H.R. 1006, the Captive Wildlife Safety Act, and H.R. 1472, the Don't Feed the Bears Act. That sounds like a good story.

Mr. GILCHREST. The first bill, H.R. 1006, introduced by our colleague Buck McKeon, would amend the Lacey Act Amendments of 1981 to designate certain large exotic cats as prohibited wildlife species. Many of us, including myself, are cosponsors of this measure and feel it is appropriate to restrict the ownership or possession of certain large cats, such as lions, tigers, and leopards, to those organizations who have expertise to properly care for them.

I want to thank and compliment Congressman McKeon for his leadership on this legislation, and I note that one of our witnesses today, Tippi Hedren, is not only a famous Hollywood actress, but also has dedicated her life to saving and caring for dozens of animals that have been mistreated or abandoned.

The second bill, H.R. 1472, has been introduced by our Committee colleague, Elton Gallegly, of California. I look forward to hearing the testimony and the witnesses' thoughts on how this measure could impact some of the sportsmen and ethical issues it raises, including the management of bear populations on Federal lands and the traditional long-standing interaction between State Fish and Wildlife agencies, Federal land managers and their constituents.

I look forward to hearing from our distinguished witnesses on both sides of pieces of this legislation, and we look forward to the hearing today. The hearing will, in all likelihood, be interrupted about 11 or 11:15 for possibly a series of votes. So just be ready to anticipate that.

I look forward to the testimony the witnesses will give on both of these pieces of legislation. We are here to preserve, to a great extent, the long-standing practices of understanding nature, of the importance of wildlife, the importance of habitat, the importance of States rights, and the importance of ethical treatment of all of God's creatures.

At this point I will ask for a UC. I will recognize the gentleman from New Jersey, but before doing that I ask unanimous consent that Mr. Gallegly and Mr. Miller be allowed to sit with the Subcommittee for the purposes of opening statements and asking questions.

Without objection, so ordered. And I now recognize the distinguished gentleman from New Jersey, Mr. Pallone.

[The prepared statement of Mr. Gilchrest follows:]

Statement of The Honorable Wayne T. Gilchrest, Chairman, Subcommittee on Fisheries Conservation, Wildlife and Oceans, on H.R. 1006 and H.R. 1472

Good morning, today the Subcommittee will hear testimony on two wildlife bills, H.R. 1006, the Captive Wildlife Safety Act and H.R. 1472, the Don't Feed the Bears Act.

The first bill, H.R. 1006, introduced by our Colleague Buck McKeon would amend the Lacey Act amendments of 1981 to designate certain large exotic cats as "prohibited wildlife species." I am a co-sponsor of this measure and feel it is appropriate to restrict the ownership or possession of certain large cats such as lions, tigers and leopards to those organizations who have the expertise to properly care for them.

I would like to compliment Congressman McKeon for his leadership on this legislation and I note that one of our witnesses today, Tippi Hedren, is not only a famous Hollywood actress but also a person who has dedicated her life to saving and caring for dozens of animals that have been mistreated or abandoned.

The second bill, H.R. 1472, has been introduced by our Committee Colleague Elton Gallegly of California. I look forward to hearing the testimony and the

witnesses' thoughts on how this measure could impact some of the sportsman and ethical issues it raises including: the management of bear populations on Federal lands; and the traditional and long-standing interaction between State Fish and Wildlife Agencies, Federal land managers, and their constituents.

I look forward to hearing from our distinguished witnesses on both of these pieces of legislation.

I now recognize the gentleman from New Jersey but before doing that I ask unanimous consent that Mr. Gallegly and Mr. Miller be allowed to sit with the Subcommittee for the purpose of an opening statement and asking questions. Without objection, so ordered. Mr. Pallone.

STATEMENT OF THE HON. FRANK PALLONE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Mr. Chairman. I want to welcome all our colleagues and the panelists, and if I could just ask unanimous consent to enter into the record a statement by Mr. Stupak.

Mr. GILCHREST. Without objection.

[The prepared statement of Mr. Stupak follows:]

Statement of The Honorable Bart Stupak, a Representative in Congress from the State of Michigan, on H.R. 1472

Mr. Chairman and Members of the Subcommittee thank you for allowing me to submit my testimony in opposition to the Don't Feed the Bears Act, H.R. 1472.

H.R. 1472 seeks to end the hunting practice of bear baiting. I am opposed to this bill because it is unnecessary and counterproductive to managing the growing Black bear population in this country. H.R. 1472 would limit the ability of states like Michigan, along with the eight other states which allow bear baiting, to manage their bear population and to effectively reduce the number of bear—human conflicts.

The World Wildlife Fund has conducted population surveys that show a significant increase in the Black bear population. In every state the Black bear has historically inhabited, the population of this animal is either increasing or stable. From 1988 to 1996, the number of Black bears in the country has increased from an estimated range of 253,000 - 375,000 to 339,000 - 465,000.

Wildlife officials in my state of Michigan have estimated that the Black bear population has increased to an estimated population range of 15,000 to 19,000 animals. This is up from the 12,000 animals state officials estimated in 1996. In just six years this population has increased by at least 25 percent from its 1996 population estimate. Doesn't it make sense to leave in place a highly effective hunting technique like baiting to manage this growing population? A ban on bear baiting would prevent state wildlife officials from using this population management tool and may actually lead to a further increase in the number of bear - human conflicts.

In Michigan a ban on bear baiting would be especially harmful to the management of these animals because our forests are dense and visibility is extremely low. Bear baiting provides hunters with the chance to identify that the bear they are hunting is not a sow with cubs. This means that hunters can selectively harvest these animals ensuring the cubs have a mother to nurture them through development. Bear baiting promotes a healthy growing bear population. Banning this practice would only lead to out of control bear populations and more problem bears foraging for human food.

The fact is that bear baiting works in states like Michigan. In the most recent harvest, of the estimated 2000 animals taken, 82 percent of those animals were harvested through bear baiting. This form of hunting provides state wildlife officials an effective technique to manage a healthy and growing population of Black bears. The federal government should not attempt to usurp the states" authority to manage their wildlife.

Finally, consider the fact that in my state of Michigan the voters soundly defeated an anti- bear baiting proposal that was on the ballot in the 1996 general elections. If Congress enacts a national anti-baiting measure it would disregard the will of millions of voters in my state.

I hope the committee will not agree to this anti-hunting measure. We should leave wildlife management where it belongs, with the states, and preserve bear baiting.

Thank you for allowing me to submit my testimony.

Mr. PALLONE. Thank you. I am pleased that you have scheduled this morning's hearing to allow us to reassess certain aspects of the important relationship we share with wildlife. H.R. 1472, sponsored by our Committee on Resources colleague Mr. Gallegly, seeks to ban bear baiting on Federal lands. This legislation was introduced in March and currently has 86 cosponsors, including myself, and six other members of this Subcommittee from both sides of the aisle.

Bear baiting is a controversial hunting practice whereby large quantities of human food or animal remains are placed in a 55-gallon drum or piled directly on the ground in order to lure bears out into the open. Hunters then hide near the drum and kill the bears attracted to the bait. As you know, Mr. Chairman, it is Federal policy to allow State law to govern wildlife management on Federal lands so long as it does not conflict with Federal law. Given that nine States allow bear baiting, the practice is also allowed on certain Federal lands within those States and, obviously, H.R. 1472 seeks to change that circumstance.

I want to be clear, Mr. Chairman. We do not oppose the principle that State laws should govern wildlife management on Federal lands where appropriate, nor do we oppose hunting on Federal lands, as some will no doubt charge. Rather it appears this is an instance where a particular hunting practice conflicts with prudent and necessary Federal policy and should be curtailed. Each of the four land management agencies included in this legislation have core policies prohibiting visitors from feeding wildlife whether they are bears or any other species. Such a policy protects the health and safety of the animals as well as the human visitors. Given the obvious prudence of this policy, it is inconsistent to allow hunters to feed bears as a hunting practice.

Enactment of H.R. 1472 will not ban hunting, nor will it trample States rights; rather it will resolve an obvious conflict between Federal and State policies in a very small number of States in favor of a Federal policy that will better protect both bears and people on Federal land.

Now, with regard, Mr. Chairman, to the second bill to be considered this morning, I just want to commend our colleague from California, Congressman McKeon, for introducing his legislation, H.R. 1006, to amend the Lacey Act to make it illegal to own lions, tigers, or other large exotic cats as pets. Evidence indicates that few, if any, private owners have the ability or financial resources to adequately protect the requisite needs of these large animals at maturity. Furthermore, large predatory cats present an unacceptable threat to public safety that cannot be ignored.

The private ownership of exotic large cats is an extravagance out of step with the times and with our ethics of wildlife conservation. Wildlife should remain wild, and H.R. 1006 is sensible legislation that recognizes this simple truth. This issue, I think, is worth our thoughtful consideration. Again, I thank you for having the hearing this morning.

Mr. GILCHREST. Thank you, Mr. Pallone.

Mr. Saxton.

STATEMENT OF THE HON. JIM SAXTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. SAXTON. Thank you, Mr. Chairman. I would just like to put in my two cents here to kind of frame this discussion, if I may.

It just seems to me that, first of all, I think this bear baiting bill is a bad idea and I want to say why. I am not very fond of the notion of luring some species of wildlife into a trap for the purpose of slaughtering it, but I think there are some very important issues here that I am sure we will hear more about from our colleagues and from others, but the issue of wildlife management is really at the heart of this issue.

Wildlife management means one thing in a State like New Jersey and another in a State like Wyoming or Alaska or any of the other 50 States. So in terms of wildlife management and States rights, this is an enormously important issue. Let me just give one example from my experience. I am from New Jersey, of course, and for whatever reason the deer population in the northeastern part of the country over the last several decades began to grow, and it grew and grew and grew to the point where deer were sleeping in suburban backyards, and ruining shrubs and gardens. And with the coming of, what is the tick fever, Lyme disease from deer ticks, they became a health problem, but, of course, deer baiting in New Jersey was never allowed. But the New Jersey Division of Wildlife, Fish and Game, I guess it is, finally came to the conclusion that something had to be done to control the deer herd. So today, in New Jersey, during deer hunting season, deer baiting is permitted as a wildlife management tool.

It seems to me that the same concept holds true to bears when we talk about States rights and designing a wildlife management plan for the needs of that State.

There is another issue here too that has to do with wildlife management, and I suspect that some of the support for this bill comes from people who are against hunting at all, and I understand that, but I think that should be made part of the record, too. There is some of that at play here. But for those folks who have been in the woods bear hunting, it is important, just as there are bag limits and seasons for whitetail deer in the Northeast, there should be a way to discriminate between the bears you want to kill and the bears you don't want to kill.

Now, for those of you who have been bear hunting and seen a bear in the wild, they do not often stand still when there is a hunter around. And so when a bear or several bears become concerned about people being around, they run. And if you have ever seen a family of bears running, you cannot tell the mother from the father from the cub. It is impossible. So while most people who hunt understand that there are some among the species that you would not want to kill and hunt, if you can't tell the difference, oftentimes the wrong bears get killed.

With regard to reducing the size of the bear population, therefore, with a general hunting permit we kill the wrong kinds of bears, but when bear baiting is used a hunter can discriminate between big bears and little bears and sometimes between males and females. So as a wildlife management tool and States rights issues,

this issue is of immense importance. And this bill, therefore, in my view, is wrongheaded to outlaw in all States bear baiting.

Thank you.

Mr. GILCHREST. Thank you, Mr. Saxton. Mr. Pombo.

Mr. POMBO. Pass, Mr. Chairman.

Mr. GILCHREST. Mr. Gallegly.

STATEMENT OF THE HON. ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. GALLEGLY. Thank you very much, Mr. Chairman. Mr. Chairman, I am pleased that you have scheduled this hearing today on H.R. 1472 to develop a consistent policy on Federal lands with respect to the feeding of bears.

I have long served on the Subcommittee of National Parks, Recreation and Public Lands, and I have had the privilege and pleasure of visiting a large number of national parks throughout this country. In parks inhabited by bears, the National Park Service goes to great efforts to educate visitors about the perils of feeding bears. The Park Service strictly enforces the anti-feeding law. While the Forest Service and Bureau of Land Management issues similar warnings to visitors about not feeding the bears, they do not consistently apply this principle in the field. In fact, they allow bear baiting on Federal lands in States that permit the practice, undermining their very own warnings about the damages of intentional feeding of bears. If it is wrong and reckless to feed bears in parks, it is also wrong to do so in national forests and on BLM lands.

Bears fed by humans can be dangerous, regardless of where they are fed, be it in parks, forests, refuges or BLM lands. Once fed, the bears, we are told by the experts, are more likely to lose their natural weariness of people and to confront them in search of food. This can only result in dangerous encounters for both bears and people.

Baiting is not needed on Federal lands. We know the majority of States ban bear baiting on all their lands, public and private, and maintain successful bear hunting programs, including in my home State of California, where over 25,000 bears live in a State with 34 million people. However, should law enforcement need to use baiting, my bill provides for exceptions in those circumstances.

I want to emphasize that in no way am I opposed to the practice of hunting, and I am an advocate of sportsmen's rights, but the rights have responsibilities. We will hear testimony today that reveals after voters put a stop to baiting in Colorado, Oregon, and Washington, hunters in these States adapted and learned quickly to pursue bears in a more sportsmanlike manner. What is more, the sale of bear licenses dramatically increased after the baiting bans were imposed, returning more revenues to the State.

I have introduced this legislation to protect bears and, moreover, to protect the people. It is a common-sense approach. I urge my colleagues to join in supporting this legislation. I appreciate the opportunity to be here today, Mr. Chairman.

[The prepared statement of Mr. Gallegly follows:]

Statement of The Honorable Elton Gallegly, a Representative in Congress from the State of California, on H.R. 1472

Mr. Chairman, I am pleased that you have scheduled a hearing on H.R. 1472, the bill I introduced, with my colleague Jim Moran of Virginia, to develop consistent policies on Federal lands with respect to the feeding of bears. I have long served on the Subcommittee on National Parks, Recreation and Public Lands, and I have had the privilege and pleasure of visiting parks throughout our great country.

In parks inhabited by bears, the National Park Service goes to great effort to educate visitors about the perils of providing food to bears. The Park Service strictly enforces an anti-feeding law. While the Forest Service and the Bureau of Land Management issue similar warning to visitors about not feeding bears, they do not consistently apply this principle in the field. In fact, they allow bear baiting on Federal land in states that permit the practice, undermining their very own warnings about the dangers of intentional feeding of bears.

If it is wrong and reckless to feed bears in parks, it is also wrong to do so in national forests and on BLM lands. Bears fed by humans can be dangerous regardless of where they are fed, be it on parks, forests, refuges, or BLM lands. Once fed, the bears, we are told by experts, are more likely to lose their natural wariness of people and to confront them in search of food. This can only result in dangerous encounters for both the bears and people.

Baiting is not needed on our Federal lands. We know that the majority of states ban bear baiting on all of their lands—public and private—and maintain successful bear hunting programs, including in my home state of California, where over 25,000 bears live in a state with 34 million people. In no way am I opposed to the practice of hunting and I am an advocate of sportsmen's rights, but with rights come responsibilities.

We will hear testimony today that reveals that after voters put a stop to baiting in Colorado, Oregon, and Washington, hunters in these states adapted and learned quickly to pursue bears in a more sporting manner. What's more, the sale of bear hunting licenses dramatically increased after the baiting bans were imposed, returning more revenues to the state.

I have introduced this legislation to protect bears and moreover, to protect people. It is a common sense approach, and I urge my colleagues to support this legislation.

Mr. GILCHREST. Thank you, Mr. Gallegly.

Mr. GILCHREST. We will now hear from the witnesses on the legislation dealing with the Lacey Act, introduced by Mr. McKeon, and I guess I will go to McKeon, the author of the legislation, unless Mr. Peterson or Mr. Moran, who were here first, have a time conflict.

Mr. MORAN. This is going to take less time, I imagine, so let's go ahead.

Mr. GILCHREST. All right. Gentlemen, thank you, we look forward to your testimony. Mr. McKeon, you may begin.

STATEMENT OF THE HON. HOWARD P. "BUCK" McKEON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MCKEON. Thank you, Chairman Gilchrest, and I thank Mr. Moran and Mr. Peterson for letting me go first. I apologize for being late.

I want to thank you, Mr. Chairman, and also Ranking Member Pallone, the distinguished members of the Subcommittee on Fisheries Conservation, Wildlife and Oceans for holding this important hearing to discuss the problems associated with the private ownership of exotic cats, such as lions, leopards, tigers, cheetahs, and cougars. I also want to thank the Subcommittee for giving me the opportunity to talk about H.R. 1006, the Captive Wildlife Safety Act, that my friend and colleague, George Miller, and I introduced earlier this year, which would put an end to the attacks, hopefully,

by these animals that bring harm and danger to our families and communities. I also want to thank Chairman Pombo for his help in moving this legislation forward. I appreciate that help.

I would also like to acknowledge Tippi Hedren, who has been leading this fight for many years. She is a good friend and constituent and I understand will be testifying later before the Committee.

The Captive Wildlife Safety Act makes necessary improvements to the Lacey Act, which originally was enacted to prohibit the ability to import, export, transport, sell, receive, acquire, or purchase reptiles, fish, amphibians, plants, and other animals taken, possessed, transported or sold in violation of U.S. or State law. The law, however, does not include these dangerous exotic cats.

Some estimates state that there are more than 5,000 tigers in captivity in the United States. While some are held in zoological institutions and preserves, most of these animals are maintained as pets, caged in backyards, basements, or closets. This problem is not isolated to tigers, as the unregulated commercial trade of big cats is flourishing throughout the country. These animals can now be purchased at auctions or on Web sites that advertise and sell exotic animals.

Lions and tigers are not domesticated animals like your family dog or your playful cat, and are inherently hard-wired to hunt, attack and defend themselves with brutal force when feeling threatened. It is for this reason that the U.S. Department of Agriculture, the American Veterinary Medical Association, the American Zoo and Aquarium Association, and The Humane Society of the United States have taken public stands against keeping dangerous carnivores as pets.

The dangers these big cats pose to people are self-evident and well-documented. In Loxahatchee, Florida, last February, a 58-year-old woman was bitten in the head by a 750 pound pet Siberian-Bengal tiger mix. In Lexington, Texas, in October of 2001, a 3-year-old boy was killed by his stepfather's pet tiger. This past April alone, two people fell victim to tiger attacks, a 35-year-old woman in Adair, Oklahoma, and a 32-year-old man in Hennepin, Illinois. Both these tigers were being held at unaccredited animal parks. And as you can see, the result is all too clear.

These animals require trained personnel equipped with the proper tools and facilities to ensure that they are kept in an environment where the probability of an attack is dropped to the lowest possible level. How can we expect a person with no experience in caring for a tiger or lion to have the knowledge and education to take the necessary safeguards to prevent an attack? People in neighborhoods and communities all across the country should no longer have to take that risk.

This legislation would add the big cats to the Lacey Act to prevent these animals from being sold or purchased in interstate or foreign commerce. This, I believe, will greatly decrease the commercial aspect of wanting to keep these tigers and transport them and, I think, will help lessen the danger of an attack.

In closing, I urge the Subcommittee to quickly consider H.R. 1006, the Captive Wildlife Safety Act, which already has the bipartisan support of over 40 Members of Congress to protect our

families and communities from any further terrible attacks. I again want to thank the Subcommittee for your attention to this issue and once again for inviting me to testify today. I appreciate this very much.

Thank you.

[The prepared statement of Mr. McKeon follows:]

Statement of The Honorable Howard P. "Buck" McKeon, a Representative in Congress from the State of California, on H.R. 1006

Thank you, Chairman Gilchrest, Ranking Member Pallone and the distinguished members of the Subcommittee on Fisheries Conservation, Wildlife and Oceans for holding this important hearing to discuss the problems associated with the private ownership of exotic cats, such as lions, leopards, tigers, cheetahs and cougars. I also want to thank the Subcommittee for giving me the opportunity to talk about H.R. 1006, the Captive Wildlife Safety Act, that my friend and colleague George Miller and I introduced earlier this year, which would put an end to attacks by these wild animals that bring harm and danger to our families and communities.

This Captive Safety Wildlife Act makes necessary improvements to the Lacey Act, which originally was enacted to prohibit the ability to import, export, transport, sell, receive, acquire, or purchase reptiles, fish, amphibians, plants and other animals taken, possessed, transported or sold in violation of U.S. or state law. The law, however, does not include these dangerous exotic cats.

Some estimates state that there are more than 5,000 tigers in captivity in the United States. While some are held in zoological institutions and preserves, most of these animals are maintained as pets caged in backyards, basements, or closets.

This problem is not isolated to tigers as the unregulated commercial trade of big cats is flourishing throughout the country, as these animals can now be purchased at auctions or on web sites that advertise and sell exotic animals.

Lions and tigers are not domesticated animals like your family dog or your playful cat and are inherently hard-wired to hunt, attack and defend themselves with brutal force when feeling threatened. It is for this reason that the U.S. Department of Agriculture, the American Veterinary Medical Association, the American Zoo and Aquarium Association and The Humane Society of the United States have taken public stands against keeping dangerous carnivores as pets.

The dangers these big cats pose to people are self-evident and well documented. In Loxahatchee, Florida, last February, a 58-year-old woman was bitten in the head by a 750-pound pet Siberian–Bengal tiger mix. In Lexington, Texas, in October 2001, a three-year-old boy was killed by his stepfather's pet tiger. This past April alone, two people fell victim to tiger attacks: a 35-year-old woman in Adair, Oklahoma and a 32-year-old man in Hennepin, Illinois. Both these tigers were being held at unaccredited animal parks and, as you can see, the result is all too clear.

These animals require trained personnel equipped with the proper tools and facilities to ensure that they are kept in an environment where the probability of an attack is dropped to the lowest possible level. How can we expect a person with no experience in caring for a tiger or lion to have the knowledge and education to take the necessary safeguards to prevent an attack? People in neighborhoods and communities all across the country should no longer have to take that risk.

In closing, I urge the Subcommittee to quickly consider H.R. 1006, the Captive Wildlife Safety Act, to protect our families and communities from these heinous attacks.

I again want to thank the Subcommittee for your attention to this issue and, once again, for inviting me to testify today on the dire need for the transaction of these animals to cease once and for all.

Mr. GILCHREST. Thank you, Buck. Mr. Peterson.

STATEMENT OF THE HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. PETERSON. Thank you, Mr. Chairman. I am not sure if I am a cosponsor, but add me on because I had an issue like this in my district and I support and commend what you are doing.

But I came here today to testify on H.R. 1472. But before I begin, Mr. Chairman, I would like to submit for the record extraneous material from the Minnesota Department of Natural Resources, the Congressional Sportsmen's Caucus, which I am a former co-chairman of, and also the North American Bear Federation, if that is possible.

Mr. GILCHREST. Without objection, so ordered.

[The letters referred to follow:]

Minnesota Department of Natural Resources

OFFICE OF THE COMMISSIONER
500 Lafayette Road
St. Paul, Minnesota 55155-4037

June 11, 2003 *(via facsimile at 202-226-0861)*

The Honorable Richard W. Pombo, Chairman
House Committee on Resources
2411 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pombo:

I understand that the House Subcommittee on Fish and Wildlife is hearing HR 1472, a bill to ban use of bait for hunting bears on federal lands, this Thursday, June 12, 2003. The Minnesota Department of Natural Resources (DNR) respectfully expresses its opposition to this bill for the following reasons:

Bears are resident wildlife under the management jurisdiction of state wildlife agencies. The Minnesota Department of Natural Resources is the agency charged with managing the wild animals of the state. HR 1472 would have a significant impact on Minnesota's ability to manage bears in the state. The Superior and Chippewa National Forests are the predominant hunted lands within several of the state's management units, especially those considered to comprise the best bear habitat and the choicest areas for hunters. If these hunters were forbidden to use bait, they would likely shift to other areas, leaving large tracts essentially unhunted and other nearby state, county, and private lands overhunted.

Use of bait as a bear hunting technique is essential in heavily forested areas such as northern Minnesota. About three-fourths of the 15,000 people who hunt bears in Minnesota use bait. Most northern states and Canadian provinces allow the use of bait for bear hunting. In this part of the continent, forest and swamp cover is thick, and the terrain is not mountainous or open. Oaks tend to be absent or sparsely distributed, so hunters cannot sit and wait for bears to be attracted to this favorite natural fall food. In more southerly climates, hunters can use acorn-laden oaks or standing crop fields as attractants for bears. In the West, it is possible to spot and stalk bears in open or mountainous country and at long ranges. Also, western bears tend to den later than bears in northern areas, so there is more time during the fall to effectively hunt.

Regarding the ethics that revolve around the use of bait being considered too much of a sure thing; that is far from the situation in Minnesota. On average only one of four Minnesota bear hunters is successful. In years when natural foods are abundant, as they were in Minnesota in 2002, success drops to only one in seven hunters. This attests to the difficulty of bear hunting, even when bait is employed. Bears prefer natural foods to human foods, have an extremely keen sense of smell, and are generally reluctant to approach sites, including bait sites, with human scents. For persons concerned about humane harvest, baiting allows hunters to select unobstructed shots at relatively close range. If baiting were not permitted in Minnesota and hunters simply tried to shoot bears through thick underbrush, it is likely that more wounding of bears would occur.

DNR INFORMATION: 651-296-6157, 1-888-646-6367 (TTY: 651-296-5484, 1-800-657-3929) FAX: 651-296-4799

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June 11, 2003
The Honorable Richard W. Pombo, Chairman
Page Two

Regarding the concern that use of bait habituates bears to human-provided food and increases conflicts, our experience actually indicates the opposite. Over the past 27 years of regulated use of biodegradable bait for bears, there is no evidence in Minnesota that hunting bears over bait has led to more nuisance problems. With an increasing bear population and the common use of bait by hunters, bear nuisance complaints have actually declined. We attribute this in part to our public educational program on management of bear food sources such as trash and bird feed around dwellings and campgrounds. However, there are also indications that removal of nuisance-prone bears during the hunt occurs when bears are attracted to and killed at hunters' baits. These are more likely to be bears that are already prone to seek out human foods. Hence, while we discourage people from feeding bears, or providing foods that bears can acquire, we see no contradiction in allowing hunters to use bait to attract bears, because many of the bears that are so-attracted are eliminated from the population

If the U.S. Congress does outlaw baiting on federal lands, it would seriously affect our capability of managing the bear population within the state. For the past 15 or so years, the DNR has worked hard to control the growth of the bear population to prevent excessive nuisance activity in years when there is poor natural food production. Minnesota's bear population has tripled over the past two decades and is just now being stabilized by increased hunting pressure.

If the population is allowed to grow out of control, ultimately it will be to the detriment of the bears. Citizens in Minnesota have the statutory authority to kill bears on their property that are causing damage. Unfortunately, this is how the people of Minnesota regularly interacted with bears through the mid-1900s. Today, Minnesota bear populations are healthy and most people appreciate having them around. Our goal is to prevent them from once again being considered a "varmint", and we need to manage the population through hunting to do that. In recent years we have seen a decline in the number of applications for bear hunting, which further underscores the need for those people who do hunt to be able to use effective methods such as use of bait.

Some other states that have eliminated the use of bait to hunt bears have compensated by lengthening the season. This would not be practical in Minnesota. Extending the season beyond mid-October would not work because most bears are in dens by then; currently only five percent of the harvest occurs in October. Minnesota bear researchers have evaluated other methods of harvest and believe there are no alternative methods of hunting bears in Minnesota that would provide the same level of harvest.

Thank you for considering our concerns as you debate this important topic. Please feel free to contact me if we can provide more information of use to the committee.

Sincerely,

Gene Merriam
Commissioner

GM/EKB/jls

Congress of the United States
Washington, DC 20515

June 11, 2003

The Honorable Richard Pombo, MC
Chairman
House Resources Committee
1324 Longworth HOB
Washington, DC 20515

The Honorable Nick Rahall, MC
Ranking Minority Member
House Resources Committee
1329 Longworth HOB
Washington, DC 20515

Dear Chairman Pombo and Ranking Minority Member Rahall:

On behalf of the Congressional Sportsmen's Caucus and the millions of sportsmen and women conservationists across the United States, we are writing in opposition to HR 1472, legislation that would prohibit the practice of bear baiting on federal public lands. The state fish and wildlife agencies have authority and responsibility for managing wildlife, including bears, and are doing a commendable job in this regard. This authority includes most federal public lands with the exception of National Parks, and has been repeatedly affirmed by Congress in acts such as the National Forest Management Act, Federal Land Policy and Management Act, National Wildlife Refuge System Improvement Act and Sikes Act, to name a few.

Baiting is considered a legal means and method of take to control wildlife populations beyond just bears. Nine states (Alaska, Idaho, Maine, Michigan, Minnesota, New Hampshire, Utah, Wisconsin and Wyoming) allow regulated baiting as a method of hunting bears and would be adversely impacted by this legislation. The state wildlife agencies in these states have determined in their professional opinion that regulated use of baiting to hunt bears is an appropriate method to harvest bears, and they are in the best position to determine what method of harvest is most appropriate for the habitat conditions within their respective states. If these state wildlife agencies feel that bear baiting is deleterious to bear populations, they are better equipped to make this decision than the federal government. The federal government does not have the resources or on the ground expertise to make these types of area-by-area decisions and we believe that HR 1472 would be setting a bad precedent in allowing the federal government play a role in state wildlife decisions.

The intervention by the federal government in this highly successful system of wildlife management is at best unnecessary and at a minimum is detrimental to the ability of the professional wildlife managers and biologists to adequately manage their wildlife resources. For these reasons we oppose HR 1472.

Sincerely,

Robin Hayes
Co-Chairman

Mike Thompson
Co-Chairman

Jim Gibbons
Co-Vice Chairman

Leonard Boswell
Co-Vice Chairman

Don Young
Past Chairman

Collin Peterson
Past Chairman

John Dingell
Member of Congress

June 12, 2003

The Honorable Richard Pombo, MC
Chairman
House Resources Committee
1324 Longworth HOB
Washington, DC 20515

The Honorable Nick Rahall, MC
Ranking Minority Member
House Resources Committee
1329 Longworth HOB
Washington, DC 20515

Dear Chairman Pombo and Ranking Minority Member Rahall:

As members of the Congressional Sportsmen's Caucus, and on behalf of the millions of sportsmen conservationists in the United States, we are writing to register our opposition to HR 1472, legislation that would prohibit the practice of bear baiting on federal public lands. Congress specifically and repeatedly has affirmed the states' rights to manage non-migratory wildlife, including on most federal lands except for National Parks. This legislation would preempt these rights and remove science and professional wildlife management as the cornerstone of America's successful wildlife management program.

Nine states (Alaska, Idaho, Maine, Michigan, Minnesota, New Hampshire, Utah, Wisconsin and Wyoming) allow regulated baiting as a method of hunting bears and would be negatively impacted by this legislation. The biologists and professionals from the state wildlife authorities in these respective states have determined that regulated baiting for bears is an appropriate method of harvest, and in some cases virtually the only viable means to manage population densities.

As sportsmen, many different methods of hunting are employed to take into account geographic, biologic and habitat variances, and to use Minnesota as an example, without the use of bear baiting there would be virtually no harvest of black bears in the state. The forests are entirely too dense to allow spot and stalk hunting and due to long winters, the bears are generally in their dens before the fall firearms deer hunting season begins in November, where deer hunters might help harvest some bears. Thus, in the professional opinion of the state bear biologists in Minnesota, the regulated use of baiting is a necessary method to maintain a sustainable population of black bears.

As fellow sportsmen, we would encourage you and your committee to support professional wildlife management as embodied in the state wildlife agencies, and oppose HR 1472. Should you or your respective staff require scientific information on bear management, especially in the states targeted by HR 1472, please feel free to contact us.

Sincerely,

Jeffrey S. Crane
Director of Policy and Programs

The Sportsmen's Link to Congress

110 North Carolina Ave. SE • Washington, DC 20003 • 202.543.6850 • 202.543.6853 fax • www.sportsmenslink.org

Statement of Brian Bachman, President/CEO, North American Bear Foundation

The North American Bear Foundation (NABF) wants to thank Representative Collin Peterson for testifying on the behalf of responsible management of our natural resources. We believe that the states are responsible for managing the wildlife within their borders.

Minnesota has always used baiting for black bears in their management program. Since black bears came under protection and listed as a big game species in 1971 in Minnesota their population has steadily risen. It is now estimated that around

25,000 black bears now inhabit the state up from as little as 8000 animals by estimates in the early 1980's. This is at or above the goal that the Department on Natural Resources has set as a desired level. Because of the dense vegetation in the majority of the black bear range, other hunting techniques are not as effective as they are in other parts of the country- Baiting allows a hunter to get close to the animal making for positive identification and proper shot placement thereby reducing the chance of wounding loss. With this being said, baiting of black bears is nowhere near a sure thing. Of the 14,639 licensed hunters in 2042 only 1915 bears were harvested with a hunter success rate of 14%. Application permits have fell off this year with fewer applying than the number of licenses available. There is some speculation as to the reasons for this, but the low hunter success has to play a role. Without baiting you will see hunter success decline to where the majority of the black bears killed will be nuisance bears. The North American Bear foundation does not want the black bear to be return to varmint status as they had been for many years.

Most people will agree that we need black bears inhabiting our forests, but when they show up in their yards they are sometimes not so supportive. As bear populations continue to rise and people move out into natural areas, human/bear conflicts will increase. Hunting helps reduce these conflicts by keeping populations stable and instilling the natural fear of humans. Minnesota has found the use of baiting a valuable tool in managing their black bears. As a point of interest, baiting for black bears is not a vanishing method for hunting them, in fact after the NABF consulted with the State of Arkansas in 2001 they chose to allow baiting for black bears to help manage their increasing black bear population. They have been very pleased with the results over the last 2 years.

State wildlife departments have the knowledge and ability to manage our wildlife effectively and humanely, keeping the balance between the wildlife and the people that inhabit their states.

Thank you, if you have further questions please do not hesitate to contact me.

Mr. PETERSON. Thank you, Mr. Chairman. As you know, 1472 would prohibit the use of bear baiting on Federal public land, and my home State of Minnesota is one of 10 States that allow bear baiting.

I have been involved in this issue for some time, not directly on baiting, but I served in the Minnesota Senate for 10 years and was chairman of the Fish and Wildlife Committee and we had many go-rounds over bear hunting. Back in 1977, we set up the current quota system where we split the State into areas so that we could better manage the population, and it has been fairly successful. Although at the time we started, back in 1971, they changed the bear from a varmint, basically, that could be shot any time it was causing problems, it was basically not protected, we made it a big game animal and set up the possibility for hunting seasons. I think in 1977 we set up the quota. But at the time we made it a big game animal there were 8,000 bear in Minnesota. Today, there are 25,000 bear. So what has happened, through the management and paying attention to the bears, we have actually tripled the population in Minnesota.

In Minnesota, because of the cold weather and the early winter and so forth, there is really no other way to hunt bears other than baiting. You are not going to see them. They go to their dens early. Having a longer season is not going to solve it. We have 400,000 deer hunters in the woods every fall for a week or 10 days and they see very few bear. So if we didn't have this ability to manage, we would not be able to hunt or have any way to control the population.

Now, with 25,000 bears we are actually now above the level that the Department has used as an optimum population. Last year, the people that applied for permits was down considerably because the

year before that the success rate went down to 100 out of seven being successful. And because they had such a poor harvest, the Department actually gave everybody a second bear permit to try to increase the harvest. This year, the people that applied went from 22,000 down to 14,000. So we are having problems getting enough hunters into the field and being able to manage these bears the way it is without having this extra burden put on top of us.

As Mr. Saxton said, it would be a very bad policy for the Federal Government to get involved in managing species that are not migratory and are native to the State. That is something the States are much better at. They know what the situation is. And there is no way you can have a Federal rule that is going to work in all the different States.

What has been the big issue in Minnesota over the years when I was there, we had a bunch of people that wanted to hunt them with dogs and we made a decision that hunting with dogs was a much less preferable way and less humane than baiting, because they actually start off with a feeding situation, they start the dogs there and then run them all over through the woods and then run them up a tree and shoot them, which I would argue is not, at least we decided in Minnesota that this is not the way that things should be done. Some States allow running them with dogs still. I think there are five or six States that do that.

In terms of feeding the bears, this whole idea that this is going to cause some kind of problem, unfortunately, we have people that feed bears. They are not supposed to but they do. We also have bears, especially when we get this many bears, where they get into people's groceries. They break into these cabins that are not occupied all the time, and these bears become a problem because they become less afraid of humans and they are the ones that interact and can cause problems. We also have a lot of bears ending up in garbage dumps feeding out of that.

Bears are very much sensitive to human scent and the ones that have not been fed and have not been around humans are unlikely to come into the bait if there is any kind of human scent around. The bears that you are going to harvest are more likely the bears that have been fed by people or have been in garbage dumps or have been breaking into cabins, and so forth, and are the ones causing the most problems in their interaction with people.

So it would cause us a lot of problems in Minnesota if this bill passed. I don't think it makes sense. The Department of Natural Resources is very much against this, the American Bear Foundation is very much against this. They have done a lot of work to improve habitat and the situation status of bears. And what the Bear Foundation is concerned about is that the bear is going to go back to the status that it had before, which is a nuisance, a varmint, that will be killed any time that it is doing damage. And in Minnesota the law is that if a bear is doing any kind of damage, you can take that bear whenever you want, even though it is now a big game animal.

So I think this is a misguided piece of legislation. I think the people that have proposed it are not familiar with what the situations are in certain States like mine, and we would just as soon

they leave us alone and let the State do what they do best in managing these resources.

So thank you, Mr. Chairman, and appreciate the time to testify.

[The prepared statement of Mr. Peterson follows:]

Statement of The Honorable Collin Peterson, a Representative in Congress from the State of Minnesota, on H.R. 1472

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today against H.R. 1472, legislation that would prohibit the practice of bear baiting on Federal public lands. My home state of Minnesota is one of ten states that permits the regulated hunting of bears through baiting. As a matter of fact, as a Minnesota state Senator I spearheaded the effort to legalize a hunting season for bears and was a strong supporter for the use of baiting as a means to control a growing population of black bears.

The Minnesota black bear population is estimated at a stable 25,000, that is 17,000 more bears than when the practice of baiting was legalized. The primary means of harvest, accounting for virtually 100 percent of the bears taken by sport hunters in Minnesota in 2002, is through the use of baiting. The dense forests and the long winters in Minnesota take away other harvest options that are used by hunters in other states, such as spot-and-stalk and relying on deer hunters to harvest bears in the fall. Ideal bear habitat in Minnesota consists of densely wooded lowland conifers where visibility is extremely limited, and because of the long winters, bears are usually in their winter dens before the deer hunting season begins in November.

Contrary to the belief of many non-hunters, and thanks in part to misleading and emotional representations by anti-hunting groups, harvesting a bear using bait is not easy. Bears have a keen sense of smell and hearing and generally are wary of humans, so bait hunters must be skillful and patient to harvest a bear. The Minnesota Department of Natural Resources (DNR) has issued specific guidelines and restrictions to regulate the use of bait for bear hunting, including requirements that the hunter must remove any unused bait once the baiting site is no longer in operation. To illustrate the difficulty in harvesting black bears from bait, in the state of Minnesota in 2002, only 14 percent of the bear hunters were successful in harvesting a bear.

If it were not for sport hunting and bait use, Minnesota's bear population would be expected to grow at a rate of approximately 20% percent per year. Through the use of a quota system for most of the state, and requirements to tag and report all bears harvested within the state, Minnesota's Department of Natural Resources (DNR) is able to monitor and control the harvest of bears to reflect acceptable social and biological carrying capacities.

The Minnesota Department of Natural Resources authorized licensed Minnesota bear hunters statewide to take two bears in 2001, in an attempt to increase the harvest and stabilize the population. Since then, the DNR has continued a two-bear limit in portions of the state where they do not set a quota on licensed hunters. In 2001, there were nearly 27,000 applicants for a total of 20,710 permits. The DNR ended up with 16,510 licensed hunters (not all hunters drawn end up purchasing licenses) and they harvested 4,936 bears. We have seen a declining number of applicants for bear licenses over the past four years (2000—29,275; 2001—26,824; 2002—21, 886; 2003—14,968). This year, for the first time, we had fewer applicants than total permits available, therefore the DNR offered the leftover licenses over the counter to non-applicants who would like to purchase them.

In 2002, hunters harvested 1,915 black bears or approximately 7.5% of the estimated Minnesota population. According to the Minnesota DNR bear experts, this is not only a sustainable harvest, but necessary to keep the bear population in check.

Approximately 13 percent of land open to bear hunting in Minnesota is Federally owned. In the three most successful units in 2002, units 25, 31 and 51, ranged from 7% to 37% percent of the land is in Federal ownership. By eliminating baiting as a means to harvest bears on these Federal lands, a necessary management tool would be taken away from the Minnesota DNR and bear populations could increase beyond the acceptable carrying capacity.

Congress specifically and repeatedly has affirmed the states' rights to manage non-migratory wildlife, including on most Federal lands except for the National Parks system. This legislation would preempt these rights and set a dangerous precedent. Sound science and professional wildlife management through the state wildlife agencies has been the backbone of America's successful wildlife management program, and regulating the method of harvest is a key tool in their

management options. The state wildlife agencies that would be affected by this legislation have determined that regulated use of baiting to hunt bears is an appropriate method to harvest bears, and in the case of Minnesota, the only viable option to use harvest as a management option for black bear populations.

The history of species protection and recovery in America is a tribute to these professional state wildlife agencies and the sportsmen who willingly pay the license fees and excise taxes to support wildlife conservation. The American black bear, like the white-tailed deer, wild turkey, elk and many other game and non-game species, are great examples that this system is working, with stable black bear populations across its entire range. So, let's leave the management of black bears to the state wildlife professionals and view H.R. 1472 for what it really is, a thinly veiled attempt by the anti-hunting extremists to get the Federal Government to do what they clearly could not at the state level.

Mr. Chairman and my fellow colleagues on the Subcommittee, I urge you to let sound science and wildlife professionals manage our wildlife resources, and therefore hope that you would join me in opposing H.R. 1472.

Mr. GILCHREST. Thank you, Mr. Peterson. Mr. Moran.

STATEMENT OF THE HON. JAMES P. MORAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. MORAN. Thank you very much, Mr. Chairman.

Mr. Pallone mentioned that we had, what, almost 90 cosponsors. We are up now to almost 120. In explaining the practice to colleagues, most of them immediately understood. This is a very unfair, unsportsmanlike method of hunting, with one exception. I asked Barbara Lee yesterday, our colleague, if she would go on the bill to ban bear baiting, and she was got very emotional and had a very negative reaction, which I was surprised at. But in further discussion I had to explain that I was talking about bear baiting, not bare bathing; that I was using the term B-E-A-R, while she thought I was using B-A-R-E, but when we cleared that up, she went on as a cosponsors as well. So I want to make sure what we are trying to do here.

Mr. GILCHREST. It is that Massachusetts accent.

Mr. MORAN. I think that is what the problem was, Wayne. I think that this is an important piece of legislation. It prohibits a dangerous and an unsportsmanlike practice. I want to thank Representative Gallegly for his hard work in raising awareness of this issue.

For many years, every Federal land management agency, including the U.S. Forest Service, the National Park Service, the partner Bureau of Land Management, and the U.S. Fish and Wildlife Service have issued countless warnings to the public discouraging the feeding of bears. So this bill simply establishes a consistency of policy among all those Federal agencies.

At the same time that we have these warning issued, though, hunters continue to be allowed to set up bait stations on Federal lands in States where bear baiting is permitted. These bait piles are known to consist of hundreds of pounds of human scented food, often including pastries, fruits, grease, and animal carcasses that are simply dropped on the forest floor or loaded into large cans awaiting the attention of bears and other animals. There are very few differences between bait piles and what a bear might find in a garbage can, dump or campground. In fact, one guide boasts on his Web site he goes through ten tons of pastries and eight tons

of meat so that he can guarantee a successful shoot to urban hunters.

But unlike garbage cans or campground trash stations, these bait piles often are not even picked up at the close of the hunting season. Bears, as we know, and as Mr. Peterson said, are born with a natural wariness of humans. The taste for human food, though, causes bears to lose their natural precaution and become emboldened in approaching people and their property. Hungry human-fed bears cause millions of dollars in property damage each year and pose a serious safety threat, occasionally result in attacks on humans. They get labeled as nuisance animals, they come into conflict with people so that they are killed as a means to protect people and their property.

In recognition of this fact, the National Park Service developed a number of bear management plans that include such techniques as installing bear-proof dumpsters and bear-proof garbage cans. Since adoption of these policies, the number of contacts with humans and bears has decreased dramatically. Those have been common-sense methods. This is another common-sense approach.

In my home State of Virginia, the Department of Game and Inland Fisheries became aware of this dangerous practice where they become used to human food, so they made it illegal to use bait as a training tool for hunting dogs. And in their rationale, they said to protect the public as well as bears, we need to avoid the dangers of conditioning bears to finding food, human food, around human habitat. Artificial feeding and resulting concentrations of black bears increases nuisance complaints and chances of bears interacting with humans. And it is working. This is consistent with that type of policy.

But beyond that, beyond that common-sense practical method, the practice of bear baiting really calls into question the sporting nature of hunting. Many wildlife advocates and hunters alike have compared the practice to shooting fish in a barrel. A lifelong hunter, the former Governor of Idaho and the former Secretary of the Interior, Cecil Andrus, has stated, in my opinion, bear baiting does not fit within the definition of hunting as a sport.

And just as Federal regulations prohibit duck hunters from baiting for waterfowl with corn and millet, because it virtually guarantees a successful hunt, so there should be a law prohibiting bear baiting on Federal lands. That is why we have gained a number of cosponsors on this bill. In the case of bears and waterfowl, the use of bait gives hunters an unfair advantage because of the animals' overwhelming attraction to an easily obtained and highly appealing food source.

Shooting a bear in the back while its head is stuffed in a garbage can to feed does not constitute a fair sport. I think we understand that. It is not ethical. So opponents of this legislation, we know, are going to argue this should be entirely left up to State wildlife managers, but Congress has already spoken decisively on these kinds of issues in the past. Since the 1930's, the Federal Government has regulated the hunting of migratory waterfowl, and in 1971 we reacted to restrict the shooting of animals with the use of aircraft. This is not treading on untrodden ground. This is clearly consistent with previous legislation with regard to hunting regulations.

So what we are trying to do is to establish a uniform policy on Federal land in all 50 States. It is inconsistent and detrimental to public safety that Federal land management agencies demand citizens not to feed bears but then make an exception for bear baiters. Our legislation would protect the integrity of the bear population, the public safety, and would reduce the number of dangerous and costly encounters with humans visiting or living near Federal land.

So, Mr. Chairman and Committee members, I strongly urge your support for consideration of this bill to rid our Federal lands of what is a dangerous and an unsportsmanlike practice. It is wrong, it is cruel, and I think it runs counter to the American principle of fair play.

Thank you.

[The prepared statement of Mr. Moran follows:]

Statement of The Honorable James P. Moran, a Representative in Congress from the State of Virginia

Mr. Chairman, thank you for holding this hearing and allowing me to address the Subcommittee today regarding the "Do Not Feed the Bears Act of 2003," a vital piece of legislation that would prohibit the dangerous and unsportsmanlike practice commonly known as bear-baiting. I would also like to give a special thanks to Representative Gallegly for his hard work and dedicated efforts in raising awareness of this issue within the halls of Congress.

For many years, every Federal land management agency including the U.S. Forest Service, the National Park Service, the Bureau of Land Management and the U.S. Fish and Wildlife Service have issued countless warnings to the public discouraging the feeding of bears.

At the same time, however, licensed hunters continue to be allowed to set up bait stations on Federal lands in states where bear baiting is permitted. These bait piles are known to consist of hundreds of pounds of human scented food, often including pastries, fruits, grease and even animal carcasses. They are simply dropped on the forest floor or loaded into large drums, awaiting the attention of area bears and other animals. There are few differences between bait piles and what a bear might find in a garbage can, dump or campground. And unlike garbage cans or campground trash stations, these bait piles are often not picked up after the close of bear hunting season.

Born with a natural wariness of humans, the taste for human food causes bears to lose their natural precaution and become emboldened in approaching people and property. Hungry, human fed bears cause millions of dollars in property damage each year and pose a serious safety threat, occasionally resulting in attacks on humans. Labeled as nuisance animals, bears that come into conflict with people are often killed as a means to protect people and property. In recognition of these facts, the National Park Service has developed a number of park bear management plans that include such techniques as installing bear-proof dumpsters and bear-proof garbage can covers on garbage cans in parks where bears exist. Since adoption of these policies, the number of reported bear-human encounters has decreased dramatically.

In my home state of Virginia, the Department of Game and Inland Fisheries has been aware of the dangerous nature of human/bear encounters for a number of years. Banning the practice of bear-baiting in 1999, the department more recently made it illegal to use bait as training tool for hunting dogs. As stated in their rationale for adopting these regulations, the Department acknowledged that "To protect the public, as well as bears, the department needs to avoid the dangers of conditioning bears to finding food around homes. Artificial feeding and resulting concentrations of black bears has been identified to increase both nuisance complaints and chances of bears injuring humans." The effect of these new pro-active Virginia regulations mirrors our effort to ban the feeding of bears on Federal land.

Aside from endangering the public's safety, the practice of bear-baiting also seriously calls into question the "sporting" nature of this hunting method. Many wildlife advocates and hunters alike have compared the custom to "shooting fish in a barrel." A lifelong hunter, the former Governor of Idaho and former Secretary of the Interior, Cecil Andrus has stated, "In my opinion bear baiting does not fit within the definition of hunting as a sport."

Just as Federal regulations prohibit duck hunters from baiting for waterfowl with corn and millet because it virtually guarantees a successful hunt, so should there

be a law prohibiting bear-baiting on Federal lands. Rep. Gallegly and I, along with a large number of cosponsors of this legislation, are seeking to extend this logical principle to bear-baiting. In the case of both bears and waterfowl, the use of bait gives hunters an unfair advantage because of the animals overwhelming attraction to an easily obtained and highly appealing food source. Let me be very clear, shooting a bear in the back while it's head is stuffed in a garbage to feed, does not constitute a fair chase.

Opponents of this legislation will argue that hunting laws should be left entirely up to state wildlife managers and that adoption of this bill would represent an unprecedented effort by the "anti's" in Congress to over-regulate hunting in the U.S. Besides the fact that this legislation has the broad support of over 120 cosponsors representing Republicans and Democrats of all stripes, Congress has already spoken decisively on these issues in the past. Since the 1930's, the Federal Government has regulated the hunting of migratory waterfowl and in 1971, Congress acted to restrict the shooting of animals with the use of aircraft. Clearly this legislation is not treading on untrodden ground.

In closing, of the states where bear hunting occurs, a large majority have already banned the practice of bear baiting. The "Do Not Feed the Bears Act" would uniformly implement these states' sound decisions on all Federal land in all 50 states. It is inconsistent and detrimental to the public's safety that Federal land management agencies demand citizens not feed bears, while making an exception for bear-baiters. Our legislation would protect the integrity of the bear population, the public's safety, and would reduce the number of dangerous and costly encounters with humans visiting or living near Federal land

Mr. Chairman and present Committee members, I strongly urge your support for consideration of this bill to rid our Federal lands of this dangerous and unsportsmanlike practice. It is wrong. It is cruel. And it runs counter to the American value of fair play.

Thank you very much for your time.

Mr. GILCHREST. Thank you, Mr. Moran.

I ask unanimous consent to allow Mr. Kind to sit with the Subcommittee. Without objection.

Gentlemen, thank you for your testimony this morning. We may have just a couple of quick questions. I am not sure we will have too many for the Members, but, Mr. McKeon, can you tell us what it is your legislation would do, after it is signed into law, to large cats that are now in captivity?

Mr. MCKEON. Make it illegal to transport them from one State to another, and I think will lessen their commercial value. I don't know why they were originally excluded in the act, but I think it will lessen their commercial value and hopefully then people will not have the desire to keep them in unsafe conditions.

Mr. GILCHREST. So we are not looking at confiscation of animals that are now in captivity in other than unsuitable places?

Mr. MCKEON. Well, this doesn't go as far as we would probably like to go, but at the Federal level it is probably all that we can do right now.

Ms. Hedren will talk later, and she knows much more about this than I do. I have been to her preserve where she does take in animals and keeps them in a safe environment that is good for the animals and for people. You don't walk up and try to pet them, you don't get close to them, and that is how they should be kept, rather than in a closet or in somebody's little backyard. I think this bill will discourage that.

Mr. GILCHREST. We appreciate the legislation that you have proposed here and will move it through in an expeditious manner.

Mr. MCKEON. Thank you very much.

Mr. GILCHREST. Thank you, Buck.

Mr. Peterson, is there any restriction in Minnesota State law on the kind of bait that can be used for bears?

Mr. PETERSON. Yes, it has to be biodegradable. So that feature is in there.

Mr. GILCHREST. If it is biodegradable, can it be left? I have seen, in an interesting fashion in Idaho, not in Minnesota, where somebody, and I guess it doesn't make any difference in the long run, but somebody spent about 4 hours filling up their pickup by unwrapping Twinkies. They spent that amount of time putting the Twinkies in the pickup.

Mr. PETERSON. I am not aware of anybody in Minnesota using Twinkies. We are not that kind of people, so.

Mr. KIND. Mr. Chairman, that sounds like the Twinkie defense to me.

Mr. GILCHREST. Well, these two fellas were from Nebraska, so I don't know if there is anybody here from Nebraska. I guess you leave the Twinkies for the snack food at your schools.

The other question dealing with that, and I guess we would have to look to see if Twinkies are biodegradable, but do they clean up after the hunt? Do they go in and take away what is left over?

Mr. PETERSON. Yes. I have not heard of any instances where we have had problems with people leaving bait out in the field. We have quite a few people that do this professionally, that guide. We have a lot of people that do it. I have two brother-in-laws that hunt bear every year and usually are successful on Federal land. So the people are, I think, pretty ethical in the way they go about this in Minnesota.

But the point is, and I don't know if I made this clear enough, if you pass this, we have the Chippewa and Superior National Forests in Minnesota, and that is a lot of where this hunting goes on. If we don't have this way to control bears, because it is the only way we can hunt them and control the population, we are going to have way more bears than we know what to do with. Because bears are going to get into dumps, they are going to be fed by some people, they are going to move out into the area where there are private people and we are going to have a lot of problems. We already have three times as many bears as we had when we started, and maybe we were too conservative in giving out permits to let this thing get out of control a little bit, and now we don't have the hunters out there.

It would really tie our hands, cause a lot of problems, and would be worse for the bears in the long run because people would start shooting them because they are causing problems in their backyards or at garbage dumps, and like we used to do before when they didn't really have a status.

Mr. GILCHREST. Overpopulation.

Mr. Moran, just one quick follow-up. On the Eastern Shore of Maryland, we don't have a problem with bears, but as Mr. Saxton mentioned, we really have an overabundance of deer, we have Mute swans that really wreak havoc on the subaquatic vegetation and other water plants, and now a problem with resident geese. So to some extent we have increased the hunting season to protect the ecosystem of the Chesapeake Bay, and we also allow baiting of deer during much of the hunting season. In your mind, do you see any

reason that that same type of management shouldn't be applied to a bear population?

Mr. MORAN. It is a very good question, Chairman Gilchrest. I think it is a matter of judgment and what strikes us as fair and reasonable.

There is an overpopulation of deer, clearly, and there is really too much contact between deer and residential areas. Some of that is because we are developing, as you know, in areas that used to be fields, and so on, where they were accustomed to living. But I think the deer population is out of control in a number of areas and we have to take measures to—not only for the deer's sake but for many other reasons, you have to have a reasonable control of the population.

With regard to bear baiting, though, I think the difference is that this presents a real threat to human safety. You are deliberately attracting bears out of rural areas, where, as Mr. Peterson said, you don't find bears like you find deer when you drive down a country road. But you are deliberately attracting them, getting them almost addicted to human food, and then they lose their natural wariness of humans and they destroy property and you can have serious encounters with human beings.

That is one of the purposes of this, and that is why so many States have banned this practice for public safety reasons. Deer don't present much of a threat to human beings, and so I think that that distinction is an important one. Plus the fact that the bear population in most areas is not something that has been out of control, and bears generally would much prefer to be in a clearly rural area away from human scent, away from human activity. Deer have become almost domesticated in some areas.

So I do think there is a distinction. And at this point consistent Federal policy and good sound judgment and even ethical practice dictates that we ought to have this kind of restriction.

Mr. GILCHREST. Thank you very much, Mr. Moran.

Mr. PETERSON. Mr. Chairman.

Mr. GILCHREST. I am really over my time, Mr. Peterson. But you can probably include that in a question that some other member has.

Mr. Pallone.

Mr. PALLONE. I just wanted to ask Congressman McKeon about this Los Angeles Times article that basically exposed a black market in the traffic of exotic cats that was essentially fueled by illicit private breeders. I read the article, and I have it in front of me, but is this widespread? Do we have any evidence to the extent to which this kind of illicit breeding is that this covered?

This is talking about a specific case, but is there evidence that this type of practice that was in that article is widespread or there are other instances of it?

Mr. MCKEON. I guess "widespread" is a relative term, but I would say, yes, it is widespread. And, again, Ms. Hedren will be able to address that in more detail. She was telling me some stories yesterday that kind of curl your hair when you hear things that are going on. Like I say, widespread, if you talk about 20,000 bears in one State and 5,000 tigers in the country, but relatively, I would say yes, it is widespread. Enough to be a problem.

Mr. PALLONE. OK, thank you.

Mr. GILCHREST. Thank you, Mr. Pallone.

Mr. Saxton.

Mr. SAXTON. I would just like to use my time to put something in the record and then let Mr. Peterson say what he wanted to say at the end of your time.

Our great staffer here, Harry Burroughs, took the time to call all the wildlife or bear biologists in each of the nine States where baiting is permitted, and in Alaska, for example, where the estimated bear population is between 100,000 and 200,000 total bears, harvested was 2,460, and 414 of those bear were killed over bait. In Idaho, there is an estimated 23,000 bears, and there was a total harvest of 1,830, and 455 were killed over bait. In Maine, there are a total of 23,000 bears, 3,903 were estimated harvested, and 3,173 of them were killed over bait. In Michigan, a total estimated population of 17,000 bears, there were 2,221 bears harvested, and 1,998 were killed over bait. In Minnesota, an estimated 25,000 bears, 1,915 were harvested, 1,900 of them killed over bait. In New Hampshire, there are 5,000 bears, estimated, 338 were taken, and 92 killed over bait. In Utah, there is a 3,500 estimated bear population, 85 bears harvested, only 8 were killed over bait. In Wisconsin, 13,000 estimated population, 2,437 harvested, 1,720 killed over bait. And in Wyoming there is no estimated bear population, but there were a total of 324 taken and 171 were killed over bait.

I think this demonstrates the point I was trying to make in my earlier remarks, that States have different needs in terms of wildlife management and these numbers point out that the policies and the hunting patterns in different States reflect those different needs. So, again, it seems to me to have a Federal policy would eliminate the flexibility that States have on this issue and is incorrect.

I yield at this point to Mr. Peterson.

[A chart submitted for the record by Mr. Saxton follows:]

BEAR HUNTING				
STATE	BEAR POPULATION	BEARS HARVESTED	HARVESTED WITH BAIT	U.S. FWS LANDS
ALASKA	100,000-200,000	2,460	414	YES
IDAHO	23,000	1,830	455	NO
MAINE	23,000	3,903	3,173	NO
MICHIGAN	17,000	2,221	1,998	NO
MINNESOTA	25,000	1,915	1,900	NO
NEW HAMPSHIRE	5,000	338	92	NO
UTAH	3,500	85	8	NO
WISCONSIN	13,000	2,437	1,720	NO
WYOMING	UNKNOWN	324	171	NO
TOTAL	209,500-309,500	15,513	9,931	N/A

Mr. PETERSON. Thank you, Mr. Saxton, I appreciate that. And as he pointed out, in Minnesota, just about the entire harvest was over bait, which corroborates what I said. It will take away our management tool.

I really disagree with Mr. Moran's assertion that deer do not cause danger to human population. In these areas where we have all this deer, we are having car accidents and people injured. There is way more people injured by deer than by bear because of all the interaction they have with automobiles. So if his theory is that it is somehow or another good to eliminate baiting of bear on Federal land, then it seems to me it would also be good to eliminate baiting of deer or any other wildlife, if you are going to follow that logic, which I don't support. But it is hard for me to understand why you would pick out bear and not pick out these other species, which in

Minnesota we don't allow baiting of deer and is very much opposed by our hunters. They would rather hunt in the normal way.

But in the case of bear, as I said earlier, if we don't have this, we are not going to have a way to control them. And what will happen, Mr. Moran, is that the bear that are now in the State forests that are not interacting with humans are going to be forced, when we get this population explosion, will go out into the private area, just like happened with timber wolves.

We had timber wolves way outside of their range because we had way more timber wolves than we should have and we were prohibited from shooting them or trapping them. That is now in the process of being changed. But I had timber wolves down where I grew up, where it would be unheard of. It was 100 miles out of their range. But we had way too many of them. And that will happen with bears if you eliminate baiting in Minnesota on the Federal land. We are going to cause more conflict with humans and more problems, not less. So I want people to be clear about that.

Mr. GILCHREST. Thank you, Mr. Peterson. Thank you, Mr. Saxton.

The Chairman of the full Committee, Mr. Pombo.

Mr. POMBO. Thank you, Mr. Chairman. Mr. Peterson, just so I understand this, when you talk about the bear hunting that goes on and the baiting, is that in a suburban area? Are you trying to draw the bears into suburban areas?

Mr. PETERSON. No. There is no bear hunting that goes on anywhere—well, there is some north of the Twin Cities, 50, 60 miles. But most of it goes on up in the northern forests, in the Superior and Chippewa National Forests, which is a big area, northeastern Minnesota, north central Minnesota. That is where the majority of this hunting goes on.

What we have seen in the last couple of years, with this increase in population, we have seen the bears now move out into the private areas. For example, I have a bee farmer, a honey farmer up in Greenbush, that is imploring me to come up and help him shoot bears because he has too many bears getting into his honey and causing problems. And this is going to be what is going to happen. You are going to see more and more of that. But there is nothing going on in the urban or suburban areas.

Mr. POMBO. So when they talk about the bears that get used to human food, it is not the bears that are in the suburban area?

Mr. PETERSON. No, it is generally, if that is happening, it is because they are in the garbage dumps. That has been the traditional problem, and you do have some people in the city that don't know any better that feed them. They have a cabin up north, or whatever. And we try to educate them not to do that. It is not our people up there that are doing it, it is people that come up for the weekend out of the city that don't know any better that do that, and then we have problems.

Some of these cabins that sit empty during the week and the bears might break into them and get into the food. And as I said earlier, the ones that are likely to be drawn into the bait are these bears that have gotten into food not by baiting but have gotten into human food by other reasons that are more likely to come into the bait. Those are the ones that are causing us troubles in the first

place. So the management ends up taking the bears that are the ones that probably should be taken, that are going to cause us problems.

Mr. POMBO. So if the bears are in the garbage dumps and near the suburban areas, there is not a season on those bears?

Mr. PETERSON. In Minnesota, we have a quota by areas, and there is not hunting that I am aware of that goes on around or in the metropolitan areas.

Mr. POMBO. But if a bear becomes a problem?

Mr. PETERSON. They will shoot them. The law allows you to shoot a bear that is causing you a problem in your house or backyard or is causing some kind of problem in an urban area.

Mr. POMBO. So you are talking about two separate areas of the State and different types of management?

Mr. PETERSON. Yes. But the bears very seldom get into the Twin Cities Metropolitan Area. We have more problem with deer. Deer is a big problem there. We have had to have archery people go in there and shoot them early in the morning so people aren't offended to try to protect them from themselves where this is getting out of control.

And, as Mr. Gilchrest mentioned, we have a big problem with Canadian geese now. But primarily in the Twin Cities area it is deer and geese. The bear don't go into—moose sometime get in there and run around, but I don't know of a bear.

Mr. POMBO. But it is your position that this is an issue that should be left to the State wildlife management?

Mr. PETERSON. Absolutely. If we don't have this ability to do this, we are going to basically not be able to harvest bears at all. And what is going to happen is they are going to move out into the private land area, in my district, basically. They are going to move out of Oberstar's district into my district and they are going to cause all kinds of problems with livestock, with bee farmers. And that is what is going to happen if we don't have a way to harvest them and keep the population in check.

Mr. POMBO. Mr. Moran, just quickly, just so I understand what your position is in terms of the deer baiting, what Mr. Gilchrest was talking about, that—it is your position that that is part of the management tool that they have in Maryland, and that is OK in that particular case? I am not trying to lead you, I am just trying to understand.

Mr. MORAN. As I said, I think this is a matter of judgment, Mr. Pombo. And at this point, I think there is a difference between the deer population and the bear population. And I think to some extent we are creating the problem with the—with bear baiting. We have a problem with deer population in a number of areas. I don't think we ought to deliberately create one by getting bears accustomed to human food. And you see a number of ads of hunters advertising an almost guaranteed kill of bears. And the way they do that is by deliberately attracting bears into areas where there is human food. And it is—I think that, at this point, it would be in the public's interest, and I think would be consistent policy for the Federal Government to ban that form of bear baiting because I don't think that is consistent with normal hunting practice. A number of people who are far more expert than I have said that. And

the majority of States have banned it. So I think makes sense to have a consistent Federal policy, only on Federal land.

Mr. POMBO. Thank you. I was not aware that they did baiting on deer in Maryland. I hadn't heard of that before, but that is an interesting twist to this.

Thank you, Mr. Chairman.

Mr. SAXTON. [Presiding.] Ms. Bordallo.

Ms. BORDALLO. No questions.

Mr. SAXTON. Mr. Kind.

Mr. KIND. Thank you, Mr. Chairman. I want to thank the Chair and Ranking Member for allowing me to sit up on the dais today.

I do appreciate the well intentions of the authors of what you are trying to get at, but I would have to concur with Mr. Peterson. Obviously, as a Representative from Wisconsin, it is one of the States that do allow, through the State and wildlife agencies, bear baiting. It really is a management issue.

Just to preface my remarks, I have never bear hunted myself, although I love to hunt and I love to fish, but I do know a lot of people who do. Those who are familiar with bear hunting will be the first to admit it is a very difficult sport to go out in the woods and try to find them, locate them. Typically, they are in very thick terrain, thick underbrush, in order to locate them.

But this really is, as Mr. Peterson has already testified to, a very crucial management tool in the States. We need to remind ourselves, however, that it has been long-standing policy of Federal land management agencies to defer to State agencies in the management of their own fish and wildlife within the State borders. And I see Mr. Hogan is here, Deputy Director of Fish and Wildlife, already the Park Service and Fish and Wildlife have the authority they need to ban baiting in the national parks throughout the Nation, as well as the refuge systems throughout the Nation. But it is not an issue that has gone without much thought and consideration. In Wisconsin alone, each county, of 72 counties, has their own conservation offices in the county. The State itself has a conservation board. The DNR holds hearings every year, throughout the entire State, public hearings, where people can come out and testify with regard to these management practices of wildlife and fish in the State. There is a lot of vetting and consideration that takes place, at least in the State of Wisconsin, in regard to the practice of what is being done out in the field.

This is a growing problem, as Mr. Peterson testified, in northern Wisconsin especially, the management and control of the bear population. Just last year we had two kids who were assaulted by bears in northern Wisconsin, one that was mauled pretty badly.

Last spring in my hometown of La Crosse, which is a fairly large urban city, one of the elementary schools just on the outskirts of town, it was quite a thrill for the kids during recess when a black bear was found meandering through the field right next to the school. DNR and law enforcement were called out in order to track down the bear. It was tranquilized and tested, and it was found to be rabid.

Just 2 weeks ago, there was a relative of mine in northern Wisconsin who actually had to kill a bear at his doorstep because it was very aggressive, and it was trying to get into the house, and

there was a young child in the house at the same time. So these issues have been vetted, and I think well-thought-out, in the States that allow this type of baiting. And I think we need to be very careful on what we are calling here the one-size-fits-all approach given the uniqueness of each State.

Mr. Moran, I appreciate your intentions, the motivation behind the bill and that, but even you are saying that, as a matter of judgment, it should be fair and reasonable. I think that is the standard that is being applied in all the States that do allow some form of bear baiting. Is it fair and reasonable given the management problems we now have in controlling the bear population? I think that is really what is at stake right now. Do we really want to instill the value judgment or perception here in Washington on the various States that might have different unique challenges in controlling this population? One that, if it does get out of hand, we are going to be see more incidents of what I just described here today.

Mr. Peterson, in the question for you is what is—I am not as familiar, with what the procedure is in Minnesota, but is there a similar type of vetting process in Minnesota, where there are public hearings held throughout the State, giving the public a chance to come out and comment in regard to wildlife management issues?

Mr. PETERSON. When I was Chairman Of Fish and Wildlife Committee, we went to Wisconsin and studied your system. You have a process where your people are much more involved than ours, but the DNR goes out and holds hearings on the different seasons, not as structured as yours and not by county, but they do go out and allow people to have input. And it is—we were harvesting, I think, about 3,500, 4,000 bears, something like that. Last year it went down to 1,900. They tried, as I said, to give people two permits, and this year, for whatever reason, the application for licenses went from 23,000 down to 14,000. I think because the success was so bad the year before; I think one out of 7 hunters were successful. So it is not an easy thing. Normally—

Mr. KIND. I would agree with you. It is a very difficult sport. It is hard to find them to begin with, and when do you, it can be very dangerous with the hunting of bears. So I certainly appreciate the members' testimony today and the motivation that might be underlying the legislation, but I think we need to be careful in regard to establishing a one-size rule on all the States, given the unique challenge that is some of the States are facing.

In regard, to the deer population, we had close to 15,000 automobile accidents in Wisconsin because of the exploding deer herd there. We are baiting, but for a different reason, because of the spread of chronic wasting disease in the State, and we don't want the congregation of deer in certain locations for fear that the disease is going to spread. But, again, that is a management decision that had to be made given the unique situation in Wisconsin. I think that is how we need to look at this, on a State-by-State basis, and give some credit to the State agencies and to the public in the various States, who have to live with the rules within their own borders.

And, again, I appreciate you allowing me to sit on the Committee today. Thank you.

Mr. SAXTON. Mr. Gallegly.

Mr. GALLEGLY. Thank you very much, Mr. Saxton.

I would like to ask my good friend from Minnesota, Mr. Peterson, a couple of questions. But before I do, I would like to preface my questions with a statement. That is, the record is very clear on my involvement with sporting activities. This is my 9th term on this Committee. I have served with several chairmen, including one Ranking Member that ended up as the Secretary of the Interior. My voting record is one I am very proud of, and I think is consistent with sportsmen across this Nation for over 17 years. However, this particular issue, I believe, has really pushed the envelope with me. And that is the reason that I introduced this bill.

Mr. Peterson, you made reference to timber wolves and the fact that they migrate. Do you see any correlation at all between timber wolves and bears as it relates to their natural instinct and the way they interface? I am not suggesting that we ban baiting for timber wolves.

Mr. PETERSON. I am not a biologist, but the timber wolf range in Minnesota is similar to the bear range. And they are very secretive animals. They are very difficult to hunt or to trap, but we have been banned from doing anything to control them. And they have moved way out of their range and caused all kinds of problems with taking livestock and so forth. And I think the same thing will happen with bears if we don't have a way to manage them. That was my point.

Mr. GALLEGLY. That was one of the reasons I asked the question, was if the natural migration and so on and the psyche of the animal is similar. And that gets back to the threshold issue here. Forty-one of the 50 States in this Nation, 41 of 50, ban the practice of bear baiting.

Now, there is one State that I think is clearly an exception, and that is the State of Alaska. I am sure the gentleman from Alaska, my good friend, and he is, I like to think of him as a good friend, Don Young, a person I have admired and respected for many, many years. He has a unique situation in Alaska. Alaska is not contiguous to any one of these other 41 States that do ban bear baiting.

Getting back to the issue of the timber wolf. As you said, sometimes they will get as far as a hundred miles out of their natural habitat. And the reason I asked the question do bears migrate in a similar way, and I think I understood the answer as yes, how do we get the bears—let's say that Minnesota, we do believe in States' rights. And on that issue, how do we get a bear to stop at the State line where you have a bear baiting? Is there—

Mr. PETERSON. Well, the bear in Minnesota, if they are going to go across the State line, they will probably go to Wisconsin or they will go to Canada. And they are not going to go to North and South Dakota, because you are getting into farm country. They very seldom go over that way. Both Manitoba and Ontario allow baiting of bear for the same reason that we do, because that is the only way that they can control, have a management practice that is workable.

You know, we are, I think, unique, like Alaska. There is no other way to harvest bear in Minnesota than to bait. And as Mr. Saxton—

Mr. GALLEGLY. The issue is certainly different in Alaska because it is not contiguous to any—I understand your argument.

Mr. PETERSON. It is contiguous to Canada, like I am. But the thing is, there are some of these States that ban deer hunting—or ban bear baiting that allow deer baiting. In Minnesota, we see that as reprehensible, as you see bear baiting, the sportsmen do. They don't believe in deer baiting. And you know, you could argue that that is as inhumane as bear hunting over bait, if you want to look at it that way. I don't particularly see it that way.

Mr. GALLEGLY. So you are not going to be introducing a bill to ban—

Mr. PETERSON. I am just suggesting that following this, what you want to do is maybe you ought to ban deer baiting on Federal land as well. But Maryland, for example, allows baiting of deer but not baiting of bear. Well, I don't see the logic. There is not a lot of difference.

Mr. GALLEGLY. In any event, I think the issue, having to do with the sportsmen issue, of shooting a bear in the butt when he has his head in a can eating domestic food—

Mr. PETERSON. That isn't what happens. They are not shooting them while their head is in the can. It is the same thing, when you have a deer baiting situation, the deer come in on that field where the—

Mr. GALLEGLY. I am talking about bear not deer.

Mr. PETERSON. It is the same thing. The deer come into that bait, they are shot coming into the bait, the same way the bear is shot coming into the bait. There is no difference. That is my point.

Mr. GALLEGLY. I see my time is expired.

I have great respect for the gentleman from Minnesota, the gentleman from Alaska. But let's just say that I would rather, much rather, be trying to make my argument the than yours. I yield back.

Mr. SAXTON. Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman.

I ask unanimous consent to submit for the record the testimony of the Honorable John Dingell, who opposes this legislation, and a series of letters I received from different interest groups covering the whole spectrum including Governors, most of the State fish and game people, even from those States that do not have baiting or do not allow baiting but which oppose this legislation. So I ask unanimous consent to submit.

[The prepared statement of Mr. Dingell follows:]

Statement of The Honorable John D. Dingell, a Representative in Congress from the State of Michigan, on H.R. 1472

Chairman Gilchrest, Ranking Member Pallone, Former Chairman Young, distinguished members of the Subcommittee, thank you for the opportunity to testify.

We are today again discussing another anti-hunting piece of legislation, which is nothing more than a thinly veiled attempt by non-hunters to restrict the rights of hunters and sportsmen. Legislation of this character is introduced in almost every Congress. And in every Congress, those of us from states that permit the baiting of black bears—a legitimate and necessary management tool—are forced to defend against needless attacks from anti-hunting organizations.

Let me be clear. H.R. 1472 is a totally unnecessary preemption of state authority by Congress and should advance no further than this hearing.

This legislation is properly described as an anti-hunting enterprise. I would note that it has been attempted in previous Congresses without success. As you know,

the authority of state game agencies for fish and wildlife management on most Federal public lands has been affirmed by Congress in numerous Federal statues. The issue of wildlife management, including the lawful means of hunting game, is specifically the domain of the states.

State fish and wildlife agencies have authority and responsibility for managing bears and are doing a commendable job. Contrary to the assertions of the proponents of this legislation, black bear populations in North America are robust and generally increasing. From the late 1980's to 2000, the overall black bear population has increased 21 percent. Black bear populations across the United States are at historic highs, and hunting is a valuable management tool in keeping rising bear populations in check.

Baiting is a means and method of take, and as such is regulated by the states. Ten states, including my home state of Michigan, allow regulated baiting as a method of hunting bears. This is principally in order to harvest an appropriate number of bears to maintain them at levels consistent with society's tolerance level, which is generally below the biological carrying capacity for black bears. The professional opinion of the state wildlife agency in Michigan is that baiting is ethical and legal and one of the best ways to reduce bear numbers.

The proposed legislation would reduce the annual bear harvest in my home state of Michigan. As a historically legal harvest method, baiting has remained an integral part of Michigan's bear management strategy. About 83 percent of Michigan hunters used bait in 2002.

The management of bear harvest should be left up to the states. Most of the states that do not allow bait for hunting bears tend to have habitat which allows for "spot and stalk" hunting; have many more hunters than Michigan does; or have climates that allow bears to den late in the year, so they can be hunted during deer and elk season.

Bear hunting in Michigan is different than in other states. When we hunt bears in Michigan, it is in densely wooded forest terrain where visibility is low. We have less than half as many bear hunters as several states that do not allow bait hunting. Furthermore, Michigan's bear population is already in dens by the time firearm deer season begins in November. These are just a few of the reasons why it is imperative for state wildlife agencies to have the authority and responsibility for managing wildlife. A one-size-fits-all Federal approach to wildlife management is neither necessary nor warranted.

I should also note that the people of Michigan have also spoken on this issue. In 1996, voters in Michigan soundly defeated a proposal to ban bait hunting for bears.

Almost 15 percent of land open to bear hunting in Michigan is Federally owned. Additionally, almost a quarter of the western end of the Upper Peninsula is in Federal ownership, and almost half of the bears harvested annually in Michigan are from this area. The proposed legislation would have far-reaching and serious negative consequences for Michigan's annual bear harvest.

In summary, this legislation is unnecessary, unwarranted and unwise. Simply put, this is an anti-hunting measure, and I urge the members of the Subcommittee to reject it.

Thank you, again for the opportunity to testify.

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William S. Bartlett, Jr.
Acting Executive
Director

Daniel R. Lynch
Assistant Director

May 2, 2003

The Honorable John Sununu
Senate Russell Courtyard 4
Washington, DC 20510

Dear Senator Sununu:

The New Hampshire Fish and Game Department is opposed to efforts to prohibit bear baiting on federal lands in New Hampshire. Loss of baiting would constrain our management efforts and likely result in an increase in bear/human conflicts. New Hampshire currently allows for the hunting of bears by still, hound and bait hunters. Bear hunting is carefully regulated in New Hampshire and variably applied in an effort to achieve regional management goals. Management goals are defined in an existing big game management plan and are the product of significant public input.

During the past 5 years, New Hampshire's bear harvest has averaged 418 animals per year. Black bears are presently more abundant and more widely distributed in New Hampshire than they have been in the past 150 to 200 years. Our current statewide population is stable at approximately 4,900 animals. Bear densities range from an estimated 0.1 to 1.00 bears per square mile across five management regions with the highest densities occurring in the White Mountain Management Region (which includes the White Mountain National Forest). Densities in the White Mountain Management Region are 26% above goal.

All bears taken in New Hampshire must be registered with a Conservation Officer for enforcement purposes and to facilitate the collection of biological data used in management decision-making. All bait hunters are required to acquire a baiting permit, signed by the landowner and filed with our Law Enforcement Division. Law Enforcement staff issue all bait permits for the White Mountain National Forest to ensure that bait hunting is conducted in a safe and carefully regulated fashion. During 2002, baiting accounted for over 30% of the bears taken in the White Mountain Management Region. The loss of baiting on the White Mountain National Forest would hinder management efforts and lead to more bear/human conflicts. Such conflicts are on the rise nationally, and are a particular concern on the White Mountain National Forest and on adjacent private lands, where a large influx of tourists and tourist related activities serves to enhance opportunities for conflicts. Please join us in opposing efforts to ban baiting on federal lands.

Sincerely,

William S. Bartlett, Jr.
Acting Executive Director

Conserving New Hampshire's wildlife and their habitats since 1865.

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[NOTE: Additional letters and articles submitted for the record have been retained in the Committee's official files.]

Mr. YOUNG. Mr. Chairman, may I suggest to my good friend from California, I don't think you quite understand those States that do allow baiting. We shoot very few bears over bait in Alaska. Most of our bears are shot for consumption, and are usually shot primarily by watching where they are eating, berry patches or fishing streams. We harvest quite a few bears in Alaska because most of my Native people do eat bears. I frankly have eaten a lot of black bears. I do not eat grizzly bears. I don't even shoot grizzly bears

anymore—unless they are messing with me. By the way, they will mess with you.

This really is about the State management of game, and how they decide it is best to do so. I know for a fact that hunting bears over bait is actually probably more legitimate in the sense that you can choose which bear you are going to shoot. Primarily, you want a large bear for two reasons, one it is a trophy, and, second, the bear, if he has his way, will kill the cubs so that the sow will get into estrogen, and we will have a period of heat, and he can breed her. That is the facts of life.

So if you want to manage bears, you actually use the sporting or the baiting system for a much better way than trouncing through the woods and saying where, bear, are you, and hoping you jump one because you don't know what you are going to jump. It is usually a snap shot. You talk about shooting one in the butt when his head is in the can, most of the time, bears run away from you. Most of the time, you will probably hit that bear in the lower side of his body. That is unfortunate. I, frankly, have had the privilege of shooting a very large brown bear. Three of them, in fact. But, one, I learned how to shoot very well, because I shoot a very small weapon. I shoot a 308. I got in a bunch of seven of them eating fish out of a heavy Salmon stream. And I watched the bears eat and picked out the biggest one. When he finally ate his full and laid down and went to sleep, I shot him. There was a reason for that. I didn't want him to know where I was. You may not think that is very sporting, but it is similar, in fact, to the baiting with the artificial baits. So although your intentions may be well and good, it's not what, as Mr. Moran says, this is not an attempt to, I think, mislead the bear. It is an attempt to manage it correctly. It is a State issue. No time has this Congress ever picked out an individual species to manage from the Congressional floor. Never. And we should not be doing it today. We shouldn't even think about it. So I do know you have good intentions, but with all due respect, this is an ill-thought-out piece of legislation. I can ask Mr. Moran. How many bears do you have in Alexandria?

Mr. MORAN. Mr. Young, we both know that we represent very different districts, very different demographics and geographies. I respect your representation of the people that you are elected to serve. You represent them extraordinarily well. I do think, on this issue, there is some inconsistency, at least in the argument that if you don't manage, harvest the bear population then they are going to—the implication is overwhelming, eventually, the human population.

But then, on the other hand, we are told by most of the people who have argued in favor of this that they are very difficult to find and that is one of the reasons why you need to bait, because it is so difficult to find them in the wild. I don't think we have an over abundance of a bear population. We do with the deer population. I think you can make a legitimate argument, as people in Minnesota have done, that even baiting of deer takes away the sport. If you have got that many deer, then it is relatively easy to find enough to shoot, but I am not going to get into the issue of baiting the deer population.

I think this is a different issue. For one thing, since we have gotten into the comparison between deer and bears, the fact is that deer don't eat foods that attract bears. They are not a serious safety threat unless you are driving.

Mr. YOUNG. I just asked you how many bears were in Alexandria. What you are trying to do now is regulate—reclaiming my time. You are trying to legislate what is right for my people. Now, if your people don't want bear hunting, you pass a resolution in your district saying no bear baiting, I would support it. That is your prerogative. You have no right, nor do your people have any right, of telling Alaskans how to manage their game. That is the thing irritates me the most. We had this argument once before, and you know my reaction to it. You know you are wrong. You may be right for Alexandria, but you don't know anything about Alaska. You are sitting down here in Washington D.C. saying how they are going to manage their game. That is incorrect. That is not Democracy.

Mr. MORAN. Don, I fully respect and understand where you are coming from. But I also—we have run into lot of issues in the past where, because we represent such different constituencies, we do come into conflict with Federal policy. But I would suggest that here we are only talking about Federal land. I understand an awful lot of Alaska is Federal land. But let me say—

Mr. YOUNG. Now, you are on the track. Ninety percent is Federal land.

Mr. MORAN. But your response is, basically, you are saying why are you city slickers telling me what I should be doing in Alaska, when you are representing an urban area? The fact is, though, that my constituents do, through their taxes, provide the means to purchase and to maintain that Federal land. As long as it is Federal land, every constituent of this, of the United States of America, does have a vested interest in the way it is maintained.

We are not talking about the management of private land or State-owned land in any State. We are talking about Federal policy. We are trying to make that Federal policy consistent. When 41 out of 50 states have decided it is a wrong practice, I think it is a legitimate legislative approach to have a consistent policy.

Mr. YOUNG. OK. Jim, you don't know what you are talking about, No. 1, and No. 2, my constituents live on that Federal land. They live off those bears. And you ain't going to mess with it. This bill ain't going to see the light of day. I guarantee you that. Because you are messing with my people and that is the wrong thing to do. You are doing something totally wrong. I wish I had my Native people in this room right now, you would walk out of here with no hair on. Thank you.

Mr. SAXTON. On that note—

Mr. MORAN. How do you feel about this issue, Mr. Young?

Mr. SAXTON. We would like to thank you both for being here with us to express your points of view this morning. We will excuse you now and move on to the next panel.

Thank you for being here.

Mr. MORAN. Thank you, Mr. Chairman.

Panel II is made up of Mr. Matt Hogan, the Deputy Director of the U.S. Fish and Wildlife Service; Ms. Elizabeth Estill, Deputy

Chief Programs, Legislation and Communications, U.S. Forest Service, accompanied by Jim Gladen, Director of Wildlife, U.S. Forest Service; and Mr. John Baughman, Executive Vice-President International Association of Fish and Wildlife Agencies.

While you are taking your places, we have been informed that we will be having a vote in the next 10 to 20 minutes. And so when that occurs, we will be taking a short recess.

Thank you for being with us this morning. We are, as you have noted, operating under the 5-minute rule. So each of your—in each case, your written testimony will be included in its entirety in the record.

Mr. MORAN. And if you would like to start, Mr. Hogan, and we are anxious to hear your testimony.

STATEMENT OF MATT HOGAN, DEPUTY DIRECTOR, U.S. FISH AND WILDLIFE SERVICE

Mr. HOGAN. Thank you, Mr. Chairman. Good morning. Good morning to the members of the Subcommittee.

As you said, I am Matt Hogan, Deputy Director of the U.S. Fish and Wildlife Service. I appreciate the opportunity to testify here today on H.R. 1006, the Captive Wildlife Safety Act, and H.R. 1472, the Don't Feed the Bears Act.

H.R. 1006 would amend the Lacey Act to define prohibited wildlife species as any live lion, tiger, leopard, cheetah, jaguar or cougar. The bill declares it a prohibitive act, with some exceptions, for any person to import, export, transport, sell, receive, acquire or purchase in interstate or foreign commerce any of these prohibited wildlife species.

In sum, while we share the Subcommittee's concern about the presence and proliferation of big cats in the pet trade, we cannot support this legislation for the reasons I will briefly outline.

H.R. 1006 would provide little additional protection to big cat species in the wild, a high priority for the Fish and Wildlife Service. It may even fall short of its goal of regulating the big pet trade. In addition, we are concerned about the Fish and Wildlife Service's ability to meet the extended enforcement mandate created by this legislation which introduces new prohibitions without providing additional resources for their enforcement. Moreover, the mechanism created by this bill appears to provide, at least in some instances, coverage that is duplicative of existing law. The Endangered Species Act already prohibits the interstate sale and the international trade of tigers, leopards, cheetahs, and jaguars. While H.R. 1006 would extend such prohibition to two unregulated species, it would not ban private ownership or intrastate sale of the prohibited species. It would also exempt numerous groups and individuals from its prohibitions.

The Fish and Wildlife Service has an authorized force of 253 special agents to enforce our wildlife laws and treaties that protect trust resources, including endangered species, marine mammals and migratory birds. Given the scope of the agency's conservation mission, the limited manpower available, and our need to focus on our highest priority needs, the Fish and Wildlife Service concentrates its enforcement efforts on preventing illegal activities

that jeopardize the continued viability of wild populations of protected species.

In this respect, most of the thousands of big cats in the pet trade in this country are captive-bread animals. While big cat trafficking maybe be a public safety problem and animal welfare concern, it is not, at its core, a wildlife conservation issue. H.R. 1006 would expand Fish and Wildlife Service's enforcement responsibilities into an area that is not a high priority for us at this time. By including lions and cougars in the list of prohibited cats, this bill would also extend the Fish and Wildlife Service's enforcement mandate to policing currently legal activities involving interstate and foreign commerce of species that exist in abundant numbers in the wild and that are currently not subject to the same rigorous protection as the other defined species.

In closing, I would like to reiterate that we share the Subcommittee's concerns about the increased presence of big cats in the pet trade. However, because of the issues I have outlined today, we cannot support this legislation.

I am also presenting the Department's views on H.R. 1472, the Don't Feed the Bears Act. H.R. 1472 could a require the adoption, where necessary, and enforcement of regulations to prohibit the intentional feeding of bears on Federal public lands in order to end the hunting practice known as bear baiting.

Although it is unclear from the bill text whether the legislation is applicable to black bears or all bears in general, I should point out that in North America most black bear populations are currently robust and generally increasing. Overall, it appears that States are doing an excellent job managing this species.

In the interest of time, I am not going to provide an overview of the various Interior Department Agencies' management policies in their relationship to the general management of wildlife species, but they are in my written testimony.

However, from such a review, we can take the following broad principle. In general, States possess broad trust and police powers over resident fish and wildlife, including fish and wildlife found on Federal lands within a State. Congress has, through numerous acts, reaffirmed this basic responsibility and authority to the States. For example, even though Congress has charged the Secretary of Interior with responsibilities for the management of certain unique national fish and wildlife resources, for example, endangered species and threatened species, migratory birds and certain marine mammals with limited exceptions, State jurisdiction remains concurrent with Federal authority.

Federal frameworks work best in situations where a broad perspective on populations and habitats is required, such as in the case of migratory birds. This is not the case in bear management. By universally prohibiting bear baiting on Federal public lands, this legislation would eliminate the flexibility required at the State level to adjust harvest to meet sustainable population levels of resident species. Therefore, we believe H.R. 1472 would unnecessarily interfere with traditional State authority over management of resident wildlife populations and reduce State flexibility to manage bears at desired levels on Federal lands. We believe that management decisions for the State resident wildlife populations are most

appropriately made at the State rather than the Federal level. For these reasons, the Department of Interior opposes this legislation.

Mr. Chairman this concludes my remarks. I would be happy to answer any questions you or the members of the Subcommittee might have. Thank you.

Mr. SAXTON. Thank you very much Mr. Hogan.

[The prepared statement of Mr. Hogan follows:]

Statement of Matt Hogan, Deputy Director, Fish and Wildlife Service, U.S. Department of the Interior, on H.R. 1006

Mr. Chairman, and Members of the Subcommittee, I am Matt Hogan, Deputy Director of the U.S. Fish and Wildlife Service (Fish and Wildlife Service). I appreciate this opportunity to testify today on H.R. 1006, the "Captive Wildlife Safety Act" and H.R. 1472, the "Don't Feed the Bears Act."

H.R. 1006, Captive Wildlife Safety Act

H.R. 1006 would amend the Lacey Act to define "prohibited wildlife species" as any live lion, tiger, leopard, cheetah, jaguar, or cougar. The bill declares it a prohibited act, with some exceptions, for any person to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any of these prohibited wildlife species.

Although we acknowledge that the increasingly popular practice of keeping "big cat" species as pets has created a growing concern about both the safety of the public and the welfare of these animals, the Department cannot at this time support this legislation for the reasons outlined below.

In sum, while we share the Subcommittee's concerns about the presence and proliferation of big cats in the pet trade, this bill would provide little additional protection to big cat species in the wild—a high priority for the Fish and Wildlife Service. In addition, it may even fall short of its goal of regulating big cat pet trade. We are also concerned about the Fish and Wildlife Service's ability to meet the extended enforcement mandate created by this legislation. The new prohibitions introduced in this legislation would need to compete against other Fish and Wildlife Service mission-critical priority activities within the context of the President's Budget.

Moreover, the mechanism created by this bill appears to provide, at least in some instances, coverage that is duplicative of existing law. The Endangered Species Act (ESA) already prohibits the interstate sale and international trade of tigers, leopards, cheetahs, and jaguars. While H.R.1006 would extend such prohibitions to two unregulated species (lions and cougars), it would not ban private ownership or intrastate sale of the prohibited species. It would also exempt numerous groups and individuals from its prohibitions.

The Fish and Wildlife Service has an authorized force of 253 special agents to enforce our wildlife laws and treaties that protect trust resources, including endangered species, marine mammals, and migratory birds. Given the scope of the agency's conservation mission, the limited manpower available, and our need to focus on our highest priority needs, the Fish and Wildlife Service concentrates its enforcement efforts on preventing illegal activities that jeopardize the continued viability of wild populations of protected species.

In this respect, most of the thousands of big cats in the pet trade in this country are captive-bred animals. While big cat trafficking is a public safety problem and animal welfare concern, it is not, at its core, a wildlife conservation issue. H.R. 1006 would therefore emphasize and expand Fish and Wildlife Service enforcement responsibilities into an area that has not been considered a high priority. By including lions and cougars in the list of prohibited cats, this bill would also extend the Fish and Wildlife Service's enforcement mandate to policing currently legal activities involving interstate and foreign commerce of species that exist in abundant numbers in the wild, and that are currently not subject to the same rigorous protection as the other defined species.

The bill's definition of "prohibited wildlife species" would, in and of itself, limit the extent to which this legislation would control big cat pet trade because it does not cover all species that are part the problem. For example, H.R. 1006 does not include lynx, serval, caracal, clouded leopard, or snow leopards in that definition. Nor does it regulate hybrids, mixed species that are of little concern from a conservation standpoint but that account for an increasing percentage of the big cats bred, bought, and sold as pets in this country.

The effectiveness of this bill would further be limited by the scope of its exemptions. We believe that, at most, such exemptions should cover only those entities

that are licensed by a state or the Federal Government. Such criteria would ensure that exempt organizations are otherwise accountable for any interstate or international transactions involving big cats. For example, both the Service and the Department of Agriculture offers licenses and regular inspections; many state agencies do the same.

For these reasons, the Department cannot at this time support this legislation.

H.R. 1472, Don't Feed the Bears Act

H.R. 1472 would require the adoption, where necessary, and enforcement of regulations to prohibit the intentional feeding of bears on Federal public lands in order to end the hunting practice known as "bear baiting."

Although it is unclear from the bill text whether the legislation is applicable to black bear or all bears in general, I should point out that in North American most black bear populations are currently robust and generally increasing. In fact, there has been an overall 21 percent increase in black bear populations from the late 1980s to 2000. Overall, it appears that states are doing very well managing this species.

In addition, hunting over bait for grizzly bears is not permitted anywhere in the United States. In the lower 48 states, grizzly bears are protected as a threatened species under the Endangered Species Act throughout their range; in Alaska, while baiting for black bears may be allowed in accordance with State laws and regulations, baiting is not permitted when hunting for grizzly bear.

Federal Agencies and the Management of Resident Wildlife

In general, states possess broad responsibility and authority over resident fish and wildlife, including fish and wildlife found on Federal lands within a state. Congress has reaffirmed this authority through numerous Acts. As discussed in more detail below, we must recognize these traditional roles in our evaluation of this legislation.

Let me begin with an overview of the various Federal agencies' management policies and their relationships to the general management of wildlife species. The major Federal land management agencies are the Fish and Wildlife Service, the National Park Service (Park Service), and the Bureau of Land Management (BLM), within the Department of the Interior; and the Forest Service.

National Wildlife Refuge System Lands

The National Wildlife Refuge System (NWRS) mission, established by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act), is:

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

The Improvement Act established a clear hierarchy for uses in the System. As noted in accompanying House Report 105–106, "wildlife-dependent recreational uses, when determined to be compatible, are appropriate and legitimate uses of the System." The Improvement Act defines six wildlife-dependent recreational uses: hunting, fishing, wildlife observation and photography, and environmental education and interpretation, and states these uses should be facilitated and should receive priority consideration in refuge planning and management.

The National Wildlife Refuge System Administration Act of 1966 (Administration Act), as amended by the Improvement Act, further provides that the Director of the Fish and Wildlife Service, as the Secretary of the Interior's (Secretary) designee, will, among other things, ensure that regulations allowing hunting or fishing of fish and wildlife within the NWRS are, to the extent practicable, consistent with state fish and wildlife laws, regulations, and management plans.

Traditionally, the basis of most hunting regulations for national wildlife refuges is the hunting regulations of the state or states in which a particular refuge lies, and the Fish and Wildlife Service's regulations reflect this fact. For purposes of this discussion, state fish and wildlife agencies that currently permit bear baiting for hunting activities are Alaska, Idaho, Maine, Michigan, Minnesota, New Hampshire, Utah, Wisconsin, and Wyoming.

The Improvement Act further directs the Secretary to cooperate and consult with the states on fish and wildlife management activities on national wildlife refuges, including hunting programs, in order to "complement the efforts of other State—conservation efforts." (House Report 105–106) This makes sense, because while both Federal and state fish and wildlife agencies have authorities and responsibilities for management of fish and wildlife, it is often the state agencies which possess the unique expertise and knowledge about resident fish and wildlife needed to establish effective laws, regulations, and management plans.

As noted in section 2 (c) of H.R. 1472, the Fish and Wildlife Service currently has regulations largely prohibiting baiting and hunting with bait on NWRS lands. This prohibition is largely based on the effects that baiting wildlife can have on relatively small areas, such as refuges. For example, baiting can attract wildlife from adjacent non-refuge lands, thus altering normal concentrations of refuge and non-refuge populations; it can alter behavioral patterns of target wildlife species; or it can attract undesirable species, complicating refuge management. (See 50 Fed. Reg. 36736, Sept. 19, 1984) Other regulations provide refuge managers the authority to waive this prohibition to allow bear feeding or baiting in support of research, human safety, animal welfare, or in other cases of emergency. The situation is somewhat different in Alaska, where baiting is authorized on Federal lands, including NWRS lands, in accordance with State regulations. Even there, however, baiting is not permitted for grizzly bear hunting.

In sum, bear hunting is currently allowed on less than 6 percent of refuges, with bear baiting allowed, in accordance with State law, only on all or part of 11 Alaskan refuges.

National Park System Lands

On national park lands, human feeding of bears, whether deliberate or inadvertent, is a significant management problem wherever it occurs and is an activity that the Park Service works very hard to prevent on its lands. In fact, the Park Service evolved stringent bear protection and visitor use policies during the 1970s in response to clear recognition of the impacts to bears, property, and people caused by the improper handling of foods and trash brought into parks.

Hunting in general is allowed on Park Service land only where Congress has authorized such activity, and hunting and trapping activities are currently either mandated or discretionary in only 57 units of the National Park System. Where allowed in the park system, hunting activities are governed by Federal law and applicable non-conflicting state law. However, the Park Service allows black bear baiting, in accordance with State law, for both subsistence and sport hunting in a number of units in the State of Alaska. (See 36 C.F.R. 13.21(d); 13.48)

BLM-managed Lands

Federal land management statutes under which the BLM operates also acknowledge the states' traditional role in managing fish and wildlife. These include, for example, the Multiple–Use Sustained–Yield Act, the Wilderness Act, and the Federal Land Policy and Management Act.

Under its own regulations, BLM defers to the states on management of fish and resident wildlife on public lands located within each state. While BLM works closely with states in the management of habitat that supports fish and resident wildlife, each state establishes and enforces regulations on hunting, trapping, and fishing on these lands. Except in emergency situations, BLM does not involve itself in determining or authorizing the type of hunting techniques allowed on public lands.

As a consequence, where it is permitted by state law, bear hunting with bait is currently permitted on BLM-managed lands. If problems arise, they would be treated as site-specific issues and would be resolved through coordination with the respective state wildlife agency at the BLM field or state office level.

Conclusion

We take from this review the following broad principle: in general, states possess broad trustee and police powers over resident fish and wildlife, including fish and wildlife found on Federal lands within a state. As noted above, Congress has, through numerous Acts, reaffirmed this basic responsibility and authority of the states. For example, even though Congress has charged the Secretary of the Interior with responsibilities for the management of certain uniquely national fish and wildlife resources—e.g., endangered and threatened species, migratory birds, and certain marine mammals—with the limited exception of marine mammals, state jurisdiction remains concurrent with Federal authority.

Moreover, practically speaking, we recognize that Federal frameworks work best in situations where a broad perspective on populations and habitats is required—for example, with regard to migratory species such as ducks and geese. By prohibiting bear baiting on Federal public lands, we eliminate the flexibility required at the local level to adjust harvest to meet sustainable population levels of resident species. As previously noted, black bear populations are currently robust and generally increasing. Without a wide array of management tools at their disposal, state managers may experience an increase in dangerous interactions between people and bears.

We believe that management decisions for individual resident wildlife populations are most appropriately made at the local, rather than Federal, level. For these reasons, the Administration opposes this legislation.

In closing, I would like to state that we are committed to working to conserve, protect, and enhance fish, wildlife, and plants species and their habitats for the continuing benefit of the American public. As such, we welcome the opportunity to work with all of our partners to identify and address problems associated with the management of our fish and wildlife resources.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions that you might have.

Mr. SAXTON. We are going to go to Ms. Estill. Then when have you concluded your testimony, we will have to take a little recess here for these votes.

Thank you.

STATEMENT OF ELIZABETH ESTILL, DEPUTY CHIEF PROGRAMS, LEGISLATION AND COMMUNICATIONS, U.S. FOREST SERVICE, ACCOMPANIED BY JIM GLADEN, DIRECTOR OF WILDLIFE, U.S. FOREST SERVICE

Ms. ESTILL. Mr. Chairman and members of the Subcommittee, thank you for the opportunity to meet with you today concerning H.R. 1472.

Historically State fish and wildlife agencies have maintained the primary responsibility for protection and management of wildlife populations on the National Forest System lands, particularly with respect to hunting and fishing. The Forest Service enters into a memorandum of understanding with each State which lays out a framework for cooperation. The States issue regulations regarding hunting licenses, methods, seasons, locations and bag limits for resident game and have the primary responsibility for enforcement of the State's fish and wildlife laws and regulations on National Forest Service lands.

Federal land management statutes acknowledge the States' traditional role in managing fish and wildlife, including the National Forest System Organic Administration Act, the Multiple-Use Sustained-Yield Act, Sikes Act, Wilderness Act and so on and so forth. Because of consistent Congressional direction to defer fish and wildlife management to the States, the Forest Service is generally reluctant to override State regulations, except where Federal interests, such as the protection of forest land, resources and users requires Federal intervention.

In 1995 after extensive public comment, the Forest Service published a policy on baiting for the purpose of hunting on National Forest System lands. It spells out the procedures to be used by the Forest Service when State regulations conflict with Federal laws regulations and policies. The policy retains the long-standing reliance on State hunting regulations, including the State regulation of baiting resident game. But it also provides for case-by-case safeguards where those safeguards might be needed. Although various States may have policies that, again, vary annually, the Forest Service consistently ensures protection of those Federal resources.

In 1996, the District Court of Columbia—District Court upheld the Forest Service policy to continue the traditional reliance on the States to regulate hunting practices, including baiting game. Again,

with those safeguards. The District of Columbia Circuit Court of Appeals affirmed the judgment of the District Court.

Currently in North America, the black bear populations are robust and generally increasing. We believe that H.R. 1472 would unnecessarily preempt State authority over management of resident wildlife populations and reduce the flexibility of State and local wildlife managers to manage bears on Federal lands.

This concludes my remarks, Mr. Chairman. I would be happy to answer your questions.

Mr. SAXTON. Thank you very much.

[The prepared statement of Ms. Estill follows:]

Statement of Elizabeth Estill, Deputy Chief, Programs, Legislation, and Communications, Forest Service, U.S. Department of Agriculture, on H.R. 1472

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to meet with you today regarding H.R. 1472, the "Don't Feed the Bears" Act. Accompanying me today is Jim Gladen, Director of Watershed, Fish, Wildlife, Air, and Rare Plants for the National Forest System.

H.R. 1472 "Don't Feed the Bears" Act

H.R. 1472 would require the adoption, where necessary, and enforcement of regulations to prohibit the intentional feeding of bears on Federal public lands in order to end the hunting practice known as "bear baiting." The Administration opposes the bill.

Bear Baiting on National Forests

Historically, State fish and wildlife agencies have maintained the primary responsibility for protection and management of wildlife populations on National Forest System lands, particularly with respect to hunting and fishing. This responsibility includes adoption of State fish and wildlife laws and regulations affecting the taking of resident game animals. The Forest Service enters into a Memorandum of Understanding with each State in order to lay out a framework for cooperation. These agreements emphasize the traditional role of the States to administer State hunting regulations such as season, harvest levels, and methods of harvest, with respect to hunting of resident game on National Forest System lands. The States issue regulations regarding hunting licenses, methods, seasons, locations, and bag limits for resident game and have the primary responsibility for enforcement of the state's fish and wildlife laws and regulations on National Forest System lands.

Federal land management statutes acknowledge the States' traditional role in managing fish and wildlife. These include the National Forest System Organic Administration Act (16 U.S.C. 480), the Multiple–Use Sustained–Yield Act (16 U.S.C. 528), the Sikes Act (16 U.S.C. 1732), the Wilderness Act (16 U.S.C. 1133 (d)(8)), and the Federal Land Policy and Management Act (43 U.S.C. 1732). Because of consistent Congressional direction to defer fish and wildlife management to the States, the Forest Service is generally reluctant to override State regulations except where Federal interests, such as the protection of forest land, resources, and users, requires Federal intervention.

An exception to this general policy of deferring to the States, is the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111–16) whereby Congress determined that Federal control should supersede that of the state, with Federal control of fish and wildlife subsistence in Alaska.

The practice of placing bait (food or scent to attract wildlife) is a hunting activity subject to State laws and regulations. State fish and wildlife agencies that permit the baiting of black bear (Urus americanus) as a hunting activity on Federal lands are: Alaska, Idaho, Maine, Michigan, Minnesota, New Hampshire, Utah, Wisconsin, and Wyoming.

In 1995, the Forest Service published its policy on baiting for the purpose of hunting on National Forest System lands. The policy retains the longstanding reliance on State hunting regulations including state regulation of baiting resident game. Where state law and regulation permit baiting, the practice is permitted on National Forest System lands unless the authorized officer determines on a site specific basis that the practice conflicts with Federal laws or regulations, or forest plan direction, or would adversely affect other forest uses or users.

The 1995 policy clarifies the Forest Service role with regard to regulation of baiting as a hunting method that is authorized and regulated by the states. It spells out the procedures to be used by the Forest Service when State regulations conflict with Federal laws, regulations, and policies. It relies on existing relations with each State and prevents the duplication of regulations by both levels of government and provides for case-by-case safeguards where needed. It also provides a consistent Federal approach to baiting throughout the National Forest System. Although various States may annually vary their policies, the Forest Service's will remain consistent while ensuring protection of Federal resources.

In the 1996 case of the Fund for Animals, Inc. v. Thomas, 932 F. Supp. 368 (D.D.C. 1996), the U.S. District Court for the District of Columbia upheld the Forest Service policy of "leav[ing] the decision to prohibit baiting, or to allow but regulate it as a "hunting practice" or technique, to the individual states in which a particular national forest is situated." Id. at 369. And as the Thomas court observed, "[t]he common law has always regarded the power to regulate the taking of animals ferae naturae to be vested in the states to the extent 'their exercise of that power may not be inconsistent with, or restrained by, the rights conveyed to the Federal Government by the Constitution.'" Id. at 369–370 (quoting Geer v. Connecticut, 161 U.S. 519 (1896)). The U.S. Court of Appeals for the D.C. Circuit subsequently affirmed the judgment of the District Court. See Fund for Animals, Inc. v. Thomas, 127 F.3d 80 (D.C. Cir. 1997).

Currently, in North America, black bear populations—specifically mentioned in H.R. 1472—are robust and generally increasing. We believe that H.R. 1472 would unnecessarily both preempt state authority over management of resident wildlife populations and reduce the flexibility of state and local wildlife managers to manage bears on Federal lands.

Conclusion

That concludes my remarks, Mr. Chairman, I would be happy to answer your questions.

Mr. SAXTON. So that you don't have to stay in this room unless you want to, we are going to recess until 12:00, 12:05, something like that. We will see you in a little while.

[Recess.]

Mr. GILCHREST. [Presiding.] The Subcommittee will come to order.

I apologize for my absence, but the testimony of the previous witnesses will be in the record, and it will be reviewed.

So it is now in order to recognize Mr. Baughman. The other three witnesses have testified.

STATEMENT OF JOHN BAUGHMAN, EXECUTIVE VICE-PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. BAUGHMAN. Thank you, Mr. Chairman. Mr. Pallone, thank you.

Mr. Chairman, I am John Baughman, Executive Vice-President of the International Association of Fish and Wildlife Agencies. All 50 of the fish and wildlife agencies are among our members. I am also talking to you from the perspective as the former Director of the Wyoming Game and Fish Department. Wyoming is one of the nine States that allows bear baiting on Federal lands.

Our more detailed written testimony has been made available to the Subcommittee, but I can summarize it as follows: First, the Association is strongly opposed to H.R. 1472 and urges that the Subcommittee give this bill no further consideration. The States have broad statutory, and often constitutional, authority for the conservation of resident wildlife, including bears. Congress has given Federal agencies certain responsibilities for migratory birds, listed

threatened endangered species, and anadromous fish, where current and State Federal jurisdiction is clearly needed to meet national, State and international conservation objectives. We see H.R. 1427 as an unnecessary and inappropriate preemption of State authority to manage resident wildlife.

The States are doing a commendable job managing bears. Black bear populations are robust, and they are either stable or increasing in most States. And nearly every State, that has bear populations, already has areas where bear populations exceed the level of human tolerance.

Fourth, there is no evidence to suggest bear populations become self-regulating or density-dependent before exceeding the levels of society's tolerance. Black bears are a long-lived, prolific species, and since bears are at the top of the food chain, unchecked bear populations continue to expand to the point of becoming a nuisance. The net result is that bears do and will continue to die at the hands of humans, either by hunters, people protecting private property, or, more likely, by government employees, usually at the cost of thousands of dollars per bear.

Fifth, the States that do permit bear baiting have concluded that it is a legitimate and necessary management tool to achieve harvest and conservation objectives and to keep bear populations within the limits of human tolerance. Baiting facilitates harvest in dense cover habitats and in large areas with relatively low bear densities and low hunter numbers. Baiting also allows easier identification of sows with cubs, which are legally excluded from harvest. Baiting also allows hunting efforts to be directed toward problem bears and toward areas with nuisance problems.

Research suggests that those bears most likely to cause nuisance problems, and that is usually wandering adolescent male bears, are those that are most susceptible to baiting.

Sixth, even where bear baiting is permitted, it is still tightly controlled. I will use Wyoming as an example. Baiting is regulated as to the size of the bait, type of bait container, type of bait substance, number and density of baits, no hunter can have more than two baits, minimum distance from trails and roads and campgrounds, when baits can be placed, removal and clean up requirements, and requirements for identifying ownership of baits. Additionally, total harvest is limited by area-specific mortality quotas on bears. The season closes once those quotas are reached. And all those regulations, as someone asked earlier, are subject to public review at the State level through the State Administrative Procedure Act.

Seventh, in 1997, the U.S. Court of Appeals for the District of Columbia upheld the District Court ruling that bear baiting was a method of hunting on Federal lands, thus subject to State authority.

Finally, Mr. Chairman, the Nation's successful State-based system of professional fish and wildlife conservation is justifiably the envy of the rest of the world. Congress has repeatedly affirmed the merits and utility of our system of wildlife conservation, while appropriately continuing to encourage cooperation between State and Federal agencies. The States successful record on black bear conservation speaks for itself. Thus H.R. 1472 is unnecessary and inappropriate from a biological, resource management perspective.

And our Association strongly urges that you do not report the bill favorably out of the Subcommittee.

Thank you, Mr. Chairman. I would be happy to answer questions.

Mr. GILCHREST. Thank you, Mr. Baughman.

[The prepared statement of Mr. Baughman follows:]

Statement of John Baughman, Executive Vice-President, International Association of Fish and Wildlife Agencies, on H.R. 1472

Thank you Mr. Chairman for the opportunity to share the perspectives of the International Association Fish and Wildlife Agencies on H.R. 1472, the "Don't Feed the Bears Act". The Association strongly opposes H.R. 1472 as an unnecessary Federal preemption of state wildlife management authority. The issue of baiting bears as a method of hunting is already subject to public discourse at the state level where determinations of means and methods of take are appropriately made. Also, black bear populations in the United States are robust and generally increasing in most states, a testament to the success of science-based wildlife management by State fish and wildlife agencies. Thus we conclude that H.R. 1472 is an unnecessary and inappropriate preemption of state wildlife authority and we urge that H.R. 1472 not be reported favorably by the Subcommittee.

The International Association of Fish and Wildlife Agencies was founded in 1902 as a quasi-governmental organization of the public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and Federal Governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening Federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

Mr. Chairman, as you know, the states have statutory, and often constitutional, authority for the conservation of resident fish and wildlife (including bears) within their borders for the sustainable use and enjoyment of their citizens. Where Congress has given Federal agencies certain conservation responsibilities for migratory birds, listed threatened and endangered species, and anadromous fish, that authority remains concurrent with the states' jurisdiction, as Congress has affirmed. Further, state authority for resident fish and wildlife extends to most Federal public lands, as affirmed by Congress in the National Forest Management Act, the Federal Land Policy and Management Act, the National Wildlife Refuge System Improvement Act, and the Sikes Act. Additionally, both the Departments of Interior and Agriculture have regulations (see, e.g., 43CFR Part 24) and policies that implement the relationship between the Federal agencies which control the land and habitat, and the State fish and wildlife agencies which have conservation responsibility for ensuring the sustainability of fish and wildlife. This relationship obviously compels close coordination and cooperation.

The States conservation authority for fish and wildlife extends to the establishment of regulated take, where appropriate, and a determination of the allowable means and methods of hunting. Baiting for the purpose of hunting bears is a method of take that is allowed under certain conditions in 10 States, 9 of which also allow it on Federal lands. The establishment of all regulations regarding hunting (seasons, bag limits, and allowable means of take) are based on scientific data collected by the State fish and wildlife agencies and are subject to extensive public review at the state level. In those States where baiting for bears is allowed, it is used as a regulated management tool that is necessary in order to harvest a sufficient number of bears to maintain bear numbers at society's tolerance level while ensuring a healthy, sustainable bear population. In states with large areas of dense forest habitat, or with a low bear density over a wide area, it is necessary to employ baiting in order to harvest the appropriate number of bears. Using Wyoming as an example, even where baiting is permitted it is tightly regulated as to the size of bait, type of bait container, number and density of baits (no more than 2 per hunter) where and when baits can be placed, requirements for bait removal and clean-up, restrictions on the type of bait substances allowed and identification of the hunter must be attached to the bait container. Furthermore, the total bear harvest by area is controlled by a female mortality quota. Permitting baiting in these circumstances helps achieve the desired harvest, it facilitates identification of sows with cubs (which are not allowed to be legally harvested), and it allows agencies or landowners to focus hunters on problem bears. Research suggests that those bears which most often cause damage, depredation, or nuisance problems (i.e. wandering adolescent

males) are the same bears that are most susceptible to baiting. All aspects of bear bating and other hunting regulations are reviewed annually by our agencies and are also subject to annual public review and comment through state administrative procedure processes.

Further, as you are likely aware Mr. Chairman, the U.S. Court of Appeals for the District of Columbia in 1997 upheld a district court ruling that baiting for bears was a means and method of hunting on National Forests and thus subject to state authority (127 F.3d 80).

Finally, Mr. Chairman, let me point out that, whatever one's opinion is regarding baiting as a method of take, the states are doing a commendable job in managing bears in the United States. Black bear populations are robust and have increased 21% in North America from the end of the 1980s to the year 2000. Black bears are a long-lived, prolific species and with the possible exception of some remote parts of Mexico, people in some fashion control all bear populations in North America. Since bears are at the top of the food chain, if left unchecked bear populations will continue to expand to the point of being a nuisance. The net outcome is dead bears at the hand of hunters, people protecting private property, or by government employees usually of the cost of thousands of dollar per bear.

Mr. Chairman, the States' successful record on black bear conservation speaks for itself, thus, H.R. 1472 is neither necessary nor appropriate from a biological resource management perspective. The Nation's state-based system of professional fish and wildlife conservation is justifiably the envy of the rest of the world. Congress has repeatedly affirmed the merits and utility of our system of wildlife conservation, while appropriately continuing to encourage cooperation between state and Federal agencies. There is no need in the instance of bear management, to set aside our system of wildlife management and the Association strongly urges that you not favorably report the bill out of the Subcommittee.

Thank you for opportunity to share our perspectives and I would be pleased to answer any questions.

Mr. GILCHREST. Can you give us some more information on the court case that you referenced, the Fund for Animals versus Jack Ward Thomas, Chief of Forest Service?

Mr. BAUGHMAN. Mr. Chairman, I can, but if it pleases the Chairman and the Subcommittee, Mr. Paul Lenzini, our legal counsel, is with me, and he was right in the middle of things. If we could defer to him?

Mr. GILCHREST. That would be fine if there is no objection from the Subcommittee. If you could give us a brief summary of the situation and the findings of the court.

Mr. LENZINI. Mr. Chairman, thank you. My name is Paul Lenzini. I am legal counsel to the International Association. Up until about 9 or 10 years ago, not all of the States that permitted bear baiting intentionally regulated the baiting of bears. And because baiting could be thought of as on National Forests, a couple of forest supervisors, one in Idaho and one in Wyoming, in States that had really no regulations on bear baiting, decided that they would control the practice by issuing special-use permits. So you had to have a special-use permit if you were a hunter and you wanted to put out bait.

Mr. GILCHREST. Is that still the case right now?

Mr. LENZINI. That has been changed.

Mr. GILCHREST. So you don't need a special permit?

Mr. LENZINI. That gave rise to the litigation. What happened was the Forest Service saw that this practice was being regulated unevenly across the country. In some States, you needed a special-use permit on a National Forest. In most States, not.

Mr. GILCHREST. Special-use permit in order to bait?

Mr. LENZINI. In order to place bait on National Forest lands. So they decided a national policy would be in order. And they decided

that the national policy should be one in which they continue the practice of deferring to State authority if the States regulated the baiting practice. If they didn't, then the Federal Government would come in and the land managers would say, well, we are going to have special regulations because the State is not regulating. At that point, the States decided that they would have to regulate. So Wyoming and Idaho then introduced fairly intense baiting regulations. And the Forest Service decided that the national policy would be that the State, in the first instance, does the regulation, and if it falls short on a site-specific basis, then the Forest Service would step in and regulate the practice. And that--.

Mr. GILCHREST. Does that mean that there are Federal standards for getting a permit to bait bears?

Mr. LENZINI. The standards are now State standards and it is only when a site-specific situation occurs that a Forest Service officer decides, well, this is a problem here. But generally the standards and regulations of the State, of the States, are pretty close to what the Forest Service had in mind prior to 1995. For example, you have to be a certain distance away from a trail, a certain distance away from a stream because of the possible pollution.

Mr. LENZINI. So at this point, the States that permit baiting pretty intensely regulate that practice. And the lawsuit arose over the allegation of the Fund for Animals that the move from special use permits to reliance on the States constituted major Federal action requiring full environmental analysis. The District Court and the Court of Appeals said, if it is Federal action at all, it sure isn't major Federal action. NEPA is not applicable.

Mr. GILCHREST. Thank you very much.

Mr. Baughman, I have a list of States that allow bear baiting, and it gives the bear population in those States from Alaska down to Wyoming and the number of bears that are harvested in those States. In Wyoming, the bear population is unknown. Can you give us an explanation for that?

Mr. BAUGHMAN. Yes, Mr. Chairman. Bears are a very secretive species and it is very difficult to precisely measure population numbers. Wyoming, in some areas of the State, has made some precise estimates of bear populations, and they know in given types of habitat roughly how many bears there are. To repeat that kind of estimate statewide and get a real good estimate, it would literally cost millions of dollars. In fact, the Congress, I believe, is putting money into the Department of the Interior's budget to make a bear estimate in Glacier National Park, and I believe that is going to cost $1 million or $2 million for that one bear estimate.

So usually, for States, it is more of a guesstimate where they have expanded from a small area where they have good numbers. They have expanded over a known bear habitat. So those are not real precise numbers you have for those States. Wyoming doesn't use a number. Based on the studies where they have made the precise estimates, they have come up with characteristics of expanding and decreasing bear populations based on the age and the sex of the harvest, and they follow the bear harvest very closely. Every bear harvest has to be turned in to the game and fish offices within 72 hours. So they are very closely monitoring population trends, but they do not really have a complete estimate.

Mr. GILCHREST. Thank you. I am not sure of the source of the information that I am reading from, but it did say that Wyoming, and I would like to ask you if this figure is accurate, the number of bears harvested in the State of Wyoming was 324. Is that about right?

Mr. BAUGHMAN. Yes, Mr. Chairman, those are precise figures. Those are collected through surveys of hunters.

Mr. GILCHREST. Thank you. I have some more questions but I will yield first to the gentleman from New Jersey, Mr. Pallone.

Mr. PALLONE. Thank you, Mr. Chairman. Before I ask our witnesses a couple of questions, I just felt compelled to register a procedural complaint about the Federal witnesses.

As you know, under the rules of the Committee on Resources, all witnesses invited to testify at a hearing are required to file 75 copies of their written testimony within 48 hours of the hearing unless the Chairman, in consultation with the Ranking Minority Member, expressly extends this time period.

In addition to written statements, all witnesses are required to submit other pertinent background information to better inform the Members of the qualifications of each witness. And the punishment to fail to meet this deadline is clear: The written statement may be excluded from the record and/or the witness may be barred from making an oral presentation.

Mr. Chairman, I raise this procedural matter only because I believe that it has become far too common, if in fact the norm, for this Administration to fail to meet this requirement. Once again, testimony from the Forest Service and the Fish and Wildlife Service arrived late last night, which left virtually no time for the members or the staff of this Committee to consider the views of the Administration and formulate questions for the witnesses.

This dereliction of responsibility is very frustrating, and I think essentially an insult to every member of this Committee and I don't think we should continue it. After all, we are coequal branches of the Federal Government. And I want to say, Mr. Chairman, that I think this Committee should take action or communicate our discontent with this Administration's repeated recalcitrance and indifference to the rules of procedure. I know that all the other witnesses were able to meet the deadline and only the Federal witnesses were not.

I know I could move to have the written statements excluded from the record, but I am not necessarily interested in doing that. I just wanted to mention this to you and see if we could do something to correct it in the future. It just seems to be becoming the norm rather than an exception. If you would comment on that, I would appreciate it.

Mr. GILCHREST. Thank you, Mr. Pallone. I was not aware that the testimony was not given to us promptly. I think what we will do in the future is do what we can to help the witnesses run the maze of bureaucracy for approval of their statements in a more expedited fashion.

I think this has been a problem, I don't know if it has been a problem since the dawn of this institution, because I wasn't here, but I think it has been a problem with every Administration and every agency and department since I have been in Congress. So

maybe we can work together to help expedite the process of witnesses' testimony coming to the Committee on time, certainly in the future, and I thank you for your statement.

Mr. PALLONE. I would appreciate it. Thank you, Mr. Chairman.

Let me ask a couple of questions. One, I wanted to start out with, I guess Mr. Hogan, with regard to the issue of the exotic cats. I was just a little confused about your testimony because you seem to give the impression that it was already illegal in some fashion for people to possess these exotic cats and that you were not in the position to enforce whatever law there was that prohibited it. That is not at all clear to me.

In other words, it is not at all clear to me that this is a prohibited practice, and I guess my question is even if you think that it is prohibited, if you don't enforce it, who is going to?

Mr. HOGAN. Well, sir, maybe I can clarify the testimony a little bit, and I apologize for the confusion.

Some of the species listed in the legislation are also listed as endangered under the Endangered Species Act. Those species fall under that jurisdiction, and, therefore, if they enter into interstate or foreign commerce or there is a take of those species, the Lacey Act and the Endangered Species Act apply and, therefore, we have enforcement. However, it is not illegal for those species necessarily to be possessed in an individual State.

Our jurisdiction kicks in again for those species under the Endangered Species Act and then when they enter into foreign or—

Mr. PALLONE. Well, then, why would you be, or maybe you weren't, but I got the impression that you were opposed to the bill. Are you opposed to the prohibition on possession? Because now you are saying some species are not, others are. Would you be opposed to the prohibition aspect of the bill?

Mr. HOGAN. We have not taken a position necessarily on possession of the species. Our main concern is that under the bill, as written, they would fall under the law enforcement jurisdiction of the Fish and Wildlife Service. Given our limited resources and the number of agents we have, we would like to concentrate on species actually in the wild. Most of these species are captive.

Mr. PALLONE. I understand that and appreciate that, but the point for us is practical. We try not to be as bureaucratic. I guess you are not taking a position, but it seems to me that we have to make a decision whether the possession should be prohibited for these species and then we have to make a decision who is going to enforce it.

I am not trying to be difficult, but it seems to me that your position is not very helpful. Because on the one hand you don't take a position on whether they should be prohibited from possession, nor do you suggest who might do the enforcement, other than to say you don't want to do it. Is that your position?

Mr. HOGAN. Yes, that pretty accurately characterizes it. We are really not in a position to speak for other Federal agencies. We were asked specifically to respond—

Mr. PALLONE. And you are not going to take a position for or against the actual prohibition on the possession?

Mr. HOGAN. Right.

Mr. PALLONE. OK. Then let me get to the bear baiting issue.

My major concern here, and I don't know if it has really been addressed by anybody so far, is the fact that it seems that there is a Federal policy on these Federal lands, or at least there is in certain circumstances, of not feeding wildlife. I said in my opening statement that it is inconsistent on the one hand to say that somehow it is not good policy in certain circumstances to be feeding the wildlife and then, on the other hand, allow bear baiting as a means of hunting or, as some have said, as a means of controlling the bear population.

I just want to get some information. I don't know who would answer it, necessarily, if you would, Mr. Baughman, about this policy and the inconsistency that I raised. If you would.

Mr. BAUGHMAN. Mr. Chairman, Mr. Pallone, I don't see it as inconsistent. We had a large bear education program on living in bear country in Wyoming, and certainly people feeding bears puts people in close proximity to bears where they are in a hazardous situation. Having bears come into campgrounds or into rural areas and get food rewards from the presence of people puts bears in situations where they are a threat to people or a threat to their property. Both situations result in dead bears eventually.

A baiting situation is entirely different. In a very remote location, typically, baits are placed, and you are not attracting the bear to people. In fact, a successful person hunting over baits does not want that bear to associate people with the presence of that bait. So it is an entirely different thing.

I have heard a lot of talk about conditioning bears to these foods. If any of you own dogs, you know that you don't have to condition your dog to a Twinkie or a donut or something. The first time you threw that object into the air, the dog recognized it as food and ate it. The fact is you have to make sure that there are not edible things there that those bears are coming into, being attracted to in an area where there is a human presence.

Again, the baiting situation is a hunting situation. You don't want bears to know there is a human there. You are actually trying to downplay that presence. Bears are attracted to food, period, whether there are humans there or not.

Mr. PALLONE. Mr. Chairman, could I just follow up a minute?

I appreciate what you are saying. Again, I am not familiar with this type of hunting at all. We have bears, as Mr. Saxton pointed out, in the northwestern part of New Jersey, where the bear population is actually increasing and becoming a problem. But in my district I have not had any incidents.

I understand you are trying to make a distinction, but it just seems to me that that doesn't always work. In other words, it is almost like you are saying there are two different areas: There is one area on these lands where there are people, and there you don't want them feeding the bears; but on the other hand, in these remote areas where you hunt it is OK, because, I assume, that is because if they come in they get shot. And so they are not a problem because they are dead.

I don't want to put it that bluntly but is that basically what you are saying?

Mr. BAUGHMAN. It really is. The kind of association people are going to have with bears, in the old days, when there were many

bears along the roads in the national parks, there were almost daily conflicts with people being injured, bitten, and mauled by bears because you were putting people into close association with food and the bears.

One of the biggest problems we have in Wyoming, and I am sure in rural New Jersey or California or wherever we are talking about, you have bears coming in to back porches to eat dog food.

Mr. PALLONE. But what I am saying is, isn't it possible if you start this practice of allowing the baiting, that some of the bears might get away and come back again and attack people and become a problem? Is there a strict separation that you point to?

Mr. BAUGHMAN. The separation is that the feeding of the bear in a dirty campsite or dirty rural area, that attracts bears to the presence of people. In the baiting situation the bear does not associate people with that situation. It is just strictly being attracted to food, which is a natural instinct of every bear, whether it is garbage or not, if they smell edible things. They are attracted to dead animals, they are attracted to donuts, they are attracted to toothpaste, corn, whatever.

Mr. PALLONE. So it is the first instance, it is the actual presence of people—

Mr. BAUGHMAN. Correct.

Mr. PALLONE. —that you don't want them to get accustomed to?

Mr. BAUGHMAN. Not associating people or people's homes or buildings with food.

Mr. PALLONE. Whereas in the second situation, with the baiting, they do not see the people?

Mr. BAUGHMAN. Correct. If they see the people, smell the people, they are generally gone. In fact, the characterization of bear baiting, typically those bears approach—typically, a person sits over a bait that a bear has been using and nothing happens. The bear doesn't show up. That is the most typical case.

Mr. PALLONE. And you don't see a situation where those two meet or there is a problem with overlap?

Mr. BAUGHMAN. No, I think it has been greatly exaggerated, conditioning bears to eating human type foods with the baiting situation. Because I think the bigger problem is bears are conditioned to eat anything that is edible. And if people don't have clean campsites, clean homes in these suburban areas, they are going to attract bears.

Mr. PALLONE. OK, thank you.

Mr. GILCHREST. Thank you, Mr. Pallone.

Mr. Gallegly.

Mr. GALLEGLY. I will pass.

Mr. GILCHREST. So, Mr. Baughman, you would recommend that people going camping in wild areas not bring toothpaste with them?

Mr. BAUGHMAN. I see some posters over here, Mr. Chairman, but certainly—

Mr. GILCHREST. How about Listerine, would that be better?

Mr. BAUGHMAN. Anything like that. Beer.

Mr. GILCHREST. Bears are attracted to beer?

Mr. BAUGHMAN. Toiletries, soap, anything like that. We recommend if people are in known bear country that they are hanging

these objects out of reach and then camping hundreds of yards from where food and those types of objects are stored.

Mr. GILCHREST. I was hoping you could recommend that to reduce the weight in my pack the next time I go hunting in a wilderness area.

Mr. Baughman, you said that bear baiting, in most cases, does not condition the bear or connect the bear or reduce the bear's fear of humans, and I would assume that means if that is done correctly and appropriately.

Mr. BAUGHMAN. Mr. Chairman, a person baiting bears for hunting would not want that bear to associate a human presence with that site. Bears are very secretive animals, and if they associate people they are typically—as I say, in most cases, those bear hunters are not successful all the time. But if a bear comes in, it comes in very cautiously. If the wind switches where they scent a human presence or see movements, the bear is gone. That is the typical situation.

Certainly they are much more wary than turkeys coming into a person calling turkeys or sitting in front of turkey decoys.

Mr. GILCHREST. Ms. Estill, do you see any difference at all between—I was not here, so I am not sure how you testified on behalf of the U.S. Forest Service and their position on bear baiting.

Ms. ESTILL. In general, we feel like the States have the responsibility for wildlife management. We have Memorandums of Understanding with each State. We work those things out in advance.

We did have problems with bear baiting back until the mid-1990's, when we developed a policy that put some safeguards in the Forest Service regulations that said if a State was not ensuring that the management of those bear baits was done properly, we could close. Or if there was some sort of degradation of the Federal resource or danger to people, we could close those areas.

Mr. GILCHREST. So each of the States that allow, and there are nine States that allow bear baiting, each one of those States has a Memorandum of Understanding with the Forest Service?

Ms. ESTILL. Yes.

Mr. GILCHREST. In particular, for Forest Service land to deal with the management of bear baiting?

Ms. ESTILL. Of all wildlife, including that particular kind of contact.

Mr. GILCHREST. Of all wildlife baiting. Is baiting for wildlife on Forest Service land done for the management of that species, for example? Is it the management for the population of that species, for the safety of communities nearby?

I guess if you could also give me some understanding of when you manage bear baiting with these various States through your MOU or you manage baiting of wildlife, do you have an MOU for whitetail deer in the same way you have for bears or migrating waterfowl or things like this?

Ms. ESTILL. We have one MOU with each State that covers the whole waterfront on wildlife.

Mr. GILCHREST. That covers the whole panorama. Is there a difference in the MOU between baiting bear versus baiting deer or snow geese or things like this?

Ms. ESTILL. Each MOU with each State is different. What we have is a national policy on bear baiting for the Forest Service. So that if we have a problem with an individual State, we can fall back on that national policy and it details how we go about resolving the situation.

Mr. GILCHREST. I see. Thank you very much.

Mr. Gallegly.

Mr. GALLEGLY. Thank you very much. The reason I passed a moment ago, I had just walked in after being caught after the last vote, so I wanted to collect my thoughts a little bit. Sometimes it takes longer for me than others to do that.

Mr. GILCHREST. I just had one other question. I will yield to you your full time.

Mr. GALLEGLY. That is fine, go ahead. I just had two short questions for Ms. Estill.

Mr. GILCHREST. OK, go ahead.

Mr. GALLEGLY. Correct me if I am mistaken, but during your testimony, a major part of the focus of the position of the Forest Service was predicated on your belief in the autonomy of the States; is that correct?

Ms. ESTILL. In the States—

Mr. GALLEGLY. Autonomy as it relates to the issue of bear baiting or the issue of wildlife.

Ms. ESTILL. Well, our position is that States traditionally have been and are responsible for regulation of wildlife.

Mr. GALLEGLY. OK. Do the States pay for all the signs in the National Forest area that warn people about feeding bears or does the Federal Government spend any money at all in the policy of asking people to not feed the bears?

Ms. ESTILL. I am quite certain the Federal Government puts fund into that.

Mr. GALLEGLY. So the Federal Government does take the responsibility financially and the authority to advise people not to feed the bears; is that correct?

Ms. ESTILL. That is correct.

Mr. GALLEGLY. OK. That being the case, if hunters should be allowed to set out food for bears in National Forests, why shouldn't photographers and wildlife watchers also be allowed to set out food to increase their probability of getting a nice photo shoot? Ms. Estill?

Ms. ESTILL. I don't have an answer for you.

Mr. GALLEGLY. Mr. Chairman, I yield back.

Mr. GILCHREST. That is an interesting question, although I think it would be more fun to spend more time out there looking for the wildlife with your camera without toothpaste and other hygiene items.

Mr. GALLEGLY. You don't even have to have a hunting license, either.

Ms. ESTILL. I suppose there is an answer to that, and it would go back to the State responsibility for managing the wildlife, and particularly managing hunting and managing the ways that that hunting is done in each State.

Mr. GILCHREST. Very good response. It is an interesting, fascinating scenario. Although I don't know if I would want to put

more Twinkies out there than we already have for the photographers.

Mr. Hogan, could you tell us from your perspective, I understand Fish and Wildlife's hesitancy with Mr. McKeon's legislation. Fish and Wildlife is already, to a large extent, stretched beyond its capacity and its resources. So adding another responsibility means you have to take people from other critical places.

Can you tell us what you think, and this is not only a ballpark, this is the whole USA, so you can be as wide open as you want to be, but how many people do you think it might take to enforce this legislation, not allowing people to have or trade in these big cats?

And if we did pass this legislation, well, when we pass this legislation, do you see the State Fish and Game, local organizations, local humane societies playing a part in monitoring and even in some cases enforcing this Federal law?

Mr. HOGAN. Well, I don't know that I will be able to give you the answer you are looking for, Mr. Chairman. We really don't have a good idea how many of these cats are out there. So without knowing exactly how many cats there are, it would be difficult to say how many agents it would take. And, again, the way the bill is written does not prohibit possession, it only prohibits moving the cat in interstate commerce.

Mr. GILCHREST. Do you suggest we prohibit possession as well?

Mr. HOGAN. I am not prepared to say that for the Fish and Wildlife Service.

Mr. GILCHREST. Would you say there is a problem with these big game cats being housed in areas where people don't have enough room, enough food, enough knowledge how to deal with them?

Mr. HOGAN. In certain circumstances, it certainly seems there are some issues out there with people who are not educated, informed, and are not properly—

Mr. GILCHREST. Do you have recommendations if we do not pass the legislation as to what you would do?

Mr. HOGAN. Well, again, our focus is again mainly on the wild species. We spend a lot of time looking for enforcements of violations of the Endangered Species Act, which does include four of the species listed.

As far as the individual possession of those species in a State, I am not really prepared to suggest that the Fish and Wildlife Service, or prepared to suggest to you what would be the proper way to address that. Our main concern is just that, as you appropriately noted, it would pull our limited resources off of the enforcement of some of the issues that we feel are much more high priority for conservation of those species in the wild and not focus on largely domestically raised, captive-bred species.

Mr. GILCHREST. Can you give me an example of an endangered tiger?

Mr. HOGAN. I am sorry, an endangered?

Mr. GILCHREST. Tiger.

Mr. HOGAN. Well, tigers are listed under the—

Mr. GILCHREST. All tigers are listed under the Endangered Species Act?

Mr. HOGAN. Correct.

Mr. GILCHREST. What if somebody has a tiger in their backyard and somebody calls the Fish and Wildlife? They have possession of a tiger in their backyard, which is endangered, and somebody calls or gets in touch with you somehow? What do you do?

Mr. HOGAN. Well, possession of the tiger wouldn't necessarily be illegal. It would be if that person entered it into interstate commerce or if that person illegally took the tiger without a permit. So in the case if someone had a tiger in their backyard and they called us—

Mr. GILCHREST. Under the take provisions of ESA why is possession of that tiger not illegal?

Mr. HOGAN. I am sorry? I didn't get the question.

Mr. GILCHREST. Under the take provisions of ESA, why is possession of having that tiger in the suburbs of Los Angeles or some other place not illegal?

Mr. HOGAN. Would you allow me 1 second to confer with one of our law enforcement agents to make sure I get this correct?

Mr. GILCHREST. Take as much time as you need.

Mr. HOGAN. Thanks, Mr. Chairman. The Endangered Species Act doesn't necessarily prohibit someone from possessing the tiger, especially if that tiger was, for example, raised from a cub in captivity.

Mr. GILCHREST. The Bald Eagle is not endangered any more, right?

Mr. HOGAN. No, it still is endangered.

Mr. GILCHREST. Can I have a Bald Eagle in my house? If I had a Bald Eagle without a permit in my House, and somebody called Fish and Wildlife, what would happen?

Mr. HOGAN. You would probably get a visit by some of our agents.

Mr. GILCHREST. What is the difference between a Bald Eagle and a tiger?

Mr. GALLEGLY. They are a lot bigger.

Mr. PALLONE. And more dangerous.

Mr. GILCHREST. All right, that is it.

Mr. HOGAN. Well, Bald Eagle possession is actually prohibited not by the Endangered Species Act but by the Bald and Golden Eagle Protection Act, so you wouldn't be in violation—

Mr. GILCHREST. So we need a Tiger Protection Act. We need language to protect the tiger in this legislation. That is good. I think we will make sure we put it in there then. So possession of a tiger in this legislation will result in a statute that makes it illegal?

Mr. HOGAN. And that would be separate from the Endangered Species Act. Right now, possessing a tiger would not be a violation of the Endangered Species Act.

Mr. GILCHREST. So there is a separate Federal law that protects the Bald Eagle as opposed to other endangered species?

Mr. HOGAN. That is correct.

Mr. GILCHREST. Are there any other endangered species that has that type of protection like the Bald Eagle does?

Mr. HOGAN. If you give me one more second, I will find out for sure.

Some species could be protected under either the Migratory Bird Treaty or Marine Mammals. I cannot give you the exact list right now, but I would be glad to supply that for the record.

Mr. GILCHREST. OK. I was going to ask what is the difference between take and possession, but I will yield now to Mr. Pallone.

Mr. PALLONE. I am going to ask Mr. Hogan another question. Thank you, Mr. Chairman.

We had a lot of discussion about the baiting issue and deferring to States on it, but my understanding is that the Fish and Wildlife Service prohibits baiting on refuge lands, with some exceptions for Alaska, for example, now. What is the rationale behind that policy?

Because generally you seem to be saying you defer to the States. So why is baiting prohibited on refuge lands? What is the reason?

Mr. HOGAN. Refuges actually are closed to all human activity unless they are specifically open, unlike BLM units or Forest Service units, which are actually open until closed. Now, in Alaska it is a little confusing in that refuges are the exact opposite. Under ANOCA, refuges are open to all activities until closed. So on the Fish and Wildlife Service refuge lands, we would literally have to have regulations to allow baiting.

Refuges, comparatively, are much smaller in size than, say, National Forests or units of the BLM. So in that circumstance, on such a small area, bear baiting could actually work against some of the wildlife management objectives of the State. So that is why in general baiting is prohibited. And it is all baiting, and it is mainly targeted toward waterfowl. But all baiting of wildlife on all National Wildlife Refuges is closed in the lower 48, open in Alaska.

Mr. PALLONE. Again, I understand your response and also Mr. Baughman's response earlier, but it just seems to me there is a lot more interaction than you are suggesting. In other words, how does the bear know when it is on refuge land versus other land? And in terms of what Mr. Baughman said earlier, I was envisioning like a hiker, and you gave me this idea, which I understand about how the baiting is in remote areas and it is a different phenomena from where there are people. But there are hikers and other people that go in those remote areas. So it seems to me you would have circumstances where, if baiting exists, a hiker or someone might be exposed to a bear that has been baited and got away.

But I guess you see those as more isolated situations, and you are looking at what you consider the more likely scenario. There may be isolated instances like that, but that is not the major concern, I guess. If either one of you want to respond, I don't know.

Mr. BAUGHMAN. Mr. Chairman, in Wyoming, that is a good point, Mr. Pallone.

In Wyoming, baits cannot be placed within 200 yards of any trail and within a half a mile of any campground. Before a lot of these regulations were in place, I know there were problems, but I think those problems have largely been rectified. And in fact the baits have to be identified as to whose bait it is, so if there is a problem occurring, whether it is a Forest Service employee or a Wildlife officer, they can get in touch with that person and have that bait moved.

Mr. PALLONE. OK. Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Pallone. Mr. Gallegly, any further questions?

Mr. GALLEGLY. Might I just have one brief follow-up question for Ms. Estill? Because I keep getting back to the issue of the States making decision on what is appropriate for bear hunting.

If in fact you truly believe that the Federal Government should not be making these decisions, do you think, then, that it was unwise for Congress to pass the Federal Airborne Hunting Act that prohibited shooting from aircraft? That was preempting the States in that case.

So what would be the difference in saying it is OK to prohibit one act but not OK to prohibit another act if your argument is predicated on a States versus Federal?

Ms. ESTILL. I am going to defer to John to respond to that. I would just go back to there have been a number of bills and statutes that reinforce the States' primary responsibility unless there is some danger to Federal resources.

Mr. GALLEGLY. Mr. Baughman, would you say it is unwise that we passed the Federal Airborne Hunting Act? Do you think that was unwise?

Mr. BAUGHMAN. Mr. Chairman, Mr. Gallegly, no, I don't think it was unwise. In fact, flying aircraft in airspace is regulated by the Federal Government and I think they were regulating practices and the way airplanes are used. And in fact there are exceptions in there for wildlife management.

Mr. GALLEGLY. Mr. Baughman, you used the reference that the conduit there is that the Federal Government regulates airspace. I might remind the gentleman that the Federal Government also regulates Federal lands. This bill only has to do with Federal lands. It does not have to do with private lands within States. What is the difference?

Mr. BAUGHMAN. Mr. Chairman, Mr. Gallegly, I can't speak for the Congress, but I believe that there is human safety in terms of that method of flight and using aircraft. I believe there are safety factors there that do fall under Federal concerns. I don't think the same concerns were there with the baiting of bears on the ground and in national forests.

Mr. GALLEGLY. I think the gentleman is making my argument for me if we are going to talk about Federal safety as well, because this is all about safety.

Mr. Chairman, I think the gentleman answered the question. Thank you.

Mr. GILCHREST. Thank you, Mr. Gallegly.

One more quick question for Mr. Hogan. Can you, in the coming days, give us, from your legal team, an explanation for the difference between take and possession?

Mr. HOGAN. Well, I can actually give you that definition now. Take is actually killing or somehow taking the animal. Possession, in and of itself, is just simply having the animal in your possession.

Mr. GILCHREST. Really? So we need to change that. Thank you very much. I appreciate everybody's testimony. We thank the witnesses for coming today.

Our next panel is Ms. Tippi Hedren, President of the Roar Foundation; Dr. Eric Miller, DVM, Director of Animal Health and Con-

servation, St. Louis Zoo, and American Zoo and Aquarium Association.

Good afternoon.

Ms. HEDREN. Good afternoon to you.

Mr. GILCHREST. Dr. Miller, Ms. Hedren. Ms. Hedren, I hope you find us as fascinating as we find you.

Mr. GALLEGLY. I doubt it.

Ms. HEDREN. Thank you. Well, I appreciate that.

STATEMENT OF TIPPI HEDREN, PRESIDENT, THE ROAR FOUNDATION

Ms. HEDREN. I especially am very grateful to be here and I thank the Chairman and other members of the Subcommittee on Fisheries Conservation, Wildlife and Oceans. I am very grateful to my congressman, Buck McKeon, and George Miller, who introduced this bill a while ago.

I am going to just tell you a little story about how I got started so that you will understand that I do have a validity in talking about these big cats and the danger that they provide us as pets.

Thirty years ago, I did a film in Africa and became concerned about the diminishing numbers of big cats, wild animals in general, just due to encroaching civilization, sports hunting, and, of course, worst of all, poaching. We saw on the Ngorongoro Game Preserve a house that had been abandoned by a game warden because it flooded during the rainy season, and a pride of lion moved in and it grew to be the largest pride in all of Africa.

During that time, also, environmentalists were saying if we don't do something right now, the editorial "we," about saving the wildlife, by the year 2000 they will be gone. A great deal of awareness was going out, and my then husband and I decided to make a film about wildlife and the problems, and we decided to use the great cat after seeing that house on the Ngorongoro Game Preserve.

So we got back to California, the script was written, and we had full intentions of using acting animals and have a 9-month shoot, over and out. However, as soon as the trainers of these actors of these wild cats heard that we would be maybe using 20 cats at a time, 15, whatever, they just laughed at us and said you can't do it because of instinctual dictates to fight. They suggested that we acquire our own animals to do the movie.

Well, the first one was a rescue. A doctor in Mandeville Canyon in Los Angeles had purchased a little 8-week-old lion cub. Cute? Adorable? Oh, you bet. Fed it with a bottle, cuddled it, slept with it at night. By the time it was 7 months old, it had destroyed his house and it had taken a pretty good chunk out of him, and he was screaming someone take this unmanageable little beast off my hands.

That was the beginning. Then we heard about several other little animals that needed a home. Pretty soon, we had seven of them, and we boarded them at a place that was one of the animal trainers. Then we heard about some excess zoo animals, excess older circus animals, animal parks. But the common denominator was the private citizen who had purchased this little cub or a little animal and found out they couldn't handle it.

In fact, it had become such a major, major issue with these animals that our 9-month shoot became 5 years, just because of a lot of accidents that we had. I was bitten in the back of the head by a lioness, my daughter was scratched severely in the face—thank God for wonderful plastic surgeons—our director of photography was scalped, my stepson was bitten in the head. I mean it just goes on.

I have three books of evidence that I took out of my files—I didn't bring them all because I would have had to bring the whole cabinet—that I would like to enter into the Congressional Record, along with my testimony.

Mr. GILCHREST. Without objection.

[The three books referred to have been retained in the Committee's official files.]

Ms. HEDREN. Thank you. And the attacks don't stop. A little boy in Texas, who had put his arm in to scratch the tiger that belonged to his uncle, the tiger ripped the little boy's arm off. They retrieved the arm. It took 11 hours to attach the arm, and he has very little use of it.

A little 11-year-old girl was brought into a tiger's cage, again in Texas, by the stepfather. The tiger jumped the little girl, bit her in the neck and she was instantly dead. The real father was on television, tears rolling down his face, saying why aren't there laws to prevent this kind of a problem? A woman in Colorado had her arm ripped off. It doesn't stop.

The whole situation has become of such a concern that about 5 years ago we formed an association, a number of us who have a sanctuary type of facility. And that means no breeding, no buying, no selling, no trading, no commercial use, perimeter fencing around this, and not just an 8-by-10 cage but a habitat, with adequate veterinary care. Not all veterinarians are capable of taking care of these animals. We formed an association called the American Sanctuary Association so that if the Shambala Preserve can't take an animal because we are filled, and we are always filled, there is a waiting line to come into these sanctuaries, but if I can't take an animal, I can call another one and I know that that animal is going to be safe and not end up in some horrible situation or in a canned hunt. And of course you know what the canned hunts are about. I don't have to go into that with you all.

But this situation has become very bad. We have a lion who was living in a basement outside of Branson, Missouri; another little lion who was walking down the streets of Kirksville, Missouri all by himself; a little black leopard who was abandoned in a garage in the bitter cold month of February in Wyoming. All four pads were frost bitten. She lost 4 inches off her tail due to frost bite, was undernourished, and was one angry little animal when she came to us. It took almost 4 years before she wouldn't come flying at the fence at us she was so angry and so frightened.

We have 67 animals at the moment, and every single one, or many of them came from, excuse the expression, the "Tiger Rescue" out in southern California, in the Riverside area. That is an area of California where just recently it was exposed that this man named John Weinhart had been keeping these animals for approximately 30 years.

I went there 5 years ago and left in tears. Because of the American Sanctuary Association, it is important we check out different places to see if they were a sanctuary or what they were like. At this particular one I was very upset and appalled by what I was seeing. First of all, the fencing was not adequate, there was very little shelter for the animals. This was basically lions and tigers. There were dead chickens, green with mold, feathers and feces and the stench was horrible.

Mr. GILCHREST. Where was this?

Ms. HEDREN. It is in the Riverside area. It is called Colton. It was owned by a man named John Weinhart. He is no longer involved in it. The Fund for Animals has sort of taken over.

Last November, Fish and Game called and asked if I could take 13 tiger cubs that were found at John Weinhart's place. He didn't have a breeder's permit, therefore they could confiscate the animals. I said I don't have room for them, I will talk to my staff and see if we can take several of them, and we did take three. They all came in sick. They all had a terrible case of mange, which is a very, very communicable disease. All of our animals are in quarantine for a month, but we had to keep them in for 2 months.

Apparently, the Weinharts home, just about 2 months ago, Fish and Game heard there was another tiger there. They went to check it out and they not only found that tiger, a young tiger sitting on the veranda or something, but they found two Cayman alligators in the bathtub; they heard scratchings in the ceiling, they opened the vent and a little tiger cub fell out, about 2 weeks old. There were nine tiger cubs and two leopard cubs up in the vent that they were trying to hide. This man has been breeding these animals to sell. There was a truck loaded with tiger skins. There were carcases of almost 20 tigers at their home, around their grounds, skinned.

This is the sort of thing that has got to stop. There was another place in Idaho where there were 18 cats running free, just because the fencing was so poor, and the whole facility was falling down. There is another place in west Kansas with the same kind of situation.

I don't know how many breeders there are, but because there are not laws, this is why this is happening. It is happening because nobody is stopping them. And the statement was made that there aren't enough investigators or there aren't enough people to stop this. That should be addressed, too, and should be rectified. Because until this whole issue is stopped, there are going to be more people hurt, more children killed.

It is an unconscionable act that is going on, and you, the Congress, have the capability of stopping it. I wish I could. God knows, I wish I could. You do. And there isn't a reason in the world that these animals should be pets. They are dangerous. And, to me, in the vernacular of today, it is a no-brainer. You have the capability. You in the House, you in the Senate, you have the capability of doing something about this, and I urge you so fervently to vote in favor of the Captive Wildlife Safety Act.

Mr. GILCHREST. Thank you very much.

Ms. HEDREN. I thank you so much for inviting me to be here today. This is a cause I have been working on for 7 years. I have

been to Washington often talking about it, and to be here is a mission I feel accomplished, and I hope you will react on it.

Mr. GILCHREST. We will, Ms. Hedren. And your passion has been eloquently expressed.

Ms. HEDREN. Thank you. If there are any questions, I would be delighted to answer them.

[The prepared statement of Ms. Hedren follows:]

Statement of Tippi Hedren, President, The Roar Foundation

Mr. Chairman and other Members of the Subcommittee on Fisheries Conservation, Wildlife and Oceans, I am very grateful to you for electing to conduct a hearing on H.R. 1006, the Captive Wildlife Safety Act. I am especially grateful to my Congressman, Buck McKeon, and to Representative George Miller for introducing this important legislation. This bill, if enacted, would fulfill a dream I have had since the mid–1990's: to see a Federal law adopted to promote public safety and to prevent the abuse of wild cats kept as pets.

For 30 years, since I began working with big cats, I have been amazed that there are no Federal laws uniformly regulating the transport of wild and exotic species kept as pets by private owners across the United States. Consider:

Near Houston, Texas, on March 15th, 2000, four-year-old Jayton Tidwell watched his uncle reach into the cage of the 400-pound Bengal tiger named Cheyenne he kept in the back yard. Little Jayton wanted to pet his uncle's beautiful tiger, too. The tiger responded by tearing off Jayton's arm.

Doctors reattached the arm after eleven hours of surgery, but to date Jayton's right arm remains largely useless. However, Jayton was lucky. Other children lose their lives to big cats recklessly kept as pets. In October, 2001, on a farm outside Lexington, Kentucky, one of the three pet tigers kept by Kerry Quinney snatched his three-year-old grandson Matthew Scott from his arms as they were having their picture taken in the tiger pen. Matthew died of massive head injuries after the 250-pound tiger dragged him around the pen.

Adults are also killed or maimed. In April, a woman who had six years' experience handling the big cats suffered a fatal loss of blood when a tiger ripped off her arm. A volunteer at Safari Joe's Rock Creek Exotic Animal Park in Adair, Oklahoma, she was working outside the cage when the tiger managed to grab her.

Vince Lowe died at Savage Kingdom, an exotic animal ranch in Center Hill, Florida, where he volunteered as a way to gain experience for a state certificate to handle big cats. On August 1, 2001, Lowe was cleaning the cage of a 500-pound Siberian tiger named Tie when the animal tore out of an interior retaining cage to seize Lowe by the neck.

Gene Light's pet tiger Rufus, who lived in Light's back yard in Lubbock, Texas, attacked him in May, 1999. The tiger dragged him down and bit his head, ripping out his jaw and right ear.

These are only a few of the incidents involving big cats and people. I learn of horrific stories such as these repeated again and again around the nation. At Shambala, which over 30 years ago was the location in Southern California for a film to raise awareness about animals in the wild, we suffered our share of injuries when we were learning about the big cats. During the filming of our movie ROAR, a lioness pinned me down and held the back of my head in her jaws, requiring over 50 stitches. My daughter, actress Melanie Griffith, had her face deeply scratched by a lion's claws. Our Director of Photography, Jan de Bont, had his scalp peeled back by a lion. Our set photographer, Bill Dow, was hospitalized for nine days with a gash in his arm inflicted by a lion's jaws. My stepsons John and Jerry Marshall were bitten on the head and the foot, respectively. Perhaps most frightening of all, our Assistant Director, Doron Kauper, was very nearly killed by a lion that repeatedly leapt at his throat. We learned the hard way, and we don't want to see others learn from our bitter and painful experience.

Injuries and deaths, when they occur, are never the fault of the animal. They are the fault of the person who puts himself or herself, or someone else, in jeopardy, and allows the animal an opportunity. Fortunately, we lived to tell the tale, learning our lessons about these animals from making ROAR. We are living proof that these animals should not be pets.

When an attack occurs, the animal is merely acting according to its instinctual nature as a predator. We can never fully understand or control these instincts. More importantly, we deceive ourselves-dangerously-by believing wild animals such as big cats can ever be "tamed," that is, taught to abandon their instincts.

After completing ROAR, we had become a very important facility for rescuing big cats. State fish and wildlife departments all over the United States called us to take abandoned animals, as did officials from the U.S. Department of Agriculture, humane societies and SPCAs, circuses, zoos, and most of all, private citizens who had purchased a big cat as a pet. In 1983, I formed the Roar Foundation, a 501(c)(3) nonprofit organization, to financially support the Shambala Preserve. We had become a sanctuary with very stringent rules: no buying, no breeding, no trading, no selling of animals, and no commercial use.

The Captive Wildlife Safety Act seeks to prevent the interstate transport of big cats for the pet trade, and it will curb the frequency of human injuries by shrinking the number of people who live with these animals. Exceptions are provided to allow for accredited facilities, such as zoos, sanctuaries, and humane societies, to keep these animals.

Only 34 states have laws of any kind regulating the possession of wild and exotic animals. Only 17 of those states, such as California, have stringent laws that truly protect the public, laws with teeth. Even then, those laws may not be enforced due to budget constraints. The Federal Government can help protect people and the big cats by adopting a law to complement state efforts, and to fill a gap where no state laws exists.

At Shambala, we recently built a new enclosure at a labor cost alone of $20,000 for three young tigers. These animals survived being bred at a deplorable facility in Colton, California, called, ironically, "Tiger Rescue," which currently houses 72 tigers on seven acres. The leopard we rescued from this facility also needs a compound built for her. The California Department of Fish and Game originally asked Shambala to take 13 tiger cubs that had been bred at the facility illegally. The Department of Agriculture asked us to take three intact male tigers that have impregnated four tigresses. We expect that many more pregnant tigresses will be discovered over the coming year. Due to financial and space constraints, we had to decline to take these animal refugees.

The operator of "Tiger Rescue," John Weinhart, made national news recently when Fish and Game agents entered his home. In addition to coming across 58 tiger cubs in a freezer, the authorities found the skinned, rotting carcasses of many adult tigers littering the property, along with a truckload of tiger pelts. Weinhart appears to be a man who profited by breeding and selling tigers and their parts under the guise of "rescuing" them. A live tiger may be sold for less than the cost of purebred puppy, but its dismembered parts may yield more than $10,000, making them worth a lot more dead than alive.

The trade in wild and exotic species grows larger each year. In addition to selling skins and other body parts, traders make money breeding the animals for sale to the public as pets or to canned hunting facilities. At a canned hunt, for a fee of three to twenty thousand dollars or more, a so-called "hunter" can shoot a captive animal at close range for a guaranteed trophy.

Experts say the demand has created a cottage industry for breeding tigers and other big cats as pets, performers, or for canned hunts. When uncontrolled, such breeding creates conditions that make abuse of wild and endangered species almost inevitable.

"Once there are tigers in private hands, the production is going to go skyrocketing," states Richard Farinato, director of the Captive Wildlife Protection Program of the Humane Society of the United States. "The result is too many cats, too little space, and "" tigers in places where there is no way they can care for them well."

In one form or another, such deceptive "rescue" operations as Weinhart's can be found throughout America, especially in the Midwest. Operations such as Weinhart's flourish because both state fish and wildlife agencies and state agriculture departments do not have the investigators they need to enforce the laws.

These false "rescue" facilities that breed animals for commercial use often justify their activities by claiming they are preserving endangered species. In fact, they are not the answer to the tiger's survival, since these individuals are not involved with any reputable species survival plan. Accredited zoos call these crossbred tigers "mutts." Unregulated breeding can lead to birth and genetic defects, compromised immune systems, and shortened life spans for the animals. "The tigers that you find in the private sector will never, ever, be introduced into the wild, and I doubt that they have any value for either conservation or research," according to Ron Wilson, director of conservation at the Minnesota Zoo and coordinator of a nationally adopted Tiger Species Survival Plan that carefully controls captive breeding of tigers in zoos across the country.

While all tigers are protected under the Endangered Species Act, mixed-breed tigers are subject to less stringent regulations, including being allowed to be sold

under some circumstances. Purebred tigers cannot legally be sold through interstate commerce, and their owners must obtain Federal permits. Owners of generic tigers are not required to have Federal permits, according to Tim Santee, a special agent with the U.S. Fish and Wildlife Service. These loopholes create, "a second-class citizen of endangered species," vulnerable to black market sale and mistreatment, said Craig Hoover, deputy director of TRAFFIC, which monitors illegal trade in exotic animals for the World Wildlife Fund.

Increased trade in wild and exotic animals creates a growing crisis for sanctuaries. To be considered a sanctuary like the Shambala Preserve, a facility must be outside city limits, provide proper veterinary care, have habitats and a surrounding perimeter fence, ban commercial use of the animals, and forbid buying, breeding, selling or trading animals. Any animal accepted at a sanctuary will be protected, cared for, and given a home for the rest of his or her natural life. But the need far outstrips the capacity of the sanctuaries. Zoologists and veterinary experts estimate that the number of wild and exotic animals living in backyards in the United States far exceeds 50,000. More tigers live in the state of Texas than in their native habitat of India. Texas contains the majority of the breeders and half of the 1,000 canned hunts in the U.S.

My desire is not to take the animals away from their current keepers, but to prevent the trade from continuing to put people and big cats at risk. I should emphasize that at no time have I proposed or endorsed any state or Federal legislative measure that would prohibit ownership of wild and exotic animals or require that animals be confiscated across the board from their present owners. Where would we put them all? Our sanctuaries are already overburdened. Such a scenario would be a nightmare, likely resulting in many thousands of innocent animals being euthanized and a large increase in deaths and injuries to humans due to huge numbers of animals having to be moved. Rather, my approach has been, both with the Shambala Wild Animal Protection Act and the Captive Wildlife Safety Act, to keep wild and exotic animals out of the hands of those who would cruelly exploit them or fail to protect the public from the dangers they present.

How does an ordinary citizen obtain an extraordinary animal such as a lion or tiger, leopard, cheetah, jaguar, or mountain lion, the large cats covered in the Act?

It is surprisingly easy. Wild and exotic animals of all types are available every day through newspaper ads, on the Internet, or in person from a breeder, who may be selling cubs out of the back of a van at a local mall. In some states it is more difficult to obtain a dog license than to keep a lion or tiger in your back yard. The cute and playful cub has likely had its claws removed and will be touted to an unwary buyer as a "good pet."

A breeder attempted to illegally sell two Bengal cubs for $10,000 each at a fashionable mall in Newport Beach, California. After they were confiscated, Shambala became the home to one of the tigers, Tamara, who has lived healthily at the preserve for many years. However, her sister died, as both were sick upon arrival.

Spider, Dagger, and Whitey, three brothers who are a mixture of Siberian and Bengal tiger, were bred in Nevada. The breeder used them in television commercials when they were 6-weeks-old cubs. Had we not intervened to give them a home, they would have then ended up doing such things as providing photo opportunities in shopping malls.

Boo, a black leopard, has a reputation as the most vicious cat at Shambala. He came from a private owner who kept him locked in a closet to protect the furniture. The owner donned heavy gloves to wrestle with him when he was let out, turning him into a potentially highly dangerous cat. Boo came to the preserve as one very angry animal. Over the decade of loving and respectful care he has received at Shambala he has gradually become less hostile to humans. But to take him for granted, even today, could be a terrible mistake. Only a few months of abuse can mark an animal for life. They never forget.

Within a matter of weeks the buyer of an adorable, cuddly cub is likely to rue the decision as it becomes apparent that the rapidly growing animal is unmanageable, dangerous and destructive. The average person doesn't know the rigorous and expensive care that exotic species require, nor are most veterinarians familiar or experienced with their specialized needs.

A desperate owner's choices are few, and may be grisly. Zoos will not take an animal without knowing its genetic history. State fish and wildlife agencies do not take in animals or routinely find them homes. Humane societies and community animal shelters generally deal exclusively with dogs and domestic cats. Thus, the animal might be euthanized, abandoned, or sold to an animal dealer, no questions asked, from where it may likely go to a canned hunt. Tigers are banned from such hunts under the Endangered Species Act, but the lure of the profits they can generate as prey may be irresistible. "The message is, if you've got the money, we can

provide it for you," says Michael Markarian, president of the Fund for Animals. "For $400 or $500 you can buy a tiger off the Internet," Markarian notes. "And if it's that easy for someone who wants to have a tiger in their backyard to buy it, it's just as easy for someone who wants to shoot that animal to get it."

Luckier animals find space in a sanctuary. A few years ago, to coordinate the rescue efforts of sanctuaries around the country, a number of true sanctuaries formed the American Sanctuary Association, a network of 40 facilities that follow a uniform practice code of no buying, breeding, selling, or trading. Furthermore, to qualify as a sanctuary with the ASA, the facility must allow no commercial use of the animals, have proper veterinary care, be outside city limits, be completely surrounded by a perimeter fence, and keep animals in habitats, not just cages.

With the leopard, Savannah, and the three young tigers we accepted from "Tiger Rescue" in Colton, our total population at Shambala now comes to 63 large cats and one African elephant on 40 acres. We are at capacity, as are most sanctuaries nearly all of the time. A week seldom goes by that I am not approached to take additional animals. Accredited sanctuaries all over the United States are filled, with more than 400 animals waiting to come into sanctuary.

Each animal's care at the Shambala Preserve averages $12,315 per year, out of a total annual budget of $825,000. Our budget is nearly $70,000 per month to feed and house the animals, not including rebuilding, repairing, or expansion. For desperately needed improvements in our buildings and property, we need an additional $1 million.

Throughout its 30 year history, Shambala has existed entirely on private donations, including my own. I have never been paid as the Director of the non-profit preserve, the President of the Roar Foundation that supports the preserve, or the President of the American Sanctuary Association. Those who share this vision and this cause possess a selfless dedication and willingness to sacrifice financial reward out of devotion to rescuing animals. We certainly don't do it for the money. We do it for the love of these animals and to respond to this crying need for help. As such, passage of this Act will be a necessary reward and encouragement to those who have given their lives to the welfare of wild and exotic species.

When a state department of fish and wildlife or a state agriculture department wants us to take an animal, it almost never sends funds to help us maintain the animal. We must make a commitment to feed, shelter and care for that animal for the rest of its natural life (which can be as long as 20 years or more) with no money attached. Yet the government has failed to pass laws to stem the growing tide of wild and exotic animals, many of which are destined never to find a safe, permanent home and thus may be subject to atrocities such as occurred at "Tiger Rescue."

The House of Representatives—starting with the members of this Committee—can bring help to alleviate this crisis by passing the Captive Wildlife Safety Act. It is a bipartisan, common sense measure to safeguard the public and prevent harm to animals. It will help stop a largely underground and in many cases criminal economy that breeds, trades and butchers wild, exotic, and often endangered species.

This inhumane, irresponsible traffic in wild and exotic animals can be stopped. The atrocities and accidents I mentioned earlier occurred only because nobody stopped them.

I love these animals more than my next breath, but they are not pets. Not one more child should be hurt or killed. Not one more person of any age should suffer the physical pain, debilitation, and emotional trauma of an attack.

I urge you to act responsibly. Pass the Captive Wildlife Safety Act.

Mr. GILCHREST. There will be. We will let Dr. Miller go first, and then we will ask both of you some questions.

Dr. Miller.

STATEMENT OF DR. ERIC MILLER, DVM, DIRECTOR OF ANIMAL HEALTH AND CONSERVATION, ST. LOUIS ZOO, AMERICAN ZOO AND AQUARIUM ASSOCIATION

Dr. MILLER. Thank you, Mr. Chairman, for the opportunityto testify on behalf of the American Zoo and Aquarium Association, the AZA, in support of the bill 1006, the Captive Wildlife Safety Act. This is a much-needed bill designed to prohibit the interstate and foreign commerce of tigers, lions, cheetahs, cougars, leopards, and jaguars for use as pets.

My name is Eric Miller and I am a veterinarian, and currently the Director of Animal Health and Conservation at the St. Louis Zoo. Before I begin with the AZA testimony, I would like to also request that the written testimony of the American Association of Zoological Veterinarians, which represents over a thousand veterinarians caring for zoo animals and wildlife in the United States, be entered in the hearing record.

Mr. GILCHREST. Without objection.

[The statement of the American Association of Zoological Veterinarians submitted for the record follows:]

Statement of Wilbur Amand, V.M.D., Executive Director, American Association of Zoo Veterinarians, on H.R. 1006

Thank you Mr. Chairman for the opportunity to testify this morning on a very important piece of legislation, H.R. 1006—the Captive Wildlife Safety Act.

My name is Wilbur Amand. I am a veterinarian and the Executive Director of the American Association of Zoo Veterinarians (AAZV).

The AAZV is comprised of approximately 1200 veterinarians working in the field of veterinary medicine dealing with captive and free-ranging wild animals. As an advocate for the profession, the mission of the Association is to improve the health care and promote conservation of captive and free-ranging wildlife.

The Veterinary Standards Committee of the AAZV has established Guidelines for Zoo and Aquarium Veterinary Medical Programs. These Guidelines were drafted in response to the highly specialized medical needs of captive wild animals. The veterinary medical program requires accessibility to an adequately trained and experienced veterinarian and qualified personnel, sufficient resources to support staff and implement the program, and access to hospital facilities appropriate for the number and types of animals housed at the facility.

Today in the U.S. there is an active pet trade in wild animals. Exotic and wild animals have become increasingly popular as pets and large cats (tigers, lions, cougars, jaguars, cheetah) are in high demand. There are an estimated 10,000–20,000 large cats in private hands in the U.S., with approximately 5,000–7,000 tigers, (The Humane Society of the United States, February 2003).

As veterinarians specifically trained to care for exotic and wild animals, the AAZV is sensitive to the specialized needs of these animals as well as the dangers of handling these animals and the tremendous expense to provide appropriate care.

Exotic and wild animals when kept as pets, often suffer from poor health either due to inadequate nutrition, poor husbandry or due to various surgical procedures, such as declawing and dental extractions, performed for the sole purpose of trying to turn a wild animal into a pet. Many practicing domestic animal veterinarians lack the training and experience to effectively prevent and treat health problems in exotic and wild animals.

Exotic and wild animals are not suited to be kept as pets. The average private owner lacks the expertise and facilities to provide appropriate housing, secure containment, adequate nutrition, appropriate medical care and cannot meet the complex social, emotional, and behavioral requirements of these animals.

The AAZV is in agreement with the positions of the American Veterinary Medical Association, the Association of Zoos and Aquariums and the United States Department of Agriculture, Animal Plant Health Inspection Service, Animal Care on the private ownership of wild animals as pets.

AAZV's Position:

Based on the experience and knowledge of our member veterinarians, who specialize in providing medical care to exotic and captive wild species, the American Association of Zoological Veterinarians (AAZV) believes that nonhuman primates, large carnivores and venomous reptiles should not be kept as pets.

The AAZV believes keeping and trading exotic and captive wild animals can cause serious problems including: (1) zoonotic disease transmission; (2) human injury and death; (3) compromised animal welfare due to inadequate knowledge and experience to meet the complex social, emotional, behavioral and physical needs of these animals; (4) medical problems due to inadequate veterinary care and poor nutrition; (5) abandonment, suffering or death due to insufficient financial resources to provide a safe and humane environment; (6) potential for escape due to improper transport, insecure containment or lack of proper equipment; (7) damage to wild popu-

lations of rare species due to over-collection, introduction of non-native species or exotic diseases.

Dangerous wild animals should only be maintained by qualified, trained experts from accredited zoological institutions or other professionally operated and regulated facilities. Placement of abandoned pets in zoological facilities is difficult because of space, genetic diversity and social interaction concerns, and few sanctuaries that are qualified to care for these animals exist.

The AAZV position on the private ownership of wild animals as pets is consistent with the statements of the American Veterinary Medical Association and the American Zoo and Aquarium Association.

Dr. MILLER. It is in close agreement with the statements I will give from the AZA.

I would note from the Zoo Vet Association I am a past president and current board member, so I am closely aware of their interest in this bill.

As for the AZA, I am also a member of their board of directors and a veterinarian adviser to the AZA Tiger Taxon Advisory Group. In that role, I have had the good fortune to work in the conservation of South China tigers in Asia.

AZA represents 212 professionally managed and accredited institutions, which draw over 136 million visitors annually, and we have more than 5 million zoo and aquarium members. We collectively care for over 800,000 wild animals. Many of these are extremely dangerous and require our expertise. In our collections, AZA institutions have 300 lions, 450 tigers, 200 cheetahs, 140 leopards, 170 cougars, and 90 jaguars. Based on our member institutions' unparalleled experience and expertise in dealing with these animals, the AZA firmly believes that large wild felids cannot be properly maintained by individuals without the necessary resources or knowledge to care for them.

The wild cats identified in the bill 1006 have a very specific physical, behavioral, husbandry, health and nutritional needs which can rarely be met by someone holding these animals as pets, as has been so eloquently pointed out. These powerful, unpredictable animals should only be maintained by qualified experts from accredited zoological institutions or other professionally operated government regulated facilities. Curatorial staff in these facilities have the requisite knowledge and experience to meet the behavioral and physical needs of these animals and understand the inherent risks associated with caring for them.

It is in this context that we express our support for this bill. This legislation takes direct aim at the dramatic increase in the number of unregulated and untrained individuals who are maintaining large wild felids as personal pets. According to most estimates, there are between 5,000 and 10,000 tigers in private hands in the United States, more than all their native habitats in Asia, where the numbers probably are below 5,000.

Only 12 States have enacted outright bans on private ownership of these dangerous animals. Full enforcement of these bans has been inconsistent at best. The result has been a patchwork of laws and regulatory loopholes that have ultimately led to a thriving commercial trade in dangerous exotic animals as well as increased public safety and animal welfare concerns.

The inconsistent enforcement of current regulations, coupled with this increasing demand, has fostered a not fully known but

uncontrolled industry in exotic pets, especially large felids. Tiger cubs can be bought for as little as $300, about the price of a purebred house cat. Most of us have heard of the recent raid in a California home where the California State Department of Fish and Game found 30 adult lions and tigers and 58 cubs dead in a freezer. Allegedly, the adults were left to starve to death because they were no longer marketable to buyers, and the cubs were killed due to overproduction.

In an unrelated event, a 3-year undercover investigation, led by Federal officials, uncovered a 16-member exotic animal ring in the Midwest that slaughtered dozens of Federally protected big cats for their body parts during the late 1990's.

As we have heard, private ownership of large felids also creates significant public health consequences. In the past 4 years, attacks by big cats either kept as private pets or in exhibited nonaccredited roadside zoos have killed at least 9 children and adults and injured uncounted others. Often in private homes, these animals are subject to unhygienic conditions that are both a public safety and animal welfare concern.

Keeping these animals as pets without proper veterinary care husbandry increases the neighbors' risk of contracting transmissible diseases from these animals. These animals are extremely dangerous in the hands of these private owners, and their presence in communities endangers neighboring adults, children and domestic pets.

For the animals themselves, ignorance of their nutritional needs often leads to malnutrition. I brought with me, and would like to enter into evidence, pictures of a tiger cub that I personally treated that has folding fractures of one leg bone, which is typical of malnutrition, a lack of calcium in the diet. We get calls for, I am sure not as much as Ms. Hedren, but one case a month at our zoo, and our national association hears about 10 cases a month of people looking for homes for these maltreated animals.

Dr. MILLER. I would note that unregulated breeding also raises the risk of genetic birth defects among large felids that have included skeletal metabolic problems, crossed eyes, and increased mortalities. These handicapped animals may eventually be slaughtered in order to rid them or sell their parts. In addition, typically these animals have no breeding or genetic records, and this does present a conservation issue for those of us that are trying to preserve them as a species.

This is a problem for us, as you can tell, when pet owners abandon their animals at accredited zoos where we are looking for orphanages for them because they do not fit into our collections, or they do not fit our established breeding programs because of a lack of genetic background or they are socially misfit.

Unfortunately, a typical case occurred in 1995 at the St. Louis Zoo when I was called in the middle of the night to retrieve a lion cub that had been abandoned as a pet and tied to the zoo's gate. It was declawed and socially inept, and the zoo was unable to keep it as we already had a full contingent of lions. The animal was spayed to prevent further breeding and then was sent to a wildlife sanctuary in California specializing in large cats. However, it was never successfully reintroduced to other large cats in that facility

and is now living out its life alone. It is an unfortunate outcome for the most social of large cats.

The abandonment of unwanted animals is a common occurrence for AZA member institutions. We simply cannot take these cats due to limited space and our carefully managed genetic programs. In addition, caring for these discarded animals represents a huge financial burden that takes away from our limited resources normally directed toward animal care, conservation education, conservation science, and fields research.

Mr. Chairman, as a zoo veterinarian and as a zoo professional, I believe to protect both animal and human welfare this unfortunate cycle must end, and this bill is the first logical step in a complex process.

Thank you again, Mr. Chairman, for this opportunity to comment on this important public safety and animal welfare issue. I also would be happy to answer any questions you may have.

[The prepared statement of Dr. Miller follows:]

Statement of Eric Miller, D.V.M., Director of Animal Health and Conservation, Saint Louis Zoological Park, and Board Member, American Zoo and Aquarium Association, on H.R. 1006

Thank you Mr. Chairman, for the opportunity to testify before you and the Subcommittee regarding H.R. 1006, the Captive Wildlife Safety Act. Before I begin, I would like to request that my written testimony on behalf of the American Zoo and Aquarium Association (AZA) be included in the hearing record. I also respectfully request that the written testimony of the American Association of Zoological Veterinarians be entered into the record as well.

My name is Dr. Eric Miller, D.V.M. I am Director of Animal Health and Conservation for the Saint Louis Zoological Park and a member of the American Zoo and Aquarium Association's Board of Directors.

AZA represents 212 professionally-managed and accredited institutions which draw over 136 million visitors annually and have more than 5 million zoo and aquarium members. AZA institutions are the leaders in animal care and welfare, conservation science and conservation education. One of the cornerstones of AZA is its Species Survival Plan (SSP) program'a long-term plan involving genetically-diverse breeding, habitat preservation, public education, field conservation and supportive research to ensure survival for many threatened and endangered species. Currently, AZA member institutions are involved in 108 different SSP programs throughout the world covering 159 species, including African and Asian lion, three species of tiger—Siberian, Indochinese and Sumatran, clouded and snow leopard, cheetah and jaguar.

It is in this context that AZA expresses its support for H.R. 1006. The bill is a logical starting point for addressing the public safety threats posed by the private ownership of certain wild and dangerous animals as pets, as well as the important animal welfare issues associated with the personal ownership of these animals.

H.R. 1006 represents a much-needed step towards stemming the tide of the growing exotic animal pet trade. This legislation takes aim at the dramatic increase in the number of unregulated and untrained individuals who are maintaining large wild felids as personal pets. According to most estimates, there are between 5,000 to 10,000 tigers in private hands as pets in the United States—more than there are in their native habitats throughout Asia. In addition, there are hundreds, and possibly thousands, of lions, cougars, and other big cats being kept as pets in small cages, on tethers in backyards, holed up in garages, and even living in people's homes.

Specifically, H.R. 1006 would amend the Lacey Act to prohibit the interstate and foreign commerce of dangerous exotic animals defined as lions, tigers, leopards, cheetahs, cougars, and jaguars for use as pets. This legislation would not ban the private ownership of these species. The legislation specifically exempts zoos, circuses, accredited sanctuaries, incorporated humane societies and others that are currently regulated by the U.S. Department of Agriculture (USDA) under the provisions of the Animal Welfare Act.

Only 12 states have enacted outright bans on the private ownership of these dangerous exotic animals with seven other states enacting partial bans. Full enforce-

ment of these bans has been inconsistent. The result is a patchwork of laws, regulatory loopholes and a thriving commercial trade in dangerous exotic animals. There are hundreds of web sites and numerous catalogues that market exotic animals, including dangerous and powerful carnivores, as pets.

The inconsistent enforcement of current regulations and increasing demand has fostered a dangerous underground industry in exotic pets. Tiger cubs can be bought for as little as $300, about the price of a purebred cat. The increasing demand for wild cats from exotic pet owners has fueled an industry of breeders who produce litters of large cats for sale, many times illegally in spite of USDA licensing requirements for breeding and Endangered Species Act protection for many endangered and threatened species of cats. These unlicensed breeders may engage in overproduction due to demand from exotic pet owners. In a raid of a California home in April of 2003, the California State Department of Fish and Game found 30 dead adult lions and tigers and 58 cubs found dead in a freezer. Allegedly the adults were left to starve to death because they were no longer marketable to buyers and the cubs were killed due to overproduction. In an unrelated event, a three-year undercover investigation by Federal officials uncovered a 16-member exotic animal ring in the Midwest that slaughtered dozens of Federally protected big cats for their body parts during the late 1990's.

Unregulated breeding also raises the risk of genetic birth defects including skeletal and metabolic problems, crossed eyes, and inflated mortalities. These handicapped animals may eventually be slaughtered in order to get rid of them or sell their parts. With unregulated breeding, these animals have no breeding or genetic record behind them. This is problematic when the pet owners abandon their animals at accredited zoos which are unable to introduce them into their legal breeding programs due to a lack of genetic background information as well as other constraints. This type of breeding decreases the genetic viability of the species and increases the risk of tainted bloodlines getting into American zoological collections and possibly wild populations.

Private ownership of large felids also creates significant public consequences. In the past four years, attacks by big cats kept as private pets or exhibited in non-accredited, roadside zoos have killed at least nine children and adults and injured uncounted others. Often in private homes, these animals are subject to unhygienic conditions that are both a public safety and animal welfare concern. Keeping these animals as pets without proper veterinary care increases the risks of neighbors and homeowners contracting diseases from the animals. These animals are extremely dangerous in the hands of private owners as pets, and their presence in communities endangers neighboring children, domestic pets and others.

Collectively, AZA institutions care for over 800,000 wild animals on a daily basis—many of these animals are extremely dangerous. AZA institutions care for over 300 lions, 450 tigers, 200 cheetahs, 140 leopards, 170 cougars and 90 jaguars in our collections. Based on our member institutions' unparalleled experience and expertise in dealing with these animals, the AZA firmly believes that large wild felids cannot be properly maintained by individuals without the necessary resources or knowledge to care for them. The wild cats identified in H.R. 1006 have very specific physical, behavioral, husbandry, health and nutritional needs, which would rarely be met by someone who possesses these animals for use as a pet. These powerful, unpredictable animals should only be maintained by qualified experts from accredited zoological institutions or other professionally-operated, regulated facilities. Curatorial staff in these facilities have the requisite knowledge and experience to meet the behavioral and physical needs of these animals and understand the inherent risks associated with caring for these animals. In addition, these facilities have the resources to provide the necessary housing, nutrition, veterinary care and enrichment to accommodate the animals' special needs and to maintain them in a safe and humane environment.

The draft AZA Guidelines for Large Felids in Captivity reinforces this position by stating in its section on Animal and Keeper Safety: "Large felids can easily cause injury or death to other felids or humans and great care should be used when raising young felids as they may become very tame toward humans, thus providing the opportunity for staff to get careless. It should not be forgotten that they are very capable of injuring their owners and that staff should not enter cages of juvenile or adult individuals no matter how tame they used to be as infants. Insuring that doors and gates are secure is critical, as is the constant checking of locks to insure animals cannot escape. A system of keeper labels on entrances will help insure that staff does not enter animal enclosures while animals are present. For personal protections, keepers should carry pepper spray." The practices described are needed in any facility to ensure the humane and safe management of these animals. Such standards of practice are extremely rare in private homes. These animals are so dif-

ficult to maintain that in the past two years exotic pet owners have abandoned hundreds of tigers at local animal shelters, sanctuaries and zoological facilities because they were no longer able to care for them.

An unfortunately typical case occurred in 1995 at the Saint Louis Zoological Park, when I was called in the middle of the night to retrieve a lion cub that was abandoned and tied to the Zoo's gate. It was declawed and socially inept, and the Zoo was unable to keep it as we already had a full contingent of lions. The animal was spayed to prevent further breeding of surplus lions and was then sent to a wildlife sanctuary in California specializing in large cats. However, it was never successfully reintroduced to the other large cats in the facility and is now living out its life alone. It is an unfortunate outcome for the most social of the large cats. This is a common occurrence for AZA member institutions. We simply cannot take in unwanted exotic cats due to limited space, our carefully managed genetic diversity programs among our populations and social interaction concerns. In addition, caring for these discarded animals represent a huge financial burden that takes away from limited resources which are normally directed towards animal care, conservation education and conservation science and field research.

There is also emerging consensus on the part of animal welfare, public safety and professional organizations and the Federal Government concerning the need for concerted action to address the issue of large carnivores that are kept as pets. For example, the American Veterinary Medical Association "strongly opposes the keeping of wild carnivore species of animals as pets and believes that all commercial traffic of these animals for such purpose should be prohibited."

The American Association of Zoological Veterinarians which represents over 1000 veterinarians caring for zoo animals in the United States points out in their testimony that keeping and trading exotic and captive wild animals can cause serious problems including: (1) zoonotic disease transmission; (2) human injury and death; (3) compromised animal welfare due to inadequate knowledge and experience to meet the complex social, emotional, behavioral and physical needs of these animals; (4) medical problems due to inadequate veterinary care, poor nutrition, poor husbandry or due to various surgical procedures, such as declawing and dental extractions, performed for the sole purpose of trying to turn a wild animal into a pet; (5) abandonment, suffering or death due to insufficient financial resources to provide a safe and humane environment; (6) potential for escape due to improper transport, insecure containment or lack of proper equipment; and (7) damage to wild populations of rare species due to over-collection, introduction of non-native species or exotic diseases.

Finally, the U.S. Department of Agriculture has launched an information campaign to educate the general public about the inherent personal risks and animal care/welfare issues associated with wild cats as pets. The agency has released a position statement which states that only qualified, trained professionals should keep wild and exotic cats because the average person lacks the specialized equipment and expertise to provide properly for the containment, medical care, husbandry and nutrition of these animals. The statement concludes by illustrating a tragic cycle that has become all too common: "Large wild and exotic animals obtained as pets are usually acquired as appealing cubs, but when the animals are fully grown, owners become dismayed at the high cost and difficulty of providing for their upkeep. As a result of these difficulties, or because the animal has either attacked someone or otherwise shown aggression, the owners may try to find a new home for the animal. The subsequent placement of unwanted wild animal pets in zoos is difficult, if not impossible and few sanctuary facilities exist."

This unfortunate cycle must end and H.R. 1006 is the logical first step in this complex process.

Thank you again, Mr. Chairman, for this opportunity to comment on this important public safety and animal welfare issue. I would be happy to answer any questions that you may have.

Mr. GILCHREST. Thank you very much.

I do have a few questions to run through. Do either one of you—you may have suggested it—have any idea, how pervasive this problem is around the country?

Ms. HEDREN. All I can tell you is that it is enormous. Because of the fact that there are no laws, there aren't agencies who can count how many animals are in existence.

I am talking about lions and tigers and leopards and that sort of thing. I have heard estimates, depending on which organization you talk to, that there could be 50—tens of thousands, probably even 50,000 wild animals. I am not talking just cats, I am talking about—whether it is the python or whatever kind of wild animal.

But the numbers are enormous. With these tigers that are coming out of Colton right now, there are three—the Department of Agriculture asked me 2 weeks ago if I could take three intact male tigers, which have already impregnated four females. One of them gave birth just 2 weeks ago to four cubs.

There are three more that they know of, and they have no idea how many tigresses have been impregnated by these two male—three male tigers. That alone is going to be an enormous situation, a problem of great concern to all of us who are trying to find homes for those animals.

Dr. MILLER. I think I mentioned that the estimates are 5- to 10,000. I would agree wholeheartedly, that is an estimate. It might be more than that. I think what is critical to remember, and for me and our association, where Federal legislation is helpful, some States regulate and some don't. But what happens is, it just keeps moving to the unregulated States.

And for the interstate commerce, the Federal Government does have the capability to do that. It would just be a huge and helpful first step to have that interstate trade regulated.

Mr. GILCHREST. Are there any States that prohibit possession of big cats?

Ms. HEDREN. Hawaii. Yes, there are.

Mr. GILCHREST. I know my State prohibits it.

Ms. HEDREN. There are a number of States that prohibit ownership. There are approximately 37 States that have laws about—and 19 of them are stringent. California is one of them. That is why it is so amazing that this place in Colton was able to continue as it did. Nobody can figure that out.

But it is simply because nobody did anything to stop it. But the laws are such that in—as an example, California has excellent laws. So if somebody is kicked out of California, they go right into another State that the laws are less stringent.

Mr. GILCHREST. Dr. Miller, you said that there are more captive wild cats than there are wild cats in the wild.

Dr. MILLER. Tigers. Tigers in Asia, the best estimate—and I am familiar with this because I worked on the South China tiger, which is possibly the most endangered—the estimates are 64 left in zoos and probably none in the wild.

But if you put all the subspecies together, the Bengal, the Siberian, the Sumatran, numbers are certainly less than 5,000 and perhaps less than 3,000.

Mr. GILCHREST. Are you saying—

Dr. MILLER. Total population. Wild.

Mr. GILCHREST. Is there any possibility, or is there any plan underway to sort of, over a period of time, repatriate these animals that are captive to the wild?

Dr. MILLER. Certainly—well, one of the problems with these tigers that we are talking about today is their genetics are unknown. They may be cross-breeds, they may be a mix between Siberian

found on the Russian-Chinese border, and Bengal which is found in India, which has two different—

Mr. GILCHREST. So you would never want to introduce those—

Dr. MILLER. Unless we know the genetics.

Mr. GILCHREST. Can the genetics be discovered in those specific animals?

Dr. MILLER. In some cases we can with new DNA testing. Many we know from their genetics are cross-bred.

Mr. GILCHREST. Would it be better to have, for future generation, to have some cross than to have none in the wild?

Dr. MILLER. That is a good question. It is one that is hotly debated in the conservation community. We have chosen within the zoo community to carefully manage our population so that when it comes to repatriating Siberian tigers or Bengal tigers or Sumatran, that they are a pure subspecies with all of the benefits.

I don't think anyone is ready to say that, well, we are going to totally discard a cross-bred animal. It is certainly not the way we want to go now.

Mr. GILCHREST. Would you like to see—the bill doesn't prohibit, which I think we need to look into further as far as the Endangered Species Act is concerned and as far as actual possession is concerned—would you like us—what is your opinion on us going further to make it outright illegal to possess any type of wild cat? And the bill lists a number of exempted groups from this legislation. Do you think the number of exempted groups in the legislation is too broad?

Dr. MILLER. I would have to address that with the AZA. I would like to see any—this is a personal opinion now—any bill have—

Mr. GILCHREST. All legislation is based on personal opinion.

Dr. MILLER. —strict regulations for what it would require. Like you have talked about the sanctuary movement now that has strict standards; that there would be strict and clear standards of what it would take to hold those animals.

Mr. GILCHREST. Can you come up with those standards for us so we can take a look at them? We have some exemptions here, but some of the exemptions are animal shelters or societies for the prevention for cruelty to animals. They might not have the same kind of setup as a zoo, for example, would have.

Dr. MILLER. That is correct. In my experience, most of those have been temporary way stations, the certified American Humane Society, or certified by other agencies. I think it is more important to make sure that they are certified by someone so that it doesn't become a private owner saying, well, I am a humane society, or someone who is certified by a bona fide sanctuary movement that has some credentialing behind them, as we have done with the AZA zoos.

There are 212 zoos that meet a standard that I am comfortable here defending. I would not defend every roadside zoo that may say, I want to hold a large cat. Not by any means.

Mr. GILCHREST. Thank you. I am going to, at this point now yield to the gentleman from California, Mr. Gallegly.

Mr. GALLEGLY. Thank you very much, Mr. Chairman. For the record, I am a cosponsor of this legislation. I think that this is, to quote Ms. Hedren, a no-brainer. But one of the concerns that I had

in listening to the testimony is, I think, Ms. Hedren, you said that currently 37 States have some form of legislation as it relates to this issue on the books now.

One of the problems that we have is—and solving problems, is not always just getting the correct legislation but getting the enforcement mechanism to enforce the laws of the land. It is not limited to animal issues, it goes well beyond that. You can put a 65-mile-an-hour speed limit on the freeway, but if there is no one there to enforce it, it really is moot.

Do you feel that, while there are 37 States that currently have some form of legislation, that this Federal law not only would help the other 13 States but would also help the 37 States because of this issue of enforcement?

Ms. HEDREN. Yes, I do think that it would help tremendously. It is vitally important that this happens. Otherwise this will continue. The breeding will continue. The sales as pets will continue. All of it will continue. It is vitally important that this issue is on a unilateral basis all of the way across this United States.

Mr. GALLEGLY. Dr. Miller, from an enforcement standpoint, while you have those laws out there, are they really being enforced?

Dr. MILLER. It depends on the situation. But I can say on behalf of the AZA, and I also personally agree with it, we have lobbied Congress for more inspectors with the United States Department of Agriculture that inspects licenses to exhibit, and we have done the same for the U.S. Fish and Wildlife Service. I would hate to see lack of enforcement become the limiting factor.

We would feel that—we want that enforcement.

Mr. GALLEGLY. Thank you.

Ms. HEDREN. I do, too. I feel it is very, very important. I admire the laws that are existing in the States, that they are stringent. I do think that it makes a difference. I have heard people from States that the laws are stringent, they can't believe, you know, what happens in the States that are lawless. They can't believe it. It just doesn't even seem possible that people would have these animals.

Mr. GALLEGLY. In California—and you made reference to the operation, if you want to call it that, in Colton. And we know in the State of California that is there is a real economic crisis going on with being able to provide services to the people of California.

Do you think that the enforcement aspect of this State—of course economic problems are not limited to California, although I think that ours sets a new record— but the fact is, with those economic situations, problems in California and other States, do you believe that this has been maybe one of the reasons that the operation in Colton may have slipped through the cracks?

Ms. HEDREN. No, I think it slipped through the cracks a long time ago and nobody stopped him. That is what the problem is. I heard statements that he wouldn't let inspectors in from, you know, the different inspectors, that he wouldn't let anybody in to see what kind of damage was going on there.

Mr. GALLEGLY. How do you prohibit an inspector, a law enforcement officer, how do you keep them from getting on your property?

Ms. HEDREN. Well, I don't know. Because they certainly come onto mine all of the time. They come onto the Shambala Preserve.

Boy, if I have one nail out of place, I hear about it. And if that isn't—if that nail is out of place, it is repaired immediately. But I don't know, I don't have an answer to that. I would like to hear the answers from Fish and Game and the Department of Agriculture about why this place was allowed to continue to go.

Mr. GALLEGLY. It sounds to me that they are spending time in the wrong places.

Dr. Miller.

Dr. MILLER. Well, I was just going to add to that. I will use my own State as an example. If someone had bought a lion or a tiger from this Colton operation in Missouri, and they come to St. Louis City, we fortunately have a good local ordinance.

But they can move to the next county and there is nothing that can be done about it, because it doesn't violate the Endangered Species Act, it doesn't violate any interstate trade. This legislation would allow us, then, if that person got caught, to say where did you get that? Trace it. It was from California. Now it is illegal. Right now that enforcement is not—there is not even the ability to approach that, let alone enforcement.

Mr. GALLEGLY. I yield back, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Gallegly. The gentleman from Hawaii.

Mr. ABERCROMBIE. Thank you, Mr. Chairman. I apologize for the lateness of my arrival. But I am so interested in what Mr. Gallegly is trying to accomplish.

Mr. GILCHREST. This is not just—this is Buck McKeon's bill for this panel. The next panel is Mr. Gallegly's bill. You can ask Dr. Miller and Ms. Hedren about bear baiting, they may have an opinion. But this is not—you might want to wait until the next panel.

Mr. ABERCROMBIE. Well, I am interested in that. I am interested—I had assumed you had gotten through the first bill.

Mr. GILCHREST. We got one more panel.

Mr. ABERCROMBIE. I see.

Mr. GILCHREST. Do you have any questions for this panel?

Mr. ABERCROMBIE. Well, I think I will wait and look at the record then, because I will probably go over ground that you already covered.

Ms. HEDREN. I would like to interject that we have a mountain lion that came from Hawaii, who was brought in illegally into the State of Hawaii. And, because of the fact that had this little young mountain lion cub been taken to a veterinarian to give the shots that would keep its immune system safe, they didn't take it to a veterinarian, and the little cub became ill and came to us with some sort of a muscle problem, and she wasn't able to stand up. She would—if she took three steps, she would fall over. And what we did was, we tracked—we gave her all kinds of things to chase, whether it was a coconut or a bowling bowl or a big plastic ball or something for her to track. And now she can walk pretty well. She doesn't fall over anymore.

Mr. ABERCROMBIE. I appreciate that. That is one of the points that I was—I didn't want to burden the Committee with. But because of our situation in Hawaii, we have animals imported all of the time that are not supposed to be there.

And this includes—we have all kinds of difficulties that way. We have no snakes there, for example; at least we are trying to keep them out, like the brown tree snake comes in.

We have had to deal—our problem is that is the kind of thing that gets publicity, because it seems rather—it gets into pop culture, if you understand what I mean. It can attract the attention of the nitwit journalism shows, so that they can talk about why are they spending money trying to keep snakes out of Hawaii, as opposed to dealing with the real issue of trade in exotic animals, which tends to be something that they think goes on Animal Planet or Discovery Channel or something like that, whereas this is a really—there is a trafficking in this that is appalling.

Ms. HEDREN. It is huge.

Mr. ABERCROMBIE. The consequences of it, of course, you are trying to deal with. So I am interested in the legislation, that we can deal with it. Particularly maybe just you can tell me one thing. Where do you see CITES in all of this?

Ms. HEDREN. I don't know that CITES is even an issue here, because the animals that I am talking about are born in captivity. They are bred and born to be sold as pets. Lions, tigers, leopards.

Mr. ABERCROMBIE. It doesn't get into the elixirs and exotic herbal compounds?

Ms. HEDREN. Well, no, they are doing that too. In fact, the tigers outside of Colton in California that were being sold, that is exactly what happens to these animals. They are sold for their body parts.

Mr. ABERCROMBIE. That is the point then, Mr. Chairman. I think this can get a lot more complicated—I don't mean to diminish the pet side of it, but I am really concerned that this kind of thing can take place.

Mr. GILCHREST. Thank you, Mr. Abercrombie.

Ms. Hedren and Dr. Miller, we appreciate your time and your patience with us today. And your testimony has gone a long way to improving our understanding as to what the problem is, and we will act expeditiously.

Ms. HEDREN. I thank you so much.

Mr. GILCHREST. Thank you very much.

Our next panel will be the Honorable Ron Marlenee, the Sheriff of Montana—that is what it says, Ron—Director of Legislative Affairs, Safari Club International, accompanied by Dr. Dwayne Etter, Michigan Department of Natural Resources; Dr. Charles Jonkel, cofounder and president of Great Bear Foundation; Mr. Wayne Pacelle, Senior Vice President, Humane Society of the United States; Mr. Stephen Haleen, National Bear Hunting Defense Task Force; and Mr. William P. Horn, Director of Federal Affairs, U.S. Sportsmen's Alliance.

Thank you very much for coming this afternoon, gentlemen and for being so patient. We will start with the gentleman from Montana, Mr. Marlenee.

STATEMENT OF HON. RON MARLENEE, DIRECTOR OF LEGISLATIVE AFFAIRS, SAFARI CLUB INTERNATIONAL; ACCOMPANIED BY: DWAYNE ETTER, MICHIGAN DEPARTMENT OF NATURAL RESOURCES

Mr. MARLENEE. Thank you, Mr. Chairman and members of the Committee. It is a pleasure to be back here with you, all of you, my esteemed friends of the past, and I hope that you do not recall the transgressions or indiscretions we may have committed while we were still colleagues. Do not hold it against me.

I represent the Safari Club International, an international group of sportsmen, and we have looked at this legislation, we have consulted with scientists and specialists all over the United States. The justification of a bill is usually found in the findings section.

With all due respect to those who crafted this legislation, we find that each and every item in the findings section is flawed. Sound science and professional wildlife officials refute them, as they have today continually, time after time. The bill is not needed and, frankly, harms both bear populations, professional wildlife management, and increases the probability of contact between humans and nuisance bears.

The State of Michigan states: This bill, if enacted, would severely limit the ability of the Michigan Department of Natural Resources to manage Michigan's black bear resource.

The New Hampshire Wildlife Management specialists state that, "The loss of baiting would constrain our management efforts and likely result in the increase of human and bear conflicts."

The findings statements are grossly misleading. Findings 1 and 2 attempt to tie the bureaucracies' discouraging of feeding the bears with the management tool of baiting. They are two entirely different cases. The first attracts bears, leaving them without fear, and nobody argues against that part. The second is an effective management tool that actually enhances bear populations by allowing selective harvest rather than—

Mr. ABERCROMBIE. Mr. Chairman, excuse me. Would you repeat that once again? I missed the point. What did you say is not a point? What is not an issue? You just read—can you repeat that?

Mr. MARLENEE. Which part, Congressman?

Mr. ABERCROMBIE. You said something is not at issue. What is not at issue?

Mr. MARLENEE. Well, let me go back here. Do you want me to go back through the findings statements that are grossly misleading?

Mr. ABERCROMBIE. Just a sentence or two back. You said something was not at issue—before you got to the management part.

Mr. MARLENEE. Was that in the first or second? Findings 1 and 2 attempt to tie bureaucracies' discouraging the feeding of bears with the management tool of baiting. They are two entirely different cases. The first attracts bears without fear, leaving them without fear. Now, we don't—there is no argument we shouldn't do that.

The second is an effective management tool that actually enhances healthy bear populations by allowing selective harvests rather than split-second shots at moving targets in heavy brush. This preserves females and cubs. Baiting diminishes the prob-

ability of a wounded bear and allows a humane harvest. In grizzly country, it greatly diminishes the accidental shooting of a threatened species, as you might guess. If you don't have to do a split-second shot, if you have the opportunity to sit there and evaluate the animal that you want to take, you should not accidentally shoot a bear. And if you do, you are prosecuted.

Findings 3 and 4 attempt to portray the baiting stations as an abomination in the environment. This is so misleading as to be a fabrication. Quote, "A typical bait station consists of hundreds of pounds of food," end quote. Would that be a landfill or a pickup truck backing up to the forest or a refuse truck that missed the landfill and just dumps out in the forest? The truth is that sportsmen don't want any more bait than necessary, because they first have to haul it out there, and, second, they have to haul it back out.

They take it out, and then they haul it back out. This is a stinky, messy job at best. However, it discredits the idea put forth by animal activists that it is left in the forests. State and Federal law prohibit this. Generally the laws state that you may place bait at no more than two bait stations. Minnesota allows three.

The bait must be biodegradable, as prescribed by most law. You must remove the bait, litter, and equipment from the bait station when the hunting is completed. This includes, if you will—goes to the extent of including contaminated soil. Bottom line: You either haul out your trash or you are subject to citation.

Finding 5 is the paramount example that reveals the extent the animal activists will go to eliminate hunting. It deserves a special quote. And that is: The presence of bait stations on Federal land allows bears to increase their food intake and results in higher birth rates, increasing bear populations.

Let's be realistic. Let's examine this. Let's look at this fat bear myth. Michigan has a total population of 20,000 bears, approximately, 17 to 20. Minnesota has a population somewhere near 30,000.

A small amount of bait, as the witnesses have stated here, is used by a relatively few number of sportsmen. Now, let assume that every hunter used an average of 10 pounds of bait per station. Further assume that the entire bear population had access to all of the bait. It extrapolates that the bait consumption per bear per day would be much less than the weight of one of those infamous bear Twinkies that they are talking about feeding the bears.

From this we get fat bears? I don't think so. The animal activists who believe that sportsmen set up bagel bars and Twinkie feeders—the baiting stations last for a relatively short period of time. They are controlled, and every hunt there is a requirement to clean it up.

Findings 7, 8 and 9 deal with feeding bears, habituating bears, and conflict with people. When you give handouts to bears, they are on your back step. Sportsmen are not out there giving handouts to bears. They want to bait the bears. They don't want the bears to identify them as being there.

The preponderance of the evidence from wildlife managers is that hunting bears increases their avoidance factor. The facts from fish and game departments and professional wildlife managers is that

the very bears who have the potential to become problem bears or nuisance bears are those who are likely to be attracted, and these are eliminated by the very practice of baiting. Conversely, those who are wild and whose food supply is abundant tend to avoid human-scented food and are difficult to hunt.

Finally, finding number 10. Now, this makes much of the National Park Service open dumps and hand-feeding of bears. This is an apples and oranges comparison. Again, you don't hand-feed bears in the national forest and you don't leave bait piles and refuse. The Alaska directors of Fish and Game stated that it should be noted that Juneau is one of the areas with the most chronic and persistent black bear problem, and it is located in a management unit where baiting is prohibited.

Today or yesterday there was a news article that I ask be included with my testimony from the newspaper in Juneau that outlines the black bear being—coming in and killing a dog in a yard. This is a city that does not allow bear baiting or a management unit that does not allow bear baiting.

Contrast that with Fairbanks where hunting, including baiting, is allowed in the outskirts of the community and where black bear problems are nil.

Finally, the States were given the responsibility for managing wildlife. This legislation supersedes that State rights issue. Wildlife management is site-specific. Passage of this Act would usurp State authority and would establish an inappropriate and unscientific one-size-fits-all approach to the management of this particular species. This was succinctly pointed out by the esteemed gentleman that was the Chairman of this full Committee.

NRA opposes this, SCI opposes this, the Sportsmen's Caucus opposes this, the Sportsmen's Alliance oppose this, International Association of Fish and Wildlife Agencies. In other words, virtually every group that represents sportsmen, that represent the people who have contributed the most to wildlife management and to wildlife expansions and wildlife populations and to habitat, all—you can say virtually all of them oppose this legislation.

Mr. GILCHREST. Thank you, Mr. Marlenee.

[The prepared statement of Mr. Marlenee follows:]

Statement of The Honorable Ron Marlenee, Consultant, Governmental Affairs, Safari Club International, on H.R. 1472

Mr. Chairman and Members of the Subcommittee thank you for giving me the opportunity to address you today. My name is Ron Marlenee I am here on behalf of Safari Club International. SCI is the leader in protecting the freedom to hunt and promoting wildlife conservation worldwide.

The justification for a bill is usually found in the Findings Section. With all due respect to those who crafted this legislation we find that each and every item in the Finding Section is flawed. Sound science and professional wildlife officials refute them. The bill is not needed and frankly harms both bear populations, professional wildlife management and increases the probability of contact between humans and nuisance bears. The State of Michigan states; "This bill, if enacted, would severely limit the ability of the Michigan Department of Natural Resources to manage Michigan's black bear resource. The New Hampshire Wildlife Management specialists state that the loss of baiting would constrain our management efforts and likely result in an increase in bear human conflicts.

The Findings statements are grossly misleading. Findings (1) and (2) attempt to tie the bureaucracies discouraging the feeding of bears with the management tool of baiting; they are two entirely different cases. The first attract bears leaving them without fear. The second is an effective management tool that actually enhances

healthy bear populations by allowing selective harvests rather than spit second shots at moving targets in heavy brush. This preserves the females and cubs. Baiting diminishes the probability of a wounded bear and allows a humane harvest. In Grizzly country it greatly diminishes the accidental shooting of a threatened species.

Findings (3) and (4) attempt to portray the baiting stations as an abomination in the environment. This is so misleading as to be a fabrication. Quote, "A typical bait station consists of hundreds of pounds of food". Would that be two pickup loads or the refuse truck unloading in the forest after missing the landfill? The truth is that sportsmen don't want any more bait than necessary because they have to first; haul it to the site and then secondly; clean it up and haul it back out. A stinky job at best, however it discredits the idea put forth by the animal activists that it's left in the forest. State and Federal laws prohibit this. Generally, the law states that you may place bait at no more than two bait stations. The bait must be biodegradable and "you must remove bait, litter and equipment from the bait station when hunting is completed. This includes any contaminated soil". Bottom line, you either haul out your trash or you are subject to citation. This is not what the Humane Society and the authors of this bill would have you believe.

Finding (5) can be the subject for ridicule that reveals the extent the animal activists will go to eliminate hunting. It deserves a special quote, "The presence of bait stations on Federal land allows bears to increase their food intake and results in higher birth rates increasing bear populations." Let us be realistic. Let us examine the fat bear myth. Michigan has a total population of 20,000 bears. Minnesota has a bear population of 30,000 bears. A small amount of bait is used by a relatively few number of sportsmen. Michigan statistics reveal the bait size to be from 5 to 20 pounds. Assume that every hunter used an average of 10 pounds of bait; further assume that the entire bear population had access to all the bait. It extrapolates that the bait consumption, per bear, per day would be less that the weight of one of the infamous bear Twinkies. From this we get fat bears? The animal activists would have you believe sportsmen had set up bagel bars and Twinkie feeders. The baiting seasons last for a relatively short time. After every hunt there is a requirement to clean it up.

Findings (7), (8) & (9) deal with feeding bears/habituating bears/bears and conflicts with people. When you give handouts to bears they are on your back step. Sportsmen are not out there to give out handouts. The preponderance of evidence from wildlife managers is that hunting bears increases their avoidance factor. The facts from State Fish & Game Departments and professional wildlife managers is that the very bears who have the potential to become problem bears or are nuisance bears are those who are likely to be attracted and eliminated by baiting. Conversely, those in the wild whose food supply is abundant tend to avoid human scented food and are difficult to hunt.

Finding (10) makes much of the National Park service open dumps and hand feeding bears. This is an apples and oranges comparison. Again, you don't hand feed bears in the National Forest and two you don't leave bait piles and refuse. The Directors of the Alaska Fish & Game stated,—"It should be noted that Juneau, one of the areas with the most chronic and persistent black bear problems, is located in a management unit where baiting is prohibited. Contrasted with that in Fairbanks, where hunting (including baiting) is allowed in the outskirts of the community and where black bear problems are nil."

Finally, the states were given the responsibility for managing wildlife. This legislation super-cedes that states rights issue. Wildlife management is site specific. Passage of this Act would usurp state authority and would establish an inappropriate and unscientific one-size-fits-all approach to the management of this particular species.

Mr. Chairman, the states have done an excellent job of expanding all types of wildlife. With sportsmen's dollars, with habitat expansion America enjoys a plethora of viewing enjoyment and hunting. The states and sportsmen have provided this for the American public because we care about wildlife and it's habitat. The animal rights groups did not do this. I would suggest the Resources Committee listen closely to wildlife specialists and evaluate sound science not the sensationalism and emotionalism sounds made by the animal cults.

BEAR KILLS FAMILY DOG IN MENDENHALL VALLEY

DOG ESCAPED BEAR, ONLY TO SUCCUMB TO INJURIES AT VETERINARIAN CLINIC

BY TIMOTHY INKLEBARGER

JUNEAU EMPIRE 2003

A Mendenhall Valley black bear is being targeted for extermination after it dragged a dog out of its doghouse and left it with fatal wounds Monday morning.

The attack happened at about 5 a.m. at the Montana Creek Road home of Tish and David Forrest.

"I've already cried buckets about this," Tish Forrest, 42, said. "I've got a 6-year-old son and it's pretty scary."

The Forrests' daughter Veida, 20, woke to the desperate yelps coming from the family's 11-year-old Dalmatian, Freckles.

Veida saw a large black bear drag Freckles out of the doghouse, between the entryway to the home and a wooded area nearby, Tish Forrest said.

She said her daughter began screaming, "A bear got Freckles! A bear got Freckles!" as the bruin pulled the struggling dog into the woods.

The bear shook the dog by the head and neck, but Freckles escaped and limped back to the house. The family rushed the dog to a veterinarian, but the wounds were too severe. Freckles died at about 8:30 a.m. that morning. The family's 14-year-old black Labrador retriever Elvira also was in the doghouse at the time, but was not injured.

The family lives in a sparsely populated area of the Mendenhall Valley, just west of the Mendenhall River. Tish Forrest described the fish stream that runs behind the home as a major wildlife corridor, where bears, deer and other wildlife are commonly seen.

"We've seen bears eating skunk cabbage across the way, but this is a lot more aggressive behavior than we're used to seeing in the woods," she said.

David Forrest, 51, reported the incident Monday to the state Department of Fish and Game.

Neil Barten, a Fish and Game biologist, said the agency is working to capture the bear and have it killed.

He said biologists placed a large metal trap in the area Tuesday. The trap, known as a culvert trap, is baited with food to lure the animal inside. The bear's presence inside the cage triggers a trap door, locking the bruin inside until Fish and Game biologists can retrieve the animal, Barten said. The bear will be killed after it is removed from the area, Barten said.

He said it is uncommon for black bears to show aggressive behavior and that such attacks usually come from brown bears. Barten noted, though, that brown bear attacks also are uncommon. Monday's incident was not the first time Fish and Game has been called out for a bear attacking a Juneau dog.

Bill Corbus, who lives on Thane Road south of downtown, shot and killed a black bear last October after it tried to carry his dog Bruiser into the woods.

Corbus, commissioner of the state Department of Revenue and former president of Alaska Electric Light & Power, said Bruiser, a 60- to 70-pound mixed-breed, suffered puncture wounds to the head but survived.

Barten said the shooting was justified because the bear posed a threat to life and property.

He said it can be difficult to prevent bear encounters in heavily wooded areas, but noted precautions can dissuade bears from returning to areas occupied by people.

"It is a case where we live in an area where there are bears everywhere," Barten said.

Mr. GILCHREST. Dr. Charles Jonkel, welcome, sir.

STATEMENT OF CHARLES JONKEL, CO-FOUNDER AND PRESIDENT, GREAT BEAR FOUNDATION

Mr. JONKEL. Well, thank you, Mr. Chairman and Committee, for hearing me also. My name is Dr. Charles Jonkel. I am President and Scientific Advisor to the Great Bear Foundation. I live at 830 Evans Avenue in Missoula, Montana. I was the co-founder of GBF 20 years ago. I have been conducting research on bears and bear

management and educating and communicating about bears for 44 years, 1 month, and 12 days as of June 12th. This has been all over North America and Canada, the U.S., and Mexico.

I have a wildlife degree and an MSC in wildlife biology from the University of Montana, a Ph.D. From the University of British Columbia in zoology with a wildlife emphasis. I did research on the age of sexual maturity delayed implantation in Pine Martin for my master's work.

My Ph.D. Research was on the ecology and biology of black bears in the spruce fir forests of western Montana. Following my 5 years of research on black bears, I was for 8 years a research scientist with the Canadian Wildlife Service, studying polar bears. I then returned to the University of Montana to conduct 5 years of research on grizzly bears outside of the national parks. Many of my students are active in bear research, just about all over the world. As always in Montana, east and west, we differ a great deal. I am a dedicated sportsman and hunter. I have hunted for 65 years, since I was 6 years old, but do I not hunt bears. For me it would be like hunting family.

The GBF is not against hunting, but our main focus is to bears and to preserve and protect the habitat of all bear species of the world. Our highest priority is teaching, learning, and communicating about bears, primarily in elementary schools, field courses, and in bear news. We serve teachers, students, and the general public.

I wish to especially thank Congress for the Dingell, Johnson, and Pitman Robertson Acts that were introduced in the 1930's. They earmarked tax money. And that is the money that brought us back to wildlife abundance after the decades of market hunting. We owe a lot to that—wildlife does, too—to that aid through hunting and fishing.

I would like to remind people though that those taxes are paid even by the guy, say, in New York City who buys a gun and some ammo to blow away his brother-in-law. He is helping wildlife, too. My positions are generally broader than local concerns. They include data from all eight species of bears, and follow world standards and reflect national policies.

I have long opposed the baiting of bears for considerable lists of reasons. Given today's human population, the chopped-up and reduced habitat, and the vocal objections of other users of bears, in my view baiting is no longer an acceptable form of bear management. It may have been once.

Hunting over bait, sitting in a tree and shooting an unsuspecting animal is not a sporting form of hunting, whereas fair-chase hunting is far more ethical and more satisfying. Baiting and sitting in a tree is unfair to bears, since they look at ground level for their enemies and danger.

Baiting bears causes extreme disfavor and contempt within large segments of our nonhunting citizens. This often becomes harmful to our heritage of hunting and to wildlife management, and I see tremendous problems down the line if we keep creating more antihunters out of nonhunters.

Baiting pulls bears from their normal range and may pull bears to sites where they are vulnerable to attack by other bears, other

species, parasites, and diseases. Michigan, for example, now has a terrible livestock TB infection which probably came from the bear- and deer-baiting stations that is costing that State millions of dollars.

Now, I can't prove that. But one thing that did happen 3 years before that outbreak happened, I warned the DNR in Michigan that they were liable to cause a major infection that could get into livestock. They ignored it. They have got it now. Baiting causes bears and other species, from insects and shrews, to congregate, creating unnatural food chains, interactions, fights and predation. Baiting changes each bear's relationship with other bears and with other species.

And often after the baiting, it can go on for a very long time in a detrimental way. The Burlington Northern Railroad grain spill in Montana near Glacier Park is a good example, with bears being lost even yet, 15 years later. They come to feed on the tracks and they get hit by a train. We had three of them killed just in the last few weeks, three grizzly bears.

Baiting bears habituates bears to people, no matter how careful we may be, and bear-people conflicts follow. Feeding bears and bait stations runs counter to our massive effort to teach the public not to feed the bears. Baiting may cause a dangerous setup for non-involved third parties traveling through the same area. That was mentioned by someone else today.

Baiting and shooting at bears may teach bears to avoid that area and to avoid certain foods or travel corridors, which has a subsequent loss of habitat and food. Some of the bears in northern latitudes sleep for up to 7 months; 2 or 3 of the feeding months are, in fact, poor for food gathering, leaving the bears only 2 or 3 months to grow and to get fat.

Bears therefore are tremendously focused on foods and feeding and on problem-solving relative to getting lots of food. They can eat up to 100 pounds per day. They can gain up to 6 pounds a day. As a result, bears are particularly vulnerable to learning bad habits based on food seeking.

They forget their natural ecofits where the food is more reliable. It took the Yellow Stone grizzly bears several generations to learn how to live again in Yellow Stone after the garbage dumps closed.

The argument that baiting bears by hunters is a necessary management tool in my view is not true at all. Hunters following fair-chase and sportsmen's guidelines are successful. Stalking bears on oak ridges and meadows adds greatly to the hunting and gathering traditions of local people.

There is also a problem where the grizzly bears occur with the black bear and causes a loss of grizzlies from mistaken identity. We must also remember that to many Native Americans and First Nation people in Canada, bears are culturally very important. This is so often left out of their viewpoint. In management research and hunting, we should show far more respect for bears than we do.

The foods developed by the native peoples of the Americas feed over 60 percent of the people on Earth today. The native people always were quick to say we learned about these foods from the bears. It is time for Congress to show greater fairness and respect

for the bears. And in my view 1472 is a great step in the right direction.

I would like to add two points. One is that the baiting, basically from the bear's point of view—and I figure after my 44 years I can speak for the bears to a degree—it is a dirty trick on the bears. They are not prepared for dealing with something like that. Their enemies are at ground level.

I also would like to defend the kids in all of this. Kids are really smart. A lot of people don't seem to understand that. Kids nowadays are smarter than we ever were, than any 20 of us were put together. Kids are exposed to so much information now, they know what is going on. When you tell them opposing viewpoints like we have many, many State and Federal agencies saying don't feed the bears, don't feed the bears, don't feed the bears; then we have got other people with the same agencies saying, feed the bears, feed the bears, feed the bears. Kids aren't dumb. They know what is going on. And they don't get mad and fight with you, they walk away and they turn off and leave you with a big mess.

But we got to be more sensitive I think to the bears and to the kids in all of this. We are not doing it properly. There is a lot to be done. Don't forget the kids. Thank you.

Mr. GILCHREST. Thank you, Dr. Jonkel. You come from a beautiful and magnificent part of the world. I spent a little time in the Bitterroot Mountains and I would go to Missoula once a month for supplies. Precious place.

[The prepared statement of Charles Jonkel follows:]

Statement of Dr. Charles Jonkel, Co–Founder and President, Great Bear Foundation, on H.R. 1472

My name is Dr. Charles Jonkel, President of and Scientific Advisor to the Great Bear Foundation. I live at 830 Evans Ave., Missoula, MT 59801. I was a co-founder of the GBF 20 years ago; I have been conducting research on bears and bear management, and educating and communicating about bears for 44 years, one month, and 12 days as of June 12, 2003.

I have a Wildlife Tech degree, and a MSc in Wildlife Biology, both from the University of Montana, and a PhD from the University of British Columbia, in Zoology, with a wildlife emphasis. I did research on the age of sexual maturity and delayed implantation, in the pine marten, for my MSc work. My PhD research was on the ecology and biology of black bears in the spruce/fir forests of Western Montana.

Following my 5 years of research on black bears, I was for 8 years a Research Scientist with the Canadian Wildlife Service, studying polar bears. I then returned to the University of Montana to conduct 5 years of research on grizzly bears outside of the national parks.

I am a dedicated sportsman/hunter, but I do not hunt bears. For me, it would be like hunting "family". The GBF is not against hunting, but our main focus is to help bears and to preserve/protect the habitat of all eight bear species of the world. Our highest priority is teaching, learning, and communicating about bears, primarily in elementary schools, field courses, in the Bear News (a quarterly newspaper), and in children's book and video reviews. We serve teachers, students, and the general public.

Through GBF, I develop "position statements", or "white papers," on certain research and management topics, help to change regulations and management, or create new laws, all keyed to helping bears.

We monitor agency actions, management plans, and law enforcement, and comment on needed corrections, occasionally joining in legal pressures to facilitate needed change. Our positions are generally broader than local concerns: they include data from all eight species of bears, follow world standards, and reflect national policies.

I have long opposed the baiting of bears for a considerable list of reasons, both direct and indirect:

1. The baiting of bears was long an acceptable form of hunting, but given today's human populations, the chopped-up and reduced habitat, the vocal objections of other "users" of bears, and the high-tech hunting techniques now common, baiting is no longer an acceptable form of bear management. Times have changed.

2. Hunting over bait, sitting in a tree and shooting an unsuspecting animal, is not a sporting form of hunting, whereas "fair chase" hunting (though often unsuccessful) is a far more ethical and more satisfying form of hunting. Baiting and sitting in a tree is unfair to bears, since they look at ground level for their enemies and danger.

3. Baiting bears causes extreme disfavor and contempt within large segments of our non-hunting citizens, changing them from non-hunters into anti-hunters, which often becomes harmful to our hunting heritage, and to wildlife management.

4. Baiting "pulls" bears from their normal range, from their routines and how they use their habitats. The bears then are more vulnerable to a wide variety of ecological, travel, security, and other dangers.

5. Baiting in some areas pulls bears to a "low food" habitat where they do not have other and convenient feeding options.

6. Baiting may pull bears to sites where they are vulnerable to attack by other bears, other species, parasites, and diseases. Michigan for example, now has a terrible livestock tuberculosis infection which came from the deer, and probably from the bear/deer baiting stations.

7. Baiting causes bears and other species, from insects and shrews to moose, to congregate, creating unnatural food chains and interactions, fights, and predation.

8. Baiting changes each bear's relationship toward other bears, other species, including subtle changes hard to recognize or evaluate. Such changes may be detrimental long after the baiting incident or may build through a chain of experiences. The Burlington Northern Railroad "grain spills" are a good example, with bears being lost even yet, 15 years later. They come to feed on the tracks and get hit by trains.

9. Baiting bears habituates the bears to people and/or human odors, to humans as "company", and to food associations, no matter how careful we may be. Bear/people conflicts may follow.

10. Baiting bears makes bears more vulnerable to dangers by relating their experiences to similar circumstances, areas, or even products. They may approach odors, or avoid areas similar to where they had a "bad experience" such as roads.

11. Baiting bears changes their behaviors to other bears, but also to people. Somehow, bears consider us "another bear species"; they "use" bear behavior on us. We should learn how to "talk bear", to reduce conflict. But bears also may become habituated to people, or to our foods, bringing them too close, and often into direct conflict with us.

12. Wildlife agencies spend great amounts of money teaching people not to have attractants around, not to feed bears, not to let bears get into bird feeders, dog food, garbage, compost, stored grain, and etc. For some of the same agencies to SUPPORT feeding (baiting), and even to give hunters dog food and pastry for "bear bait", and to encourage bait stations, runs counter to our massive effort to teach the public NOT to feed the bears.

13. The baiting of bears automatically creates a situation where a hunter approaches bear food, which can lead to a dangerous situation, since bears will defend "their" food.

14. The baiting of bears may cause a dangerous "set up" for a not-involved, third party traveling through the same area.

15. Baiting and shooting at bears in prime habitat may teach some bears to avoid that area, or certain foods, travel corridors, and anything similar, with a subsequent loss of habitat and food.

Some bears sleep for up to seven months in northern latitudes. That means they have only five months to get all of their food for the year. Two to three of those "feeding" months are in fact poor food-gathering periods, leaving the bears only 2 to 3 months to grow and to get fat. Bears, therefore, are tremendously focused on foods and feeding. That also means that bears are constantly exploring and "problem solving" relative to getting lots of food (they can eat up to 100 pounds per day, and gain up to 6 pounds per day). As a result bears are particularly vulnerable to learning bad habits, based on food-seeking.

The argument is often made that the baiting of bears by hunters is a necessary management "tool" to control bear numbers. This has not been true at all in places like Montana and Colorado, and more recently in Oregon and Washington. Our forests are tremendously thick, yet our hunters, following "fair chase" and "sportsman" guidelines, are successful. It would seem that in most areas stalking bears on oak ridges, meadows, river banks, or wherever, would add greatly to the hunting/gath-

ering traditions of local people. Matching skill and wit with these remarkable bear species should be the ultimate hunter challenge, it would seem to me. Certainly problem bears are a management challenge, but to me, they are also a symptom of inadequate bear management, not a fault of the bears. Where grizzlies occur with black bears, baiting may cause the loss of grizzlies from mistaken identity.

In all of this, we must also remember that for many Native Americans/First Nation Canadians, the bears are culturally very important, sometimes even in the religious sense. In management, but also in research and hunting, we should show far more respect for the bears, how we live with them, how we hunt and manage them, but also how we honor them, and their roles relative to people. Foods developed by the Native Peoples of the Americas feed over 60% of the people on Earth today, and the Native People always are quick to say "we learned about those foods from the bears." It is time for our Congress, our agencies, to show greater fairness, and greater respect, for bears. H.R. 1472, in my view, is a giant step in the right direction. Thank you.

Mr. GILCHREST. Mr. Wayne Pacelle.

STATEMENT OF WAYNE PACELLE, SENIOR VICE PRESIDENT, HUMANE SOCIETY OF THE UNITED STATES

Mr. PACELLE. Thank you, Mr. Chairman. And I am representing the Humane Society of the United States, the Nation's largest animal protection group. We have 7.3 million members in the U.S., 1 of every 40 Americans. And we want to in particular thank Representative Gallegly for his leadership on this issue. We are grateful. We support his legislation wholeheartedly.

And, Mr. Chairman, I want to make three main points. The first point is that Mr. Gallegly's bill establishes interagency and intra-agency consistency in dealing with policies related to the feeding of bears on Federal lands.

We have heard this mentioned earlier. Every year, baiters set out thousands of food piles on Federal lands, principally national forests, in the 9 States that allow baiting. Bait piles do consist of hundreds of pounds of human food scraps, rotting fruits and meats, even the carcasses of other animals.

Hunting guides prefer baiting, because it virtually guarantees that a fee-paying client will have an opportunity to shoot a bear. One hunting Web site says, in a normal season we go through 10 tons of pastries and about 8 tons of meat, boasts one hunting guide on his Web site again. Some guides use walk-in baits,s where they take an old mule or an old horse, pack the animal with a bunch of food, and then shoot the animal and leave the rotting carcass to add to the bait site.

Most wildlife professionals realize that this is outrageous behavior. Tom Beck, who is a lifelong hunter and a bear biologist with the Colorado Division of Wildlife notes, quote, in Outdoor Life, a hunting magazine: "I firmly believe that baiting creates nuisance bears." this is Beck speaking. "black bears are naturally wary, instinctively avoiding close contact with humans. But large amounts of tasty feed easily obtained defeats this wariness. By baiting we create lazy bears who have been rewarded, not punished, for overcoming their fear of humans," end quote.

In 2003, Michael Soukup for the Park Service wrote, quote, "Human feeding of bears, whether deliberate or inadvertent, is a significant management problem wherever it occurs, and is an activity that the National Park Service works hard to prevent in units of the system."

Partly in response to the Park Service's work in this arena, the mantra, "Don't feed the bears" has become one of the most widely accepted precepts in modern wildlife management. Human-fed bears are more likely to approach people, to raid campgrounds, and to break into cars and cabins. And because bears are large and powerful, the animals can obviously pose a threat to people.

Because of access to human food, bears at Yosemite National Park, according to the Web site, become aggressive and cause extensive damage to motor vehicles, trailers, tents, ice chests, and other camping equipment while searching for human food, unquote.

Bears cost $630,000 worth in property damage in 1998 in Yosemite alone. Yosemite officials note, quote, "Allowing a bear to obtain human food even once often results in the bear becoming aggressive about obtaining food in the future."

This is what Dr. Jonkel is talking about. Once bears learn bad habits, they remember them. The Park Service has noted that baiting in adjacent national forests causes problems for bears in national parks.

Just prior to Oregon banning bear baiting in 1994, Charles Odegaard, the regional director of the northwest region of the Park Service, wrote to the Forest Service, quote: "the practice of baiting on adjacent national forests has a direct negative impact on Crater Lake National Park. Sometimes the park boundary is almost ringed with bear baiting stations. Bears are wide-ranging animals. Stations placed within a few feet of the park boundary on a consistent and regular basis are inevitably an attractant that lures bears from the park. Experienced park field personnel believe the park bear population is on the decline," unquote.

He added, quote, "Biologically there is no difference between a bait station and a dump. Bait stations habituate bears to human-generated food, contributing to the potential for conflicts between bears and people in the park."

Consistent with these views—

Mr. GILCHREST. Who said that, Mr. Pacelle?

Mr. PACELLE. This is Charles Odegaard of the National Park Service. He was the regional director in the Pacific Northwest region of the National Park Service, which covers Crater Lake National Park which is in southern Oregon.

The Park Service has a regulation against feeding. We already heard that Fish and Wildlife has also an antibaiting regulation. Here is the interesting part. The Forest Service and the BLM, along with almost every State fish and game agency, have expressed the same views as the folks at the Park Service and the Fish and Wildlife Service about the perils of people feeding bears.

Mr. Gallegly had some of those posters blown up. The one that is lower you can't see, is the publications of the Forest Service, the Arizona Game and Fish Department, and the New Mexico Department of Fish and Game. It is called "Be Bear Aware." it is the one that is being placed on the device there. It says, bears that are attracted to human food sources may cause property damage and injure people. Again, look at the forest service logo. It says "A fed bear is a dead bear." it concludes, in the corner on the left-hand side, "Most conflicts between humans and black bears arise as a result of human-supplied foods."

All four of the major Federal land management agencies have endorsed the "Leave No Trace" public awareness campaign, which warns that people should, quote, "never feed wild animals." it doesn't have an asterisk that says, "if you are doing it as a guide or an outfitter you are allowed to feed animals." it says, feeding wildlife damages their health, alters natural behaviors, and exposes them to predators and other dangers.

Mr. PACELLE. Allowing bear baiting is inconsistent with these declarations. There is just no two ways about it. It makes no sense to think that providing food to bears is wrong, except if the feeding is associated with hunting. If it is wrong to set out food to lure bears for picture taking or just to watch bears, surely it is also wrong to lure bears with jelly donuts and rotting animal carcasses for the purpose of shooting them. Representative Gallegly pointed this out in his questions to the Forest Service.

I do want to note before I move to the second point, the Forest Service has a history of criticizing this practice. In my testimony that I will just leave in the record, of course, in the northern regions and intermountain regions, which covers the three western interior bear-baiting states of Utah, Wyoming and Idaho, the Forest Service came out against baiting and said it was a dangerous practice that was harming wildlife.

The second major point is that baiting is not needed as a management tool. Capable hunters do not need to hunt bears with bait. We have heard baiting is banned in the vast majority of States with bear hunting. In Pennsylvania, there are 2,000 bears killed in a 3-day hunting season with no bait, no dogs. Montana hunters take in excess of 1,000 bears a year. They do not use bait or dogs.

The groups represented today that you will hear from next, the U.S. Sportsmen's Alliance and the Safari Club, they came out against measures in Colorado, Oregon, and Washington to ban bear baiting. They said the populations would explode if you banned baiting and hounding. They said there is no way to manage the population. After voters approved these measures by wide margins, the bear kills in the States did not decrease and the number of hunting licenses for bears shot through the roof.

Several years after voters approved the initiative to limit bear hunting practices in Colorado, the Colorado Division of Wildlife wrote, "the passage of the 1992 initiative has had no detectable adverse impact on bear hunting or bear management in Colorado. It has clearly shown that the black bear population can be efficiently and effectively managed without recourse to bait, hounds, or a spring season. Hunters have learned to effectively hunt and harvest bears without using these methods, and the Colorado Division of Wildlife has seen a significant increase in revenue resulting from increased interest in bear hunting."

Please look at my testimony. The number of bear tags after the bear baiting ban went into effect in Washington went from 13,000 to 38,000. In Oregon, it went from 18,000 to 41,000. In Colorado, it went from 3,800 bear licenses sold to more than 14,000. What happened was that more hunters chose to participate because they no longer felt at a competitive disadvantage with other hunters who used unfair methods.

And I do want to say quickly baiting advocates fail to note the role of bait stations in increasing the reproductive success of bears who visit bait stations. Mammals' reproductive rates are tied to their nutritional fitness. Bears self-regulate quite well. Dr. Jonkel has done a lot of the pioneering research on this. When you put out tons of food for them, they are going to be fit, they are going to reproduce more, and, ultimately, it is a self-defeating exercise. Yes, it is a more efficient hunting technique, you can kill more of them more efficiently, but you are recruiting more animals into the population.

Finally, I want to say, Mr. Chairman, the Federal Government has a compelling interest in halting baiting. Opponents of H.R. 1472 say that the measure is an attack on States rights. It is important to note that the States will continue to control bear hunting. The States will determine whether bears are hunted or not, where hunting is permitted, what bag limits are, what the season lengths are, the closer zones, allowed weapons. The States will set goals for annual take, et cetera.

The Federal Government has established policies. Mr. Gallegly noted we have a Federal Airborne Hunting Act that limits use of aircraft in hunting animals. We have a Federal baiting regulation on migratory birds.

My final point, Mr. Chairman, before I conclude, you have been generous in allowing me to speak, opponents of H.R. 1472 cannot logically argue that baiting is entirely a hunting issue. It is also an issue of feeding, and the feeding issue is precisely why we are here and why this legislation was introduced. The Federal Government has a clear and compelling interest in taking control of the human feeding of bears for the safety of forest users and employees, for the protection of public and private property destroyed by habituated bears, and for the protection of bears labeled as nuisance animals and then killed.

To illustrate the point, let's say the Forest Service—

Mr. GILCHREST. Mr. Pacelle, I will assure you that we will read your testimony in its entirety.

Mr. PACELLE. I will leave it at that, Mr. Chairman.

Mr. GILCHREST. You also have great passion for this issue, and we clearly have felt your point. I appreciate your dedication to this issue. You have brought us a great deal of information, and we will continue to pursue that as time goes by. Thank you very much for your testimony.

Mr. PACELLE. Thank you.

[The prepared statement of Mr. Pacelle follows:]

Statement of Wayne Pacelle, Senior Vice President, Communications and Government Affairs, The Humane Society of the United States, on H.R. 1472 and H.R. 1006

Thank you, Mr. Chairman, for the opportunity to testify in support of both H.R. 1472, the "Don't Feed the Bears Act," and H.R. 1006, the "Captive Wildlife Safety Act." My name is Wayne Pacelle, and I serve as senior vice president for communications and government affairs for The Humane Society of the United States (HSUS), the nation's largest animal protection group with 7.3 million members and constituents. One of every 40 Americans is a direct supporter of The HSUS. The HSUS urges the enactment of both bills, and we are very grateful to Representatives Elton Gallegly (R–CA) and James Moran (D–VA) for introducing H.R. 1472

and Representatives Buck McKeon (R–CA) and George Miller (D–CA) for introducing H.R. 1006.

H.R. 1472 directs the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM) to adopt anti-feeding regulations similar to those promulgated by the National Park Service (NPS) and the Fish and Wildlife Service (FWS). Exceptions are provided in "extraordinary cases when the Secretary concerned determines that bear feeding is required for the welfare of the bear, preservation of public safety, or authorized wildlife research."

This legislation establishes interagency and intra-agency consistency with respect to human feeding of bears. The USFS and the BLM publish an array of materials that identify the problems associated with human feeding of bears, yet the agencies allow bear baiting in states that permit the activity (Attachment A). H.R. 1472 provides Congressional authorization for these agencies to square their emphatic and unequivocal declarations about the problems of people feeding bears with their on-the-ground management practices.

Baiting is an unpopular and increasingly discredited method of bear hunting. States that have banned baiting have not experienced any wildlife management problems stemming from the prohibitions; actually, bear hunting participation has increased after states adopted the baiting bans. Baiting is a practice unpopular with Americans, including hunters, largely because it runs against norms of fairness and sportsmanship and against the widely recognized wildlife management principle that it is dangerous to make human foods available to bears. Most people believe that it is unfair and unsporting to lure a bear with food and shoot the animal while he or she is gorging on food.

Every year, bear baiters set out thousands of food piles on Federal lands, principally national forests, in the nine states that allow bear baiting on public lands. Bait piles can consist of hundreds of pounds of human food scraps, rotting fruits and meats, and even carcasses of other animals. Hunting guides prefer baiting because it virtually guarantees their fee-paying clients an opportunity to shoot a bear. "In a normal season we will go through 10 tons of pastries and about 8 tons of meat," boasts one hunting guide on his web site. (Attachment B) Some guides even will burn honey to attract their targets from miles around. Others use "walk-in" baits, in which they load up an old horse or mule with food, walk the animal into a forest, shoot him, and then add the carcass to the bait pile.

Baiting takes unfair advantage of the survival strategies and life cycle of the black bear. In the fall, bears feed for up to 15 hours a day—a phase known as hyperphagia—in order to build fat reserves for a long period of dormancy. Baiting exploits their need to feed almost constantly by providing a ready source of food. In some states, the bait can be set out a few weeks before the actual hunting season starts.

Baiting in the spring also exploits the bear's unusual life cycle. Bears that emerge from their dens in the spring are hungry because they haven't eaten since the late fall, and berries and other favored foods often don't ripen or develop until the late spring or early summer.

Opponents of H.R. 1472 have argued that the measure is an attack on states' rights to set wildlife policy. It is important to note, however, that the states will continue to exercise control over bear hunting. The states will determine whether bears are hunted or not and, if hunting is permitted, will determine the bag limits, season lengths, closure zones, and allowed weapons. The states will set goals for annual take and will set license fees and the number of licenses sold. They can also allow bear baiting on private and state lands since H.R. 1472 applies only to Federal lands.

Most states have already outlawed baiting, either by administrative rule, legislation, or ballot initiative. Of the 27 states that allow bear hunting, only 10 allow baiting, and one of those states, Arkansas, allows baiting only on private lands. In Maine, New Hampshire, Michigan, Minnesota, and Wisconsin, there are no BLM lands, and USFS lands constitute a small percentage of the total land area that bears inhabit in these states. In Utah, only bowhunters are allowed to use bait, and in 2001, there were only three recorded bear kills over bait, according to the state Division of Wildlife Resources (personal communication with Craig McLaughlin, 3/15/03).

Capable hunters do not need to bait bears to hunt the animals with success. Baiting is banned in states with various forest types, including in the extremely dense forests of western Oregon and Washington. In Pennsylvania, hunters kill 2,000 bears annually in a three-day hunt, and in Montana hunters take in excess of 1,000 bears annually. Baiting and the use of dogs are prohibited in these states.

The groups represented here today in opposition to H.R. 1472—primarily the Safari Club International (SCI) and the U.S. Sportsmen's Alliance (USSA)—argue that

a ban on baiting will decrease the annual bear kill and allow for a rise in the bear population, resulting in an increase in conflicts between people and bears. But their theory has not proved accurate. We can simply look at the data in the states that have most recently banned bear baiting—Colorado, Oregon, and Washington—to test the theory. In these states, hunters learned to stalk bears without bait or dogs, and the annual bear kills match or exceed the kill totals that hunters amassed before voters banned baiting. (Attachment C)

Several years after voters approved the initiative to limit bear hunting practices, the Colorado Division of Wildlife wrote, "The passage of the 1992 initiative has had no detectable adverse effects on bear hunting or bear management in Colorado. It has shown clearly that a black bear population can be efficiently and effectively managed without recourse to bait, hounds, or a spring season. Hunters have learned to effectively hunt and harvest bears without using these methods and the Colorado Division of Wildlife has seen a significant increase in revenue resulting from increased interest in bear hunting." (emphasis in original) (Attachment D) Oregon and Washington had similar experiences.

Hunters in these states now purchase far more bear hunting licenses than they did before the voters outlawed baiting. In 1996, the last year baiting was allowed in Washington, there were 12,868 bear tag purchasers. In 2000, four years after the initiative passed, 37,484 bear tags were purchased—a three-fold increase (Attachment C). In Oregon, 18,412 tags were sold in 1994, the last year of baiting, and by 2000, tag sales had more than doubled to 41,060 (Attachment C). In Colorado, in 1991, the last year of baiting, there were 3,852 bear hunters, and by 2000, there was a nearly four-fold increase in tag sales to 14,207. (Attachment C) It is apparent that more hunters chose to participate because they no longer felt at a competitive disadvantage with other hunters who used unfair methods.

If baiting advocates were correct in arguing that the activity is needed to control bear populations, it would stand to reason that the states with the densest populations of people and bears would most need baiting. But the very states with the greatest potential for conflict between bears and people—including California, Massachusetts, New York, Pennsylvania, and Washington—outlaw bear baiting. The densely packed states of Florida and New Jersey not only forbid baiting, but they ban all bear hunting.

Bear baiting advocates fail to note the role that their bait stations play in increasing the reproductive success of bears who visit bait stations. Thousands of bait piles not only habituate bears to human food sources, but they provide massive supplemental feed for the animals. As mentioned earlier, one bear baiting guide reports that he alone leaves 18 tons of food in the woods per year for bears. It is a well established principle that supplementally fed populations of mammals enjoy greater reproductive success and juvenile survivorship. Bears who build major fat reserves thanks to bait stations are more likely to produce cubs and add to the total bear population. Baiting is, therefore, self-defeating if the goal is population reduction.

Some baiting advocates argue that the practice is self-correcting because baited bears are shot and eliminated from the population. This line of argument is severely flawed. Bait piles are often set out for months at a time, and replenished with food stuffs as they are depleted by bears and other animals who feed at the stations. Hunters do not stay continuously at their bait sites, and leave them unattended most of the time. Consequently, most bears that visit the bait site are neither observed nor shot. The bears that feed at the bait station and are not shot become "nuisance" animals.

There has been a change in attitude among most hunters and wildlife policy makers in states that have banned baiting. For example, the Colorado Division of Wildlife noted, "While the [Colorado Wildlife] Commission opposed the initiative prior to and during the campaign, the results of its passage have brought about a definite change in attitude. There is no sentiment in the Colorado Wildlife Commission in favor of altering the present parameters of Colorado bear hunting. Colorado has learned that bears can be effectively managed without the use of bait or hounds and without a spring season." (Attachment D)

Public attitude surveys conducted within the last decade in states that allow bear baiting—Idaho, Maine, Utah, and Wyoming—all reveal widespread public opposition (including among hunters) to bear baiting, even if policy makers have not yet recognized or embraced the public's view. (Attachment E) In addition, major newspapers in many of these states—including the Anchorage Daily News, the Wyoming Eagle–Tribune, the Salt Lake Tribune, and the Duluth News Tribune—have expressed their support for bear baiting bans. (Attachment F)

I want to highlight results from one of the most recent public attitude surveys. A 2002 study, conducted by researchers from Utah State University, examined Utah stakeholders' attitudes toward selected cougar and black bear management prac-

tices. The survey reveals widespread opposition to baiting among all groups surveyed. It shows that 22% of hunters support baiting, while 64% oppose it. Among anglers, 11% support baiting, while 78% oppose it. Among non-consumptive users, 6% support baiting, while 83% oppose it. The survey reveals that only 16% of rural residents approve of baiting, while 71% disapprove. Among urban residents, 11% approve of baiting, and 77% disapprove. Among men, 16% of Utahns approve of baiting, while 79% disapprove of the activity. For women, only 9% approve, while 84% disapprove (Attachment G).

Most wildlife professionals recognize that human feeding of bears, including baiting, contributes to conflicts between people and bears. Tom Beck, a lifelong hunter and bear biologist with the Colorado Division of Wildlife, notes, "I firmly believe that baiting creates "nuisance" bears. Black bears are naturally wary, instinctively avoiding close contact with humans. But large amount of tasty food, easily obtained, defeats this wariness. By baiting, we create lazy bears who have been rewarded, not punished, for overcoming their fear of humans." (Attachment H)

In April 2003, Michael Soukup, associate director for National Resource Stewardship and Science with the NPS, wrote, "Human feeding of bears, whether deliberate or inadvertent, is a significant management problem wherever it occurs and is an activity that the National Park Service works very hard to prevent in units of the National Park System." (Attachment I)

Partly in response to the Park Service's work in this area, the mantra "Don't Feed the Bears" has become one of the most widely accepted precepts in modern wildlife management. Human-fed bears are more likely to approach people, to raid campgrounds, and to break into cars and cabins. Because bears are large and powerful, the animals can pose a threat to people if they have lost their innate fear of humans.

Because of access to human food, for example, bears at Yosemite National Park "become aggressive and cause extensive damage to motor vehicles, trailers, tents, ice chests, and other camping equipment while searching for human food," according to park authorities. Bears caused over $630,000 in property damage in 1998 in Yosemite.

On its web site, Yosemite officials note, "Allowing a bear to obtain human food even once often results in the bear becoming aggressive about obtaining food in the future." Officials at Yellowstone National Park admonish, "Never leave food or garbage unattended." (Attachment J) Glacier National Park authorities warn, "Human foods are one of the chief culprits in the creation of problem bears." (Attachment K)

The NPS has noted that baiting in adjacent national forests causes problems for bears in national parks. Just prior to the voter-approved ban on baiting in Oregon in 1994, Charles Odegaard, the Regional Director of the Pacific Northwest Region of the NPS, wrote the following to the Forest Service: "The practice of bear baiting [on adjacent national forests] has a direct negative impact on Crater Lake National Park. At some times the park boundary is almost ringed with bear baiting stations. Bears are wide-ranging animals. Stations placed within a few feet of the park boundary on a consistent and regular basis are inevitably an attractant that lures bears from the park. Experienced park field personnel believe that the park bear population is on the decline." (Attachment L)

Mr. ODEGAARD ADDED. "Biologically, there is no difference between a bait station and a dump. Bait stations habituate bears to human-generated food, contributing to the potential for conflicts between bears and people in the park."

Consistent with these views, the NPS has a regulation barring the feeding of any wildlife, including bears. (Attachment M) There is a similar rule administered by the U.S. Fish and Wildlife Service, and it reads, "The unauthorized distribution of bait and the hunting over bait is prohibited on national wildlife refuge areas." (Attachment N)

The USFS and the BLM, along with most state fish and wildlife agencies, have expressed the same views as their colleagues at the NPS and FWS on the practice of people feeding bears. A publication of the USFS, the Arizona Game & Fish Department, and the New Mexico Department of Game & Fish entitled "Be Bear Aware" declares, "Bears that are attracted to human food sources may cause property damage and injure people." (Attachment A) The publication continues, "A fed bear is a dead bear," and concludes, "Most conflicts between humans and black bears arise as the result of human supplied foods."

The four major Federal land management agencies have endorsed the "Leave No Trace" public awareness campaign, which warns that people should "never feed wild animals." (Attachment O). The campaign materials say, "Feeding wildlife damages their health, alters natural behaviors, and exposes them to predators and other

dangers." In the same publications, Federal agencies address waste disposal in the woods saying, "Pack out all trash and garbage, including leftover food."

Allowing bear baiting is inconsistent with these declarations. It just makes no sense to think that providing food to bears is wrong, except if the feeding is associated with hunting. If it is wrong to set out food to lure bears for picture-taking, or just to watch the bears, surely it is also wrong to lure bears with jelly doughnuts and rotting animal carcasses for the purpose of shooting them.

Baiting proponents argue that baiters engage in selective killing that protects females and their nursing cubs. Bear biologists from six western states disputed this argument in a paper that was published in the 1995 Proceedings of the Western Black Bear Workshop. They wrote: "The conclusion of most biologists is that it is quite difficult to accurately determine nursing status on free-ranging black bears, even when a bear is in a tree on at a bait. The appearance of nursing females in the kill each spring supports this notion. During the last year of spring bear hunting in Colorado, the number of nursing female black bears checked was within three of the number predicted based on breeding rate of females and total female kill. In other words, there was no selection even with regulations prohibiting the taking of nursing females." (Attachment P) Data from the Idaho Department of Fish and Game also do not support the argument that hunters are more selective in their kills over bait. (personal communication with John Beecham, 6/6/03). If the goal is to protect nursing cubs, the most effective policy response is to outlaw any bear hunting in the spring, when the shooting of a lactating female will invariably doom her cubs.

The idea of halting bear baiting is hardly a notion that most USFS forest supervisors would find alien or unworkable. In fact, Federal forest supervisors in bear baiting states have a history of opposing the practice and making their views known to the states. In November 1990, Stan Tixier, regional forester for the Intermountain Region of the USFS, which covers Idaho, Utah, and Wyoming—the only western states in the conterminous United States that still allow baiting—noted in a letter to the Idaho Fish and Game Commission that the Northern and Intermountain Regions of the USFS "oppose the continuation of bear baiting as a sport hunting practice." (Attachment Q)

Tixier cited concerns that baiting is publicly unpopular, contributes to conflicts between people and wildlife, and amounts to littering in the woods. He added, "We feel it is important that hunting be conducted in a manner that reflects well on hunter conduct. The use of salt as an attractant to draw elk and other game animals is illegal for ethical reasons. The Forest Service believes that these same standards should apply to all game species, including the black bear."

In April 1991, in a letter to the director of the Utah Division of Wildlife Resources, William Burbridge of the USFS wrote, "the Forest Supervisors [of national forests] in Utah asked me to pass on to the Division and the Utah Wildlife Board their opposition to the continuation of bear baiting for sport hunting in Utah." (Attachment R)

Despite the support for a ban on baiting among on-the-ground forest supervisors who witnessed the deleterious impacts of baiting, political leaders at the USFS adopted a policy that leaves bear baiting decisions on national forests to the states. It is important to note that the USFS, in adopting this policy, never stated that baiting was in any way necessary for management purposes, nor even an appropriate use of Forest Service lands. Although the process by which the USFS enacted the baiting policy was subsequently upheld by the Court of Appeals for the District of Columbia Circuit in Fund for Animals v. Thomas, the court never addressed the merits of bear baiting, nor the wisdom of the USFS's decision to allow bear baiting on USFS's lands.

Given that USFS administrators have decided to take no action to halt baiting on national forests—even in light of emphatic past declarations from key field personnel that baiting is inconsistent with agency standards and even though the agency continues to publish materials warning visitors that it is dangerous to set out any food for bears—it is appropriate that the Congress now instruct the agency, and the BLM, to adopt policies to ban any human feeding of bears. The argument for the ban on bear feeding is only buttressed by the fact that the public considers the practice of baiting bears to be so unsporting and unfair.

The Federal Government has established policies to limit inhumane and unsporting hunting practices where it determines it has a compelling interest. In 1971, Congress adopted the Federal Airborne Hunting Act, forbidding the shooting of animals for sport from aircraft. The Federal Government also adopted a regulation banning the baiting of migratory birds, and that prohibition has been in place for decades.

The massive and all but unrestricted feeding of bears on Federal lands by baiters creates a compelling Federal interest. Opponents of H.R. 1472 cannot logically argue that baiting is entirely a "hunting" issue; it is also an issue of feeding, and the feeding issue is precisely the component of bear baiting that has triggered the introduction of H.R. 1472. The Federal Government has a clear and compelling interest in taking control of the human feeding of bears—for the safety of the forest users and employees, for the protection of public and private property destroyed by habituated bears, and for the protection of bears labeled as nuisance animals and then killed.

To illustrate the point, consider the hypothetical of a state that did not forbid the shooting of bears from off-road vehicles. If the USFS felt that use of off-road vehicles was generally a bad practice because of its aesthetic effect on the landscape, its impact in uprooting plants and causing soil erosion and run-off, and its role in diminishing the quality of the recreational experience for other forest users, would the agency be obligated to defer to the states and make an exception for shooting of bears from off-road vehicles because hunting was an element of the recreational exercise? I think not, and I am confident even the USFS would agree if it were presented with a similar circumstance. In this case, the dumping of food in the woods is inconsistent with agency declarations and warrants a prohibition on the activity, even if it happens in this case to be associated with an activity generally controlled by the states.

Finally, in terms of a compelling Federal interest, I want to emphasize why consistency on the bear feeding issue on Federal lands truly matters. The situation mentioned earlier, where managers at Crater Lake National Park identified major problems with bear baiting stations set up just over the line in adjoining national forests, could play out in Yellowstone, Grand Teton or other park service units that border national forests or BLM lands in bear baiting states. If it is a problem to feed bears on one side of the park boundary, it is also a problem to feed bears a few feet away, on the other side of the divide. Bears do not know boundaries; consequently, bears fed in a national forest may become a nuisance in a national park, damaging property and threatening people. And bears principally living in a park may be lured out of the park by bait sites and killed in considerable numbers by commercial baiters, diminishing the experience of park visitors who hoped to see a bear. Common sense and consistency demand Federal action to bring USFS and BLM policy in line with that of NPS and FWS. I urge your support for H.R. 1472.

I'd now like to turn my attention to H.R. 1006, the "Captive Wildlife Safety Act." For every tiger roaming free in the forests of Asia, another languishes in grim confinement in a backyard cage somewhere in America. The world's largest cat, a powerful and solitary predator that numbered around 100,000 at the turn of the century, is now a highly endangered species on the brink of extinction. Its fragmented populations number somewhere between 5,000 and 7,000 animals in the wild. In the United States, roughly the same number are thought to be held in private hands, along with perhaps 3,000 lions, cougars, and other big cats.

These magnificent carnivores—particularly easy-to-breed tigers—have become one of the nation's hottest new exotic pets, animal status symbols, advertising gimmicks, and roadside attractions. They are imprisoned in tiny wire mesh cages, tethered or chained in basements and barns, displayed outside gas stations and convenience stores to attract customers, used as guard animals by drug dealers, and held in squalid, unaccredited roadside zoos. Astonishingly, they are also carted around to schools and shopping malls for photo ops and petting opportunities.

Genetically programmed to range over 100 miles a day, swim rivers, and bring down prey twice their size, tigers are hard-wired to attack and kill. They may appear to be tame and friendly, but the reality of recent attacks—many on children—reinforces their omnipresent danger to their owners and anyone who comes into close contact.

In the past five years, at least nine people have been mauled to death by tigers, scores have been attacked, and many have suffered grievous injuries. Twice as many people die each year from dog bites but with 50 million dogs, the threat from tigers is proportionately far greater. A new study finds that tigers are between 360 and 720 times more likely to be involved in a fatal attack than a pit bull or other domestic canine. Consider these incidents:

- Six weeks ago on March 31, a Hennepin, Illinois man was killed by two tigers as he moved them between cages on his property. One of the cats had previously mauled a seven-year-old girl, causing extensive injuries.
- Two days later at a roadside zoo in Adair, Oklahoma, a tiger reached through a small slot in the cage and ripped off the arm of a woman keeper standing outside. She bled to death.

- Last September in Santa Cruz County, California, a young 200-pound Bengal tiger exhibited in a grade school classroom by a company called Zoo To You attacked a 6-year-old boy, severely injuring the youngster and traumatizing his classmates. It took 55 staples to close the boy's head wounds.
- In Texas, thought to hold perhaps half of the nation's backyard tigers, a string of attacks over the past four years underscores the threat to youngsters. A 10-year-old girl helping her stepfather groom the animal died after a tiger clamped her head in its jaws. A four-year-old girl's arm was torn off, and a three-year-old boy posing for a photograph inside the cage was fatally savaged by his grandfather's pet.

A study on tiger attacks to be published in the journal Zoo Biology documents incidents in 19 states (Ark., Calif., Colo., Fla., Idaho, Ill., Ind., Kan., Mass., Minn., Miss., Neb., Nev., N.D., N.M., Ohio, Okla., S.D. and Tex.) between 1998 and 2001. (Attachment S) Most fatalities and serious injuries occurred either in private backyard menageries or in small roadside zoos that are not accredited by the American Zoo and Aquarium Association (AZA).

It also outlines in chilling detail the unpredictability of these alpha-predators and their threat to humans, particularly children. "Despite the appearance among some trained animals of pseudo-domestication, [they] retain their predatory instincts and neural-visceral reflexes and they can inflict serious wounds using their teeth or claws suddenly and without forewarning.

"A child's smaller body size increases the potential for serious or lethal injury. Size also appears to influence the attack response of tigers. Large cats instinctively strike the neck and shoulder of prey to disable them, resulting in serious craniofacial and cervical spinal injuries. The small size of children [and their movements] may help to trigger the attack response . . . making human children particularly stimulating as prey."

The threat to humans is reiterated by the United States Department of Agriculture, which calls big cats "dangerous animals" whose care and handling should be confined to professionals. (Attachment T) "Because of these animals' potential to kill or severely injure". an untrained person should not keep them as pets," the USDA states. That unequivocal position is also supported by The American Veterinary Medical Association, the AZA, and all reputable animal welfare organizations.

The rapid rise in the popularity of pet tigers is a stunning cultural phenomenon. In the hands of untrained exotic pet fanciers, roadside zoo owners, and even celebrities like Michael Jackson and Mike Tyson who got rid of their pet tigers because they were too difficult to manage, tigers are not only a danger to people. They are also victims.

Tigers kept as pets or held in roadside zoos suffer from abuse, ignorance, poor diet, lack of veterinary care, inadequate enclosures, and painful physical ailments from random inbreeding. A few lucky ones end up in accredited sanctuaries. Most are dumped into pseudo-shelters that operate like puppy mills. They breed the big cats to churn out cubs for sale on the Internet or at exotic animal auctions. They cost as little as $300—the price of a pure-bred puppy. These are a few of the consequences:

- In April 2003, 90 tiger carcasses including 58 cubs, along with 11 live tigers and other animals, were discovered at an unaccredited facility called Tiger Rescue in Riverside County, Calif. Two of the cats were euthanized and the owner has been charged with 16 animal cruelty felonies based on the condition of the live animals found on his property. An investigation continues into why he had 90 dead tigers in a freezer.
- Federal authorities in March prosecuted a 16-member, 8-state ring of roadside zoo owners, taxidermists, and animal black marketeers that had purchased, shot, and butchered dozens of tigers and other big cats. By selling mounted heads, skins, meat, bones, and blood to trophy collectors, butchers and the Asian medicine trade, they turned a live tiger worth a few hundred dollars into body parts that were sold for up to $10,000—making the cats literally worth more dead than alive.
- Also in April, San Antonio police were forced to shoot and kill a lioness that escaped from an accredited sanctuary after vandals opened her cage. She had been rescued from a decrepit roadside zoo in Iowa closed down after other big cats had starved to death or had been killed and eaten by cage mates. The USDA reported that a male Bengal tiger fed on turkey carcasses died after splintered bones punctured its intestines. It had no drinking water to flush the bones through its system and in its agony, had chewed its metal water bowl to pieces.

The current mania for exotic pet bragging rights is spurred in part by their easy availability and low cost. Tigers breed readily even in the worst conditions of

captivity, but they aren't tabbies. As they grow and become increasingly hard to handle, their novelty quickly wears off. The difficulties of caring for these apex-predators quickly compounds the cruelties they suffer beyond the cramped squalor many exist in, and the widespread ignorance of their physical, behavioral, and nutritional needs.

For example, tigers need up to 60 pounds of red meat a week, and feeding them a healthy diet is expensive. Many owners substitute cheaper poultry parts like chicken backs and necks which don't provide vital vitamins and minerals. The result can be severe malnourishment and painful ailments like metabolic bone disease that causes their legs to break. Veterinary care for these big cats is difficult, and often impossible, to obtain.

Many tigers end up being dumped on local animal shelters that are ill-equipped to care for them. Humane officers reports a catalogue of misery suffered by the animals—from untreatable ailments requiring euthanasia, to cats mutilated and crippled by ignorant owners who tried to declaw their pets with garden shears.

Owners often insist they are "saving an endangered species," but that is a false argument. Their so-called "generic" tiger pets, the result of random mating in backyard cages and roadside zoos, are genetically inferior hybrids that cannot be used in the programs conducted by accredited zoos. In a word, they are inbred mutts—magnificent alley cats, if you will—but worthless for use in the AZA's Tiger Species Survival Plan that manages close to 300 tigers in its North American computer-matched breeding program.

The growing public safety threat, the widespread abuse of these animals, and the patchwork of state and local exotic animal laws underscore the need for Federal action. Twelve states (Alaska, Calif., Colo., Ga., Hi., Mass., N.H., N.M., Tenn., Utah, Vt., and Wyo.,) prohibit the private possession of exotic animals. Seven states (Conn., Fla., Ill., Md., Mich., Nev., Va.,) have a partial ban. Fifteen states (Ariz., Del., Ind., Maine, Miss., Mont., N.J., N.Y., N.D., Okla., Ore., Pa., R.I., S.D. and Tex.,) require a license or permit to possess them.

However, enforcement is spotty, loopholes are wide, and local ordinances are a regulatory mish-mash. USDA does not regulate private ownership of these animals. From the squalid backyard menagerie to the seedy roadside zoo to the illegal black market in tiger parts, it's time for Congress to step in and complement the efforts of the states by banning interstate movement of big cats for the pet trade.

Mr. GILCHREST. Next on the panel, since my glasses do not work anymore, Mr. Haleen, National Bear Hunting Defense Task Force.

STATEMENT OF STEPHEN J. HALEEN, NATIONAL BEAR HUNTING TASK FORCE

Mr. HALEEN. Mr. Chairman, members of the Subcommittee, I am Steve Haleen, appearing to testify in opposition to H.R. 1472. I am the past President of the Michigan Bear Hunters Association and have been hunting black bears for over 25 years and represent the National Bear Hunting Defense Task Force. We appreciate this opportunity to be here today. With me are two members of the task force, Rick Posig, President of Wisconsin Bear Hunters Association, and Rob Sexton, Vice President of the U.S. Sportsmen's Alliance.

The task force represents 17 organizations across the United States. One of the unique aspects of this task force is that more than half of these members are hound hunting organizations, myself included, which means that I prefer to hunt bears with hounds rather than to still hunt over bait.

In normal circumstances, bait hunters and houndsmen are, for lack of a better term, friendly rivals, each one preferring their own method of hunting. Yet today we have put aside our rivalry and present a unified front of bear hunters in opposition to H.R. 1472. In fact, four task force members, Arkansas, California, North Carolina and Virginia Bear Hunters Associations, are houndsmen organizations from States where bait is not even allowed.

You might ask why would all of these hound hunting organizations rally to support still hunting over bait? Because they understand this bill is only one part of a bigger picture. Backers of this bill, the Humane Society of the United States, the Fund for Animals, PETA, and the Animal Protection Institute have provided Members of Congress with arguments criticizing bait hunting. What they haven't divulged to you is that they make similar arguments about every method of bear hunting that exists. They don't just oppose bait hunting or bow hunting or spring hunting, they oppose all hunting of bears.

We have defended ourselves in the courts of California, on the ballots of Colorado, Idaho, Massachusetts, Michigan, Oregon, and Washington, and in countless state legislatures and in Federal courts. The arguments of the anti-hunter radicals are all over the board: Dogs are cruel. Baiting is unsporting. It is unfair in the spring. Black bears look too much like grizzly bears. Hunting is unsafe.

In the end, there is one common theme: These groups do not like any kind of hunting. Dog organizations join this task force in opposition to H.R. 1472 because they know if this bill becomes law some other form of anti-hunting bill will be the next target. The antis will not be satisfied until all hunting is banned.

For example, in Minnesota where hound hunting is not permitted, these same groups are arguing now just as strongly as they are against baiting to prevent hound hunting in the State of Minnesota. So, from a hunter's perspective, bait and hound hunting alike, we believe that H.R. 1472 is one step in an attempt to end all traditional bear hunting in this country.

The second issue is wildlife management. There are many reasons why State wildlife managers permit certain hunting methods: effectiveness, selection, safety, terrain, culture, just to name a few. In Michigan, the Natural Resources Commission and the Department of Natural Resources have concluded that the proposed ban, H.R. 1472, would cause a significant decline in the State's annual bear harvesting—the estimate is 10 to 30 percent—and that under a sustained decline annually would result in a significant increase in the bear population, particularly in the western UP where there are large tracts of Federal land. That increase would result in increased human and bear conflict, conflicts that Maryland and New Jersey are now facing in two States where bear hunting is not allowed.

The ban would also not accomplish what the slogans suggest: Do not feed the bears. For you see that in the State of Michigan and in many other States it is also legal to bait deer on Federal lands. There are 50 deer hunters to every bear hunter in Michigan. They hunt at the same time that bear hunters do. They are feeding the bears much more than what the bear hunters are so the ban would not accomplish what they are trying to accomplish. What it would accomplish is preventing bear hunters from still hunting over bait.

The last point I want to make has to do with States rights. Some States have decided to ban the practice of still hunting over bait. Other States have decided to allow it. In 1996 when these same groups came to the State of Michigan and asked the voters in the State of Michigan to ban the use of bait hunting and ban the use

of hound hunting, by a two-to-one margin these voters decided there was no need to stop either one of these forms of hunting. Furthermore by a nine-to-one margin, nine out of ten voters said that these kinds of decisions should be left in the hands of the Michigan Department of Natural Resources and the Michigan Natural Resources Commission.

I will conclude by saying there is no reason to believe that the voters in the State of Michigan have changed their minds.

I appreciate the opportunity to appear.

Mr. GILCHREST. Thank you very much.

[The prepared statement of Mr. Haleen follows:]

Statement of Steve Haleen, National Bear Hunting Defense Task Force, on H.R. 1472

Mr. Chairman, members of the Subcommittee, I am Steve Haleen, appealing to testify in opposition to H.R. 1472. I am past President of the Michigan Bear Hunters Association and represent the National Bear Hunting Defense Task Force. We appreciate the opportunity to be here today and with me are two other members of the task force, Rick Posig, President of the Wisconsin Bear Hunters Association and Rob Sexton, Vice President of the U.S. Sportsmen's Alliance.

The task force represents 17 organizations across the United States. A complete list is included with my written testimony. One of the unique aspects of this task force is that more than half of its members are hound-hunting organizations. Myself included, that means we prefer to hunt bears with dogs rather than use bait.

In normal circumstances, bait hunters and houndsmen are, for lack of a better term, rivals, each one believing their method of hunting is the "right" way of doing so. Yet today, we have put aside our rivalry and present a unified front of bear hunters in opposition to H.R. 1472. Four task force members, the Arkansas, California, North Carolina and Virginia Bear Hunters Associations, are houndsmen organizations from states where bait is not even allowed. Why would all these hound hunting organizations rally to support bait hunting? Because they understand that this bill is only one part of a bigger picture. You see, black bear hunters have been fighting for the right to exist for nearly twenty years.

Backers of this bill, the Humane Society of the United States, the Fund for Animals, PETA and the Animal Protection Institute, have provided members of Congress with arguments criticizing bait hunting. What they have not divulged to you is that they make similar arguments about every method of bear hunting that exists. You see, they don't just oppose bait hunting or hunting with dogs or bow hunting or spring hunting of bears . . . they oppose all hunting of bears. That's made things rough for bear hunters over the past two decades.

We have defended ourselves in the courts of California, on the ballot in Colorado, Idaho, Massachusetts, Michigan, and Washington, in countless state legislatures and in Federal court. The arguments of the anti-hunting radicals are all over the board: dogs are cruel; bait is unsporting; it's unfair in the spring; black bears look too much like grizzly bears; hunting is unsafe.

In the end, there is one common theme. These groups just don't like hunting—any kind of hunting. The dog organizations joined this task force in opposition to H.R. 1472 because they know if this bill becomes law, some other form of bear hunting will become the next target. The antis won't be satisfied until all hunting is banned.

In Minnesota for instance, the use of dogs is prohibited, while bait is permitted. These same animal rights extremists are speaking out against dogs in St. Paul just as vigorously as they have lobbied you here on bait.

These issues are being fought and debated in each state. In my home state of Michigan, the voters rejected a ban on baiting by a 2–1 margin in 1996. In Wisconsin, my colleague here has successfully defended the use of dogs in the state legislature several times. That is what makes the United States great. The people in Arkansas can do things one way, while the folks in Alaska do it another. Unless there is some overriding issue, such as endangered species or the species are migratory, he Federal Government has stayed out of resident wildlife management and that's the way it should remain.

There are many reasons why state wildlife managers permit certain hunting methods. Effectiveness, selection, safety, terrain, and culture, just to name a few. I would hope that I don't have to come here to tell you why bait hunting is good.

I would hope that our opponents would have to show you why it is bad enough for you to pre-empt state management authority, and I know they can't do that.

There is no evidence that baiting habituates bears to people. The picture of bait hunting they have painted for you does not come from experience. Bait hunting is challenging. Bears don't grow old and heavily populate the states like they do, by being easy prey. They are smart and elusive. Today we are seeing bears in more states and in greater numbers than anytime in the last 100 years. That is causing some of the debate. Folks in New Jersey and Maryland are having to decide what to do with an exploding bear population. You see, they don't have a hunting season and people are having run-ins with bears.

In Michigan, we believe that the use of bait and dogs provide the most effective means of controlling bears, while providing a source of recreation for thousands of our citizens.

This bill is an unfair, unwarranted attack on bear hunters and state wildlife authority and I ask the members of the Subcommittee to defeat it.

Thank you again for the opportunity to appear.

Mr. GILCHREST. Mr. William P. Horn, U.S. Sportsmen's Alliance.

STATEMENT OF WILLIAM P. HORN, DIRECTOR, FEDERAL AFFAIRS, U.S. SPORTSMEN'S ALLIANCE

Mr. HORN. Thank you, Mr. Chairman. I appreciate the opportunity to appear today and register our very strong opposition to H.R. 1472.

This bill is an absolutely unnecessary and dangerous measure. It constitutes an unwarranted assault on the long-established distribution of authority between the State and the Federal Government regarding the regulation of the taking of resident fish and wildlife.

For over two centuries control over resident fish and wildlife has been vested in the States, and Congress has repeatedly in a wide variety of statutes—most notably and recently with the National Wildlife Refuge System Improvement Act of 1997—reiterated very expressly that the taking of resident species of fish and wildlife, even on Federal land, remains a State prerogative.

Now, of course, this relationship that has existed since the founding of our Republic, grounded in the Federalism between the Feds and the States, of course is quite distinct from other areas where Congress has asserted Federal preemption from the very beginning. Two noteworthy examples would be Federal preemption of regulation of airspace through the Federal Aviation Administration or preemption of regulation of the use of the airwaves as regulated by the Federal Communications Commission. Those are areas where Congress said from the outset we will have Federal primacy and preemption, very, very different from the 200-year history that has existed vis-a-vis the regulation of wildlife.

Clearly, the Federal Government does have certain preemptive powers regarding wildlife, powers that it has used very judiciously and sparingly over the last century. Primary examples are the 1918 Migratory Bird Treaty Act to govern the conservation and taking of migratory birds. Another example is the Endangered Species Act and the Marine Mammal Protection Act, both enacted over 30 years ago.

No significant legislation providing for Federal preemption of State wildlife authority has been enacted in decades. It is clear that Congress has exercised its preemptive authority infrequently and only in extraordinary circumstances either involving wildlife

on the verge of extinction or endangerment or for migratory species that move over State boundaries, such as ducks and geese, or for species that exist and migrate outside of traditional boundaries, such as whales and dolphins and other marine mammals.

In very sharp and marked contrast, black bears are abundant and nonmigratory. They do not fit the bill for any of the prior circumstances where Congress has seen fit to exercise its preemptive authority. Based on that precedent, based on the facts, uncontroverted facts, there is absolutely nothing that justifies Federal preemption in the case of black bears or hunting techniques for such black bears. We submit that passage of H.R. 1472 would represent an unprecedented break with a century of judicious wildlife policy and thrust Congress directly into proscribing highly specific forms of hunting and fishing.

If Congress determines that this particular specific practice justifies the exercise of its extraordinary and unique preemptive authorities, what other specific fishing, hunting or trapping activities will be the subject of the next preemptive act? Baiting of fish through the use of chum is a very common practice for fishing for migratory striped bass in the Chesapeake Bay or for fishing for migratory bluefish off the coast of New Jersey. If some find this practice unethical or unsporting, and there are many in the animal rights community who find all forms of fishing are unethical and unsporting, should Federal legislation prohibit this form of angling in navigable Federal waters? We would submit not.

This bill will so lower the threshold for Federal preemption that virtually any form of controversial fishing, hunting or trapping activity will be subject to direct congressional intervention; and we are persuaded that is a Pandora's box that this Congress shouldn't open.

Let me close with a couple of other observations.

Picking up on Steve's prior comments, I hope the Committee or the Subcommittee took note of Mr. Pacelle's comments in which he opened up with an attack on baiting; and we noticed that throughout the conversation and the testimony that we end up hearing references to baiting, the use of dogs, and spring seasons beginning to be used almost interchangeably. Make no mistake many of the opponents of this bill—or the proponents of this bill are as adamantly opposed to these other forms of State-sanctioned activity as they are of baiting; and I would fully expect if Congress passes this measure we will see someone persuaded to introduce a bill to outlaw the use of dogs in bear hunting, as is now provided in eight States, including Virginia and West Virginia, if someone finds these particular activities to be repugnant to their sense of aesthetics and ethics.

We believe it is absolutely necessary for Congress to retain the judicious use of its preemptive authority that has typified its activities in the Federal wildlife field for over a century and not pass this bill and confine its focus to those areas of migratory species where it has determined that preemption is warranted.

Mr. GILCHREST. Thank you, Mr. Horn.

[The prepared statement of Mr. Horn follows:]

Statement of William P. Horn, U.S. Sportsmen's Alliance, on H.R. 1472

Mr. Chairman. My name is William P. Horn, Federal Affairs Director and Washington Counsel for the U.S. Sportsmen's Alliance. I appreciate the opportunity to appear today and express our strong opposition to H.R. 1472. The Alliance is a national non-profit entity committed to protecting our heritage of hunting, angling and trapping. It represents over 1.2 million sportsmen and women through its members and affiliated organizations. We are also pleased to be coordinating the efforts of the Natural Bear Hunting Defense Task Force.

H.R. 1472 is an absolutely unnecessary and dangerous measure that would preempt the authority of state fish and wildlife authorities to regulate the taking of highly abundant black bears. Specifically, the bill would mandate new Federal regulations to prohibit the authorized use of bait and the related hunting of black bears on all Federal lands notwithstanding state law, regulations, or practices to the contrary. As such the bill constitutes an unwarranted assault on the long established distribution of authority between the states and the Federal Government regarding the regulation of resident fish and wildlife.

Beginning with the rise of our states in the 1600 and 1700's, control over fish and wildlife resources has been vested in those states. Express recognition of state primacy in this field first occurred in the 1800's and Congress has continually determined that regulation of the taking of resident species of fish and wildlife, even on Federal land, remains a state prerogative (e.g., National Wildlife Refuge System Improvement Act of 1997, P.L. 105–57, Oct. 9, 1997: Section 8 (a) "Nothing in this Act shall be construed as affecting the authority, responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area of the [Refuge] System.").

The Constitution does vest the Federal Government with preemptive power but in the realm of wildlife law this authority has been used judiciously and sparingly. The first significant Federal preemptive act was the 1918 Migratory Bird Treaty Act to govern the conservation and taking of migratory birds. However, even in the case of migratory birds, the Federal Government sets a framework for hunting and leaves the specifics to be implemented by the individual states fish and wildlife authorities. Other examples of preemption are the Endangered Species Act and the Marine Mammal Protection Act both enacted 30 years ago. No significant legislation providing for Federal preemption of state wildlife authority has been enacted in decades.

It is clear that Congress has exercised this authority infrequently and only in extraordinary circumstances involving wildlife on the verge of extinction or for migratory species that move across state boundaries (i.e, ducks) or that exist outside of traditional state boundaries (i.e., whales, dolphins).

Nine states authorize the use of bait in the taking of black bears: Alaska, Idaho, Maine, Michigan, Minnesota, New Hampshire, Utah, Wisconsin, and Wyoming. Fish and wildlife authorities in these states have made a considered professional judgement that this method of taking is a legitimate means of hunting abundant black bears. Of course, other states have come to a different conclusion and are free to do so in under our 214 year old system of Federalism. We should add too that those who disapprove of the use of bait are also completely free to exercise their rights and approach or petition the authorities in these nine states to change their rules.

Black bears are abundant and non-migratory. Populations are growing and in many areas the animals are a nuisance, and sometimes a hazard, to people. Most states with black bears have hunting seasons designed to keep bear populations in check to minimize or reduce nuisances and hazards. And in nine cases, states have decided that the use of bait is an important tool to be employed in pursuit of these goals.

Absolutely nothing justifies Federal preemption in the case of black bears or hunting techniques for such bears. Black bear populations number in the hundreds of thousands in the nine states that authorize the use of bait. Populations in other states are as high if not higher. This is a not a species in any trouble. In addition, these animals are also highly resident spending virtually all of their lives in defined territories. Black bears are not moving among the states in flocks or herds necessitating a direct Federal management role.

Passage of this bill would represent an unprecedented break with a century of judicious wildlife policy and thrust Congress directly into proscribing, or prescribing, highly specific forms of hunting or fishing. If Congress determines that this highly specific practice justifies the exercise of its constitutional Property Clause power, what other specific fishing, hunting, or trapping activities will be the subject of the next preemptive act? "Baiting" of fish through the use of chum is a common practice for migratory striped bass in Chesapeake Bay, for migratory bluefish off the New

Jersey coast and for migratory Spanish mackerel off Florida. If some find this practice unethical or unsporting, should Federal legislation prohibit these forms of angling? Wisconsin routinely allows the use of bait for hunting whitetail deer; should Wisconsin hunters anticipate preemptive Federal law to ban this practice? Passage of H.R. 1472 will so lower the threshold for Federal preemption of state regulation of fish and resident wildlife that virtually no form of state sanctioned fishing, hunting, or trapping activity will be exempt from direct Congressional meddling. The Sportsmen's Alliance is persuaded that neither the Subcommittee nor Congress will want to open this Pandora's Box.

The anti-hunting zealots and animal rights radicals behind this legislation will not rest until all forms of hunting, fishing, and trapping are totally prohibited. Obviously they cannot achieve their radical agenda at once and have adopted a different more stealthy tactic—target more controversial and less popular practices one by one. That is clearly the purpose of H.R. 1472 and we strongly urge the Subcommittee to simply stop this unwarranted and dangerous bill and to not advance the animal rights agenda.

Thank you again for the opportunity to appear and the U.S. Sportsmen's Alliance looks forward to working with the Subcommittee to stop this dangerous measure.

Mr. GILCHREST. We have a vote. We have to leave in 5 minutes. We will have members without objection who are here or have left to come up with questions which we would like to submit to the record and submit to the panel.

I yield now to the gentleman from California.

Mr. MARLENEE. Mr. Chairman, I neglected to introduce the wildlife biologist, Dr. Dwayne Etter, from the State of Michigan. He is the biologist—the bear management specialist adjutant professor at the University of Michigan. He has a statement I would like to enter into the record.

Mr. GILCHREST. Without objection, and we will continue our conversation with the gentleman as we pursue the legislation.

[The prepared statement of Dr. Etter follows:]

STATE OF MICHIGAN

DEPARTMENT OF NATURAL RESOURCES

LANSING

JUNE 10, 2003

The Honorable Wayne Gilchrest
Chairman, Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
U.S. House of Representatives
Room H2–187, Ford House Office Building
Washington, DC 20515

Dear Chairman Gilchrest:

SUBJECT: Written Testimony, "Don't Feed the Bears Act of 2003 (H.R. 1472)

Introduction

The residents of Michigan have long lived with and hunted black bear. The Michigan Department of Natural Resources (MDNR) is mandated to manage this valuable and important Michigan resource. If enacted, the proposed "Don't Feed the Bears Act of 2003 (H.R. 1472)" would severely limit the ability of the MDNR to meet this mandate.

Black Bear Social Issues in Michigan

The black bear is an integral part of forested ecosystems in Michigan; however, public concerns require that the MDNR manage the number of bear in the state at a socially acceptable level. In the absence of hunting, Michigan's bear population would be expected to increase at a rate of approximately 15–20 percent per year.

Approximately one million people and an estimated 16,000 black bear live in close proximity in the northern two-thirds of Michigan. Bear are expanding their range also into the highly populated areas of southern Michigan. This, in conjunction with the large influx of people living and vacationing in northern Michigan, increases incidents of human-bear encounters. Bears sometimes become a nuisance by searching for food in garbage cans and at bird feeders. Bears also can cause damage to buildings and crops and sometimes kill pets and livestock. On rare occasions, bears injure people. Regulating the size of the bear population can reduce the likelihood of negative bear-human interactions.

Bear Research in Michigan

The MDNR has a long commitment to research the biology of the black bear, its population dynamics, and habitat requirements. One of the pioneer black bear research projects in the country began in the Upper Peninsula (UP) in the early 1950s, at which time methods of live trapping and handling black bear were developed. In more recent years, radio-telemetry projects have allowed researchers to track black bear movements and assess the effects of human activity on bear behavior in Michigan. Using bait to attract bears into traps is the most effective way to capture bears for research purposes. In the 1990s, this technique was used extensively by MDNR and United States Forest Service (USFS) biologists on the Huron–Manistee National Forest (HMNF) to capture and radio-collar bears. This project is outlined in Memorandum of Understanding (MOU) R9–04–MU–92–007 between the MDNR and HMNF–USFS. Information from this project is used extensively for management of bears in the northern Lower Peninsula (NLP). Inability to bait and capture bears on Federal lands would limit severely the effectiveness of future bear research projects under this MOU.

Michigan biologists have used bear baiting as a population trend estimator for the past 15–20 years. Baits (usually consisting of one- to two-pound packs of bacon and cans of sardines) are suspended from trees six to eight feet above the ground to ensure that only bears can take baits. Survey routes are established systematically to assure that all bears in a given survey area have a chance to be recorded. Baits are checked one to two weeks later, and those taken by bears are recorded. By comparing the number of baits taken by bears among years, biologists are able to project trends in bear population size. However, projecting trends requires multiple years of replicating the same survey routes. Existing survey routes in Michigan's UP and NLP include bait sites located on Federal lands. Eliminating these bait sites from future surveys would make comparisons with past surveys impractical. In areas where Federal lands make up a significant portion of available bear habitat, eliminating bait sites on Federal lands would render this survey technique useless.

Advances in genetic technology provide an additional tool for estimating bear population size in Michigan. The MDNR and Michigan State University are currently conducting a research project to estimate bear population size in the NLP using baited hair snares to collect genetic material from bears. As described above, baited hair snares are placed systematically on private, state, and Federal lands to ensure potential sampling of all bears within the region. This research is being conducted in cooperation with the USFS and Tribal biologists from the region. Year one of this project shows promise for its future use to estimate bear populations; however, the inability to bait bears on Federal lands will likely limit its usefulness in most areas of Michigan.

Problem Bears

The MDNR strives to minimize conflicts between bears and people. In 2001, the "Black Bear Work Group" developed the "Michigan Problem Bear Policy and Management Guidelines" outlining specific procedures for managing human-bear conflicts. Social intolerance of bears and their behavior sometimes warrants the need to capture and relocate problem bears.

The MDNR began documenting bear complaints on a statewide basis in 1991. From 1991 to 2002, over 3,000 bear complaints were documented. In response, bear traps were set on approximately 800 occasions resulting in over 350 problem bears being captured. Additionally, the MDNR cooperates with the USFS to trap problem bears on Federal lands in Michigan. The most effective means for capturing nuisance bears is in a baited trap.

Critics contend that baiting habituates bears to human foods thus increasing nuisance bear activity. It is unclear whether baiting increases or decreases nuisance bear activity. Bears that are attracted to hunter's baits and are not harvested may be more likely to seek out other human sources of food. However, bears that are already adapted to using human foods are more likely to be harvested over bait.

It is unclear whether baiting increases the likelihood of bears attacking people. However, reported bear attacks are extremely rare in Michigan, and the last reported human fatality from a bear was recorded in 1978. The MDNR personnel tend hundreds of bear baits annually for research purposes. No bear attacks have been reported in association with this activity.

Bear Hunting in Michigan

Regulated bait hunting helps to maintain precision in the number of bears harvested annually because it provides consistency in bear hunter success rates. (From 1996 to 2002, bear hunter success rates in Michigan ranged from 23 to 27 percent.) Each winter, biologists use population models in conjunction with indexes derived from bear bait surveys to estimate the bear population in Michigan. Biologists then use average hunter success rates from previous seasons to determine the number of permits required to achieve the desired harvest in the upcoming season. Using this technique, the actual number of bears harvested has fluctuated less than 6 percent from the desired harvest since 1998. Over the past decade, the annual number of bear harvested in Michigan has been adjusted annually to allow the population to increase at a rate of 2–3 percent per year. To achieve this, the bear harvest in Michigan has increased approximately 5–15 percent each of the last eight years.

Bear baiting has always been a legal harvest method in Michigan, and it is integral to the management of the species. In 2002, approximately 83 percent of Michigan hunters relied on baiting to attract bears to their hunting area. An additional 7 percent of hunters used a combination of bait and dogs to locate a bear. In 1985, a formal baiting season was established in Michigan; since then, baiting to attract bears has been highly regulated. It is illegal for any person or their authorized representatives to establish or tend more than three bait stations per hunter. No metal containers, plastic, wood, glass, fabric cloth, tires, or paper may be used at a bait station. Bait can only be placed on the ground. As required by state law, any containers used to transport bait to the baiting site must be removed and disposed of properly. If using grains, the hunter is limited to no more than two gallons, and the bait must be made inaccessible to deer and elk. For the 2003 bear hunting season, the baiting period is limited to five weeks (August 19 to September 25) in the Lower Peninsula (LP) and 10 weeks (August 10 to October 26) in the UP.

Approximately 14 percent of land open to bear hunting in Michigan is Federally owned. Additionally, 22 percent of the land base in the western end of the UP (Amasa, Baraga, and Bergland Bear Management Units) is in Federal ownership. In 2002, these three units combined for approximately 48 percent of the state's total bear harvest. Furthermore, 45 percent of Michigan's bear hunters hunted on public lands, and an additional 19 percent hunted on both public and private lands in 2002. Clearly, the elimination of baiting for bear on Federally owned lands in Michigan would affect a significant decline in the state's annual bear harvest.

The harvest of black bears in Michigan is managed in ten bear management units (BMU). The BMUs help to distribute the bear harvest throughout the entire subsection, rather than allowing hunters to target animals in only optimal habitats. Baiting is an effective method for attracting bears that exist in less than optimal habitats and at lower densities. The BMUs also help to assure that biological information obtained from harvested bears is representative of the entire subsection population. Since 1990, a "quota" system has been used to limit the number of hunters in each BMU each year.

Contrary to the belief of many non-bear hunters, harvesting a bear over bait is not easy (e.g., bear hunter success rates in Michigan average approximately 25 percent). Bears have a keen sense of smell and hearing and generally are wary of humans, so bait hunters must be skillful and patient to harvest a bear. Hunters can place baits at close range for more effective shots thus resulting in less wounded animals. Additionally, hunters using bait can be selective and thus avoid shooting young bears or mothers with cubs. (Harvesting a cub bear or mother with cubs is illegal in Michigan).

Hunting bears with bait is a legal and important method of harvesting bears in one-third of the states that have bear hunting (9 of 27 states) and in 8 of 11 Canadian provinces. States and provinces that do not allow bait for hunting bears tend to: 1) have habitat conducive to spot and stalk hunting (e.g., Montana and Colorado); or 2) have a large pool of hunters (e.g., New York and Pennsylvania); or 3) have climates that are conducive for bears to den late in the year, so they can be hunted during deer and elk seasons (e.g., Oregon and Washington). Ideal bear habitat in Michigan consists of densely wooded lowland conifers where visibility is severely limited. For the past three years, the bear hunter pool in Michigan has been approximately 50,000 hunters. This is less than one-half of the number of bear hunters in several states that do not allow bait hunting (e.g., approximately 120,000

people hunted bear in Pennsylvania in 2002). Most bears in Michigan are already in dens by the time deer season begins in mid–November. Michigan had a bear season that overlapped gun deer season until 1990. This season was closed due to the concerns that many bears were being taken when they were in the den, a method considered unsporting to most hunters.

In Michigan, it is legal to bait deer and most furbearers (e.g., coyotes, foxes, etc.) for the purpose of hunting or trapping. Enforcement of changes to bear baiting laws on Federal lands might be confounded by the difficulty of discerning bear baiting from baiting for other species. Furthermore, changes to bear baiting laws on Federal lands could influence also the MDNR's ability to manage other wildlife species.

Baiting/Feeding and Bear Ecology

Bears are omnivorous and opportunistic feeders, taking the easiest and best foods available. Bears prefer foods with high protein and fat content. They show preference for specific foods, but not necessarily bait. Hard and soft mast (nuts and berries) are important natural foods, and bears are known to move long distances to obtain them. In years of abundant natural foods, harvest of bears over bait is known to decrease. This suggests that if given the opportunity, bears prefer natural foods to bait.

Critics of bear baiting suggest that bears with access to bait have increased reproduction resulting in an increased number of bears. Research conducted in Michigan indicates higher productivity for females from the LP compared to those from the UP even though the baiting period on the UP is twice as long as it is in the LP. This suggests that factors other than bear baiting are influencing reproduction in Michigan bears. Furthermore, the argument that bear populations increase because of baiting fails to consider the increased mortality of bears that feed at bait sites.

State's Rights to Manage Wildlife Resources

The Federal Government manages harvest methods used to take migratory species (such as waterfowl) because these species frequently cross state and international boundaries. The management of resident animals (such as bears) has long been left to individual states. Research in Michigan and neighboring states indicates that the vast majority of bears that are born in Michigan live their entire lives within the boundaries of the state. Baiting is an important tool for managing this valuable and important Michigan resource.

In 1996, voters in Michigan overwhelmingly defeated a proposal to ban bait and hound hunting for bears. Furthermore, voters overwhelmingly supported a proposal granting the Natural Resources Commission (NRC) the exclusive authority to regulate the taking of game (including bear), and required that the NRC use "principles of sound scientific management" in making decisions concerning the taking of bear and other wildlife.

Summary

Proposed H.R. 1472 would reduce the annual bear harvest in Michigan. As bears become more numerous and expand their range into areas that are more densely populated by humans, many would likely be killed in bear-vehicle collisions or shot as nuisance animals. The bear population could eventually reach a "biological carrying capacity" where natural mechanisms such as cannibalism, starvation, and emigration would regulate population growth. However, these natural population control mechanisms are viewed as a waste of the resource by many Michigan constituents. Furthermore, the number of bears that can be supported biologically in Michigan likely exceeds the number that is socially tolerable. Furthermore, proposed H.R. 1472 would significantly influence the MDNR's ability to conduct present and future bear research and to estimate bear population levels in the state. This would erode the ability of the MDNR to manage the bear resource in a sound, scientific manner as mandated by the constituents of Michigan.

SINCERELY,

DWAYNE R. ETTER, PH.D.

WILDLIFE RESEARCH BIOLOGIST

WILDLIFE DIVISION

517–373–1263

[NOTE: An attachment to Mr. Etter's letter entitled "2003 Michigan Bear Hunting Guide" has been retained in the Committee's official files.]

Mr. GILCHREST. Mr. Gallegly.

Mr. GALLEGLY. Thank you, Mr. Chairman. I understand there will be 5 votes, so, obviously, we won't be coming back afterwards.

It is good to see my old friend, Ron Marlenee. We used to fight a lot of battles side by side; and normally we were on the same side, if I recall history correctly. I also heard that you were introduced as the sheriff of Montana, the de facto sheriff; is that correct?

Mr. MARLENEE. Probably not the sheriff but the gunslinger.

Mr. GALLEGLY. If you were the sheriff in Montana, bear baiting is illegal in Montana, if you caught someone in Montana bear baiting, would you arrest them?

Mr. MARLENEE. There would be no choice. You adhere to the laws, just like you would adhere to the laws of littering, et cetera.

Mr. GALLEGLY. And I know you to be a good, law-abiding citizen. I appreciate that.

Mr. Haleen, I have to take a little exception with a couple of things that you mentioned. You talked about the genesis of this bill; and you said this organization, this organization, this organization as the one that is sponsoring this bill. You mentioned PETA in that list. Let me just remind you that I have never met—I have heard about PETA, but to my knowledge there has never been a PETA person in my office.

Let's set the record clear from the get-go. Elton Gallegly is the sponsor of this bill. If there are others who support it who historically may not be aligned with me on other issues, I welcome their support, but for the credibility of the witness I think it is important that we set the record straight on that issue who the sponsor of the bill is.

Mr. Horn, you had a lot to say about States rights and so on and so forth. You check my voting record over 17 years you will find that I have been a very strong proponent of States rights in almost every issue. The issue of—and, of course, reasonable minds can differ from time to time as it may be the case on this bill. But on the Airborne Hunting Act, would you say that you would be opposed to that? You think that was a wrong decision for Congress to be involved in that?

Mr. HORN. Congress has asserted preemptive authority over regulation of the airspace from the beginning of the aviation industry and concluded for a variety of reasons, including public safety and

other ethical issues, that it was going to determine to ban airborne hunting; and that was done over 30 years ago. I noted in reality I think the last major statute passed that had preemptive effect on the States was the Marine Mammal Protection Act in 1972, and Congress has been extraordinarily sparing in the use of its preemptive authority in the intervening three decades.

Mr. GALLEGLY. I think that it would be obvious that my record would be supporting that thesis. The issue is that 41 of 50 States in this Nation oppose bear baiting as a method of hunting bear; and as Mr. Marlenee from his home State—his own home State, one of the most beautiful places on the face of the earth, outlaws bear baiting—Ron, you mentioned that this procedure, that they never use any more than is absolutely necessary; and to quote you—correct me if I am wrong—this is a stinky, messy job, to bait bear; and they use absolutely no more than is necessary. How much is necessary?

Mr. MARLENEE. We are told by the specialist—and I would refer this to the Michigan Department of—the biologists. But in from Minnesota we get the word from the management specialists they use from 5 to 10 pounds.

Mr. GALLEGLY. That is fine.

Again, this timing situation is making this very difficult because we have 5 votes pending on the floor, and I would like to have more time, but that isn't going to happen. One of the things that seems to be somewhat of a contradiction, you mentioned that the bait has to be biodegradable and it has to be removed. Why would it have to be biodegradable if it has to be removed?

Mr. MARLENEE. Could I refer to Dr. Etter?

Mr. GALLEGLY. Well, if he could give me a quick answer.

Mr. MARLENEE. Being a professor, I don't know.

Dr. ETTER. I can speak on behalf of Michigan only. In Michigan, you do not have to remove the bait at the end of the bear baiting season.

Mr. GALLEGLY. In other words, you can let it sit there and rot.

Dr. ETTER. In most cases, it would be removed by bears or other animals in the area, including fish or martin, cats, bobcats.

Mr. GALLEGLY. But in Michigan it is OK to just leave it there?

Mr. MARLENEE. How much would you use?

Dr. ETTER. In Michigan, it is OK to leave it there. Most hunters do not use more than 5 to 10 gallons of bait. For research purposes I can attract bears with as little as one pound of bait.

Mr. GALLEGLY. There is a difference in 5 to 10 gallons and 5 to 10 pounds, about eight times.

I yield back. Thank you very much.

Mr. GILCHREST. I apologize to the witnesses for the voting schedule, but we probably won't be done voting for another hour or more. We will take all of your thoughts into consideration. Thank you very much.

I have to ask unanimous consent that a statement by George Miller be submitted into the record. Without objection.

[The prepared statement of Mr. Miller follows:]

Statement of The Honorable George Miller, a Representative in Congress from the State of California, on H.R. 1006

Members of the Committee and witnesses, I want to state my strong support for H.R. 1006, the Captive Wildlife Safety Act.

As many of you know, I introduced similar legislation last year and worked with Rep. McKeon on this year's proposal.

This bipartisan bill represents a firm commitment to protect the safety of the American public and to protect the welfare of wild animals that are increasingly being maintained as pets.

Our bill identifies and provides a solution to a growing national problem that must be addressed.

The Captive Wildlife Safety Act would amend the Lacey Act and bar the interstate and foreign commerce of dangerous exotics, including lions, tigers, leopards, cheetahs, and cougars, for use as pets.

The legislation would not ban all private ownership of these prohibited species; rather, it would outlaw the commerce of these animals for use as pets.

The legislation specifically exempts zoos, circuses, and others that are currently regulated by the U.S. Department of Agriculture under the provisions of the Animal Welfare Act. Instead, the bill is specifically aimed at the unregulated and untrained individuals who are maintaining these wild animals as exotic pets.

According to best estimates, there are more than 5,000 tigers in captivity in the United States. There are perhaps more tigers in captivity than there are tigers in their native habitats throughout the range in Asia.

While some tigers are held in zoological institutions, most of the animals are pets, kept in cages behind someone's home in a state that does not restrict private ownership of dangerous animals.

And it's not just tigers: there is widespread private ownership of other dangerous animals, including lions, cougars, and cheetahs. At a time when almost anything can be bought on the Internet, it is not surprising that the animals can all be purchased through the more than 1,000 web sites that promote private ownership of wild animals.

Problems arise because most owners are ignorant of a wild animal's needs. Local veterinarians, sanctuaries, animal shelters, and local governments are ill equipped to meet the challenge of providing proper care.

People living near these animals are also in real danger.

There is a laundry list of incidents of dangerous exotics seriously injuring and killing people.

In Loxahatchee, Florida, a 58-year-old woman was bitten in the head by a 750-pound pet Siberian–Bengal tiger mix.

In Lexington, Texas, a three-year-old boy was killed by his stepfather's pet tiger.

There is also the possibility that captive wildlife can become vectors for exotic diseases as is the case with the recent monkeypox outbreak and the link between civet cats and SARS.

The Captive Wildlife Safety Act represents an emerging consensus on the need for comprehensive Federal legislation to regulate what animals can be kept as pets.

A wide range of groups and institutions oppose the private ownership of carnivores. The U.S. Department of Agriculture states, "Large wild and exotic cats such as lions, tigers, cougars and leopards are dangerous animals...Because of these animals' potential to kill or severely injure both people and other animals, an untrained person should not keep them as pets. Doing so poses serious risks to family, friends, neighbors, and the general public."

The American Veterinary Medical Association also "strongly opposes the keeping of wild carnivore species of animals as pets and believes that all commercial traffic of these animals for such purpose should be prohibited."

This bill is just one part of the solution to help protect people and exotic animals. States will continue to play a major role.

I hope to see a continued grassroots effort directed at the state and local government level, to increase the number of states and counties that ban private ownership of dangerous exotic animals.

Already, 12 states ban private possession of large exotic animals, while 7 states have partial bans.

The Captive Wildlife Safety Act is supported by the Association of Zoos and Aquariums, The Humane Society of the United States, The Fund for Animals, and the International Fund for Animal Welfare.

I want to thank the actress Tippi Hedron for raising awareness of this issue on Capitol Hill.

Tippi operates an animal sanctuary, and often has the sad and expensive task of rescuing these animals after their owners realize the lion or tiger is a safety risk and cannot be properly cared for.

I also wanted to take a moment to state my support for the "Do Not Feed the Bears Act."

I applaud Rep. Gilchrest and Rep. Gallegly for bringing the issue of bear baiting on public lands before this Committee for discussion.

In closing, I am grateful that Chairman Gilchrest has scheduled a hearing on the Captive Wildlife Safety Act and I hope that this legislation will move through the legislative process quickly.

Mr. GILCHREST. And testimony by the International Fund for Animal Welfare and the Congressional Sportsmen's Caucus, National Rifle Association, State of Wisconsin Department of Natural Resources and the Michigan House of Representatives, and the United Sportsmen's Alliance.

Mr. GILCHREST. Gentlemen, thank you. Have a safe trip home.

[Whereupon, at 2:20 p.m., the Subcommittee was adjourned.]

[The information submitted for the record follows:]

Statement submitted for the record by Cindy Milburn, Director, Animals in Crisis and Distress, International Fund for Animal Welfare

My name is Cindy Milburn and I am the Director of the Animals in Crisis and Distress Program for the International Fund for Animal Welfare (IFAW). IFAW is a non-profit organization with over two million supporters around the world. Our global headquarters is in Massachusetts, and we have offices in Australia, China, Japan, Russia, Germany, France, The Netherlands, the United Kingdom, Canada, India, Belgium, Kenya, South Africa, Mexico, and in Washington, D.C.

IFAW's mission is to work to improve the welfare of wild and domestic animals throughout the world by reducing commercial exploitation of animals, protecting wildlife habitats, and assisting animals in distress. IFAW seeks to motivate the public to prevent cruelty to animals and to promote animal welfare and conservation policies that advance the well being of both animals and people.

I am pleased to submit this statement for the official hearing record in support of H.R. 1006, the "Captive Wildlife Safety Act" and want to commend Representatives McKeon, Miller and the forty other co-sponsors for their support of this much needed legislation.

Humans have kept pets, or companion animals, for centuries. While the majority of pets are domesticated animals such as cats and dogs, there are a rising number of "exotic" animals that were either removed from the wild, often illegally, or bred in captivity from wild animals. The worldwide exotic pet trade—the buying and selling of exotic animals as pets—is a major component of the global trade in wildlife. This global industry is second only to the international trade in arms and narcotics. The exotic pet trade threatens the survival of many species worldwide while undermining international conservation efforts. IFAW has been very active in public educational programs regarding amphibians and reptiles as exotic pets. We are all too familiar with cruelty and safety problems associated with the exotic pet trade.

H.R. 1006 focuses on captive wildlife and amends the Lacey Act to bar the interstate and foreign commerce of dangerous exotics cats, including lions, tigers, leopards, cheetahs, jaguars and cougars. While not prohibiting the private ownership of these animals as pets, the bill is intended to halt the trade in these animals as pets. As you are aware, the "pet farm" industry has flourished in recent years and in just 5 minutes on the internet you will discover hundreds of web sites specializing in the sale and promotion of lions and leopards and cheetahs as domestic pets. We hope that H.R. 1006 will severely curtail this trade in exotic cats.

Keeping large exotic cats as pets is dangerous not only to the pet owners but to the communities where they are raised or maintained. Authorities shot and killed three African lions after they terrified the community of Quitman, Arkansas in 2002. Last October police killed a Bengal tiger that escaped from a roadside truck stop in Bloomington, Indiana and in Texas a three year old boy was killed by his stepfather's pet tiger. These are just of few recent examples of why captive wildlife should not be raised or kept as pets.

We at IFAW know from our experiences in the field that exotic pets are subjected to inhumane treatment and cruel living conditions. Large cats such as lions and cheetahs are born to run free, not be locked up in some small cage. Because the vast majority of exotic pet owners have neither the training to handle and care for these animals or the space to keep them, they are all too often abused and abandoned. Wildlife such as tigers and lions should stay in the wild and not abused as pets.

We are also concerned about the proliferation of pseudo "sanctuaries" which claim to breed large cats in order to conserve the species. These captive bred animals would never be able to be released into the wild and are essentially inbred specimens of a lower DNA stock than wild cats. The discovery on April 24th of this year of dozens of corpses of young and adult tigers and other big cats in freezers at a nonprofit "sanctuary" called Tiger Rescue in Riverside, California is the latest example of unfortunate and tragic incidents spawned by a growing desire to own and exploit dangerous wild animals for pleasure or profit.

Public safety and cruelty are the two major reasons why twelve states have banned the possession of large exotic animals and seven states have adopted partial bans. Because these state laws go further than H.R. 1006 in eliminating exotic wildlife as pets, IFAW strongly supports the provision of the bill that ensures that state law will not be pre-empted or superseded.

While IFAW supports the inclusion of large cats in the definition of "prohibited wildlife species" we are disappointed that similarly dangerous wildlife such as bears, alligators and crocodiles are not included, especially when bears were included in last year's version of the bill (H.R. 5226). While we appreciate the political realities of the situation, IFAW urges the Subcommittee to expand the list of prohibited species to include bears and other carnivorous wildlife.

With respect to enforcement, IFAW requests the Subcommittee to make sure that the Fish and Wildlife Service has adequate resources to enforce the provisions of the legislation. We are very aware of the fiscal restraints of the Fish and Wildlife Service's enforcement program and we hope that the Service will make every effort to use cooperative law enforcement agreements with state and local authorities to help enforce the law.

Lastly, IFAW has concerns about the welfare and disposition of the animals covered by this bill that are currently pets. We expect that large cats that are currently maintained as pets will be abandoned by pet owners that can no longer transport their pets when they change their residence to another state. We are very concerned about the ability of state and local authorities, zoos and other exempted entities to absorb these animals into their facilities. We know, for example, that many of the more than 5,000 tigers in captivity are kept as pets and we should expect that some of these will be abandoned. While IFAW will commit resources to assist in relocation efforts we remained concerned that the "system" will not be able to absorb these exotic pets. We ask the Subcommittee to monitor this situation closely and consider adding a provision to the bill that would require the Fish and Wildlife Service after one year to report back to the Subcommittee on the impacts of the legislation.

Thank you for the opportunity to submit these comments in support of H.R. 1006.

[A letter submitted for the record by Christopher Cox, Executive Director, Institute for Legislative Action, National Rifle Association, follows:]

JUNE 9, 2003

The Honorable Richard Pombo
Chairman
House Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Pombo:

As the leading voice for millions of American gun-owners and hunters, the National Rifle Association wishes to advise you of our opposition to H.R. 1472, the "Don't Feed the Bears Act of 2003." This legislation would prohibit the use of bait in bear hunting on all Federal lands.

Although H.R. 1472 addresses one method of bear hunting, the real issue here is about who manages resident wildlife. H.R. 1472 opens the door to Federal preemption of the rights of the fifty states to manage resident wildlife, including

establishing the means and methods of hunting in a safe and ethical manner. The NRA is unalterably opposed to such Federal infringement.

Congress has passed legislation giving the Federal Government management authority over certain categories of wildlife which it felt required a national focus: migratory birds, marine mammals, and endangered and threatened species. At no time in its history has Congress selected an individual species for Federal management. H.R. 1472 sets this unwise precedent.

This legislation is being advocated by organizations opposed to all methods of hunting, not just the use of bait in bear hunting. Nothing could better achieve their goal of ending hunting in the United States than a bill that Federalizes wildlife management. Rather than having to promote their views in each of the fifty states, the anti-hunting community is seeking to have Congress preempt the field.

Those states that allow the use of bait in hunting do so because they have concluded that it is a humane method of hunting, that it meets the ethical standard of "fair chase," and that it is a necessary tool for management of their bear populations. H.R. 1472 places Congress in the position of being a wildlife biologist, making decisions for states on how certain wildlife populations must be managed. If Congress were to adopt this legislation, it would be placing itself in the position of having to address every issue pertaining to wildlife management, not just one method of bear hunting.

Mr. Chairman, the NRA strongly urges you to oppose H.R. 1472 because of its attempt to preempt the authority of the states to manage resident wildlife. Thank you for your consideration of our views on this important issue.

SINCERELY,

CHRISTOPHER COX

EXECUTIVE DIRECTOR

NRA INSTITUTE FOR LEGISLATIVE ACTION

cc: Members of the House Resources Committee

[A letter submitted for the record by the Wisconsin Department of Natural Resources on H.R. 1472 follows:]

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

101 S. WEBSTER STREET

BOX 7921

MADISON, WISCONSIN 53707–7921

TELEPHONE: (608) 266–2621

FAX: (608) 267–3579

FEBRUARY 13, 2003

The Honorable David Obey
2314 Rayburn House Office Building
Washington, DC 20515

Subject: Bear Baiting on Federal Lands

Dear Representative Obey:

During the Fiscal Year 2003 appropriations process, Congressman James Moran unsuccessfully attempted to attach a rider to the Department of Interior Appropriations bill prohibiting the use of bait for bear hunting on Federal lands. It is our understanding that he may make a similar attempt in the Fiscal Year 2004 budget. We request your assistance to discourage this action.

At the national level, we recognize that hunting bears over bait is controversial. However, as a policy issue it should be addressed separate from the budget process, as a stand alone bill.

States authority to control placement of bait on Federal lands has been decided in U.S. District Court and upheld in U.S. Court of Appeals. In 1995 and 1997 court cases regarding Wyoming and eight other states decided that the states have the responsibility of regulating bear baiting as a hunting practice, including on Federal lands. Congress and case law has long upheld that managing resident species of wildlife is a state's right.

Hunting bears with bait is a legal and important method of harvesting bears in one-third of the states which have bear hunting (9 of 27 states). These states are generally in the north, including the Great Lakes states of Minnesota, Wisconsin and Michigan as well as Alaska, Idaho, Maine, New Hampshire, Wyoming and Utah. Eight of 11 Canadian provinces allow hunting bears with use of bait. This geographic distribution follows bear biology. Bear are hunted in the early fall, because as early as October bears are starting to become lethargic and moving towards hibernation. Mountain states, or states with more moderate temperatures have other options. In mountain states using binoculars to scan mountainsides can be an effective means of locating bears. This is not an option in the Great Lake states especially before leaf fall, when bears are active.

Bears in West Coast states or more southerly states remain active later into the fall, into and through the other big game seasons for elk and deer. Many bears are taken incidental to other hunting. In Wisconsin or other Great Lakes States this again is not an option. Bears are mainly denned up by gun deer season. (Wisconsin once had a bear season which overlapped gun deer season, however, it was ceased due to the perception that many bears were being taken when either very lethargic, or actually in the den.)

Another method used by one state, Pennsylvania, is a short 3-day season, with many hunters. Pennsylvania is a populous state, and is able to put 100,000 hunters in the woods for those 3 days, and take about as many bears as Wisconsin does. Wisconsin has less than half as many bear hunters, and needs to maintain a good harvest to manage the bear population at goal.

Baiting for bears in Wisconsin is also highly regulated, both on Federal lands and elsewhere. All bait must be biodegradable, and no honey bones, fish, meat, solid animal fat or parts of animal carcasses are allowed. The volume is limited to 10 gallons. No paper, packaging or other litter is allowed. Baiting must cease at the end of season in early October. Baits may not be placed near trails, roads, or campsites used by the public. It has been common practice for bear hunters to cover the bait so that smaller animals cannot access it. This practice has recently been made law in Wisconsin, with the discovery of bovine tuberculosis in deer in Michigan and chronic wasting disease in Wisconsin deer, the Department intends to prevent deer from close contact over bait. Disease spread within in a bear population has not been documented to be associated with bait.

If you have questions or would like addition information, please contact Tom Hauge, Director, DNR Bureau of Wildlife Management at 608–266–2193 or tom.hauge@dnr.state.wi.us.

SINCERELY,

SCOTT HASSETT

SECRETARY

cc: Wisconsin Congressional Delegation
Steve Oestricher, Wisconsin Conservation Congress
Rich Posig, Wisconsin Bear Hunters Association

[A letter submitted for the record by the United Sportsmen's Alliance. follows:]

Federal Affairs Office
1155 Connecticut Avenue, NW, Suite 1200
Washington, D.C. 20036 phone 202 659-5800
fax 202 659-1027 e-mail whorn@dc.bhb.com

Formerly The Wildlife Legislative Fund of America

April 9, 2003

The Honorable Don Young
Committee on Resources
U.S. House of Representatives
Washington, D.C. 20515

Protecting & Advancing America's Heritage of Hunting, Fishing & Trapping

Dear ~~Representative~~ Young: Don

On behalf of the U.S. Sportsman's Alliance (USSA) we urge you to oppose H.R. 1472, the "Don't Feed the Bears Act of 2003" introduced by Representatives Moran and Gallegly.

This legislation was introduced at the request of organizations committed to banning all forms of hunting. Restricting bear hunting is simply their latest cause dujour.

Twenty seven states currently permit black bear hunting. Out of those twenty seven, nine of those states have concluded that the use of bait is both effective and an ethical means of controlling bear populations. In fact, land managers from various states have argued baiting is one of the primary ways of controlling bear populations because the nature of their lands is not conducive to hunting without baiting. Additionally, state wildlife agencies retain primary jurisdiction over resident wildlife as they are in the best position to manage according to their own unique situations. H.R. 1472 represents absolutely unnecessary federal preemption and intrusion into long established state authority.

USSA strongly supports the authority of the states' to make their own decisions regarding wildlife populations and recreation land uses. Any attempt to preempt state authority through H.R. 1472 is unwarranted and unfounded. This legislation is not about cruelty to animals or unsportsmanlike behavior in hunting bears on federal land. It is about banning hunting overall.

We strongly urge you and the Committee on Resources to resist any such preemption of state authority or denigration of hunting as a valid form of recreation on public lands.

Sincerely,

William P. Horn
Director, Federal Affairs

801 Kingsmill Parkway, Columbus, Ohio 43229-1137 • phone 614 888-4868 • fax 614 888-0326
e-mail us at info@ussportsmen.org • visit our website at http://www.ussportsmen.org

[A letter submitted for the record by the Michigan House of Representatives follows:]

Michigan House of Representatives
P.O. Box 30014
Lansing, Michigan 48909-7514

June 10, 2003

The Honorable Richard Pombo, MC
Chairman, House Resources Committee
1324 Longworth HOB
Washington, DC 20515

The Honorable Nick J. Rahall, II, MC
Ranking Minority Member
House Resource Committee
1329 Longworth House Office Building
Washington, D.C. 20515-6201

Dear Chairman Pombo and Congressman Rahall:

The Michigan Legislative Sportsmen's Caucus (MLSC) is writing in opposition to HR 1472, legislation that would prohibit the practice of bear baiting on federal public lands. This legislation is a direct attempt to override the state's authority to manage wildlife populations. The issue of wildlife management, including the lawful means of hunting game, is specifically a state's rights issue and this effort would be another attempt by the federal government to create legislation that they have no legal basis to do. We have begun the process of putting a resolution through our state legislature urging the federal government not to encroach upon our state rights with HR 1472.

You may be interested to know that from the State of Michigan's 148 legislative members, the Michigan Legislative Sportsmen's Caucus (MLSC) was formed and currently has 95 members, which makes it the largest bi-partisan caucus in the Michigan Legislature. Our primary mission statement is to preserve and promote the traditional rights of Michigan citizens to hunt, fish, and pursue outdoor activities as well as to ensure that Michigan sportsmen and women have reasonable access to public lands to enjoy outdoor pursuits.

It is also vital that you know in 1996, the people of the State of Michigan voted on and passed Proposal G, which granted authority to the Natural Resources Commission to determine time, place, and manner of hunting in Michigan. In addition, bear baiting is an effective management tool for the Michigan Department of Natural Resources to control the state's 15,000-19,000 bears. Bear baiting is the most successful method of harvesting bears in Michigan accounting for 82% of the approximately 2,000 bears harvested. From a hunting stand point, the use of bear baiting is by no means a sure thing, and when it does work, it actually brings the bears into a good position to allow for clean, quick kills. Bear baiting is an acceptable practice and an effective management tool.

Once again, we urge you to oppose HR 1472. It would eliminate an effective wildlife management tool and set a precedent for the federal government to supercede Michigan's authority and right to manage its wildlife for the betterment of our people.

Sincerely,

Susan Tabor, Co-Chair MLSC
State Representative
The Seventy-First District

Dale Sheltrown, Co-Chair MLSC
State Representative
The One Hundred and Third District

Jim Barcia, Co-Chair MLSC
State Senator
The Thirty-First District

Bruce Patterson, Co-Chair MLSC
State Senator
The Seventh District

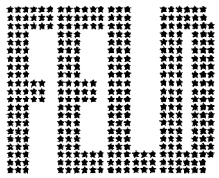
Michelle McManus, Vice-Chair MLSC
State Senator
The Thirty-Fifth District

David Palsrok, Vice-Chair MLSC
State Representative
One Hundred and First District

Michael Prusi, Vice-Chair MLSC
State Senator
The Thirty Eighth District

Rich Brown, Vice-Chair MLSC
State Representative
One Hundred and Tenth District

[A letter submitted for the record by Thomas L. Albert, Vice President, Government Relations, Feld Entertainment, follows:]



ENTERTAINMENT, INC.

June 27, 2003

The Honorable Wayne T. Gilchrest
Chairman
Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
1324 Longworth House Office Building
Washington, D.C. 2015

Re: Hearing on H.R. 1006 – The Captive Wildlife Safety Act

Dear Mr. Chairman:

Feld Entertainment, Inc. submits these comments for inclusion in the Subcommittee's official hearing record on H.R. 1006, the Captive Wildlife Safety Act. Feld Entertainment is the world's leading producer of live family entertainment and the parent company of, *Ringling Bros. and Barnum & Bailey®, Siegfried & Roy® at the Mirage* in Las Vegas and the *Ringling Bros. and Barnum & Bailey® Center for Elephant Conservation.* Since the bill is aimed at the private ownership large exotic cats, and in light of it status as one of the largest and oldest exhibitors of tigers and lions, this legislation is of significant interest to *Ringling Bros.*

Ringling Bros. is the most well known, traveling exhibitor of live animals in the world. Each year *Ringling Bros.* cares for and transports two circus units that together contain more than 150 individual animals and visits approximately 90 cities annually. Each of our touring circuses typically, includes approximately 10-12 big cats, generally tigers or lions. Currently the 132nd and 133rd editions of *Ringling Bros.* each include eleven (11)

Bengal tigers for a total of twenty-two (22) tigers actively touring. In addition, *Ringling Bros.* owns nine (9) retired tigers that reside at a private sanctuary in Tampa, Florida. Finally, the *Siegfried & Roy® at the Mirage* production cares for and houses approximately sixty-three (63) tigers, lions and other large cat species. In light of all of the above, Feld possesses a unique perspective on issues concerning the handling of tigers and other large exotic cats.

Feld strongly supports the public safety objectives that underlie H.R. 1006. As the hearing record amply demonstrates, when tigers and other large exotic cats are kept in improper facilities and/or are cared for by individuals with little or no training or qualifications, the results are often injuries to people, property and animals. Tigers and other large exotic cats simply are not appropriate "backyard pets." Although the current system, under which individual states regulate private, non-commercial ownership of such animals, needs to be more consistent, it is still the most appropriate and effective approach for regulating such activities. While reinforcement of existing state law by federal law may help to further limit the risks posed to the public, the Congress needs to be sure that the legislation is not drafted or implemented in an overly broad manner so as to potentially limit the captive ownership of large exotic cats by qualified persons and entities that is currently allowed under existing law.

For that reason, Feld endorses the provisions in the bill that exempt circuses, zoos, sanctuaries and other federally licensed and registered exhibitors and facilities. This is wholly consistent with existing federal law that specifically authorizes and regulates the interstate movement, possession and exhibition of large cats and other captive species. Such licensees are required to comply with all applicable federal, state and local animal control and welfare requirements and are subject to regular inspections. As a result, tigers and other large exotic cats do not pose the same risks to public safety when in the hands of such facilities and entities. In fact, when kept under such circumstances, these animals lead healthy, active lives while posing no risk to the pubic. Furthermore, federally licensed and registered captive populations of large exotic cats can contribute to the conservation of those species that are endangered or threatened in the wild. They do this directly through breeding and research programs that benefit wild populations and indirectly by raising awareness of and educating the public about the plight of the species.

The issue of whether someone is qualified to own and care for large, exotic cats is not merely a function of the size of their operation, however. As was discussed at the hearing in regards to the infamous Tiger Rescue Sanctuary, the number of cats is not indicative of qualifications, motive or activity. On the other hand, *Ringling Bros*. regularly works with licensed and registered commercial exhibitors that may include only a few tigers, but are run by qualified professionals with years of experience and training who provide excellent care for their animals.

For reasons of fairness to those lawful, qualified exhibitors, and in the best interest of the species, ownership and interstate movement of large non-native cats by licensed facilities and individuals, including appropriately qualified circuses, performing acts, zoos and approved-sanctuaries, must be allowed to continue. Therefore, it is vital that the exceptions for federally licensed and registered entities such as circuses remain in the bill. In addition, the Subcommittee should make clear in its report that the legislation is not intended to limit or restrict the activities of any federally licensed of registered operators.

Unfortunately, regulation of private ownership of captive tigers and other non-native exotic cats by individuals or unlicensed facilities is not inherently a species conservation issue. First, such animals are nearly always captive bred, as opposed to wild caught, and are often several generations removed from the wild. Second, while tigers are seriously endangered in the wild, they tend reproduce robustly in captivity. Third, many of the so-called tigers that are bred and sold for private, individual ownership are not "genetically" pure, in that they are hybrids of two or more species. Thus there are no wild populations of such animals and captive bred animals can make no contribution to wild stock. Nevertheless, while not necessarily a hindrance to preservation of endangered species, ownership by unlicensed, private individuals for personal reasons is generally not a benefit to conservation either.

In conclusion, Feld supports the goal of protecting the public from unnecessary risks caused by the presence of large, exotic species in unqualified hands. It is arguable whether federal legislation, as opposed to a more consistent framework of state regulation, can best further that goal. Regardless, the recognition and protection of existing lawful and federally

sanctioned activities by qualified professional facilities and exhibitors must be part of any such legislation.

Thank you for the opportunity to offer our comments on this legislation. Please contact me if you have any questions or require any additional information.

Sincerely,
Thomas L. Albert
Thomas L. Albert
Vice President
Government Relations

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