

**H.R. 295, H.R. 670, H.R. 991, H.R. 1160,
AND H.R. 1670**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES, WILDLIFE,
OCEANS AND INSULAR AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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Thursday, May 12, 2011

U.S. House of Representatives

Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs

Committee on Natural Resources

Washington, D.C.

The Subcommittee met, pursuant to call, at 11:00 a.m. in Room 1324, Longworth House Office Building, Hon. Don Young [Chairman of the Subcommittee] presiding.

Present: Representatives Young, Flores, Landry, Sablan, and Bordallo.

Also present: Representative Garamendi.

STATEMENT OF HON. DON YOUNG, THE REPRESENTATIVE IN CONGRESS FOR ALL ALASKA

Mr. YOUNG. The Subcommittee will come to order. Today, we will have a hearing on five bills. There is a quorum present, and these are five pretty noncontroversial issues, especially mine are not controversial. The other ones really could be, but they are not.

The first one is H.R. 295, the Hydrographic Services Improvement Act. The second one will be on H.R. 991, and this is for the importation of polar bear hides that were shot legally on time, paid for, and now they are in a freezer, and our government says they cannot be imported back in.

There will be those who say they should not be, but I cannot understand for the life of me why they figure that by leaving bear hides in a freezer that it is conservation. So we will be hearing about that one.

And, of course, we have another bill, H.R. 670, by my good friend, Ranking Member Sablan, concerning the Northern Mariana Islands, and I believe that this is a noncontroversial bill.

And we will have another bill by my good friend from Guam, Ms. Bordallo, and I believe that is about it. I may have missed one. But anyway—just hang on. We will get this one going.

Oh, H.R. 1160, and that will be one that we will address, and again I believe that this is one bill that we have worked on before, a typed bill, and we will do it again. With that, we will now hear from Mr. Sablan.

[The prepared statement of Mr. Young follows:]

Statement of The Honorable Don Young, Acting Chairman, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs, on H.R. 295, H.R. 670, H.R. 991, H.R. 1160 and H.R. 1670

The Subcommittee will come to order. The Chairman notes the presence of a quorum.

Good morning. Today the Subcommittee will hear testimony on five legislative proposals. The first two bills are measures that I have introduced, let me briefly explain them.

H.R. 295 would amend the Hydrographic Services Improvement Act to authorize hydrographic surveys and Continental Shelf mapping of the Arctic region. The Arctic region lacks up-to-date survey data, with the last major hydrographic survey activity having occurred more than 60 years ago, after World War II. H.R. 295 is an effort to move this process forward, I understand the National Oceanic and Atmospheric Administration will testify that they have this authority; however, I believe this bill is necessary to emphasize the need for the agency to collect hydrographic data and provide hydrographic services in the Arctic region.

We are also hearing testimony today on H.R. 991. This legislation would allow 41 hunters to import their polar bear trophies into the U.S. after paying the required permit fee.

Prior to the listing of the polar bear on the Endangered Species Act, hunters could a hunt a polar bear from an approved Canadian polar bear population and import their trophy into the U.S. From 1997 through 2008, 969 hunters hunted in Canada bringing in \$969,000 in permit fees which funds conservation activities for the shared U.S.—Russia polar bear population. Once the bear was listed as threatened under the Endangered Species Act and depleted under the Marine Mammal Protection Act, hunters were prohibited from importing legally harvested polar bear trophies.

I want to stress that the prohibition on bringing these trophies into the U.S. is not providing any conservation value to the Canadian polar bear populations. The intent of H.R. 991 is to allow only those legally taken trophies to be imported into the U.S. and the permit fee to fund conservation activities for the shared U.S.-Russia polar bear population, which, I might add, does not get funding from any other sources.

There are detractors today, as there were in 1994, who are opposed to amending the Marine Mammal Protection Act to allow for the importation of polar bear trophies from Canada and refer to the language as a “loophole”.

There will always be a sector of the population that believes we should not kill animals; however, we need to keep in mind that there are still areas of the world that rely on the natural resources around them and still subsist on these resources. Some may like to believe that if U.S. hunters are prohibited from importing their trophies into the U.S., polar bear hunting will end. That is far from the truth.

It is important to remember that these polar bear sport hunts in Canada support small, remote Native villages in Canada. Hunters pay up to \$50,000 for the hunt itself and will leave with only the hide of the bear. The Native village benefits again from the hunt by retaining all of the meat from the taken bear.

Most of the Canadian polar bear populations are healthy and well managed. While the world-wide polar bear population is listed as threatened, its population

numbers are currently healthy with an estimated population of 23,000 bears. Sport hunting activities provide important incentives and support remote Native villages and important conservation programs in Canada, the U.S. and Russia.

Finally, let me again be clear there is no conservation value in a dead bear that is held in cold storage in Canada. Those who legally hunted and harvested polar bears fully complied with all U.S. and Canadian laws in place at the time. In most instances, these hunts were years in the planning and savings were set-aside to book this "once in a lifetime experience".

I will now move on to the next bill, our distinguished Ranking Member, Mr. Sablan, sponsored H.R. 670, a bill which will give the Commonwealth of Northern Mariana Islands jurisdiction over submerged lands out to 3 nautical miles. After reading the history on this issue, the legislation seems long overdue, the territories of Guam, America Samoa and the U.S. Virgin Islands have had jurisdiction over their submerged lands out to 3 nautical miles since 1974. It is time for the Mariana Islands to have this same authority.

The Subcommittee will also hear testimony on H.R. 1160, the McKinney Lake National Fish Hatchery Conveyance Act. This proposal introduced by our colleague from North Carolina, Congressman Larry Kissell, would transfer title to 422 acres of land, including 23 production ponds, from the Fish and Wildlife Service to the North Carolina Wildlife Resources Commission.

The Commission has been effectively managing this property since 1998 under a Memorandum of Understanding with the Service and they have been providing anglers with 150,000 channel catfish each year. In fact, this Subcommittee has previously conveyed ten National Fish hatcheries to States and municipalities and there are currently 11 additional hatcheries which are owned by the federal government but managed by various states.

Finally, last but certainly not least, we will hear testimony on H.R. 1670, the Sikes Act Amendments Act. This bill introduced by the distinguished former Chairwoman of this Subcommittee, my good friend, Congresswoman Madeleine Bordallo, which was referred to both this Committee and House Armed Services. Under this measure, 47 State-owned Army National Guard installations would be required to implement an Integrated Natural Resources Management Plan as articulated in the Sikes Act of 1960 in coordination with the Department of Defense and the Fish and Wildlife Service.

I understand that many of these State-owned facilities, including the Stewart River Training Site in my Congressional District, have already implemented comprehensive natural resource plans. Nevertheless, this requirement will provide for a uniform system and will give certain assurances to State installation commanders as to how they can utilize their training lands in the future.

I look forward to hearing the testimony on these proposals. I am now pleased to recognize our Ranking Democratic Member from the Commonwealth of Northern Marianas, Congressman Sablan, for any statement he would like to make.

**STATEMENT OF GREGORIO SABLAN, A DELEGATE IN
CONGRESS FROM THE NORTHERN MARIANA ISLANDS**

Mr. SABLAN. Thank you, Chairman Young. I look forward to hearing about the various bills before us today. I also want to welcome my colleague and friend, the distinguished gentleman from North Carolina's Eighth Congressional District, Congressman Kissell, to testify on his bill, H.R. 1160, the McKinney Lake National Fish Hatchery Conveyance Act.

Today, we will also hear testimony on two bills being introduced by Chairman Young, H.R. 295, to amend the Hydrographic Services Improvement Act of 1998, to include funding for data collection and analysis in the Arctic Ocean.

And, of course, H.R. 991, the noncontroversial one, as he says, amends the Marine Mammal Protection Act of 1972 to allow individuals who have hunted polar bears in Canada prior to the listing of those bears under the Endangered Species Act, to import these trophies into the United States.

My understanding is that Fish and Wildlife Service began an outreach campaign to alert hunters that a prohibition would be

placed on polar bear trophy imports if a listing occurred. However, approximately 40 hunters were not able to import their trophies, and the issue today is whether the importation should now be allowed.

I also look forward to hearing about H.R. 1670, which was introduced by the distinguished former Chairman of this Subcommittee, Congresswoman Bordallo. This bill amends the Sikes Act to include State-owned National Guard installations under the Integrated Natural Resources Management Plan requirements to conserve and rehabilitate natural resources on these installations.

Yesterday, the Armed Services Committee, who shares jurisdiction over the Sikes Act, reported this bill favorably as part of the National Defense Authorization Act, and I appreciate Congresswoman Bordallo's thoughtfulness and efforts for her amendment to ensure that the Department of Defense will still be required to prepare an Integrated Natural Resources Management Plan for any installation in the Northern Mariana Islands and American Samoa.

Thank you, and I also appreciate Chairman Fleming's decision to include H.R. 670 on today's agenda. H.R. 670 provides exactly the same rights to the three miles of submerged islands surrounding the Northern Mariana Islands as are provided by Federal law to American Samoa, as well as Guam and the United States Virgin Islands.

The same bill passed the House of Representative's in the One Hundred and Eleventh Congress unanimously, but the other body failed to take final action. So we have to restart the legislative process with today's hearing, and I hope for speedy action by this Committee and by the House and passage by the Senate.

H.R. 670 is crucial to the people of the Northern Mariana Islands and has received wide local support, including from the Governor and the Northern Marianas Legislature.

The Northern Mariana Islands is the only United States jurisdiction that does not have ownership of the submerged lands three miles off its shores. In approving the covenant in 1976, which brought our people into union with the United States, it was widely assumed that there was no relinquishment of ownership of these lands.

Thirty years later, however, in 2005, the Ninth Circuit Court of Appeals came to the conclusion that these submerged lands in the Northern Mariana Islands were the property of the United States.

The Court did recognize the integral connection between these Mariana resources and the people of the Northern Mariana Islands, and suggested that Congress could return this land to us. H.R. 670 does exactly that.

I would also note that when President George W. Bush created the Mariana Trench Marine National Monument, in consultation with Northern Marianas officials, his Proclamation foresaw the conveyance of three miles of submerged lands specifically, and in the Island Units of the Monument, a coordination of management by the Northern Marianas and the Federal Government.

I personally support this co-management concept and will continue to encourage the Federal Government in this direction. I believe that this will help ensure that sufficient Federal resources are available for management, and that the promises made to the Mar-

ianas by the White House in establishing the Monument are not forgotten.

But let me make this very clear. After this bill is enacted into law, the people and the government of the Commonwealth of the Northern Mariana Islands will have the option of exercising full control over the submerged lands surrounding these three islands, or deciding to include these submerged lands within the Monument under co-management with responsible Federal agencies.

I will strongly suggest and encourage the Northern Mariana Islands government to continue to work toward a co-management arrangement. I want to thank all the Members who are cosponsors of H.R. 670, and I urge that my colleagues support it. Thank you very much, Chairman Young.

[The prepared statement of Mr. Sablan follows:]

Statement of The Honorable Gregorio Sablan, a Delegate in Congress from the Commonwealth of the Northern Mariana Islands, on H.R. 670

Thank you, Chairman Young. I look forward to hearing about the various bills before us today.

I want to also welcome my colleague and friend, the distinguished gentleman representing North Carolina's 8th Congressional District, Congressman Kissell, to testify on his bill, H.R. 1160, the McKinney Lake National Fish Hatchery Conveyance Act.

Today, we will also hear testimony on two bills introduced by Chairman Young. H.R. 295 amends the Hydrographic Services Improvement Act of 1998 to include funding for data collection and analysis in the Arctic Ocean. H.R. 991 amends the Marine Mammal Protection Act to allow individuals who hunted polar bears in Canada prior to the listing of those bears under the Endangered Species Act, to import these trophies to the United States. My understanding is that the Fish and Wildlife Service began an outreach campaign to alert hunters that a prohibition would be placed on polar bear trophy imports if a listing occurred. Approximately 40 hunters, however, were unable to import their trophies. At issue today, is whether that importation should now be allowed.

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H.R. 670 does exactly that.

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But let me make this very clear. After this bill is enacted into law, the people and the Government of the Commonwealth of the Northern Mariana Islands will have the option of exercising full control over the submerged lands surrounding these three islands, or deciding to include those submerged lands within the Monument under co-management with responsible Federal agencies.

I want to thank all those Members who are cosponsors of this bill and ask all of my colleagues to support H.R. 670.

I look forward to hearing from our witnesses today and learning more about these issues.

Mr. YOUNG. I thank you. And, Ms. Bordallo, do you have a comment on your legislation, outstanding as it is?

STATEMENT OF HON. MADELEINE BORDALLO, A DELEGATE IN CONGRESS FROM THE TERRITORY OF GUAM

Ms. BORDALLO. Thank you very much, Chairman Young, and Ranking Member Sablan and, of course, fellow members of this Committee. I am very grateful for the opportunity to speak before you in support of H.R. 1670, the Sikes Act Amendments Act of 2011.

Now, this legislation would amend the Sikes Act to improve natural resources management planning for State-owned installations used for the national defense, primarily our National Guard installations.

I introduced this bill when I was Chair of this Subcommittee, and now I have reintroduced it with minor technical changes at the request of the Department of Defense.

The amendments proposed by the Department of Defense will improve coordination between DoD, the Department of the Interior, and State, Territorial, and local partners, for the protection of fish and wildlife resources on DoD lands, and State-owned installations used for the national defense.

In the One Hundredth and Eleventh Congress, this Subcommittee held an oversight hearing on this legislation, during which the DoD and the United States Fish and Wildlife Service provided testimony highlighting the significance of codifying this language as an important step forward with an agenda of promoting responsible environmental stewardship.

The DoD oversees nearly 25 million acres of valuable fish and wildlife habitat, at approximately 400 military installations nationwide. These lands contain a wealth of plant and animal life, vital wetlands for migratory birds, and provide habitat for nearly 300 Federally listed threatened and endangered species.

For 50 years the Sikes Act has helped the commanders of these installations balance their use of air, land, and water resources for

military training and testing, with the need to conserve and rehabilitate these important ecosystems.

In past National Defense Authorization Acts, Congress has made improvements to the Sikes Act, and my bill, the Sikes Act Amendments Act of 2011, continues this progress by proposing two more significant improvements to the law.

H.R. 1670 will clarify the scope of the Sikes Act by extending its provisions to State-owned National Guard installations, including the requirement to develop and implement Integrated Natural Resources Management Plans that are already required for Federally owned military installations.

Another provision in this bill would make several technical and clarifying changes to the U.S. Code to make it consistent with other subheadings and other titles. As this legislation advances through the legislative process, I will continue to work with DoD and my colleagues in Congress to modify this language to make permanent the successful Invasive Species Management Pilot Program on Guam, authorized into law in 2004, and appropriately expand its scope to all military installations.

The Department of Defense has supported this initiative, and it is an important part of the ecosystem approach of the Sikes Act, and again, I want to thank you, Chairman Young, and Ranking Member Sablan, for holding this hearing, and I look forward to working with my colleagues in this committee, and the Armed Services Committee, to ensure that H.R. 1670 does become law. Thank you, and I yield back.

Mr. YOUNG. Thank you, Ma'am. I appreciate that very much, and for your information, and the information of Mr. Sablan. I support both of your bills, and so we will get along real well today. Of course, I expect a little tit-for-tat, you know, on that.

Ms. BORDALLO. Understood.

Mr. YOUNG. All right. We will hear from the first panel, which is comprised of our distinguished colleague, The Honorable Larry Kissell, from North Carolina. Like all witnesses, Larry, your testimony will appear in the full hearing record, and so I ask for you to keep your oral statement to five minutes. If you go over that, I will allow you to do so, but try to keep it within five minutes. So, you are on.

Ms. BORDALLO. Mr. Chairman, could I just interrupt for one minute.

Mr. YOUNG. Yes.

Ms. BORDALLO. I just wanted to point out that Congressman Kissell and I were up until 3:00 a.m. last evening. Armed Services had a budget hearing, and it is amazing to see him here to testify, and I just wanted to make that point.

Mr. YOUNG. Very good.

STATEMENT OF HON. LAWRENCE WEBB "LARRY" KISSELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA, ON H.R. 1160

Mr. KISSELL. I would just like to add to my colleague's statement when she said we were up until 3:00 a.m. together. I quickly would add it was with the Armed Services, and although the opportunity otherwise might have been appreciated, too. But it wasn't the case

last night. Thank you, Mr. Chairman and Mr. Ranking Member, and most honorable colleagues of this Subcommittee for the opportunity to come to you today to talk to you about H.R. 1160, the McKinney Lake National Fish Hatchery Conveyance Act.

This is a bipartisan, noncontroversial bill. We have nine original cosponsors of the North Carolina delegation. A bill with the same language has been introduced in the Senate, S. 651, supported by both the North Carolina Senators.

The McKinney Lake area is 18 acres, consisting of 23 ponds, a warmwater hatchery, in my district of Hoffman in South Central North Carolina. The facility is currently being used to raise channel catfish, from fingerling-sized, to harvestable size catfish, and these fish are then transferred to the North Carolina Wildlife Resources Community Fishing Program.

A great program throughout the State of North Carolina, where all North Carolinians can participate and have an opportunity to learn about fishing, or to fish, whether it is from childhood up to seniors. It is a great program, and a very successful program.

This conveyance is to take place from the United States Fish and Wildlife Service to the North Carolina Wildlife Resource Commission. This program actually began, and the talk of conveyance began in 1995, but because of a problem with the dam on the main lake there at McKinney Lake Fish Hatchery, this has not been able to take place.

There have been five memorandums of agreement between the United States Fish and Wildlife Service, and the North Carolina Wildlife Resource Commission to understand that North Carolina is running the hatchery while still belonging to the United States Fish and Wildlife Resources, and Federal facility.

And this Act would change that, and I think that it would be a smart move to take these 18 acres to North Carolina, and let them run it. There are great incentives for keeping it up, and up to the best use, and it is being used wisely now.

And there is also an agreement within H.R. 1160 that if the occasion ever arise, that if we needed to, that North Carolina would work with the U.S. Fish and Wildlife Service to go back to raising fish there, and that agreement is completely taken care of.

It is noncontroversial, and it is agreed to by all sides, and I think that it is a good use of the land to be used in this way, and I thank you for the opportunity to be talking about it.

[The prepared statement of Mr. Kissell follows:]

**Statement of The Honorable Lawrence Webb "Larry" Kissell,
Member of Congress, North Carolina's Eighth District, on H.R. 1160**

Mr. Chairman, Ranking Member, and Members of the Subcommittee, thank you for the opportunity to offer testimony today in reference to H.R. 1160 the "McKinney Lake National Fish Hatchery Conveyance Act."

Located in Hoffman, North Carolina the McKinney Lake Fish Hatchery is a warmwater hatchery, and contains 23 ponds covering more than 18 acres of water. This primary use of the hatchery is growing fingerling-sized (3-4 inches) channel catfish to harvestable size (8-12 inches) for the N.C. Wildlife Resources Commission's Community Fishing Program.

The Commission's Community Fishing Program provides angling opportunities to thousands of citizens, including children and disabled individuals, throughout the year. These Community Fishing Program sites are intensively managed bodies of water that receive monthly stockings of catchable-sized channel catfish from April-September. The McKinney Lake hatchery in conjunction with the Watha State Fish

Hatchery near Wilmington provides the channel catfish for these monthly stockings. Many of these Community Fishing Program sites feature handicap-accessible fishing piers and solar-powered fish feeders helping to provide an enjoyable angling experience for citizens of all ages.

The "McKinney Lake National Fish Hatchery Conveyance Act," while first introduced in the 111th Congress as H.R. 6115 and this congress as H.R. 1160 actually has its beginnings in 1995. At that time the U.S. Fish and Wildlife Service offered to transfer ownership and operation of this hatchery to the NC Wildlife Resources Commission to help meet the state's fisheries management objectives. However, due to the structural deficiencies of the lake's dam, the transfer was never completed. Since then, the dam issues have been corrected, and the NC Wildlife Resources Commission has had full management of the hatchery under a memorandum of agreement (MOA) with the U.S. Fish and Wildlife Service (USFWS). The State of North Carolina and the USFWS have entered into 5 subsequent MOA's since 1995, with the most current being signed on November 10, 2009 and continuing until September 30, 2012.

H.R. 1160 was drafted by my staff with the cooperation, and consultation, of both the North Carolina Wildlife Resources Commission and the USFWS. The product of this cooperation is a bill that has garnered the support of 9 bi-partisan original cosponsors from the North Carolina House delegation, as well as companion legislation (S. 651) in the Senate. The Senate version is the exact same legislative language and is co-sponsored by both North Carolina Senators.

In the letter of invitation to testify before you today, Chairman Fleming asked for me to explain the rationale for Section 2 (e). This language in H.R. 1160 allows the Fish and Wildlife Service to potentially utilize these conveyed facilities for the propagation of certain aquatic resources in the future. Section 2 (e) is the product of a request from the USFWS, who requested to have the opportunity in the future to enter into an agreement with the State to raise fish for them if needed. During the drafting of H.R. 1160 the USFWS wanted to ensure that in case of future need they would have the ability to contract with the state for use of the facility. My office and the North Carolina Wildlife Resources Commission were more than happy to grant this request to the USFWS and include Section 2 (e) in H.R. 1160.

In conclusion, H.R. 1160 would complete a land conveyance that by all accounts should have occurred in the late 1990's. In addition the state of North Carolina would be able to continue producing catfish for the popular and important Community Fishing Program, on land and facilities that they would have ownership of. The State ownership of this land would incentivize them to make long term improvements and investments in the property, keeping it a viable fish hatchery. I appreciate the opportunity to testify before you today and look forward to H.R. 1160 moving through the legislative process. Thank you.

Mr. YOUNG. Thank you, Larry. Any questions for the panel member? Larry, one question, does anybody oppose this?

Mr. KISSELL. No one that I know of. It has been just full between the United States Fish and Wildlife Service and North Carolina Wildlife and Resources. It has just been, hey, this is the best thing we can do, and it is really working well now.

So if there is any opposition, once again, the two North Carolina Senators have already dropped the bill, S. 651, and we had nine original cosponsors from the North Carolina delegation. So I have not found anybody in opposition to this.

Mr. YOUNG. This is great. I think it is a good idea, and I just appreciate you introducing the bill, and we will move this bill out of this committee, and see if we can't get it moving.

Mr. KISSELL. OK. Thank you all so much.

Mr. YOUNG. You betcha. We are ready for our second panel, and this panel includes Dr. Rowan Gould, Acting Director, United States Fish and Wildlife Service; Captain John Lowell, Director of the Office of Coast Survey, National Oceanic and Atmospheric Administration; Mr. Gordon Myers, Executive Director, North Carolina Wildlife Resources Commission; Mr. Jeffrey Flocken, Director,

International Fund for Animal Welfare, and Mr. Steven Smith of Montgomery, Texas.

And at this time, I ask for unanimous consent to submit three letters for the record in support of H.R. 295, one each from MAPPS, TerraSound, and JOA Surveys, LLC. Without objection, so ordered.

[The letters follow:]

May 11, 2011

The Honorable Don Young
U.S. House of Representatives
Washington D.C.

Re: Support for H.R. 295]

Dear Congressman Young:

We wish to offer our support for H.R. 295 to amend the Hydrographic Services Improvement Act.

During these times of economic challenges, we recognize there are many competing needs for funding. Despite the overall need for fiscal restraint on the federal level, we support this legislation based on the importance of the Arctic and the need for current, reliable information regarding the waters of the arctic.

NOAA is presently over 50 years behind in updating surveys that it has already identified as 'critical' and 'emerging critical'. As vital as the need for addressing this survey backlog is, the need for immediate survey of our Arctic waters, is far greater, even urgent. Incorporating it into NOAA's "Address Survey Backlog" line item is the logical place for it to reside, however it should be provided with separate, stand alone funding to ensure its completion without becoming a drag on the existing survey backlog.

Sincerely,

Butch Hallford
TerraSond Limited



May 10, 2011

The Honorable Don Young
U.S. House of Representatives
Washington D.C. 20515

Dear Representative Young:

MAPPS (www.mapps.org) is a national association of more than 170 firms providing services in mapping, spatial data and geographic information systems services. MAPPS member firms employ more than 10,000 individuals in geospatial related positions. MAPPS actively promotes and monitors legislation, policy and regulations that impact the private geospatial profession. Our members are often contractors to Federal agencies, including NOAA/NOS/NGS, to provide a variety of geospatial-related professional services.

MAPPS appreciates the opportunity to comment on H.R. 295, amending the Hydrographic Services Improvement Act of 1998 to authorize funds to acquire hydrographic data and provide hydrographic services specific to the Arctic for safe navigation, delineating the United States extended continental shelf, and the monitoring and description of coastal changes. This legislation is scheduled for a subcommittee markup on May 12.

MAPPS commends the intent of the legislation. However, we would recommend that the \$7 million authorized in the bill to acquire hydrographic data, provide hydrographic services, and other associated geospatial data and services be new funding, and not originate from the baseline Survey Backlog line item as currently authorized.

If MAPPS may be of further legislative resource to you and your staff, please contact MAPPS Government Affairs Manager John "JB" Byrd at 703-201-9585.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Palatiello".

John M. Palatiello
MAPPS Executive Director

1856 Old Reston Avenue, Suite 205
Reston, Virginia 20190
P (703) 787-6996; F (703) 787-7550; www.mapps.org



JOA Surveys, LLC
SURVEYING GPS TIDES HYDROGRAPHY

2001 E Dowling Road, Suite 10
Anchorage, AK 99507
(907) 561-0136 Phone
(907) 561-0133 Fax
Fax: (907) 561-0133

Date: May 6, 2011
To: Rep. Don Young
Cc: Erik Elam
Legislative Director
From: Nathan Wardwell and John Oswald
Managing Partner Consulting Partner
Re: A future Arctic with safe and confident marine navigation: Support for bill H.R. 295

We write this letter in full support of bill H.R. 295 to amend the Hydrographic Services Improvement Act of 1998.

Currently the majority of hydrographic data used to develop nautical charts is severely out of date. In fact the *NOAA Ship Recapitalization Plan FY2010 to FY2024* notes that "At least 50 percent of the existing data on NOAA nautical charts was collected pre-1940 with leadline soundings, and some depths date back to the 1800s." Arctic nautical charts are in even worse condition because they not only include pre-1940 data they also include large expanses with NO depth soundings. These charts do not sufficiently portray the information a mariner will need to safely and confidently navigate Arctic waters.

The charting inadequacy in the Arctic has been well documented. The *Arctic Marine Shipping Assessment*, published in 2009, recommends "That the Arctic states should significantly improve, where appropriate, the level of and access to data and information in support of safe navigation and voyage planning in Arctic waters. This would entail increased efforts for: hydrographic surveys to bring Arctic navigation charts up to a level acceptable to support current and future safe navigation; and systems to support realtime acquisition, analysis and transfer of meteorological, oceanographic, sea ice and iceberg information."

Annually the NOAA Office of Coast Survey (OCS) prioritizes all of the Navigationally Significant areas in US waters and publishes them in the *NOAA Hydrographic Survey Priorities (NHSP)*. With the foresight that an ice-free Arctic means increased vessel traffic in an area with inadequate charts the OCS added to the 2010 edition of the NHSP a section specific to the Arctic. This section identifies almost 40,000 sq nm of Emerging Arctic Survey Priorities.

The cost of operating in the Arctic is considerably higher than the continental US because the area lacks supporting infrastructure and the field season is limited. With NOAA's current contract and in-house budgets for acquiring the modern high-resolution hydrographic data needed to provide safe navigational products only about 3,000 sq nm are surveyed each year throughout all US waters.

We ask that you continue to support bill H.R. 295 because it is an important step towards a future with products that promote safe and confident marine operations in the Arctic.

Nathan Wardwell
JOA Surveys, LLC

John Oswald, PLS
JOA Surveys, LLC

Mr. YOUNG. Thank you, gentlemen. Like all witnesses, your written testimony will appear in the full hearing record. So I would ask you to keep your oral statement to five minutes as outlined in our invitation letter to you, and under Committee Rule 4(a).

Your microphones are not automatic. So please press the button when you are ready to begin. I guess you know how the timing

lights work. When you begin to speak, our Clerk will start the timer, and a green light will appear.

After four minutes a yellow light will appear, and at that time you should begin to conclude your statement. After five minutes, a red light will come on, and you may complete your sentence, but at that time I must ask you to please stop. That is easy. Mr. Gould, you are recognized for five minutes.

**STATEMENT OF HON. ROWAN GOULD, ACTING DIRECTOR,
UNITED STATES FISH AND WILDLIFE SERVICE**

Dr. GOULD. Good morning, Congressman Young.

Mr. YOUNG. Good morning.

Dr. GOULD. Mr. Chairman and Members of the Subcommittee, I am Rowan Gould, Acting Director of the United States Fish and Wildlife Service, and I appreciate the opportunity to testify today on H.R. 991, which would amend the Marine Mammal Protection Act related to the importation of polar bear trophies; H.R. 1160, the McKinney Lake National Fish Hatchery Conveyance Act; and H.R. 1670, the Sikes Act Amendments Act of 2011.

I would also like to submit a statement for the record on behalf of the Department of the Interior on H.R. 670, legislation that would convey certain submerged lands to the Commonwealth of Northern Mariana Islands. The Administration would strongly support this bill if amended to address the issues outlined in that statement.

Mr. YOUNG. Without objection.

Dr. GOULD. First, I will discuss H.R. 991. Before the polar bear was listed under the Endangered Species Act, the Service applied the provisions of the Marine Mammal Protection Act to allow the importation of the sport-hunt polar bear trophies that were legally harvested from approved populations in Canada.

After the ESA listing, such imports were prohibited by the MMPA. The Service's written testimony explains the legal framework on trophy imports under the MMPA and the effect of the ESA listing.

The testimony also describes the Service's significant outreach efforts to inform hunters of the impact of the ESA listing on trophy imports. We recognize that a number of hunters are not able to import their trophies due to the listing, even though they applied for permits and successfully completed their legal polar bear hunts before the listing went into effect.

The Service does not oppose legislation to allow the import of polar bear trophies taken by those hunters, who both applied for the permit, and completed their legal hunt prior to the ESA listing.

However, the Service does not support any broader changes to the MMPA that would allow additional sport-hunted polar bear trophies to be imported. We would like to continue to work with Congressman Young to find any solutions to any problems that may come up supporting this legislation moving forward.

H.R. 1160, the legislation would convey the McKinney Lake National Fish Hatchery to the State of North Carolina to be used as a component of the Fish and Wildlife Management Program of the State.

The legislation also requires the State to allow the Service to use the hatchery to propagate any critically important aquatic resources held in public trust. Since 1996 the State has operated the hatchery under a Memorandum of Understanding with the Service, primarily for the purpose of raising catchable-sized channel catfish for the community fishing program.

Under this agreement the State assumes full responsibility for all expenses related to the hatchery operation. The Service fully supports H.R. 1160 as it would allow for the continued operation of the hatchery, while maintaining the hatchery's role in the State's urban fishing program in restoring and recovery of aquatic resources held in public trust.

Finally, I will discuss H.R. 1670. This legislation would add State-owned land supporting Army National Guard facilities to the requirements of Integrated Natural Resources Management Plans under the Sikes Act.

The Service believes that it is a valuable amendment that increases the benefits of the Sikes Act. The Service, the States, and the Department of Defense, have long recognized the value of working together to conserve fish and wildlife resources on military lands.

Military lands provide important habitat for fish and wildlife. These lands also provide significant opportunities for hunting, fishing, and other wildlife-associated recreation.

The Sikes Act has fostered strong partnership amongst the Service, DoD, and the States. Through these partnerships, we have enhanced the conservation of fish and wildlife resources on military installations, while also supporting the DoD missions on those lands.

Accordingly, the Service supports H.R. 1670 and its extension of the Sikes Act's coverage on State-owned facilities used for our national defense. Thank you for the opportunity to testify this morning. I am happy to answer any questions the Subcommittee may have, and look forward to working with the Subcommittee Members as you consider these bills.

[The prepared statement of Dr. Gould follows:]

Statement of Rowan Gould, Acting Director, U.S. Fish and Wildlife Service, U.S. Department of the Interior, on H.R. 670, H.R. 991, H.R. 1160, and H.R. 1670

INTRODUCTION

Chairman Fleming and Members of the Subcommittee, I am Rowan Gould, Acting Director of the U.S. Fish and Wildlife Service (Service), within the Department of the Interior (Department). I appreciate the opportunity to appear before the Subcommittee today to testify on: H.R. 670, to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands; H.R. 991, to amend the Marine Mammal Protection Act of 1972 to allow importation of polar bear trophies taken in sport hunts in Canada before the date the polar bear was determined to be a threatened species under the Endangered Species Act of 1973; H.R. 1160, the McKinney Lake National Fish Hatchery Conveyance Act; and H.R. 1670, the Sikes Act Amendments Act of 2011.

H.R. 991

H.R. 991 would amend the Marine Mammal Protection Act (MMPA) of 1972 to allow importation of polar bear trophies taken in sport hunts in Canada before the

date the polar bear was determined to be a threatened species under the Endangered Species Act (ESA) of 1973.

Legal Framework for Importing Sport-hunted Polar Bear Trophies

The polar bear was listed as threatened under the ESA on May 15, 2008, primarily due to ongoing and predicted loss of sea-ice habitat caused by climate change. If the polar bear was protected only under the ESA, the Service could have continued to allow the import of sport-hunted polar bear trophies from Canada. This could have been accomplished either by including a provision in the special rule issued for this species under section 4(d) of the ESA authorizing such imports or by applying the provisions of section 9(c)(2) of the ESA, which would have allowed sport-hunted polar bear trophies to be imported for personal use by the hunter without additional ESA authorization (as long as the trophy was imported with a Canadian export permit issued under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and all other requirements of law were met).

However, the polar bear is also protected under the MMPA, which has its own legal requirements, separate and distinct from those of the ESA, relative to the importation of marine mammals. The MMPA establishes a federal responsibility, shared by the Secretaries of the Interior and Commerce, for the management and conservation of marine mammals. The Secretary of the Interior, through the Service, protects and manages polar bears, sea and marine otters, walrus, three species of manatees, and dugongs.

Until the polar bear was listed under the ESA, section 104(c)(5) of the MMPA had provided for the import of certain polar bear trophies from approved populations in Canada. However, any marine mammal listed as threatened or endangered under the ESA is considered "depleted" under section 3(1)(C) of the MMPA, and consequently, sections 101(a)(3)(B) and 102(b)(3) of the MMPA prevent the import of sport-hunted polar bear trophies.

The Service has interpreted the existing grandfather clause (section 104(c)(5)(D) of the MMPA), as continuing to authorize the issuance and use of permits that allow the import of polar bears legally harvested in Canada prior to February 18, 1997. As of May 15, 2008, when the ESA listing took effect, except for those trophies that qualify under this grandfather clause, any permit previously issued under section 104(c)(5) could no longer be used to import a sport-hunted polar bear trophy, and no new permits could be issued or additional imports allowed under that section.

Outreach to Polar Bear Hunters on the Potential Impact of an ESA Listing

Once the proposed rule to list the polar bear as threatened was published in January 2007, the Service conducted extensive outreach efforts on the potential impact of an ESA listing on the import of sport-hunted trophies. Hunters were advised that, although the Service was able to authorize the importation of polar bear trophies taken in Canada under the provisions of section 104(c)(5) of the MMPA while the species was proposed for listing, the Service would not be able to continue to authorize imports under this section of the MMPA if and when the listing became final. The Service wanted hunters to be fully aware of the fact that if the polar bear were listed, then hunters would no longer be able to import their sport-hunted trophies.

Beginning in January 2008, the Service addressed a large number of telephone and e-mail communications on this issue, including inquiries from hunters, Canadian outfitters and taxidermists, and the media. The Service attempted to inform all potential applicants that a decision on the listing was imminent and that, if the species was listed, further imports would be prohibited. During the 2008 Convention of Safari Club International, the Service also provided information at the Convention regarding the impacts of a potential listing on the importation of sport-hunted polar bear trophies.

Under the MMPA, the process for reviewing applications for the issuance of import permits requires publication of a notice of receipt of an application in the *Federal Register* and allowance of a 30-day public comment period. In addition, once a U.S. import permit is issued, the Canadian Management Authority must issue a CITES export permit. Given that the permitting process can take between 50 and 90 days, the Service attempted to provide as much information as possible to potential hunters, as quickly as possible. The Service also worked closely with the Canadian CITES Management Authority to ensure permittees had accurate information about obtaining the required Canadian CITES export permit.

On May 5, 2008, the Service attempted to contact those individuals who had already been issued a permit to import a trophy, but had not already done so, to inform them of a court decision and the potential that an ESA listing might go into

effect on or before May 15. Permittees were informed that trophies must be imported before the listing's effective date.

Status of Pending Polar Bear Trophy Import Permit Applications

On the day the polar bear was listed under the ESA, the Service had 44 permit applications pending for which a final decision had not been made on whether or not to issue a permit. Notice of many of these applications had already been published in the *Federal Register*, but the required 30-day comment period was still open or just recently closed. Other applications had only recently been received and the notice had not yet been published in the *Federal Register*. In addition to these individuals, it is possible that other U.S. hunters had taken bears from an approved population prior to the listing date, but had not yet applied to the Service for the required import permits; in the absence of applications for them, the Service cannot state how many additional bears were taken by U.S. hunters prior to the effective date of the ESA listing.

With the exception of one permit application that qualified for import under the grandfather clause, all applications that were received prior to the listing of the polar bear under the ESA were for bears taken from populations that had previously been approved for importation.

The Department recognizes that there were a number of hunters who both applied for permits and successfully completed their polar bear hunts prior to the May 15, 2008 listing. We also recognize that, by court order, the Service's final decision to list the polar bear under the ESA went into effect immediately, whereas such decisions normally take effect 30 days after the publication date of the final listing decision. The ESA listing triggered an immediate change in the status of the polar bear under the MMPA such that polar bear trophies could no longer be imported into the United States. If the ESA listing had taken effect 30 days after the publication date, as is normally the case, some of these hunters may have had the opportunity to import their trophies before the listing took effect.

The Administration does not oppose legislation allowing those hunters who both applied for a permit and completed their legal hunt of a polar bear from an approved population prior to the ESA listing to import their polar bear trophies, provided that the hunter is required to submit proof that the bear was legally harvested in Canada from an approved population prior to the effective date of the ESA listing. The Department does not support any broader changes to the MMPA that would allow additional sport-hunted polar bear trophies to be imported beyond those where hunters submitted their import permit application and completed their hunt prior to the ESA listing. Therefore, the Department does not support H.R. 991 as currently written because it would allow the import of polar bear trophies regardless of whether the hunter had applied for the permit prior to the ESA listing.

H.R. 1160

H.R. 1160 directs the Secretary of the Interior to convey the McKinney Lake National Fish Hatchery to the state of North Carolina to be used by the North Carolina Wildlife Resources Commission as a component of the fish and wildlife management program of the state. The legislation also requires the state to allow the Service to use such property for the propagation of any critically important aquatic resource held in public trust to address the specific restoration or recovery needs of such resource.

The National Fish Hatchery System

The Service's Fisheries Program has played a vital role in conserving America's fishery resources for 140 years, and today is a key partner and an essential component with States, Tribes, Federal agencies, other Service programs, and private interests in a larger effort to conserve fish and aquatic resources and their habitats. The National Fish Hatchery System consists of 71 National Fish Hatcheries, 9 Fish Health Centers, 7 Fish Technology Centers, one Historic National Fish Hatchery, and the Aquatic Animal Drug Approval Partnership Program. It is comprised of nearly 16,000 acres of lands and waters, of which 4,000 are administered through agreements, easements and/or leases. The National Fish Hatchery System has land holdings in 34 states that are widely dispersed geographically.

As the Nation's only Fish Hatchery System, these facilities and their highly-trained personnel provide a network unique in national conservation efforts because of the suite of capabilities available. These include propagation of healthy and genetically-appropriate aquatic animals and plants to help recover and re-establish wild populations; and scientific leadership in development of aquaculture, conservation genetics, fish nutrition, and disease diagnostic technologies. Working closely with State, Tribal, and nongovernmental organizations, the Program provides sub-

stantive educational and recreational opportunities to citizens of all ages, as well as substantial economic benefits for local communities.

McKinney Lake National Fish Hatchery

The McKinney Lake National Fish Hatchery was established on December 27, 1937, and is located in Hoffman, North Carolina, between Southern Pines and Rockingham. This 422-acre site includes an estimated 100 acres for the warmwater fish hatchery facility. The remaining acreage consists primarily of forested watershed including the 70-acre McKinney Lake, which serves as the water supply reservoir for the hatchery. The property also includes six buildings, three residences, and 23 earthen ponds.

The original purpose of the hatchery was to produce largemouth bass, channel catfish, and sunfish, to support the Service's farm pond distribution program. This program was aimed at providing native fingerling fish species to people who requested assistance with private ponds. The Service eventually transferred the farm pond distribution program to state agencies and, as a result, the McKinney Lake hatchery began to raise other species, including striped bass, to restore populations along the Atlantic Coast. Within a relatively short period of time, these efforts were quite successful.

In 1996, the Service offered the McKinney Lake facility to North Carolina. Since that time, the North Carolina Wildlife Resources Commission has operated the hatchery under a Memorandum of Understanding with the Service, primarily for the purpose of raising catchable size channel catfish for the Commission's Community Fishing Program. Under this agreement, the Commission assumes full responsibility for all costs and expenses related to operation of hatchery facilities.

The hatchery is an important part of the local community and through its work connects people to the outdoors in important ways. Each spring, the hatchery grows fingerling-sized channel catfish three to four inches in length to a harvestable size of 8 to 12 inches for the Commission's Community Fishing Program. In April, the fish are collected and stocked into more than 40 community water bodies across the state, including Richmond County. The Community Fishing Program promotes family-oriented recreational activities in urban areas. Many sites feature a handicap-accessible fishing pier and solar-powered fish feeders to make fishing more enjoyable for all anglers. This program provides an opportunity for people of all ages to get outdoors and gain a greater connection with nature.

The Department supports H.R. 1160 and the conveyance of the McKinney Lake National Fish Hatchery and its operations to the North Carolina Wildlife Resources Commission (which already manages this property under a Memorandum of Understanding with the Department) for the purposes of fish and wildlife management. This would allow for the continued operation of the hatchery and the important role it plays in the State's urban fishing program and in addressing the specific restoration or recovery needs of aquatic resources held in public trust. It is our understanding that the State of North Carolina supports the proposed conveyance. Accordingly, we recommend that the bill be revised to make clear that the conveyance is subject to the State agreeing to receive the property (this revision would also avoid potential constitutional concerns). This could be accomplished by adding "and subject to the State's agreement" after "without reimbursement" in section 2(b) of the bill.

H.R. 1670

H.R. 1670 would add state-owned lands supporting Army National Guard facilities to the requirements of Integrated Natural Resources Management Plans (INRMPs) under the Sikes Act. The Service appreciates Congresswoman Bordallo's efforts to amend the Sikes Act in this way, and the Subcommittee's hearing on H.R. 1670.

The Service, the states, and Department of Defense (DOD) have long recognized the importance and value of working cooperatively to conserve fish and wildlife resources on military lands. Military lands provide valuable habitat for fish and wildlife, as well as significant opportunities for hunting, fishing and other wildlife-associated recreation. The Sikes Act, and its amendments, have fostered an effective framework for our partnership with DOD and the states. Through this partnership, we have been able to increase our abilities to conserve fish and wildlife resources found on military installations, while also supporting the national defense and other missions of lands managed by the DOD.

The Department of Defense manages approximately 30 million acres of land on about 400 military installations in the United States. Military lands contain rare and unique plant and animal species and native habitats such as old-growth forests, tall-grass prairies, and vernal pool wetlands. Over 400 threatened and endangered

species live on DOD-managed lands. Public access to many of these sites is limited due to security and safety concerns; thus they are sheltered from disturbance and development. These lands and the species they support are an essential component of our Nation's biodiversity, and the development, implementation, and improvement of INRMPs supports the long-term health of the habitats supported on military installations. The Service is proud of its on-going partnership with DOD and the states to conserve fish and wildlife resources on military installations. The Service looks forward to continued participation and cooperation with the DOD and state fish and wildlife agencies through the Sikes Act.

On May 25, 2010, during the 111th Congress, the Department testified on H.R. 5284, a bill similar to H.R. 1670. We refer the Subcommittee to that testimony for a description of the history of the Sikes Act and the Service's roles and responsibilities under the law. In that testimony we supported the provision in H.R. 5284 to add state-owned lands supporting Army National Guard facilities to the requirements of INRMPs under the Sikes Act. H.R. 1670 is comprised solely of that provision, which the Service believes is a valuable amendment for improved Sikes Act coverage of State-owned facilities used in national defense. Accordingly, the Department supports H.R. 1670.

H.R. 670

H.R. 670 would convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands. The Department of the Interior has submitted a Statement for the Record on this legislation.

CONCLUSION

Thank you for the opportunity to testify this morning. I am happy to answer any questions the Subcommittee may have and look forward to working with the Subcommittee members as you consider these bills.

Mr. YOUNG. Thank you, Doctor. The next witness is Captain John Lowell.

STATEMENT OF CAPTAIN JOHN LOWELL, DIRECTOR, OFFICE OF COAST SURVEY, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Captain LOWELL. Good morning, Congressman Young, Ranking Member Sablan, and Members of the Subcommittee. My name is Captain John Lowell, and I am the Director of NOAA's Office of Coast Survey.

Thank you for asking me to testify on H.R. 295, a bill to amend the Hydrographic Services Improvement Act of 1998, to authorize funds for enhancing NOAA's hydrographic services delivery in the Arctic.

NOAA has specific authorities under the Coast and Geodetic Survey Act of 1947, and the Hydrographic Services Improvement Act of 1998, as amended. Although our existing mandates cover all United States waters, including the United States Arctic, and allow activities outside United States waters, we support the legislation's intent to recognize the Arctic's growing need of NOAA's geospatial services for safe navigation, sustainable economic development, delineating the United States extended continental shelf, and monitoring and describing coastal change.

NOAA's Arctic Vision and Strategy released on March 16, 2011, identifies these same objectives as priorities, supporting navigation safety, maritime security, and environmental protection.

NOAA's geospatial services are also fundamental to other Arctic activities, including climate change adaption, community resilience, energy development, and coastal resource management.

NOAA's hydrographic services cover the 3.4 million square nautical miles of the United States exclusive economic zone, including the nearly one million square nautical miles of United States Arctic waters.

With our current authority, and with Congressional support, NOAA is providing a high level of hydrographic services to the Arctic. H.R. 295 puts a well deserved spotlight on emerging Arctic issues.

As you know, there is now widespread evidence of climate change in the Arctic region, most dramatically observed in loss of sea ice. As access to the region increases with sea ice retreat, commercial shipping interests anticipate open Arctic trade routes within the decade.

These companies, as well as passenger cruises, fishing and other economic sector interests, will exert pressure on the marine transportation system infrastructure. As the United States begins to confront these Arctic challenges, it is evident that despite some exploration and research, basic data are lacking.

The science to inform many decision making processes and support services is inadequate because the reason has been relatively inaccessible until recently. The Arctic is deficient in many of these hydrographic services that NOAA provides to the rest of the Nation.

For example, most Arctic waters that are charted were surveyed with obsolete technology dating back to the 1800s, before the region was part of the United States. Most of the shoreline along Alaska's northern and western coasts have not been mapped since the 1960s, if ever, and confidence in the region's nautical charts is low.

While much of NOAA's Arctic effort are focused on assessing and prioritizing the region's needs, our navigation based programs are taking steps to provide essential geospatial foundation.

In 2010, NOAA conducted surveys in the key areas of interest to the United States Navy, completed tide gauge demonstration projects to test Arctic conditions in Barrow, Alaska, and acquired gravity data over large swaths of interior and Southcentral Alaska to support NOAA's Gravity for the Redefinition of the American Vertical Datum, or GRAV-D, Project.

NOAA and the United States Geological Survey collaborated with Canada on the third of a series of joint sea floor mapping missions to help define the limits of the extended continental shelf in the Arctic.

The partnership with Canada continues this summer with a seven week expedition to map the sea floor, image the underlying sediment layers, and acquire other data. Also, on the international front, NOAA worked with other Arctic countries to establish an Arctic Regional Hydrographic Commission.

This commission will foster international collaboration on hydrographic surveying, nautical charting, and other mapping activities. NOAA continues to work with partners like the U.S. Coast Guard and local vessel pilots to assess nautical charting requirements and prioritize surveys of likely shipping lanes in the North Bering and Chukchi Seas.

In 2011, NOAA will conduct hydrographic surveys in the Kotzebue area, which will include the installation of tide gauges and other gauges to enable datum transformation in the area.

NOAA will also contract for surveys in Kuskokwim, in the Northeast Bering Sea, and in Krenitzin, on the eastern side of the Aleutians. In addition, NOAA is acquiring more gravity data in Northern Alaska so that most of Alaska will be covered by the end of 2012.

Putting good information into the hands of mariners is essential for safe navigation and environmental protection. Beyond that, NOAA's hydrographic services are an essential component of an open Arctic where conservation, management, and use are based on sound science to support U.S. economic growth and resilient and viable ecosystems and communities.

H.R. 295 authorizes funds for NOAA to focus its hydrographic surveying in the Arctic. It shows support for continued contract and essential Federal work while NOAA continues to balance the requirements of the Arctic with other national priorities.

Thank you again, Congressman Young, and Members of the Subcommittee, for the opportunity to talk about NOAA's hydrographic role in the Arctic. We appreciate your attention to this important issue, and look forward to working with you on this legislation.

[The prepared statement of Captain Lowell follows:]

Statement of Capt. John E. Lowell, Jr., NOAA, Director, Office of Coast Survey, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, on H.R. 295

Good morning Chairman Fleming, Ranking Member Sablan, and Members of the Subcommittee. My name is Captain John Lowell, and I am the Director of the Office of Coast Survey at the National Oceanic and Atmospheric Administration (NOAA). Thank you for inviting me to testify before you today on H.R. 295, a bill to amend the Hydrographic Services Improvement Act of 1998 to authorize funds for enhancing NOAA's hydrographic services delivery in the Arctic.

Although our existing mandates already cover all U.S. waters, including the U.S. Arctic, and even allow activities outside U.S. waters, we certainly support the legislation's intent to recognize the Arctic as a region in particular need of NOAA geospatial services for safe navigation, sustainable economic development, delineating the United States' extended continental shelf, and monitoring and describing coastal changes. NOAA's Arctic Vision and Strategy, released on March 16, 2011, identifies these same objectives as priorities, supporting navigation safety, maritime security, and environmental protection. NOAA's geospatial services are also fundamental to many other activities in the Arctic, including effective climate change adaptation, community resilience, energy development, and coastal resource management.

NOAA's surveying and charting responsibilities have existed since 1807, and we have specific authorities under the Coast and Geodetic Survey Act of 1947 (33 U.S.C. 883a *et seq.*) and the Hydrographic Services Improvement Act (33 U.S.C. 892 *et seq.*), which include:

- The acquisition and dissemination of hydrographic, tide and current, and shoreline information for safe navigation of commerce, and
- Management of the National Spatial Reference System, which provides the fundamental geospatial control for transportation, mapping and charting, and any other activities requiring accurate latitude, longitude, and elevation data.

NOAA's hydrographic services cover the 3.4 million square nautical miles of the U.S. Exclusive Economic Zone (EEZ), including the nearly one million square nautical miles of U.S. Arctic¹ waters. Because of the authorities referenced above, ex-

¹The Arctic Research and Policy Act of 1984 defines 'Arctic' as "all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering and Chukchi Seas; and the Aleutian chain."

PLICIT direction and funding authorization to work in the Arctic is not necessary for NOAA to deliver its hydrographic services to this important region.

Nonetheless, H.R. 295 puts a well-deserved spotlight on emerging Arctic issues. The Administration is looking closely at Arctic policy and management, as evidenced by the work underway to implement the January 2009 Directive (*National Security Presidential Directive 66/Homeland Security Presidential Directive 25*) on an Arctic Region Policy, the July 2010 National Ocean Policy's recognition of the Arctic as an area of special emphasis, and the July 2010 Presidential Memorandum on arctic research policy, which reinvigorates interagency research coordination in the Arctic.

As you know, there is now widespread evidence of climate change in the Arctic region, most dramatically observed in loss of sea ice. In four of the last five years, we have witnessed the lowest sea ice extents on record, as well as a 35 percent decrease in thicker multi-year sea ice. As access to the region increases with sea ice retreat, we are seeing a corresponding potential for growth in international and domestic Arctic interests. Oil and gas companies are investing more in energy exploration, as evidenced most recently by Shell Oil's 2012 proposal for 10 exploratory wells in the Beaufort and Chukchi Seas. Commercial shipping interests are anticipating open Arctic trade routes within the decade. As the Arctic eventually becomes more accessible, these companies, as well as cruise, fishing, and other economic sector interests, will exert pressure on a Marine Transportation System infrastructure. In addition, there are unique national security interests in the region that will benefit from enhanced geospatial and related information and services. As Dr. Jane Lubchenco, the NOAA Administrator and Under Secretary of Commerce for Oceans and Atmosphere, has said,

"The debate over climate change in the Arctic is over. Climate change is happening. The Arctic Ocean is warming. Permafrost is thawing. Sea ice is melting at an alarming rate, and shorelines are eroding. People's lives and livelihoods are being impacted. . . But while the loss of sea ice creates opportunities for commercial enterprises, these same economic growth opportunities have the potential to threaten Arctic ecosystems, communities, and cultures already impacted by the rapidly changing climate..." (Aspen Institute, March 2011)."

As the United States begins to confront these Arctic challenges, it is evident that despite some exploration and research to date, even the most basic data are lacking and the science to inform many decision-making processes and support services is inadequate. Because the region has been relatively inaccessible, without widespread need for such information, the Arctic is deficient in many of the hydrographic services capabilities that NOAA provides to the rest of the Nation. The region currently has:

- virtually no geospatial infrastructure for accurate positioning and elevations;
- sparse tide, current and water level prediction coverage;
- obsolete shoreline and hydrographic data in most areas;
- poor nautical charts; and
- poor weather and ice forecast data.

For example, most Arctic waters that are charted were surveyed with obsolete technology, some dating back to the 1800s, before the region was part of the United States. Most of the shoreline along Alaska's northern and western coasts has not been mapped since 1960, if ever, and confidence in the region's nautical charts is low. Governance and management of the marine ecosystems within the Arctic is also a critical issue, due not only to the growing pressure of activities like shipping, drilling and fisheries but also to the fact that the region both strongly impacts and is impacted by global systems. NOAA's navigation services provide baseline scientific data, such as hydrography, shoreline mapping, oceanography, tides, currents, positioning and geodesy, that benefits not only navigation, but also supports more informed decisions for other economic development, resource management, and coastal planning decision making processes.

By strengthening its Arctic science and stewardship, NOAA aims to better inform policy options and management responses to the unique challenges in this fragile region. NOAA's Arctic Vision and Strategy aligns our capabilities in support of the efforts of our international, Federal, State and local partners, and within the broader context of our Nation's Arctic policies and research goals. The Strategy recognizes that NOAA can make the highest positive impact to Arctic communities and sustainable economic growth by providing products and services for safe navigation and security, oil spill response readiness, and climate change adaptation strategies. Much of this can be accomplished through improvements in the hydrographic services available to the Arctic region, including:

- Overhauling the Arctic geospatial framework of geodetic control and water levels, which will correct meters-scale positioning errors and enable centi-

meter-scale measurements to support such critical needs as marine transportation, sea-level change analysis, erosion and permafrost thaw impacts to infrastructure, oil and gas resource exploration, and storm surge modeling; and,

- Surveying and mapping Arctic waters and shoreline for accurate coastal maps and nautical charts, which will benefit navigation and national security, sea level change impact assessments, habitat characterizations, and extended continental shelf delimitation.

While much of NOAA's Arctic efforts are focused on assessing and prioritizing the region's needs, our navigation-based programs are taking initial steps to provide the essential geospatial foundation described above. In FY 2010, NOAA conducted surveys in key areas of interest to the U.S. Navy, completed a tide gauge demonstration project to test Arctic conditions in Barrow, and acquired gravity data over large swaths of interior and south-central Alaska to support NOAA's Gravity for the Re-definition of the American Vertical Datum (GRAV-D) work in the Arctic region. NOAA and the U.S. Geological Survey also collaborated with Canada on the third of a series of joint seafloor mapping missions to help define the limits of the extended continental shelf in the Arctic according to the criteria set forth in UNCLOS Article 76. This work will help the U.S. delimit the outer limits of its shelf. On the international front, in our role as U.S. representative to the International Hydrographic Organization, NOAA worked with other Arctic member states to establish an Arctic Regional Hydrographic Commission to foster collaboration on hydrographic surveying, nautical charting, and other mapping activities.

In FY 2011, NOAA continues to work with partners like the U.S. Coast Guard and local vessel pilots to assess nautical charting requirements and prioritize surveys of likely shipping lanes in the North Bering and Chukchi Seas. Our objective is to help address the Bering Strait chokepoint in particular and more broadly to reduce the risk of accident and environmental impact in Arctic waters. Specifically, in FY 2011 NOAA will conduct hydrographic surveys in the Kotzebue area, which will include installation of a tide gauge and another gauge to enable datum transformation. NOAA will also contract for surveys in Kuskokwim (Northeast Bering Sea) and in Krenitzin (North side of Aleutians). In addition, NOAA is building on existing partnerships to acquire more gravity data in Northern Alaska so that by the end of FY 2012 most of Alaska will be covered. This GRAV-D work will vastly improve the positioning accuracies of elevation measurements, which will help coastal communities to develop climate change adaptation strategies and make decisions on infrastructure hardening, erosion and flood controls. Finally, the partnership with Canada on extended continental shelf mapping continues with a 7-week long expedition later this summer utilizing two icebreakers—the U.S. Coast Guard Cutter *Healy* and the Canadian Coast Guard Ship *Louis S. St-Laurent*—to map the seafloor using multibeam sonar, image the underlying sediment layers, collect dredge samples and gravity data, and conduct under-ice AUV operations.

NOAA also serves as a tri-lead, along with the Maritime Administration and U.S. Coast Guard, on the U.S. Arctic Marine Transportation Interagency Action Team (IAT), a subcommittee of the U.S. Committee on the Marine Transportation System (CMTS). Section 307(c) of the 2010 U.S. Coast Guard Authorization Act—Arctic Marine Shipping Assessment Implementation—directs the CMTS to coordinate the establishment of domestic transportation policy to ensure safe and secure maritime shipping in the Arctic. NOAA is working diligently with over twelve agency partners on the CMTS Arctic IAT to complete this task and ensure consistency with the policies of the *National Security Presidential Directive 66/Homeland Security Presidential Directive 25*. The Arctic region poses unique operational challenges for hydrographic surveying, such as in predicting future ice conditions, planning surveys in advance, and conducting those surveys under harsh environmental circumstances. NOAA and its contractors have some capability for working in Arctic conditions, but we are currently evaluating the best and safest approach to data collection. As indicated above, NOAA is also evaluating the technology and strategies needed for long-term monitoring of tides, water levels, and currents under harsh Arctic conditions.

Putting good information into the hands of mariners is essential for safe navigation and environmental protection, and coastal communities and scientists must have the same foundational support for good operational and research decisions. NOAA's hydrographic services are an essential component of an open Arctic where conservation, management, and use are based on sound science to support U.S. economic growth and resilient and viable ecosystems and communities.

Thank you again, Chairman Fleming and Members of the Subcommittee, for the opportunity to talk about NOAA's role in the Arctic with respect to hydrographic services. We appreciate the time and attention the subcommittee is devoting to this important issue, and look forward to working with you further on this legislation.

Mr. YOUNG. Thank you, Captain. At this time, we have Mr. Myers, and you are recognized for five minutes.

**STATEMENT OF GORDON MYERS, EXECUTIVE DIRECTOR,
NORTH CAROLINA WILDLIFE RESOURCES COMMISSION**

Mr. MYERS. Thank you, and good morning, Chairman Young, and Ranking Member Sablan, and Members of the Subcommittee. I am Gordon Myers, Executive Director of the North Carolina Wildlife Resources Commission.

We are a State agency whose mission it is to conserve North Carolina's wildlife resources and to provide programs that facilitate wildlife-associated recreation in our state. I am grateful for the opportunity to come before you this morning and provide testimony in support of H.R. 1160.

The State of North Carolina acquired land to develop McKinney Lake in 1933, and the McKinney Lake National Fish Hatchery was established several years later. From its inception in the late 1930s until 1996, the hatchery was operated by the Federal Government.

In June of 1995, the United States Fish and Wildlife Service notified the Wildlife Commission of its decision to close this important hatchery. We determined that the hatchery and surrounding property would enhance our ability to meet both terrestrial and aquatic resource objectives with our agencies.

Therefore, we worked with the Service to explore the possibility of transferring the property to the State. As a part of our due diligence, however, we conducted an assessment of the dam, which revealed significant deficiencies in the emergency spillway.

Because the conveyance prior to addressing these deficiencies would encumber the State with a noncompliant dam, an alternative course of action was first developed. In November of 1996, we entered into an agreement with the Fish and Wildlife Service to transfer operations to the State without immediate transfer of the liability or the financial encumbrances of the dam.

Under this agreement the Service granted full use of the hatchery to the State, and we became fully responsible for all operational costs, as well as improvements to the property, except for those attributed to the dam and spillway.

We have operated the hatchery under multiple agreements without interruption since 1996, and during this period, we have completed projects to remediate the dam to remove lead paint from hatchery residences, as well as other projects.

Funding for the first two projects was provided to the commission through agreement with the Fish and Wildlife Service, and we have also completed more than \$1 million worth of repair and renovations to this facility.

We are currently planning additional improvements at an estimated cost of about \$1.7 million, and also allocated operating funds in the amount of \$366 thousand. This hatchery is an important part of our statewide hatchery infrastructure, and although it is used adaptively to meet our fish production needs statewide, its primary focus is the production of channel catfish for our community fishing program.

This program is an active partnership between the Commission and local government to provide public fishing in urban areas of

our state. This popular program integrates fishery management with the infrastructure found in local parks to create an enhanced family friendly fishing experience in urban areas within the safe confines of a park.

Our current wildlife management activities on the site include management of Long Leaf Pine Forest for providing optimal conditions for Federally endangered red cockaded woodpeckers.

House Resolution 1160 stipulates that the property shall revert to the United States should the property cease to be used for fish and wildlife management purposes. This bill also includes conditions that would require the State to allow the Service to use the property for propagation of important aquatic resources.

It is our opinion that the terms of this agreement include acceptable measures to ensure continued use of the property for fish and wildlife conservation, and we are also fully satisfied that the bill includes adequate compensation requirements should the Service need to utilize the facility.

In conclusion, since its inception 75 years ago, McKinney Lake National Hatchery has helped further fish and wildlife conservation within and beyond North Carolina. It is an important and necessary element of North Carolina's fish hatchery infrastructure.

Currently, this hatchery enables the Commission to provide and sustain opportunities for North Carolinians in all parts of our state, but most notably in urban areas. As an element of our fish hatchery system, it will provide critical capacity to adapt to evolving fish production needs in the future, and conveyance of this hatchery to the State would ensure the continuation of a 75 year fish and wildlife conservation purpose.

We are fully prepared to remove this encumbrance from the Fish and Wildlife Service, and place it upon the North Carolina Wildlife Resources Commission, and I believe our consistent performance of operational and financial obligations since 1996 demonstrates our commitment and capacity to uphold this responsibility. On behalf of the Wildlife Resources Commission, thank you for the opportunity to express our support.

[The prepared statement of Mr. Myers follows:]

**Statement of Gordon Myers, Executive Director,
North Carolina Wildlife Resources Commission, on H.R. 1160 and H.R. 1670**

INTRODUCTION

Chairman Fleming, ranking member Sablan, and members of the subcommittee, I am Gordon Myers, executive director of the North Carolina Wildlife Resources Commission (Commission), a state agency whose mission is to conserve North Carolina's wildlife resources and their habitats and provide programs and opportunities that allow hunters, anglers, boaters and other outdoor enthusiasts to enjoy wildlife-associated recreation. I am grateful for the opportunity to come before you to provide testimony in support of H.R. 1160, The McKinney Lake National Fish Hatchery Conveyance Act.

BACKGROUND

The State of North Carolina acquired land to develop McKinney Lake under Title II of the National Industrial Recovery Act (NIRA) of 1933. The lake was constructed in 1934 through the Resettlement Administration of the WPA. Subsequently, McKinney Lake National Fish Hatchery was established in accordance with provisions of NIRA. The 422-acre parcel includes 24 rearing ponds, a 70-acre water supply lake and associated dam, hatchery building, several residences and a small lodge. The property also includes approximately 300-acres of forested watershed comprised largely of longleaf pine eco-type. From its inception until 1996, the fed-

eral government operated McKinney Lake National Fish Hatchery to support federal and state fishery-management objectives through production of warmwater sport fish species.

In June 1995, the U.S. Fish and Wildlife Service (Service) notified the Commission that revised fishery-management responsibilities precipitated a decision to discontinue operations at McKinney Lake National Fish Hatchery (NFH). Following consultation with the Service, we determined that the hatchery and surrounding property would enhance our ability to meet state terrestrial and aquatic resource objectives. Accordingly, we worked with the Service to explore the potential to transfer the property to the State of North Carolina for incorporation into the state's fish hatchery and game lands programs. Conveyance to state ownership would, however, render McKinney Lake Dam subject to the North Carolina Dam Safety Act. Due diligence revealed significant deficiencies in the emergency spillway capacity and because property conveyance prior to addressing dam deficiencies would encumber the state with a noncompliant dam, an alternate course of action was developed.

In November 1996, the Service and the Commission entered into a Memorandum of Agreement that provided for the transition of operations to the state without immediate transfer of the liability and financial encumbrances associated with the dam. Under the terms of the agreement, the Service granted to the state a right of use and occupancy of the lands and improvements comprising McKinney Lake NFH. The State agreed to be fully responsible for all costs and expenses associated with operation and maintenance of all facilities and improvements within the property limits except for those costs attributed to the dam and spillway.

The Commission and the Service have operated the hatchery under the terms of these conditions, without interruption, since November 1996. During this period, the Commission administered projects to remediate McKinney Lake Dam and abate lead paint from hatchery residences. The funding for these projects was provided to the Commission from the Service through reimbursable agreements. In addition, the Commission has completed the following capital projects with Commission receipts:

- Replacement of four harvest kettles replacement and six water supply inlet structures at a total cost of \$874,855
- Renovations to the existing lodge to bring the structure into compliance with fire codes at a total cost of \$100,918
- Other miscellaneous projects that include a variety of small renovations to hatchery residences and construction of a public fishing pier and boat launch to enhance public use of McKinney Lake
- We are currently replacing a metal storage building at a estimated cost of \$65,000

The Commission is currently planning for the replacement of the remaining harvest kettles and water inlet structures at an estimated cost of \$1.7 million.

In addition to capital investment, the Commission has committed annual recurring funding for operations in the amount of \$360,000.

Current Use

McKinney Lake National Fish Hatchery is an important element of the Commission's statewide hatchery system. It is one of two warmwater fish hatcheries operated by the Commission. Although the hatchery is used adaptively to meet fish production needs, its current primary focus is to produce channel catfish for the Commission's Community Fishing Program (CFP). The CFP is an active partnership between the Commission and local government, usually municipal or county parks, to provide public fishing opportunities in urban areas of North Carolina. This popular program integrates intensive fishery management with the infrastructure of parks to create enhanced fishing opportunities for families seeking enjoyable and economical trips within the safe confines of a park. The associated facilities often include disabled user accessible fishing piers, fish feeders, fish attractors, rod and reel loaners and other park amenities provided by the local partners.

In addition to providing infrastructure necessary to meet fish production objectives, the Commission also provides free public fishing access to McKinney Lake. Associated infrastructure includes a fishing pier and boat ramp for public use.

Because the property is also surrounded by state-owned game lands, the approximate 300-acres of forested land surrounding the hatchery seamlessly integrates with the Commission's wildlife management and forest stewardship activities. The forested portion of the property is primarily comprised of longleaf pine forest, a priority habitat identified in North Carolina's State Wildlife Action Plan. Wildlife management activities on the property are largely focused managing this important habitat for federally endangered red-cockaded woodpeckers (RCW). Specific activities include monitoring, prescribed burning and selective timber management to manage for optimal RCW habitat.

Upon conveyance of the property to the state, we plan to examine opportunities to provide hunting access on the forested property located at the upper end of the lake.

Terms of Transfer

H.R. 1160 stipulates that the property shall revert to the United States should the property not be used for any purposes relating to fishery and wildlife resources management. Further, the bill also includes conveyance conditions that would require the State, upon request of the Secretary of the Interior, to allow the Service to use the property in cooperation with the Commission for propagation of critically important aquatic resources.

The terms of this agreement include acceptable measures to assure the perpetuation of fish and wildlife conservation uses for the property. The bill also includes adequate compensation requirements should the Service need to utilize the facility. Our longstanding cooperative partnership with the Service bolsters our confidence that any future needs subject to the provisions of Section 2(e) would be addressed cooperatively and to the satisfaction of each agency.

CONCLUSION

In closing, since its inception 75 years ago, McKinney Lake National Hatchery has helped further fish and wildlife conservation goals within and beyond North Carolina. It is an important and necessary element of North Carolina's statewide fish hatchery infrastructure. Currently, this hatchery enables the Commission to provide and sustain opportunities for North Carolinians in all parts of our state, most notably in urban areas, to participate in family friendly fishing activities. As an element of our statewide fish hatchery system, it will also provide critical capacity to adapt to evolving fish production needs in the future. Conveyance of McKinney Lake National Fish Hatchery to the State of North Carolina would ensure the continuation of the 75-year fish and wildlife conservation purpose of this facility.

We are fully prepared to remove this encumbrance from the Service and place it upon the Commission. I believe that subsequent to assuming operational and financial obligations in 1996, the Commission has demonstrated its full commitment and capacity to uphold this responsibility. On behalf of the Commission, thank you for the opportunity to express our utmost support H.R. 1160.

Additional Testimony for H.R. 1670, Sikes Act Amendments Act of 2011

I would like to briefly share with you the support of the Association of Fish and Wildlife Agencies, of which all 50 states are members, for H.R. 1670, a bill bringing clarity to the Sikes Act application on certain Army National Guard bases.

The Association applauds the significant progress for fish and wildlife conservation that has been made through the cooperation of the Department of Defense (DoD) installations, U.S. Fish and Wildlife Service (USFWS) and State fish and wildlife agencies since the passage of the Sikes Act Improvement Act in 1997. We can all be proud of the conservation benefits achieved from this often unknown and unheralded success story of public lands management on approximately 30 Million acres. Our successes have certainly substantiated that not only is achievement of the military preparedness mission and sound stewardship of the land and its fish and wildlife resources not mutually exclusive, they are indeed mutually necessary and beneficial.

The Association supports H.R. 1670 because it clarifies what we believe was originally intended, and that is the need for and application of Integrated Natural Resources Management Plans on, and funding eligibility for, Army National Guard bases where significant natural resources exist, and which installations are held under state title. Army National Guard bases are dedicated to fulfilling the military preparedness mission, and like other military installations, have historically worked closely with the state fish and wildlife agencies to enhance installation natural resource conservation. Most ANG bases under state title, in fact, have developed and are implementing INRMPs. Therefore, the Association supports the clarity brought to these bases by H.R. 1670.

Mr. YOUNG. Thank you, sir. Mr. Flocken, you are next.

STATEMENT OF JEFFREY FLOCKEN, DIRECTOR, DISTRICT OF COLUMBIA OFFICE, INTERNATIONAL FUND FOR ANIMAL WELFARE

Mr. FLOCKEN. Good morning, Mr. Chairman, and Members of the Subcommittee. Thank you for the opportunity to testify before you today. My name is Jeffrey Flocken, and I am the Washington, D.C. Office Director for IFAW, the International Fund for Animal Welfare.

I am here this morning on behalf of both IFAW and Defenders of Wildlife. Our groups represent millions of Americans who care about polar bears and the integrity of America's laws that protect imperiled species, including the Marine Mammal Protection Act, and the Endangered Species Act.

IFAW and Defenders oppose H.R. 991, as it would set a terrible precedent for those landmark statutes, and would serve the narrow special interests of a small number of trophy hunters to the detriment of polar bear and endangered species conservation.

The supporters of this bill are basically making four arguments, all of which are flawed. First, they are saying that since the bears were legally killed, they should be allowed to import them.

Second, they say that it serves no conservation purpose to deny these imports as the bears are already dead. Third, they claim to have experienced a taking of their personal property; and fourth, they claim to have been treated unfairly.

But these arguments are not valid, nor do they outweigh the harm that would be done by passing H.R. 991. First, the fact that these 41 polar bears were legally killed does not justify this amendment. The actual killing of the bears was and remains legal in Canada.

An American hunter could legally hunt polar bear in Canada before the May 15, 2008 listing, and still can today. What became illegal at the time of the listing was the import of the trophies, and the cutoff date for imports is and should be the date when the expert agency listed the polar bear as threatened under the Endangered Species Act, and when it became officially recognized as a depleted species under the Marine Mammal Protection Act.

The second claim that they are making for support of H.R. 991 is that no conservation purpose is served by denying the permits because the bears are already dead. This argument carries no weight. Anyone who kills an endangered or threatened foreign species can say that the species is already dead.

That argument cannot legally justify the later import of a trophy, and this bill is not about the killing of the bears in Canada, but about the import into the United States. Denying the import of species found to be in danger of extinction, such as those 41 polar bears, is one of our best ways to support global conservation.

Third, supporters of the bill claim that the fact that they are not able to import their polar bear trophy is the taking of their personal property. This is not the case. While the polar bear is hunted in Canada, and may be the personal property of the hunters, there is no principle in domestic or international law suggesting that being denied the right to import items constitutes an unlawful taking of property.

The United States bans numerous products and items from import, and those bans are not unlawful simply because the importer owns the property. Finally, there is no valid fairness argument for these 41 hunters to undercut established conservation laws.

These hunters had fair and substantial notice that the species listing was imminent, and that imports could be prohibited as a result. The February 2005 petition to list polar bears received considerable national and international media coverage, and especially impressed targeting the United States hunting communities and outdoor enthusiasts.

Additionally, 16 months prior to the listing of the polar bear the United States Fish and Wildlife Service launched a targeted outreach campaign aimed at the hunting community to inform them that a listing decision was coming, and that such a decision could result in the prohibition of import of hunting trophies.

Again, in January of 2008, the Service informed potential applicants that a decision on the listing was imminent, and that if the species were listed further imports would not be authorized.

Yet, despite these warnings that a listing decision was imminent, the 41 hunters decided to take the risk, and go to Canada, and hunt these polar bears. They not only chose to hunt a species that scientists were saying may be on the brink of extinction, but they did so knowing that they would not be able to import their trophies if the listing happened, which it did.

If Congress were to undermine our laws created to dissuade Americans from killing endangered species, a clear signal would be sent that hunters from America can continue to kill globally imperiled species with the expectation that Congress will create a legal loophole so that they can bring back their trophies at a later day.

Allowing these 41 hunters to bypass these protections establishes a precedent that would erode the foundation of how the United States has chosen to protect imperiled foreign species. Thank you for the opportunity to testify today, and I look forward to answering any questions.

[The prepared statement of Mr. Flocken follows:]

**Statement of Jeffrey Flocken, DC Office Director,
International Fund for Animal Welfare, on H.R. 991**

I appreciate the opportunity to testify on H.R. 991, which proposes an amendment to the Marine Mammal Protection Act (MMPA) of 1972. I am Jeffrey Flocken, Washington D.C. Office Director for the International Fund for Animal Welfare (IFAW). On behalf of IFAW, Defenders of Wildlife, and our millions of supporters worldwide, we oppose this legislation which would set back polar bear conservation efforts and create a dangerous precedent for undermining the protections afforded under the Marine Mammal Protection Act and the Endangered Species Act.

An Overview of Threats to Polar Bears

Polar bears have been protected in the U.S. since 1972, when the Marine Mammal Protection Act (MMPA) was passed, prohibiting the killing of and trade in all marine mammals, including the hunting or importation of sport-hunted polar bears. Unfortunately, Congress, at the behest of trophy hunting special interest groups, created a loophole in 1994 that allowed Americans to hunt polar bears in Canada and bring home trophies. Between 1997 and May 15, 2008, over 960 permits were issued to American hunters by the U.S. Fish & Wildlife Service (FWS) for the importation of trophy-hunted polar bear heads and hides.

In May 2007, the U.S. Geological Survey (USGS) released a series of reports commissioned by the Department of the Interior concluding that by 2050, we will have lost fully two-thirds of the world's polar bear populations. The USGS predicted that the remaining polar bears would disappear gradually after that, with only a small

population hanging on to see the next century. Soon after, the International Union for Conservation of Nature (IUCN) Polar Bear Specialist Group reached similar conclusions—that the polar bear population could drop by 30 percent in 35–50 years and that polar bears may disappear from most of their current range within 100 years.

Polar bears are expected to suffer such dramatic declines as a result of climate change and the resultant reduction of sea-ice which serves as critical polar bear habitat. The Arctic Climate Impact Assessment reported in 2004 that the covering of summer ice in the Arctic has shrunk by 15 to 20 percent in the past 30 years and that decline is expected to accelerate. Further predicted reductions of 10 to 15 percent of annual sea ice and 50 to 100 percent of summer sea ice in the next 50 to 100 years presents a critical threat to the species. The result of this decline is drowning bears, starvation, litters of fewer offspring, and lower cub survival rates.

THE MARINE MAMMAL PROTECTION ACT AND ITS RELATIONSHIP TO THE ENDANGERED SPECIES ACT

Before providing some comments on the Amendment proposed by Congressman Young, it is important to put the amendment into some historical context. In enacting the MMPA in 1972, the House of Representatives explained:

Recent history indicates that man's impact upon marine mammals has ranged from what might be termed malign neglect to virtual genocide. These animals, including whales, porpoises, seals, sea otters, polar bears, manatees and others, have only rarely benefitted from our interest; they have been shot, blown up, clubbed to death, run down by boats, poisoned, and exposed to a multitude of other indignities, all in the interests of profit or recreation, with little or no consideration of the potential impact of these activities on the animal populations involved.

H.R. Rep. No. 92–707 (1971). Based on these findings, and declaring that “certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities,” Congress passed the MMPA to ensure that these species “not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part.” 16 U.S.C. § 1361(1) and (2).

To accomplish this objective, the MMPA imposes a moratorium on the taking and importation of marine mammals, *id.* § 1371; see also *id.* § 1372(b), and establishes a scheme under which these activities may be permitted by the agency. For the import of species such as the polar bear, the principal authority for the agency to issue such permits is a provision allowing imports “for purposes of scientific research, public display, or enhancing the survival or recovery of” the species. *Id.* § 1371(c).

In 1994, Congress amended the MMPA to permit the import of polar bear body parts taken in sport hunts in Canada where certain conditions are met, including the approval of hunting for certain polar bear populations. Pub. L. No. 103–238, § 5 (1994).

The MMPA also has always provided special protection for a species designated as “depleted” under the statute. 16 U.S.C. § 1362(1). Of particular relevance here, MMPA Section 102(b) provides that, irrespective of the polar bear import provision or any other permit authority, once a species is designated as “depleted” import permits may only be issued “for scientific research, or for enhancing the survival or recovery of a species or stock....” *Id.* § 1372(b)(3).

The 1972 statute defined a “depleted” species, *inter alia*, as one that “has declined to a significant degree over a period of years,” or “has otherwise declined and that if such decline continues...such species would be subject to the provisions of the” ESA. See Pub. L. No. 92–522, § 3(1). In 1981, that definition was expanded to include “any case in which...a species or population stock is listed as an endangered species or a threatened species under” the ESA. Pub. L. No. 97–58, § 1 (1981) (*emphasis added*). As the House Report on this amendment explained, this change “recognized that species that are listed under the Endangered Species Act are, *a fortiori*, not at their Optimum Sustainable Population and, therefore, should be considered depleted.” H.R. Rep. No. 97–228, at 16 (1981).

THE 2009 AMENDMENT

In May 2008 the FWS listed the polar bear as a threatened species under the ESA throughout its range. 73 Fed. Reg. 28,212 (May 15, 2008). In listing the species the Service explained that, prior to 1973, the polar bear was declining due to “severe overharvest” that occurred in light of “the economic or trophy value of their pelts.” *Id.* at 28,238. While the subsequent cessation in large-scale hunting provided some protection to the species, the Service found that other threats have continued to cause population declines, including climate change-induced reductions in sea ice;

reduced prey availability; and continued overharvest in certain areas. *Id.* at 28,255–28,292. In light of these threats, the Service concluded that the polar bear is likely to become an endangered species “within the foreseeable future,” and consequently listed the species as threatened under the ESA. *Id.* at 28,238. Moreover, while the agency has the authority under certain circumstances to limit a species’ protection to certain discrete portions of its range, the FWS determined that the species was threatened throughout its range, including the polar bear populations in Canada.

Pursuant to MMPA Section 3(1), by virtue of the ESA listing the polar bear became a “depleted” species under the MMPA. 16 U.S.C. § 1362(1). This, in turn, triggered MMPA Section 102(b)’s proscription on polar bear import permits, limiting them to those issued for scientific research or enhancement of survival purposes. *Id.* § 1372(b). Accordingly, because the species is threatened with extinction, the FWS may no longer allow trophy hunters to kill polar bears in Canada and import their body parts into the United States.

The proposed amendment would circumvent this existing regulatory scheme, authorizing the FWS to issue import permits for polar bears killed from previously approved populations in Canada up until the date the species was listed under the ESA. The amendment should be rejected for both legal and policy reasons.

The amendment fundamentally undermines the critical relationship between the protections that species presently receive under the ESA and the MMPA. Under the MMPA, Congress recognized that a species may be “depleted”—thereby warranting a ban on imports—even before it becomes so imperiled that it requires listing under the ESA. Indeed, a species can be designated as depleted simply because it is below its “optimum sustainable population,” 16 U.S.C. § 1362(1)(A)—which is the “number of animals that will result in the maximum productivity of the population or the species.” *Id.* § 1362(9) (emphasis added).

Under this amendment, however, although the polar bear is now listed under the ESA, it will not be uniformly treated as depleted under the MMPA. Instead, the FWS will continue to allow certain recreational hunters to import their polar bear trophies into this country.

The fact that the amendment is limited to those polar bears killed before the species was listed does not change this fact. The ban on imports of imperiled species is a critical tool by which the United States can impact the treatment of those species in other countries. Certainly, hunters who wish to bring their trophies into this country will have significantly less incentive to participate in a sport hunt if that import is prohibited. The import ban also sends an important signal to our conservation partners in other countries, helping to generate efforts that might improve the species’ status so that imports may once again be permitted.

Allowing continued imports of polar bears, by contrast, sends exactly the wrong signal. The polar bear has become a poster child for species’ conservation in a world rapidly changing due to human impacts. To allow sport-hunters to bring polar bear body parts into this country after the expert agency has decided that the species is threatened with extinction broadcasts that the protection of the species is not that important, and that the interests of sport-hunting take precedence over the interests of the long-term protection of the polar bear.

In this regard, it is also critical to recognize that nothing dramatic happened to the polar bear’s on-the-ground condition in May 2008. The species was not imperiled the day after the listing, but in fine health the day before. Instead, as the Service recognized in listing the species, the polar bear faces ongoing and long-term threats to its existence. Therefore, from a conservation perspective there is no principled basis to distinguish between polar bears killed before the listing and those killed afterwards. In short, now that the species is listed imports of trophies should be prohibited, regardless of when the species was killed.

The fact that the listing became effective on the date it was published in the Federal Register, and not after a thirty day “grace period” as is often the case, also does not support allowing imports of sport-hunting trophies after the species was listed. As a federal district court judge explained when she rejected the sport-hunter’s argument that a special exception should be made for hunters who had submitted import applications for bears killed prior to the listing, sport-hunters “assumed the risk that they would be unable to import their trophies” when they chose to engage in sport-hunting despite the fact that the species was under consideration for listing under the ESA. *Center for Biological Diversity v. Kempthorne*, No. 08–1339 (N.D. Cal. July 11, 2008). In fact, the country’s largest hunting organizations repeatedly warned their members that a listing would result in imports of polar bear trophies being prohibited. Despite being given more than a year’s notice by the FWS and being warned by hunting organizations, individuals chose to participate in hunts. Equity does not demand that Congress now act to allow the import of trophies taken by hunters who assumed the risk that future import would be prohibited.

Moreover, most, if not all, of the hunters who submitted import applications before the listing could not have obtained an import permit within the grace period in any event, given the notice and comment process involved in obtaining such a permit. In written testimony provided by Dr. Rowan Gould to this Subcommittee's September 22, 2009 hearing on H.R. 1054, the FWS stated that they would have been able to issue only twenty of the pending permits prior to the 30-day grace period's expiration. Eight of the twenty hunters would then only have had two days to import their trophies.

It is also crucial to appreciate that this amendment is a stark departure from earlier amendments allowing these imports. While Congress has twice amended the statute to allow imports of polar bears killed years earlier, at neither time was the species listed under the ESA and depleted under the MMPA. Moreover, while hunters certainly knew the species was likely to be listed—therefore banning imports—this amendment would allow hunters who killed a polar bear just weeks, or even days, before the listing, to bring their trophies into this country. Further, the overbroad text of this bill would allow the import of even those polar bears trophies killed in Canada for which no import permit was submitted to FWS prior to the listing of the species on May 15, 2008. Congress should not support the perverse incentives created by such an approach. Indeed, particularly if Congress passes this amendment, hunters will assume that if they continue to hunt polar bears in Canada despite the ESA listing, provisions will be made to allow their importation in the future.

This brings me to the pending litigation. The ESA listing is presently being challenged in multiple lawsuits pending in federal court for the District of Columbia, including by sport-hunting groups. This litigation is yet another reason that the proposed amendment is both ill-conceived and ill-timed.

If Congress passes this amendment, and then the plaintiffs lose the pending litigation and the court upholds the listing, we could well be here again in a few years. At that time, sport-hunters might seek an amendment allowing the import of trophies for polar bears killed before the judicial opinion was issued. Their argument then, much like their argument now, would be that when they went on their hunts in 2009, the species' status was "uncertain" because of the litigation. Because they believed the listing should and would be set aside, they would argue, they should not be penalized by not allowing their trophies to be imported. Moreover, they would also argue, since the polar bears killed in 2009 are already dead, allowing their import would not impact the conservation of the species. The fact that passing the amendment today allows that argument in the future simply highlights why the amendment makes no sense now, just as it will make no sense then. In short, the only reasonable line to draw for imports is the one already drawn by the existing regulatory scheme: banning sport-hunted imports at the time the species is listed.

Finally, if the sport-hunting groups prevail in the current litigation, the amendment under consideration today would not be necessary. If the species were no longer listed as threatened, it would no longer be depleted, and the original polar bear import provision would go back into effect, barring some other legislative development.

Alternatively, the sport-hunting groups are also arguing to the court that the polar bear import provision remains in effect despite the listing. If they prevail on this alternative argument, imports would once again be permitted on that basis. In light of these possibilities, it is at the very least premature for Congress to consider this amendment at this time.

CONCLUSION

Through the interplay between the ESA and the MMPA, Congress has already struck a balance between the conservation needs of marine species such as the polar bear and the other interests, including those of sport-hunters. We urge Congress not to upset that balance by permitting sport-hunters who have gone to Canada to kill polar bears to continue to import their body parts into this country, despite the fact that the FWS has determined that the species is threatened with extinction throughout its range, including Canada. Thank you for the opportunity to submit these comments.

Mr. YOUNG. Mr. Smith, I admire what I call a stoic approach to someone sitting next to you that definitely said what is not true. So I appreciate your patience. So, Mr. Smith, you are up for five minutes.

**STATEMENT OF STEVE SMITH, MEMBER,
DALLAS SAFARI CLUB**

Mr. SMITH. Good morning, Mr. Chairman and Members of the Committee. I am here today speaking as a citizen who has suffered the taking of my property because of Federal regulatory action.

I appreciate the opportunity today to tell my story. I was told by a booking agent in January of 2008 that the waiting list for polar bear hunts was about five years. So you can imagine my excitement when that agent called me the following March to tell me of a hunt which had just become available in early May.

Besides the adventure, I knew that my participation in this hunt would help conserve the bear population and provide an income source to the Inuit people. I arrived in Resolute, Nunavut, Canada, to meet my guides. We were going to hunt from dog sleds just as their ancestors had been doing for generations.

The subject of a possible rulemaking by the United States which would affect polar bear hunting did come up, but the people of Resolute were not too concerned. They lived with these bears and felt that they were in no way endangered.

After many days of subzero temperatures and challenging frozen terrain, I was elated to have success on this difficult, yet exhilarating hunt. After passing on several bears, I took a male polar bear, which was later determined to be 23 years old. This was on the 11th of May of 2008, three years ago yesterday.

Of course, I wanted to bring my bear home to create a taxidermy mount. I had contacted the United States Fish and Wildlife Service prior to departing for the hunt to ensure that my paperwork was prepared and submitted properly.

After the hunt, and while still in Canada, I faxed them additional required information and began making arrangements to have my bear expedited to Texas. This is when I learned that the United States Interior Department had made its decision on the status of the polar bear, listing it as threatened under the Endangered Species Act.

The ruling was then made effective immediately, May 15th, four days after I took my bear. This is something which I don't fully understand, and from which I have never been given a reason.

So not only was I shocked to hear the ruling, but even more astounded to learn that importation of my legally hunted polar bear, which was taken prior to the Interior Department's decision, was banned under the Marine Mammal Protection Act.

I had properly submitted my paperwork to the United States Fish and Wildlife Service for their mandatory 30 day review period. I find it distressing that the government required me to abide by a 30 day review period for importation, but with this ruling, it instantaneously changed its import policy.

While I will never lose the experience, a taxidermy mount would have been my lasting memento and cannot happen since this regulation effectively confiscated my polar bear.

The bear hide is now in cold storage in Canada. The longer it remains in storage, the greater the risk it could be ruined. I am asking you to support enactment of H.R. 991. This simple bill will do only one thing. It will allow me and the other 40 similarly affected hunters in this country to import the bears we legally hunted.

It will not change the ESA listing. It will not allow future bear imports. It will only simply restore my property to my possession. This issue is not about hunting. It is a simple matter of returning property that was effectively taken by regulatory action.

I made an enormous investment in my polar bear hunt, and the government has stripped me of my property. With the addition of storage fees, and other expenses, I have now spent in excess of \$50,000.

In the three years since my hurt, I have shared my story with many people, both hunters and non-hunters, and I have yet to find anyone who believes that denying the import of my legally taken bear is justifiable.

I am not questioning others rights to champion bears if they feel that their cause is just, but I am questioning why there is such a determined effort to blocking the importation of these particular bears since, to put it bluntly, these 41 bears are beyond saving. Should not their focus be elsewhere?

I sincerely hope that you will consider and cosponsor the enactment of H.R. 991. I would like to thank the Dallas Safari Club for assisting me in my effort to testify today, and appreciate the position the club has taken to help move this legislation forward.

Mr. Chairman, thank you once again for the opportunity to tell my story to the Committee. I appreciate your careful consideration of this legislation.

[The prepared statement of Mr. Smith follows:]

Statement of Steve Smith, Member, Dallas Safari Club, on H.R. 991

Mr. Chairman, Members of the Committee, I am here today speaking as a citizen who has suffered the taking of my property because of federal regulatory action. I appreciate the opportunity today to tell my story.

I was raised in a small east Texas community and learned the values of hunting and wildlife conservation from my father who introduced me to hunting at the age of nine. I took my first deer at about age eleven with my mother sitting with me in the deer stand. She too developed a love for hunting and the outdoors. My father, knowing my enthusiasm for the sport of hunting and the outdoors, encouraged me to pursue a career with a firearms or ammunition company as a tester, so I could travel the world as a hunter. We were both particularly fascinated with hunting in Africa which seemed so exotic to us. However, after seeing a television show on hunting the polar bear in the Arctic, my dad thought that would be the ultimate hunt. He passed away when I was in high school and never got to experience more than the duck and deer hunting we shared together. But I never forgot our conversations about that ultimate hunting trip.

After attending college and working for several years I was fortunate enough to be able to afford to resume the hunting that I loved so much as a young man. I hunted several North American species in the U.S. before turning my focus to hunting in other parts of the world.

In January of 2008 I decided to inquire about the possibility of hunting polar bear in the Arctic and after getting referrals from others in the hunting community I contacted a booking agent who informed me that the waiting list to hunt polar bear was about five years. I was disappointed but decided to focus on other upcoming hunts and travels. As an after thought I told the agent that if there happened to be a cancellation to please contact me. He laughed and said that in his twenty years of booking hunts no one had ever cancelled a polar bear hunt.

So you can imagine my shock when in March that same booking agent called to inform me that another hunter needed to cancel his hunt. The hunt date was early May of 2008. I didn't have much time to prepare but jumped at the opportunity. I began purchasing the necessary cold weather gear, booking flights and lodging and working with a firearms expert on how my rifle would respond in the Arctic conditions.

Besides the adventure, I knew that my participation in this hunt would help conserve the bear population and provide an income source to the Inuit people. When

I arrived in Resolute, Nunavut, Canada the day before my guided hunt was to begin. I met many of the locals whose livelihood depended on hunting. My guides and I were going to hunt from dogsleds just as their ancestors had been doing for several generations. They were a wealth of information on the polar bear habitat and population. The subject of a possible ruling by the U.S. Fish and Wildlife which could prohibit future importation of polar bear trophies to the United States did come up, but the people of Resolute could not really understand the concern since they had lived with and hunted these bears for generations and felt that they were in no way endangered. They already understood and practiced careful conservation of these bears which they considered a very precious natural resource.

After many days of inclement weather, challenging frozen terrain on a bumpy dogsled, and hunting and sleeping in subzero temperatures, I was elated to have success on this difficult yet exhilarating hunt. After encountering and passing on several bears which were either females or young males I took a male polar bear which was later determined to be twenty-three years old. His facial hair was worn off from years of diving through the ice and his teeth were old and broken. I took this bear on the 11th of May 2008, which was three years ago yesterday.

Of course I wanted to bring my bear home to create a taxidermy mount as a symbol of this amazing experience. I had contacted U.S. Fish and Wildlife prior to departing for the hunt to ensure that my paperwork was prepared and submitted properly. After returning from the ice I faxed the remaining required information to them while still in Canada. I made arrangements for my bear to be expedited to my taxidermist in Texas. This is also when I was informed by the people of Resolute that the U.S. Interior Department had made it's ruling on the status of the polar bear. The ruling took effect on May 15—four days after I took my bear. The local people were understandably disappointed and many voiced their opinion that this ruling was interfering with the way in which they had conserved and harvested polar bears.

I had properly submitted my paperwork to the U.S. Fish and Wildlife Service for their mandatory 30-day review period. I hope you can understand my surprise and dismay when the Interior Department listed the polar bear as "threatened" under the Endangered Species Act (ESA). The ruling was then made effective immediately—something which I don't fully understand and for which I have never been given a reason. Not only was I shocked to hear this ruling, but even more astounded to learn that the importation of my legally hunted polar bear, which was indeed taken prior to the Interior Department ruling, was not going to be allowed. As a result of this ruling, U.S. hunters are now banned from importing these legally-harvested polar bears into the United States under the Marine Mammal Protection Act. With that, I basically lost my investment in this trip.

While I'll never lose the experience, the polar bear taxidermy mount, which would have been my lasting trophy, cannot happen under current laws, and this regulation effectively confiscated my legally taken polar bear. Right now, the bear hide and skull are in cold storage in Baltimore, Ontario, Canada. I hesitate to spend the money to have the taxidermy work done in Canada without knowing when, or if, I will ever be able to import it to my home, and yet the longer the hide sits unmounted in storage, the greater the risk that it will be ruined. I find it distressing that the government required me to abide by a 30-day review period before importation, but with this ruling it instantaneously changed its import policy.

I am asking you to support enactment of H.R. 991. This simple bill will do only one thing—it will allow me and the other 40 similarly affected bear hunters in this country to import the bears we legally hunted. It will not change the ESA listing. It will not allow future bear imports. It will simply restore my property to my possession.

This issue is not about hunting. It's a simple matter of returning property that was effectively taken by regulatory action. I made an enormous investment in my polar bear expedition and the government has effectively stripped me of my property. With the addition of storage fees and other expenses I have now spent in excess of \$50,000.

This is a deeply personal issue that has had an enormous impact on me. In the three years since my hunt I have shared my story with many people, both hunters and non-hunters, and I have yet to find anyone who agrees that this denial of import of my legally taken trophy is fair or appropriate. I do not understand why there is any opposition to the importation of these legally and ethically hunted polar bears. I am not questioning others rights to champion bears if they feel their cause is just, but I am questioning why there is such a determined effort to blocking the importation of these particular bears since, to put it bluntly, these forty-one bears are beyond saving. Shouldn't their focus be elsewhere?

I sincerely hope you will consider, co-sponsor, and support enactment of H.R. 991.

I would like to thank the Dallas Safari Club in assisting me in my effort to testify today and appreciate the position the Club has taken to help move this legislation forward.

Mr. Chairman, thank you once again for the opportunity to tell my story to the Committee. I appreciate your careful consideration of this legislation.

Mr. YOUNG. Thank you, and I want to compliment the panel for being on time. It is really very well done. Usually they have to go over and I have to go tappy-tap-tap. But thank you. It shows a little bit of professionalism. Ranking Member.

Mr. SABLAN. Well, thank you very much, Mr. Chairman. Mr. Chairman, I ask for unanimous consent to enter into the record a statement in opposition to H.R. 991 submitted by the Humane Society of the United States.

Mr. YOUNG. I may not agree to that. You know that.

[The prepared statement by the Humane Society follows:]

Statement submitted for the record by The Humane Society of the United States on H.R. 991, a Bill to Amend the Marine Mammal Protection Act of 1972 to Allow Importation of Certain Polar Bear Trophies Taken in Sport Hunts in Canada

The Humane Society of the United States is grateful to the Subcommittee for the opportunity to submit written testimony in opposition to H.R. 991, a bill to amend the Marine Mammal Protection Act of 1972 to allow importation of certain polar bear trophies taken in sport hunts in Canada. On behalf of The HSUS, the nation's largest animal protection organization, and our more than 11 million supporters, we strongly oppose this legislation, which would roll back polar bear conservation efforts and set a dangerous precedent for gutting the protections provided under the Marine Mammal Protection Act and the Endangered Species Act.

Overview of the Threats to Polar Bears

The polar bear has been protected in the U.S. since 1972, when the Marine Mammal Protection Act (MMPA) was passed, which prohibited the killing of and trade in all marine mammals, including the hunting or importation of sport-hunted polar bears. Unfortunately, in 1994 the trophy hunting lobby tore a loophole in the MMPA, allowing more than 900 sport-hunted polar bear trophies to be imported into the U.S. from Canada since 1997.¹

In May 2008, the polar bear was listed as “threatened” under the Endangered Species Act (ESA) and from that point on the MMPA prohibited all importation of sport-hunted polar bears into the U.S., as polar bears are now considered “depleted” under that statute.² These bears are under serious threat from global climate change and should not be forced to contend with systematic pressure from trophy hunters to roll back long-sought protections.

Melting Sea Ice

A decline in polar bear numbers in recent years has been linked to the retreat of sea ice—a critical hunting ground for polar bears—and its formation later in the year. Warming temperatures also break up sea ice earlier, and this trend is expected to continue. Monitoring has noted a significant decline in minimum sea ice extent over the past few decades, equating to a 23,328 sq mi loss of ice per year, and this loss appears to be accelerating.³ The Arctic is predicted to be seasonally ice-free by the end of the 21st century,⁴ which poses a considerable threat to the species. Some scientists believe that the Arctic may be ice free during the summer in as little as 30 years.⁵

Melting ice has resulted in a decreased prey base, forcing bears to swim longer distances to obtain food, exhausting them, which can lead to drowning.⁶ Polar bears

¹ 103 Pub. L. No. 238, § 4, 108 Stat. 532 (1994)

² 73 Fed. Reg. 28,212 (May 15, 2008); 16 U.S.C. §§ 1362(1)(C), 1371 (a)(3)(B),

³ 73 Fed. Reg. 28,212 (May 15, 2008), p. 28,220.

⁴ 73 Fed. Reg. 28,212 (May 15, 2008), p. 28,230.

⁵ Wang, M. and J. E. Overland. 2009. A sea ice free summer Arctic within 30 years? *Geophys. Res. Lett.* 36: L07502, doi:10.1029/2009GL037820.

⁶ 73 Fed. Reg. 28,212 (May 15, 2008), p. 28,262.

have been forced ashore before they have had time to build up sufficient fat stores, resulting in thinner, stressed bears, decreased reproductive rates, and lower juvenile survival rates.

Pollutants

The Arctic is also considered a “sink” for environmental contaminants, including heavy metals and organochlorines, which are carried northward in rivers, oceans and air currents. These toxins are accumulated at higher levels along the food chain and researchers have found high levels of pollutants in polar bears, which can severely compromise the animals’ health and reproductive capacity. The lead author of a study recently published in the *Journal of Zoology*, which details the problem of polar bears becoming smaller due to these environmental threats, stated that the polar bear is “one of the most contaminated individuals in the world.”⁷

Starvation and Cannibalism

There are increasing reports of starving polar bears in the Arctic attacking and feeding on one another. In 2006, a new study by American and Canadian scientists reviewed three examples of polar bears preying on each other.⁸ One incident was documented in 2004 in Alaska, in which a male polar bear broke into the den of a female polar bear and killed her shortly after she gave birth. During 24 years of research in northern Alaska’s southern Beaufort Sea region and 34 years in north-west Canada, the researchers had never before seen incidents of polar bears stalking, killing and eating other polar bears. One of the researchers stated, “It’s very important new information. It shows in a really graphic way how severe the problem of global warming is for polar bears.”⁹

Population Declines

The over-hunting of adult polar bears can cause a catastrophic crash in their population. Well over half of the polar bear populations are either of unknown, severely reduced, or declining status. The International Union for Conservation of Nature (IUCN) Red List of Threatened Species reasons that “a potential risk of over-harvest due to increased quotas, excessive quotas or no quotas in Canada and Greenland and poaching in Russia” are contributing to this decline.¹⁰ According to the results of a 2009 meeting of the IUCN’s Polar Bear Specialist Group, of the 19 discrete polar bear populations worldwide, only one, in the Canadian high Arctic, is increasing. Three populations appeared to be stable, while seven are too poorly monitored to know their status. The remaining eight populations are declining. The previous meeting in 2005 concluded that only five populations were in decline at that time.

According to the U.S. Geological Survey, the world’s population of 20,000 to 25,000 polar bears will decline sharply as their habitat continues to shrink. As their habitat melts, polar bears will struggle, lead shorter lives, produce fewer or no offspring, and the survival rate of their offspring will be reduced. Steven Amstrup of the USGS stated, “Our results have demonstrated that as the sea ice goes, so goes the polar bear.”¹¹ He stated that polar bears in their southern range will die off first as sea ice melts, as they are forced to come ashore earlier in the year, facing food shortages before they have stored enough fat to last through the season.

Hunters Were Well Aware of the Risks to Trophy Imports

The trophy hunters who claim they were harmed by the threatened listing had sufficient warning that the polar bear would likely be listed and that their trophy import applications would likely be denied. Moreover, as described below, these trophy hunters have already had their pleas for special treatment rejected by a federal court, and by the U.S. Fish and Wildlife Service (USFWS). Congress should not bail them out now.

The USFWS proposed to list the polar bear in January 2007, triggering an ESA requirement that the USFWS finalize the listing by January 2008. The actual listing did not occur until months later, in May 2008. The USFWS’s listing decision was unlawfully delayed such that imports were allowed for several months beyond

⁷Pertoldi, C., C. Sonne, R. Dietz, N. M. Schmidt, and V. Loeschcke. 2009. Craniometric characteristics of polar bear skulls from two periods with contrasting levels of industrial pollution and sea ice extent. *Journal of Zoology* 279: 321–328.

⁸Amstrup, Steven C., et al. Recent observations of intraspecific predation and cannibalism among polar bears in the southern Beaufort Sea. *Polar Biol* (2006). http://www.polarbearsinternational.org/sites/default/files/scientists/den_predation_2006.pdf

⁹<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/12/AR2006061201266.html>

¹⁰<http://www.iucnredlist.org/apps/redlist/details/22823/0>

¹¹<http://news.nationalgeographic.com/news/2007/09/070910-polar-bears.html>

the point at which they should have been halted, and yet hunters have still argued for importation of more trophies.

In fact, most if not all of the 41 polar bear trophies that would be affected by H.R. 991 were shot in bad faith, since the dates of the sport hunts occurred in late 2007 or early 2008—after the agency and hunting groups provided ample warning that trophy imports might soon be barred.

Several other imports are now disallowed under the MMPA by virtue of the “depleted” status of the species, such as imports for public display purposes.¹² Allowing polar bear trophies to be imported despite their depleted status would create substantial inequity among other potential import applicants, and U.S. trophy hunters should not be given preferential treatment.

Repeated Warnings by Hunting Groups

Even the largest hunting organizations warned their members repeatedly, ensuring that trophy hunters who shot polar bears prior to their listing under the ESA were given more than sufficient notice about the impending listing. Conservation Force, a group that is leading the campaign to allow the importation of additional sport-hunted polar bear trophies into the U.S., repeatedly issued stern, unambiguous warnings to its members. In the group’s December 2007 newsletter, which was e-mailed to members in November, nearly six months before the species was listed, it stated:

“American hunters are asking us whether they should even look at polar bear hunts in light of the current effort by the U.S. Fish & Wildlife Service to list this species as threatened. The listing, you’ll recall, will trigger provisions in the Marine Mammal Protection Act banning all polar bear trophy imports to the US,” and that even though it was unclear what the final outcome would be, “[t]he bottom line is, no American hunter should be putting hard, non-returnable money down on a polar bear hunt at this point. Also, Americans with polar bear trophies still in Canada need to get them home soon or risk losing them. . . the threat to polar bear hunting is real and imminent.”¹³

In Conservation Force’s newsletter the following month, members were adamantly warned: “It may be the end of the world as we know it” and “the end of the modern world in which we live.”¹⁴ Members were also warned that “we feel compelled to tell you that American trophy hunters are likely to be barred from importing bears they take this season. Moreover, there is a chance that bears taken previous to this season may be barred as well. American clients with polar bear trophies still in Canada or Nunavut need to get those bears home.”¹⁵

In April 2008, Conservation Force told its members, “Many hunters have forgone their hunts rather than risk that the bear may be listed and trophy imports will probably be prohibited to all hunters who don’t have a permit in hand before the effective date of the final listing rule.”¹⁶ In a bulletin titled “Grim News For Polar Bear Hunters,” Conservation Force stated that “[t]he bottom line here is, the service is widely expected to list some or all of the polar bear populations as threatened next month, and that will stop all imports of those listed immediately.” After Conservation Force personally called the USFWS, it was confirmed that “No already-permitted bears would be allowed into the U.S. after May 15. End of story. As for unpermitted bears, the news was even bleaker. At this point, there was no time to even get a permit.”¹⁷

Safari Club International members were informed about the potential listing in no less than eight different newsletters sent from the organization.¹⁸ One of these even stated that, “If some or all of the polar bear populations are listed, the FWS has indicated that imports of trophies from any listed populations would be barred

¹² 16 U.S.C. § 1371(a)(3)(B).

¹³ Conservation Force. “The Hunting Report” Newsletter. December 2007. Volume 27, Number 12, Page 9.

¹⁴ Conservation Force. “The Hunting Report” Bulletin. January 2008. Volume 28, Number 1, Page 2.

¹⁵ Conservation Force. “The Hunting Report” Extra Bulletin. January 9, 2008.

¹⁶ Conservation Force. “The Hunting Report” Bulletin. April 2008. Volume 28, Number 4, Page 1.

¹⁷ Conservation Force. “The Hunting Report” Extra Bulletin. April 29, 2008.

¹⁸ Safari Club International. “SCI Action Alert” E-mail. September 21, 2007; Safari Club International. “In the Crosshairs” E-mail bulletin. October 4, 2007; Safari Club International. “In the Crosshairs” E-mail bulletin. October 19, 2007; Safari Club International. “In the Crosshairs” E-mail bulletin. October 23, 2007; Safari Club International. “In the Crosshairs” E-mail bulletin. January 7, 2008; Safari Club International. “In the Crosshairs” E-mail bulletin. February 22, 2008; Safari Club International. “In the Crosshairs” E-mail bulletin. April 17, 2008.

as of that date, regardless of where in the process the application is.”¹⁹ The U.S. Sportsmen’s Alliance also informed its members in at least one of its newsletters.²⁰

After being given more than a year of notice from the USFWS and warnings from various hunting organizations, some chose to either book a hunt in the few months prior to the listing, or chose to wait to submit an application to import their trophies even after the species was listed. These individuals did so at their own risk.

In fact, the number of polar bear trophies imported into the U.S. rose dramatically in advance of the listing—to 112 trophies in 2007, more than doubling the previous year’s number of 52 imports. Hunting groups were urging people to get their polar bears before the listing took effect, and that’s clearly what most hunters did. These last few bears killed simply represent poor planning on the part of a few hunters who didn’t listen, when most of their counterparts knew what was coming and rushed in to get their bears. It’s a self-inflicted problem, and now they’re crying over spilt milk.

Cases in the Federal Courts

This very issue of whether to allow sport-hunted polar bear trophy imports has already been considered by a federal court. In 2008, as part of the litigation over USFWS’s listing decision, several hunting groups asked the federal court for the Northern District of California to order the USFWS to allow the importation of trophies of bears killed prior to the ESA listing.²¹

The USFWS, under the Bush Administration, argued strongly in court against requiring the agency to allow imports of polar bears killed prior to the listing. The government responded to the hunters’ request by noting that allowing importation would severely undermine current MMPA provisions. The MMPA specifically prohibits the importation of any “depleted” animal, regardless of when the animal was taken.²²

The government’s brief in the case noted, “As a result of the polar bear’s depleted status under the MMPA, no importation of polar bear trophies from Canada is permitted. . . .The Court should decline to order Defendants to grant special permission for the import of polar bear trophies. . . .”²³ The agency added, “Therefore, when [the USFWS] issued the final rule listing the polar bear as threatened under the ESA with an immediate effective date, the polar bear automatically gained depleted status under the MMPA as of May 15, 2008. Because the polar bear now has depleted status under the MMPA, the statute specifically precludes importation of polar bears or polar bear parts except for scientific research purposes, photography for educational or commercial purposes, or enhancing the survival or recovery of the species. See id. § 1371(a)(3)(B). Importation of sport-hunted trophies under Section 1374(c)(5) is not included in the list of allowable exceptions.”²⁴

The USFWS also noted that allowing the importation of sport-hunted polar bear trophies from Canada “would be inappropriate” because the agency would have to go back and process applications for some pre-listing trophies, which “would be burdensome for [the agency], and confusing for the regulated community.”²⁵ Further, the USFWS explained that in order to allow importation, the agency would have to withdraw and amend the listing rule, which “would be inequitable” given the substantial time and resources the agency spent finalizing the rule.²⁶ If H.R. 991 is enacted, the USFWS may indeed need to amend the listing rule to clarify the status of polar bear trophies killed prior to listing, requiring additional agency resources.

After considering the arguments of the parties, Judge Wilken of the Northern District of California denied the request. Judge Wilken specifically noted that hunters had fair warning of the impending ESA listing and “assumed the risk. . . they would be unable to import their trophies” by continuing with their hunts.²⁷

The trophy import issue is now before the federal District Court for the District of Columbia.²⁸ The trophy hunters have filed several consolidated lawsuits on this issue of import of polar bear trophies, and these lawsuits are currently being liti-

¹⁹ Safari Club International. “In the Crosshairs” E-mail bulletin. April 29, 2008.

²⁰ U.S. Sportsmen’s Alliance. “On Target” e-mail newsletter. October 31, 2007.

²¹ *CBD, et al. v. Kempthorne*, Civ. No. 08–1339 CW (N.D. California).

²² 16 U.S.C. § 1371(a)(3)(B).

²³ Defendants’ Supplemental Brief on Import of Polar Bear Trophies, Civ. No. 08–1339, Dkt. No. 81, at 2 (May 27, 2008).

²⁴ *Id.* at 5.

²⁵ *Id.* at 7.

²⁶ *Id.*

²⁷ Order Concerning the Importation of Polar Bear Trophies, *CBD, et al. v. Kempthorne*, N.D. California, Civ. No. 08–1339 (J. Wilken, July 11, 2008).

²⁸ *In re Polar Bear Endangered Species Act Litigation*, D. D.C., Misc. Action No. 08–0764.

gated.²⁹ Further, the trophy hunters have also challenged the ESA listing itself, in the same federal court.³⁰ If the polar bear hunters are successful in these lawsuits, the import of polar bear trophies (including those currently being stored in Canada and at issue here) will be allowed again. Briefing in *both* the trophy import and the listing lawsuits has been completed, and the court has already heard oral argument on motions for summary judgment. Thus, the cases are ripe for final ruling by the court, and such ruling could be issued at any time.

The trophy hunters availed themselves of a judicial forum for their complaints, and have already been turned away once. New litigation on the issue has been brought by the trophy hunters and is near completion. Valuable court resources and time have been expended on the litigation, and now the hunters are coming to Congress before the judicial process is complete. It is a waste of congressional time and resources to weigh in on an issue that the federal courts may soon decide.

USFWS Denial of Special Exemption Permits

After the ESA listing was published, and the federal court in the Northern District of California rejected the trophy hunters' request for an order allowing imports, several hunters applied for import permits under the "enhancement of survival" provisions of the MMPA. Although the MMPA generally prohibits the importation of "depleted" species, it provides a specific and narrow exemption to this prohibition whereby a depleted species may be imported if the importation is likely to "enhance[e] the survival" of the species by "contribut[ing] significantly to...increasing distribution" of the species.³¹

The USFWS and the Marine Mammal Commission ("MMC") determined that the hunters were not entitled to these permits.³² The FWS recognized that Congress maintained this narrow exception to ensure that only importations that actually benefit species are permitted. If hunters were allowed to circumvent this process, Congress's carefully limited exceptions would be rendered meaningless. Nevertheless, the trophy hunters are now asking Congress to give them the preferential treatment that they did not receive from the USFWS.

H.R. 991 Would Harm Polar Bear Conservation Efforts

H.R. 991 is essentially an attempt by trophy hunters to repeat history and amend the MMPA to allow the importation of sport-hunted polar bear trophies, as they did 17 years ago. The original Act of 1972 barred the importation of all marine mammals and their parts, including polar bears—the same law that prohibits American citizens from bringing whale meat back from Japan or seal fur back from Canada. However, in 1994, trophy hunters and their congressional allies successfully punched a gaping loophole through the law, which allowed hunters to import polar bear trophies if the bears were taken in Canada from certain "approved" populations under a "scientifically sound quota" system.³³ Still unsatisfied with this newly created opportunity to import polar bear trophies, in 1997 hunters convinced Congress to allow import of trophies taken before the 1994 loophole was enacted, as long as the trophy was hunted legally in Canada—even if the hunting did not meet the 1994 loophole's conservation requirements.³⁴ Finally, in 2003, trophy hunters sought and received yet another "grandfather-in" exemption. Even though hunters and hunting guides were well-aware of Congress' 1994 restrictions on imports, USFWS did not issue regulations implementing the import loophole until 1997. Hunters argued that this created "confusion," and again convinced Congress to permit the otherwise unlawful import of any bear hunted in Canada before the regulation's published date of February 11, 1997, even if the 1994 loophole's conservation measures were not met.³⁵

And they made the same arguments back then that they're making now. Law-abiding hunters shot their polar bears legally in Canada, they said, and the trophies were just sitting in storage, so it wouldn't hurt just to let them transport those already-dead bears across the border. The problem was that this policy change opened the floodgates to more and more American trophy hunters trekking north to get the

²⁹ *Safari Club Int'l, et al. v. Salazar, et al.*, No. 08–881; *Hershey v. Salazar, et al.*, No. 09–324; *Kreider v. Salazar, et al.*, No. 09–325 (all consolidated within Misc. Action No. 08–0764)

³⁰ *In re Polar Bear Endangered Species Act Litigation*, D. D.C., Misc. Action No. 08–0764.

³¹ 16 U.S.C. §§ 1371(a)(3)(B), 1374(c)(4).

³² See MMC Comments available at http://www.mmc.gov/letters/pdf/2008/polarbear_121608.pdf (recommending that FWS adopt the position "that Congress never intended sport hunting to be considered an enhancement activity").

³³ 103 Pub. L. No. 238, § 4, 108 Stat. 532 (1994).

³⁴ 105 Pub. L. 18, 111 Stat. 158 (1997).

³⁵ 108 Pub. L. 108; 117 Stat. 1241 (2003); see Testimony of Marshall Jones of FWS on H.R. 4781 (July 13, 2002).

prized bear—many of them competing for the Safari Club’s “Bears of the World” award—and in that decade and a half, more than 900 polar bear trophies were imported from Canada.

Now that the polar bear has been listed as a threatened species, the ban on imports has been restored. But trophy hunters are making the same tired argument that they made in 1994. H.R. 991 is being cast as a private relief measure to help 41 hunters bring in their personal trophies, but in reality the legislation would roll back a federal policy and provide even more incentive for American trophy hunters to accelerate the killing of species with pending ESA listing decisions and, when import of the trophies are barred, make the same personal appeal to Congress over and over again.

Importing Trophies is Inconsistent with Conservation

Furthermore, although the MMPA generally prohibits the importation of depleted species, the law provides specific procedures for importing these animals. A depleted species may be imported if the importation is likely to “enhance” the species’ survival by “contribut[ing] significantly to . . . increasing distribution” of animals.³⁶ Congress crafted this narrow exception to ensure that only importations that actually benefit species are permitted. If trophy hunters are allowed to circumvent this process, Congress’s carefully limited exceptions are rendered meaningless.

The U.S. does not allow sport hunting of polar bears in Alaska, and only Alaskan natives are allowed to hunt these bears for subsistence. American trophy hunters cannot legally shoot polar bears at home, and should not be encouraged to add to the mortality of polar bears in other countries. Only a few dozen Americans participate in the trophy hunting of Canadian polar bears. The millions of sportsmen and gun owners in the U.S. are not impacted by this issue.

The MMPA had barred the import of sport-hunted polar bear trophies between 1972 and 1994, and that ban has now been restored. The MMPA does not allow trophy imports of walruses, whales, or other marine mammals. It would therefore be inconsistent with American conservation law to allow the importation of polar bear trophies.

Additionally, trophy hunting is harmful to the survival of polar bears. Polar bears rely on high adult survivorship to maintain populations. Sport hunters target the largest and most fit animals and are not always able to distinguish females from males in the field. These animals may be critical to ensuring the survival of polar bear populations under stress from climate change and habitat degradation. Before the passage of the MMPA, sport hunting was identified as the primary or sole cause of polar bear population declines in places such as Alaska. Once sport hunting was prohibited in the U.S., some populations began to recover.

Commercial hunting is an incentive for higher polar bear mortality. An American trophy hunter can pay between \$40,000 and \$60,000 for a polar bear hunt in Nunavut. Because the sport hunts are highly lucrative, Canadian wildlife managers may feel pressure to increase quotas beyond sustainable levels. In 2005, Nunavut increased hunting quotas by 29%, despite concerns expressed by polar bear researchers that the increase in take could be harmful to the populations.

Finally, there is no evidence that money charged for polar bear hunting permits is essential to local communities or wildlife conservation. An August 2005 article in the *Nunatsiaq News*, a Nunavut newspaper, concluded that “most of the [financial benefits from sport hunts] never reach Inuit hands, and when they do, those earnings vary substantially from community to community.”³⁷ Even if a portion of the money went to polar bear conservation, it is still unsustainable for sport hunters to kill a species that is threatened by climate change and vanishing habitat. Protecting their habitat and eliminating the financial incentives to increase the quotas can save these bears—not money derived from killing them.

And even if the 41 sport-hunted polar bear trophies affected by H.R. 991 somehow aided polar bear conservation efforts, which is unlikely, there would be no *additional* conservation value by allowing their importation. Denying these imports would not lead to a refund for hunters, who knew the financial risks they were taking when they paid to shoot the bears.

Conclusion

In summary, the passage of H.R. 991 would reward a few dozen individuals who gambled at their own risk, and attempted to game the system knowing that the door would soon be closed to polar bear trophy imports, as it was previously for more

³⁶ 16 U.S.C. § 1374(c)(4)(a)(i)

³⁷ Thompson, John, *Boost price for polar bear hunt, researcher urges*, (Aug. 26, 2005). http://www.nunatsiaqonline.ca/archives/50826/news/nunavut/50826_12.html

than two decades. The ESA and MMPA protections should not be subverted simply to pacify a handful of trophy hunters who, with full knowledge that the species would likely be listed because of serious threats to its survival, chose to ignore all warnings from the U.S. government, animal protection organizations and hunting groups, and pursue a bearskin rug for their trophy room. It's a self-inflicted problem, yet they are asking Congress for a government bail-out.

We shouldn't allow the importation of threatened or endangered species trophies just because they're stockpiled in a warehouse and the animals have already been killed. Whether its elephant ivory or polar bear pelts, each time we allow trade in these protected species, we resuscitate the market for these items, increase the incentive for poaching and sport hunting, and make it harder for law enforcement to crack down on trafficking in wildlife contraband. Thus, even if these 41 trophies in question don't harm polar bear populations since the animals are already dead, the cumulative impacts of shooting more and more bears, putting the trophies in storage, and continuing to ask Congress to allow imports over and over again, are severe and set a dangerous precedent.

Congress should resist the temptation to interfere with the ongoing legal cases the trophy hunters themselves chose to initiate, and should reject this same pattern of behavior that was used to amend the MMPA in 1994 and allow the commercial killing of hundreds of polar bears for trophies. Allowing imports, driven by personal stories, has always been the tack of the trophy hunting groups and it's precisely what has allowed all of this killing by Americans to occur. Congress should send a strong message that this behavior will not be tolerated and that imperiled species deserve protection. In order for the MMPA protections and ESA listings to have meaning, we strongly urge the Subcommittee to reject H.R. 991.

Mr. SABLAN. Yes, sir. Thank you, Mr. Chairman. I have five minutes and I have several questions. Director Gould, good morning. We have to stop meeting like this, but first, I want to thank you and Secretary Salazar for your very strong support of H.R. 670.

And like I said in my opening statement, and in my statement during the passage of H.R. 670 in the last Congress, submerged land is very important and crucial to the people of the Northern Mariana Islands, and it actually enjoys wide support.

But just so we are all clear, and if you could give me a yes or no answer, is it the mission of the Obama Administration that you support the transfer of all the submerged lands in the Northern Mariana Islands to the people of that Commonwealth?

Dr. GOULD. Yes.

Mr. SABLAN. Thank you very much, Dr. Gould. Very good. On H.R. 991, Dr. Gould, in your testimony, you said that in January of 2008 that the Service, the Fish and Wildlife Service, fielded a number of telephonic and e-mail communications about the proposed polar bear listing, including listings, including listings from hunters, Canadian taxidermists, and the media, what did you tell them regarding the proposed listing?

Dr. GOULD. At that time, we tried to tell everybody out there who might have an interest in this particular listing that the listing was imminent. So we got the word out, and we felt that we did a pretty good job talking to both the hunting community and the environmental community, and just let them know that something was going to happen.

We could not give them specific dates, and we couldn't give them a specific answer. Either they would be listed or not listed. That is not what we do. We just wanted to let people know of the imminence of the issue.

Mr. SABLAN. OK. And when Judge Wilken ordered the Department of the Interior to publish the final listing rule by May 15, she waived the 30 day notice or grace period under the APA, because

in her opinion, and I quote, "affected parties will have had adequate notice that publication was forthcoming."

Particularly given your announcement on January 7th, 2008, that the listing would be coming within 30 days do you agree with the Judge that affected parties had adequate notice? If not, what more could the Service had done?

Dr. GOULD. We believe that people had adequate notice of the imminence of the imminent decision coming, and not what the decision was, but a decision was coming.

Mr. SABLAN. So, in your testimony, Director, you also said that on May 5th, 2008, that the Service contacted those individuals who had been issued an import permit, but had not already done so, had not already done the importing.

And to inform them the ESA listing would go into effect on or before May 15th. At that time, were the permittees informed that the trophies must be imported before the listing date?

Dr. GOULD. Yes, they were.

Mr. SABLAN. And would the completed permit applications submitted after May 5th have had enough time to be approved by May 15th, yes or no?

Dr. GOULD. No.

Mr. SABLAN. All right. Thank you very much, Director. Mr. Flocken, yes, sir, good morning. Your testimony mentioned that H.R. 991 sets a bad precedent. That is a very tough statement, and so can you elaborate on that point? We are running out of time, and so—

Mr. FLOCKEN. If the H.R. 991 were to pass, it would show the world that the United States, while trying to protect endangered species, is willing to let Americans hunt them and import them by carving out exceptions, which could open up a flood gate.

There would be no reason for other hunters not to kill endangered species, and expect that an exception would be made down the road for them to bring these back into the United States.

Mr. SABLAN. And since the Federal Court has already ruled to not allow the import these polar bear trophies, and hunters have filed several consolidated lawsuits that are pending in Federal Court right now. If they are successful, then the import of these trophies will be allowed.

And should we be spending time and resources on an issue that may soon be decided by the court like we are doing now?

Dr. GOULD. The timing of this could be questioned, most definitely. However, since the bill is before us, we stand against H.R. 991 and hope that it will not pass.

Mr. SABLAN. That is my time for now, Mr. Chairman. I yield back.

Mr. YOUNG. Mr. Flores.

Mr. FLORES. Thank you, Mr. Chairman. Mr. Flocken, what is the—let us say that 991 is not approved. How does that help these 41 dead polar bears?

Mr. FLOCKEN. It upholds our laws involving endangered species.

Mr. FLORES. How does it help these 41 dead polar bears?

Mr. FLOCKEN. The 41 dead polar bears, whether or not they are dead, it is not the issue at hand. They can legally be killed in Canada. It is the only country in the world that still allows them to

be killed, but the United States does not allow the import of an endangered species.

Mr. FLORES. I understand that.

Mr. FLOCKEN. But that is the way to conserve species.

Mr. FLORES. What empirical evidence do you have that the enactment of 991 is going to hurt other endangered populations?

Mr. FLOCKEN. Well, it set the precedent that the—

Mr. FLORES. Letting 41 people bring their polar bears, their trophies, back to this country, how is that going to hurt? What tangible empirical proven evidence do you have that this is going to help other endangered populations? Not conjecture, but real evidence?

Mr. FLOCKEN. I can't predict the future, but it would undercut existing conservation laws.

Mr. FLORES. That is what I thought. OK. I would put it this way to you. Taking positions like this undermines the credibility of conservationists all over the world. This is a very impractical position to take.

I support 991, and I think it is the right thing to do. I think that these hunters got caught in an unfair position, and I have people coming to see me every day. They come in and say that because the regulatory regime that we have today is hurting their businesses, and their employees, their households, their earnings, their jobs.

And this is one of the worst that I have seen of all of the regulations that have passed. Anyway, I would say that if I were in your shoes, I would drop the opposition to this.

Mr. Smith, I am just dismayed that the Federal Government has put you in this position, and I yield back.

Mr. YOUNG. The good lady, Ms. Bordallo.

Ms. BORDALLO. Thank you, Mr. Chairman. Director Gould, first, I want to thank you for your positive remarks on Bill H.R. 1670. As you are aware, currently the Sikes Act includes a pilot program, or invasive species management for military installations on Guam.

Now, in the 111th Congress, I introduced a similar version of H.R. 1670, which is called the Sikes Act Amendment that would expand this pilot program to be Integrated Natural Resources Management Plans at all the military installations.

Last year, this Subcommittee held an oversight hearing on that legislation, in which representatives of DoD, and the United States Fish and Wildlife Service, favorably testify.

Both departments recognize the importance of identifying and managing invasive species before they become significant management and budgetary challenges, and they expressed a willingness to work with this committee to expand this invasive species management pilot program.

Now, Director Gould, is the Fish and Wildlife Service still willing to work with the Committee to expand that pilot program?

Dr. GOULD. The importance of invasive species, of course, all over this country is well noted, and we appreciate the fact that you have concerns about this national problem.

And the Service recommends that any broadly applied action related to invasive species focus primarily on prevention and rapid response to invasive species, and we would be willing to work with

the Committee, and work with all of the partners that are interested in this issue to come up with processes that will help us, and that won't be burdensome from a financial perspective.

I know that there are concerns about that, and processes that will ultimately result in some successes to deal with some of these very touchy issues, such as——

Ms. BORDALLO. Yes. So, Director Gould, for the Committee, and to be recorded, the answer is in the affirmative?

Dr. GOULD. Yes.

Ms. BORDALLO. Thank you. And I yield back, Mr. Chairman.

Mr. YOUNG. Thank you, Madam. Mr. Landry. Hello, you are up, Mr. Landry.

Mr. LANDRY. Thank you, Mr. Chairman. Dr. Gould, is there an agency in this Administration that does not move the goal posts every time an industry or an individual tries to do something? I have never seen something like this in my life.

You know, you all continue, and it is amazing how you all will where a rule will be written, and you all will turn around and move that goal post. Do you all have like a bet going on up there amongst the hierarchy that says let's see who can move the goal post any further? I mean, this is ridiculous. It is my understanding, and Mr. Flocken, it is my understanding that if we import those bears, \$41,000 will go to the polar bear conservation fund. Is that not correct?

Mr. FLOCKEN. Correct.

Mr. LANDRY. Are you willing to pony up \$41,000 for that polar bear conservation fund personally?

Mr. FLOCKEN. The world's top specialist on polar bear conservation have identified over-exploitation of polar bears as one of its threats.

Mr. LANDRY. But that does not answer the question. This gentleman right here is willing to give a thousand dollars. How much are you personally willing to give? Do you know who are the biggest conservationists in this world? It is a hunter. It is hunters.

Hunters do more for the conservation of animals than anyone else. Anyone else. It is absurd that this gentleman sitting next to you played by the rules. In fact, according to the amended version of Section 104, he provided documents showing that the bear was legally taken from Canada. Canada monitored and enforced the hunting program.

Their sports program is based on scientifically sound quotas. Well, let me ask you this question. Do you think that Canada's science is flawed?

Mr. FLOCKEN. Canada is the only country in the world that still allows the sport hunting of polar bears. The world's leading polar bear experts——

Mr. LANDRY. I yield the balance of my time, Mr. Chairman.

Mr. YOUNG. Don't. He is wrong. That is typical. Greenland and Russia also allow the hunting of polar bears.

Mr. FLOCKEN. Sport trophy hunting.

Mr. YOUNG. Sport trophy hunting. Russia just opened it up. Read your books.

Mr. FLOCKEN. That is the way——

Mr. YOUNG. I am a hunter and you are not. Read your books.

Mr. FLOCKEN. I read the quota two weeks ago, and—

Mr. YOUNG. I did not ask you a question, and don't comment until I ask you. Go ahead.

Mr. LANDRY. Mr. Flocken, what I don't understand is that Canada—I mean, I would think that Canada—which I have a lot of confidence in, but I would think that Canada's conservation programs are pretty sound.

I have hunted up there. I don't understand why we can't have a discussion with Canada, and understand why they may be allowing it, and we are not allowing this gentleman to import his polar bear that he already killed.

They are not asking, or the hunting groups are not asking us to import additional trophies. We have 41 bears in Canada that are doing no one any good. In fact, it is detrimental to the polar bear research foundation, because he did not get to donate his thousand dollars to it if they would let his bear in. Can you help me?

What is the big deal on letting those 41 bears come in to this country?

Mr. FLOCKEN. In the opinion of IFAW, the best thing that the United States can do to continue to address the saving of endangered species is by using our current laws, such as the Endangered Species Act, and the Marine Mammal Protection Act, and banning the import would stop and address that threat.

Mr. LANDRY. Dr. Gould, Is Canada science flawed?

Dr. GOULD. There is scientific disagreement regarding the status of populations in Canada. There are opinions on the positive side, and there are scientific opinions on the negative side.

Mr. LANDRY. But is it flawed?

Dr. GOULD. Not that I am aware of.

Mr. LANDRY. So if it is not flawed, if their science is not flawed, and we believe that they have—does Canada have the ability to manage its wildlife property, or does the United States need to go into Canada and manage theirs?

Dr. GOULD. Canada is one of the best conservation partners, management partners, that we have.

Mr. LANDRY. Based on that answer don't you agree that we should let those polar bears in?

Mr. FLOCKEN. No, I do not. I believe that the import of endangered species and banning it is the best way that we have to conserve endangered species in the United States.

Mr. LANDRY. I am out of time.

Mr. YOUNG. Thank you, Mr. Landry. Does anyone else have any questions? I have some questions. Mr. Gould, one of the things that bothered me is that you mentioned the fact of the Endangered Species Act, but do we import other Endangered Species Act that have been harvested?

Dr. GOULD. Yes, we do.

Mr. YOUNG. We do? And why can't we import the polar bears, because it is?

Dr. GOULD. it is a marine mammal.

Mr. YOUNG. A marine mammal. So all we are doing—but the Endangered Species Act is where we do actually and can import other species that are endangered?

Dr. GOULD. Under the Sikes program, yes.

Mr. YOUNG. The present population of polar bears in your estimate is what?

Dr. GOULD. I don't have that information right with me, sir, but we can get it for you.

Mr. YOUNG. Well, for your information, the present evidence that we have is 23 thousand, and up to 25 thousand polar bears, and I have said this before in the last time that we had this hearing, I killed one of the last polar bears in Alaska in 1964, and we had approximately five thousand polar bears.

And these polar bears were put on the endangered or threatened list—I guess they are threatened or endangered—which one—threatened—because of so-called melting of their ice, which is nonsense.

The reality is that 11 thousand years ago, we had no ice in the North Pole, and I think the Captain can verify that, and the polar bears survived. And yet we put them on a supposedly habitat loss, not from a hunting loss. So I am just curious. Do you believe that there is any conservation by any of these bears in Canada now?

Dr. GOULD. The actual polar bear hides? Is that what you are talking about?

Mr. YOUNG. Yes. Is there any conservation effort for them?

Dr. GOULD. No.

Mr. YOUNG. OK. Good. We have already covered what Mr. Landry did, and we have already covered this \$41,000 that would occur, and if it were not for a court order which required an immediate effective date of the listing, how long would the Fish and Wildlife Service have given the hunters who legally hunted a bear prior to May 15th, and applied for a permit, how long would you give them to bring in their trophies?

Dr. GOULD. We would have actually published the permit in the Federal Register, the notice of the availability of the permit, and given them a 30 day public comment period, and then we would have made our decision based on that, the Federal Register process.

Mr. YOUNG. Does the Service agree that anyone that hunts after the proposed rule issued in 2007 was hunting in bad faith?

Dr. GOULD. I don't know exactly what you mean, but I don't think that people were hunting in bad faith in 2007.

Mr. YOUNG. OK. They were hunting legally then?

Dr. GOULD. Yes, sir, they were.

Mr. YOUNG. Did the Service at any time tell the hunters that a hunt should not occur due to the immediate threat listing on the polar bear?

Dr. GOULD. No, we didn't. All we could do is notify them that an action was being considered at that time.

Mr. YOUNG. So if I was a hunter, and I am doing this kindly, but if I as a hunter, and I had a booked hunt, and the Canadian government agreed with my hunt, and issued the license, and the tag, and yet I did not know—you said there could be a listing, but there was no definite listing of threatened. That had not been decided by that time?

Dr. GOULD. No.

Mr. YOUNG. OK. Good. Mr. Smith, what type of communications have you had with the Fish and Wildlife Service up until after your hunt? Until and after.

Mr. SMITH. I had contacted the United States Fish and Wildlife about the permitting process. I was told that I could pre-apply, which I did. I was also informed that whenever I took the bear, if I would go ahead and fax the information to them, they would get the permitting process started before I left Canada.

What was amazing to me was that I got no indication that it was going to take effect immediately. Even if there was a ruling, there was to be a period of time, which I understood to be 30 days or so, before the ruling would take effect.

And in that time period, we would be able to complete the United States Fish and Wildlife permitting process as the gentleman just said. One of the other things that was brought up, and which I heard the gentleman to your left there say, is that there was communication on May 5th, and that is the first time that I have heard anything about that, and it would have been extremely difficult for me to get that considering that I was on the ice on May 5th.

So there would have been no way for me to get any communication if it had been sent out, but that is the first that I had heard of it, even after coming back. The only communication that I have had with the United States Fish and Wildlife since then was to report that they were going to hold our application until there was a determination at a later date whether they should send the checks back, and the application back, which they did.

There was a certain amount of time and they finally sent it back and said that we would have to reapply as soon as this worked its way through the process.

Mr. YOUNG. Did the Service at any point indicate with certainty that the polar bear would be listed as threatened and you should not attempt to hunt?

Mr. SMITH. No, sir.

Mr. YOUNG. OK. How did you react to statements made that you had exercised poor planning with regard to your polar bear sport hunt?

Mr. SMITH. I don't agree with it being poor planning, because that is kind of like driving down the road at 70 miles an hour and you are thinking, you know, one of these days they may change the speed limit here.

It is not against the law to drive 70 miles an hour at that point. If they change it, then it could become against the law. I understand that part. But what has happened to the time frame that was supposed to be implemented before this was changed. That is one of my big questions, and why is there so much opposition to these dead bears.

Mr. YOUNG. Thank you for your patience again. I am amazed. I think that there is nothing more frustrating for interest groups to try to, I think, misinterpret the law. We did this on the Graham-Grumman tax bill. We made it retroactive, and it broke and hurt a lot of people in this country because we changed the law.

And as far as the precedent goes, and as far as this legislation, this is not a precedent. We did this in 1994 for the same reason, and I think that we have to recognize that if you operate under a

law in another country, especially when we are importing a species of animals that are endangered, that argument does not hold up. Does anyone have any other questions? Mr. Garamendi, you are allowed to sit, and Mr. Garamendi, you can ask questions.

Mr. GARAMENDI. Thank you, Mr. Chairman. Thank you very much. I appreciate the courtesy extended to me to allow me to participate in this hearing, even though I am not a member of the Subcommittee. I do appreciate that.

You and I have had the experience over the years to deal with these kinds of issues when I was at the Department of the Interior, and now more recently in this job. The Marine Mammal Protection Act is designed to protect those species that are threatened, and it is done in a variety of ways.

One way is to stop the importation, and any exception to that opens the door to further taking of those species. Your line of questioning, Mr. Chairman, seems to take us to the point of trying to understand the timing of the listing, and the sports hunter, and how you fit into that timing.

My question therefore goes to the representative of the Fish and Wildlife Service. Could you give us the timing, the sequencing of the timing, on when was the—we understand that the listing was made on a date specific, and the normal 30 day period of time was not provided.

But wasn't there a period of time prior to that in which this issue was being discussed, debated, noticed? Could you give us some sense of the timing here?

Dr. GOULD. Around January of 2008, we were aware that the issue was imminent, and that there were some decisions that needed to be made, and so that is at the point that we started informing folks that there was a decision coming forth soon.

And then, of course, when we knew of the decision, and that it was going to be May 15, we notified people then when we knew about the decision, and that it had to be immediate because it was a court ordered decision.

Mr. GARAMENDI. OK. Let me go back over that, and if you would, please, use the microphone, and pull it a little closer to you when you respond. So this issue emanated from a court case; is that correct?

Dr. GOULD. That is correct.

Mr. GARAMENDI. And that court case was under way for some time, as is most court cases?

Dr. GOULD. Yes. I don't know exactly when it was filed, or how ago it was filed.

Mr. GARAMENDI. So, in January, there was—you began your process of listing—

Dr. GOULD. Of notifying people, yes.

Mr. GARAMENDI. OK. And then when did you actually list?

Dr. GOULD. May 15th.

Mr. GARAMENDI. OK. So, basically what, four-and-a-half months. And was that widely noticed, or was it secret, or—

Dr. GOULD. The notification that a decision was going to be made was not a secret, but what we couldn't actually notify people of was the decision, whether it was listed or not listed.

Mr. GARAMENDI. But the Court case was known, and presumably the hunting community knew that this was an issue, and that should it be listed that there would be—that importation would not be allowed.

Dr. GOULD. We had broad notification of the hunting community, yes.

Mr. GARAMENDI. OK. I think that there is—sir, I don't know what your situation is, and you may have been caught up one way or another in this—from your point of view—unfortunate situation.

But this was not a secret. This was well known, even those of us who don't hunt polar bears or trophy hunt, knew that this was under way, and that this would likely happen. And it is very, very important for us to maintain the importation restrictions, because that is the only way that we can enforce this.

Even though the hunting may be legal in Canada, the importation must remain illegal if we are to protect the species as best we can, and we can't tell Canada what to do, but we can certainly tell the people that they can't import.

Also, the question has been raised about whether a taking is a taking of private property. Nobody has an unlimited right to import anything into the United States. That is simply not the case.

You may own a kilo of cocaine, but you cannot import it into the United States, at least legally. Yes, it may be your personal property, but that argument just doesn't fly. So I would just say that in this particular case that we ought not be passing this exemption to this very, very important law that does and has over the years protected numerous species. Mr. Chairman, I thank you for the courtesy.

Mr. YOUNG. Thank you. If I had known that you were going to take that tact, I probably would not have recognized you and let you sit. I will tell you that right up front.

Mr. GARAMENDI. Mr. Chairman, you are too kind to do that.

Mr. YOUNG. Yes. Number one, the date, I believe you said, was May 15th, Dr. Gould?

Dr. GOULD. Yes, sir.

Mr. YOUNG. And these bears were shot in April or March, March or April? The last one was shot, I believe, on April 8, and yours was shot May 11. So when the issuance came out was on May 15th, and the law was the law. You talk about the law, and no government has a right to take away the individual's right by changing the law if something was done lawfully before.

That is the thing that I don't understand, and now Dr. Gould is caught in this box, and I am not blaming you. I am blaming the interest groups, and the stupidity of the Secretary, which was my Secretary, of putting it on the threatened species anyway, because the instance of those that are trying to stop our whole country from running. Mr. Landry.

Mr. LANDRY. Thank you, Mr. Chairman. Mr. Flocken, let's try this again. Do you believe in conservation?

Mr. FLOCKEN. Yes.

Mr. LANDRY. And don't you believe that we should always use all of the tools necessary to support conservation?

Mr. FLOCKEN. I believe you should approach conservation the most likely way to help the species.

Mr. LANDRY. OK. But you certainly would want to maximize the tools available to manage and conserve those species; is that not correct? I mean, why would you not use a tool I guess would be the question.

Mr. FLOCKEN. I think the largest priority in this situation is addressing the threats to endangered species.

Mr. LANDRY. So you wouldn't choose to use all the tools. You would leave some on the side, even if you had the ability to conserve the species, and you just would not—

Mr. FLOCKEN. You mean contrary to protecting the species?

Mr. LANDRY. No, no, I am saying that if there is a tool used to conserve a species would you not utilize that tool? Yes or no; it is real easy.

Mr. FLOCKEN. Not if it is contrary to the conservation of the species.

Mr. LANDRY. No, no, no, this would not be contrary. This would be founded in science. Would you use that tool?

Mr. FLOCKEN. Well, in this situation—

Mr. LANDRY. Yes or no?

Mr. FLOCKEN. Not in this situation if in fact—

Mr. LANDRY. We are not even talking about that. I am just asking a question. It could be lions. It could be elephants. If there is a tool necessary and that can be used to conserve a species, would you not want to use that tool?

Mr. FLOCKEN. If it is not contrary to the conservation of the species, correct.

Mr. LANDRY. Well, let me just tell you this. There is a tool. If there are certain sections in Canada that are over-populated with polar bears, it is to the benefit of those populations to take some of those species. That is what the hunter does.

And that is why the hunter is such a great conservationist. He does more for conservation than you do. I hate to tell you that. So what we are doing now is we are basically telling Canada that we are going to make it difficult on you to manage your polar bear populations, because we have looked at the polar bear population on a global scale.

Is that not correct, Dr. Gould? I mean, doesn't Canada use—and don't we in the United States—the ability to take species in certain areas where the population could be detrimental to the species?

Dr. GOULD. Hunting is an accepted conservation management tool.

Mr. LANDRY. Exactly, and so wouldn't you say that not allowing our hunters to go there like they did, and which they took. He took that polar bear legally; is that correct?

Dr. GOULD. Yes, sir, he did.

Mr. LANDRY. OK. And so now we are not allowing him to just bring his trophy in when the United States says yes, you went in there and you took it legally, and Canada is one of the leading countries in the world in conservation, and in wildlife management, and the United States is basically saying, no, Canada, you don't know what you are doing.

We are counting all the polar bears around the world. We don't care if your polar bear population is over-populated. Those polar

bears could starve to death on the ice. We just don't have enough anywhere else.

And to me this is what this is all about, and it is just ridiculous. So I just wanted you to know that there is a tool out there to save the polar bear, all right? And the gentleman sitting next to you does more for conserving the polar bear than those commercials that you all run. Thank you, Mr. Chairman, and I yield back.

Mr. YOUNG. Thank you, sir. Captain, you have been sitting there patiently. Oh, excuse me, Mr. Sablan, you have a question?

Mr. SABLAN. Thank you, Mr. Chairman. Dr. Gould, the Service administers several statutes that bans imports under certain circumstances, such as the Lacey Act as I understand.

Under those statutes doesn't the ban on imports generally apply regardless of when the animal was killed?

Dr. GOULD. Generally, yes, sir.

Mr. SABLAN. All right. And I need a yes or no answer. Does the Service oppose H.R. 991 as currently written; yes or no?

Dr. GOULD. Yes.

Mr. SABLAN. All right. Thank you. Captain Lowell, what additional capacity is needed by NOAA to perform the needed Arctic hydrographic surveys, and do you know the associated costs to that capacity?

Captain LOWELL. Well, every year, we develop a hydrographic survey priority list that goes out for five years. Arctic surveying is entered into that, and I should point out that the Arctic area is vast in size.

It will take many, many years to completely map or provide those geospatial services, but we have a plan in place. So we have assets up there every year working on this problem.

Mr. SABLAN. And so you wouldn't know the costs associated with this survey?

Captain LOWELL. Well, I know that we are currently spending on it, and so basically it is a capacity issue. If you are going to put more up there, it is going to cost more money, and if you want to do less work, it costs less money.

Mr. SABLAN. All right. Thank you. And, Mr. Myers, I don't want you to feel left out, and so I hope that you are enjoying yourself. Will the conveyance of the 422 acres of land and structures to North Carolina in any way change the functions and uses of the hatchery?

Mr. MYERS. No, sir. We have operated the hatchery for the past 15 years, and we will continue to operate it in the same manner.

Mr. SABLAN. Thank you very much. Mr. Chairman, I yield back.

Mr. YOUNG. Thank you, Mr. Sablan. Dr. Gould, did I hear you correctly, that you do support the 991? Mr. Gould? You do support 991, but you made a caveat in there. Did you bring that language with you?

Dr. GOULD. We will support 991 if it clarified that it only applied to hunters who submit their permit application and completed their hunt prior to the listing.

Mr. YOUNG. OK. Now, the reason that I asked that question, I heard that same comment, and you didn't bring any language with you today did you?

Dr. GOULD. No, sir, but we are willing to work with it.

Mr. YOUNG. Well, willing to work. I mean, our counsel—and I have gone to the legislative counsel, and I have gone to every counsel, and they say that the way it is written, it covers it. So you had better bring me that language within the next week.

Dr. GOULD. Will do, sir.

Mr. YOUNG. OK. So it is clear. OK. Thank you, sir. Captain Lowell, did NOAA request any additional funding for the Fiscal Year 2012 for the work in the Arctic?

Captain LOWELL. There were no additional requests for funds in the Arctic in the President's request for 2012.

Mr. YOUNG. Well, how can we do the job if you don't request it?

Captain LOWELL. Well, we have our existing funds, and so—

Mr. YOUNG. Well, how much work are you doing up there?

Captain LOWELL. Well, we are doing a considerable amount of work up there. We have both NOAA assets in place, and we have multiple contracts.

Mr. YOUNG. Well, what contracts are you working with? Do you go out and solicit contracts to do that type work?

Captain LOWELL. We have standing contracts in place, and every year, we issue task orders against those contracts to do work in the Arctic.

Mr. YOUNG. And you mentioned the Kuskokwim area. Now, I hope that you are not talking about really Kuskokwim, because that is really an inlet isn't it, and there is not much use to study that area, and it has to be outside the peninsula there so you get good depth.

You know, Captain, one of my big interests is that I do believe that we are going to have a great challenge in the Arctic, because it will again, as it has done in the past and thousands of years ago, and not during my lifetime probably, but the ice flow will probably be diminished.

And consequently we need to be able to have the proper navigation and the proper ports, which there are only about two to my knowledge that are deep enough, because nothing on the far North, Barrow or anything in that area, has deep water.

And there is a great interest by other countries that we should get ahead of the curve as I am saying, and where the navigation, and for the study of the fish, and the whole gamut that is going to challenge this in the future.

And we are an Arctic nation because of Alaska, and that is one of the joys of being a State that does make this nation an Arctic nation. It is a great challenge for you and for the Coast Guard, and the maritime community as a whole.

And I hope that you are going to be up to it, and so I am suggesting to you that next year, if we can't get this job done, that you make sure that you request the money so that I don't go out and say—because they will say it is an earmark if it comes from me.

And if it comes from you, it is part of the President's budget, and so I would suggest that maybe someone who is higher up than you maybe request that money for that Arctic surveying work.

Captain LOWELL. I would be happy to carry that message forward.

Mr. GARAMENDI. Mr. Chairman, I am going to shock you.

Mr. YOUNG. Really?

Mr. GARAMENDI. You are on the right track. You are on the right track here. We really do need to have this detailed information of the ocean, the nature of the ocean itself, as well as the ocean floor. My question to the Captain is what technologies are you using?

I am somewhat familiar with this off the coast of California when I was the Chairman of the State Lands Commission. We did some very advanced mapping of the ocean floors.

The first piece that was done was why are the waves so big at Maverick just south of San Francisco, and I guess that was of great use to the surfers with the Maverick competition that takes place there.

But we were using radar technology and the like, and would you just describe the technology that you are using?

Captain LOWELL. What you are referring to, of course, is general oceanographic observations when you are talking about trying to measure the waves, and forecast—

Mr. GARAMENDI. We were actually looking at the ocean floor. We were mapping the ocean floor.

Captain LOWELL. Well, the technologies that we typically use is we use multi-beam sonar, which is an acoustical sensor on both small vessels and ships. We also use a tool called LIDAR, which is a laser-based system that we use out of aircraft.

There are limitations to that because it does not go very deep, but it fills in gaps where the ships are simply inefficient to collect information. Other hydrographic services may be needed to tighten up the geospatial framework up there. We are doing more hypoprecision. Coors are continuing operating reference states, and we are installing those up in Alaska, or working with our partners up in Alaska to install those systems.

Tides and water levels, we need good vertical control on all the work that we do up there. We are installing, I believe, four more gauges this year to try to get a better handle on the water level around the northern end of the Bering Straits area.

Mr. GARAMENDI. Thank you. That was very similar technology that we were using in California to map the California Coast, off the coast. It is really important. Mr. Chairman, I think you are correct about the budget.

You and I may disagree about why the ice is melting, but the fact that it is likely to provide a northwest passage and other things going on that heretofore didn't happen, it is really important that we do this. So you will have my support, and maybe you will give up on the polar bears, and we can do this.

Mr. YOUNG. Let me say that there will be a cold day—never mind. Mr. Smith, do you have any comments before I start to close this meeting?

Mr. SMITH. No comments, Mr. Chairman.

Mr. YOUNG. All right. Mr. Flocken, is your group or organization support any hunting at all?

Mr. FLOCKEN. We have no policy for or against hunting generally.

Mr. YOUNG. No policy?

Mr. FLOCKEN. For or against hunting in general, no.

Mr. YOUNG. You have not taken a stand against any hunting bills?

Mr. FLOCKEN. We are against unethical hunting in the hunting of endangered species.

Mr. YOUNG. Pardon?

Mr. FLOCKEN. We are against unethical hunting in the hunting of endangered species.

Mr. YOUNG. Unethical hunting? There was nothing unethical about hunting these polar bears. It was done legally. There is nothing unethical about it.

Mr. FLOCKEN. We are against the hunting of these polar bears.

Mr. YOUNG. Yes. Do you support the hunting of polar bears?

Mr. FLOCKEN. No, we do not.

Mr. YOUNG. You do not. So that sort of settles the question. You do not support the hunting of polar bears, but this year the hunts are going forth. It is the only thing Americans can't hunt. The Germans are hunting them, and there is, I believe—let's see how we have this:

In the Baffin Bay area, 176; Davis Straits, 66; East Greenland, 54; Foxe Basin, 108; the Gulf of Boothia, 74; the Kane Basin, 15; Lancaster Sound, I believe that is where polar bears are taken, 85; M'Clintock Channel, 3; Northern Beaufort Sea, 65; Southern Beaufort Sea, 44; Southern Hudson Bay, 61; Viscount Melville Sound, 7; and the Western Hudson Bay, 16.

So other than the Americans now, it appears that the Europeans and other people are doing the hunting. So I can see that you are doing a great deal to conserve the polar bears. With that, this meeting is adjourned.

[Whereupon, at 12:25 p.m., the Subcommittee was adjourned.]

