

**H.R. 2027, H.R. 2154, H.R. 2236,  
H.R. 2714, H.R. 2719, H.R. 3009,  
AND H.R. 3117**

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**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

FIRST SESSION

—————  
Tuesday, October 25, 2011  
—————

**Serial No. 112-74**

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LEGISLATIVE HEARING ON H.R. 2027, TO REVISE THE BOUNDARIES OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM SACHUEST POINT UNIT RI-04P, EASTON BEACH UNIT RI-05P, ALMY POND UNIT RI-06, AND HAZARDS BEACH UNIT RI-07 IN RHODE ISLAND; H.R. 2154, TO CORRECT THE BOUNDARIES OF THE JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM GASPARILLA ISLAND UNIT FL-70P; H.R. 2236, DIRECTS THE UNITED STATES POSTAL SERVICE (USPS) TO ISSUE AND SELL, AT A PREMIUM, A WILDLIFE REFUGE SYSTEM CONSERVATION SEMIPOSTAL STAMP. REQUIRES THE USE OF SUCH STAMP TO BE VOLUNTARY ON THE PART OF POSTAL PATRONS. "WILDLIFE REFUGE SYSTEM CONSERVATION SEMIPOSTAL STAMP ACT OF 2011"; H.R. 2714, TO AMEND THE MARINE MAMMAL PROTECTION ACT OF 1972 TO ALLOW THE TRANSPORT, PURCHASE, AND SALE OF PELTS OF, AND HANDICRAFTS, GARMENTS, AND ART PRODUCED FROM, SOUTHCENTRAL AND SOUTHEAST ALASKA NORTHERN SEA OTTERS THAT ARE TAKEN FOR SUBSISTENCE PURPOSES; H.R. 2719, DIRECTS THE SECRETARY OF THE INTERIOR TO PROVIDE ACCESS TO THE SUMMIT OF RATTLESNAKE MOUNTAIN IN THE HANFORD REACH NATIONAL MONUMENT IN THE STATE OF WASHINGTON FOR EDUCATIONAL, RECREATIONAL, HISTORICAL, SCIENTIFIC, CULTURAL, AND OTHER PURPOSES. "RATTLESNAKE MOUNTAIN PUBLIC ACCESS ACT OF 2011"; H.R. 3009, TO AMEND THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966 TO REQUIRE THAT ANY NEW NATIONAL WILDLIFE REFUGE MAY NOT BE ESTABLISHED EXCEPT AS EXPRESSLY AUTHORIZED BY STATUTE. "NATIONAL WILDLIFE REFUGE REVIEW ACT OF 2011"; AND H.R. 3117, TO GRANT THE SECRETARY OF THE INTERIOR PERMANENT AUTHORITY TO AUTHORIZE STATES TO ISSUE ELECTRONIC DUCK STAMPS, AND FOR OTHER PURPOSES. "PERMANENT ELECTRONIC DUCK STAMP ACT OF 2011".

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Tuesday, October 25, 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 2:00 p.m., in Room 1324, Longworth House Office Building, Hon. John Fleming [Chairman of the Subcommittee] presiding.

Present: Representatives Fleming, Sablan, Young, Wittman, Duncan, Southerland, and Harris.

**STATEMENT OF THE HON. JOHN FLEMING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA**

Dr. FLEMING. The Subcommittee will come to order. The Chairman notes the presence of a quorum. Good afternoon.

Today, the Subcommittee will hold a legislative hearing on seven bills that affect the Fish and Wildlife Service. And a few of these bills have the potential to save taxpayers' money. At the appropriate time, I will recognize members of the Committee who have sponsored several of these measures.

The first two bills, H.R. 2027 and H.R. 2154, make modifications to the John H. Chafee Coastal Barrier Resources System. Since this system was established in 1984, it has saved billions of taxpayer dollars. Historically, the maps were hand drawn, and on occasion the Congress has been asked to correct honest mapping mistakes that are adversely affecting homeowners who should

never have been incorporated within the system. These two bills appear to meet that criterion.

The third bill, H.R. 2236, was introduced by our Ranking Member, Congressman Gregorio Sablan. It has been cosponsored by 46 Members of the House, including myself. And it would create an innovative way to raise funds for the ever-increasing operations and maintenance backlog within the National Wildlife Refuge System.

The fourth bill, H.R. 2714, would amend the Marine Mammal Protection Act to allow Alaska Natives to more broadly utilize Northern sea otters' pelts legally taken in subsistence hunts from the nonlisted populations in Alaska.

The next bill, H.R. 2719, was introduced by our Full Committee Chairman, and it would allow public access to the summit of Rattlesnake Mountain, which is located within the Hanford Reach National Monument in the State of Washington.

The sixth bill, H.R. 3117, would make permanent the ability of a migratory waterfowl hunter to electronically purchase their annual Federal duck stamp. This is an important technological advancement.

Finally, we will hear testimony on H.R. 3009, a bill I introduced, to require that any new National Wildlife Refuge must be authorized by the Congress. In my own State of Louisiana, seven of the 23 refuges were legislatively created, including the Red River National Wildlife Refuge in my own Congressional District.

In fact, this refuge is the model that I envision in the future. From the day my distinguished predecessor, Congressman Jim McCreary, introduced his bill to establish the Red River unit, through congressional hearings, markups, floor debate, and Presidential bill signing, exactly 6 months passed for the whole shebang. There is no one who can objectively argue that this was an arduous process or that somehow the establishment of this refuge was delayed. Quite the contrary, this process ensured that this proposed refuge was carefully reviewed and that Congress and the public supported its creation.

The requirement contained within H.R. 3009 is neither new nor radical.

As my colleagues well know, it requires an Act of Congress to add or delete even one acre of property from a national park, wilderness area, wild and scenic river or unit of the Coastal Barrier Resources System. There is nothing inherently unique about the establishment of a national wildlife refuge unit that should prevent the Congress from approving a refuge which will end up costing millions of dollars. While I suspect the Fish and Wildlife Service will be unwilling to give up this unilateral authority, I would remind my colleagues that the Service intends to establish two refuges in Florida and Kansas that will cost more than a billion dollars. If we are going to put our taxpayers on the hook for this kind of massive expenditure, at a minimum we should be willing to authorize those land acquisitions. This is the fundamental purpose of the National Wildlife Refuge Review Act.

I am now pleased to recognize our distinguished Ranking Member from the Commonwealth of the Northern Mariana Islands for any statement he would like to make.

[The prepared statement of Dr. Fleming follows:]

**Statement of The Honorable John Fleming, Chairman,  
Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs**

Good afternoon, today, the Subcommittee will hold a legislative hearing on seven bills that affect the Fish and Wildlife Service and a few of these bills have the potential to save taxpayers money. At the appropriate time, I will recognize members of the Committee who have sponsored several of these measures.

The first two bills, H.R. 2027 and H.R. 2154, make modifications to the John H. Chafee Coastal Barrier Resources System. Since this system was established in 1984, it has saved billions of taxpayer dollars. Historically the maps were hand drawn, and on occasion the Congress has been asked to correct honest mapping mistakes that are adversely affecting homeowners who should never have been incorporated within the System. These two bills appear to meet that criterion.

The third bill, H.R. 2236, was introduced by our Ranking Member, Congressman Gregorio Sablan. It has been cosponsored by 46 Members of the House, including myself, and it would create an innovative way to raise funds for the ever increasing operations and maintenance backlog within the National Wildlife Refuge System.

The fourth bill, H.R. 2714, would amend the Marine Mammal Protection Act to allow Alaskan natives to more broadly utilize Northern sea otters pelts legally taken in subsistence hunts from the non-listed populations in Alaska.

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The sixth bill, H.R. 3117, would make permanent the ability of a migratory waterfowl hunter to electronically purchase their annual federal duck stamp. This is an important technological advancement.

Finally, we will hear testimony on H.R. 3009, a bill I introduced to require that any new National Wildlife Refuge must be authorized by the Congress. In my own State of Louisiana, seven of the twenty-three refuges were legislatively created including the Red River National Wildlife Refuge in my Congressional District. In fact, this refuge is the model that I envision in the future.

From the day, my distinguished predecessor, Congressman Jim McCreary introduced his bill to establish the Red River unit, through Congressional hearings, markups, floor debate and Presidential bill signing, exactly six months passed. There is no one who can objectively argue that this was an arduous process or that somehow the establishment of this refuge was delayed. Quite the contrary, this process ensured that this proposed refuge was carefully reviewed and that Congress and the public supported its creation.

The requirement contained within H.R. 3009 is neither new nor radical. As my colleagues well know, it requires an Act of Congress to add or delete even one acre of property from a national park, wilderness area, wild and scenic river or unit of the Coastal Barrier Resources System. There is nothing inherently unique about the establishment of a national wildlife refuge unit that should prevent the Congress from approving a refuge which will end up costing millions of dollars. While I suspect the Fish and Wildlife Service will be unwilling to give up this unilateral authority, I would remind my colleagues that the Service intends to establish two refuges in Florida and Kansas that will cost more than a billion dollars. If we are going to put our taxpayers on the hook for this kind of massive expenditure, at a minimum, we should be willing to authorize those land acquisitions. This is the fundamental purpose of the National Wildlife Refuge Review Act.

I am now pleased to recognize our distinguished Ranking Member from the Commonwealth of the Northern Mariana Islands for any statement he would like to make.

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**STATEMENT OF THE HON. GREGORIO KILILI CAMACHO  
SABLAN, A DELEGATE IN CONGRESS FROM THE NORTHERN  
MARIANA ISLANDS**

Mr. SABLAN. Thank you very much, Chairman Fleming, and thank you for holding today's hearing. I especially look forward to the testimony of our colleague, Mr. John Dingell, who is a long-standing champion of the National Wildlife Refuge System, and from our other witnesses concerned about protecting America's natural heritage.

Two of today's bills concern the Coastal Barrier Resources System. This program has saved taxpayers billions of dollars by prohibiting the use of Federal funds to develop coastal areas that protect us from storm surges and are hazardous to build on. I commend Congressman Cicilline for introducing H.R. 2027, and I ask that his testimony be submitted for the record.

Dr. FLEMING. Without objection, so ordered.

[The prepared statement of Mr. Cicilline follows:]

**Statement of The Honorable David N. Cicilline, U.S. House of Representatives, The 1st District of Rhode Island, on H.R. 2027**

Chairman Fleming, Ranking Member Sablan, and members of the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs—thank you for this opportunity to present testimony in support of H.R. 2027, a bill that revises the boundaries of four units of the John H. Chafee Coastal Barrier Resources System (CBRS) in Newport County, Rhode Island. The revised map, which reflects a comprehensive review process conducted by the U.S. Fish and Wildlife Service (USFWS), removes lands that were erroneously included within the CBRS in 1990 and adds lands that are appropriate for CBRS inclusion.

As this subcommittee is aware, the Coastal Barrier Resources Act (CBRA) of 1982 created the CBRS. The CBRS is comprised of approximately 3.1 million acres of land and aquatic habitat along the Atlantic, Gulf, and Great Lake coasts. The CBRA encourages conservation of these lands by restricting federal expenditures that encourage development, such as federal flood insurance. The USFWS maintains the maps that define the CBRS boundaries, which are then approved and enacted into law by the United States Congress.

Shortly upon taking office in January of this year, I was contacted by a constituent regarding a long-standing technical mapping error pertaining to the CBRS. My constituent's property was inappropriately included within the CBRS when Easton Beach Unit RI-05P was originally designated by the Coastal Barrier Improvement Act of 1990. This constituent had previously worked with my predecessor, Representative Patrick Kennedy, to resolve this matter. In the 111th Congress, Representative Kennedy, working with the USFWS, introduced H.R. 5331. This legislation was based upon a comprehensive review conducted by the USFWS and would have corrected the technical mapping error rendered in 1990 and also enacted new boundaries to include additional parcels of undeveloped land appropriate for inclusion within the CBRS. A Subcommittee hearing was held on H.R. 5331, but this non-controversial piece of legislation did not advance to the House floor prior to the conclusion of the 111th Congress.

This technical mapping error has triggered onerous and unwarranted restrictions on the use of the property. The constituent landowner has patiently waited several years for this matter to be rectified, and following the comprehensive review, recommendations, and revisions proposed by the USFWS, the only remaining step to conclude this process is Congressional approval of the CBRS map boundaries contained in H.R. 2027.

At a hearing before the House Natural Resources Subcommittee on Insular Affairs, Oceans and Wildlife on July 27, 2010, the USFWS testified in support of H.R. 5331, and confirmed that the boundaries of Unit RI-05P that captured private land owned by my constituent were drawn in error on the existing map that was created in 1990. My office has received notice that the USFWS will again testify in support of the identical bill, H.R. 2027, here in the 112th Congress. In addition, in August of 2010, the USFWS sent notice to several entities in Newport County, Rhode Island apprising them of the proposal to revise four units of the CBRS. My office has subsequently corresponded with these same entities, including the Audubon Society of Rhode Island, Norman Bird Sanctuary, Sachuest Point National Wildlife Refuge, Town of Middletown, City of Newport, Rhode Island Coastal Resources Management Council, and Rhode Island Emergency Management Agency. To date we have received no objection to the proposal, and in most instances the parties were of the belief that the matter had been addressed in the prior Congress.

As the USFWS has previously testified, the 1990 CBRS map inappropriately captured private land adjacent to Unit RI-05P that was not held for conservation or recreation purposes, was not an inholding, and was not intended for inclusion as an Otherwise Protected Area (OPA). As was attempted previously through H.R. 5331 in the 111th Congress, the legislation before you today, H.R. 2027, re-

moves the property in question as well as other private lands that were added to CBRS in error in 1990, and adds lands suitable for inclusion within the CBRS.

Once again, I thank Chairman Fleming, Ranking Member Sablan, and the members of the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs for their time and consideration of this non-controversial legislation, which will rectify this long-standing technical mapping error and make additional, appropriate map revisions in Newport County, Rhode Island.

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Mr. SABLAN. I am also interested to hear more about Congressman Mack's bill, H.R. 2154, and would like to submit a letter from the Florida Wildlife Federation, which has some concerns.

Dr. FLEMING. Without objection, so ordered.

[The letter from the Florida Wildlife Federation submitted for the record follows:]

Florida Wildlife Federation  
2545 Blirstone Pines Dr.  
Tallahassee, FL 32301

VIA FACSIMILE TRANSFER AND U.S. MAIL

October 24, 2011

The Hon. John Fleming, Chairman  
The Hon. Gregorio Sablan, Ranking Member  
Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs  
Committee on Natural Resources  
1324 Longworth HOB  
Washington, DC 20515

RE: Support for H.R. 2027 and Opposition to H.R. 2154

Dear Chairman Fleming and Representative Sablan:

On behalf of the approximately 60,000 members and supporters of the Florida Wildlife Federation, comprised of outdoor recreationalists such as hunters, anglers and campers, please note our support for H.R. 2027 and our strong opposition to H.R. 2154. Both of these bills deal with the Coastal Barrier Resources Act (CBRA), which has not only protected many acres of coastal habitat which benefits Florida's tourism industry, but also saved billions in tax dollars by not allowing federal insurance to underwrite poorly planned coastal development.

H.R. 2027 will provide the basis for legitimate boundary adjustments to CBRA and add areas that truly warrant designation. This is a common sense bill.

Unfortunately, H.R. 2154 undercuts the intent of CBRA by taking Florida Unit 70P (near Gasparilla Island State Park) out of the system and thereby forcing all taxpayers, who have no interest in these ill-sited properties, to shoulder the economic burden of increased risk.

Thank you very much for your consideration.

Cordially,

*/s/ Preston T. Robertson*

Preston T. Robertson  
Vice-President/General Counsel

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Mr. SABLAN. Thank you, Mr. Chairman.

I am looking forward to our witnesses on Congressman Young's bill, H.R. 2714, which relaxes rules on the sale and export of sea otter pelts. I know there are concerns this could have the unintended effect of encouraging the illegal trade in sea otter parts, and create overseas competition for Alaska Native artisans who create authentic, high-value sea otter handicrafts.

I would like to submit for the record two studies and several letters expressing these concerns about the impact of the bill on the management of sea otters.

Dr. FLEMING. Without objection, so ordered.

**[NOTE: The information submitted for the record has been retained in the Committee's official files.]**

Mr. SABLAN. Thank you very much. I am interested to hear more about Chairman Hastings' bill, H.R. 2719. The Chairman's bill requires motor vehicle access to Rattlesnake Mountain in the Hanford Reach National Monument.

I would like to commend Congressmen Wittman and Kind for introducing H.R. 3117. Their bill would allow online sale of duck stamps, which should make more money available to purchase and protect wetland habitat for migratory waterfowl.

Also on our agenda is H.R. 3009. I have been asked to submit for the record a letter in opposition to the bill from William Hartwig, former Chief of the National Wildlife Refuge System.

Dr. FLEMING. Without objection, so ordered.

[The letter from Mr. Hartwig submitted for the record follows:]

William F. Hartwig  
28735 Jacks Field Road  
Wye Mills, Maryland 21679

October 21, 2011

House of Representatives  
Natural Resource Committee  
Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs  
Longworth House Office Building  
Washington, DC

Dear Chairman Fleming and Ranking Member Christensen:

I wish to state my opposition to H.R. 3009, a bill amending the National Wildlife Refuge Act of 1966 to require that any new National Wildlife Refuge may not be established except as expressly authorized by statute. During my 33 years of government service including positions of Chief of the National Wildlife Refuge System, Regional Director of the Great Lakes-Big Rivers Region, Chief of Realty, and Secretary of the Migratory Bird Conservation Commission I had personal involvement in the establishment of numerous National Wildlife Refuges.

The National Wildlife Refuge System has been served well by the Act of 1966 and I see no reason to modify its legislative direction. Congress intended to make the National Wildlife Refuge System quickly responsive to changing wildlife needs. Enacting specific legislation usually takes several years. During this time of legislative development significant natural resources can be lost forever. I do not see an active period of expansion for the National Wildlife Refuge System. Today the vast majority of lands needed to protect our wildlife for current and future generations are contained within the currently authorized 550+ National Wildlife Refuges. New additions to the refuge system are expected to be minimal. Most new refuges over the past 20 years have been approved by the Migratory Bird Conservation Commission with Congressional involvement or by direct Congressional action. By agreement with the Appropriations Committees new Refuges are not contained within Appropriations requests without prior Congressional consent.

Recent additions to the National Wildlife Refuge System have been based upon landowner agreement and often contain a majority of lands protected via other than fee title. Communities have demanded quick action of a cooperative nature to protect lands within their neighborhoods. These communities feel that their refuge does needs local acceptance rather than national approval beyond that provided by the Act of 1966. Examples of such locally driven refuges include the Flint Hills Legacy Conservation Area in Kansas, Dakota Grassland Conservation Area in the Dakotas, Cherry Valley National Wildlife Refuge in Pennsylvania, and Tulare Basin Wildlife

Management area in California. All are largely easement and landowner agreements managed by the Fish and Wildlife Service.

In conclusion, I do not see an abuse of the authority granted by Congress via the National Wildlife Refuge Act of 1966. I do not see a demand for significant increases in units of the National Wildlife Refuge System. I do see that the change proposed by H.R. 3009 will hinder rather than assist in quickly protecting those very few additional units that may be necessary to protect valuable wildlife habitat for the benefit of current and future generations of Americans.

Thank you for the opportunity to comment.

Sincerely

William F. Hartwig  
Chief of the National Wildlife Refuge System (Retired)

Mr. SABLAN. Finally, my own bill, H.R. 2236, the Wildlife Refuge System Conservation Semipostal Stamp Act is on our agenda. I want to thank again Chairman Fleming for including H.R. 2236 in today's hearing and for being a cosponsor.

The Wildlife Refuge System Conservation Semipostal Stamp uses a proven system of raising private funding for worthy public purposes. The Breast Cancer Research semipostal stamp, for instance, has raised about \$75 million since 1998. And a new Save Vanishing Species semipostal stamp just went on sale September 20. The public bought 1.6 million in September alone, raising \$176,000 for international wildlife conservation.

My bill would do the same for America's National Wildlife Refuge System, which has an operations and maintenance backlog of \$3.4 billion after decades of underfunding. In my own district, proceeds from the sale of the Wildlife Refuge stamp could pay some of the \$380,000 needed for the staff, visitor services, education, and volunteer programs in the Mariana Trench National Wildlife Refuge and the Mariana Arc of Fire National Wildlife Refuge. Both are part of the Mariana Trench Marine National Monument that President Bush created by Executive Order in 2009.

I believe that America's Wildlife Refuge System has proven to be a great investment for our country. Refuges generate \$1.7 billion in sales for local communities annually, and create nearly 27,000 jobs. My bill would allow Americans to continue investing in the refuges to ensure our fish, wildlife, and natural habitats are protected for the enjoyment and benefit of today and for future generations.

I want to thank the 48 Republican and Democrat cosponsors of my bill, including our first witness today, Congressman Dingell, whose expertise in the Refuge System is second to none.

With that, I look forward to hearing from our witnesses and learning more about these issues. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Sablan follows:]

**Statement of The Honorable Gregorio Kilili Camacho Sablan, Ranking Member, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs**

Thank you, Chairman Fleming, for holding today's hearing.

I especially look forward to the testimony of our colleague, Mr. John Dingell, who is a long-standing champion of the National Wildlife Refuge System—and from our other witnesses concerned about protecting our America's natural heritage.

Two of today's bills concern the Coastal Barrier Resources System. This program has saved taxpayers billions of dollars by prohibiting the use of federal funds to develop coastal areas that protect us from storm surges and are hazardous to build

on. I commend Congressman Cicilline [SIS-AH-LEE-KNEE] for introducing H.R. 2027 and I ask that his testimony be submitted for the record. I am also interested to hear more about Congressman Mack's bill, H.R. 2154, and would like to submit letters which have some concerns.

I am looking forward to our witnesses on Congressman Young's bill, H.R. 2714, which relaxes rules on the sale and export of sea otters pelts. I know there are concerns this could have the unintended effect of encouraging the illegal trade in sea otter parts, and create overseas competition for Alaska Native artisans who create authentic, high-value sea otter handicrafts. I would like to submit for the record two studies and several letters expressing these concerns about the impact of the bill on the management of sea otters.

I am interested to hear more about Representative Hastings' bill, H.R. 2719. The Chairman's bill requires motor vehicle access to Rattlesnake Mountain in the Hanford Reach National Monument.

I would like to commend Congressmen Wittman and Kind for introducing H.R. 3117. Their bill would allow on-line sale of Duck Stamps, which should make more money available to purchase and protect wetland habitat for migratory waterfowl.

Also on our agenda is H.R. 3009. I have been asked to submit for the record a letter in opposition to the bill from William Hartwig, former Chief of the National Wildlife Refuge System.

Finally, my own bill, H.R. 2236, the Wildlife Refuge System Conservation Semipostal Stamp Act, is on our agenda. I want to thank you, Chairman Fleming, for including H.R. 2236 in today's hearing and for being a cosponsor.

The Wildlife Refuge System Conservation Semipostal Stamp Act uses a proven system of raising private funding for worthy public causes. The Breast Cancer Research semipostal stamp, for instance, has raised about \$75 million since 1998. And a new *Save Vanishing Species* semipostal just went on sale on September 20th. The public bought 1.6 million in September alone, raising \$176,000 for international wildlife conservation.

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I believe that America's Wildlife Refuge System has proven to be a great investment for our country. Refuges generate \$1.7 billion in sales for local communities annually and create nearly 27,000 jobs.

My bill will allow Americans to continue investing in their refuges to ensure our fish, wildlife, and natural habitats are protected for the enjoyment and benefit of today and for future generations.

I want to thank the 48 Republican and Democrat cosponsors of my bill, including our first witness today, Congressman Dingell, whose expertise in the Refuge System is second to none.

With that, I look forward to hearing from our witnesses and learning more about these issues.

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Dr. FLEMING. The gentleman yields his time. I thank the Ranking Member. Based on the traditions of this Subcommittee, I would like to recognize the Chairman of the Natural Resources Committee, the distinguished gentleman from Washington, Congressman Doc Hastings, for any opening statement he would like to make on his bill, H.R. 2719.

**STATEMENT OF THE HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON**

Mr. HASTINGS. Thank you, Chairman Fleming, for your courtesy, and thank you for having a hearing on these bills, including H.R. 2719, the bill I authored regarding Rattlesnake Mountain.

Let me be very clear about the goal of this bill. It is to ensure that public access is allowed to the summit of Rattlesnake Moun-

tain, including motorized access. The text of the bill simply ensures that the public has access to the public's lands. A law is necessary because, quite frankly, the Fish and Wildlife can't be trusted to ensure such access.

Let's go to the other slide. That is a very good slide, but go to the other one. There should be one more slide up there, a picture—there it is right there. OK. Although I must say I like that first one very much, too. Let me go back in history.

Eleven years ago, without local input or Congressional approval, President Clinton issued Proclamation 7319 that established a 195,000-acre Hanford Reach National Monument around the Department of Energy's Hanford site, right across the river from my hometown. And let's remind ourselves the lands of the monument were primarily private ownership prior to World War II, when the Federal Government literally swooped in and told landowners that they had 30 days to move their families, their farms, and their entire communities so this could be part of the secret Manhattan Project. And I might add all of Rattlesnake Mountain was under private ownership prior to the Second World War. The monument, the only one in the continental United States managed by the U.S. Fish and Wildlife Service, includes Rattlesnake Mountain. It is 3,600 feet, and it is the highest point, and it provides unparalleled views for miles around the monument, including the whole Hanford site, the Columbia River, the Snake River, and the Yakima River.

The public should expect that if they can visit the summit of Mount Rainier, which is 14,000 feet high, that they ought to have an opportunity to go up a 3,600-foot mountain and look from the top. Yet it took the Service 8 years to write a management plan that closed Rattlesnake Mountain to public access. They have not allowed public tours since that time. After I introduced this bill in the last Congress, the Service offered two tours for selected individuals, and then suddenly reneged on the offer just days before the tours were to occur, without any explanation.

The Interior Department submitted testimony infers that the Service supports tours of Rattlesnake, but very carefully it does not say that they will ever allow access to the summit. Furthermore, the testimony goes on to say why the Service can't possibly allow public access until after 2012 because of consultation with the three Indian tribes that are known to oppose visitation to the top of Rattlesnake Mountain.

Well, in all due respect, what has the Service been doing for the past 10 years? The position of the tribes is well known, and I fully respect their rights and their views. But this doesn't explain what the Service has been doing since 2000, when consultation should have begun. To be frank, the Service has had more than 10 years, and they say it will take several more, before they can determine if they will allow American people to have access to Rattlesnake Mountain.

So this bill is necessary because the only way to guarantee public access is to require it by law. The lands of the monument and entire Hanford site belong to all of the American people. The views of the Indian tribes are very legitimate, and they have every right to be heard and consulted. But the views of the local communities and all citizens also deserve to be heard and listened to. And there

is overwhelming public support for access to the summit of Rattlesnake Mountain.

I want to welcome Carl Adrian, who is the President of the Tri-City Development Council, who will be testifying in support of this bill. And Mr. Chairman, I also ask unanimous consent to include in the record statements and letters from the board of the Benton County Commissioners, of which Rattlesnake Mountain is totally located, the Tri-City Regional Chamber of Commerce, the Tri-Cities Visitors and Convention Bureau, and the Back Country Horsemen of Washington, who all favor this legislation. I ask unanimous consent they be included in the record.

Dr. FLEMING. Without objection, so ordered.

**[NOTE: The information submitted for the record has been retained in the Committee's official files.]**

Mr. HASTINGS. With that, I yield back my time, and again thank you for your consideration.

[The prepared statement of Mr. Hastings follows:]

**Statement of The Honorable Doc Hastings, Chairman,  
Committee on Natural Resources**

Thank you, Chairman Fleming for holding this hearing on H.R. 2719, the Rattlesnake Mountain Public Access Act.

Let me be very clear about the goal of this bill: to ensure that public access is allowed to the summit of Rattlesnake Mountain, including motorized access. The text of the bill is not overly prescriptive, it simply ensures that the public has access to the public's lands. A law is necessary because, quite frankly, the Fish and Wildlife Service can't be trusted to ensure such access.

To provide some background: Eleven years ago, without local input or Congressional approval, President Clinton issued Proclamation 7319, establishing a monument on 300 square miles around the Department of Energy's Hanford Site in my home town in south central Washington. As many of you know, for many decades, the Hanford Site served as one of the most important national defense nuclear facilities for our nation during World War II and during some of the tensest times of the Cold War.

The Hanford Reach National Monument is unique in that it is currently the only one managed by the U.S. Fish and Wildlife Service in the continental United States. It encompasses 195,000 acres, which is slightly smaller than the area set aside for Mount Rainier National Park. The Proclamation establishing the monument notes that it includes many important geologic, biological and historical resources from 10,000 years ago to more recent homesteads from small towns abandoned for the Manhattan Project during World War II.

Let's not forget, the lands of the monument were all in private ownership prior to World War II when the federal government literally swooped in and told landowners that they had 30 days to move their families, their farms, and entire communities so that the secret Manhattan Project could proceed. In the past decades, there was an Army site located on the mountain. There is a road to the top. There is a communications tower on the summit. There is no reason the public can't visit the summit.

Rattlesnake Mountain is on the southeast portion of the monument. For those not familiar, the summit—at 3,600 feet—is the highest point in the area and provides unparalleled views for miles around the monument, the Hanford Site, and the Columbia River.

The majority of public comments received during the development of a federal management plan expressed a need to ensure public access to the lands encompassed in the monument. Prior the release of the final management plan, I urged the Secretary of Interior to make public access to Rattlesnake Mountain a top priority. Unfortunately, the Fish and Wildlife Service ultimately approved a management plan that closed all public access to Rattlesnake Mountain.

It took the Service eight years to write a management plan that closed Rattlesnake Mountain to public access. They've not allowed public tours since that time. After I introduced this bill last Congress, the Service offered two tours for selected individuals, and then suddenly reneged on the offer just days before the tours were to occur, without explanation.

The submitted testimony from the Interior Department infers that the Service supports tours of Rattlesnake but very carefully does not say they will ever allow access to the summit. The summit is the vantage point that allows one to view the entire Hanford Site and monument. If the public can visit the summit of Mt. Rainier, then they certainly should be allowed to the summit of Rattlesnake Mountain. And let me point out there is already a paved road to that leads to the summit of Rattlesnake Mountain.

Furthermore, the written testimony goes on at length on why the Fish & Wildlife Service can't possibly allow public access until after 2012 because of consultation with three Indian Tribes that are known to oppose visitation to Rattlesnake Mountain. With all due respect, what has the Service been doing for the past decade? The position of the Tribes is well known and I fully respect their right to their views, but this doesn't explain what the Service has been doing since the year 2000 when consultation should have begun.

To be frank, the Service has had more than ten years, and they say it will take several more, before whether they can determine if they will allow the American people to have access to the public's lands. This bill is necessary because the only way to guarantee public access is to require it by law.

The lands of the monument and the entire Hanford Site belong to all of the American people. The views of Indian Tribes are legitimate, and they have a right to be heard and consulted, but the views of local communities and all citizens also deserve to be heard and listened to—and there is overwhelming local public support for access to the summit of Rattlesnake Mountain.

Those with the most at stake—the local citizens of the Tri-Cities—strongly favor access to Rattlesnake Mountain, and they are represented today by Carl Adrian, President of the Tri-Cities Development Council. I welcome him and look forward to his testimony. I also would ask unanimous consent to include in the record, a statement from the Tri-City Regional Chamber of Commerce and recent letters from the Board of Benton County Commissioners, the Tri-Cities Visitors and Convention Bureau and the Back Country Horsemen of Washington in favor of this legislation.

Quite simply, H.R. 2719 is needed to ensure that the American people finally are allowed access to the summit of Rattlesnake Mountain, over a decade after this monument was named. It directs the U.S. Fish and Wildlife Service to provide that access and also authorizes cooperative agreements to ensure that the access is safe, reasonable, and that it respects other important uses of the monument.

Our federal parks and monuments should be available for all Americans to enjoy—not something to be admired from afar and from behind a chain link fence. H.R. 2719 recognizes that people who are allowed to go to the top of Mount Rainier and around the park should be granted similar access to the summit of Rattlesnake Mountain.

Thank you, Mr. Chairman.

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Dr. FLEMING. I thank the gentleman, the Chairman of the whole Committee. I would now like to recognize former Chairman of this Committee, and current Chairman of the Indian and Alaska Native Affairs Subcommittee, the distinguished gentleman from Alaska, Congressman Don Young, for any opening statement he would like to make on his bill H.R. 2714.

Mr. YOUNG. Mr. Chairman, if I could, I would like to make that the time we take that bill up. In deference to my good friend Mr. Dingell, let's go ahead and have him testify to get him going on his way.

Dr. FLEMING. Without objection, so ordered. I would now like to recognize the distinguished gentleman from Virginia, who serves on the Migratory Bird Conservation Commission, Congressman Rob Wittman, for any opening statement he would like to make on his bill, H.R. 3117. And you may have noticed that he appeared just moments before we got to him. So it was a beautiful entrance there, Mr. Wittman.

Mr. WITTMAN. Mr. Chairman, as they say, timing is everything. But I am going to yield to our witness, the distinguished gentleman from Michigan, and I will enter my remarks for the record.

[The prepared statement of Mr. Wittman follows:]

**Statement of The Honorable Robert J. Wittman, a Representative in Congress from the Commonwealth of Virginia, on H.R. 3117**

Mr. Chairman,

In 1934, the Congress enacted the Migratory Bird Hunting Stamp Act. This law required hunters to purchase a federal duck stamp in order to hunt migratory waterfowl. Proceeds from the sale of these stamps have been used to preserve vital wetlands and waterfowl habitat across the country. Every year, hunters, bird watches and stamp collectors visit their local post office, National Wildlife Refuge or sporting goods store to purchase their stamp.

For the past four years, eight states have participated in an electronic duck stamp pilot program. Instead of having to visit a brick and mortar store, hunters and collectors could purchase the duck stamp online. By all accounts the program has been a success. Many Americans have enjoyed the convenience of buying a federal duck stamp over the internet.

I am the author of this legislation that would continue to allow hunters to electronically purchase the annual federal duck stamp required to hunt migratory waterfowl. It is time to make this a permanent feature of federal law for a more efficient and faster process. Similar technology is already embraced by states that allow sportsmen to obtain their hunting and fishing licenses online.

As a member of the Migratory Bird Conservation Commission and avid waterfowl hunter I am proud to sponsor this legislation to modernize the distribution of the federal duck stamp program without burdening the taxpayer.

I want to compliment the lead cosponsor of the bill, Congressman Ron Kind (Wisconsin), for his leadership, commitment and passion for sportsman's issues and waterfowl conservation.

H.R. 3117 is supported by the Congressional Sportsman's Foundation and Ducks Unlimited.

I urge my colleagues to support the bill.

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Dr. FLEMING. OK. The gentleman yields. Thank you. We will now hear from our witness. I would now like to welcome and recognize the Dean of the House of Representatives, the gentleman from Michigan, Congressman John Dingell, for any statement he would like to make. Thank you, sir.

**STATEMENT OF THE HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Mr. DINGELL. Mr. Chairman, I thank you for your courtesy. It is a privilege to be here. And I would like to thank my colleagues here. I note Mr. Wittman serves with me on the Migratory Bird Commission. And Mr. Don Young used to serve with me when I was Chairman of a little Subcommittee called Fisheries and Wildlife on the Merchant Marine and Fisheries Committee, and which used to meet in this room as a matter of fact, and which had jurisdiction at that time, before its abolition, over the entire Refuge System. And we did, I think, some remarkably good work with that.

Mr. Chairman, first thank you for your courtesy. I appear here on two bills, H.R. 3009, of which you are sponsor, and H.R. 2236, of which Mr. Sablan is the principal sponsor, and of which I am a cosponsor. I appear, Mr. Chairman, in favor of and in support of H.R. 2236, which will provide necessary and important funding for the maintenance of the Refuge System. I commend my colleague for his leadership in this matter.

Regretfully, Mr. Chairman, I appear in opposition to your bill. I do so respectfully, but I would simply point out that the Refuge System is one of our great national treasures. It is an odd mixture of lands that have been acquired by the Federal Government or

have been included in the Refuge System in a lot of different ways, some of it by donations from citizens, some of it by legislative creation by the Congress. And when I was Chairman of the Subcommittee having jurisdiction over those matters, we created many National Wildlife Refuges by Congressional order. And many of them are still refuges today, and are providing very important services to the public in the area of conservation that only the Refuge System can provide.

The Refuge System is one of the most citizen and people-friendly institutions in the U.S. Government. And as Mr. Wittman can tell you, we are very careful in the way we acquire these lands.

I would point out that the Refuge System has oftentimes been created by Executive Order. Indeed, the first refuge which was included in the system was Pelican Island National Wildlife Refuge, which is outside of Sebastian, Florida. That was a very important tract of land. Teddy Roosevelt, not a Democrat, but a good Republican, created it by Executive Order. Since that time, almost every President, including Mr. Nixon and Mr. George W. Bush, have been actively involved in creation of refuges or in additions to those refuges. And they have preserved important habitat for fish and wildlife, which by the way, is shared with the people, who have wonderful access to these particular pieces of public land and public domain.

And I have been responsible, as I have mentioned, for a number of them, including two—one which I created in my own district, which is now up to about 6,000 acres, and which is providing valuable service and is enthusiastically supported by the people. It provides habitat for some 7 million migratory birds who fly north and south every year over this refuge.

I would hope that this Committee would recognize, and you, Mr. Chairman, would recognize that you have much control over the Refuge System, and an enormous ability to have your wills and concerns met. I would point out that if land is not owned by the United States, it has to be acquired through the Migratory Bird Commission. As Mr. Wittman can tell you, never in our service on that Committee—or on that commission have we had a word of complaint from anybody about the lands being acquired. So if lands are acquired to be set aside by purchase or something of that kind, you will have full say on this through the regular appropriations process and through the process that we engage in on the Migratory Bird Commission. I would point out never have we acquired land in that commission process without the full approval of both the Senators, the Governor, the Legislature, the State game and fish, and the Members of the Congressional delegation.

In any event, I hope that we will not jeopardize the well-being of the Refuge System by starting out to diminish the ability of the President to do this. I would point out that many refuges of great value, including the Alaskan Game Range, now the Arctic Refuge, was created by the government at the time that Mr. Young and I were sitting on the Committee which had jurisdiction over it, and had our full support and assistance.

So thank you for your courtesy to me. I am 32 seconds over time. And I wanted to show my gratitude by staying in the time limits, but I was not successful. Thank you.

[The prepared statement of Mr. Dingell follows:]

**Statement of The Honorable John D. Dingell, a Representative in Congress from the State of Michigan, on H.R. 3009, the National Wildlife Refuge Review Act, and H.R. 2236, the Wildlife Refuge System Conservation Semipostal Stamp Act**

The first refuge was established by President Theodore Roosevelt on March 14, 1903—the Pelican Island National Wildlife Refuge outside of Sebastian, Florida. H.R. 3009 would take away the ability to do what President Roosevelt had the foresight to do. Over the last 100 years, presidents, both Republicans and Democrats, have created refuges to preserve wildlife habitats.

I remember hunting in Humbug Marsh with my dear old dad when I was a kid and promised it would be my life's mission to make sure these types of opportunities exist for the generations to come. These refuges are treasures, to be enjoyed by millions of people every year who want to hunt, fish, or just enjoy the outdoors.

The refuge system includes 150 million acres and 555 refuges and includes over 700 species of birds, 200 species of fish, and hundreds of species of mammals, reptiles, and amphibians. The Southeast Region, which includes Louisiana, had the most visitors in FY 2006 and supported the highest number of jobs at 7,381.

According to a study by the U.S. Fish and Wildlife service, use of national wildlife refuges created \$1.7 billion in economic activity and supported 27,000 private sector jobs. The economic benefits identified in this study were almost four times the amount appropriated by congress to the refuge system in FY 2006. In the Detroit River International Wildlife Refuge in southeast Michigan, walleye fishing alone brings in over \$1 million each spring.

A Detroit Heritage River Water Trail has been developed for kayaking and canoeing in the region. This unique trail was established to both promote close-to-home paddle-based recreational opportunities and ecotourism. For example, in a national survey performed by the Outdoor Industry Foundation reported that paddle-based recreation contributes \$36.1 billion annually to the U.S. economy. A kayak landing was constructed at the Detroit River Refuge gateway earlier this year and will contribute significantly in local economic benefits at a time when many in southeast Michigan are unemployed.

Establishment of a refuge does not instantly make the Federal government a steward of an area of land. It simply allows for the Fish and Wildlife Service to enter into a partnership with state and local governments. Funds are needed to acquire lands and congress controls those purse strings. If acquisition of a tract of land is controversial, it simply will not be acquired. The Federal government simply does not take land from businesses or homeowners.

This subcommittee will also hear testimony on H.R. 2236 by Mr. Sablan. As a co-sponsor of this bipartisan legislation, I believe it is an excellent step in the right direction to help maintain the refuge system.

Ducks Unlimited is already encouraging their members to buy extra Duck Stamps through their "Double up for Ducks" campaign because their members know the importance of maintaining the refuge system.

This new wildlife refuge system conservation stamp would give hunters, anglers, and conservationists the ability to directly support operation and maintenance costs for refuges and keep these wonderful treasures alive and open to everyone who enjoys the outdoors.

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Dr. FLEMING. Well, I thank the gentleman. And I want to note that Congressman Dingell has a very long and distinguished service here in the House. And thank you for many things. You made reference, sir, to one in your district. Is that the Detroit River International Wildlife Refuge?

Mr. DINGELL. Yes, sir. It was authorized by this Committee. And it has been a great success. And it is widely supported by the citizens. We have a citizens group that raises about a quarter of a million dollars a year to support the activities of that refuge.

Dr. FLEMING. So, you know, it would appear that certainly this Committee does have a function in authorizing that refuge, although we may differ on whether or not the Fish and Wildlife Service should be able to do so unilaterally. In any case, the Fish and

Wildlife Service will continue to subject our taxpayers to millions of additional land acquisition costs at a time when they can't maintain what they already own.

I also find it interesting that based on our analysis, legislation has not been introduced to allow the U.S. Park Service, the U.S. Forest Service, the U.S. Army Corps of Engineers, and other Federal agencies to unilaterally establish a new national park, wilderness area, national forest, or flood control project. This bill would actually bring refuge areas into alignment with all the other like or similar issues that we have before us in Congress, where it would be under better oversight and better control. And again, in the case of Mr. McCreary, my predecessor, we can go from soup to nuts, A to Z, in 6 months. Certainly there are not many things up here that we can do as quickly as we can with establishing refuge areas.

With that, if there is no further testimony or discussion, I would be happy to—

Mr. DINGELL. With all respect, Mr. Chairman.

Mr. FLEMING. Yes, sir.

Mr. DINGELL. I would just like to respond a little bit. The Refuge System is a tremendous value. Your State of Louisiana gets about 7,381 jobs out of the system. It brings in \$4 for every dollar we appropriate for it. And it provides an enormous amount of recreation opportunities and access to citizens for hunting and fishing who enjoy the out of doors. And it achieves enormous support from the people in the area in almost every one of these instances. Again, I hope you will view this kindly, Mr. Chairman. It is a very important service, and it is a very important treasure that the Refuge System guards.

Again, I appreciate your great courtesy to me. Thank you.

Dr. FLEMING. Yes, sir. And I think we all acknowledge the great value the Refuge System has for our wonderful country. And we thank you for your contribution. Thank you, sir.

Mr. DINGELL. Thank you, Mr. Chairman.

Dr. FLEMING. OK. I would now like to welcome our second panel of Mr. James W. Kurth, the Assistant Director for the National Wildlife Refuge System. He will be representing the U.S. Fish and Wildlife Service. And Mr. Tim Ragen, Executive Director of the U.S. Marine Mammal Commission, who will testify on H.R. 2714.

Like all witnesses, your written testimony will appear in full in the hearing record. So I ask that you keep your oral statements to 5 minutes, as outlined in our invitation letter to you and under Committee Rule IV(a). Our microphones are not automatic, so please press the button when you are ready to begin. I also want to explain how our timing lights work. It is very simple. The first 4 minutes you are under a green light. Then the last minute under yellow, which is a signal to kind of wrap up. When you get to red, we want you to close as quickly as possible, as we have a lot of witnesses today. And thank you for your presence here.

Mr. Kurth, you are now recognized for your 5 minutes of testimony, sir.

**STATEMENT OF JAMES W. KURTH, ASSISTANT DIRECTOR,  
NATIONAL WILDLIFE REFUGE SYSTEM, U.S. FISH AND  
WILDLIFE SERVICE**

Mr. KURTH. Good afternoon, Chairman Fleming, and members of the Subcommittee. I am Jim Kurth. I am the Chief of the National Wildlife Refuge System with the Fish and Wildlife Service. And I appreciate the opportunity to testify today on seven bills that affect the Service. I am going to very briefly summarize the Administration's views on those bills.

The Administration supports the passage of H.R. 2027, which will adopt a modernized map for four units of the Coastal Barrier Resource System in Rhode Island. This map is the result of a comprehensive review by the Service of these units, done in consultation with the Subcommittee. The Service has not done a similar review for the Gasparilla unit in Florida, and therefore we are not able to take a position on H.R. 2154 at this time.

In regards to H.R. 3117, the Electronic Duck Stamp Program provides an effective, popular method of selling Federal duck stamps. More than 600,000 electronic duck stamps have been sold. They now account for 27 percent of the total stamps sold, which is a 420 percent increase since just 2007. We will continue to administer this successful program, and we support the intent of H.R. 3117 to make it permanent. The Administration also supports an increase in the price of a Federal Duck Stamp from \$15 to \$25.

The Duck Stamp is a conservation success story. Since 1934, it has helped acquire over 5 million acres of habitat for the Refuge System. These lands benefit waterfowl and countless other species, and provide great opportunities for waterfowl hunting and other outdoor recreation. The stamp's price has not increased since 1991, the longest period without an increase in the program's history.

The Administration supports H.R. 2236, the Wildlife Refuge System Conservation Semipostal Stamp Act. And we thank Congressman Sablan, Chairman Fleming, and other members of the Subcommittee for considering this innovative way to address the needs of the Refuge System. The legislation will raise awareness and provide a direct and voluntary opportunity for the public to contribute.

In regard to H.R. 2719, we thank Chairman Hastings for his interests in the Hanford Monument, and we acknowledge that the process for providing access to Rattlesnake Mountain is taking a long time. The Service has determined that limited public access is appropriate and compatible. We are involved in consultations with affected tribes who consider Rattlesnake Mountain a sacred site and have opposed access. We appreciate the support and the intent of this legislation, and we would like to work with Chairman Hastings to find ways to expedite this process and ensure due consideration of all stakeholders and the conservation purposes of the monument.

The Administration respectfully opposes H.R. 2714 for the reasons described in my written testimony. The Service appreciates the underlying reasons for the bill, and we are working with the University of Alaska and others to better understand the effects of sea otter populations on commercially harvested shellfish. We also greatly value the role of subsistence harvests to the culture and

livelihoods of Alaska Natives, and are seeking ways to engage them in cooperative management of sea otters.

Mr. Chairman, the Administration appreciates your interest in the Refuge System and the process to establish new refuges contained in H.R. 3009; however, the Administration opposes the bill. It would impede the Service's ability to be agile and best opportunities to strategically grow the Refuge System. In the administrative process, the Service conducts studies to determine whether an area should be conserved as a unit of the Refuge System. The planning process does not happen overnight. It is an open process, involving local communities. It is grounded in science, and seeks to conserve habitats that are critical to maintaining America's wildlife heritage for current and future generations. There are often threats to these areas that they will be converted to other uses that would degrade or destroy wildlife habitat. The process also depends on the presence of willing sellers and public support. Congress exercises significant oversight in establishing refuges. A new refuge is not established until the first land is acquired. This requires either appropriations of funds by the Congress or the approval by the Migratory Bird Commission.

And therefore, we believe H.R. 3009 is unnecessary to assure Congressional oversight. Through this process, the Service has been able to act efficiently, frequently in partnership with others, to protect nationally significant areas as wildlife refuges. National Wildlife Refuges conserve some of the most outstanding wildlife habitat in the world, and a stunning array of fish and wildlife. Conserving high quality habitat is what we do. Refuges provide critical economic benefits to local communities and unique outdoor recreational experiences to the public. Maintaining the ability to act to conserve wildlife, a tradition that began with President Theodore Roosevelt in 1903, puts the Nation in the best position to conserve these last best places forever.

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions. I apologize for moving so quickly through these important bills.

[The prepared statement of Mr. Kurth follows:]

**Statement of Jim Kurth, Assistant Director, National Wildlife Refuge System, U.S. Fish and Wildlife Service, U.S. Department of the Interior, on H.R. 2027, H.R. 2154, H.R. 2236, H.R. 2714, H.R. 2719, H.R. 3009, and H.R. 3117**

Good morning Chairman Fleming and members of the Subcommittee. I am Jim Kurth, Assistant Director of the National Wildlife Refuge System within the U.S. Fish and Wildlife Service (Service). I appreciate the opportunity to testify today on seven bills that affect the Service. My testimony below highlights each relevant Service program and provides the Administration's views on each of the bills.

**National Wildlife Refuge System**

The mission of the National Wildlife Refuge System (Refuge System) is to administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans. Encompassing more than 150 million acres of land and water, the Refuge System is the world's premier network of public lands devoted to the conservation of wildlife and habitat. The Refuge System preserves a diverse array of land, wetland, and ocean ecosystems spanning more than half the planet—from Guam, American Samoa, and other remote Pacific islands, north to the high arctic of northern Alaska, east to the rugged coastline of Maine and south to the tropical

U.S. Virgin Islands. National wildlife refuges are found in every U.S. state. In total, the Refuge System now contains 555 refuges and 38 wetland management districts.

The management of each refuge gives priority consideration to appropriate recreational uses of the refuge that are deemed compatible with the primary conservation purposes of the refuge, and the overall purpose of the Refuge System. The 593 units of the Refuge System offer about 44 million visitors the opportunity to fish, hunt, observe and photograph wildlife, as well as learn about nature through environmental education and interpretation. Currently, approximately 375 units of the Refuge System have hunting programs and approximately 355 have fishing programs. With its widespread presence and history of working with partners, the Refuge System also plays a key role in supporting innovative, community-level efforts to conserve outdoor spaces and reconnecting people with nature through the Administration's America's Great Outdoors initiative.

In addition to conserving America's great wildlife heritage, the Refuge System is an important part of local economies. The presence of a national wildlife refuge in a community often offers significant economic benefits in the form of jobs and visitor spending in local stores, hotels, and service stations. As noted in a resolution supporting National Wildlife Refuge Week passed by the Senate earlier this month, for each dollar appropriated to the Refuge System, national wildlife refuges generate about \$4 in economic activity, totaling nearly \$1.7 billion and helping sustain 27,000 jobs in local communities.

#### **H.R. 3009, the National Wildlife Refuge Review Act**

The Administration appreciates the subcommittee's interest in the Refuge System, the process to establish new refuges, and Congressional review and approval of new refuges. We also appreciate the importance of prudent decision-making regarding new refuges, especially in light of the challenging economic times we face, when it is more important than ever that we ensure the wise expenditure of taxpayer dollars.

The Service recognizes the importance and value of legislatively creating refuges. Many refuges, such as Red River National Wildlife Refuge in Louisiana, were established by acts of Congress and fulfill a valuable conservation purpose, support local economies, and are enjoyed and supported by local communities. Establishment of refuges by statute is a very important method of conserving wildlife and habitat in the Refuge System.

However, the Administration strongly opposes H.R. 3009. The bill would impede the Service's ability to be strategic, flexible, nimble and responsive in capitalizing on situations that present the best opportunities to strategically grow the Refuge System, as we have been directed by Congress. When priority conservation needs and values, public support, and the presence of willing sellers align to allow for the establishment of a new refuge, the Service must maintain the ability to act quickly and efficiently in taking advantage of such opportune situations. The Service's administrative decision to authorize the creation of a new refuge is then subject to Congressional oversight in that a refuge is not established until the Congress appropriates funds to purchase land or easements, or the Migratory Bird Commission, which includes Members of the House and Senate, approves land acquisition using funds from the Federal Duck Stamp. H.R. 3009 is unnecessary to assure Congressional oversight and it injects greater uncertainty into the process of establishing a new refuge, which could dissuade willing sellers and land donors.

Under the current administrative process, the Secretary of the Interior, acting through the Service, is directed by the National Wildlife Refuge System Administration Act of 1966 (Sect 4 (4)(C)) to "plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystem of the United States, to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats, and to increase support for the System and participation from conservation partners and the public."

Conserving wildlife through land protection is an adaptive and public process, founded on scientific data, driven by our mission to conserve habitat and ecosystems. We use the best scientific processes and data to identify gaps in the conservation estate—which we define as lands that are protected at local or landscape scales by private, state, or federal partners. We are also asked to look at specific areas as potential new wildlife refuges by organizations, local communities, Members of Congress, and states. Once a conservation need is identified, a preliminary proposal is submitted to the Service's Director for approval to develop a detailed Land Protection Plan. Development of a Land Protection Plan is a public planning process, during which we reach out to state agencies, local communities, Congressional offices, conservation and sports groups to inform and help shape the plan.

The Service uses the best available scientific information to analyze the effects of the Land Protection Plan and alternatives on the physical, biological, social and economic environment. Congressional delegations and committees are informed at key points in the process. The completed Land Protection Plan is submitted to the Director for review and approval as a new refuge. Not all preliminary proposals and Land Protection Plans are approved.

The process for studying and approving new refuges is an extensive and transparent effort founded on science, public input, and partnerships. It requires flexibility to respond to new information and input from the public and partners, and once the final plans are completed, it requires decisive action for approval or denial. Often, there is a limited window of time to protect key wildlife habitat and ecosystems. Without a level of relative certainty in the process, and the ability for the Service to act relatively quickly, potential land sellers and donors may choose options that lead to the development of their land and a lost conservation opportunity. Conversely, there are other times where there is more flexibility to complete the process over longer timeframes.

Congress plays a key role at several junctures of the process to establish new refuges. During the transparent planning process, Congressional members and committees are kept informed, and have the opportunity to review plans and provide input through the public comment period. Congressional members provide a strong voice in support, adjustment, or opposition of planning efforts, and are given thorough consideration by the Service. Congress has also designated numerous refuges through legislation. The appropriations process provides Congress with options to guide refuge establishment. Congress appropriates funds for the purchase of lands and waters, and for operational support. Congressional members from both the House and the Senate also sit on the Migratory Bird Commission, which makes the final decisions on protection of migratory bird habitat from receipts on the sale of the Federal Duck Stamp.

Establishing refuges through administrative authority and support from Congress has been highly successful and critical to establishing a network of lands and waters that conserve America's natural heritage. Below are examples of how this process has been successful, and why it is essential.

The broad suite of refuges established across the waterfowl flyways to provide stopover and wintering habitat for ducks, geese, swans and many other migrating birds reflect the value of the administrative process of creating refuges. The vast numbers of waterfowl and wetland birds enjoyed by the hunters and bird watchers of the American public today would not have been possible without having a flexible process to identify and protect key habitat. One of these refuges is the Edwin B. Forsythe National Wildlife Refuge in New Jersey. It is comprised of about 46,000 acres of coast estuaries, beaches, sand dunes, and pine-oak woodlands. The refuge was first established by administrative action in 1939 as Brigantine Refuge with a second refuge, Barnegat, in 1967 to provide stopover habitat for migrating waterfowl, and especially as critical wintering habitat for about 75 percent of the black duck and Atlantic brant in the United States. These two refuges were combined and renamed by Congress in 1984 in memory of the late conservationist Congressman from New Jersey, Edwin B. Forsythe. The refuge also provides key nursery habitat for many sport fish, such as striped bass, nesting habitat for the threatened piping plover, and migration habitat for thousands of migrating songbirds. Within sight of the Atlantic City skyline, the refuge receives a quarter of a million visits a year including 2,500 hunting and 27,000 fishing visits. Visitation to E.B. Forsythe Refuge contributes an estimated \$2.8 million a year to the local economy with total direct and indirect contribution at \$4.4 million. This translates to a \$5.05 economic benefit for every \$1 appropriated.

Opportunities for conservation through the establishment of national wildlife refuges serve the public in unexpected ways. Big Muddy National Wildlife Refuge in Missouri was established soon after catastrophic flooding in 1993 on the Missouri River. Congress supported the effort with emergency supplemental funding (P.L. 103-75, P.L. 103-211). The Service completed the land protection studies that resulted in the administrative establishment of Big Muddy Refuge, and allowed use of the funds to buy land from willing sellers. In addition to conserving important wildlife habitat, it allowed the people whose lives were crushed by the regular flooding to sell the land at fair market value and start over elsewhere. Shifting land use from residential and agricultural uses in flood prone areas reduces the economic impact of flooding while supporting conservation and recreational goals. The refuge consists of nearly 17,000 acres and the Service is re-establishing river and floodplain habitat. The endangered pallid sturgeon, an ancient species of fish, is benefiting from these conservation efforts. The refuge also receives an average of 25,000 visits a year.

Refuges are also established to protect and restore marquee ecosystem types, which results in numerous benefits to the American public. Big Branch Marsh National Wildlife Refuge, on the shores of Lake Pontchartrain in Louisiana, was administratively created in 1994. The refuge resulted from a grass roots effort by the local community leaders and a variety of landowners wishing to preserve open space in New Orleans. The Conservation Fund purchased and donated 3,660 acres of wetland to the Service as the first acquisition for this refuge. The 17,000 acre refuge protects and restores the largest undeveloped natural area of the lake's north shore. The complex of marshes, hardwood hammocks and pine flatwoods provide important habitat for a number of species listed under the Endangered Species Act, such as red-cockaded woodpecker, brown pelican, bald eagle, and American alligator. The brown pelican and bald eagle were delisted because of successful efforts to protect habitat and recover the species—refuges were a key part of the success. Protecting endangered species habitat in refuges can also help to take pressure off of private landowners and public works projects—abundant species habitat that is permanently protected creates greater opportunities for sustained species recovery. The abundant fish and wildlife at Big Branch Refuge draw more than 300,000 visits a year, with 129,000 enjoying hunting and fishing. It is also recognized as a hub for environmental education and wildlife-related recreation, which fosters and creates a strong conservation ethic within the community and contributes to the local economy.

H.R. 3009 would create an additional, uncertain hurdle to the successful and transparent process described above; a process that has resulted in the creation of so many popular refuges that are key to wildlife conservation, valued and supported by local communities, and contribute to numerous sectors of the economy. The bill requires action by Congress to establish new national wildlife refuges, even after an extensive public planning process based on sound scientific information and partnerships, where there is a demonstrated need to conserve wildlife habitat and ecosystems.

When the Service plans and establishes new refuges, we strive to ensure a balance between the need to act quickly and the need to gather substantial scientific information, solicit input from partners and the public, and be responsive to local needs. Requiring Congressional action on top of this will lengthen the amount of time required for approval of a new refuge and inject uncertainty in the process, delaying and perhaps losing opportunities for funding, land purchase, and ultimately, conservation of wildlife habitat.

*H.R. 2236, the Wildlife Refuge System Conservation Semipostal Stamp Act of 2011*

The Administration supports H.R. 2236, the Wildlife Refuge System Conservation Semipostal Stamp Act of 2011. The purpose of the legislation is to provide a direct opportunity for the public to contribute to funding for the maintenance backlog and operational needs of the Refuge System. We believe the legislation would accomplish this goal and would also raise awareness and appreciation of the Refuge System and its mission.

In May of this year, the Service testified at a hearing before this subcommittee on the issue of the operational needs and maintenance backlog of the Refuge System. At that hearing we described the nature of the needs and how we prioritize Refuge System project spending in the context of overall Service strategic goals. The Refuge System conserves an extraordinary number of species and ecosystems, and currently, the Service is tracking about \$3.1 billion in operational needs and deferred maintenance projects, including about \$650 million in operations and \$2.5 billion in deferred maintenance in the Refuge System's \$26.5 billion portfolio of constructed assets. We would like to point out that in May of this year the Service provided testimony that the Refuge System's deferred maintenance backlog as of the beginning of FY 11 was \$2.7 billion. We are pleased to report that this amount has declined somewhat in the past fiscal year and now sits at \$2.5 billion as of the beginning of FY 12. We point this out as an indication that we are managing our available resources in a way that is allowing us to make progress on our backlog while still allowing us to move forward on other key projects.

Managing the Refuge System is not unlike running a large company with hundreds of branch offices. It requires simultaneous attention to both national and local issues, and a diverse and highly trained workforce that must work together for the entire operation to run smoothly. Our workforce contains mostly biologists and professional wildlife managers, but also contains professional educators, law enforcement officers, heavy equipment operators, fire fighters, real estate appraisers, maintenance workers, IT and cartography professionals, budget specialists, pilots and boat captains. With fewer than 4,000 employees working at more than 380 locations spanning all U.S. states and territories, and with only \$3.35 in appropriations for

every acre we manage, the Refuge System must, and does, ensure its operations are efficient.

The semipostal stamp authorized by H.R. 2236 will provide another funding source to help support refuges. The Refuge System semi-postal stamp would operate very similarly to the Save Vanishing Species semi-postal stamp, which was issued on September 20, 2011. The U.S. Postal Service printed 100 million stamps, which will be on sale for two years at a price of 55-cents each. If USPS sells out of the vanishing species stamp, the Service will receive \$11 million minus reasonable USPS production, distribution, and sales costs, most likely netting approximately \$10 million for international wildlife conservation.

Under this model, a Refuge System semi-postal stamp could generate up to \$10 million over the two year sales period if all stamps are sold. These funds would be available to fund priority operations and deferred maintenance projects. The Service would use these funds in a strategic way to provide the biggest benefit by addressing the highest priority projects as documented in our databases. Examples of needs that could be addressed include repairing visitor facilities, funding environmental education and interpretation, implementing habitat management projects, reintroducing imperiled species to previously habited areas, and conducting scientific evaluations needed to improve wildlife management.

While the semi-postal stamp would not, by itself, fully address the operational needs and maintenance backlog, it would address many key projects and would be helpful in raising awareness of the Refuge System and its mission.

*H.R. 2719, Rattlesnake Mountain Public Access Act of 2011*

Rattlesnake Mountain is an icon of the Hanford Site, located in central Washington. It is a sacred place for Native Americans, a science laboratory, and offers a treasure trove of natural and cultural resources. H.R. 2719 would require the Secretary of the Interior to provide public access to Rattlesnake Mountain, which is within the Arid Lands Ecology Reserve (ALE) on the Hanford Reach National Monument.

Significant natural and cultural resources were recognized when the Monument was established on June 9, 2000, “for the purpose of protecting the following objects: riparian, aquatic, and upland shrub-steppe habitats; native plant and animal species; free-flowing, non-tidal stretch of the Columbia River; shrub-steppe ecosystems; breeding populations of birds; habitat for migratory birds; mammals; insect populations; geological and paleontological objects; and archaeological and historic information.” The Monument is administered as a unit of the National Wildlife Refuge System “. . .for the development, advancement, management, conservation, and protection of fish and wildlife resources. . .” and “. . .for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude. . .”

The Service completed a 15-year management plan for the monument in 2008 and determined through that CCP/EIS process that some public access, including Service sponsored or led tours and a hiking trail, are appropriate and compatible when administered in a manner consistent with protecting the resources of the area.

Rattlesnake Mountain (a.k.a. Laliik) is of spiritual importance to American Indian groups of the Mid-Columbia Plateau region. It is also associated with Smohalla, an important 19th century American Indian prophet. In 2007, DOE determined that Rattlesnake Mountain is eligible to the National Register of Historic Places as the “Laliik Traditional Cultural Property.” In consultation with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of Umatilla Indian Reservation and Nez Perce Tribe, the Service has been informed that all three Tribes oppose public visitation at Rattlesnake Mountain.

Allowing public access and use at Rattlesnake Mountain constitutes an undertaking under Section 106 of the National Historic Preservation Act (NHPA) and the Service must consider potential effects of any permitted activities on the Laliik Traditional Cultural Property. In June 2011 the Service began drafting, in consultation with area Indian Tribes, a cultural resource management plan to identify cultural resource management needs and priorities for the Monument. Among the cultural resource priorities of the Monument is to identify the potential effects of public use on the Laliik Traditional Cultural Property and to identify ways to mitigate adverse effects. The Service must exercise section 106 of the NHPA before conducting Service-led tours allowing public access. It is anticipated this cultural resource plan and Section 106 compliance will be finished by the fall of 2012.

It is the intent of the Service to find the right balance between protecting the natural resources and respecting the cultural history on Rattlesnake Mountain, while making the site available to the public in a way that will increase their awareness

and appreciation for this special and unique place. The Department appreciates and support the intent of the legislation, and we would like to work with Chairman Hastings to expedite the process to provide appropriate public access on Rattlesnake Mountain that gives due consideration to all stakeholders.

#### **Coastal Barrier Resources System**

The Coastal Barrier Resources Act (CBRA) of 1982, P.L. 97-348, established the John H. Chafee Coastal Barrier Resources System (CBRS), a defined set of geographic units along the Atlantic, Gulf of Mexico, Great Lakes, Puerto Rico, and U.S. Virgin Islands coasts. The 857 units of the CBRS are comprised of 3.1 million acres of coastal barrier habitat, including beaches, uplands, maritime forests, lagoons, mudflats, and coastal wetlands.

Coastal barriers provide invaluable services that are the foundations of a strong economy and healthy environment. They provide habitats that support a wide variety of fish and wildlife, protect mainland communities from severe weather events, function as popular recreation destinations, and support local economies. These habitats are valuable to a host of wildlife but are also prime locations for vacation homes. CBRA restricts new federal expenditures and financial assistance, including federal flood insurance, within the CBRS. CBRA does not prevent development and imposes no restrictions on development conducted with non-federal funds. Congress enacted CBRA to minimize the loss of human life, reduce wasteful federal expenditures, and minimize the damage to natural resources associated with coastal barriers.

The driving purpose of CBRA is to take the Federal Government out of the business of encouraging people to build infrastructure and homes on relatively undeveloped and biologically rich coastal barriers, which are subject to chronic erosion and the devastating impacts of natural disasters. CBRA advanced the common sense approach that risky private development on relatively undeveloped coastal barriers should not receive financial support from Federal taxpayers. As President Ronald Reagan said upon signing CBRA into law, "it simply adopts the sensible approach that risk associated with new private development in these sensitive areas should be borne by the private sector, not underwritten by the American taxpayer." Like every administration since the Reagan Administration, the Obama Administration supports CBRA and its unique free-market approach to conservation. A 2002 Service economic report stated that CBRA would save approximately \$1.3 billion in Federal dollars between 1983 and 2010. This is likely an underestimate because the study did not include any potential savings resulting from not issuing flood insurance policies in CBRA.

In 1990, Congress enacted the Coastal Barrier Improvement Act (CBIA), P.L. 101-591, which expanded the CBRS by adding new units, enlarging some previously designated units, and adding "otherwise protected areas" (OPAs) as a new category of CBRS lands. An OPA is defined as an undeveloped coastal barrier within the boundaries of an area established under federal, state, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. However, OPAs can contain private land that is held for conservation purposes as well as private properties that are inholdings. The only federal spending prohibition within OPAs is federal flood insurance.

The Department of the Interior (Department), through the Service, is responsible for administering CBRA, which includes: maintaining the official maps of the CBRS; consulting with federal agencies that propose spending funds within the CBRS; and making recommendations to Congress regarding whether certain areas were appropriately included in the CBRS. CBRS maps have always been maintained and updated by the Service.

Aside from three minor exceptions, only new legislation enacted by Congress can modify the CBRS boundaries to add or remove land. These exceptions include: (1) the CBRA five-year review requirement that solely considers changes that have occurred to the CBRS by natural forces such as erosion and accretion; (2) voluntary additions to the CBRS by property owners; and (3) additions of excess federal property to the CBRS.

*H.R. 2027, to revise the boundaries of John H. Chafee Coastal Barrier Resources System Sachuest Point Unit RI-04P, Easton Beach Unit RI-05P, Almy Pond Unit RI-06, and Hazards Beach Unit RI-07 in Rhode Island*

H.R. 2027 would revise the boundaries of four units of the CBRS in Newport County, Rhode Island. These units are Sachuest Point Unit RI-04P, Easton Beach Unit RI-05P, Almy Pond Unit RI-06, and Hazards Beach Unit RI-07.

The Department supports passage of H.R. 2027. The legislation replaces the existing map for Units RI-04P, RI-05P, RI-06, and RI-07 with a modernized, revised map. All four units were included within the CBRS by the CBIA in 1990. There are two types of units within the CBRS. System units generally contain private lands and OPAs generally contain lands held for conservation or recreation. The revised map contains two System units, RI-06 and RI-07, and two OPAs, RI-04P and RI-05P. The revised map, reflecting a comprehensive review process, removes lands that were inappropriately included within the CBRS in 1990 and adds lands that are appropriate for inclusion within the CBRS.

We received a request in 2004 to review CBRS Unit RI-05P. Our review indicated that Unit RI-05P was originally intended to follow the boundaries of Easton Beach and Easton Pond which are owned by the City of Newport. Unit RI-05P is an OPA within the CBRS. The existing OPA boundaries do not precisely follow the underlying public lands boundaries and inappropriately capture adjacent private land that is not held for conservation or recreation; is not an inholding, and was not intended to be part of the OPA. The proposed boundary of Unit RI-05P is adjusted to remove the property in question (as well as other private lands), add publicly owned beach and wetlands, and more precisely follow the boundaries of lands owned by the City of Newport and Town of Middletown.

When the Service finds a technical mapping error that warrants a change in one part of a CBRS map, we review all adjacent areas on the map to ensure that the entire map is accurate. This comprehensive approach to map revisions treats all landowners who may be affected equitably, and it also ensures that the Service and Congress will not have to revisit the same map in the future. In accordance with this comprehensive mapping approach, the Service reviewed and revised the boundaries of Units RI-04P, RI-06, and RI-07, which are located on the same map panel as Unit RI-05P.

The proposed boundary of Unit RI-04P is adjusted to include portions of the Norman Bird Sanctuary, lands owned by the City of Newport Water Department, and lands owned by the Town of Middletown known as Second Beach and Third Beach. The proposed boundary of Unit RI-06 is revised to remove private and public lands, add the remaining undeveloped portions of the privately owned Bailey's Beach, and follow the wetland/upland interface around Almy Pond. The proposed boundary of Unit RI-07 is adjusted to include all of the privately owned Gooseberry Beach, most of the privately owned Hazards Beach, follow the wetland/upland interface around Lily Pond, and include an 11-acre parcel that the Audubon Society of Rhode Island has voluntarily requested be added to the CBRS as a System unit.

In accordance with the Service's standard mapping protocols for delineating underlying conservation and recreation areas within the CBRS, we obtained signed maps and Statements of Agreement from the Town of Middletown, City of Newport, Rhode Island National Wildlife Refuge Complex, Audubon Society of Rhode Island, and Norman Bird Sanctuary certifying that we had accurately depicted the boundaries of their lands on a base map. The stakeholder concurrence maps were then used to compile portions of the proposed CBRS boundaries on the draft map that is the subject of H.R. 2027. This boundary review process does not necessarily indicate that the stakeholders concur with the Service's recommendations for boundary changes, but rather that the Service has accurately depicted the boundaries of the underlying conservation or recreation areas. The stakeholder boundary review process is not applied to private lands that are not held for conservation or recreation.

The Service sent letters to local officials and other stakeholders to inform them of the proposed changes to the four Rhode Island units. The draft revised map and a summary of the proposed changes were also posted on the Service's CBRS website in an effort to make this information accessible to the public.

The revised map for Units RI-04P, RI-05P, RI-06, and RI-07 removes approximately 22 acres from the CBRS and adds approximately 67 acres to the CBRS; these include uplands and associated aquatic habitat. The revised map removes eight structures (including a pump house) from the CBRS and adds no structures to the CBRS. The map makes progress towards fulfilling the Congressional directive in Public Law 109-226 to create modernized digital maps for the entire CBRS. The Department supports map modernization as a good government effort that will make administration of the CBRS more efficient, make CBRS boundaries more accessible to the public, and preserve the long-term integrity of the CBRS. To date, the Service has created draft digital maps for approximately 12 percent of the CBRS (including those maps produced as part of the Digital Mapping Pilot Project).

We will continue modernizing additional CBRS maps, per the directives of Public Law 109-226, as resources are made available for this effort, and look forward to working with the Subcommittee during FY 2012 to finalize the pilot project maps, which cover approximately 10 percent of the CBRS.

*H.R. 2154, to correct the boundaries of the John H. Chafee Coastal Barrier Resources System Gasprilla Island Unit FL-70P*

The Service was first contacted about Unit FL-70P in 2010. Unit FL-70P was established as an OPA on November 16, 1990 by the CBIA. No changes have been made to boundaries of the unit since it was established. The Service receives numerous requests from property owners and other interested parties who seek to remove land from the CBRS. The Service does not recommend removing lands from the CBRS unless there is compelling evidence that a technical mapping error led to the inclusion of land in the CBRS. In order to determine whether a technical mapping error exists, the Service conducts a comprehensive review of the history of the CBRS unit in question, which includes an assessment of the Service's records for the unit, the controlling and historical CBRS maps of the area, the historical development status of the area, and any materials submitted by interested parties. Unlike the Rhode Island units discussed above, the Service has not yet conducted a comprehensive review of Unit FL-70P. The Service currently has a large backlog of requests to conduct technical correction reviews of CBRS units, as these reviews are time and resource intensive and we have limited resources with which to conduct them.

Recognizing that the official CBRS maps are outdated technologically and difficult to use, Congress directed the Department to modernize CBRS maps using digital technology. In 2006, the Coastal Barrier Resources Reauthorization Act (P.L. 109-226), directed the Secretary of the Interior to: (1) finalize a pilot project that creates digital maps for approximately 10 percent of the CBRS and (2) create digital maps for the remainder of the CBRS, which would include a review and remapping of Unit FL-70P. The Service is working to finalize the pilot project, and expects to have this completed in fiscal year 2012. Depending on the availability of funds, the Service may also address a limited number of technical correction reviews and create a limited number of draft digital maps. We will prioritize those reviews and remapping efforts in coordination with the appropriate Congressional committees, including the House Natural Resources Committee. The Service's ability to remap additional CBRS units beyond the pilot project units depends on the availability of resources for that effort. In the past, we have coordinated our mapping priorities with our authorizing committees in Congress. In general, the Service attempts to review and remap areas on a first in, first out, basis to be fair to homeowners who have been waiting the longest for their area to be reviewed and potentially remapped.

Given the large number of CBRS units that need to be reviewed and possibly remapped, the Service has not yet been able to address Unit FL-70P that is the subject of H.R. 2154. The Service has not prepared a draft revised map for Unit FL-70P and the Department does not have a position on H.R. 2154 at this time. We would be happy to work with the Subcommittee and Congressman Mack on H.R. 2154 so that we can determine the best way to move forward on conducting this research and providing the Service's expertise on remapping Unit FL-70P.

**Marine Mammal Protection**

The Marine Mammal Protection Act (MMPA), enacted in 1972, was the first legislation to call for an ecosystem approach to natural resource management and conservation. Authority to manage marine mammals was divided between the Department of the Interior (delegated to the U.S. Fish and Wildlife Service) and the Department of Commerce (delegated to the National Oceanic and Atmospheric Administration). The Service was given authority to implement the MMPA for the conservation and management of sea and marine otters, walrus, polar bear, three species of manatees, and dugong.

The MMPA prohibits the take (i.e., hunting, killing, capture, and/or harassment) of marine mammals, and enacts a moratorium on the import, export, and sale of marine mammal parts and products. There are exemptions and exceptions to the prohibitions. For example, Alaska Natives may hunt marine mammals for subsistence purposes or for the creation and sale of authentic native articles of handicrafts and clothing, provided that the taking is not accomplished in a wasteful manner. Only authentic native articles of handicrafts and clothing may be sold in interstate commerce. Alaska Natives may possess, transport, and sell marine mammal parts and products to other Alaska Natives or registered agents, or transfer to a registered tannery for processing. To assist Alaska Natives in the creation of authentic native articles of handicrafts and clothing, the Service's MMPA implementing regulations at 50 CFR 18.23, and the NOAA's regulations at 50 CFR 216.23, allow persons who are not Alaska Natives to register as an agent or tannery. The restrictions and requirements for agents and tanners allow the Services to monitor the processing of such items while ensuring that Alaska Natives can exercise their rights under the exemption.

The Service has a well-established cooperative relationship with Alaska Natives. Section 119 of the MMPA authorizes the appropriation of funds to develop cooperative agreements between the Service and Alaska Native organizations for co-managing subsistence use of marine mammals. Regarding sea otters, the MMPA prohibits commercial harvest of sea otters, and allows Alaska natives to hunt sea otters for subsistence and creation of handicrafts and clothing.

*H.R. 2714, to amend the Marine Mammal Protection Act of 1972 to allow the transport, purchase, and sale of pelts of, and handicrafts, garments, and art produced from, Southcentral and Southeast Alaska northern sea otters that are taken for subsistence purposes*

H.R. 2714 would amend the MMPA to allow for the transport, purchase, and sale of pelts of, and handicrafts, garments, and art produced from, Southcentral and Southeast Alaska northern sea otters that are taken for subsistence purposes in Alaska. In addition, the bill would allow for the export of handicrafts, garments, or art produced from Southcentral and Southeast Alaska northern sea otter pelts regardless of whether the item produced is traditional or contemporary, or whether it is or is not significantly altered.

The Service recognizes the intrinsic role that marine mammals play in the subsistence, cultural, and economic lives of Alaska Natives as well as the important role that Alaska Natives can play in the conservation of marine mammals. Further, we believe that the conservation and our management of the northern sea otter has benefitted from our cooperation and consultation with Alaska Natives on marine mammal issues, especially as they pertain to northern sea otters. The Department does, however, have a number of concerns with H.R. 2714 and opposes this legislation. Further, the Service is aware that, as written, the bill is not uniformly supported by our Alaska Native partners.

The exemptions that allow for the take (harvest) of marine mammals by Alaska Natives are linked to their subsistence needs as well as their traditional use of marine mammals in the creation of handicrafts. Nevertheless, the over-arching purpose of the MMPA is to manage and conserve marine mammals as significant functioning elements in their ecosystem, thereby maintaining the health and stability of that ecosystem; this in turn ensures the continued availability of marine mammals for subsistence purposes. H.R. 2714 would extend the uses of sea otters from the Southeast and Southcentral Alaska stocks to include the commercial domestic sale of raw or tanned hides, the creation of handicrafts, garments, or art by non-Alaska Natives, and, international commerce of products that, if not required to be "significantly altered," may include raw or tanned hides. This bill is a drastic change from the purposes and policies of the MMPA, and the Service is concerned that such a change would create an unregulated commercial market for raw or tanned sea otter pelts. In turn, it would be difficult for the Service to determine if a sea otter was taken by an Alaska Native for subsistence purposes as allowed, or for strictly commercial purposes, which could result in enforcement issues.

The harvest of marine mammals by Alaska Natives afforded by the exemptions provided to Alaska Natives under the MMPA is unregulated prior to a finding that the stock is depleted. Although populations of sea otters in Southeast Alaska as well as many areas of Southcentral Alaska are considered healthy and growing, the number of sea otters in Prince William Sound has still not fully recovered to the pre-Exxon Valdez oil spill number. We are mindful that the unregulated and intensive commercial exploitation of sea otters in the 18th and 19th centuries resulted in their near extirpation. Because there are no mechanisms under the MMPA to manage and regulate a subsistence harvest prior to a finding of depletion, the Service is concerned that under H.R. 2714 the demand for sea otters would increase dramatically, which could result in unsustainable removals from the population.

The Southwest stock of northern sea otters is listed as threatened under the Endangered Species Act of 1973 (ESA) and, thus, considered depleted under the MMPA. Although this stock is not being considered as a part of H.R. 2714, it would be difficult for the Service to determine whether a pelt was taken from this stock or from either the Southcentral or Southeast stocks, which could complicate recovery of the listed stock and create enforcement issues. Unauthorized take and use of pelts from the Southwest stock could result in negative impacts on this stock, and could contribute to its further decline.

While the bill is specific to the Southeast and Southcentral stocks of sea otters, the Service is concerned that, if passed, there would be confusion on behalf of the regulated community. Sea otters from the threatened, depleted stock in Southwest Alaska continue to be harvested by Alaska Natives for subsistence and handicraft purposes. At the time of listing, the Service specifically assessed whether the harvest was a potential contributor to the decline and determined that it was not a con-

tributary factor. Therefore, because the raw hides of sea otters harvested in Southwest Alaska may be sold between Alaska Natives, to registered agents, or transferred to tanners regardless of the stock source, the regulated community would be burdened by having to differentiate the stock source of their hides, and what enterprise they could conduct with the hide depending on that stock source. As it would be difficult to differentiate from which sea otter stock a pelt was harvested, there is also a potential that pelts legally taken from the Southwest stock could be illegally sold if they have not been transformed into an Alaska Native handicraft that met the “significantly altered” definition.

Moreover, all sea otters, regardless of the population, are listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Therefore, exports of raw or finished products would require a CITES export document for the shipments to legally leave the United States. In order to grant an export permit, the Service must determine that the export would not be detrimental to the species’ survival and that the specimens were legally acquired. Because there is no distinguishable difference in the appearance of sea otters from the Southwest stock versus the Southeast and Southcentral stocks, it could be difficult to make the required findings to allow for the export of specimens.

Finally, H.R. 2714 only references section 101(b)(1), i.e., take for subsistence purposes, and not 101(b)(2) and (3), which also allows take for the purpose of creating and selling authentic native articles of handicrafts and clothing, and requires that the take not be accomplished in a wasteful manner.

The bill could potentially and negatively impact other marine mammal species by setting an expanded standard of subsistence purposes that could be applied to other species. For example, Pacific walrus are currently harvested for both their meat and their ivory. Walrus ivory is a highly prized commodity and the artisan production of handicrafts by Alaska Natives provides an important supplemental income in remote areas where other sources of income are limited. At the same time, the Service determined that the Pacific walrus is a candidate species for ESA listing based in part on the unregulated harvest of the species. The Service is, therefore, concerned that the allowance of the sale of raw product, i.e., pelts, for one species could be a precedent leading to the sale of raw products for all marine mammals.

### **The Federal Duck Stamp**

The restoration of North America’s great migratory waterfowl populations is a conservation success story. It is a story that involves sportsmen in partnership with States, Congress, and Federal agencies applying science to habitat protection and restoration. Because of strategic actions taken to conserve key habitats along the four major North American flyways, migratory waterfowl populations are thriving. This supports our hunting tradition, and it has provided a linchpin for the economies of many states supported by the recreational activities of hunters and outdoor enthusiasts.

The Federal Migratory Bird Hunting and Conservation Stamp, commonly known as the Federal Duck Stamp, plays a critical role in this conservation partnership and its success story. Originally created in 1934, the Duck Stamp represents the permit required by the Migratory Bird Treaty Act of 1918 to hunt waterfowl, and every waterfowl hunter is required to carry one into the field. Ninety-eight percent of the receipts from stamp sales are used to acquire important migratory bird breeding, migration, and wintering habitat, which are added to the National Wildlife Refuge System. Since 1934, sales of the Duck Stamp have helped to acquire more than 5.3 million acres of waterfowl habitat for the Refuge System. These protected lands not only benefit waterfowl, but also countless other wildlife species, and they increase opportunities for outdoor and wildlife-dependent recreation.

The cost of the Duck Stamp has remained the same since 1991. Based on the Consumer Price Index, the stamp would need to cost more than \$24 today to have the same buying power that \$15 had in 1991. In 1991, revenue from the Duck Stamp enabled the Service to acquire 89,000 acres of habitat for the Refuge System at an average cost of \$306 an acre. In 2010, the Service was able to acquire significantly less habitat because land values had tripled to an average of \$1,091 an acre.

In his FY 2011 Budget Proposal, the President included a legislative proposal to amend the *Migratory Bird and Hunting Conservation Stamp Act* (16 U.S.C. 718b), to increase the sales price for Duck Stamps from \$15 to \$25, beginning in 2012. With the additional receipts that would be generated from the proposed price increase, the Service anticipates additional annual acquisition of approximately 7,000 acres in fee and approximately 10,000 acres in conservation easement. Total acres acquired for 2012 would then be approximately 28,000 acres in fee title and 47,000 acres in perpetual conservation easements. These funds can be targeted to acquire habitats for waterfowl that can provide the greatest possible conservation benefit.

*H.R. 3117 Permanent Electronic Duck Stamp Act of 2011*

H.R. 3117 would authorize the Secretary of the Interior to continue to administer a program which enables hunters to purchase Migratory Bird Hunting and Conservation Stamps (Federal Duck Stamps) through approved state licensing systems. The proof of purchase receipt from this sale, bearing a unique serial number, serves as a permit to hunt migratory waterfowl for a limited time. This program was initiated through the Electronic Duck Stamp Act of 2005 (P.L. 109-266), which directed the Secretary to conduct a three-year pilot program to determine if this approach would provide a cost effective and convenient means for issuing migratory bird hunting and conservation stamps.

In order to hunt migratory birds in the United States, hunters are required by 16 U.S.C. 718(a) et al to purchase a Federal Duck Stamp and to carry the stamp with them while they are hunting. In September of 2007, the Service initiated the pilot electronic Duck Stamp program (E-Stamp program), partnering with eight states: Arkansas, Colorado, Florida, Idaho, Maryland, Minnesota, Texas, and Wisconsin. Each participating state signed a Memorandum of Understanding to administer the E-Stamp program in cooperation with the Service, through their automated hunting license sales outlets.

Through the E-stamp program, hunters may purchase Federal Duck Stamps through an approved state's automated licensing system and immediately receive a proof of purchase with a unique serial number, which they can take with them into the field. The proof of purchase serves as a valid permit to hunt migratory waterfowl for up to 45 days from the date of purchase or until the customer receives the physical stamp. Like the physical Federal Duck Stamp, the electronic stamp proof of purchase allows free entry into all national wildlife refuges that charge a fee.

The Electronic Duck Stamp Act of 2005 directs the Secretary to evaluate the pilot program and submit a report on whether or not the program "has provided a cost-effective and convenient means for issuing migratory-bird hunting and conservation stamps" and whether it has: (1) increased the availability of those stamps; (2) assisted states in meeting the customer service objectives of the states with respect to those stamps; (3) maintained actual stamps as an effective and viable conservation tool; and (4) maintained adequate retail availability of the physical stamp. After conclusion of the pilot program in December 2010, the Service finalized its evaluation, which included review and analysis of data from participating states, and submitted its report to Congress in September 2011.

The E-Stamp pilot program has proven to be a practical method of selling Federal Duck Stamps that is readily accepted by the stamp-buying public. Since the E-Stamp program's inception, more than 600,000 electronic Duck Stamps have been sold. Sales of E-Stamps increased from 58,000 in 2007 to more than 350,000 in 2010, an increase of more than 420 percent. In 2010, E-Stamp sales accounted for more than 27 percent of total Duck Stamp sales, demonstrating the widespread acceptance of the E-Stamp pilot program. With few exceptions, states reported ease in administering the program, and the pilot program did not negatively affect the availability of the physical stamp or its value as an effective and viable conservation tool. E-Stamps provide an additional avenue of availability for stamp purchasers, though the program has not yet resulted in an increase in overall Federal Duck Stamp sales.

The Service has continued to administer the program under existing authorities. Although we understand we can continue to administer the program without additional authorities, the Department supports the intent of H.R. 3117. The Service has certain, specific amendments to suggest, and we would like to work with the bill's sponsors and the Subcommittee on these as the bill continues to be considered.

**Conclusion**

Thank you for the opportunity to testify this afternoon. I am happy to answer any questions the Subcommittee may have and look forward to working with the Subcommittee it considers these bills.

Dr. FLEMING. Thank you, Mr. Kurth. And the Chairman would like to acknowledge that apparently it was announced today that you are being named Chief of the Refuge System. So congratulations.

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

Dr. FLEMING. We look forward to working with you on that.

Mr. KURTH. I look forward to working with this Committee, sir. Thank you.

Dr. FLEMING. Also, the Chairman would like to mention that at some point in the next few minutes we will probably get a call to vote, although we can bring things to a reasonable slowdown and stop, and then we will immediately convene back. We shouldn't be gone more than 30 or 40 minutes. It is a short vote. And we will be done for the day, come back, and then we can go unrestricted from that point.

Next we have Mr. Ragen. Sir, you have the floor for 5 minutes.

**STATEMENT OF TIMOTHY J. RAGEN, PH.D.,  
EXECUTIVE DIRECTOR, MARINE MAMMAL COMMISSION**

Dr. RAGEN. Thank you, Chairman Fleming and members of the House Subcommittee, for inviting me to testify on H.R. 2714. I am Tim Ragen, Executive Director of the Marine Mammal Commission.

The Marine Mammal Protection Act of 1972 has been an effective tool in protecting and conserving marine mammals and ecosystems. The heart of the Act is the moratorium on the taking and importation of marine mammals and marine mammal products. The Act provides certain exemptions to the moratorium, one of them allowing the taking of any marine mammal by any Indian, Aleut, or Eskimo if such taking, one, is for subsistence purposes; two, is done for purposes of creating and selling authentic native articles of handicrafts and clothing; and three, in each case is not accomplished in a wasteful manner.

The legislative history behind this exemption recognizes the value of maintaining Alaska Native cultures that are based on subsistence uses of marine mammals. However, that history and the statutes clearly distinguish between subsistence harvesting and creating and selling traditional handicrafts on the one hand, and commercial use of marine mammals on the other. H.R. 2714 would blur this important distinction. For that reason and others, the Marine Mammal Commission must oppose this bill.

The following are our major concerns. First, it would open the door to commercial harvesting of sea otters by allowing the sale of unaltered pelts, and the export of nontraditional handicrafts, garments, and art objects using pelts that have not been significantly altered. Although the initial taking would be limited to Alaska Natives, nothing in the bill would prevent sales to non-Natives who might modify and resell them.

Second, the bill would confound enforcement of the Act. Enforcement officers would have no easy means for distinguishing sea otters of the threatened Southwest Alaska population from otters of the Southcentral and Southeast populations. Officers also would not have a clear basis for distinguishing handicrafts created under 101(b)(1) from those created under 101(b)(2). Under this bill, those created under 101(b)(2) would remain subject to the limitations in that provision.

Third, the sale of unaltered sea otter pelts within and outside the United States, coupled with modifications in reselling by non-Natives, could undermine those Alaska Natives who currently produce and sell authentic Native articles of handicrafts and clothing.

Fourth, the commercial sale of sea otter pelts from the United States would undermine U.S. policy and diplomacy in international fora that regulate commercial use of marine mammals, and would expose our Nation to claims that it was giving preferential treatment to domestic products. Relaxing the requirements for sea otters also may lead to claims of unfairness by Alaska Natives who rely on and use other marine mammals. This could lead to a broader call to relax the standards governing the subsistence and handicraft use of those species.

Fifth, the Commission understands that the impetus behind this bill may be to address a fishery management issue. If that is true, the issue warrants full description and review by the appropriate authorities before measures as significant as those proposed in H.R. 2714 are enacted.

Finally, section 101(a)(3)(A) of the Marine Mammal Protection Act allows the Secretary of the Interior to waive the moratorium on taking marine mammals provided that such taking is in accord with sound principles of resource protection and conservation, and is consistent with the policies and purposes of the Act. The Marine Mammal Commission believes that the waiver process a better mechanism for reviewing, considering, and resolving the factors that have led to the proposal of H.R. 2714.

Thank you, Mr. Chairman, and members of the Subcommittee. I will do my best to answer your questions.

[The prepared statement of Dr. Ragen follows:]

**Statement of Timothy J. Ragen, Ph.D., Executive Director,  
Marine Mammal Commission, on H.R. 2714**

Chairman Fleming and members of the House of Representatives Committee on Natural Resources, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs, thank you for inviting me to testify before you on H.R. 2714, a bill to amend the Marine Mammal Protection Act of 1972 to allow the transport, purchase, and sale of pelts of, and handicrafts, garments, and art produced from, Southcentral and Southeast Alaska northern sea otters that are taken for subsistence purposes. I am Timothy Ragen, Executive Director of the Marine Mammal Commission.

**The Marine Mammal Protection Act**

The Marine Mammal Protection Act of 1972 has been an effective tool in protecting and conserving marine mammals and restoring the ecosystems of which they are a part. The heart of the Act is a moratorium on the taking and importation of marine mammals and marine mammal products, as set forth in sections 101 to 103 of the Act. The Act provides certain exceptions to the moratorium, one of them being an exemption allowing the taking of any marine mammal by any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

- (1) is for subsistence purposes; or
- (2) is done for purposes or creating and selling authentic native articles of handicrafts and clothing: Provided, That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: And provided further, That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term “authentic native articles of handicrafts and clothing” means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing and painting; and
- (3) in each case, is not accomplished in a wasteful manner.

The legislative history behind the exemption for Alaska Natives recognizes the value of maintaining Alaska Native cultures that are based, to a significant degree,

on subsistence uses of marine mammals. However, the legislative history and the statutory provisions themselves also draw a clear line between subsistence harvesting and maintenance of cottage industries based on creating and selling traditional handicrafts on the one hand, and commercial use of marine mammals on the other. The amendments included in H.R. 2714 would blur this longstanding distinction. For that and other reasons, the Marine Mammal Commission opposes H.R. 2714. Among our major concerns with the bill are the following—

**Commercial harvest:** In effect, H.R. 2714 would open the door to commercial harvesting of sea otters by allowing the sale of unaltered pelts and the export of non-traditional handicrafts, garments, and art objects using pelts that have not been significantly altered. Although the initial taking would be limited to Alaska Natives, there is nothing in the bill that prevents sales to or subsequent creation of handicrafts, garments or art objects by non-Natives. Once items have been exported, there is nothing that would prevent the recipient from using the pelts to fashion coats or other marketable items. Opportunities for foreign manufacturers to rely on items from Alaska as the source for sea otter pelts currently is very limited due to the requirement that marine parts be significantly altered from their natural form in the course of creating traditional handicrafts and articles of clothing for sale. As discussed below, the Marine Mammal Protection Act already includes provisions under which commercial uses of non-depleted marine mammals, including sea otters, can be authorized. Those provisions offer a preferable means for authorizing the activities that would be encompassed under H.R. 2714.

**Enforcement:** H.R. 2714 would confound enforcement of the Marine Mammal Protection Act in at least two ways. First, enforcement officers would have no readily available basis for distinguishing sea otters from the threatened Southwest Alaska population from otters from the Southcentral and Southeast populations. Second, the bill would create two classes of handicrafts—those made from sea otters taken initially for subsistence purposes under section 101(b)(1) of the Act and those taken specifically for purposes of creating and selling handicrafts under section 101(b)(2); the latter would remain subject to the limitations in that provision on what items could be made and sold. The bill does not provide a good way of distinguishing between these two categories of handicrafts. The Cook Inlet beluga whale case has taught us that even small economic incentives can lead to over-harvest of a subsistence resource with potentially significant impacts on the affected stock(s).

**Cultural and economic impacts:** The sale of unaltered sea otter pelts within and outside the United States, coupled with allowing non-Natives to obtain unaltered pelts and fashion and sell handicrafts, garments, and art objects made from those pelts has a significant potential to undermine those Alaska Native cottage industries that currently produce and sell authentic native articles of handicrafts and clothing. By opening up the scope of items that could be manufactured and sold, the bill also may encourage some Natives to abandon the cultural traditions that motivate and shape the items that they create.

**Precedence:** The commercial sale of sea otter pelts from the United States would undermine U.S. policy and diplomacy in a number of international fora established to regulate commercial uses of marine mammals and would open the United States to claims that it was exercising preferential treatment to domestic products. Historically, the United States has told other countries interested in exporting similar products to the United States (e.g., seal skins and products from Canada) that they must avail themselves of the waiver provisions of the Marine Mammal Protection Act to secure the necessary authorizations.

Relaxing the requirements with respect to sea otters also may lead to claims of unfairness by Alaska Natives who rely on and utilize other marine mammal species. The precedent that the bill would set may lead to a broader call to relax the standards governing the subsistence and handicraft use of other species.

**Fishery management:** The Commission's understanding is that the impetus behind this bill may have been an interest to address a fishery management issue. If that is the case, the issue warrants full description and review before measures as significant as those proposed in H.R. 2714 are enacted. Among other things, any such review should consider not only potential ecological interactions between sea otters and fisheries, but also the valuable role that sea otters play in the ecology of nearshore ecosystems. Furthermore, proponents of the bill should explain why other statutory provisions (e.g., section 118 of the Marine Mammal Protection Act) designed to address marine mammal-fishery conflicts are not adequate mechanisms for addressing those concerns.

**The waiver option:** Section 101(a)(3) (A) of the Marine Mammal Protection Act allows the Secretary of the Interior (in this case) to waive the moratorium on taking marine mammals provided that such taking is in accord with sound principles of resource protection and conservation and is consistent with the purposes and poli-

cies of the Act. Section 103 (b) sets forth the basic factors that must be considered in prescribing regulations related to a waiver. Those factors are aimed at determining the effect of such regulations on—

- (1) existing and future levels of marine mammal species and population stocks;
- (2) existing international treaty and agreement obligations of the United States;
- (3) the marine ecosystem and related environmental considerations;
- (4) the conservation, development, and utilization of fishery resources; and
- (5) the economic and technological feasibility of implementation.

Because the Marine Mammal Protection Act already contains a provision for waiving its requirements and that provision sets forth specific factors to be considered, the Marine Mammal Commission believes that the waiver process provides a better mechanism for reviewing, considering, and resolving the factors that have led to the proposal of H.R. 2714.

Thank you, Mr. Chairman and members of this Subcommittee. I will do my best to address your questions.

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Dr. FLEMING. Thank you, Mr. Ragen, for your testimony today. At this point, we will begin Member questions of the witnesses. To allow all Members to participate, and to ensure we can hear from all of our witnesses today, Members are limited to 5 minutes for their questions. However, if Members have additional questions, we can have more than one round of questioning. I now recognize myself for 5 minutes.

This question is to Mr. Kurth. During the 106th Congress, Congressman Jim McCreary, again, my predecessor, who represented my district in Louisiana, introduced the Red River National Wildlife Refuge Act. This legislation was subjected to a Congressional hearing, Committee markups, floor action on both the House and Senate, and President Clinton signed the bill into law on October 13, 2000. During this process, Congress became a partner in the acquisition of up to 50,000 acres of lands, waters, or interests within the boundaries of the refuge.

Is there any question that this refuge is on sound footing today because of this process?21Mr. KURTH. We are proud to have Red River as a unit of the National Wildlife Refuge System, but there was a study that preceded it. Originally, the Fish and Wildlife Service didn't recommend the establishment of this refuge. And so we listened to Congress, and worked with the Congress once it became clear that that was the intention of Congress. But there was a great deal of study and review of the area prior to the time Congress decided to consider it. And so I think, you know, each one of these circumstances are unique. And we certainly respect, you know, this Committee's role in oversight into the decision-making about establishing refuges. And there have been any number of hearings during the process of establishing refuges. And we understand that.

Dr. FLEMING. Do you view anything in my bill, 3009, that would prevent any studies such as what you utilized with the Red River project?

Mr. KURTH. Well, I don't think there is anything that would limit studies. What we found in many of these things, and I think it speaks to the distinction between parks and forests, is wildlife conservation is a different business. And it often requires partnerships between a number of entities. We very rarely any more find a refuge where we are the only game in town. So we require working with nonprofit organizations. We work with other agencies like the

Natural Resource Conservation System. And so putting these conservation deals together, when there is some exigency because of, you know, potential other uses, we found having the flexibility to move quickly in an adaptive way has been an advantage to our conservation mission.

Dr. FLEMING. Right. I appreciate your collaborative approach on that. Is there any reason then to exclude Congress from that decision?

Mr. KURTH. Well, Congress ultimately has the decision in that. If you don't appropriate money we can't buy land, or the Commission doesn't approve—

Dr. FLEMING. Let me interrupt you on that. The problem we have there is that we are not allowed, under our rules, to legislate through appropriations bills. So, yes, in a backdoor way you are right. But in reality, if we want to create a refuge, if we want to work with you to do that, we have a process. And that process is the authorization process, which is the function of this Committee. And again, there is nothing about what we do on the authorization side that should interfere in any way with conservation or a collaborative approach.

Mr. KURTH. Well, I mean even under the existing way that we do business, this Committee and the Congress certainly has the authority to move independently to create a refuge. It is just a complementary process to the administrative proposition of a refuge, and subsequent appropriations to make the deal. I don't know in my 33 years of doing this that we have ever supported creating a National Wildlife Refuge over the opposition of a Congressional delegation, because we need support from people who are willing sellers and support to acquire the land. And if we can't make a deal come together, we don't go forward.

Dr. FLEMING. OK. Well, again, I think that begs the question then why exclude Congress? If we are going to work with you, why not include us in that? But that is a rhetorical question for now.

In terms of other Federal lands under the jurisdiction of the Service and the Department of the Interior, could you provide the Subcommittee with a response to some of these questions? We are currently reviewing legislation that removes 22 acres of private property in Rhode Island. Since I understand the Service agrees that this was a mapping mistake, why not simply remove this property administratively from the system?

Mr. KURTH. Well, the change of the maps for the coastal barrier resource units is the prerogative of Congress. We don't have the administrative authority to change those maps. Those are adopted by Congress. So we support that change, but we don't have the authority unilaterally to do that.

Dr. FLEMING. OK. There is a great deal of wilderness currently contained within the National Wildlife Refuge System. And the Service has in the past recommended that additional acreage be added. What is preventing the Service from increasing their wilderness inventory?

Mr. KURTH. Well, the recommendation of wilderness by the Fish and Wildlife Service is nothing more than a recommendation. The authority to establish a unit of the National Wilderness Preservation System rests entirely with the Congress.

Dr. FLEMING. Would you prefer that we turn that over to your Service?

Mr. KURTH. We don't have any proposal to turn that over to the Fish and Wildlife Service's authority.

Dr. FLEMING. You can see where there is a little dichotomy. You like it one way in one area, but not the other. So that is something that we are trying to resolve here.

I see that my time is up. And I will now recognize the Ranking Member for 5 minutes.

Mr. SABLAN. Thank you very much, Mr. Chairman. And Mr. Kurth, I would like to also congratulate you on your new appointment as Chief of the Wildlife Refuge Service. I look forward to working with you to resolve the issues that are under your office and oversight of this Committee. Thank you and the Administration very much for your support of H.R. 2236.

How much do you think the Refuge System semipostal stamp could generate over say a 2-year sales period?

Mr. KURTH. We estimate that the stamp could generate as much as \$10 million in that 2-year period.

Mr. SABLAN. And but we all know that is just a portion of the operational backlog. But that would help. That \$10 million would help.

On H.R. 3009, Mr. Kurth, I have a series of yes or no questions. Is it accurate to state that beginning with President Theodore Roosevelt, that most units in the National Wildlife Refuge System were established administratively?

Mr. KURTH. That is correct.

Mr. SABLAN. And that there is already Congressional oversight over the establishment of these refuges even without the enactment of 3009?

Mr. KURTH. Yes, sir.

Mr. SABLAN. And it is also accurate to state that H.R. 3009 could likely result in lost opportunities for hunting, fishing, and the preservation of working landscapes?

Mr. KURTH. We are concerned that the ability to move quickly could cost us opportunity to make some of these conservation purposes. I would hate to speculate about what might be.

Mr. SABLAN. All right. And you also in your written testimony said that there is often a limited window of time when it is possible to protect key habitat and ecosystems by creating a refuge. Can you give us an example of a time-limited situation where administrative authority was likely essential or critical to creating a refuge?

Mr. KURTH. Well, there are any number of different kinds of examples. Let me give you one that we talk about a lot now. And that is up in the Blackfoot Challenge in Montana. This area is an easement-only refuge that borders the Bob Marshall Wilderness and the national forest there. There what we had to do was actually take a great deal of time to come to some sort of agreements with the local ranching communities about a partnership in conservation. And it is not the type of thing that is easy to legislate, it is not the type of thing that can be done without very long close cooperation.

What we found is really to be effective in conservation on a landscape scale, you have to work community by community with a different interest there, trying to find the partnerships and the opportunities to work together with people. And so what I think we are concerned about is sometimes taking just a deliberative, one-step approach doesn't allow for us to do some of the building of partnerships and having the administrative flexibility to try and bring together a deal with multiple partners.

Mr. SABLAN. All right. Let me get to Dr. Ragen. It is my understanding that H.R. 2714 is attempting to address a conflict between sea otters and fisheries. In your opinion, what is the best way to address this situation, this problem?

Dr. RAGEN. Under ideal conditions, I think you would want to know the specifics. We know that sea otters and fisheries interact with—sea otters interact with gill nets, with pot and trap fisheries, et cetera. And they do feed on some things, some targets that fisheries also target. The best way to deal with a question like this I think would be to get together and look what is going on in the particular areas of concern. And I understand those are in Southeast Alaska.

We should be able to characterize the fisheries that are active there, where they think there might be a problem. What is the spatial extent of it? What is the temporal extent of it? Is it a seasonal problem? How many fishermen are affected, with what type of prey? So I guess my suggestion would be that we take a close look at the specifics in this particular case, see what those interactions are, and then develop some sort of a response that is targeted on those particular issues.

Mr. SABLAN. All right. And do we understand how sea otters interact with commercial and subsistence fisheries, or are there research questions that we should address before coming to a decision whether to change the management of sea otters?

Dr. RAGEN. Certainly, we would like to know how many otters are in the area that are affected, what is their trend, what the influence of taking otters would be on the population and also on the local ecosystems so that we can understand, if animals are to be taken, what the impact of that would be so we could do a better ecosystem approach to managing this issue.

Mr. SABLAN. Thank you very much. My time is up. Thank you, Mr. Chairman.

Dr. FLEMING. The gentleman yields. I now recognize the former Chairman of the Full Committee, Mr. Young.

Mr. YOUNG. Mr. Chairman, with your little discretion, I would like to enter my statement for the record at this time.

Dr. FLEMING. Without objection.

**STATEMENT OF THE HON. DON YOUNG, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF ALASKA**

Mr. YOUNG. I would like to say one thing, Mr. Chairman. This bill of mine is a very simple bill. It is the interstate sale of pelts, and export of handicrafts, garments, and art made from the pelts of Southcentral and Southeastern Alaskan stocks of northern sea otters. I will say that what concerns me most, Mr. Chairman, is I love to hear people say we will have to have—this is not a new

problem. This has been going on for a long time. And the Commission sat on their hind ends like they usually do. And the Fish and Wildlife has used a lot of force, which is not necessary, and I have documentation of that, actually going in and taking pelts out of a subsistence killing of pelts, took them away from him, haven't given them back yet.

Well, I can tell you one thing. If you are taking over the refuge, you have some problems with some of your personnel. I suggest, respectfully, that you turn around and bring them into your office and let them know that they have to be in fact a little more understanding about people they are associating with day to day. You have more, 78 million acres of land in my State of refuge. I am not confident you are handling it the way you should. You are beginning to be like the Park Service. Don't bother us, we are the U.S. Government. When I see your people wearing flak jackets and carrying pistols, how do you think that makes you feel if you are living there? And you do. How do you think it makes a person feel that lives there all their life and have some smart-ass from Massachusetts come up there and tell them how they should live? I don't think that is a way to run your shop. You have been there 33 years, you know what I am talking about. I suggest you go up there and start talking to some of the people that interface with your people every day.

Mr. Chairman, I do have some questions. In a letter of March 15, 2011, the acting Regional Director mentions that for the past year the Service is reviewing policies related to the handicraft aspect of subsistence use exemptions to develop clear guidelines interpreting the significantly altered requirement. Now, it has been a year-and-a-half. And what is the results of their discussion? And why does it take so long for mutual agreement on definition of a term happen?

Mr. KURTH. I don't have an answer as to why it is not done, and I will provide that to the Committee for the record. I do know that it has been a topic of consternation for many years. I did spend 8 of those 33 years in Alaska, and I have a great deal of—

Mr. YOUNG. When were you up there?

Mr. KURTH. From 1991 until 1999.

Mr. YOUNG. Then I suggest you go back and review what is going on. It is not good. I have been in support of the Refuge System. But your idea is you can sit around and do nothing and not work with the people, I am not going to tolerate. You understand that?

Mr. KURTH. Sir, we fully want to work with the people.

Mr. YOUNG. That is good, not against them, with people.

Mr. KURTH. Yes, sir.

Mr. YOUNG. Significantly altered is not defined in regulations. Does this lead to subjective determinations by enforcement agents of whether a handicraft article is significantly altered?

Mr. KURTH. We believe that we have a very liberal interpretation of that. Mr. Young, I understand that it has been a source of contention. And we need to finalize those guidelines so there isn't misunderstanding.

Mr. YOUNG. I am glad we understand that. I have a resolution of a number of communities in Southeast Alaska pleading with the Service to address the sea otter issues, as it is having a devastating

effect on fishery-based economies and subsistence. You know, I listen to the Commission. This is not a new problem. They were transported to southeast. They built the herd up. And they are really doing damage now. For what? There has to be a management concept. Why I introduced this bill is for a management concept. If we keep waiting around and have some more discussions as we sit in our nice little chairs, there won't be anything left for any subsistence at all. This is what this is all about. And that is why I hope there is some way—I am going to move this bill one way or the other. But I hope there is some understanding from your agency and the Commission's agency to understand if we don't do something, you have destroyed the other species. Just because they lay on their back and eat their little oysters and their little crabs and their little clams, there are no abalone anymore, they have killed them all. There are very few crabs any more. They have killed them all. There is a massive herd of sea otters down there. They will eventually move north, and eventually move out to the northwest, too.

So those are the things I think your agency, God help us the Commission, ought to be considering—not talking about, considering. Let's do something now. And that is why I have to change the law, because you can't do it right now. You could do it through the regulatory process if you wanted to.

How much more time do I got? Twenty seconds.

Mr. Ragen's testimony mentions using the existing waiver process. Has a waiver ever been used by the Secretary, Mr. Kurth? Either one of you? Has it ever been used?

Mr. KURTH. That is not my area of expertise. I would have to check, and I will for the record, sir. Mr. Ragen may be able to answer that.

Mr. YOUNG. Mr. Ragen, has it ever been used?

Dr. RAGEN. Congressman Young, I believe that there was an effort by the Fouke Fur Company to try use the waiver back in the 1970s. There have been other efforts to use related provisions.

Mr. YOUNG. So the waiver doesn't work?

Dr. RAGEN. I would not say that it does not work.

Mr. YOUNG. But it hasn't been issued.

Dr. RAGEN. It has not been issued.

Mr. YOUNG. So it hasn't worked. 1970, let me see, that is 41 years. That is about right for an agency, 41 years. That is about right.

My time is up, Mr. Chairman.

Dr. FLEMING. OK. The gentleman yields his time. Next up we have—

Mr. YOUNG. Mr. Chairman, may I submit for the record the comments by Lianna Jack, Executive Director of Alaska Sea Otter and Steller Sea Lion Commission? They are in Old Harbor, Alaska. In support of my legislation by the way.

Dr. FLEMING. Without objection, so ordered.

[The prepared statement of Ms. Jack follows:]

**Comments by Lianna Jack, Executive Director, The Alaska Sea Otter and Steller Sea Lion Commission, Old Harbor, Alaska on H.R. 2714**

Thank you for the opportunity to submit comments on H.R. 2714. The Alaska Sea Otter and Steller Sea Lion Commission is a non-profit tribal consortium Alaska Na-

tive Organization (ANO) as described under the Marine Mammal Protection Act, with over 50 tribes and tribal organizations as members from 6 Alaska Native regions, ranging from Southeast Alaska to the Aleutian Islands.

The Alaska Sea Otter Commission formed in December 1988 to promote Alaska Native involvement in policy decisions regarding northern sea otters. In 1998, at the request of member tribes, the Alaska Sea Otter Commission added the advocacy of Alaska Natives and Steller sea lions, and formally expanded to the Alaska Sea Otter and Steller Sea Lion Commission.

TASSC's objectives include promoting the role of Alaska Natives in sea otter and Steller sea lion conservation and management efforts, assessing sea otter and Steller sea lion populations in Alaska through cultural science (TEK) and local biological research, working with regulatory agencies toward the common goal of conservation and management of healthy sea otter and sea lion populations, and educating and informing our youth and the public about the traditional and contemporary relationship between Alaska Natives, sea otters, and Steller sea lions.

We would like to thank Congressman Young for the introduction of H.R. 2714, ***To amend the Marine Mammal Protection Act of 1972 to allow the transport, purchase, and sale of pelts of and handicrafts, garments, and art produced from, Southcentral and Southeast Alaska northern sea otters that are taken for subsistence purposes.*** We appreciate the spirit and intent of the bill, and the support that it shows for rural communities, our hunters, and our artisans.

We appreciate the support for export of handicrafts, garments and art made from sea otter taken for subsistence purposes. This will help our artisans and skin sewers find greater markets for their work and provide economic growth. There are still CITES provisions that people will have to contend with, however, this is a much needed first step.

We do, however, have concerns about the provision to allow for the sale of raw pelts to non-Natives. If this were to go forward, it could have serious negative impact on the skin sewers and artisans that work heavily in sea otter. Any sort of benefit gained from increasing markets could be eliminated by allowing non-Natives to possess and thus work with raw pelts. We would be opening up a new class of competition that is not hampered by the restrictions outlined in the MMPA that our Native artists and craftspeople face.

Under existing law, subsistence harvest cannot be regulated unless it can be shown that Native take is negatively impacting the population. There is the deep concern that the potential exists for overharvest to occur. This would hurt our Native communities and could easily result in harvest regulation of subsistence use. There are provisions for requesting a proceeding on the record, but that is the only protection subsistence users have if regulations were to become necessary. The failures of the FWS concerning co-management over the last 5 years, as well as recent Office of Law Enforcement stings leaves us with no faith that Alaska Natives and tribal governments would have a seat at the table if regulations were needed. That point alone gives pause and we urge you to remove provisions allowing the sale of pelts to non-Natives. They are under no obligation to abide by their own policies regarding Native Americans or even Executive Orders regarding tribal consultation or Native Americans. They have shown this and even argued this in court. We cannot risk the potential for one-sided regulation.

We would also urge that the bill be amended to include language that would supersede existing federal regulations to allow harvest management plans developed through co-management that allow tribal or authorized ANO determinations of eligibility of who may participate. As it presently stands, federal regulations limit Alaska Natives to 1/4 blood quantum or more in order to be eligible to participate under the subsistence exemption. Presently, if harvest management plans developed through co-management were to be developed that included language on who was eligible, if it included provisions for individuals with less than 1/4 blood, that language would be in conflict with existing federal regulation and thus rendered null. To address that issue, those regulations need to be changed or somehow trumped by statute, I should note that the MMPA has no blood quantum requirement; it is simply a regulatory issue.

The existing regulations defining a Native Alaskan are not working, but simply amending the regulations to include lineal descendants is not an acceptable solution to many. The regulations need to be amended to a tribal eligibility rather than minimum blood quantum, so that the tribal governments could determine eligibility locally, however, there is little impetus among the federal agencies to make this change. In lieu of that, we need language in H.R. 2714 that would allow tribes or the authorized ANO to include provisions in a harvest management plan that would trump existing regulation.

Thank you for the opportunity to submit these comments.

Dr. FLEMING. Next up we have the gentleman from Florida, Mr. Southerland, 5 minutes.

Mr. SOUTHERLAND. Thank you, Mr. Chairman. Mr. Kurth, again as the other Members did, I congratulate you on your new appointment. I wanted to ask, in your testimony you stated that the Administration appreciates the importance of prudent decision-making regarding new refuges, especially in light of the challenging economic times we face, when it is more important than ever we ensure wise expenditure of the taxpayer dollars. You go on to describe the Service's process for establishing refuges as strategic, flexible, and nimble, and as working quickly and efficiently.

In previous hearings in this Subcommittee we heard testimony which revealed the National Wildlife Refuge System and the National Fish Hatchery System's operational and maintenance backlogs exceed \$4 billion. Despite these numbers, the Administration continues to request additional funds of land acquisition funding. If we do not pass a bill to mandate Congressional oversight over these issues, how will the Administration, primarily you and your department, improve its current business practices to do a more efficient job?

And thank you for your patience while I got that question out.

Mr. KURTH. Sure. I testified previously about that balance that we need to have between our operations and our maintenance challenges and strategically protecting habitat as National Wildlife Refuges. And it is very much of a balancing act. But conserving, you know, nationally significant fish and wildlife habitat is what we do. We are making progress on our maintenance backlog, but it is a daunting challenge, and it will take us time. The Congress, though, ultimately has the say. If you don't want us to proceed with acquiring new refuge lands, then the Migratory Bird Commission exercises oversight or the Appropriations Committee says you can't have the dollars. And so it is a balancing act, and it is one we need this Committee to be partners in. Your opinions and your thoughts are respected, and we take them into consideration as we try and plan the growth of the system.

Mr. SOUTHERLAND. I think you can certainly understand, though, the agitation, OK, when you have a backlog. And quite honestly, we hear a lot of members of the Administration that talk about the need for more money when the American people seem to have less of it. And I think as a new Member, and I have only been here 10 months, the thing that really is so bothersome to me is a lack of sense of urgency. Really in every way, everywhere I turn, 360 degrees, there is no sense of urgency. Quite honestly, because our life here, cushy little life here really is going to go on whether we solve problems that are crushing the American people or not. And so I speak to you not necessarily as a Member of Congress, but as someone who is new to this job, but I am blown away by every administrative position that comes here and testifies to us and never exudes any sense of urgency. It really is mind-boggling to me.

So last question, because I know I am running out of time, in your testimony you also stated that the development of land protection plan is public planning practice during which you reach out to State agencies, local communities, and Congressional offices. At a recent Congressional staff briefing led by the Fish and Wildlife

Service, the Regional Director with jurisdiction over Florida refuges indicated that hunting and fishing would be an integral component of new proposed refuges. As an avid outdoorsman, sports fisherman, hunter, and Floridian, I would like to know if you have taken the comments of my colleagues into consideration when banning and severely limiting hunting access on all but 20 percent of the Florida National Wildlife Refuges.

Mr. KURTH. We take very seriously the imperative of the hunt. Mr. Young was the champion of the National Wildlife Refuge System Improvement Act of 1997 that made hunting and fishing and other wildlife-dependent recreational uses the priority of public uses of the National Wildlife Refuge System, and we take that very much into consideration. And there are some outstanding hunting opportunities on national wildlife—

Mr. SOUTHERLAND. But I want to connect the dots here based on my first comments about the sense of urgency. The American people seem to be sending more to Washington than they have ever sent in recent memory. And then having 28 refuges in the State of Florida and we can only hunt on 20 of those, is that sufficient?

Mr. KURTH. There are a large number of the refuges in Florida that are very small islands and places like Tampa Bay that don't—and places like Pelican Island and the Indian River Lagoon that really don't afford hunting opportunities.

Mr. SOUTHERLAND. I apologize. It is seven—20 percent access. So seven of the 28. I find that it is so bothersome that the Administration seems to want more without giving the opportunity. So you can highlight that small 20 percent, but it is just not enough. And there is no sense of urgency to give us more.

Mr. KURTH. We do have a sense of urgency. And just last week the Secretary announced the release of the new vision document for the Refuge System; and today I signed a charter for a team that is coming together, working in cooperation with the States, to identify significant new hunting and fishing opportunities. Because we need the support of America's hunters and anglers in building the Refuge System. So I personally have a sense of urgency, and I will work with the Committee on that.

Mr. SOUTHERLAND. Mr. Chairman, I will yield back. And I would really like for the Committee to have a copy of that proposal. Because I think that the American taxpayer would like to know when and where we can access property that we, as American people, own.

Dr. FLEMING. Yeah. Absolutely. And we look forward to receiving that. And thank you.

Next, we have Mr. Duncan, the gentleman from South Carolina. You have 5 minutes.

Mr. DUNCAN. Thank you, Mr. Chairman.

Mr. Kurth, I really want to talk about two bills, H.R. 3009 and H.R. 2719.

Just a little background. I am probably one of the only Committee members, other than maybe the Chairman, who actually has been to the Hanford site and actually saw Rattlesnake Mountain and drove by the base of it. The others may have, but I have been there.

So I have a unique perspective on how large the Hanford site is, the background of it being taken from the people that were there through eminent domain and set aside for creation of our nuclear weapons programs. And I appreciate the B Reactor being set aside as a national monument. I appreciate the historical significance of it. But I also understand that that is a closure site. The footprint has been reduced down to about 70 square miles. And out of 800—is it a 870-square-mile site? Something like that. It is huge.

Mr. KURTH. 195,000 acres.

Mr. DUNCAN. It is huge. And so bring in that perspective.

You say in your testimony on page 5 that H.R. 3009 would create an additional, uncertain hurdle to the successful and transparent process described above—earlier in your testimony—a process that has resulted in the creation of so many popular refuges that are a key to wildlife conservation, valued and supported by local communities, and contribute to numerous sectors of the economy. The bill requires action by Congress to establish new national wildlife refuges, even after an extensive public planning process based on sound scientific information and partnerships, where there is a demonstrated need to conserve wildlife habitat and ecosystems. A long process by that agency of public input to set aside these properties as wildlife refuges.

That is your statement, correct?

Mr. KURTH. Yes.

Mr. DUNCAN. OK. Hanford was taken from the American people, taken from the folks in the Hanford community and never given back. But that is beside the point. It met a need for our Nation.

But on June 9, 2000, without public input, President Bill Clinton issued a Presidential proclamation, 7319, which established the 195,000 acre Hanford Reach National Monument managed by the Service and Department of Energy. The Service, however, made a determination in the management plan that the entire Rattlesnake Mountain unit should be kept closed to the public, closed to the public due to the resource concerns, except for those individuals who obtain a special use permit, which is limited to approved ecological research and environmental education activities.

So I guess the question I have for you is, we are asking for all of this transparency and asking for all this public input with regard to national wildlife refuges on one hand, but then we have an Executive Order and a President without any public input and definitely not from the indigenous Native Americans or the people in Hanford about the unique properties of Rattlesnake Mountain setting aside that as a national monument. So why the hypocrisy?

Mr. KURTH. Well, the President exercising his power under the Antiquities Act is a different process than us administratively going through NEPA and establishing a refuge. We have made progress at Hanford. We have opened 65,000 acres to the public to use for hunting and fishing and other uses. But the cleanup of the site continues.

We did a public process resulting in a comprehensive conservation plan that was released in 2006 where we made the decision that we should have access to Rattlesnake Mountain. But we also then had the mountain declared a sacred site at the request of tribes, and they have opposed us. So we have been going through

a consultation process, which I will admit takes longer than what I think any of us would desire, but it is a difficult and a respectful process to assure we maintain those government-to-government relations with the tribes.

We hope to have our culture resource management plan finished next summer so we can figure out a way to not alienate the tribes and be respectful of their cultural traditions and still allow public access to some of Rattlesnake Mountain. We just haven't found a simple way to crack that code; and, unfortunately, it is taking us some time.

Mr. DUNCAN. A quick yes or no question. Do you all take economic impact on the community from access to a place like Rattlesnake Mountain into consideration in this process?

Mr. KURTH. Absolutely. We have done studies on a number of occasions we call banking on nature where we can show nearly \$2 billion in economic benefits to communities because of the activities generated in national wildlife refuges. And so that is an important consideration in how we go about our work.

Mr. DUNCAN. I think it should be.

In my remaining time, Mr. Chairman, I support H.R. 3009 because I believe we have a congressional obligation to have a role in this process of setting aside Federal lands that are being paid for and managed with American taxpayer dollars. I believe we have an open and transparent process in Congress.

Thank you, And I yield back.

Dr. FLEMING. I thank the gentleman.

Then we have next up, Mr. Wittman, the gentleman from Virginia. Five minutes, sir. But before you go ahead, let us reset the clock.

We will be leaving for votes immediately after Mr. Wittman's questions, and then we will come back in about 35 to 40 minutes, and we will be ready for our third panel. We will be done with the second panel.

Thank you. Go ahead.

Mr. WITTMAN. Thank you, Mr. Chairman.

Mr. Kurth, I want to ask you a couple of questions about the existing Electronic Duck Stamp Program. There has been some concern that it would interfere with actual paper duck stamp sales. If you can let me know if there has been any impact there. How has the public responded to the current e-Duck Stamp Program? And do you have any suggestions or modifications that you would propose to H.R. 3117?

Mr. KURTH. I think we are very pleased with the results of the pilot. As I said, 27 percent of the stamps are now sold electronically; and so I think there were a couple of very technical language things that we might suggest. But we are very much in support of this. More and more, that is how States issue licenses; and we want to line up so that American hunters and anglers can get their licenses in a way that is convenient, that will generate the revenues to conservation and make it easier for them to get outside.

Mr. WITTMAN. Very good.

Let me ask you on a broader perspective. We all know where the dollars from the duck stamps go. And any time we can encourage hunters, especially if they have an opportunity at the last minute

to go and can't get to a post office, it is great for them to be able to access that electronically.

I have heard from a lot of duck hunters that have said I didn't know that I could get it online. I wish I did because then I would have taken that opportunity to go waterfowl hunting.

Let me ask this. Obviously, there are habitat challenges for us today looking at making sure that we have enough diversity of a wetlands habitat for migrating waterfowl populations. What do you see as those challenges? And do you see the current status of the duck stamp and what it provides as resources? Do you see that as part of an opportunity or a challenge for the U.S. Fish and Wildlife Service in looking at how do we preserve and enhance wetlands specifically for migratory waterfowl?

Mr. KURTH. One of the great successes over the past couple of decades has been the North American Waterfowl Management Plan. We outline very specific goals for wildlife populations and habitat protection, working in joint ventures all across the landscape with a number of conservation partners; and we haven't met those goals. But the duck stamp has been an integral part of it. Since 1934, 5.3 million acres, over a billion dollars all voluntarily contributed by America's sportsmen and sportswomen. I think we will hear from Ducks Unlimited now.

A lot of sportsmen are participating now in a new program called Double Down, buy two duck stamps, because they want to do more. So it has been a critical, user-based, conservationist-supported program since the Dust Bowl days of the Great Depression; and we are real proud of the work that the duck stamp has done in conservation. It has been bipartisan, and I think we look for it to continue to help us achieve our conservation goals, and the electronic duck stamp will help us with that.

Mr. WITTMAN. Well, thank you.

I know as we look at how do we make sure we preserve that habitat, Ducks Unlimited and other waterfowl organizations, migratory bird organizations have been critical in creating the emphasis with their membership, as you said, on the Duck Stamp Program.

I happen to be one, too, that buys multiple duck stamps. I have friends that come over to enjoy hunting, and it is good to have a few on hand. I can say that they have been used from time to time when folks have come to visit. So it is certainly a great program the DU has in encouraging folks to buy a number of stamps.

Let me ask you. In the long run, in lieu of buying multiple stamps, what are your suggestions about the current pricing? You had mentioned earlier 1991 was the last time that there was a change in the duck stamp fee. If you would give us your thoughts and ideas on where the pricing of the duck stamp you would think would need to go in the future and what would that provide for the effort to preserve and enhance wetlands?

Mr. KURTH. The Administration in its budget proposal made a proposition that we increase the price of the duck stamp to \$25, which basically inflation adjusted back to its 1991 dollar value. But, of course, land is quite a bit more expensive and not in just the same rate as inflation. But we think it will put us on a solid ground to continue this program at a rate where we can continue

to make steady progress toward the goals of the North American Waterfowl Management Plan and, importantly, to provide the hunters of this country the opportunity to have places that are open to the public, to get them out to enjoy their sport and to participate in the conservation programs they love.

Mr. WITTMAN. Sure. Let me ask this. As that discussion has taken place, there has been some concerns that, if the price goes up, the number of purchases will go down and potentially result in less revenue. Can you give us your reflection? If that price increase were to go into place, what would you see as far as the number of dollars coming into the Migratory Bird Conservation Fund?

Mr. KURTH. Our experience in the past is that sportsmen tend to support these things. You might see a little dip amongst certain pieces of the population. But, over time, it has been an important thing that we adjust the price of the stamp to reflect inflation over time; and it has been very successful for us.

Mr. WITTMAN. Very good.

Thank you, Mr. Chairman. I yield back.

Mr. KURTH. We thank you for your service on the Commission as well.

Dr. FLEMING. The gentleman yields back.

The Subcommittee will stand in recess.

Oh, I am sorry. Yes.

I would like to thank you gentlemen for testifying before us today. Members of the Subcommittee may have additional questions and we ask you to respond to these in writing. The hearing record will be open for 10 days to receive these responses.

And, as I say, we will be done with this, with Panel 2; and we will reconvene at approximately 3:30 to take on Panel 3.

We sit in recess. Thank you.

[Recess.]

Dr. FLEMING. We are now ready for the third panel of witnesses, which includes Mr. Carl F. Adrian, President and CEO of Tri-City Development Council; Mr. Michael Miller, the Chair from Juneau—OK—Chair of the Indigenous People's Council for Marine Mammals. Hopefully, we will be on camera. Oh, there we go. And Ms. Jacqueline Nicholson, South Bay Homeowners Association; Ms. Ann Smith, Vice President of the Friends of Black Bayou Lake National Wildlife Refuge; and Mr. Scott Sutherland, Director of Governmental Affairs, Ducks Unlimited.

Thank you all for your patience in being with us today, and I can commit to you that we will have no further interruptions from votes.

Briefly repeating my earlier instructions, your written testimony will appear in full in the hearing record. So I ask that you keep your oral statements to 5 minutes as outlined in our invitation letter to you and under Committee Rule 4(a). Our microphones are not automatic, so please press the button when you are ready to begin.

Again, our timing lights, I think you have witnessed those already. You will be on a green light for the first 4 minutes, then yellow for a minute. When it turns red, I certainly want you to go ahead and wrap up your remarks.

Certainly your testimony will be submitted to us in its entirety into the record. So we will make sure and have that.

Mr. Adrian, you are now recognized for 5 minutes, sir, to present your testimony on H.R. 2719.

**STATEMENT OF CARL F. ADRIAN, PRESIDENT AND CEO,  
TRI-CITY DEVELOPMENT COUNCIL**

Mr. ADRIAN. Thank you, Chairman Fleming and members of the Committee, for allowing me to come and speak today on an issue that is very important to the Tri-Cities and that is H.R. 2719, Public Access to Rattlesnake Mountain.

As Congressman Hastings pointed out, 68 years ago, as part of the Manhattan Project, the Federal Government acquired a 586-square-mile site known as the Hanford Nuclear Reservation. That site included the eastern slope and summit of Rattlesnake Mountain. Most of it at the time was in private ownership, and residents were given only a short period of time to vacate the property.

I am sure at the time it was of interest because Rattlesnake was the highest point in the area. It was important probably for defense of the site. But, also, it probably was acquired to keep prying eyes away from the site and what was going on there.

As I mentioned, Rattlesnake is the highest point in Southeastern Washington. The summit is an elevation of 3,660 feet. For all these years, only those who were escorted by a Federal employee were allowed to the summit.

In fact, it was only a couple of years ago that Congressman Hastings and I took our first trip to the summit together. And if he was here today, I think he would recall that it was a bright, sunny day, one of those 400 days of sunshine we have in southeast Washington State.

The mountain was never contaminated as a result of any activities in Hanford. And even though there was no public access, through the years there was quite a bit of activity at the summit of the mountain and on the mountain itself. There was a craft battery and Nike Ajax Missile Installation. On the slope, at the top, there was a manned radar site that was manned for a number of years.

And, in fact, I actually have an employee that works for me now that was stationed there for 46 days in 1959. Shortly after he was stationed there, he requested a transfer, hoping to get a better post; and he was immediately transferred to Korea. He told me today on the phone—he said, I came back to the Tri-Cities. I have never been back to Korea. I am sure it was the circumstance, rather than the country at the time. But it was an interesting account from him.

Later, the Pacific Northwest National Lab actually operated an observatory on the top of the mountain; and then there have been numerous communications towers, both private and public, which have now been consolidated into a single tower at the summit.

All of the buildings and foundations from the buildings have been removed. But I found out recently that one of the former DOE managers, a site manager, even organized several recreational runs to the top of the mountain while he was DOE site manager.

So there was quite a bit of interest in getting to the top of Rattlesnake Mountain. So while access by the public has been limited, there has been steady activity on the mountain for the last 68 years.

For the first time, the Tri-Cities community can actually see the end of cleanup at the Hanford site. My organization, along with Congressman Hastings' office and our local newspaper, the Tri-City Herald, began a dialogue about the future of Hanford. This was about 2 years ago. Through public forums and an on-line survey, it became crystal clear that the Tri-City community believes strongly that public access to Rattlesnake Mountain and the summit represents a tremendous recreational, educational, historical, scientific, and cultural asset to the community.

We submitted info as an attachment to my written testimony on the Badger Mountain experience. Badger Mountain is another, smaller mountain, 1,000 feet in elevation, that is nearer the community that was opened up to public access a couple of years ago. Last year, 120,000 hikers hiked to the top of Badger Mountain. So it was very important. We don't expect this kind of traffic at Rattlesnake Mountain, but it does demonstrate it is a significant recreational asset.

From an educational perspective, flora and fauna are certainly important, but, also, the summit gives a clear view of the Columbia River and the geology of the ice-age floods, the last of which was 13,000 years ago.

The Tri-City community also recognizes the cultural significance of Rattlesnake Mountain. But thanks to the Federal Government, Rattlesnake and the surrounding areas have a tremendous historical significance not just to the community but to the entire region.

At 3,600 feet, with most of the surrounding area at 3- to 400 feet, there are vistas of the entire 586-square-mile site of Hanford; and that is an area of about half the size of Rhode Island. You can see the confluence of the Snake and Columbia Rivers, a historic campsite for Lewis and Clark.

We believe that the cultural, historic, recreation, and scientific interests can all be accommodated through this piece of legislation. We were optimistic when the two public tours scheduled were scheduled, but then they were canceled for no reason.

Again, the Tri-City area and community are very supportive of H.R. 2719. Thank you very much. We would also like to thank Congressman Hastings for his leadership on this issue.

[The prepared statement of Mr. Adrian follows:]

**Statement of Carl F. Adrian, President/CEO,  
Tri-City Development Council (TRIDEC), on H.R. 2719**

Good afternoon Chairman Fleming and members of the Subcommittee. First, thank you for inviting me to speak on this very important topic—public access to Rattlesnake Mountain, including the summit. I also want to express our appreciation to the full-Committee chairman (and our Congressman), Doc Hastings, for his leadership on this legislation.

For the record my name is Carl Adrian, I am President and CEO of the Tri-City Development Council or TRIDEC. TRIDEC is the lead economic development organization serving a two-county region in Southeast Washington State. The Tri-Cities has a population of 258,000 and includes the communities of Kennewick, Pasco, Richland and West Richland. TRIDEC has about 350 member firms and contractual relationships with the cities, counties and local port districts.

I am here to speak to you about why public access to Rattlesnake Mountain is so important.

Rattlesnake Mountain is a 3,660 foot windswept treeless sub-alpine ridge overlooking the Hanford nuclear site. Prior to 1943 nearly all the mountain was in private ownership and much of the western slope remains in private hands today.

In 1943, the summit and entire eastern slope was taken by eminent domain and placed in federal ownership under the Manhattan Project. Today the eastern slope of Rattlesnake Mountain remains under federal protection as part of the Hanford Reach National Monument, managed by the U.S. Fish and Wildlife Service.

The public has not been allowed on Rattlesnake Mountain, except when escorted by federally badged individuals. For the few of us that have been escorted to the summit (and Congressman Hastings and I experienced our first trip to the top together) the vistas are breathtaking. You can see:

- To the south the state of Oregon
- To the west the Cascade Mountains including Mt. Rainer, Mt. Hood, and Mt. Adams
- To the east the confluence of the Yakima and Columbia rivers and the confluence of the Snake and Columbia rivers—a historical campsite of Lewis and Clark
- The Tri-Cities communities and our surrounding patchwork of vineyards and agricultural areas
- The entire 586 square miles of the Hanford site including the reactor sites and processing canyons. Imagine viewing an area half the size of Rhode Island.
- And a magnificent view of the geology of the Columbia river valley and Columbia gorge formed by the ice age floods some 13,000 years ago.

Rattlesnake Mountain was never contaminated by the nuclear missions at Hanford and as the site is cleaned up, it's only appropriate the highest vista for viewing the site and the surrounding area be open for public access.

The community embraces the cultural and historical significance of Rattlesnake Mountain and believes that public access for everyone is the best way to preserve the heritage of this place.

For the first time the Tri-Cities can actually see an end to the clean-up of ninety percent of the Hanford site. Almost two years ago, TRIDEC began a community conversation regarding the future of the Hanford site.

In a letter to the Department of Energy, signed by myself along with mayors of our four principal cities, the chairmen of both county commissions, the executive directors of three local port districts, and Hanford communities, we asked DOE among other things to recognize that the natural features of the Hanford site, and in particular Rattlesnake Mountain and the Reach National Monument, are important community assets national treasures where the public must be allowed access.

Subsequent to the letter, TRIDEC along with our local newspaper, the *Tri-City Herald*, sponsored a series of community forums asking the public for their vision of the future of the Hanford site. One hundred and fifty Tri-Citians attended these forums in person and another 200 filled out an on-line survey. Aside from one gentleman who thought the Hanford site should be turned into a zoo (similar to Jurassic park, without the dinosaurs) there were three common themes which were voiced at every meeting and in most surveys.

One of the common themes is that the public wants access to the entire Reach National Monument including Rattlesnake Mountain, and other historical structures and geologic features.

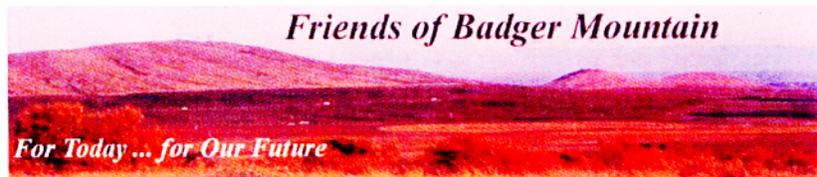
To understand what access to the summit of Rattlesnake Mountain could mean to our community, we need to only look 15 miles to the south of Rattlesnake, to Badger Mountain, which is about 1/3 the height of Rattlesnake. The 650-acre summit of Badger Mountain was purchased by the community several years ago to preserve the mountain for public access. Last year more than 120,000 hikers climbed to the 1,000 foot summit of Badger Mountain! (See attached articles on the tremendous local support of the public access to Badger Mountain.)

Of what value is a national monument if the public is not allowed access? TRIDEC supports Congressional action that opens public access to Rattlesnake Mountain for the first time in 68 years! Accordingly, we support H.R. 2719, and urge the Committee to expedite approval of this legislation.

Thank you for allowing me to speak on this very important topic in front of this Congressional Subcommittee.

Attachments to Carl Adrian's testimony:

- 1) *Badger Mountain Trail Usage* - Statistics
- 2) *Hiking Badger Mountain – an article authored by Adam Fyall, Benton County Commissioners Office*



## Badger Mt. Trail Usage

**January 20, 2011 - Almost 120,000 hikers took to Badger in 2010!**

**October 16, 2010 - 100,000 hikers counted so far THIS YEAR!**

**June 12, 2010 - Another 101,000 hikers have climbed Badger Mt in the past 13 months!**

**May 10, 2009 - More than 59,000 hikers in the past 12 months!**

If you're a regular hiker on Badger Mt., you know that you're rarely completely alone on the trails (weather and time of day to be considered). Our community is taking advantage of the fresh air, sunshine, and exercise that hikers enjoy on the two main trails. There's also the mental and spiritual exhilaration that happens when we leave civilization behind and walk to a mountaintop, even a local and quite accessible one like Badger.

Not only are the trails rarely empty, but since we started counting on May 10, 2008, over 59,000 people hiked up the two Badger Mt trails in the first year, to 4/26/09. Between that date and June 12, 2010, another 101,000 hikers were counted on both trails. As of October 16, 2010, more than 100,000 hikers were counted, and for all of 2010, the number is almost 120,000. Wow.

You might not have known you were being counted as you took to the trail, but at the base of each trail there is an electronic counter that keeps track each time someone walks by.

## Hiking Badger Mountain

In the five years since it was established, this preserve has become a boon for Tri-Cities hikers

For a case study on what dedicated grass roots activism combined with a supportive local government partner can deliver for the community, take a hike on Badger Mountain.

### A Preserve Is Born

This wild landscape, where you can find fragile wild onions, native cactus and mariposa lilies growing amidst a variety of bunchgrasses, could just as easily have become back yards like so many of the other hills and ridges in the area.

With the sprawling Tri-Cities beginning to creep up the flanks of the most prominent natural landmark in the area, the Friends of Badger Mountain formed, with a goal to preserve as much of the mountain as possible. The Friends set out on an ambitious regional fundraising campaign and, working through the Trust for Public Land, helped Benton County to secure a 650-acre tract now known as Badger Mountain Centennial Preserve, so named to commemorate the county's one-hundred-year anniversary in 2006.

### A Subtle, Diverse Landscape

A newcomer might look at Badger Mountain and see little more than a big, barren rock thrusting its way up and out of the city, but its character is more nuanced and interesting than that. Rising over 1,000 feet above the surrounding river terrace, the mountain is part of a ridgeline anchored on an east-west axis that gives it dramatically different north and south faces. Microclimates are easily discernible on the relatively small mountain, and hikers will pass through no fewer than four distinct eco-zones on a ninety-minute hike.

The broad south face of Badger Mountain is sun-splashed and windswept. Its thin soils struggle to support sparse grasses and low-growing shrubs across a rocky landscape broken occasionally by deeply-incised ravines that are the refuge for most of the Preserve's

resident coyote population. The south face is also the "quiet side" of the mountain. With its back to the city, Badger looks out over orchards and wheat fields with the muted hues of the Horse Heaven Hills sweeping across the horizon.

As one would expect, the north face of Badger Mountain is cooler, more shaded and generally sheltered from the prevailing winds. Its terrain is more jumbled, with hills, twisting canyons and small cliffs. With its deeper soils and better moisture retention, the north side of the mountain is more accommodating to thick grasslands and old-growth stands of sagebrush. In contrast to the more agrarian vistas from the south side, this part of the mountain casts its gaze over the bustle of the fourth-largest metropolitan area in Washington, with views of the cities, the Columbia River and the Hanford Reach National Monument in the distance.

The ridgelines and summit area mark abrupt transition zones between the north and south faces. The dual-peaked summit is populated by three large communications tower farms and offers panoramic views in all directions. On clear days, Mounts Hood, Adams, Rainier and Sturt can be seen to the south and west, while the Blue Mountains command the eastern horizon.

As the sun climbs higher and the days grow long and warm, Badger Mountain's plants and animals are rejuvenated. First, the mountain is renewed, as a verdant sea of bunchgrasses sweeps away winter's golden blanket. A parade



Badger Mountain and bluebell.  
Photos by John Clement.

of wildflowers follows. First a cosy veil of phlox visible for several miles cloaks the north face. By May, the balsamroot have stolen the show with their large, yellow sunflowers. In the heat of summer, a more subtle patchwork of color emerges, with the dominant orange globemallow often appearing like small prairie fires in the breeze. Finally, in September, the rabbitbrush blooms in a flush of bright yellow cottonballs, especially in the northwest corner of the preserve.

Badger Mountain's wildlife can be reclusive, but the patient eye will be rewarded. Spring is the domain of the threatened Townsend's ground squirrels on the lower flanks of the mountain; later in the season, jackrabbits and reptiles are more noticeable. Birds who visit the various elevations and environs of the preserve will be treated to a variety of avifauna every bit the equal of the ecology, with numerous scrubbirds, upland game, sagebrush-dependent species and raptors vying for attention throughout the migration and nesting seasons.

#### Hiking the Preserve

Over its first half-decade, the community's embrace and use of Badger Mountain Centennial Preserve has been nothing short of remarkable. Three distinct trails originating from two trailheads provide access onto the mountain and a variety of physical and environmental experiences for the visitor. At those two trailheads, the Friends of Badger Mountain maintain counters that logged more than 169,000 visits in 2010.

The Canyon Trail, dedicated in 2006, carries about 80 percent of the traffic into the preserve from the base to the summit. This hiker-only trail originates in an adjacent city park on the north side of the mountain and climbs 600 vertical feet to the summit in 1.2 miles. The trail snakes upward through a ravine and then out onto the face at about the halfway mark, and offers several viewpoints and rest areas along the way.

The Skyline Trail was developed in two phases beginning in 2006 and provides a 3-mile point-to-point hike over more varied terrain. This trail begins on the west ridge, then takes most of the elevation gain over the first mile of the hike on the north side. It then crosses over for a flatter and distinctly different experience along the south face before reaching the summit area and dropping down the east ridge. The Skyline Trail is multiple-use, available for hikers, cyclists and equestrians. It is particularly popular with the mountain hiking community.

The mile-long Sagebrush Trail, completed in 2010, connects the Canyon and Skyline Trails, creating a 3-mile loop. This multi-use trail winds through the old-growth sagebrush in the eastern part of the preserve before dropping onto a bunchgrass prairie below.

#### Nurturing the Preserve

The most remarkable thing about the Badger Mountain Preserve isn't the heavy patronage or the fragile landscape that was saved for future generations. Rather, it is the personal investments that those patrons have made and the spirit of cooperation among the agencies and the user groups that has led

Badger Mountain to become the premier hiking destination in the Tri-Cities area.

As with many local governments, Benton County has limited budget and staff resources available for maintenance and improvements within the preserve.

This is where the community has stepped in.

Corporate partners like REI have provided grants for trail materials, signage and tools. Local organizations such as cycling and equestrian clubs have been key players with trail building and maintenance. Finally, none of this would be possible without the organizational leadership provided by the Friends of Badger Mountain, the park's de facto steward. In partnership with Washington Trails Association and under the guidance of trailmaster Jim Langdon, the Friends of Badger Mountain have planned, engineered and constructed all of the trails on the mountain. WTA's expertise and ability to marshal statewide resources was instrumental to the success of these trail-building efforts, and the original 2006 work party for the Canyon Trail was at that time the largest to date for WTA with over 60 volunteers.

#### Badger Mountain's Bright Future

With an excellent team of partners in place and a strong and supportive outdoor constituency, Badger Mountain should enjoy a long and happy life. At least one more main trail is envisioned, and various other amenities and habitat restoration efforts are in the works. If you find yourself in the Tri-Cities and you'd like to stretch your legs for few hours, visit the Badger Mountain Centennial Preserve. You'll experience both the beauty of the open space and a prime example of the kind of asset a community can give itself when it unites its collective will. ♦



Large work parties and friendly terrain allowed WTA and Friends of Badger Mountain to construct a trail system on Badger Mountain in fairly short order. Photo by WTA.

#### Hike It!

##### The Canyon Trail

Total Miles: 2.4 miles  
Elevation Gain: 600 feet

Dr. FLEMING. Mr. Adrian, thank you for your testimony. Next, we have Ms. Nicholson. Oh, I am sorry. I am sorry—Mr. Adrian.

Now Mr. Miller. You are now recognized for 5 minutes to present your testimony on H.R. 2714.

#### STATEMENT OF MICHAEL MILLER, CHAIR, INDIGENOUS PEOPLE'S COUNCIL FOR MARINE MAMMALS

Mr. MILLER. [Via video.] OK. Thank you, Mr. Chairman. Can you all hear me alright?

Dr. FLEMING. Yes, we can.

Mr. MILLER. OK. Thank you, Chairman Fleming and Congressman Young and members of the Subcommittee.

My name is Mike Miller. I am here as Chairman on behalf of the Indigenous People's Council for Marine Mammals. I want to thank you for the opportunity to testify before the Subcommittee on an important issue for Alaska Native coastal communities, the harvest of sea otters and the use of sea otter pelts to make handicraft which are impacted by H.R. 2714, a bill to amend the Marine Mammal Protection Act of 1972.

IPCoMM is a coalition of Alaska Native tribes and tribally authorized Alaska Native Organizations, or ANOs, formed in 1992 to address cooperative concerns and issues of common concern between tribes or ANOs and the Federal Government in the management of Marine Mammals.

One Marine mammal that is highly problematic for a lot of communities right now is the sea otter. A significant increase of sea otter population in the areas of the State of Alaska over recent years has severely impacted the availability of other important resources, including shellfish for native and rural subsistence users alike. At the same time, though, its abundance provides an opportunity for economic development in rural communities through the sale of native handicrafts made from sea otter pelts.

Alaska Natives do have an exemption in the MMPA that allows for the harvest of sea otter pelts to create traditional handicraft, but, unfortunately, that definition of traditional handicraft and the enforcement of it is confusing, at best.

H.R. 2714 attempts to address some of the issues related to the use of sea otter pelts by Alaska Natives, and we greatly appreciate the effort by Congressman Young to take on the issue. We do support the legislation. But we have some concerns and recommendations that I raise with the Subcommittee.

We absolutely support the provisions of H.R. 2714 that assist us in meeting our goals of creating long-term economic opportunities for our tribal members, protect our subsistence resources, and support village economies by protecting commercially viable species to be harvested sustainably. We do have a concern, though, that the language in H.R. 2714 as it stands that allows for the sale of unaltered pelts could only be a short-term fix with a potential for unintended consequences.

H.R. 2714 as currently drafted doesn't fully address another major contributor to the limited harvest of sea otters, and that is aggressive, overzealous, inconsistent, and possibly illegal law enforcement actions on the part of Department of the Interior, U.S. Fish and Wildlife Service Office of Law Enforcement. Their actions have made Alaska Natives nervous around the State about exercising their legal right to harvest sea otters and other marine mammals as well and to make and sell handicrafts made from pelts and other marine mammal parts despite Congress' intent in the MMPA to provide that subsistence and economic opportunity.

The definition of native handicraft is a large source of ongoing problems related to the harvest of sea otters, along with other marine mammals; and this is further complicated by the lack of consistency between Federal agencies in enforcing the laws. The agen-

cies are enforcing the same language in the MMPA regarding the definition of handicraft but interpreting them differently, and there should be consistency regardless of the marine mammal involved.

Another concern which can't really be addressed by this legislation but I believe it is worth noting is that the Fish and Wildlife Service—U.S. Fish and Wildlife Service is using individual tribal consultation as a means to eliminate, ignore, or diminish recommendations or consultation with larger multi-tribal co-management organizations. These are tribally authorized intertribal organizations working together to solve issues of concern. It is absolutely important to talk to tribes on an individual basis, but it shouldn't be used to weaken our ability to speak in a unified voice on issues with these multi-tribal organizations. Our effectiveness overall is damaged.

It is our strong recommendation that these agencies use existing organizations to ensure meaningful consultation on the issues. The Fish and Wildlife Service Office of Law Enforcement doesn't share anything about its annual budget with us at least; and we would like to recommend that, until these troubling issues are resolved, that a significant portion of that budget be shifted to marine mammals management, specifically co-management which has been funded at less than \$30,000 annually in recent years for Statewide co-management of sea otters.

In closing, we do support the legislation but would ask that any provision for the sale of unfinished pelts only be considered as a part of local harvest management plans as allowed in the MMPA and be consistent with the existing exemptions of the MMPA related to Alaska Natives. This approach could eliminate the need for the geographical divisions as contemplated in H.R. 2714 and the related potential of further confusing enforcement actions.

Additionally, we would request that any unaltered pelts that could be sold under this amendment be restricted and prohibited from being made into commercial products by persons who are not exempt under Section 101(b) of the MMPA.

Mr. Chairman, I can't see the lights. I don't know where I am at on my time. But I do want to thank you for the opportunity to testify today and look forward to working further with the Subcommittee to amend the bill.

I am constantly reminded from some of the people I represent that Alaska coastal natives consider ourselves to be marine mammals also, and we feel we need protection as well.

[The prepared statement of Mr. Miller follows:]

**Statement of Mike Miller, Chair,  
Indigenous People's Council for Marine Mammals, on H.R. 2714**

Chairman Fleming, Ranking Member Sablan, Congressman Young, and Members of the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. My name is Mike Miller, and I am here on behalf of the Indigenous People's Council for Marine Mammals (IPCoMM). I am also Chairman of the Sitka Marine Mammal Commission and on the Tribal Council for the Sitka Tribe of Alaska. I have been involved in marine mammal management issues for many years. Thank you for the opportunity to testify before the Subcommittee on an important issue for Alaska Native coastal communities, the harvest of sea otter for subsistence and the use of sea otter pelts to make handicrafts, which are impacted by H.R. 2714, a bill to amend the Marine Mammal Protection Act of 1972 (MMPA).

First of all, let me explain what IPCoMM is all about. IPCoMM is a coalition of Alaska Native Tribes and Tribally authorized Alaska Native Organizations (ANOs),

formed to address marine mammal issues of concern. We were formed in 1992 to ensure reauthorization of the MMPA and to address cooperative management between Tribes or ANOs and the Federal government for the management of marine mammals. One marine mammal that is highly problematic for coastal Native communities right now is the sea otter. The significant increase in the sea otter population in areas of the State of Alaska over recent years has severely impacted the availability of important subsistence shellfish for Native and rural subsistence users. At the same time, its abundance provides an opportunity for economic development in rural communities through the sale of Native handicrafts made from sea otter pelts.

Alaska Natives do have an exemption from the MMPA that allows the harvest of sea otter pelts to create "traditional handicraft". Unfortunately, the definition of "traditional handicraft" and the enforcement of the regulations related to sea otter pelts are overly restrictive, overzealous and confusing for all involved. H.R. 2714 attempts to address some of the issues related to the use of sea otter pelts by Alaska Natives, and we greatly appreciate the effort by Congressman Young to take on this issue. We do support the legislation, but we also have some concerns and recommendations that I must raise with the Subcommittee.

We do support the provisions of H.R. 2714 that assist us in meeting our goals of creating long term economic opportunities for our Tribal members, protect our subsistence resources, and support village economies by protecting commercially viable species to be harvested sustainably. We agree that the laws and regulations as they stand now are overly burdensome and limit the opportunity for traditional, economic use of sea otter pelts. This, in turn, is the main reason for a limited harvest of sea otters. We would like to work with the Congressman Young and the Subcommittee to move forward with provisions that help in meeting these long term goals.

We do have a concern, however, that the language in H.R. 2714 that allows for the sale of unaltered pelts would only be a 'short term fix' with a significant potential for unintended consequences. One such potential consequence would be the overharvest of sea otters, which could ultimately result in further restrictions on subsistence and commercial economies for our Alaska coastal population. We do not want the end result to be a shut down of activities related to sea otter harvest, or further restrictions down the road that hinder Alaska Native use and production of Native handicrafts, or restrictions on subsistence or commercial fisheries. The U.S. Fish & Wildlife Service cannot regulate the harvest in a way that addresses any concern about overpopulations of species in any area, but we are all aware that they can (and do) regulate the harvest and other activities related to populations that become depleted.

We also have a recommendation. H.R. 2714 as currently drafted does not fully address a major contributor to the existing problems and the limited harvest of sea otters; that being, aggressive, overzealous, inconsistent and possibly illegal law enforcement actions on the part of the Department of the Interior, U.S. Fish and Wildlife Service Office of Law Enforcement (O.L.E.). Their actions have made Alaska Natives nervous about exercising their legal right to harvest sea otter and to make and sell handicrafts made from the pelts, despite Congress' intent in the MMPA to provide that subsistence and economic opportunity. Furthermore, the actions on the part of U.S. Fish and Wildlife Service O.L.E. can be disturbing, as there are many stories and allegations about 'entrapment' and 'harassment'. I hope that we can work together to develop some language that will address this issue to enhance, not hinder, the Alaska Native use of the MMPA exemption.

As you are aware, the definition of "Native handicraft" is a large source of the ongoing problems related to the harvest of sea otter, and also with other marine mammals. This is further exacerbated by the lack of consistency between federal agencies (DOI/U.S. Fish and Wildlife Service for sea otters, polar bears and walrus vs. Department of Commerce's National Marine Fisheries Service with regard to seal, sea lion, and whales). These agencies are enforcing the same language in the MMPA regarding definition of "handicraft", but interpreting them differently. There should be some consistency regardless of the marine mammal involved, which raises another concern—that H.R. 2714 only addresses one marine mammal. This could further the inconsistent application of the rules and regulations related to marine mammal harvest. It is our hope that you will consider amending this legislation to cover all marine mammals under the MMPA.

We also want to raise another major concern, which likely cannot be addressed by your legislation, but that I believe is worth noting. This concern is that the U.S. Fish and Wildlife Service is using individual Tribal consultation as a means to eliminate, ignore or diminish recommendations, or consultation, with larger Multi-Tribal Co-Management Organizations. These are inter-tribal organizations working together to solve issues related to marine mammal use and regulation. While it is

important to talk to Tribes on an individual basis, it should not be used to weaken our ability to speak in a unified voice on issues with these multi-tribal organizations formed specifically to target this or other issues. Our effectiveness overall is damaged. Furthermore, the agencies have very limited budgets for tribal consultation. Consultation with a few tribes could quickly use up that entire budget, leaving many out. In sum, it is our strong recommendation that the agencies utilize these existing organizations to ensure meaningful consultation on the issues.

In terms of management of U.S. Fish and Wildlife Service, Office of Law Enforcement, one additional point we must make is that they do not answer to anyone in our Region. For policy guidance, they only go to the Washington, D.C. offices, which are so far removed from the on-the-ground management of marine mammals. I would like to see a strong regional office in Alaska to oversee policy issues related to the enforcement of regulations for the MMPA, which might ensure more consistent application of the laws and regulations.

Additionally, the Fish and Wildlife Service O.L.E does not share anything about its annual budget with the subsistence users. I would like to recommend that until these troubling issues are resolved, a significant portion of that budget be shifted to Marine Mammals Management, specifically Co-management, which has been funded at less than \$30,000 annually in recent years for Statewide Co-Management for Sea Otters. This is not enough to allow for meaningful co-management of this resource.

In closing, we do support the legislation, but would ask that any provision for the sale of unfinished pelts only be considered as part of local Harvest Management Plans as allowed in the MMPA, and be consistent with the existing exemptions of the MMPA related to Alaska Natives. This approach could eliminate the need for geographical divisions as contemplated in H.R. 2714, which addresses only Southeast and South Central Alaska, and the related potential of further confusing enforcement actions. Additionally, we would request that any unaltered pelts that could be sold under this amendment be restricted and prohibited from being made into commercial products by persons who are not exempt under Section 101b of the MMPA.

We would also like to recommend that the Subcommittee consider language changes to address the need for fair and consistent enforcement of the laws and regulations related to marine mammal harvest.

One thing that most parties affected by this issue seem to agree on is that things, as they stand, are not working well at all, if at all. With that in mind, I would like to remind the Subcommittee that unless some vehicle for change is provided, the frustrating, confusing regulatory and enforcement regime will remain the same.

Thank you for the opportunity to testify today, and I look forward to working further with the Subcommittee to amend the bill to address our concerns.

Dr. FLEMING. Well, thank you, Mr. Miller; and you did quite well not having the lights in front of you. So we thank you for that and thank you for your testimony.

Next, we have Ms. Nicholson. You are now recognized for 5 minutes to present your testimony on H.R. 2154.

**STATEMENT OF JACQUELINE NICHOLSON,  
SOUTH BAY HOMEOWNERS ASSOCIATION**

Ms. NICHOLSON. Mr. Chairman, my name is Jacqueline Nicholson. I have come to Washington to appear today on behalf of myself and the South Bay Homeowners Association of Boca Grande, Florida. On behalf of my neighbors and friends, we appreciate the opportunity to testify today in strong support of H.R. 2154. Our 23 homes are erroneously part of the Federal Coastal Barrier Resources System, and H.R. 2154 fixes this obvious error.

When Congress designated this unit in 1990 as a CBRS "otherwise protected" area, it was intended to encompass only those lands within the Gasparilla Island State Park, which is adjacent to our South Bay neighborhood. For 20 years, all affected parties and interests, including my neighbors, Lee County State Park officials, other Florida agencies, and Federal agencies believed that the FL

70P boundary was drawn legally and correctly and along the State park boundary to the west of our homes and neighborhood.

In early 2010, however, the large-scale congressionally approved FL 70P map hand drawn in 1990 was digitized by Fish and Wildlife and FEMA. It revealed the eastern boundary was not along the State park boundary but was in fact drawn too far east, bisecting our lots and homes.

To fix this mistake, H.R. 2154 would adopt a corrected FL 70P map that places the otherwise protected area boundary where it was intended, along the eastern edge of Gasparilla Island State Park. It would remove about five acres of our private land from the CBRS, other protected lands, and leave the remaining of the unit covering approximately 1,000 acres completely intact.

When errors like this have been previously discovered, Congress acted to adopt new maps to correct the mistakes. Overall, Congress has enacted over 50 CBRS map changes since the program was expanded in 1990. Accordingly, there is more than ample precedent to enact H.R. 2154.

We believe we have provided compelling evidence of the boundary error. Attached to my written statement are aerial photos, State park maps, and county and State permit documents, all showing that our homes are on land that has been in private ownership and developed and therefore not eligible to be part of a CBRS otherwise protected area for over 105 years.

Since Congress adopted this erroneous 1990 map, only Congress can adopt a boundary correction. We urge you to make an independent judgment based on these facts and evidence and correct this error.

Thank you for your attention to our plight. It was very disturbing, to say the least, to find that my neighbors and I live within a designated Federal land unit by virtue of a mapping error undiscovered for 20 years, a plain error for which we bear no responsibility but must suffer the consequences and uncertainty. Please act quickly to fix this mistake and pass H.R. 2154.

Thank you.

[The prepared statement of Ms. Nicholson follows:]

**Statement of Jacqueline Nicholson, South Bay Homeowners Association, Boca Grande, Florida, in support of H.R. 2154**

Mr. Chairman: My name is Jacqueline Nicholson. I have come to Washington to appear today on behalf of myself and the South Bay Homeowners Association of Boca Grande, Florida. On behalf of my neighbors and friends, we appreciate the opportunity to testify today in strong support of H.R. 2154. This simple but important measure, introduced by our Congressman Connie Mack, will correct a very plain and evident boundary mistake in unit FL 70P of the Coastal Barrier Resources System (CBRS). Contrary to statutory eligibility standards and Congressional intent, our 23 homes on 5.2 acres of long developed, private lands are erroneously part of this CBRS "Otherwise Protected Area" (OPA)—FL 70P. (See Exhibit 1). The new map referenced in H.R. 2154 fixes this error and takes our homes out of the CBRS OPA unit consistent with the law and intent.

When Congress designated this unit in 1990, it was intended to encompass only those lands "otherwise protected" within the Gasparilla Island State Park (see Exhibit 2) which is adjacent to our South Bay community. In fact, the "P" designation indicates this CBRS unit is an "Otherwise Protected Area" (OPA) in which privately owned, developed lands are not eligible for inclusion as a matter of law. The 1990 CBRS Expansion Act specifies that "the term 'otherwise protected area' means an undeveloped coastal barrier *within the boundaries* of an area established under Federal, State, or local law. . . primarily for wildlife refuge, sanctuary, recreational, or

natural resource conservation purposes.” (Emphasis added). P.L. 101–591, 104 Stat. 2931, §3(c)(6). In implementing the law, the U.S. Fish and Wildlife Service (FWS) explains that CBRS OPA unit boundaries are to “coincide with the boundaries of conservation or recreation areas such as State parks and National Wildlife Refuges.” *Report to Congress” John H. Chafee Coastal Barrier Resources System Digital Mapping Pilot Project, U.S. Fish and Wildlife Service (2008) at ix.*

Even though our homes are not legally eligible to be part of this CBRS OPA, federal courts have decided that Congressionally approved maps control what lands are in or out of these units. So if the Congressionally approved map contradicts the legal definition of an OPA, the map—even if erroneous—controls. Hence the need for corrective legislation such as H.R. 2154.

Gasparilla Island is on Florida’s Southwest coast in Lee County near Ft. Myers. The Island was a commercial fishing center in the late 1800’s and its south end, Boca Grande, became a phosphate export port in the early 20th century. Rail lines were built down the east side of the Island starting in 1905 to ship phosphate to the port (the railroad ran adjacent to and through the lands where our homes sit today). (See Exhibits 3, 4 and 5). The railroad was abandoned in the 1970’s when the phosphate port closed and the lands slated for planned residential development by CSX Corporation. Between 1986 and 1990, CSX obtained the necessary approvals from the Florida Department of Environmental Regulation and Lee County to develop and build “Boca Bay”, including our South Bay community of 23 homes, and commenced construction. (See Exhibits 6, 7 and 8). Our homes are situated between Buttonwood Bay Drive on the west and Boca Bay Drive on the east and the Gasparilla Island State Park, created in the 1980’s, is immediately west of Buttonwood Bay Drive. (See Exhibit 9).

For 20 years, all affected parties and interests including my neighbors, CSX, Lee County, State Park officials, other Florida agencies, FWS, and the Federal Emergency Management Agency (FEMA) all believed that the FL 70P boundary was drawn legally and correctly and coincident with the State Park boundary (i.e., to the west of Buttonwood Bay Drive).

In early 2010, however, the large scale Congressionally approved FL 70P map—hand drawn in 1990 (Exhibit 10)—was digitized by FWS and FEMA. It revealed the eastern boundary was not along the State Park boundary, but was in fact drawn approximately 100 feet too far to the east bisecting 23 privately owned lots in the South Bay community. The result of this error was to inadvertently include our 23 homes, and approximately 5.2 acres, within FL 70P. (See Exhibit 10). One of the adverse consequences of this error is that FEMA has declared all of the homes ineligible to participate in the National Flood Insurance Program even though all of the homeowners had been routinely purchasing such coverage for approximately 20 years. As a result, the assessed values of all our homes have decreased substantially, county tax revenues are diminished, mortgages—that require flood insurance—are imperiled, and the ability to sell our homes severely compromised—all because of this line drawing error.

To fix this evident mistake, H.R. 2154 would adopt a corrected FL 70P map that places the eastern OPA boundary where it was intended—along the eastern edge of Gasparilla Island State Park. (See Exhibit 9 and proposed “corrected” map dated July 8, 2011 provided separately to the Subcommittee).

When errors like this have been previously discovered, Congress acted to adopt new CBRS maps to correct the mistakes. In 2008 Congress fixed a boundary error for unit FL 64P, also in Lee County, FL, to remove 48 acres of private lands incorrectly included within the original 1990. In 1994, a similar error was discovered regarding unit P 18P just to the south of us. There a number of homes built within the Caloosa Shores community were erroneously included within that OPA. Congress adopted a new map excising the homes from the unit. Overall, Congress has enacted over 50 CBRS map changes since the program was expanded in 1990. Accordingly, there is more than ample precedent to enact H.R. 2154.

We note too that FWS has taken the time to review the proposed CBRS OPA corrections set forth in H.R. 2027: RI 04P and RI 05P. In each case, FWS presented the following testimony to Congress in 2010 (and will likely offer the same at this hearing): “The existing OPA boundaries do not precisely follow the underlying public lands boundaries and inappropriately capture adjacent private land that is not held for conservation or recreation; is not an inholding, and was not intended to be part of the OPA.” On the basis of these facts, FWS supported boundary corrections to exclude these lands from the two RI CBRS units. Since the facts regarding FL 70P are essentially identical, we fully expect FWS to support the correction contained in H.R. 2154.

For the record, we approached FWS immediately after we were informed, for the first time, of the FL 70P mapping error. We carefully assembled and presented the

uncontroverted plain evidence, referenced above, from CSX, Lee County, and Gasparilla State Park that the existing FL 70P boundary does “not precisely follow the underlying land boundary and inappropriately captures adjacent private land [our homes and lots] that is not held for conservation or recreation.” (FWS 2010 Testimony on RI 04P and RI 05P) Despite this clear and convincing evidence, FWS told us it did not (and does not) have the time to review the situation and suggest corrective action; that it might take years to review our evidence. Respectfully, we find this response unacceptable given that FWS made the error that is harming me and my blameless neighbors.

FWS also indicated it would not offer an opinion or findings regarding the FL 70P error because agency policy is to comprehensively review all CBRS units on a given map, not just a single unit. This response is also incomprehensible since there is only ONE unit (FL 70P) on the map in question. (See Exhibit 9) The Gasparilla Island unit is the sole CBRS designation on the overall map so there is no need to review other units. Moreover, our close consultation with the State Park, Lee County, and other landowners adjacent to the CBRS unit has revealed no other boundary problems with FL 70P. We believe we have provided irrefutable evidence and all FWS has to do is acknowledge the accuracy of the information submitted to it; no time consuming inquiry is needed.

In any event, since Congress adopted the erroneous 1990 map, and only Congress can adopt a boundary correction, we have submitted all of our information to the Subcommittee. We urge you to make an independent judgment based on these facts and not wait for FWS to render its opinion (which can only be confirmatory) at some unspecified date in the future. Since FWS possesses no evidence to contradict the clear and convincing evidence we have provided, waiting for the agency to take some advisory action while my neighbors and I continue to suffer the consequences of its original mapping error is bad public policy.

Thank you for your attention to our plight. It was disconcerting, to say the least, to find that my neighbors and I live within a designated federal land unit by virtue of a mapping error undiscovered for 20 years—a plain error for which we bear no responsibility but must suffer the consequences. Please act quickly to fix this mistake and pass H.R. 2154. Thank you.

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Dr. FLEMING. I thank you, Ms. Nicholson, for your testimony.

Next up is Ms. Smith. You are now recognized for 5 minutes to present testimony on H.R. 3009.

**STATEMENT OF ANN BLOXOM SMITH, FRIENDS OF BLACK  
BAYOU LAKE NATIONAL WILDLIFE REFUGE**

Ms. SMITH. Good afternoon, Chairman Fleming and members of the Subcommittee. I appreciate this opportunity to offer my testimony today.

I am here representing the Friends of Black Bayou Lake National Wildlife Refuge; and I also have the support of the National Wildlife Refuge Association, which is made up of about 230 refuge friends groups around the country, and also the Louisiana Wildlife Federation Executive Committee, of which I am a member. We would also like to note that we are in favor of H.R. 2236, the Wildlife Refuge System Conservation Semipostal Stamp Act; and we are also in favor of H.R. 3117, the electronic duck stamp.

I grew up outside Shreveport in Caddo Parish, right off of Lynnwood Avenue—you might know the area—out in the country. My parents and my grandparents were Methodists. That means that we talked about stewardship; and we talked about stewardship at the dinner table, at the breakfast table. All the time we were in the business of taking care of God’s creation. And as good Methodists, we were always looking at our duty; and so I guess that is why I am where I am today as a volunteer.

I am here because I believe in the Refuge System. I believe in my particular refuge, which is Black Bayou Lake National Wildlife Refuge.

I also am proud to say that I helped get the friends group started at Red River Refuge, and I know the folks over there well. I have been over there several times.

You know, as a volunteer, I work with a group of volunteers in Black Bayou Lake. They are an amazingly diverse group. We have all sorts of opinions politically in this group. We are made up of all ages, education. All sorts of differences exist within our group. So I am only one of that group. What we have in common is that we are dedicated to our refuge and to the Refuge System.

Our refuge was formed administratively, and I really am afraid that it wouldn't have happened in any other way. And I am going to do the short form here. You have the written version of how this was formed. But it was incredibly complicated.

It started with this piece of property, 6,200 acres, then was put on the preliminary project proposal, was studied, and was approved with those acquisition boundaries back in 1993. That acquisition effort was halted because the State of Louisiana indicated an interest in buying that property. That waned with political problems escalating land values and so on.

The Service then contacted the City of Monroe, which was interested in buying the lake as a water resource; and the city did that. The city bought it, leased it to the Fish and Wildlife Service for \$1. That was about 1,700 acres, and that was the core of our refuge.

Fee title lands have been added since that time at various points, 41 acres here, 2,100 acres there, another 41 acres, and, finally, 615 acres. All of this was from willing sellers and oftentimes involved the State of Louisiana as well.

As for benefits that the Refuge brings to Northeast Louisiana, first off, I would say is the water quality issue. This was originally agricultural lands when it became a refuge, and now those formerly agricultural lands have been planted in hardwood trees. So that is filtering the water that is going into that lake, And the City of Monroe is very aware of how important that is to the city's water quality. It is a backup water resource.

We also have lots of community support that has created infrastructure at the refuge. You have the list of this. It is pretty impressive.

We also have an educational program at our refuge that is second to none. We have letters and testimony from teachers who have said that they believe bringing their students out to our refuge has helped their test scores, helped to improve their scores in science, and so on.

There is also an economic benefit to our refuge, and it certainly surpasses the \$4 of local benefit accruing to a refuge in comparison to every \$1 that is congressionally appropriated. So 4 to 1 isn't bad, and I believe we do better than that at Black Bayou Lake.

So I have told you a lot about our amazing refuge and about the people who support it, how much it is supported. But, finally, I would like to talk about your oversight power with the Refuge System. I know that all of you who represent people like me have an oversight power over any new refuges that are created. I strongly

believe in the three branches of government and the different roles that they play in our society. Your role with the power of the purse I believe already gives you the most important seat at the table for our natural resources.

I thank you.

[The prepared statement of Ms. Smith follows:]

**Statement of Ann Bloxom Smith, Friends of Black Bayou Lake  
National Wildlife Refuge, on H.R. 3009**

My name is Ann Bloxom Smith, vice president and past president of Friends of Black Bayou Lake National Wildlife Refuge. I appreciate this opportunity to submit testimony to the House Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs for its hearing on Tuesday, October 25, 2011, on H.R. 3009, the "National Wildlife Refuge Review Act."

I speak on behalf of Friends of Black Bayou and also have the support of the National Wildlife Refuge Association and the Louisiana Wildlife Federation executive committee.

I grew up in Caddo Parish in Louisiana, just south of Shreveport, on several hundred acres of woods and farmland. I was greatly influenced by my parents and grandparents, especially my grandfather, who took me tramping, hunting, and fishing, always teaching me about the animals and plants along the way. My parents were staunch Methodists; I think my father's favorite word was "stewardship." He firmly believed that we had a duty to be good stewards of God's creation as well as our money and talents. Taking care of the earth was an integral part of my family's daily discussions and actions. I'm telling you this to let you know how I came by my opinions and habits of life regarding the natural environment.

In 1978, after earning two degrees in English literature at LSU, I moved to Monroe, Louisiana, where I taught at the university there until this past June. For the last 14 ½ years I've also been involved with the Friends of Black Bayou Lake National Wildlife Refuge—ever since the Refuge's inception. I'm now the vice president of the group and spent the previous five years as president. I'm proud to have been president when our Friends group was named the National Refuge Friends Group of the Year in 2005.

The Friends of Black Bayou is an amazingly diverse group of dedicated citizens of all political persuasions, and the Refuge we are pledged to protect and enhance is a beautiful and valued place. Except for my two absolutely wonderful sons, my work for this Refuge is my best and proudest accomplishment—and I'm just one among a group of people in the Monroe area who feel the same way about "our" Refuge. FoBB, as the group is affectionately known, has over 200 dues-paying members (individuals, families, businesses and groups) during any single year and boasts over 1,100 donors and contacts on its mailing list. The Monroe MSA is a community of about 100,000 people in the midst of one of the most economically disadvantaged areas of the entire country, but the people value this Refuge and willingly donate both time and money to it.

Today I'm speaking on behalf of those citizen supporters, Friends of Black Bayou, because we believe that our Refuge is a great example of one that was established administratively and is incredibly successful within our community. FoBB is also an affiliate member of the Louisiana Wildlife Federation, and that group supports our position opposing this change in the regulations for establishment of Refuges, as does the National Wildlife Refuge Association (of which we're also an affiliate member), which supports the approximately 230 Friends groups nationwide.

To help you understand our position, I intend to tell you about the very complicated and interesting beginnings of Black Bayou Lake NWR, the benefits that the Refuge brings to our area, and the support that the Refuge enjoys locally.

On May 6, 1993, the U.S. Fish and Wildlife Service Director approved the Preliminary Project Proposal to create Black Bayou Lake NWR. The approved acquisition boundary encompassed 6,200 acres of wetlands associated with the lake. Initial acquisition efforts began but soon halted when the Louisiana Department of Wildlife and Fisheries indicated an interest in acquiring the property. Politics, escalating land values, and other factors intervened, and the LDWF eventually backed out of the project.

In May 1996, the Service contacted the city of Monroe about managing the area if the city bought it. The lake served (and still serves) as the city's secondary source of water, and the city had funds to protect such areas. However, the city had no interest in managing the property. Numerous meetings resulted in a plan to create an overlay refuge on the city's property via a free 99-year lease. In October 1996,

the city purchased nearly 1,700 acres of the core area for \$1.725 million. On January 14, 1997, the Monroe City Council voted to lease the property to the Service for 99 years for \$1 to create Black Bayou Lake National Wildlife Refuge. The Refuge was formally established on June 16, 1997, when assistant regional director Geoff Haskett signed the lease.

Black Bayou Lake NWR was established for “. . .the conservation of the wetlands of the nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions. . .” 16 U.S.C. 3901 (b) (Wetlands Extension Act).

Fee title lands have been purchased since the inception of the Refuge. In 1999, 41 acres were acquired from the city of Monroe. In 2000, another 2,190 acres were purchased from private landowners. An additional 41 acres were acquired from the same landowners in three more purchases from 2001–02. The Service then purchased the old state fish hatchery ponds and their surrounding land (15 acres) from The Nature Conservancy. In 2005, the Service purchased 615 acres of pine habitat from the Louisiana Department of Wildlife & Fisheries on the northeast corner of the Refuge. This land had formerly been a part of the Cities Service Wildlife Management Area.

Clearly, the establishment of Black Bayou Lake National Wildlife Refuge was a very complicated process, including the original \$1 lease for an overlay refuge on land (mostly the lake) belonging to the City of Monroe, which required a great deal of negotiation and timely action. These negotiations occurred because of a grass-roots effort of local citizenry. Later purchases of watershed land were from willing sellers, and some of those acquisitions included land-swap deals made with the State of Louisiana. At present, there are still some 1,700 acres that are approved to be acquired for the Refuge—all within the lake’s watershed—but for various reasons have not yet been purchased.

As for benefits that the Refuge brings to the northeast Louisiana community, the first and most obvious is water quality. As I mentioned earlier, Black Bayou Lake is a back-up water resource for the City of Monroe. Most of the surrounding property was agricultural land, with its resulting chemical run-off. Since the formation of the Refuge and subsequent purchase of watershed lands, the Service has planted most of the former agricultural land in a mix of bottomland hardwood trees—species that grew naturally in the area in years past because of their ability to survive periodic flooding. Now these low-lying lands and swamps, with their beautiful cypress and water tupelo trees, act as a filter for the water draining into the lake. The lake water, now, is pristine. If you saw it, you would see why it’s called “Black Bayou”—tannins in the water resulting from leaves and other vegetation in the water make the water appear black—but it’s clear and clean. Later I’ll talk about the economic or dollar value of the Refuge to our community, but the value of clean water is, simply, incalculable.

More directly connected with the work of the Friends of Black Bayou, along with the Fish and Wildlife Service, are the recreational and educational benefits accruing to the community because of the Refuge’s existence.

In the realm of concrete local contributions to Black Bayou Lake National Wildlife Refuge, FoBB has raised a great deal of money and spent countless volunteer hours to enhance the Refuge. Infrastructure that has added much to the recreational/educational potential there includes the following:

- Renovation of an 1880s planter’s home to be the Refuge Visitors’ Center & Gift Shop (approximately \$500,000 of private donations, \$150,000 of in-kind design and other services, and countless volunteer hours)
- Wildlife Observation Pier, 1,250 feet long, that ties in with a 1-mile asphalt and boardwalk nature trail (funded by a Trails Grant from the State of Louisiana), all handicapped accessible (original 800-foot pier funded largely by International Paper’s grant of \$50,000; pier extension—\$200,000 from various private sources)
- Conservation Learning Center (\$500,000), including a 100-seat classroom fully equipped with audio-visual equipment, a computer lab, and a wetlab for hands-on learning experiences, as well as an exhibit room with huge aquaria for native fish, an indoor pond for small alligators and turtles, and numerous tanks for native snakes and other reptiles and amphibians (funded by a \$200,000 Convention and Visitors Bureau grant and \$150,000 in in-kind architectural design work, along with \$50,000+ private donations, \$35,000 International Paper grants, and FWS Challenge Grant money)
- A bird-watching blind and a photography blind (both handicapped accessible) with paved trails (NFWF grant of \$30,000 plus private donations and volunteer labor)

- 8 miles of unimproved edgewater trail, maintained by a FoBB volunteer along with our one FWS maintenance employee, along with a ¼ mile wildlife challenge trail for children's fitness activities
- Handicapped-accessible arboretum trail and prairie trail
- Handicapped-accessible wildlife observation deck and connecting walkway (funded largely by grant from CLECO Corp.)
- Wetlands Art Project (funded by Louisiana Division of the Arts grant of \$20,000), at site of old state fish-hatchery ponds, now being further improved for moist-soil management and bird-watching opportunities (funded by legal settlement of \$80,000 plus another \$80,000 matching grant from FWS)
- Eagle Scout projects including an amphitheater, a native plant greenhouse, and a canoe-launching dock

Funding for these and other projects came from a combination of FoBB-generated corporate grants (including several large grants from International Paper), NFWF grants, Monroe-West Monroe Convention and Visitors Bureau grants, State grants, City contributions, a legal settlement designated for FoBB for the purpose of water-quality projects, Refuge shop sales, and countless private donations—along with occasional matching federal contributions and maintenance costs.

The extraordinary cooperative efforts between local citizenry and the Service have resulted in useful and attractive infrastructure that has made the Refuge accessible to a variety of people including the physically handicapped, school children, families, fitness buffs, scientists, college students, wildlife photographers, hunters and fishers, hikers, meditators, and others. Our Refuge averages over 38,000 visitors per year. Of those, approximately 9,000 are there for fishing and about 2,000 for hunting. The other 27,000 are non-consumptive visitors such as photographers, walkers, and bird-watchers.

Over the past three years we have averaged approximately 5,000 participants per year in environmental education programs, approximately 2,500 in interpretive programs, and 2,600 at special events. School groups have come from at least ten different school districts and many private schools and home school associations. We hold several teacher workshops every year. In 2010 we had nine teacher workshops with teachers from many school districts attending. For several years, we have hosted teacher workshops as part of the Math and Science Partnership programs through the University of Louisiana at Monroe and Louisiana Tech. Furthermore, university classes in biology, geology and geography are often held at the Refuge, and several biology research projects have been centered at the Refuge.

With financial support from Friends of Black Bayou, a fourth grade science teacher was contracted over two summers to correlate the 20+ activities that we offer regularly at the refuge to the environmental science, life science and science-by-inquiry State Grade-Level Expectations for the 3rd, 4th, 5th and 7th grades. When teachers request an educational field experience at Black Bayou Lake NWR, they can select activities from our correlations list in order to emphasize concepts that best meet the needs of their class. The customized field experiences can introduce new concepts or reinforce things that have already been introduced in the classroom. The Refuge staff strives to provide fun, experiential learning opportunities that get the students into the natural world.

Teachers and school administrators both recognize the value of our environmental education program, which is evidenced by the many school groups that come out during the fall and the packed schedule of groups in the spring. We always have schools in the spring that we cannot accommodate because every available day is scheduled. Some days we have different groups morning and afternoon. We have repeat teachers who schedule spring field experiences at the beginning of the school year to be sure they can bring their classes. We have schools that bring entire grades and schedule several days in a row to give all their students the opportunity to come to the Refuge. We also have schools that bring students for multiple field experiences during one school year, which they believe has contributed to improvements in their schools' standardized test scores in science (see attached letter from a local science teacher).

But educational experiences at the Refuge are not limited to school classes. Our staff and volunteers, along with college biology majors and others hired as interns by Friends of Black Bayou, assist in interpretive programs for all ages and a variety of groups. Civic groups often visit and experience educational programs, as do scout and church groups. Last summer I assisted one of our interns in presenting two week-long day camps for children, so I know how much that experience meant to those children. One special child caught his first catfish, and it appeared to be just about as big as he was. Additionally, the Refuge interpretive naturalist regularly presents such programs as night hikes and other educational activities for families. Significantly, many of these programs are cooperative efforts with the volunteer En-

vironmental Education Director of Friends of Black Bayou, herself a retired biology professor and the wife of our founding manager, Kelby Ouchley.

Speaking of cooperative efforts, I should point out that every year since the Refuge's inception (1997), we (FoBB) and the FWS staff have presented our FoBB Fall Celebration for the public. This celebration is a big "thank you party" recognizing the community's generous support of all our efforts at the Refuge, and it is held annually in conjunction with National Wildlife Refuge Week. Along with a free fish fry, we also host a Refuge photography contest, give away canoe rides, lead the children in releasing baby alligator snapping turtles into the lake (eggs hatched in a ULM biology lab from eggs gathered on the Refuge), and provide numerous other educational and fun activities for families (many led by partnering community groups, museums, and businesses). This event has grown from fewer than 100 people in attendance the first year to this year's crowd of at least 2,500 people. FoBB pays for all the expenses, but money dropped in donation buckets usually comes close to covering the cost. This year we managed to have net expenses of under \$300—and that doesn't count the memberships that will continue to come in as a result of the good will this event creates in the community.

I'm very pleased to add that the local media—TV, radio, and newspapers—are unfailingly supportive of the Refuge, helping to publicize upcoming events and reporting on events with photos and articles after the fact. If you check the *News-Star's* website, [www.thenewsstar.com](http://www.thenewsstar.com), you will find many features, photos, and even a recent video of me paddling a canoe on the lake while talking about the Refuge. The City of Monroe, too, is aware of how much the Refuge contributes to the local quality of life. Recently, one city official contacted me to ask if one of our photo contest winners would mind if the city used four of his winning photos (from our annual photo contest, displayed on our website at [www.friendsofblackbayou.org](http://www.friendsofblackbayou.org)) as part of a display in the brand new airport. Of course, the photographer was pleased to give his permission, so now pictures taken at our Refuge will greet visitors when they get off their planes in Monroe. Obviously, the local Convention and Visitors Bureau (made up of hotels, restaurants, and other businesses catering to tourists and conventioners) believes that Black Bayou Lake NWR is an asset to their efforts: they have now contributed a total of \$260,000 to enhance the Refuge (see attached letter describing their grants).

As for direct economic impact on the area, Black Bayou Lake National Wildlife Refuge likely surpasses the national average of over \$4 of local impact for every \$1 of Congressionally appropriated funds. The attached document reflects just the economic impact of visitors to the Refuge; it does not include the impact of federal funds (salaries, maintenance costs, etc.) or funds raised and spent on infrastructure by Friends of Black Bayou. But even noting just the expenditures of nearly 40,000 annual recorded visitors (probably an underestimate) to the Refuge for various purposes, a conservative estimate of their local impact is \$1.5 million, supporting nearly \$1.1 million of household income and nearly 70 full-time-equivalent jobs in the area. And since the refuge's creation, the total impact has amounted conservatively to over \$85 million to our local economy.

I've just told you a lot about our community, our amazing Refuge (which I invite ALL of you to visit) and the impact it has had on our area and its citizens. Without the U.S. Fish and Wildlife Service's ability to act nimbly and efficiently to create this refuge administratively, it is unclear whether the refuge would be what it is today. I support the FWS in creating refuges administratively for two reasons: I know it works—our refuge is proof, and if our community had not been supportive, the FWS would never have created this refuge, and second, I know that all of you, who represent people like me, have an oversight power over any new refuges that are created. I strongly believe in the three branches of government and the important roles each plays in our society. Your role, with the power of the purse, I believe already gives you the most important seat at the table for our natural resources.

I would also like to extend our full support, as well as that of the National Wildlife Refuge Association, for H.R. 2236, the Wildlife Refuge System Conservation Semipostal Stamp Act of 2011. The Friends of Black Bayou Lake NWR fully understand the challenges faced by our Refuge and other Refuges in the System due to inadequate funding. This bill would create a new semi postal stamp, modeled after the recently enacted Multi National Species Fund stamp, and would generate additional funding for the operations and maintenance of the Refuge System. This bill would allow our Friends group and other Refuge supporters nationwide to show our support for the entire Refuge System. A voluntary stamp such as this is a way for Refuge supporters to easily support the Refuge System while making a purchase of something most of us still use.

We further support H.R. 3117, the electronic Duck Stamp. Many Friends and Refuge supporters are waterfowl hunters and support an easy way for sportsmen and

women to purchase their stamp online. But it's not just for waterfowl hunters—people like me, who are not hunters, purchase a stamp because it is a pass to all national wildlife refuges nationwide and because we know it helps protect the lands, waters and wildlife we care about. With .98 cents of each dollar of the cost of the stamp going to acquire vital lands and waters for the Refuge System, it is simply another way for us to show our support. And although not mentioned in this proposed legislation, we believe the time is right to raise the cost of a Duck Stamp from the current \$15 to \$25. The cost has not changed since 1991, yet the cost of land has dramatically increased. We urge Congress to consider this as the legislation moves forward.

Thank you for allowing me to testify on behalf of Friends of Black Bayou, the National Wildlife Refuge Association, and the executive committee of the Louisiana Wildlife Federation. And again, please come visit us at Black Bayou Lake National Wildlife Refuge. You are always welcome.

Dr. FLEMING. OK. Ms. Smith, thank you for your testimony. And I can assure you Lynnwood Drive has not changed much since you lived there. I am sure you visit it very often anyway.

Let us see. Mr. Sutherland, you are now recognized for 5 minutes to testify on H.R. 3117.

**STATEMENT OF SCOTT SUTHERLAND,  
DIRECTOR OF GOVERNMENT AFFAIRS, DUCKS UNLIMITED**

Mr. SUTHERLAND. Thank you, Mr. Chairman; and I thank the Subcommittee for inviting Ducks Unlimited to be with you today.

The trial that was arranged 5 years ago for the Electronic Duck Stamp Act has proved to be a success. We thank Mr. Kind, who was the author of the bill; and we thank Mr. Wittman, who is the author of this bill to make this test now permanent, to make this process permanent.

It works. You heard from the Fish and Wildlife Service that it works. I am not going to go into the details of that.

The bottom line is this is another access issue. It is a different kind of access issue. It is access to have people hunt on short notice, that system is working. It allows people to buy a duck stamp the night before they might want to go out at sunrise, which is when most duck hunters go afield and get right out there and go the next morning, on short notice. Their buddy might say, let's go tomorrow morning. There is a good northwest wind coming in, and the birds are coming in.

So it has been a wonderful success, and we strongly support extending it, making it permanent.

I did want to clarify one thing. Our new chief of the Refuge System described the system that we are—the program—marketing program that we have as doubling down for ducks. I don't know if you guys play 21 or not, but, apparently, he might. Our program is actually called doubling up for ducks. For those of you who are waterfowl hunters, doubling up simply means that you take more than one duck, take two ducks out of the same flock. It means you did a really good shot. So we are calling our program doubling up for the ducks.

And the point of doubling up is it is trying to send a message to this Committee and to the House and the Senate, and that is the price of the duck stamp is woefully underfunded right now. You heard Mr. Kurth say that it was not raised, it has not been raised since 1991. You also heard him say if you simply applied the con-

sumer price index to the price of a stamp, \$15, it should be sold right now for about \$24.85.

We, the duck hunting community, we, the duck stamp buying community, would like the price increased. We are demonstrating to the Committee, we are demonstrating to Congress, we are willing to pay more for the stamp. The way we are doing that is by voluntarily buying more than one stamp this year.

So we hope that Congress will pay attention to that effort, and we are still wrestling with ways to actually demonstrate to you how many of these extra stamps have been bought. But it is going on. It is being wildly embraced.

You know, we have somewhere around 600,000 constituents, because that is how many members of Ducks Unlimited there are. There is virtually no pushback from our membership on this idea. They like it. They are embracing it. It is strongly supported.

I couldn't get away from you without mentioning the fact that one of the programs that marries very, very well with the duck stamp when we talked about other—there were some questions from Mr. Wittman—other programs that dovetail nicely with the way Federal duck stamps are used to voluntarily acquire habitat for waterfowl is the North American Wetlands Conservation Act.

Mr. Wittman has a piece of legislation that is pending before the Committee, and we hope that you folks will be able to take that legislation up in short order. It is a program—the North American Wetlands Conservation Act is a program like the electronic duck stamp that has worked very well. It has been very embraced. It is widely accepted by partners, and we hope that that program can move forward in the future with this Committee's support.

That said, I have testified in front of this Committee a few times; and I know that any time I give back a little time, it is always well received. So I intend to do that again today, Mr. Chairman.

Thank you.

[The prepared statement of Mr. Sutherland follows:]

**Statement of Scott Sutherland, Director of the Governmental Affairs Office, Ducks Unlimited, on H.R. 3117**

Ducks Unlimited (DU) is pleased to testify before the Natural Resources Committee, Subcommittee on Insular Affairs, Oceans and Wildlife, in support of H.R. 3117, which would give permanent authority to the states to issue electronic duck stamps.

I am the Director of the Governmental Affairs Office for Ducks Unlimited, a charitable wetlands conservation organization. In my role, I lead our organization's public policy efforts to conserve, restore, and manage wetland and associated upland habitat for North America's waterfowl.

Originally enacted in 1934, the Federal Duck Stamp was created as the federal waterfowl hunting license and as a means to conserve waterfowl habitat. Over the last 77 years, the Federal Duck Stamp has generated sufficient funds to purchase, buy easements, or lease over 6 million acres of waterfowl habitat in the United States. These lands are now part of the U.S. Fish & Wildlife Service's National Wildlife Refuge System. The price of a federal duck stamp has remained at \$15 since 1991, while land prices across the U.S. have skyrocketed. In 1991, revenue from the duck stamp enabled conservation at an average cost of \$306 per acre. In 2010, only 1/3 as many acres were conserved because land values had tripled to an average cost of \$1,091 per acre. Based on the consumer price index, the stamp would need to cost \$24.86 today to have the same buying power that \$15 had in 1991.

For generations, waterfowlers have paid for conservation programs and the Duck Stamp is a good example of the effort to invest in the resource we care for. Funds from the purchase of this stamp go towards acquiring land beneficial to the public

and waterfowl across the country. It is one of a suite of programs critical to wetlands conservation. Alongside this effort the North American Wetlands Conservation Act (NAWCA), a federal partnership program that is leveraged multiple times with non-federal dollars is used to restore and protect important wetland and upland habitat across North America. Legislation to reauthorize NAWCA for five years is pending before this Committee and we urge action very soon to move that legislation forward in order to renew that popular and effective program.

The commonality between these two efforts is that final outcomes are determined by the Migratory Bird Conservation Commission (MBCC). The MBCC is comprised of four Members of Congress and three Cabinet members. That body determines which projects should be funded with both duck stamp dollars and NAWCA appropriations, making these programs an integral and related part of the way waterfowl habitat and wetlands are conserved and funded.

Duck stamps are used by every waterfowl hunter over the age of 16. Traditionally waterfowlers could buy their stamps at post offices if they were in stock, and some stores selling sporting goods would buy a quantity to re-sell as a convenience to their customers. When the internet became popularized they could also buy their duck stamps on-line through a contractor known as Amplex that serves as a USPS fulfillment center. However, if bought online then, the purchaser had to wait until their stamp was mailed in order to use it for hunting. Six years ago, the Electronic Duck Stamp Act (Act) was passed, making it possible to buy a federal duck stamp over the internet, and immediately go afield, and to make it easier for federal duck stamps to be sold to the public. Duck stamps are not always available at small rural post offices and even some larger ones, and are sometimes difficult for waterfowl hunters and collectors to purchase over the counter. This often happens later in the season when stores sell out of the supply they may have purchased earlier in the hunting season. Under the Electronic Duck Stamp Act, if a stamp is bought over the internet, the purchaser is given a special receipt valid for up to 45 days, which can be used while hunting in place of the actual stamp, giving sufficient time to mail a physical stamp to the purchaser.

It is important to note that even if a purchaser buys his/her stamp in this manner, they will still receive an actual stamp in the mail. We have concerns that if a physical stamp was not issued to the purchaser, the value of the federal stamps as collector's items and as tradition would be lost. This loss of value did occur to some state duck stamps when they were made available electronically, and the tradition and artistic value of the federal duck stamp program is too strong to risk losing. This has not happened, however, to the federal stamp, thanks to the fulfillment requirement of the Act.

The importance of the waterfowl art aspects cannot be overstated. An annual nationwide contest occurs to select a winning image that will grace the following year's stamp. In fact that contest is happening Friday and Saturday of this week in nearby Shepardstown, West Virginia. Hundreds of entries will be judged submitted by folks from most of the states and ranging in age from teenagers and young adults to internationally recognized wildlife artists.

The trial that was arranged under the Electronic Duck Stamp Act legislation has worked. Federal stamps are now available instantly over the internet and yet due to the requirement of fulfillment, it has not made the stamp just a novelty item. The integrity of the system is secure. Because of its success in making federal duck stamps easier to obtain while preserving the heritage and utility of the traditional stamps and attendant art, Ducks Unlimited supports the proposal to make this program permanent.

Thank you for inviting us to offer information on this proposal.

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Dr. FLEMING. Mr. Sutherland, you are a very wise man. We thank you for giving back time.

At this point, we will begin Member questions of witnesses to allow all Members to participate; and to ensure we can hear from all of our witnesses today, Members are limited to 5 minutes for their questions. However, if Members have additional questions, we can have more than one round of questioning. We actually have, I think, more members of the panel than we do Members on the dais here. One way or another, we will make the math work out.

I will now recognize myself for 5 minutes.

My question is to Ms. Smith. You mentioned the checks and balances, the three branches of government; and you may have heard Chairman Dingell and I go back and forth on that a little bit. And that is the statement is often said, well, your appropriations process is kind of a backstop to whatever may be done administratively. However, again, as we pointed out—I think I listed these—the U.S. Army Corps of Engineers and other Federal services such as U.S. Forest Service, the U.S. Parks Service, they don't have the administrative capacity to do what the Fish and Wildlife Service can do here.

It is not just about a struggle between branches of government. That is really not the issue for us. It is a process issue, but, more importantly, it comes to this.

Today, the cumulative backlog of the National Wildlife Refuge System is \$3.3 billion, which includes more than 1,200 invasive species projects, 3,342 mission-critical projects, 5,349 operations projects, 5,994 refuge road projects, and more than 12,000 refuge facilities in need of immediate repair. The backlog has caused 326 refuges unstaffed or closed to the public. In addition, natural disasters in 2011 have caused over \$182 million in damages to national wildlife refuges. So the problem is that by adding more refuges without the ability to take care of them, to maintain them is a real problem up here.

And so my question to you first is, are there any operations or maintenance projects at Black Bayou that have been neglected due to this funding issue?

Ms. SMITH. It is a funny thing at Black Bayou. The community is so supportive of that Refuge that whenever there is something that really needs to be done, we in the friends group and people in the community usually step up and do it as soon as we are informed that something needs to be done. Nothing goes undone that is really crucial at that particular refuge.

Dr. FLEMING. Yeah. So—because I have several questions here. So basically you are saying there are no backlogs at this point?

Ms. SMITH. Oh, you would have to ask someone with the Fish and Wildlife Service. I am not in the office.

Dr. FLEMING. All right. You don't have that information.

OK. Are you aware that, recently, the Secretary of the Interior has announced plans to establish a new 150,000 acre refuge in Florida which will cost in excess of \$700 million in land acquisition costs alone? Further, the Secretary is also looking to convert the Flint Hills Conservation Area into a national refuge of over 1 million acres and a price tag of more than \$330 million.

Do you see where I am coming from? We are going out at a time when we are running deficits of \$1.5 trillion plus. We have a national debt that is approaching \$17 trillion, 70 percent increase, just by the end of the Obama first term. And we are still going out and buying land that we can't maintain. So what is your perspective of this in your experience with Black Bayou?

Ms. SMITH. This would be a very personal statement on my part. This is representing no one except for myself.

And that is that there are times when it is crucial to buy the property when we can. When that property has gone through a process of scientific investigation and this really is determined to

be a crucial piece of property that needs to be saved because of some particular animal that needs to be conserved, sometimes these things have to be done, even if that refuge might have to be—and this is not, of course, a good thing to do—but even if that refuge had to be mothballed temporarily.

Dr. FLEMING. Here is the essence. Is it good stewardship to, in essence, create a refuge and then ignore it? Which is, in essence, what is happening today, a \$3.3 billion backlog. It is sort of akin to having a yard that you don't have a lawnmower to mow and then buying another yard next door that you won't be able to mow either.

The problem we have today is we are making this refuge purchase. We are shaking piggy banks and getting coins out, and we are buying these. But we are ignoring the fact that we can't take care of them. It would be sort of like buying a puppy and taking that puppy home but neglecting it.

So do you agree there are some stewardship issues with regard to buying—purchasing refuge lands that we are not able to take care of?

Ms. SMITH. There are certainly stewardship issues there. At the same time, there are issues when there are endangered species that aren't going to have another chance if they go completely extinct. Then we can't go back from that. That is gone. So sometimes we have to act immediately to take care of an immediate problem.

Now, I don't really know anything about the Florida refuge issue, so I cannot speak to that in particular, the one that you are talking about. But I am just glad that this particular refuge that I am involved in was formed, and I don't believe that it would have been established had it had to go through the congressional process.

Dr. FLEMING. OK. My time is up. But I would ask if you would to submit to the Committee where you are on your maintenance and your maintenance backlog. We would love to know that information.

With that, I will yield to Mr. Sablan, the Ranking Member.

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

Ms. Smith, you are going to have a busy afternoon. So we are going to—

Ms. SMITH. I am glad I have water here.

Mr. SABLAN. I am thinking, on H.R. 2236—that is the Wildlife Refuge System Conservation Postal Stamp—I am thinking you support that?

Ms. SMITH. Yes, very much.

Mr. SABLAN. Is this a way to address some of the operations and maintenance backlog you think?

Ms. SMITH. Exactly. Exactly. There is a huge backlog, and this will be a help.

Mr. SABLAN. A lot of money, yes.

So let me also—how have the local people and the Fish and Wildlife Service cooperated in creating the Refuge and increasing its benefits to the community? And assuming this is the Black Bayou Refuge.

Ms. SMITH. Right. Through infrastructure. Our friends group was formed at the same time that the Refuge was formed. There was no infrastructure at the Refuge at that time. We started out with

an 1880s planters home that was donated to us. The city paid to move it onto the property, and then we started raising money and putting in volunteer hours.

It took us 4 years of volunteer time. One man gave his life for 4 years, full time, every day, for nothing and ran the project of renovating this 1880s planters home, which is now our visitors center.

We also have a conservation learning center that we raised the money for and lots of other infrastructure.

Mr. SABLAN. I also understand that your local convention and business bureau donated money, 260—

Ms. SMITH. \$260,000 in three or four installments.

Mr. SABLAN. Why? Why do you think they did that?

Ms. SMITH. They recognize for lots of reasons that this refuge is an asset to the community, but mostly because when they look at our visitors' log they see that we have every year all 50 States represented in visitors. We have, last year, 20 countries represented in visitors. So these are people who are coming in and spending money in the community. I attached some information about that.

Mr. SABLAN. Before I go on to my next question, I want all of those people involved in your refuge to please come to my district and teach us how to do this. Because, apparently, it looks like it is working well.

And would it be harder—would you say it would be harder to have a voice in designing refuges that benefited them if refuges could only be created by Congress? You alluded to this. Specifically—

Ms. SMITH. Yes, the formation of our refuge was so incredibly complex. Our original refuge was free to the Fish and Wildlife—well, it cost them a dollar. The City of Monroe still owns the lake. The original part of the Refuge is an overlay refuge.

So, yes, I don't think that that kind of nimbleness is possible through Congress. I do think, however, that it is appropriate for Congress to establish refuges in some cases, Red River being one of those cases.

I am not against Congress forming refuges, but I am certainly glad that there was this administrative process available for our particular refuge.

Mr. SABLAN. I am going to yield back at this time. Thank you very much, Mr. Chairman.

Dr. FLEMING. OK. All right. The gentleman yields back.

I have a couple more questions. Would you like to—OK.

Mr. Miller, I don't want to ignore you. You are coming to us all the way from Alaska, so we want to give you due attention.

First of all, what is the temperature there?

Mr. MILLER. Oh, it is about 80 degrees and sunny here.

Dr. FLEMING. Are you kidding?

Mr. MILLER. No, all my other testimony was more accurate than that. It is not a very nice day here in Juneau. It is rainy and probably 40 degrees out.

Dr. FLEMING. Oh, OK. At least it is not 40 below. So that is—

Mr. MILLER. That is a good point.

Dr. FLEMING. All right. I have a question for you with regard to the marine mammals. Can you explain to the Committee the difference between the enforcement interaction with the National Ma-

rine Fisheries Service compared to that of the Fish and Wildlife Services? I detected some issues. I think you said something about the indigenous people are made nervous. I don't know whether you meant they were intimidated in some way. Can you elaborate on that?

Mr. MILLER. Mr. Chairman, thank you for asking that. Yeah, I skimmed over a pretty important issue, I think.

And it is interesting because we have—the group I represent, of course, we have all of the organized marine mammal hunting organizations in the State. And it is a very large State, so there are a lot of marine mammals harvested under these agreements. And there is a division, of course, in the jurisdiction on those marine mammals. You have Department of the Interior, Fish and Wildlife Service with management over sea otters, walrus, and polar bears which are harvested by our communities; and then you have Department of Commerce with National Marine Fisheries and their jurisdiction of seals, sea lions, and whales, which are also harvested and turned into handicrafts.

It has been interesting over the years as we have seen complaints—some very serious complaints that have come from our hunters to our meetings. And it seemed that after a number of years that the vast majority of complaints are coming from the species that were dealt with by the Fish and Wildlife Service Office of Law Enforcement. And, to be honest, we very rarely have any complaints in the State related to marine mammal handicrafts in dealing with National Marine Fisheries Office of Law Enforcement.

Mr. MILLER. I think it gets kind of to the root of the problem, we are dealing with those different interpretations. And I believe one person summed it up saying that we felt like we had more interaction with the National Marine Fisheries law enforcement, and very much no interaction, nothing positive I think, with Fish and Wildlife, unfortunately.

Dr. FLEMING. OK. Thank you. And have the agencies always implemented the Marine Mammal Protection Act differently with respect to the use of marine mammals by Alaska Natives?

Mr. MILLER. I have been involved, Mr. Chairman, thank you, I have been involved for about I guess 10 years in actual dealing with co-management issues. And I think there has been differences. There must have been similarities before, but I think we have come up with just different interpretations. And it has a trickle-down effect. As I stated, and you reminded me in your previous question, that the effect of that, the net effect is that, you know, across the State the Alaska Native community is scared in dealing with the particular species that have been dealt with by Fish and Wildlife law enforcement. And so I can't go too far back in history, past the 10 years I guess, but for the time that I have been associated with this there has been a divide in that approach.

Dr. FLEMING. OK. Well, thank you, Mr. Miller. I have one more question.

Ms. Nicholson, when you bought your home was there any form of notice, disclosure, or any other notification that your home and those of your 22 neighbors were part of a Federally designated land protection unit?

Ms. NICHOLSON. No. No.

Dr. FLEMING. OK. Anything else you would like to add to that? I mean it sounds like an obvious mistake was made some years ago. Are you aware if anybody has an objection to correcting the maps and obviously taking your homes out of that area?

Ms. NICHOLSON. No, Mr. Chairman. We have provided all the background already and the maps corrected. And it is just not our mistake. And we are just trying to correct a mistake that has put us in a jeopardy for our future. And we can't sell our homes. Realtors won't even show them. It has created a stigma. Everybody doesn't—you know, we live in a small community. So everybody knows that this mistake has come up. So it has jeopardized our future.

Dr. FLEMING. Sure. And I understand you actually paid for the maps yourselves?

Ms. NICHOLSON. Yes.

Dr. FLEMING. Came together and did that yourselves?

Ms. NICHOLSON. Yes, our neighborhood.

Dr. FLEMING. Right. So obviously that is something that should be resolved for you. I mean that is an unjust situation. And obviously, if you can't sell your home, for most people that is where your wealth is tied up.

Ms. NICHOLSON. Right.

Dr. FLEMING. And that is a very unfortunate situation that we need to fix.

So Mr. Sablan, do you have any further questions? OK. I yield to Mr. Sablan.

Mr. SABLAN. Thank you, Mr. Chairman. Ms. Smith, I got to come back to you, because I truly am impressed. Why do you think that one individual who has volunteered for 4 years, you or your fellow members of your Friends of Black Bayou, devote so much time and money to the refuge?

Ms. SMITH. I have had an easy time whenever I have tried to get money or other kinds of support from people if I just take them to the refuge. The refuge sells itself. If I just can take people out to the refuge—and by the way, please, all of you on the Committee and staff, you are always invited to come and visit at Black Bayou Lake. I would love to take you on a walk, or a canoe ride, or whatever. But that is what sells the people on the refuge. All that you need to do is be there. I believe we had some pictures showing earlier. And all you have to do is just be there for a little while and you will be sold.

Mr. SABLAN. Thank you. I will consider that, because you know, just because of the attention and the effort you guys put into it. And then I will invite you to the other side of the world. If you dig straight from where you are at, you come straight to my district.

Ms. SMITH. That is right.

Mr. SABLAN. Just the devotion, I am truly impressed.

Director Sutherland, let me ask in your experience watching the Service establishing the National Wildlife Refuges, has the Service ever overstepped its authority or not involved the public in the process?

Mr. SUTHERLAND. Well, I am not an expert in that. We, as our organization, we are not—

Mr. SABLAN. What is your experience?

Mr. SUTHERLAND. No, but I am not sure I would know. From the vantage point I hold for Ducks Unlimited here in Washington, I am a little bit farther away from the field. We do work with the National Wildlife Refuge System usually on existing refuges. I will say that in terms of the issue that the Chairman and others have raised in terms of sort of the dynamic tension between the need to conserve land versus restore or care for it with O&M money, we wrestle with that within our own organization as well. And it is an item of tension. And I don't necessarily have a solution for it, because we continue to wrestle with it.

But, you know, one idea, I don't know if the Congress would consider this, and it is certainly not an instant answer, but I have been with Ducks Unlimited for 21 years, and I have been coming up here for 21 years on behalf of the organization, and we have been talking about the need for O&M for 21 years. And I am sure it was going on long before I came onto the scene. But one thing Congress might want to think about at some point is creating an endowment perhaps.

I mean Ducks Unlimited is doing this right now, and it is a very hard thing to do. It is setting money aside for our future to carry us through rainy days and tough times as opposed to addressing urgent needs, and I wonder if Congress might think about when we talk about the commitment of Ms. Smith and other volunteers and the money they are putting into their local refuges, I think there is an ethic from people all over the country that love these public lands that might be willing to contribute their own private money to creating an endowment, or supporting an endowment if Congress created something like that. And of course this is something—I am kind of shooting from the hip here, but this is something that should probably be discussed with the agencies and so forth. But maybe that is a way so that 20 years from now—like I said, I have been doing this for 21 years—20 years from now perhaps this might be a more bright outlook for dealing with our challenges on these public lands than we are in today.

And I think we are in support of the idea of this postage stamp as well. And I think that all these things added together can help address these kinds of issues, and let us move forward to better caring for the lands we have and paving a path toward acquiring new needed lands for endangered species, or waterfowl, or whatever it happens to be.

Mr. SABLAN. And the value of land. Because where I come from, land is very small. The main island I am on is 48 square miles. But obviously we have the size of oceans that are huge.

Mr. SUTHERLAND. I am from Alaska, so I am from the other side of the coin. We have a lot of land.

Mr. SABLAN. Yes. I have one more question, but I am out of time.

Thank you, Mr. Chairman. I yield.

Dr. FLEMING. I thank the gentleman. Mr. Sutherland, I agree with you. I think having the public buy in, and some of the models that you have with Ducks Unlimited is an excellent way to both finance and also to make people good stewards of the land and the resources that are there. So I do think going forward, and understanding limitations that we have with our own budgetary problems here in Washington, and then as we grow more refuges, the

fact that we are also going to have a growing maintenance problem, that we do need to look at some different innovative financial models that we have seen in other places that can be quite successful.

I do have a question for you. With respect to law enforcement challenges, has there been any as a result of the Federal duck stamps being available electronically and valid for the 45-day time frame?

Mr. SUTHERLAND. I am not aware of any problems that have come out of the system that the Fish and Wildlife Service created. They didn't break the ground on this. It was actually the first stamps that were available over the Internet were done by State agencies with State stamps. And I think that they probably had some early mistakes that they made and they perfected the system. And I think that the U.S. Fish and Wildlife Service picked up on the system that had been instituted by many of the States, several of the States. And I am not sure, again, I would be aware of that, but I do hear things. I am who I am for Ducks Unlimited. I am not aware of problems that have developed as a result of this, Mr. Chairman.

Dr. FLEMING. Yes. OK. Excellent. I thank you for that. And I have no further questions. Mr. Sablan, you have anything further?

OK. Since there are no further questions, I would like to thank all of our witnesses for your valuable testimony and contributions. Members of the Subcommittee who may have additional questions for the witnesses, we ask that you respond to these in writing should we submit them to you. And the hearing record will be open for 10 days to receive these responses. I want to thank Members and staff for their contributions to this hearing.

If there is no further business, then the Subcommittee stands adjourned.

[Whereupon, at 4:40 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

[A letter submitted for the record by the National Wildlife Federation, Florida Wildlife Federation, and Natural Resources Defense Council follows:]

The Honorable John Fleming, Chairman  
 The Honorable Gregorio Sablan, Ranking Member  
 Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs  
 Committee on Natural Resources  
 U.S. House of Representatives  
 1324 Longworth House Office Building  
 Washington, DC 2051

October 25, 2011

Dear Chairman Fleming and Ranking Member Sablan:

We are writing regarding proposed changes to the Coastal Barrier Resources System (CBRS) that will be the subject of today's Subcommittee hearing. Our organizations, which represent millions of anglers, hunters, conservationists and outdoor enthusiasts across the country, support the CBRS and its many benefits to the American taxpayer, public safety and the coastal environment.

The CBRS is a successful program with a long track record of bipartisan support. The Coastal Barrier Resources Act (CBRA), which created the System, was enacted in 1982 and amended in 1990 with strong bipartisan support in Congress, and leadership from both Republican and Democrat administrations. The CBRA seeks to prevent:

- (1) wasteful expenditures of federal revenues;
- (2) loss of human life from exposure to deadly acts of nature; and,
- (3) damage to fish, wildlife and other natural resources along the nation's coasts.

More than 3 million acres of barrier islands, beaches, dunes, wetlands, and associated aquatic habitat are protected through the CBRA. These coastal lands and waters are found along the Gulf of Mexico, the Atlantic Ocean and the Great Lakes. The CBRA prohibits or restricts federal expenditures for new development in areas included in the Coastal Barrier Resources System (CBRS). Development *itself* is not prohibited. What is not allowed is the expenditure of Federal funds for Federal flood insurance, infrastructure construction, and dozens of other Federal programs that would help underwrite or enable new development in the System. President Ronald Reagan, in his signing statement, noted that the CBRA, "adopts the sensible approach that risk associated with new private development in these sensitive [coastal] areas should be borne by the private sector, not underwritten by the American taxpayer."

Saving Federal tax dollars is more important now than ever. The CBRA works to keep the Federal taxpayer from funding development in areas that are prone to deadly and enormously costly acts of nature, such as hurricanes and storms, thus saving the Federal Treasury billions of dollars. In August 2002, the US Fish and Wildlife Service estimated that the CBRA has saved the American taxpayer nearly \$1.3 billion in avoided Federal expenditures.

In addition to saving Federal tax dollars, the CBRA also promotes public safety by discouraging Federal support for development in areas most prone to hurricanes and storms. The CBRA also promotes the conservation of coastal resources, which in turn supports important coastal economies.

We are concerned about H.R. 2154. This bill would institute changes to the CBRS in Florida by substituting an un-named and un-dated alternative map for the current, official map that was developed by the US Fish and Wildlife Service, circulated for public comment and review, and implemented as legally binding. The Coastal Barrier Resources Act states that the Fish and Wildlife Service retains the sole authority to draft CBRS maps, circulate them for public comment and review, revise them as necessary and implement them after Congressional approval.

H.R. 2154 would establish a dangerous precedent for how changes to CBRS maps are made and to the integrity of the System. Weakening the CBRS in this way would result in reduced savings to the Federal Treasury, which the nation can ill afford in these times of fiscal constraints.

The changes that H.R. 2154 would make to the CBRS stand in contrast to the changes proposed by H.R. 2027. The boundary modifications proposed in H.R. 2027 have been carefully and thoroughly reviewed by the FWS, and have been subject to public review and comment, and input from the state. The FWS has crafted a substitute map to implement the changes envisioned by H.R. 2027, following the protocol for map development that is mandated by the Coastal Barrier Resources Act.

Thank you for the opportunity to submit a statement regarding H.R. 2027 and H.R. 2154.

Sincerely,

John Kostyack  
Vice President of Wildlife Conservation  
National Wildlife Federation

Manley Fuller  
President  
Florida Wildlife Federation

Sarah Chasis  
Director, Ocean Initiative  
Natural Resources Defense Council

