

**NATIONAL WILDLIFE REFUGE SYSTEM
MANAGEMENT AND POLICY ACT**

103
Y 4. P 96/10: S. HRG. 103-172

National Wildlife Refuge System Man...

HEARING
BEFORE THE
SUBCOMMITTEE ON
CLEAN WATER, FISHERIES, AND WILDLIFE
OF THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

S. 823

A BILL TO AMEND THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966 TO IMPROVE THE MANAGEMENT OF THE NATIONAL WILDLIFE REFUGE SYSTEM, AND FOR OTHER PURPOSES

JUNE 9, 1993

Printed for the use of the Committee on Environment and Public Works



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NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT

WEDNESDAY, JUNE 9, 1993

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON CLEAN WATER, FISHERIES, AND WILDLIFE,
Washington, DC

The subcommittee met, pursuant to notice, at 9:30 a.m. in room 406, Dirksen Senate Office Building, Hon. Bob Graham [chairman of the subcommittee] presiding.

Present: Senators Graham, Lautenberg, Kempthorne, Faircloth, and Chafee.

OPENING STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator GRAHAM. I will call the meeting to order.

This is a meeting of the Senate Committee on Environment and Public Works, Subcommittee on Clean Water, Fisheries, and Wildlife.

This is not only my first meeting as Chair of this Subcommittee, this is the first meeting of this Subcommittee, as it is newly established under the reorganization of the Environment and Public Works Committee by its Chair, Senator Max Baucus.

At this point, I would like to make a sad announcement, that Senator Baucus could not be with us today because of the passing of his father, and we send our deepest regrets and sympathy to the Senator on that sad occasion. We wish the best to him and to his family.

It is especially disappointing that Senator Baucus could not be here, as the subject of this meeting, the National Wildlife Refuge System Management and Policy Act of 1993, has been a subject in which he has had a special personal interest. I look forward to working with him and other members of the committee closely as we move through the process of hearing and further consideration of this legislation.

In 1903, President Theodore Roosevelt established the first National Wildlife Refuge on a tiny island, Pelican Island, in Florida's Indian River in the East Central section of our State.

He sought to protect Brown Pelicans, Egrets, Herons, and other impressive wading birds from people who were seeking to kill the birds for their plumes and for the feathered hats that were the fashion of that day.

For a hundred years our Country's Wildlife Refuge System has grown. It now has nearly 500 Refuges, covering over 91 million acres in all 50 States. This loose network of Refuges provides essential habitat to more than 700 species of bird, more than 1000 mammals, reptiles, and amphibians, and an even greater variety of fish and plants. Many of these species are listed as endangered or threatened.

Our Wildlife Refuges comprise one of the largest public land systems managed by the Federal Government. Yet, unlike the Forest Service, the Parks Service, and the Bureau of Land Management lands, it is the only Federal lands system managed primarily for the benefit of wildlife and habitat.

Nevertheless, in spite of this primary purpose for the protection of wildlife and habitat, under two laws passed in the 1960's, recreational and other secondary uses are allowed on Refuges as long as they are compatible with the Refuge's primary purpose. As a result, at least one secondary use occurs on nearly every Refuge and more than 70 percent of our Refuges have at least seven such secondary uses.

Unfortunately, many of these activities are severely harming the wildlife that the Refuge System was designed to protect.

In 1989, a study by the General Accounting Office found activities considered by Refuge managers themselves to be harmful to wildlife occurred on 59 percent of our Refuges, even though many of those uses were defined as compatible under existing law.

Power boating, mining, military air exercises, off-road vehicles, and air boating were the most frequently listed harmful uses.

Oil and gas drilling, timbering, grazing, farming, commercial fishing, hunting, trapping, even hiking in some cases, were also found in specific instances to be harming wildlife or disturbing habitat or breeding.

A follow-up study by the United States Fish and Wildlife Service found virtually the same thing; 63 percent of the Refuges harbored one or more harmful activity.

The obvious question: If the current law only permits compatible activities, how have we allowed actually harmful activities on a majority of our Refuges?

The GAO found two primary causes. First, the Fish and Wildlife Service often is forced to give in to intense political and economic pressure. Refuge managers have become susceptible to such pressure, in part, because the laws passed in the 1960's governing Refuges do not adequately define what the purposes of the Refuges are, or how to determine whether proposed use is compatible with those purposes. Thus, the GAO found Refuge managers often considering nonbiological factors in evaluating whether an allowed secondary use was compatible.

Furthermore, the GAO discovered that compatibility decisions are often made without adequate public input or written records. The problem is then compounded by the services' failure to periodically reevaluate those uses which have been allowed.

The GAO found the second major factor behind these harmful activities involved Refuges that share jurisdiction with other Federal agencies. On many Refuges, another Federal agency shares a navigable waterway or has the right to use land and air space for mili-

tary exercises. Thus, by law, such harmful activities as boating or military overflights cannot be prevented, and the service often lacks leverage to limit the harm which these activities cause.

The Department of Defense is the predominant Federal entity with secondary jurisdiction. The Department was invited to testify, but their newly appointed lead environmental official, the Deputy Under Secretary of Defense for Environmental Security, wrote the subcommittee today that she did not have adequate time to prepare for this hearing. She expressed concern about the provision of the bill that would affect Refuges with joint jurisdiction, and requested that the hearing record remain open, pending submission of written testimony by June 30.

By its very title, the GAO calls on Congress to take bold action. That is what is needed and that is what this legislation provides. The bill before the subcommittee today is a comprehensive, organic act for the Refuge System, designed to accomplish the following:

In summary, to set forth explicit, environmentally sound purposes for the System as a whole; to establish a formal process for determining what secondary decisions are compatible and thus allowable; require the Fish and Wildlife Service to prepare a System-wide master plan, as well as conservation plans, for each Refuge or group of related Refuges; require Federal agencies with joint or secondary jurisdiction over a Refuge to assure that their actions do not harm Refuge resources unless permitted by law or necessary for National security; and finally, to reaffirm the existing law that permits wildlife recreational activities such as hunting, fishing, and hiking, where found compatible with Refuge purposes.

I'd like to emphasize that last point. Traditional recreation currently allowed on many Refuges, including hunting, is not to be automatically banned. I hunt and I firmly believe hunting should be allowed on our Refuges whenever, by objective, scientifically sound data, there is to show where, when, and how hunting can take place without becoming incompatible with the purposes of the individual Refuge.

My intent is to achieve a balance between traditional recreational activities and the primary purpose—the preservation of wildlife.

I am pleased to report that this legislation has received broad support, some of which will be expressed by our witnesses later this morning. This testimony will indicate the threats to our environment are all around us and seem to be growing daily. Though protection and improvement of the National Wildlife Refuge System is but one part of the needed response, it is a critical component. Our Wildlife Refuge System is one of our Nation's treasures. In large part, it has been a great success story, protecting species from coast to coast. But now, the Refuge System and its mission are threatened. President Theodore Roosevelt challenged our sense of stewardship when he said, "There are no words that can tell the hidden spirit of the wilderness, that can reveal its mystery, its melancholy, its charm."

The Nation behaves well if it treats the National resources as assets which it must turn over to the next generation increased and not impaired in value.

That is our task today.

With the indulgence of the witnesses, I would like to ask if we could show a broadcast which was presented by CBS news in 1991, outlining the status of the National Refuge System as they found it in the Spring of that year, a circumstance which I think is consistent with its current condition today.

[Presentation of a videotaped television news broadcast.]

Senator GRAHAM. I have statements to file for the record from Senator Baucus and Senator Chafee.

[The statements referred to follow:]

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Mr. Chairman, I would like to begin by commending you for your continuing efforts to improve management of the National Wildlife Refuge System.

One year ago, I chaired a hearing before the Subcommittee on Environmental Protection to consider legislation introduced by Senator Graham which was identical to the bill before us today. This hearing provides an excellent opportunity for the Committee to continue its examination of the management of the refuge system by the U.S. Fish and Wildlife Service, and to explore its future direction under President Clinton's administration.

The National Wildlife Refuge System is unlike any other system of federal lands. It has no multiple-use mandate. It is acquired and managed primarily for fish and wildlife.

The refuge system also has no federal counterpart because it is composed of lands and waters that were acquired for a wide variety of fish and wildlife-related purposes under the diverse authorities of the Migratory Bird Conservation Act, the Emergency Wetlands Resources Act, the Endangered Species Act, the North American Wetlands Conservation Act, the Fish and Wildlife Act of 1956, and 30 refuge-specific statutes.

The diversity of the refuge system does not make it a chaotic hodgepodge of areas. The various refuge acquisition laws reflect explicit decisions by Congress to acquire lands and waters for specific, high-priority purposes, such as protection of wetlands, endangered species, or migratory birds.

Areas are included in the refuge system under these laws by Congress to ensure that their management is consistent with the purposes for which they were acquired.

Providing an opportunity for compatible fish and wildlife-oriented recreation and education, including fishing, hunting and wildlife viewing, also is a common purpose of refuges. All of the refuges recently established by this Committee through specific legislation have such a purpose.

Our principal responsibility should be to ensure that refuges are being managed so that they fulfill the goals of the laws that authorized their purchase.

To those who wish to change the existing acquisition and management goals of the laws establishing wildlife refuges, I say, propose changes in those specific statutes, but don't simply overlay a different set of goals on those statutes with a broad, new law.

There clearly are problems in the management of some refuges that are preventing these areas from fulfilling the goals of the Migratory Bird Conservation Act, the Endangered Species Act, the Emergency Wetlands Resources Act and the other laws that authorized their establishment.

But we need to distinguish between the uses that are causing these very real problems and the uses that various people simply may believe are inappropriate on wildlife refuges.

We also need to distinguish between those problems that are solely within the U.S. Fish and Wildlife Service's ability to control under existing law, and those that are not. Typically, the most serious refuge problems involve those that are largely beyond the control of the Fish and Wildlife Service because they result from activities on lands or waters under state or other federal agency jurisdiction.

For example, in 1988, the Wilderness Society released a report identifying the nation's 10 most endangered National Wildlife Refuges. Nine of these refuges are threatened by environmental problems that are outside the control of the FWS and that cannot be corrected simply by changes to the National Wildlife Refuge Administration Act.

If we are serious about addressing some of these serious refuge problems, it will have to be done by amending other laws governing water quality and quantity, pesticide use and many other environmental concerns.

Finally, whatever Congress chooses to do in this area, I want to stress the importance of building on existing, on-going efforts by the Fish and Wildlife Service so that we don't require the Service to throw out all that it has done over the past several years. I look forward to working with Secretary Babbitt and Senators Graham and Chafee in this effort.

STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Mr. Chairman, today we meet to examine the National Wildlife Refuge System, the only system of public lands set aside specifically and primarily for the conservation of this nation's fish and wildlife resources. I want to recognize you, Mr. Chairman, for your efforts to focus attention on this important issue and your introduction of legislation to improve the management of the Refuge System.

Today's refuge managers face an increasing number of difficult management issues, from protecting fish and wildlife from the effects of air and water pollution to whether to allow a wide variety of public uses on refuges. But before we consider these problems we should recognize the tremendous accomplishment the Refuge System represents for wildlife conservation.

From its humble beginnings in 1903 when President Theodore Roosevelt established the first refuge unit at Pelican Island Florida, the Refuge System today is made up of over 475 units covering 91 million acres (469 units and 13 million acres are in the continental United States, Hawaii, and 5 territories, while 16 units covering 77 million acres are in Alaska). The System encompasses everything from sea bird colony islands to vast arctic ecosystems and provides habitat for migratory waterfowl, game, nongame and endangered species of fish, wildlife and plants.

The Refuge System plays a critical role in our efforts to preserve valuable wetlands. In recognition of the vital role of wetlands to fish and wildlife resources, approximately one-third of the System is wetlands.

The growth of our National Wildlife Refuge System has been impressive. We have established 73 refuges just in the last 10 years. An estimated 30 million people visited units of the refuge system last year to enjoy the recreational opportunities these areas offer.

That is the good news. Unfortunately, the growth and increasing popularity of the Refuge System has led to problems. Operations and maintenance funding has not kept pace with the establishment of new refuges, resulting in a \$340 million backlog of maintenance needs. In addition, higher visitation has intensified questions about how refuges should be used and for what purposes.

As we examine these issues, we should not lose sight of the fact that the great diversity of the system has been dictated in part by the varied needs of fish and wildlife and the recreational needs of the public. In our effort to improve the refuge system and address problems associated with harmful uses on refuges, we should not sacrifice the diversity and flexibility that has allowed the refuge system to flourish and adapt to changing conservation goals over the last century.

Senator GRAHAM. We've been joined by Senator Kempthorne. Senator, do you have an opening statement?

Senator KEMPTHORNE. Mr. Chairman, I look just look forward to the comments of our good panel this morning.

Thank you, Mr. Chairman.

Senator GRAHAM. Thank you very much.

Our first panelist is Mr. Don Barry, the Acting Assistant Secretary for Fish, Wildlife, and Parks, the Department of Interior. Mr. Barry, we appreciate very much your joining us today and look forward to your remarks on behalf of the department.

STATEMENT OF DONALD BARRY, COUNSELOR TO THE ASSISTANT SECRETARY FOR FISH, WILDLIFE, AND PARKS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY ROB SHALLENBERGER, CHIEF, DIVISION OF REFUGES

Mr. BARRY. Thank you very much, Mr. Chairman, for providing the opportunity to testify today on S. 823, the National Wildlife Refuge System Management and Policy Act.

I have worked on National Wildlife Refuge matters for over 19 years and I'm pleased to testify today on behalf of Secretary Bruce Babbitt.

The Subcommittee is to be commended for its high level of interest in the National Wildlife Refuge System. I can assure you that the protective management of this spectacular wildlife conservation system is a high priority of this Administration. This Administration supports the concept of organic legislation for the Refuge System and supports enactment of S. 823.

We believe that S. 823 supplements the excellent foundation laid down in 1966 by Congressman John Dingle, in the National Wildlife Refuge System Administration Act. Thus, we view this bill as supplementary to rather than in opposition to the intent of the original 1966 Refuge System Act. We do believe, however, that some amendments are necessary to improve the effectiveness of your bill, and look forward to working with you and the subcommittee staff in making adjustments to this legislation.

The National Wildlife Refuge System faces many difficult challenges and exciting opportunities as we approach its 100th anniversary. When added to the enormous conservation effort of State Fish and Wildlife agencies across this Country, the continuing growth of the Refuge System makes a major contribution to the achievement of our fish and wildlife conservation goals for this Country.

Expansion of the Refuge System has come at a price, however, for it has taxed to the limit the ability of Refuge managers to fulfill their stewardship responsibilities. Based on almost two decades of visits to National Wildlife Refuges, I can assure this Committee that there is no such thing as a lazy or indifferent Wildlife Refuge manager. Frequently rising before dawn and toiling well into the night, these people always humble and inspire me with their dedication to conservation.

Ever expanding statutory mandates and surrounding land use conflicts present additional challenges for overworked Refuge staffs. Nevertheless, a significant opportunity exists for Refuges and Refuge managers to work cooperatively with the States to play a pivotal role in the conservation of this Nation's fish and wildlife resources. We're also putting increased emphasis and more money into the challenge-cost share program to encourage private and nonprofit financial partnerships to enhance fish and wildlife resources on Refuges.

Let me highlight four themes that this Administration believes should be kept I mind as you consider Refuge legislation.

First is the need to broaden the mission of the Refuge System.

Second is the need to get back to basics in Wildlife Refuge management by ensuring that fish and wildlife conservation comes first within Refuges.

Third is the need for a greater effort to engage the American public in caring about the management and well being of the Refuge System.

And fourth is the practical need to keep Refuge legislation streamlined and lean, less it compound rather than alleviate Refuge management problems.

With regard to broadening the Refuge Systems mission, this Administration recognizes that the historic roots of the Refuge System lie in migratory bird conservation. We expect migratory birds to remain an important and dominant focus of the Refuge System.

Mindful and supportive of this rich heritage, we also believe that it's essential to the mission of the System to be dynamic and responsive to the emerging environmental challenges confronting this Nation. Thus, the Refuge System of the future should play an expanded role in the conservation of this Nation's biological diversity and in providing environmental education for the American people where consistent with the primary conservation purposes of individual Refuges.

The Refuge System can and should play a leadership role in recovery efforts for endangered and threatened species. The System also can play an emerging role ecosystem management initiatives to conserve biological diversity and serve as an important focal point for compatible wildlife-oriented conservation education and recreation.

Our second area of emphasis concerns the need to put wildlife conservation first in the management of the Refuge System. The legislative history of the original 1966 Refuge Administration Act urged that extreme caution be used in allowing activities to take place in National Wildlife Refuges. The compatibility test was intended to be the first line of defense against activities that might conflict with the primary purposes for which these Refuges were established. Over time, however, administrative policies or lack of focus have eroded this protective shield, allowing incompatible activities to gain entrenched footholds within various Wildlife Refuges.

Included in this list of activities are a variety of conflicting economic uses and nonwildlife oriented recreational activities which are proven difficult to terminate once established. This dilemma has highlighted the need to make the compatibility process more rigorous and to refocus our priorities where they belong—on the fish and wildlife resources that these Refuges were originally established to protect.

A third point concerns the limited awareness and appreciation of the Refuge System by the American people. Regrettably, the Refuge System is this Nation's best kept secret—a "stealth" conservation system, if you will.

Meaningful public involvement in the individual Refuge plans has been the exception rather than the rule. We must elevate the awareness of the Refuge System and engage the public in an active dialog about the future of National Wildlife Refuges in this Country. These are public lands that deserve the very best support the public can contribute.

A fourth point reflects the practical need to keep the management of a complex system as simple and direct as possible. Well in-

tioned but unworkable procedural requirements will hurt Refuge management, not help it. We are confident that you will be able to strike the careful balance between accountability and workability.

The Refuge System lacks organic legislation that statutorily defines the purposes of the System. S. 823 seeks to correct that problem. This bill also addresses the management of secondary uses and the need for comprehensive planning.

Today I would like to address my general comments to these three primary sections of the bill: Refuge System purposes, compatibility, and planning. With regard to the Refuge System purposes, we believe that this is one of the most important parts of this bill because it fills a critical gap in current Refuge law. While we generally endorse section four's statement of purposes, we have a few constructive suggestions to offer. First, we are concerned that section four could be interpreted as prohibiting the continued management of lands and wildlife populations within Wildlife Refuge boundaries. This section should acknowledge that wildlife conservation programs in Refuges run the gamut from managed habitats and populations to naturally diverse and unmanaged populations and that the Refuge System must be broad enough to accommodate both approaches.

Moreover, we suggest adding wildlife-oriented environmental education as a purpose of the Refuge System, provided that educational efforts are secondary to and consistent with the primary conservation purposes of the System and the individual affected Refuge.

Apart from those changes, we would note our strong support for the provision in section four stating that the original purposes of a Refuge will prevail if there is a conflict between those purposes and Refuge System purposes.

Section five deals with one of the most difficult issues in Refuge management—compatibility. As you know, Mr. Chairman, after the 1989 GAO report on harmful uses occurring in National Wildlife Refuges, the service developed its own survey to better define the scope of the problem.

This Administration is committed to eliminating incompatible uses as quickly as possible, and is reviewing what needs to be done to finish the task. Revised guidance to Refuge managers relating to compatibility is being developed and will be published in the Federal Register for public comment. The service has also developed and implemented a new training course on compatibility for Refuge managers, and they've entered into a new cooperative agreement with the Federal Aviation Administration relating to overflights, and is attempting to develop an accurate data base to track the status of all problem uses. The service is developing new methods costs to administer Refuge uses and is compiling reference materials to assist Refuge managers in the determination of compatibility.

While the administration supports many of the provisions in section five, as it relates to the compatibility process, other provisions in the section are troubling and should be amended. For example, we recommend that section five be amended to make clear that compatibility decisions may take into account a Refuge manager's

best professional judgment in addition to the best scientific information.

As a general matter, we would urge the subcommittee to consider ways to streamline and simplify this section, and are willing to work with you toward this end. Whatever balance is struck on compatibility, it should be straightforward and workable.

Another concern of the Fish and Wildlife Service is the likelihood that the compatibility section of S. 823 would fall short of correcting some of the most troubling secondary uses, namely those outside the limits of Service jurisdiction and authority. We realize that issues such as these are complicated and are not easily resolved. Obviously, the resolution will require close coordination with other agencies and we look forward to working with the subcommittee and these other affected agencies in trying to address these sorts of jurisdictional problems.

Finally, section six of the proposed legislation sets forth various provisions relating to Refuge planning. We are in agreement with S. 823 regarding the need for expanded Refuge management planning and an improved guidance currently being developed by the Fish and Wildlife Service attempts to address many of the planning goals reflected in your bill.

As you are aware, the Service is currently in the midst of a public comment period on the draft plan and EIS on the Refuge System entitled "Refuge 2003".

As was the case with section five, we would again urge the subcommittee to look for ways to streamline the planning procedures and criteria set forth in section six. For example, once "Refuge 2003" is substantially revised and finalized, it could serve as the initial comprehensive plan for the Refuge System required under section six.

Furthermore, it is important to recognize that a considerable amount of planning has already been completed for individual Refuges, although it is uneven in terms of scope and content.

It is not clear under the proposed legislation how existing Refuge plans—some of which may not address all of the criteria or elements contained in the planning section of S. 823—are to be treated after enactment of this bill. Planning is a critical but very expensive part of our land management responsibility. We think that to the extent possible, the Refuge planning process being developed by the Service should be integrated into the requirements of section six.

Opportunities for public involvement must be expanded wherever feasible in the planning process. For example, any existing Refuge plan which was finalized without active public involvement should go back out for public review and comment.

Again, we look forward to working with the subcommittee to perfect the planning provisions of this bill.

One final point worth mentioning applies to all of the provisions in S. 823. It would result in additional responsibilities and tasks to be undertaken by Refuge System personnel. It is important for us to remember the costs in time and funding attributable to these provisions. The Refuge System is already challenged by an enormous operational and maintenance backlog. Although the System by itself cannot save America's biological diversity, it can make a

very significant contribution to this cause if it has adequate resources to accomplish its mission. We must all work together to make this happen.

Again, Mr. Chairman, I thank you for your interest in the Refuge System and your commitment to the wise management of the Nation's rich natural heritage and look forward to working with you on this bill. I am pleased to answer any questions that you may have.

Senator GRAHAM. Thank you very much, Mr. Barry, for your very fine statement.

We've been joined by Senator Faircloth. Senator, so you have an opening statement?

Senator FAIRCLOTH. Not at this time, Mr. Chairman. I'm having trouble picking up the difference between the current legislation that's in effect—the "2003"—and the proposed bill. In a word, what is the difference? What are we talking about?

Senator GRAHAM. Well, that would be a good first question that I'd like to put to Mr. Barry, because that represents a basic point of demarkation.

There are those who would say that within the current law, the administration can correct the problems that were stated on the film by Mr. Turner, previous head of the Wildlife Service. Others would say that changes in the law are necessary in order to overcome the increasing number of not only incompatible, but harmful, uses that have come into the Refuge System.

What would be your feeling as to the relative ability of these problems to be dealt with administratively or to what extent changes in the law are required?

Mr. BARRY. I think, clearly, a lot can be done administratively, and we're in the process of following up on the excellent start that John Turner initiated to eliminate incompatible activities within the Refuge System and there is a fair amount of administrative discretion that we currently have at the Department of Interior, and we're trying to exercise that to the best that we can in order to take care of these incompatible activities.

With regard to your question, Senator Faircloth, the current law—the actual authority dealing with Refuge management—flow from two primary statutes; the 1962 Refuge Recreation Act and more importantly, the 1966 Refuge System Administration Act.

The "Refuge 2003" document that you referred to is a comprehensive planning document being prepared by the Fish and Wildlife Service which is like a programmatic environmental impact statement. It's trying to provide a broad overview for the Refuge System, to provide a series of alternatives for management to the public to generate public comment, to provide guidance to the Fish and Wildlife Service as to how the Refuge System in its entirety should be managed based on the statutory authority of those two earlier statutes that I mentioned—the Refuge Administration Act and the Refuge Recreation Act.

In terms of what this statute could add, Mr. Chairman, in addition to existing law—one good example of that would be a statement of purposes for the Refuge System. Currently there is no statement of purposes providing guidance as to what the purpose of this enormous System is. We're now approaching, I think, close to

495 units of the National Wildlife Refuge System that have been established since 1903 from a variety of means and for a variety of purposes. And yet, there is no common theme that currently is out there that you can point to which states what the overall goal this System, what the mission of this System is.

I have had personal experience, back when I worked in the Interior Department, as to how this can cause certain problems for the Refuge System. Back in the mid-1980's we had considerable problems with selenium contamination of some of the Wildlife Refuges in California. During the debates over what to do with the selenium contamination problem, the lack of purposes for the Refuge System and the lack of statutory obligations and responsibilities on the part of the Secretary of the Interior for the management and well being of the Refuge System became glaringly apparent. There were some who argued in the Department that the Secretary had no obligation whatsoever to exercise his discretionary administrative authorities in a manner that was designed to keep a National Wildlife Refuge in business. They argued that a Secretary could basically turn his back on a Wildlife Refuge if he so chose, and walk away from it entirely, killing it.

The National Parks Service, in 1978, gained an amendment to the National Park Service Organic Act which stated what the obligations and responsibilities of the Secretary of the Interior were for the management of the National Parks System for the long term benefit of the American people, for future generations. That's also what is missing in current Refuge law—there is no statement to the Secretary of Interior as to what the expectation is from Congress regarding the long term management and care of the National Wildlife Refuge System for the benefit of future generations. I think this bill provides that.

Right there are just two examples of the need for new legislation—there is no statement of purposes for the Refuge System, indicating what the overall goal of this System is, and there's a lack of responsibility or direction to the Secretary of Interior as to how that person should be managing the Refuge System for the benefit of future generations. Current law doesn't provide either of those.

Senator GRAHAM. Mr. Barry, relative to the "2003" report, when do you anticipate that will be available?

Mr. BARRY. The public comment period ends June 15. There has been extensive public discussion. There were a large number of public hearings held.

Rob Shallenberger is the Chief of Division of Refuges is sitting behind me—I'm not sure whether you have a current tally and the number of comments we've received? Over 7,000 comments.

Our goal is to get a finalized "Refuge 2003" out on the street as soon as we can. It will be somewhat difficult to figure out what the final timetable would actually look like until we have a chance to take a look at the comments that have come in. There have been suggestions that the range of alternatives could have been somewhat different. We just need to assess the nature of the comments, but I can at least make to you the commitment that our goal is to complete that document as soon as possible. I think the original planning target date for final publication was for sometime next Spring—is that correct, Rob? By the end of this calendar year.

Whether we'll be able to stay to that target, it's too early to tell right now, until we've had a chance to assess public comments.

Senator GRAHAM. You touched on another of the fundamental issues raised by this legislation, and that is whether the National Wildlife Refuge System is in fact intended to be a system or a series of relatively independent, autonomous, discreet units, each with its own special history, purposes, and rationale for Federal involvement.

I would assume that one of the reasons that now, 90 years after the first Refuge was established, that there is yet to be an organic law has been because of the sense that it was not an organic system.

What is your feeling as to why we should begin to look at the 490-plus Refuges as part of a system as opposed to looking at them independently?

Mr. BARRY. Well, I think that, clearly, there are some common themes that emerge from all of these areas, despite the fact that they have been established under different sources of authority or have been established by different means over the years. The primary common theme is the conservation of this Nation's wildlife heritage. That is a common theme which unites all of the units of the System. It's the largest wildlife conservation preserve system on this planet and even though they may range from intensively managed migratory waterfowl Refuges to a Refuge as spectacular as the Arctic National Wildlife Refuge, the common theme behind all of these is the preservation and the conservation of the wildlife resources of this Nation.

I think it obviously needs to be viewed in proper context. The Refuge System by itself is not going to accomplish that mission. The State fish and wildlife agencies, with their conservation programs are doing an enormous job in support of this task of conserving the Nation's wildlife resources, but I think, clearly, there is a need for viewing these units as a unified system and I think they provide a cohesive theme that we need to work more cooperatively and aggressively to save this Nation's wildlife resources.

Senator GRAHAM. My time has expired.

Senator Kempthorne?

Senator KEMPTHORNE. Thank you, Mr. Chairman.

Mr. Barry, perhaps you've stated it, but I'd like you to give it to me once more. How significant is the problem of incompatibility on our Wildlife Refuges? Is the problem overstated? If you could, zero in on that.

Mr. BARRY. I think that there are true, significant problems on Wildlife Refuges stemming from incompatible activities. I think you do need to be careful when you take a look at some of the numbers and you rely too quickly on one set of numbers versus another set of numbers.

This was pointed out in some of the studies that were done recently—the GAO study in 1989, the Fish and Wildlife Service's subsequent hard look at incompatible activities within Refuges that occurred a couple of years after that.

What you'll find is that there has been, on occasion, a tendency to include things in the list of incompatible activities which are beyond the Fish and Wildlife Service's jurisdiction to control. Argu-

ably, it's not very helpful to include those in the list because they're things beyond the control of the Fish and Wildlife Service and the compatibility test is designed to apply to those activities which the Fish and Wildlife Service itself can control. Even excepting those, even taking some of those things aside which are beyond the ability of the Fish and Wildlife Service to control, there clearly are activities which have occurred over the years which are incompatible with the purposes for which these Refuges were established.

Phasing those activities out becomes a very difficult chore. People become used to being able to do certain things. I can give you one example: about four years ago when I was working on the Merchant Marine and Fisheries Committee staff and traveled out west to take a look at some of the compatibility problems, as a result of the GAO study, I visited a Wildlife Refuge in California that was a waterfowl oriented Wildlife Refuge and it had a couple of lakes within the middle of the Refuge. When we drove by those lakes, I was staggered at the amount of trash and garbage that was scattered around those lakes—it almost looked like a landfill site. I asked the Refuge manager what the problem was here and he basically said that he didn't have the staff to maintain the trash and to haul away trash bins, and that the public liked to come there in order to go swimming and they just basically threw their trash away.

This was a National Wildlife Refuge and it looked like a city dump. That's an example of where people can love these Wildlife Refuges to death, and if they're careless in their treatment of things and if they're careless in the way that they treat the Refuge, it can have a harmful effect on the wildlife.

Senator KEMPTHORNE. To pursue that, S. 823 appears to reopen, perhaps fully, the question of what kind of uses are compatible within the Refuge.

Eliminating all current existing uses until such time as they are affirmatively determined to be compatible, to the extent that some current uses are allowed. Because the Federal Government does not own the Refuge land in fee simple, but only perhaps in easement or other limited rights, how would you propose to treat the private owners of these other rights? Would denial of the use in the absence of a compatible use determination amount to a taking of private property under the Fifth Amendment in those situations where the Federal Government has not purchased the property?

Mr. BARRY. It's our position or our view that the compatibility test applies to those activities which the Fish and Wildlife Service has the authority to authorize or to control, in the first instance, and to decide whether to allow something to occur in the first instance.

Let's take reserved oil and gas interests within a National Wildlife Refuge. Most of the oil and gas activities that you'll see today in a National Wildlife Refuge are privately reserved mineral interests. In other words, when the Fish and Wildlife Service acquired the land, they only acquired the surface—they did not buy the sub-surface mineral interests, they left that to the private land owner. Most of the oil and gas activities going on within Wildlife Refuges are actually the exercise of private, reserved mineral interests. The compatibility test would generally not apply to that situation.

If it was a Federal by owned oil and gas interest, though, and the Fish and Wildlife Service was trying to decide whether to lease the Federal oil and gas rights, then the compatibility test would apply in that instance. In other words, it only applies to those activities or those resources which are owned or controlled by the Federal Government.

That's not to say that the Refuge manager has absolutely no ability to try to impose reasonable means or measures to minimize adverse affects on Refuge resources, when people exercise their reserved mineral rights. If you have a private oil and gas well in a refuge, for instance, and you need to be able to show for tax purposes that you've worked the well periodically, but it's not a well that requires constant maintenance and presence on site, you can easily work out with the Refuge manager times of the year when it is the best, in terms of the refuge wildlife resources, to go in and do your maintenance work without adversely affecting the wildlife. In fact, in the majority of cases, Refuge managers have been able to work out reasonable accommodations with the private land owners or the private holders that have these reserved interests.

I wouldn't view this language as applying to the case that you raised Senator. In other words, the new compatibility standards in this bill would not apply to those situations. The Refuge manager would be working with owners of existing reserved property interests to develop reasonable environmental controls to minimize the adverse affects of their activities on Refuge resources.

Senator KEMPTHORNE. My final question, then, would be given the estimates of substantial backlogs in the maintenance of the Nation's Wildlife Refuges, why does it make sense to increase spending for land acquisitions rather than delaying further acquisitions until the backlog is eliminated?

Mr. BARRY. Well, I think the budget which this Administration proposed recognizes that hard choice. We are suggesting less money for land acquisition this year than in previous years and we are suggesting that additional money be provided for Refuge operation and maintenance. As a general matter, I think Secretary Babbitt feels that we're at a point now where we need to make the hard choice in protecting the resources we have. We feel that we're heading in that direction.

Senator KEMPTHORNE. Thank you very much.

Mr. Chairman, thank you.

Senator GRAHAM. Thank you, Senator.

Senator Faircloth?

Senator FAIRCLOTH. Thank you, Mr. Chairman.

I appreciate Mr. Barry's point of view on S. 823. I have to go to another hearing and I wish you well in your new job.

Mr. BARRY. I'll need all the help I can get.

Senator GRAHAM. Thank you, Senator.

For a brief second round of questions. You referred, in your written testimony, Mr. Barry, and then in response to questions, about the fact that a substantial amount of the incompatibility that has occurred is the result of other agencies exercising their jurisdiction, such as the Department of Defense. What is the position of the administration in attempting to develop a greater degree of sensitivi-

ty by those other agencies which are part of the administration's family, relative to their activities within Wildlife Refuges?

Mr. BARRY. Clearly, one of the problems that we have right now is that we're still not fully staffed at the Interior Department. We do not have a Director of the Fish and Wildlife Service who has been confirmed, and we do not have an Assistant Secretary for Fish, Wildlife, and Parks who has been confirmed, but I can assure you that one of the highest priorities of those officials, when they are on board, will be to work with other agencies in the Executive Branch to try to encourage them, cajole them, bludgeon them if necessary, into exercising their activities in a manner which takes Wildlife Refuges more fully into account.

We have, for instance, just begun a dialog with the Defense Department—we had some preliminary discussions with them a couple of days ago and we anticipate circling back to them to try to pursue some of these discussions more fully.

We also have made progress with other agencies as well. For example, I believe the Fish and Wildlife Service has negotiated, since John Turner testified here last year, a new agreement with the Federal Aviation Administration.

We clearly have had better luck with some agencies than with others. In the Florida Keys, for instance, the Fish and Wildlife Service has worked cooperatively with the State of Florida and it's my understanding that they have now reached a new agreement with the State regarding more aggressive and stricter enforcement to deal with some of the boating problems around some of the Keys. So, that's one area where I think considerable progress has been made by working cooperatively with the States. On the other hand not much progress has been made in Arkansas in dealing with large traffic. The barge traffic is still a problem and I think we still have a ways to go in persuading the Corps of Engineers that there's more that could be done in that particular area to help the Arkansas Refuge.

So, it's been somewhat of a mixed track record where we're in transition right now at the Department and we don't have all of the new people on board but certainly it's going to be a high priority for us once they get in place.

Senator GRAHAM. This legislation, S. 823, would provide that the protection of wildlife and the habitat would be the primary standard by which uses from a secondary source would be evaluated, unless one of two conditions was met—either one, there was specific legislation to authorize that incompatible, secondary use or two, there was a National security issue. If this becomes law, that would indicate the necessity of reviewing those external to the Department of Interior activities that occur on Refuge land to determine where it would be appropriate to seek out specific legislative authority to allow those activities.

Do you have any ideas of how the Department might prepare itself to go about accomplishing that objective?

Mr. BARRY. I haven't given it much thought. Obviously, you have a definable number of Refuges that are affected by this situation. I think at the time I left the Interior Department in 1986, I think at that point there were 50-plus, maybe 54 or 55 National Wildlife Refuges that were what was known as overlay Wildlife Refuges—

secondary withdrawal Refuges—Wildlife Refuges overlaid on some other agency's property. So, you have a definite list of which Refuges those are. You also have a set number of Refuges that are added over military reservations, for instance. I think the Fish and Wildlife Service could very easily go back through the list of Refuges, catalog the ones that have secondary withdrawal or secondary jurisdiction situations with other agencies, and go back and review some of those documents.

One of the things that I noticed when I worked as an attorney for the Interior Department, for the Fish and Wildlife Service, was that in a number of these cooperative agreement Refuges—especially mitigation Refuges where the Corps of Engineers or the Bureau of Reclamation had established a Wildlife Refuge as mitigation for a project and then turned the management of that refuge over to the United States Fish and Wildlife Service—sometimes the terms and conditions that the primary agency, the Corps or the Bureau, had attached to the cooperative agreement with the Fish and Wildlife Service establishing that area as a Refuge seemed to go beyond what they needed to retain in order to achieve their primary objectives for flood control or navigation.

There were some instances—at least one in particular that I can think of out West—where they had reserved additional management prerogatives above and beyond what you would have needed for managing a water resource project, and there were times when the exercise of those authorities actually resulted in some harmful activities occurring to the wildlife resources on that Refuge. I think it would probably be worthwhile for the Service to go back and take a look at the original terms of the cooperative agreements establishing these Refuges to determine whether or not some of the restrictions or limitations really make sense today and are really necessary. I think it would be helpful and useful to have another good, hard look at some of those documents.

Senator GRAHAM. Senator?

Senator KEMPTHORNE. Thank you, Mr. Chairman.

I've read recently that in the State of Washington, on one of the Wildlife Refuges, that some of the permittees that have had grazing rights there since the mid-1930's have been told that they need to stop. Where do you think we're going with regard to grazing rights and the Wildlife Refuge?

Mr. BARRY. I'm glad you mentioned that Refuge in Washington. I went out there personally, two weeks ago, to take a look at the situation on Turnbull—I think that's probably the Wildlife Refuge you're mentioning. Grazing has been utilized as a management tool within the Refuge System for many, many years. There was a paper presented last year at the North American Wildlife Conference which addressed the question of graying in the Refuge System. I believe it stated that there are over 130 Wildlife Refuges that have grazing occurring within their boundaries. Not in every instance is grazing being used as a management tool for managing the habitat for waterfowl or something like that. There are other areas where grazing has been allowed to occur as a secondary economic use.

I think in the case of Turnbull, what occurred was that the Refuge manager concluded that the continuation of grazing was in-

compatible with the purposes for which that Refuge was established. One of the problems that they've discovered is that they have increasing water quality problems on the Refuge. They hired some consultants to come in and do a study on the water quality problems on the Refuge and one of the problems that the study pointed to was nutrient loading coming from cattle in wetland areas and the riporism zone which resulted in large amounts of waste material being deposited directly in the water. That was causing algae blooms and other things like that which were affecting the plant resources that the ducks needed.

So, I think in the case of grazing, generally, it will continue to be viewed by the Fish and Wildlife Service as a management tool in some Refuges. I don't see any attempt to phase out grazing across the board in National Wildlife Refuges, but there will be a greater emphasis on making sure that it's compatible and that it's being conducted in a manner which doesn't actually injure a Refuge.

Senator KEMPTHORNE. Under the Endangered Species Act, decisions are often made based on what is considered to be the best available science. In some cases, a single scientific study or analysis—however good or bad—becomes the best available science by virtue of being the only available science on the subject. In addressing the scientific basis for Refuge management decisions, do you think that this is a reasonable approach and, based on your experience, how can we do a better job at developing the best science to underpin wildlife, endangered species, and other decisions?

Mr. BARRY. I can honestly assure the rest of the committee that I didn't work with you, Senator Kempthorne in preparing these questions, because I also visited a second Wildlife Refuge that had this very same problem.

Senator KEMPTHORNE. I couldn't read your handwriting here.

[Laughter.]

Mr. BARRY. There is another Wildlife Refuge out West where there is a strong disagreement between the Refuge manager and the head of the Fish and Wildlife Service Cooperative Wildlife Research Unit regarding a particular activity taking place on the Refuge. I think, as a general matter, this Administration is going to be very interested in ensuring that Refuge management decisions are base in good science. I think that's really important, and I think that we ignore good science at our own peril. I think that's one of the lessons that comes out of the Pacific Northwest involving ancient forests.

In this particular instance, what you had was a Wildlife Refuge manager who is one of the most experienced ones they've got in the System and who had launched a very progressive series of management initiatives in that Refuge, ranging from integrated pest control, reducing the use of herbicides, managing for candidate species. In fact, this person's habitat management plan statement for endangered and candidate species, was actually much better and more progressive than the current goals statement for the Refuge System as a whole.

So, what you had is a Refuge manager who is really a very experienced person who is very committed to managing his Refuge in a way that he felt best achieved the purposes of the Refuge. He also

happened to be in strong disagreement with a very well known scientist.

I think what you need to do is to encourage those folks to begin a dialog to see if they can reach some consensus. I invited the Cooperative Unit leader onto the Refuge at the same time that I was there so the Refuge manager and the Cooperative Unit leader could walk side-by-side and engage in a debate while I was there. The Regional Director is the person who is going to have to sort this all out, ultimately. But, I think as general matter, we're going to be expecting good science to be integrated into Refuge management decision making.

Senator KEMPTHORNE. Just a simple, final question. The Refuge managers—do they rotate, I mean, what's the system?

Mr. BARRY. There's a fair amount of rotation, but there are also Refuge managers that know Heaven when they see it and they will sink a tap root and it will take a large bulldozer to haul them out of the Refuge. It's really—

Senator KEMPTHORNE. Kind of like politics.

Mr. BARRY. There's no consistent system.

Senator KEMPTHORNE. Thank you very much.

Thank you, Mr. Chairman.

Senator GRAHAM. Thank you, Senator.

Last round of questions, Mr. Barry.

I was impressed that at several points in your prepared statement you emphasized the importance of education as a function of the Refuges. Could you describe what the current pattern is of use of Refuges for educational purposes and what modifications from that current pattern would you like to see occur?

Mr. BARRY. I'm going to ask Rob Shallenberger, the Chief of the Division of Refuges, to describe for you the current state of affairs with environmental education within Refuges.

But, let me just make one general comment. This gets back toward looking to the next century in terms of what Refuges can contribute to the American public. American people are looking for wholesome recreational opportunities, things that they can engage in with their families. I think the American public is immensely thirsty for environmental education—the popularity on T.V. of a lot of the nature shows demonstrate that. I think Wildlife Refuges can really engage the American public—especially Wildlife Refuges that are near urban areas, where you have large population centers—to inform the American public of the importance of wildlife conservation and the role that the Refuge System and State conservation efforts can play in that.

I think the key is to make sure that it's done in a way which is consistent with, and not incompatible with, the underlying conservation purposes of that given Refuge. You need to make sure that you don't, "love" the Refuge to death in order to explain what it was originally established for. I'm confident that balance can be struck, but I think it's an emerging role that the Refuge System can play in informing the American people of its importance, and eliminate its "stealth" conservation system status.

Now, maybe Rob can come up and give a little bit of a status summary report on environmental education in Refuges today.

Mr. SHALLENBERGER. Senator, the current program ranges from very structured environmental education activities involving school classroom kinds of conditions where students are actually brought out in buses with their teachers and put through environmental education curriculum. Our policy, it that regard, is to provide an opportunity for teachers and to teach the teachers so we can expand the participation in that activity. Some of our best Refuges for environmental education include San Francisco Bay, Minnesota Valley, John Hines, and some of the other urban Refuges that attract several hundred students a month.

It ranges all the way to the other direction, from unstructured programs where visitors are able to learn through the process—sometimes unknowingly—by being exposed to interpretive signing, nature trails, publications, and so on. It's encouraged on every Refuge where we have the funds to accomplish it.

Senator GRAHAM. Do you have any of your Refuges that have facilities similar to the Yosemite Institute facilities at Yosemite National Park, where people come for essentially a residential experience in the Refuge?

Mr. BARRY. Not that I'm aware of.

Senator GRAHAM. Mr. Barry, near the conclusion of your written statement, you indicated a desire to look at the planning procedures that were outlined in Section Five, particularly so that they could take advantage of some of the things that are currently under way, such as "Refuge 2003". Do you have any further comments as to how the work that you have done, that's under way, could be integrated into the planning requirements that would be imposed if S. 823 were to become law?

Mr. BARRY. We don't have a template to offer you right now and I think what we were suggesting is that we are more that willing to sit down and work with your staff, to have Rob and his staff explain the current planning process that is underway. They are in the process of developing a new, revised chapter for the Refuge manual on planning which will provide new guidance to the Refuge managers on how comprehensive planning should be undertaken on Refuges. I think the key point is that we should try to avoid having to send the whole process back to start.

There are at least 60 comprehensive master plans that have been completed in the Refuge System to date. I'm sure the majority of those were done with extensive opportunities for public comment. They're fairly comprehensive documents. Other parts of the planning system, though, to date, have had sort of more of a mixed track record on planning.

I think what I'd like to do is to offer to have Rob come up and meet with your staff, explain where we're going in our planning chapter for the Refuge manual, and give you a sense of how that squares with what you currently have in your bill. I think that would probably be the most productive way of working with you on that.

Senator GRAHAM. Senator, any further questions?

Senator KEMPTHORNE. Mr. Chairman, I have no further questions. Just a comment, though.

We certainly did not prearrange questions and responses, but I was impressed, Mr. Barry, with the fact that you can point to on-

site visits that you've made. I think that's good management, so I congratulate you.

Mr. BARRY. I appreciate that. I anticipated that some of these issues were going to be fairly difficult, and over the years have found that being able to see things on the ground gives you a much better appreciation for the scope of the problem. Having the opportunity to have the head of the Cooperative Wildlife Unit and the Refuge manager walking side-by-side, discussing some of the management issues facing that Refuge gave me a much better appreciation of the issues on the ground.

Senator KEMPTHORNE. I agree with that concept. Thank you.

Senator GRAHAM. I also share the comment of Senator Kempthorne about the importance of hands-on experience. I've had the good fortune of spending a number of days working at Wildlife Refuges and it was those experiences which gave me a better, sharper understanding of some of both the tremendous contributions that the Refuges were making and some of the threats that face their ability to make those contributions in the future, which combined to my sponsorship of this legislation.

I look forward to taking advantage of your and others'—including members of this Committee—personal experiences with the Refuge System and our understanding and prescribing the best course of action of this great American System.

Mr. BARRY. I especially look forward to taking you up on an invitation to look at some of the difficult Refuge management problems in your State, perhaps maybe in December or January.

[Laughter.]

Senator GRAHAM. It's not bad in July or August, either.

[Laughter.]

Senator GRAHAM. Thank you very much, Mr. Barry.

If the persons who will be participating in Panel Two would please come forward, I'm going, in the interest of time, to introduce the six members of Panel Two at one time, and then call on them in the order in which they are introduced.

I also apologize for the brevity of the introduction, but I'm certain the quality of your statements will indicate your depth of knowledge on these subjects.

Mr. William Reffalt, a member of the Board of the National Wildlife Refuge Association; Mr. Jim Waltman, Wildlife Specialist for the National Audubon Society; Mr. Max Peterson, Executive Vice President of the International Association of Fish and Wildlife Agencies; Dr. Rollin Sparrowe, President, Wildlife Management Institute; Dr. John Grandy, Vice President, Wildlife and Protection, the Humane Society of the United States; and Dr. Rodger Schlick-eisen, President, Defenders of Wildlife.

First, Mr. William Reffalt?

**STATEMENT OF WILLIAM REFFALT, MEMBER OF THE BOARD,
NATIONAL WILDLIFE REFUGE ASSOCIATION**

Mr. REFFALT. Thank you, Mr. Chairman.

My name is Bill Reffalt. I'm a member of the Executive Committee of the Board of Directors of the National Wildlife Refuge Association.

On behalf of our National organization of Refuge professionals and other Refuge System supporters, the National Wildlife Refuge Association strongly supports passage of S. 823, a bill that, in our opinion, strengthens planning for and management of the National Wildlife Refuge System, reinforcing its stewardship responsibilities for America's fish and wildlife heritage.

My professional experience, in association with the Refuge System, now totals over 33 years, Mr. Chairman, including 9.5 years in the field, actually managing Refuges in the West, and more than two years as Refuge Division Chief here in Washington, D.C., within the 24 years that I spent with the Fish and Wildlife Service.

My career has given me a hands-on experience at each level of Refuge management within the Government, plus an extensive background in the overall policy development and administration of U.S. public lands and natural resources.

In 1968, a report was issued to Secretary of the Interior, Stewart Udall, in which the participants viewed the most inhibiting deficiency of the National Wildlife Refuge System as lack of a clear statement of policy or philosophy as to what the National Wildlife Refuge System should be and what are the logical tenets of its future development.

Recently, Government-sponsored studies found that incompatible and harmful activities and inappropriate uses were occurring on over 60 percent of the Refuges. It is an unfortunate fact that as we meet here to discuss the needs of the National Wildlife Refuge System today, over 25 years after the disclosure of that most basic need and following more than 20 substantial reports spanning those years on the growing problems within the National Wildlife Refuge System that many believe are at least partly traceable back to that basic lack of a clear statement of policy or philosophy, there continues to be a lack of a statutory *raison d'être* and absence of guidance for protective standards, planning requirements, and future direction for this System.

Mr. Chairman, your bill, S. 823, remedies those basic deficiencies for the NWRs. Each major provision deals with issues having a logical nexus to documented degradation and weakness in the Refuge System. It provides three fundamental needs for the System: one, legislated purposes; two, guidance on the compatibility standard; and three, an outline for integrated planning.

In addition, your bill offers two specific new authorities for administration of Refuges—badly needed authorities, I might add:

One, agencies having concurrent operating authority in Refuges must fully protect Refuge wildlife and habitats or seek Congressional authority to impair them.

Two, for the first time, it would specifically require the Secretary of the Interior to protect the Refuge System.

Taken as a whole, these measures finally place the National Wildlife Refuge System on a par with the other Federal land systems, thereby representing the kind of bold action that was suggested in the 1989 GAO report, Mr. Chairman, that you cited earlier.

We have just heard from a representative of the new Clinton Administration, and I admit that the outlook is brighter than has

been seen for a long time. It is evident that the administration intends to give the NWRS constructive attention and assistance to improve its condition. We all welcome this fresh promise of recuperation for the ailing Refuge System and pledge our cooperation and assistance to those efforts.

However, Mr. Chairman, I want to make it very clear that we—the National Wildlife Refuge Association—do not believe even this benevolent Administration can fully overcome the basic statutory deficiencies of the Refuge System. Your bill is absolutely essential to the efforts to raise the NWRS up to a healthful and productive position alongside the other major conservation land systems in America.

In the past, we have been tempted by expectations that internal agency corrections would place the Refuge System into permanent protective condition. We no longer retain such illusions.

Your bill is not only vital, but will greatly aid an Administration that sees the promise of the Refuge System to protect and manage habitats vital to our Nation's fish and wildlife.

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

Senator GRAHAM. Thank you very much, Bill.

Mr. Jim Waltman?

STATEMENT OF JIM WALTMAN, WILDLIFE SPECIALIST, NATIONAL AUDUBON SOCIETY

Mr. WALTMAN. Mr. Chairman and members of the Subcommittee, my name is Jim Waltman and I'm the Wildlife Specialist for the National Audubon Society, one of the organizations whose members helped establish the very first Refuge at Pelican Island in your State of Florida, Mr. Chairman, 90 years ago.

I appreciate this opportunity to testify on behalf of my organization and its 600 thousand members and also on behalf of The Wilderness Society, the Sierra Club, Environmental Defense Fund, and the Delta Waterfowl Foundation—organizations that also share our longstanding interest and commitment to the well being of the National Wildlife Refuge System.

Our organizations appreciate your leadership, Mr. Chairman, and strongly support your legislation, the National Wildlife Refuge System Management and Policy Act of 1993.

We support this bill because we believe that the National Wildlife Refuge System is an unparalleled National treasure that richly deserves comprehensive legislation to articulate its mission, protect its resources, and plan for its future.

Although we have been very encouraged by the statements and initial actions of the new Administration, we continue to believe that without this legislation, the Refuge System will never live up to its potential. We are also concerned that without this legislation the very positive actions that this Administration may take could very easily be undone by future Administrations with different philosophies.

The Refuge System today is a magnificent treasure, as we've heard already. The System provides important habitat for endangered species, migratory birds, and hundreds of other species of

wildlife. Refuges also provide exceptional opportunities for environmental education and fish and wildlife oriented recreation, including hunting, fishing, and wildlife observation. They've also served as valuable laboratories for scientific inquiry and discovery.

Unfortunately, the Refuge System continues to be undermined by a wide array of activities that harm fish and wildlife populations and habitat and divert scarce resources away from important management and protection activities.

The National Wildlife Refuge System Administration Act of 1966 permitted the Secretary of the Interior to allow secondary uses of Refuges only after determining that they are compatible with the purposes for which the Refuges were established. Unfortunately, that legislation did not define the term "compatible," or describe a process by which the Service is to evaluate the compatibility of Refuge uses.

Because the Service has failed to establish such a process or to adopt a workable definition of "compatibility," the decision of whether to allow or not to allow a use on a particular Refuge has often been based as much or more on local special interest politics as it has on sound science.

The Service's problems with compatibility have been documented time and time again. You've seen many of the studies. Mr. Reffalt said there's been at least 20 of these over the years. We believe that the administration has taken important steps to address the problem, but again, without the legislation, we won't be able to prevent those problems from recurring in the future.

From the entrenched problems with incompatible grazing at the Turnbull Refuge that was mentioned earlier, to problems with military overflights at Cabeza Prieta Refuge in Arizona, to dozens of other Refuges across the System, this continues to be a problem.

Unfortunately, the Fish and Wildlife Service did not respond to conservationists' urgings over the last several years to resolve these two harmful activities, and these many others that we've referred to.

Last October, the National Audubon Society, the Wilderness Society, and Defenders of Wildlife were compelled to sue the United States Department of Interior and United States Fish and Wildlife Service for authorizing harmful activities at these two Refuges and seven others. The lawsuit also contained a tenth count alleging similar problems on Refuges across the System. Although we are hopeful that this lawsuit can be resolved in a manner that helps the Fish and Wildlife Service and allows them to get beyond these problems with compatibility, comprehensive reform of the underlying law is essential if the Refuge System is to meet its potential to conserve fish and wildlife.

Unlike lands administered by the National Parks Service, the BLM, even the Forest Service, the Refuge System lacks an organic statute or law providing clear policy direction, planning requirements, and affirmative responsibilities for senior Government officials.

Chairman Graham's bill offers real hope to attack these weaknesses and restore integrity to the magnificent, but troubled, National Wildlife Refuge System. This bill establishes purposes for the

National Wildlife Refuge System, one of those purposes being the conservation of natural diversity of these Refuges.

This has provoked somewhat of a controversy and there have been mixed views on this, but let me make it very clear that with this legislation, we do not expect it to invoke a hands-off management philosophy. None of our organizations would support such a policy. In fact, many of the Refuges that operate today under a biodiversity philosophy use prescribed burning, water level manipulation, exotic species removal, and even timber cutting to manage for historic natural conditions that have been altered by human activity.

An example of this is the Great Dismal Swamp Refuge in Virginia, where the Service uses burning and mechanical clearing to promote the regeneration of Atlantic White Cedar and Cypress at the expense of Red Maple and Gum.

This bill, as we have mentioned, establishes a formal process and a clear definition of compatibility and ensures sound planning for the Refuge System in the future. I want to make a point here—sound planning is an important process for any successful entity, whether it be a large corporation, a small town, or a National Wildlife Refuge. The Refuges that have gone through the process of developing comprehensive plans have benefited significantly for it.

Finally, and perhaps most importantly, S. 823 requires the Secretary of the Interior to protect the National Wildlife Refuge System and its components from threats, ensure that the purposes of the individual Refuges and the Refuge System are carried out, and ensure that its needs—including water quantity and quality needs—are met.

The Refuge System has been a step-child within the Federal Government for too long because, as Mr. Barry explained earlier, it lacks the kind of commitments, in legislation, that S. 823 would require of the Secretary of Interior.

The Refuge System has a great history and a rich tradition over the years, from Teddy Roosevelt through today's efforts to recover endangered species. The National Wildlife Refuge System is a unique National treasure that we all believe deserves this kind of legislation.

Mr. Chairman and members of the subcommittee, we look forward to working with you as this legislation progresses.

Senator GRAHAM. Thank you very much, Mr. Waltman.

Mr. Max Peterson?

**STATEMENT OF MAX PETERSON, EXECUTIVE VICE PRESIDENT,
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGEN-
CIES**

Mr. PETERSON. Thank you, Mr. Chairman, for the opportunity to appear today.

I've already filed my statement, so with your concurrence to put it in the record, I'll not read it.

As you know, Mr. Chairman, our association represents all 50 State fish and wildlife agencies, including people like Colonel Brantley, the Director in Florida with whom you're well acquainted.

We find ourselves in significant agreement with a lot of the statements that Don Barry made such as the need to refine the legislation to make planning less cumbersome, to use the "Refuges 2003" environmental statement as a basis for where we go from here, etc.

We also agree with the use of Refuges for environmental education. As I think you know, Mr. Chairman, Project Wild, which is supported by all of the fish and wildlife agencies in the United States and Canada, is the most-used environmental education program in the public school system, K through 12. A lot of the Refuges are located in places where they would make excellent adjuncts to the classroom training, either for the teachers or for the students.

So, there's a lot that we see to support in the statements of Mr. Don Barry. There are some things in your bill that we like—as we mentioned last year, we would support individual, comprehensive Refuge plans or plans for a group of Refuges. We simply do not see either the utility or the benefits to be gained by the required large, system-wide, strategic planning which we think would literally yield a plan that would be about six feet high, that no one would quite know what to do with when they got through. We're not quite sure what Pelican Island in Florida and the Arctic Refuge have in common, that would require putting all of the data that's called for in this bill into one plan.

For example, excerpts from recovery plans, detailed descriptions of the Refuges, and so on. With 490 Refuges, if you tried to put it in one document, I don't think anybody could ever read it, physically, and I'm not sure what the utility is of putting that in one document. If you comply with NEPA, you'd have to outline alternatives in that plan, so you could have ten alternatives for all of the units in the Refuge System in one plan. Ten times 470 is 4,700 different alternatives for the Refuges, which becomes a completely unwieldy document.

We believe, also, that we ought to provide specifically in the bill not only for the scientific information being available, but also the judgment of the Refuge manager has to be an important ingredient.

So, Mr. Chairman, we would hope that we could work with you and your staff to come up with a bill that we believe would be helpful to the Refuge System.

Earlier this week I met with Bill Leary of your staff and had a very helpful discussion with him, and we would again commit our best efforts at working with you to develop a bill that we think would be useful, to the service and that the States would find to be useful to the States. We believe in most cases, since Refuges are relatively small, that they cannot be planned without being within the context of the larger area of which they are a part.

For example, the incompatible uses that are notated in the T.V. film—we were just watching; most of those activities would not be changed by this bill. This bill does not provide any new authority. For example, the water areas outside of this Refuge in Florida are under the jurisdiction of the State of Florida, so the way to handle that use is to work with the State of Florida, which is being done now. This bill does not give additional authority over those waters.

It does not change where you've got overlay Refuges, where Refuges are secondary use—this bill doesn't change the fact that those uses would still be there. So, we would rather zero in to solve problems on those overlay Refuges.

For example, we have talked both with the Corps of Engineers and the Bureau of Reclamation to try to make their management of reservoirs more user-friendly to wildlife. We think there is some real merit in working specifically on those cases where there are opportunities to modify the operation of reservoirs to be more compatible with wildlife.

So, Mr. Chairman, we'll be glad to work with you and the committee. We simply cannot support the bill as it's written now.

Thank you very much.

Senator GRAHAM. Thank you very much, Mr. Peterson.

Dr. Rollin Sparrowe?

STATEMENT OF ROLLIN SPARROWE, PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE

Dr. SPARROWE. Thank you, Mr. Chairman.

The Wildlife Management Institute has maintained a strong interest in and involvement in the National Wildlife Refuge System since its inception, and we are continuing this tradition, at the current time cooperating with the Fish and Wildlife Service on projects to examine considerations for the management of National Wildlife Refuges to further biological diversity objectives for North America.

Our experience during the past year in talking with Refuge managers on the ground and looking at active management convinces us that there are a lot of very good things going on National Wildlife Refuges, furthering many of the objectives that are stated in this bill and that I have heard in testimony by other participants.

We're convinced, from our experience, that gains are being made for wildlife in many more diverse ways than are generally known to the public, within the hierarchy of the Fish and Wildlife Service, and to the Congress. In fact, the flow of information from National Wildlife Refuges on a lot of what's going on is pretty poor, and that's something that needs some great improvement in order to understand what everyone wants out of this System.

The current bill is an improvement over legislation considered in the past. Our Institute supports the concept that management of National Wildlife Refuges needs strengthening and that some matters would benefit from legislative clarification. We also feel that some clarification and simplification of language in portions of the bill is necessary and would like to work with your staff and others to work that out.

A few examples: some of the definitions—the use of the word “native”. If only native species were implied to be used in management, a recent experience on Sacramento National Wildlife Refuge in California illustrates that there would be a serious problem with the exclusive reliance on native species. The flora of much of California has been so modified that on the Refuge non-native plant species are a cornerstone of management and have to be a part of management for the reasonably foreseeable future.

The use of the word "plants" on an equal basis, under "Purposes", causes some concern. It seems to introduce a new dimension in the basic purposes of Refuges. We think Refuges have always targeted the habitat, and therefore the plants, in protection of wildlife and management for wildlife, and we'd like to have that clarified and have some thought about what that means for current management—whether that's really a change.

I'd echo Jim Waltman's statements that "naturally productive", "naturally diverse"—the way these terms have been used seems to imply no management. They absolutely can't. If you go across the Bay to Blackwater Refuge, and on many other Refuges, active manipulation of water control, plantings, management of succession, and many other methods are required to produce what wildlife needs. One of the cornerstones of a lot of Refuges is that they supply, on a small area, things that no longer are available on a much larger area, so they can't be looked at simply on site as just a "natural" unit unto themselves, without considering how they fit into a much larger whole.

We continue to be concerned about the compatibility standards and procedures as laid out. The Fish and Wildlife Service, as we have supported, has taken some excellent efforts in the right direction in correcting those. We're particularly concerned about the formal process and the public input part of that—we think that could encumber day-to-day Refuge management, which is unacceptable, and we favor tying public involvement to a stronger planning process that's much more comprehensive up front. We therefore support the planning program. Our recent experience with Refuges underscores that as a significant problem on Refuges. Too many of them do not have active operational plans that can be used by the next manager to continue appropriate management.

We think a programmatic EIS is still a question to be considered and that depends upon the outcome of the current one under consideration by the public. We are eager to see the outcome of that.

We think that strong attention to private lands has to be worked into considerations for the management of National Wildlife Refuges. If we're going to manage things for ecosystems and for diversity, we're going to have to think well beyond the boundaries of the System.

We think that the objectives of the new legislation should be to fix things that are wrong. There are a lot of authorities in existence that can do the job. We think that we still need some discussion about specific concerns about the role of other Federal agencies in Refuge management, control of the public's activities on navigable waters, control of air space, regulation of subsurface properties, and so on, and we would be pleased to work with your staff and others to talk about some specific language.

I'd like to end by simply saying that we cannot underestimate how much of the problems of implementation of good programs on Refuges are currently influenced by a lack of adequate funding and staffing. These people are out there going a long way with not much, and I think the Congress has to address that directly if the reforms are going to become a reality.

Thank you, Mr. Chairman.

Senator GRAHAM. Thank you very much, Dr. Sparrowe.

Dr. John Grandy?

STATEMENT OF JOHN GRANDY, VICE PRESIDENT, WILDLIFE AND PROTECTION, HUMANE SOCIETY OF THE UNITED STATES

Mr. GRANDY. Thank you, Mr. Chairman, for the opportunity to present to the subcommittee the views of the Humane Society of the United States, and the Wildlife Refuge Reform Coalition on S. 823.

I am Vice President for Wildlife and Habitat Protection for the Humane Society of the United States, and I'm a professional Wildlife Biologist with extensive experience regarding Wildlife Refuges. For example, from 1977 to 1978 I was a member of the Department of Interior's Wildlife Refuge Study Task Force. I've brought lawsuits to end incompatible uses on Refuges such as water skiing, and have worked with Wildlife Refuges on the West Coast to alleviate problems between predators and endangered species.

The Humane Society of the United States, or HSUS as we are known, is the Nation's largest animal protection organization with ten regional offices throughout the United States and more than 1.7 million members and constituents.

I'm also here today on behalf of the Wildlife Refuge Reform Coalition, an organization comprised of more than 80 animal protection and environmental groups Nationwide. The principal goal of the Coalition is to restore integrity to the management of the Wildlife Refuge System through meaningful Refuge reform legislation.

Senator Graham, as you know, the primary concern of those 3 million people that I represent here today is that your bill would allow sport hunting and commercial trapping to continue on Refuges. Indeed, it would actually designate hunting as one of the intended uses of Refuges. However, if you and we truly wish to reform the Refuge System in a way that would protect wildlife, we simply cannot avoid facing the hunting issue head on. This is not a question of hunting throughout the Nation, but on Wildlife Refuges—as you said in your opening statement, sir, the one set of areas set aside for wildlife.

Ostensibly, the goal of S. 823 is the elimination of incompatible uses on Refuges. That need exists, principally because of the lack of ability and/or political will of the Fish and Wildlife Service to stand up to the task, and a lack of clarity in current and pertinent laws. I think everyone here agrees on that.

Consider, if you will, that the 1989 GAO report entitled "Wildlife Refuges: Continuing Problems With Incompatible Uses Call For Bold Action," rated waterfowl hunting the number one harmful public use allowed on Refuges due to external pressures on the Service. Clearly, if the Service needs help protecting Refuge wildlife from any one given area, that area is sport hunting. Hunting—the shooting of animals for pleasure or sport—is undeniably a direct assault on Refuge wildlife. Yet the System has degenerated to the point that it allows hunting of depleted species like Black Ducks and Pintails, even on Refuges that are specifically created to benefit those species. This is the exact area where Congress must supply the Fish and Wildlife Service with a backbone strong enough to withstand external pressure.

While the GAO report exposed hunting and trapping and many other harmful activities occurring on Refuges, it is clear that it underestimated the extent of these activities. The report was based on the opinions of Refuge managers, many of whom have become accustomed to and tolerant of current management activities.

Yet your bill, S. 823, still places the burden of deciding activity compatibility on Refuge managers. While we applaud the fact that the bill addresses compatibility, we are concerned that it still gives the Fish and Wildlife Service far too much room to be pushed around. As Don Barry said, in 1962 Congress passed the Refuge Recreation Act. In 1966 Congress passed the Refuge Administration Act. In both cases, after lengthy debates, Congress left the agency with a mandate to ban activities which were "incompatible". Yet Congress provided no definition of incompatibility.

As the extent of harmful activities currently taking place on Refuges proves, this discretion—the discretion to determine compatibility—is just too much for an agency like the Fish and Wildlife Service. Many Fish and Wildlife managers themselves are hunters and, thus, tend to accept recreational killing, even on Refuges. Therefore, when they are faced with local pressure and no statutory mandate, they tend to succumb to the pressure and declare hunting programs for their Refuges to be compatible. But, it does not stop there. If Refuge managers allow visitors to shoot and kill wildlife, how can they justify coming out against farming or pesticide spraying, or any other harmful activities that have a less direct, negative effect on wildlife. In the end, it must be apparent that a Refuge compatibility standard which is so lax as to permit commercial trapping—even of depleted species—will never be strong enough to prohibit other less immediately destructive activities.

Mr. Chairman, it is the view of the Humane Society of the United States and the more than 80 organizations in the Wildlife Refuge Reform Coalition that legislation aimed at strengthening the Refuge System against the kind of abuses that threaten it today must do two things; it must ensure that activities permitted on Refuges are either beneficial to or neutral in their direct impacts on wildlife and ensure that any necessary wildlife management program with direct affects on wildlife is carried out in the most humane manner possible.

With that, Mr. Chairman, I thank you. I look forward to working with you and your staff to achieve acceptable legislation. We thank you.

Senator GRAHAM. Thank you very much, Dr. Grandy.

Dr. Rodger Schlickeisen?

STATEMENT OF RODGER SCHLICKEISEN, PRESIDENT, DEFENDERS OF WILDLIFE

Dr. SCHLICKEISEN. Thank you, Mr. Chairman.

I'm Rodger Schlickeisen, President of Defenders of Wildlife, and I am here to testify in favor of S. 823.

Before I do, I want to say congratulations on achieving the Chairmanship of this new Subcommittee. We're very, very pleased, obviously, to have you in the Chairman's seat.

Senator GRAHAM. Thank you, sir.

Dr. SCHLICKEISEN. Enactment of your legislation will represent a watershed in the history of the Refuge System. It will both alleviate widespread harmful and incompatible Refuge uses and make fundamental structural improvements in the administration of the System.

The legislation will enable the National Wildlife Refuge System to plan and implement consistent policies to guide the future of our refuges.

We've already submitted extensive written remarks, which are on behalf of Defenders of Wildlife, the Sierra Club, and NRDC, so I'll use my time not to review the testimony, but to make a few observations that occurred to me as I reviewed last year's hearing on the legislation. I'm very pleased to see and to say that there is a heck of a difference in tone in the hearings this year compared to last year—it shows you what a difference a year can make, plus some other changes.

Mr. Chairman, I would like to request that the report of the Commission on New Directions for the National Wildlife Refuge System—it's a commission sponsored by Defenders of Wildlife—be included in the hearing record.

Senator GRAHAM. Without objection, the Commission's report will appear in the record.

The full statements of all of the witnesses today will be included in the record and any additional papers that you would like to submit. As indicated earlier, the record will stay open until June 30 for submissions.

I'm sorry. Doctor?

Dr. SCHLICKEISEN. Mr. Chairman, in reviewing last year's hearing on similar legislation, I was struck by peculiarities in the debate that seemed almost unique to this legislation.

First, I marveled that when it comes to the issue of reform of the Refuge System, the large volume of uniformly pro-reform studies were being casually dismissed by those who opposed the bill. At last count, I think there was something like 20—I think Bill said there was more than 20 at this point—studies and reports prepared by either the Fish and Wildlife Service, the GAO, or the nonprofit community.

The GAO, which is usually looked to by Congress for impartial analyses and recommendations, studied the Refuge System on several occasions and has consistently concluded that bold corrective reforms are needed. The Fish and Wildlife Service itself, responding to the latest GAO report, concluded that there were serious problems and called for a number of legislative fixes. The report by the Commission on New Directions called for an organic act containing many of the same provisions in S. 823.

On the other hand, there was not one government, Congressional, or private sector study that disputed these analyses and recommendations.

At last year's hearing, there was much made over the wisdom of waiting for one particular government report—"Refuges 2003". The former director of the Service promised this Committee one year ago that "Refuges 2003" would provide an exciting road map into the next century. Now "Refuges 2003" has arrived and, in our opin-

ion, it's a tortured product of a career staff whose hearts weren't really in producing a report whose conclusions were politically dictated from above.

I'd point out that one bit of evidence of the politicization of the report is that in the initial list of alternative options released by the Service in November, 1991, was the option of enacting organic legislation. Notwithstanding extensive support for organic legislation, it was not even identified as an option in "Refuges 2003". Moreover, the report's Proposed Action fails to identify the need for any new authorities from Congress, notwithstanding the Fish and Wildlife Service's own report on this following the GAO report.

I think this may be what Don Barry was alluding to when he made some reference to the fact that there were some extensive changes that needed to be made in the report. He referred to the fact that it was not considering all of the options and some people have criticized that.

Further, there are numerous unjustified assumptions and inconsistencies in the report which call into question nearly all of the report's conclusions, in our estimation. It's hard for us to conclude that those inconsistencies and assumptions were not intended to make the Ecosystem Management alternative appear undesirable in comparison to the Service's preselected Proposed Action alternative.

Another argument made last year was that management of the Refuge System requires such great flexibility that the Congress should not provide even a statement of purpose, should not require responsible planning, should not require a rational procedure for determining compatibility, and should not require that other Federal agencies consult before undertaking activities which damage refuge wildlife assets.

I can't think of another Federal program where the Congress has agreed to any such freewheeling approach. Leaving the administration of important public programs to the total discretion of whatever Administration happens to have won the last national election is not the Congress's style, and is not in the public interest.

John Turner himself acknowledged that he found it inexplicable that his predecessor had eliminated the Service's requirements that refuges plan. That is exactly the kind of mischief that the current situation allows.

Were the Refuge System being established from scratch today, it's inconceivable to me that the Congress would not insist that the enabling legislation include exactly the kind of provisions in S. 823. It doesn't make sense to me that the argument that they should not do so should hold sway just because we've been making an error for all these years.

Another argument against this legislation was that we shouldn't enact it because it can't solve each and every problem. There's no disagreement with the claim that it will help the problems, but the argument was that since it can't fully solve each and every aspect of every problem, then we should do nothing. Again, that's an argument that was being applied uniquely, it seemed, to the problems of refuge wildlife conservation. Thank goodness it isn't applied to Federal programs to combat poverty, unemployment, childhood nutrition, and crime. Legislation in those areas do not solve

all of the problems, but no one would suggest that the Congress should not do what it can to make things better.

Finally, I'd note that just last Friday the United States signed the International Convention on Biological Diversity. I'm pleased to note that the Chairman and ranking member of the full Committee called for the United States to sign that agreement. At the signing, the United States Government promised to lead by example in implementing the treaty, and it gave as an example the priority emphasis it will place on ecosystem management. "Refuges 2003," you will recall, concluded that the Ecosystem Management option for our Refuges—arguably, perhaps, the most important lands we have for preserving biodiversity—was inappropriate.

Mr. Chairman, hopefully now with an Administration more favorable to the prudent stewardship that S. 823 represents, we'll be able to move forward on this bill which is so vital to the conservation of this nation's Federal wildlife habitat.

Thank you.

Senator GRAHAM. Thank you, Doctor.

We have been joined by the ranking member of this Subcommittee, as well as the ranking member of the full Committee, Senator Chafee of Rhode Island.

Senator, do you have any comments?

Senator CHAFEE. Thank you very much, Mr. Chairman.

I apologize for not being here until now.

I want to commend you; you've had a long interest in the Wildlife Refuges and I think it's great.

I'll have an opportunity to review the testimony of those who have appeared here today.

I want to thank you for what you've done.

Senator GRAHAM. Thank you very much, Senator.

We've completed the testimony by the members of the second panel. I would like to ask a few questions and my intention will be to ask a general question and any member of the panel who would care to do so is encouraged to respond. That encouragement also includes a request for brevity in response so that we can get as much covered as possible.

Dr. Grandy raised a very basic question relevant to the issue of hunting. If this panel had been somewhat larger, we could have had people on who would have criticized the bill for not specifically sanctioning hunting in all cases.

The legislation intends to leave that issue, as with every other potential use, subject to a case-by-case determination as to its compatibility. Dr. Grandy has suggested that is inconsistent with the basic purpose of Refuges and that there should be a System-wide prohibition.

I wonder if others have a comment as to whether they believe there are any circumstances in which hunting could be found as compatible with the purposes of a Wildlife Refuge?

Yes, Mr. Reffalt?

Mr. REFFALT. Mr. Chairman, hunting has a long tradition in this Country of being used as a management tool by the wildlife managers, and there are many, many instances in the Refuge System where that is applied directly.

The use of hunting to both break up large concentrations of migratory birds during their annual migrations from the nesting grounds prevents the kind of concentrations that can lead to disease outbreaks, for instance. It also moves birds along for the purposes of not having short-stopping, where birds will remain in an area and cause great economic harm to local landowners and so forth.

So, there are a number of instances. Deer hunting is another one, where deer can cause a great deal of damage to the habitat for a lot of other wildlife if they're not harvested to lower levels, in many instances.

There are instances such as that where the use of hunting is a management tool and it is appropriate to use it.

In addition, hunting has been a recreational activity on Refuges since at least the 1940's. In fact, I've documented that there are individual Refuges where hunting goes back much further than that.

So, I think as a tradition in this Country and as a management tool, it is appropriate for Refuges to harbor hunting, as long as it is compatible with the purpose for which that Refuge was established and put there. It is not inconsistent to have that position.

Senator GRAHAM. Mr. Waltman?

Mr. WALTMAN. Thanks, Mr. Chairman. I'd just like to add to those comments.

It's the position also of the National Audubon Society that hunting is an appropriate recreational use, where compatible, on many National Wildlife Refuges. Many of the members of the National Audubon Society are hunters and hunt on National Wildlife Refuges.

I want to add, though, that our concern for the management of the National Wildlife Refuge System has been most focused on those activities that harm habitat. This is the one system of Federal public lands established to conserve wildlife and their habitat and we should, at the very least, ensure that mission is not undermined by harmful activities.

Senator GRAHAM. Are there any further comments?

Yes, Mr. Peterson.

Mr. PETERSON. Mr. Chairman, let me first agree with both Mr. Reffalt and Mr. Waltman.

As I said earlier, National Wildlife Refuges are generally not islands—there are a few that are islands, but generally not—so, they're connected to other land systems and unless you manage the wildlife over an extended area, which includes appropriate hunting, you may end up with some very difficult situations on Refuges where the wildlife themselves become destructive to the habitat of the Refuge.

We do not suggest that all Refuges be open to hunting all of the time. That's a professional judgment that needs to be made by the specific Wildlife Refuge. But, I think it's fair to say that Dr. Grandy, who opposes hunting here, of course, is opposed to hunting on all lands. So, it's not simply the Wildlife Refuges.

Senator GRAHAM. Dr. Grandy?

Mr. GRANDY. I'd just like to add a couple of things.

It is, of course, true that the position of the Humane Society of the United States is against recreational hunting. But, it is certain-

ly, we believe, a greater affront to the lands of this Nation if those lands are supposed to be used to benefit wildlife. That's the situation that we deal with here, principally.

When I hear my colleagues, all of whom are friends on this panel, discussing the question of hunting, they immediately hide behind the few cases in the system where we use it for management. In Senator Chafee's own area of New England we have situations where Black Duck, which are a seriously depleted species, are hunted on the National Wildlife Refuges in that region.

We can deal with the question, I believe, as a practical matter, of management kinds of situations if those situations where hunting is allowed are done as a last resort. What we can't do and what the 80 organizations I represent here today can't acknowledge or accept is the idea of killing animals solely for sport on Refuges.

Thank you, sir.

Senator GRAHAM. My time has expired.

Senator CHAFEE.

Senator CHAFEE. My own experience with hunting on our Refuges is that I'm for it. I think that if we get a situation like the dramatic decline of the Black Duck population such as we've seen, then we would have a limitation ban on Black Duck everywhere on the flyway, if those experts who know most about it decide that that's the best way to go.

But, I must say that if we adopted a policy that there wouldn't be hunting on our Wildlife Refuges, we'd have a very, very difficult time in getting an expansion of those Refuges.

We find, in my area anyway and I can only assume that it's typical, is that we get a lot of support when we go out to get a Wildlife Refuge. We get a lot of support from the hunters, who recognize that they have hunted there in the past and will continue to be able to hunt there in the future, presuming the wildlife populations are at acceptable levels. But, if we should embark on a policy of no hunting on our Wildlife Refuges, then I just know from personal experience that we'd have a great deal of trouble getting new Refuges or expanding those that we've got because the hunters, obviously, would be dead set against that situation.

I'm not sure I understood exactly what you said, Dr. Grandy. On the Black Duck situation, I don't think any of us would argue.

Mr. GRANDY. Let's use the Black Duck as a specific example—for better or for worse, I know quite a lot about it. The question is, if we use your analogy, you said if the Black Duck's in bad enough shape we ought to stop it from being hunted at all—I would certainly agree with that.

Senator CHAFEE. That may well be. You'd have to get your biologists in on it. Is it a disappearance of habitat? Is it something that's going to come back? We don't know.

Mr. GRANDY. Correct. There are all sorts of questions with respect to that, but the real question is do we subject hunting on Refuges—the one area set aside, arguably, for Black Ducks in New England—to the same test as we would all other lands in New England?

My suggestion is that as an area of most critical concern, that areas where wildlife is not being hunted for management purposes, or killed for management purposes, as a last resort, then we ought

to look very, very carefully at the whole issue of whether it's appropriate to kill Black Ducks, for example, for fun on Wildlife Refuges.

I think that's the crux of the matter here. I hear what you're saying, in terms of the compromises that need to be made, and certainly the positions that we've taken recognize those.

Thank you.

Senator CHAFEE. Mr. Reffalt, if you've seen this decline of the Black Duck population, you wouldn't argue that if we're going to restrict the taking elsewhere, we'd do the same on Wildlife Refuges, would you?

Mr. REFFALT. No, Senator. In fact, as a matter of principle and as a matter of longstanding declaration on the part of the Fish and Wildlife Service and the wildlife management community, one of the reasons for having the Refuge System and one of the reasons for the Government to buy these expensive lands—in some cases—is in order to control that land. It means that if the control of that land and the ability to close that particular area to the hunting of a certain species, or take other action is necessary, then you have that authority to do so. The Federal Government can step in and say, "We're going to close this area because it will help us protect and rebuild the populations of Black Ducks," for instance.

So, I believe the biologists ought to look at, and consider as one of the factors, as they look at the Black Duck situation, whether closing one or more Refuges along the flyway would be appropriate. That should be an element in their recovery, also. But, as you point out, it is a very complex matter when you've got large populations of migratory birds moving over a large area—it's a complicated decision making process that must include things like the land base that's protecting them.

Senator CHAFEE. Thank you.

Mr. Chairman.

Senator GRAHAM. Thank you, Senator.

Senator KEMPTHORNE.

Senator KEMPTHORNE. Thank you, Mr. Chairman.

Dr. Sparrowe, do you support that all current existing uses within the National Wildlife Refuges should be terminated at the end of five years unless they've been approved under a compatibility determination?

Dr. SPARROWE. My understanding is that compatibility is a revolving process that the Refuge manager is assessing at all times and at the point at which something becomes incompatible, it should be put forward to be stopped at that point. I'll acknowledge that does not happen in all cases where it should because of various things, including pressure on Refuge managers.

I have supported allowing the Fish and Wildlife Service to develop their own compatibility process. Give them a strong mandate—perhaps the law should tell the Secretary, "Pay attention to this compatibility standard, develop it and publish it," which they propose to do, and say that "we, the Congress, are going to hold you accountable, that we want to see reports on this and that sort of thing".

Let the system flow and deal with it responsibly and judge it on its merits as it's coming out. My impression is that they're making

some serious attempts to knock these problems back. They're getting attention from a lot of us now because of all of the furor over the issue and I think some things could be focused on in this legislation to help work that out.

Senator KEMPTHORNE. So your interpretation would be management by exception. In other words, we set the standards and then as the managers determine that something is incompatible, that activity should cease, as opposed to ceasing everything.

Dr. SPARROWE. Well, to say everything stops as of a given date is kind of a dramatic statement of what happens.

In practicality, that should happen anyway, on an annual basis, when these uses should be reappraised by the Refuge manager. They should have to file some sort of written assessment of it—there should be a record of it.

Senator KEMPTHORNE. OK.

Mr. Peterson.

Mr. PETERSON. I think you've hit one matter of concern. There are some uses on a Refuge that were pre-existing uses. There may be a power line serving a school, there may be a road that goes through a corner of the Refuge—it would be hard to say that those were compatible uses—they certainly don't add to the Refuge. But, the practical termination of those could be a real problem and I guess I'm concerned about just saying here that you're going to terminate them at the end of the permit or five years, because you'd immediately find—Congress would immediately find—all kinds of cases where you can't practically do that.

I know Refuges, I mentioned last year in Montana, where the only way to serve an Indian reservation is a power line across a Wildlife Refuge. The permit's going to run out in a few years, but really, you're not going to eliminate that use. But this current bill says you will. I think that repeals judgment, which I don't think is a good idea—it won't happen in the real world—they'll be coming back to Congress asking you to change the law.

But, there are other incompatible uses where we ought not to wait five years. There's some incompatible uses out there now that we ought to start this year to try to eliminate. If they're really harmful and they really ought to be done away with, we ought not to wait five years or until the permit expires.

Senator KEMPTHORNE. I appreciate your comments.

Mr. Reffalt.

Mr. REFFALT. Yes, I'd like to point out, Mr. Chairman and Senator, that the current compatibility guidelines that are in draft form from the Fish and Wildlife Service call upon the agency to review and recertify all secondary uses on Refuges each year. So, under those provisions that already exist—and that's under the current two laws that Mr. Barry talked about earlier—there would be, in the bill and underway within the Fish and Wildlife Service, a process where, within the first five years after this bill passed, there would be at least four times when everything had been recertified under this law.

So, there would not be a stoppage and the intent, in fact, as I understand the drafting of this bill, was that it was recognized that there were a lot of activities—over 6000 secondary uses on Refuges—that we needed to find some way of continuing and giving an

orderly process of transition from the lesser demanding standards of the two laws as they exist today, to perhaps the more demanding standards that might come out of the Fish and Wildlife Service in the new compatibility standards.

I also wanted to point out, this bill calls for the Fish and Wildlife Service to establish the compatibility standards—it does not do so in this law—so, it is up to Fish and Wildlife themselves to decide what the new process is supposed to be. Those folks that want this to be lean and mean, that's fine—the Fish and Wildlife Service should be able to keep their regulations and their process lean and mean. We certainly shouldn't be criticizing the bill because it says to the experts in the Fish and Wildlife Service, "You develop the process and promulgate it."

I don't see the problem that's been suggested here.

Senator KEMPTHORNE. All right.

My final question, then, would be with regard to water. Certainly out West, water is critically important. Do any of you feel that this legislation, in any way, would subordinate State water rights to the Federal Government?

Mr. PETERSON. It doesn't say anything about water rights, one way or the other. Water rights are extremely important at some Refuges, including water quality. In fact some, water rights have been bought. They're very important to Refuges, but I don't see anything in this bill that would change anything on water rights.

Senator KEMPTHORNE. It certainly would not preclude, and I understand that a number of Refuges need to have water, but they would comply with the State law with regard to water.

I don't see anything in the bill that addresses that.

Mr. Reffalt.

Mr. REFFALT. Thank you, Senator. I would point out, again, this bill amends and becomes a part of the 1966 Refuge Administration Act. The Refuge Administration Act has a very specific provision dealing with water rights on Refuges and recognizing States' rights for water.

I think that the language you see in this amending provision is simply to tell the Secretary of the Interior that he or she has a responsibility to assure necessary water quality and quantity, through whatever appropriate mechanisms, to the individual Refuges.

Senator KEMPTHORNE. OK, thank you. I appreciate that.

Mr. Chairman, thank you very much.

Senator GRAHAM. Thank you, Senator.

An issue that was very controversial two years ago was the question of whether any additional legislation was required or whether the 1960's legislation properly administered, with adequate resources, could achieve the purposes of the National Wildlife Refuge System.

Again, I would appreciate your brief comments as to whether you believe that there is the need for Congressional action on this area or whether an enlightened Administration can do it within existing law.

Mr. REFFALT. Mr. Chairman, thank you.

I would first of all like to point out that I have included as Attachment One to my testimony the 21 major—and I underline the

word major—reports that have been put forth on the National Wildlife Refuge System since 1968.

There are a number of other lesser reports and they would add up to perhaps as many as another ten or twelve.

As has been pointed out here on the panel by Rodger, no one has ever stepped forward and put out a substantial report refuting the findings of any of these reports. They have consistently come out saying that things are bad, things are getting worse, things are getting terrible—my gosh—and now we're down to bold action required. There has not been a refutation.

I think that I can tell you from my experience of being inside the administration when two of these major reports were issued—the 1968 report and the 1979 report, in which Dr. John Grandy participated—that the attempt inside the administration was to fix our own house, if you will, and to bring it into order. A major effort was undertaken within the Refuge System to overcome the deficiencies that we've all talked about here and that have been in these reports.

It is not possible to do that—the statutory needs are paramount—we have to have a set of purposes for the System, given to it by the Congress, and we have to have some improvements in the way compatibility is conducted. We do need to have a consistent, ongoing planning process for the Refuge System, and we can talk about the particulars on any one of these things.

Then, Mr. Chairman, we will have a strong, a powerful, and a protective stewardship for our wildlife resources in this Country.

Mr. GRANDY. Mr. Chairman, just one quick thing to follow up on that.

I think Bill's point is entirely well taken. I think it positively can't be done without strong and definitive legislation. I only want to say that I think, frankly, that the legislation may need to be stronger to get true reform in the Refuge System than we would otherwise think necessary, and I say that not trying to support the position that I've already taken, but because with a whole variety of uses across the board in National Wildlife Refuges, we are faced with an agency that is now intellectually committed to finding them compatible. That's been happening for years in the Refuge System—that's what's wrong with the 1962 and the 1966 Acts.

Bill's absolutely right. If it could have been fixed by Administrative action, it would have been. It can't be.

Senator GRAHAM. Mr. Waltman.

Mr. WALTMAN. Mr. Chairman, I'd like to add just a second.

One of the provisions of the bill that's perhaps been overlooked by a number of people is that the bill would provide some affirmative stewardship responsibilities for the Secretary of Interior for the Refuge System. That's a first. It's something the other agencies have—requirements that their senior officials take care of their land programs. This is something that Mr. Barry spoke to at great length this morning.

On another point, the bill ensures that the Refuge System will have a thorough and comprehensive planning process. It wasn't too long ago—it was 1986, I believe—that there was a directive from the head of the Fish and Wildlife Service that all comprehensive master planning would cease and desist. That's the kind of admin-

istrative troublemaking that's occurred with the existing management of the Refuge System that needs correction, and your bill does just that.

Senator CHAFEE. Mr. Chairman?

Senator GRAHAM. Yes, Senator Chafee.

Senator CHAFEE. I must say that this is a very impressive group of witnesses, whose total time involved with the Refuges must add up to a couple hundred years.

I take it that your objection, based upon what you just said, Mr. Waltman, is that the handling of the Refuges is very diffused, it's left up to the tremendous powers of the managers of the Refuges. It sounds too haphazard.

Mr. WALTMAN. I think the biggest problem is in last statement that you made—that it's left to the managers. But, what we have found through thorough evaluation of the Refuge System in the last few years is that in many, many instances the Refuge managers themselves fully intend to resolve some of these incompatible uses, but the political pressure applied—whether it's a Chamber of Commerce or other local body or even a member of Congress—overwhelms the best intentions of the Refuge manager. When you have an agency where the folks in regional offices and the D.C. office and the Department of Interior have not always been friendly to the Refuge System, that's a serious problem.

So, if it was left in the best intentions of the Refuge managers, I think in a lot of respects we'd be better off than what we've got now, which is a System very easily manipulated by politics.

Senator CHAFEE. Well, Mr. Reffalt's statement quotes from a whole series of studies on this that are less than complimentary about the existing conditions of the Refuges.

I must say, the subject has been studied enough, hasn't it?

[Laughter.]

Mr. WALTMAN. I think that's precisely our point, Senator Chafee.

Senator REFFALT. I would agree with Jim's statement. The fact is that the problem is seldom the Refuge manager. I suppose that can occur and I do not want to overlook the possibility that you have a Refuge manager that somehow "gets it wrong," but I would like to say that, in my experience, generally, the Refuge manager has got it right.

They live in the local community, so they know what is demanded of them to be a good neighbor. They have to deal with the local conservation officer of the State, so they know what the State's needs, issues, and priorities are. They try to do the best job that they can of protecting the wildlife habitat that they control. But, I think that the problem oftentimes is above them in the administration of the System and they get simply instructed to allow these things to happen.

I think that the documents—although I've quoted things that pertained directly to the provisions that Senator Graham's bill deals with—indicate that there are elements in each of those studies that would also point out that it's primarily in the administrative levels of the Fish and Wildlife Service where troubles have erupted.

Senator CHAFEE. Assume there has been jet skiing through a refuge area and it shouldn't be—the Refuge manager decides he

should take a bold stand on this. Well, he's got the local Congressman, the local members of the legislature all on his back, and it seems to me the easiest thing for him to say is, "Well, why cause all those headaches? It's in here, I'm not going to stop it, all I'll do is get in trouble. I'll keep it from expanding, but that's about the best I can do."

It seems to me that there would be every incentive for the Refuge manager not to cause too many waves or he gets a bad fitness report because everybody's angry at him.

Is that a true situation?

Senator GRAHAM. I think that's a true situation, except that in the analogy you gave, it's not causing too many waves, it's preventing too many waves.

[Laughter.]

Senator CHAFEE. Well said. Preventing too many waves.

The films that you showed last year, that showed that jet skiing and so forth—was it through the Manatee Refuge?

Senator GRAHAM. It was one of the areas in the Florida Keys.

Senator CHAFEE. Is that true, what I'm saying?

Dr. SPARROWE. This example may not be in the authority of the Fish and Wildlife Service to step in and dictate—that's something we have to be very careful of. That kind of example may not be corrected by this bill because such water-based activity can be in land that is under the jurisdiction of the State or County or someone else, so it's not as simple as the Refuge manager stepping forward and saying, "Stop that." Judging whether he does that or not, or is allowed to do that by his administrators, may not be the point.

Mr. GRANDY. Let me say, Senator, that you have raised an excellent point and it's precisely why any bill that goes through to reform the System has to strike a balance between policy guidance and compatibility guidance on the one hand and authority of the individual Refuge manager on the other.

Mr. Reffalt, I'm sure, as I could, could give you examples where the individual Refuge manager ducked—no pun intended—or where the individual Refuge manager stood tall and found himself at odds with the Secretary of the Interior. Indeed, one of the lawsuits that I brought when I ran Defenders of Wildlife was a suit that stopped water skiing, over the objections of then-Secretary Andrews, on Ruby Lake National Wildlife Refuge in Nevada. What happened there was that the court and the judge found in sympathy with the report of the Refuge manager who said, "This is absolutely incompatible—we can't have people skiing over duck nests."

So, both things occur, it happens both ways, and I think it does speak to the need for strong compatibility guidance and a healthy dose of looking to the Refuge manager.

Thank you.

Senator GRAHAM. Mr. Reffalt, and then Dr. Schlickeisen.

Mr. REFFALT. Thank you.

Senator Chafee, I wanted to point out that we've had the statement made in the past that this bill wouldn't directly address some of these things such as the water skiing in the back country of the Florida Keys, and that's true. This bill cannot, and most bills would not, be able to federally legislate in State waters, but what

this bill does do—and that has been alluded to—is that it gives the Secretary of the Interior an affirmative duty and responsibility to see to it that the purposes of the Refuge System and the purposes of each individual Refuge within the System are carried out. So, when a Refuge manager—as they normally do—raises those waves about the issues and the problems that they've got down there, there is a duty then upon the Fish and Wildlife administrators, under the Secretary, to move forward in finding some way to solve the problem.

In the case of the Florida Keys, we believe the problem has now been solved, that they did in fact sit down with the State of Florida's Department of Natural Resources. They have talked about the possibility of leasing the waters and the lands beneath the waters, and they talked about shared jurisdiction and police authority in those waters.

That's all we ask. I think that you will find more and faster solutions coming forward after this legislation is passed than what we've seen in the past.

Dr. SCHLICKERSEN. I'd like to just make a point—I think I made it in my oral comments, but I believe it was before Senator Chafee arrived, and that was to point out that, indeed, most of our major points are that this is an aberration among Federal land systems and among Federal programs.

I commented that I cannot imagine if this Subcommittee—and especially the two Senators sitting in front of me—were creating a Refuge System from scratch right now, that you would possibly tolerate the notion that one should be created that has the flexibility for administration, for whoever comes into office, that this one has. I can't imagine that you would do that—it isn't conceivable to me that there would not be something as fundamental as a strong statement of purpose, that there would not be strong requirements for planning, that there would not be a strong requirement for compatibility determination, and that there would not at least be a requirement that other Federal agencies that were going to engage in activities that harm the Nation's Wildlife Refuge assets engage in some kind of consulting activity.

You wouldn't tolerate it—it's just that because this exists there's a certain momentum to the policy. It's because it's there. That's what has put us in these circumstances.

Mr. WALTMAN. If you look at the other Federal agencies—the National Parks System, the National Forests, even the lands administered by the BLM—they all have their organic Acts that give them statement of purpose, that give them planning requirements, that give them some duties for their senior officials—whether it's the department head or the agency head—to manage that system with good stewardship. It's something the Refuge System never got, and we think it's about time and this is the appropriate time to do it.

Senator CHAFEE. I must say, our Chairman found this—I suspect he did—when he was Governor, as I did likewise, to have a back-stop of trying to achieve something and having some higher authority say, "You've got to do it this way."

We've all had to dance to the tune of bond counsel, when we're dealing with State-wide bonds that want us to do so, we do it and if

bond counsel says we can't do it, we can't. I found it very convenient. I probably exaggerated the powers of bond counsel, but I found it a handy refuge—if I can coin a phrase.

[Laughter.]

Senator CHAFEE. So it might be for support for these managers of these Refuges, that they're going to stop the water skiing because Washington tells us to, those wicked people in Washington. That doesn't mean that you take away his total authority, but you give him or her some support in trying to achieve these goals, and relieve the pressure. These managers must be under tremendous local pressure all the time, so there's a certain virtue in having somebody in Washington to fall back upon.

Senator GRAHAM. If nothing else happens this morning, there must be a lot of sighs of belated appreciation on Wall Street to be referred to as a sanctuary.

[Laughter.]

Senator GRAHAM. Mr. Peterson.

Mr. PETERSON. I think Senator Chafee has asked a couple of very penetrating questions. There's always a dilemma on how much discretion you give to the local Refuge manager versus how much should be Washington direction. My experience has been that the Refuge managers, generally, are quite dedicated to the task and are quite knowledgeable about what's happening.

I would probably recommend that any plan for an individual Refuge be subject to the approval of the regional director so that he or she then can sort of look over a large area and look at some consistency, so that you're sure that a manager isn't under some pressure locally that he can't deal with.

We have no problem—in fact, we support idea of a plan for a Refuge or a group of Refuges may be subject to the regional directors approval. I'm not sure I want to give a whole lot of authority over that to Washington because you can have direction that's not good as well as good direction. I'd rather have a general policy statement to try to follow.

I think our real concern with this legislation, as you point out, that there's been about 20 studies—there's a "Refuge 2003" in place right now. The real problem out there is inadequate funding for a lot of these Refuges to be staffed to handle the job now. We're really concerned about diverting a bunch of money that's going to the refuge manager now, to do this big, long strategic plan. We would rather spend that money to go out and try to solve some of these problems that are out there—spend half the time and effort to solve those problems that we know are there—we've got all kinds of studies to show they're there. We need to spend time solving those, not developing another plan that itself will use up a lot of the Refuge manager's time, if you follow all of the requirements that are in the bill.

Mr. WALTMAN. I'd like to speak to that real briefly.

I think another one of the problems is that the Refuge System hasn't had the support and hasn't had the organized constituency that, say, the Parks Service has.

They haven't gone through the process of developing a comprehensive strategy—a blueprint, if you will—to figure out where the Refuges want to go and then to figure out how to get there over

time. There's nothing like a good blueprint to be able to persuade people that maybe you deserve more resources than you're receiving at that time, so we think planning will be very beneficial in developing constituencies and ultimately, maybe, shaking loose some more funding.

Senator GRAHAM. If I could follow up on that question, because I think one of the fundamental issues here is do we have a Wildlife Refuge System? Is the word "system" appropriately applied to this, or do we have a series of 490-plus individual units which are semantically attached but, other than that, are relatively autonomous? And, what should we have?

That, I think, goes to the question that Mr. Peterson has raised, and that is the appropriateness of making this investment in trying to arrive at systemic direction and purpose for these 490 units as opposed to allowing them to go on in an ad-hoc manner.

I'd be interested in your comments as to why do we need to begin to treat these 490 units as more of a whole?

Mr. REFFALT. The answer to your question is yes, we have both. We have a lot of individual units within that 490 scattered around the United States and some of its territories. But on the other hand, we have a system that was purchased and developed as a system throughout the course of 90 years now.

We have a particularly large number of Refuges that were in an accelerated wetlands protection program—the purchasing was done in the 1930's and 1940's—that were designed specifically, for instance, to take care of struggling waterfowl populations of that particular era. The acceleration came at the time of the initial reduction of wetlands through drainage and conversion to agriculture.

So, we have a system that was in fact purchased, in many cases, to operate as a chain of Refuges along North/South flyways for migratory waterfowl and other migratory birds that rely on wetlands.

What we don't have, though, is a single plan—with very, very few exceptions, where we have maybe two or three documents in total that deal with populations of waterfowl or some other game species—we don't have a plan that says how those Refuges are supposed to work in concert to provide for these populations that make use of their habitats and other resources. Things like farming programs, things like wet soil management practices, things like preparing croplands, in a sequential fashion, to be prepared to handle a large influx of migratory birds and so forth, are all elements of what could be put together in flyway-wide plans.

So, there's much more that could be done in linking in the System as it exists. There are always going to be individual Refuges—I don't disagree with Max Peterson that these are not islands out there, these are parts of local ecosystems and so forth—that do have to take into account local conditions, but nevertheless, the Kofa NWR, the Cabeza Prieta NWR, the Sheldon and that Mountain NWRs, are large areas that take care of endemic populations, that have the basic habitat necessary for those populations to live in a viable fashion. Each of those refuges needs to be planned in that context.

I think your bill provides for both and I think that it demonstrates its intent to keep the planning from becoming onerous by saying that you can plan groups of Refuges that are interrelated

and make that an easier than normal process of trying to do them individually. But, there are other Refuges that maybe should be and deserve to be planned individually. So, I think your bill provides well for the eventualities that we face.

Senator GRAHAM. Let me ask a question which is intended to sharpen the first question.

Are there some deficiencies in the current Refuge System which would appear, by looking at National needs against the status quo—and let me just suggest one that has been brought to me as a deficiency—and that is that there has been inadequate attention to endangered plant species within the Refuge System.

To sharpen the question of “Do we need to have comprehensive planning?,” are there, in your judgment, some deficiencies which might be surfaced by a comprehensive plan and then overcome by having the administration present to Congress, “Here are some things that we need to do in order to have a more balanced National protection of our wildlife and habitats”?

Mr. WALTMAN. I'd like to respond to that.

I think the Nation today is facing a crisis. I think we all understand that with declines in endangered species and other elements of our biodiversity. The National Wildlife Refuge System should have as one of its missions the conservation of the natural diversity of this Country.

You can review some of the data that the Fish and Wildlife Service has put together for “Refuges 2003,” its new management plan, and if you look beyond the few game species and the endangered and threatened animal and plant species, you see there's not a lot of attention paid to the rest of the story. For example, only 20 percent of the Nation's Refuges have inventoried their fish species. Only 18 percent of the Refuges have inventoried their amphibians. Less than 5 percent of the National Wildlife Refuges have conducted inventories of their invertebrate species. Only 17 percent of the Refuges reported that they were incorporated into State natural heritage programs. So, we've got a great opportunity with the National Wildlife Refuge System to make significant contributions to the protection of biodiversity, but we aren't even looking to see what's there right now. We think the direction provided in this legislation would take us significantly toward that goal.

Dr. SCHLICKEISEN. Mr. Chairman, if I might, I'd like to refer the subcommittee to the report of the Commission on New Directions for the National Wildlife Refuge System.

You asked where this all takes us. In that report I think you'll find, besides a discussion of the problems of the current Refuge System, a discussion of exactly where this takes us. I think that in the long run, where this is going to take us—and your bill is a necessary first step—is to some kind of a National system of wildlife habitat lands. It's probably going to be impossible for us and for this Subcommittee and the Congress to avoid that in the long range future.

Senator Kempthorne, when he was here, talked about the best available science guiding what we do. Well, the best available science is telling us that we've got a tremendous problem in the loss of biological diversity around the world, although the public is little aware of it and public policy doesn't recognize it much. There

was a report that I'll remind you of, back in September of 1990, by the blue ribbon Science Advisory Board to the Environmental Protection Agency, and it said that there was amazing scientific consensus around the world about what the four major threats to the global environment and to human welfare are in this world; they listed loss of species and biological diversity, loss of natural habitat, global warming, and ozone depletion.

Most people are aware of these last two, but they aren't aware of the importance of species and habitat loss and the loss of biological diversity. The best available science, as Senator Kempthorne referred to it, is telling us exactly that.

Where this bill begins to take us is to a position where we can put together the only thing that really has an opportunity to save natural diversity in this country, ultimately, which is a National system of habitat lands. The core of it is certainly going to have to be the Refuge System.

Senator GRAHAM. If I could inject a current situation which I think dramatically illustrates the issue of biodiversity. It happens to be occurring inside a National Park.

Throughout most of its natural history, Florida Bay had been what was described as a marine estuary. Part of that was a function of its salinity, which was roughly two-thirds of the salinity level of ocean water. In recent years, there has been an increase in that salinity level. During its natural period, there was a diversity of sea grasses in Florida Bay—many species existed compatibly. As the salinity level increased, and now it has reached in some places twice the salinity level of seawater, the effect was to eliminate all but one of the sea grasses, which was called Turtle grass, giving a false appearance of health. It's a very robust, fast growing, healthy looking sea grass.

But, when the salinity levels now are almost 2.5 times that of ocean water, even the Turtle grass couldn't survive and it all collapsed at once. The consequence has been a tremendous environmental disaster in that area. Tens of thousands of acres of productive sea grass are lost. What had been beautiful bottom areas are now covered by an algae bloom which has gotten up to 200 to 300 thousand acres.

The core problem, which started with the increased salinity level, was the fact that the biodiversity was lost and therefore the whole system became subject to one event which wiped out what was left of the now-single species.

I inject that as an example that this concept of biodiversity is not something that is esoteric—it's something which is affecting the recreational and commercial uses of that water body, the core of the economy for about 100 thousand people who live in the Florida Keys, which is the quality of water. I think it's a harbinger of how losses of the diversity of our biological systems are going to start to have very dramatic impacts on mankind and I appreciate your suggestion of giving that issue greater attention.

Dr. SCHLICKERSEN. It's going to take a lot of the subcommittee's time in the future to deal with that.

Senator GRAHAM. Yes.

Senator CHAFFEE. Let me ask you one final question.

Do you folks get together with the Migratory Bird Commission or some such group—does somebody sit somewhere, at the top of a heap, and say where we should be purchasing wetlands, for example, or where we ought to have a Wildlife Refuge to protect the flyway for the Black Ducks or whatever it might be—is there any master plan that you participate in?

Dr. SCHLICKEISEN. I'm glad you asked that question.

I don't think there's a master plan that all of us participate in, but that gives me a wonderful opportunity to promote something that the Fish and Wildlife Service does. The Fish and Wildlife Service has a project called "gap analysis" which started in Idaho, with Mike Scott's efforts there. It would be the first landscape-level effort to actually map the whole United States in exactly this manner. It uses satellite imagery to map the land in accordance with the vegetative types that are there, followed by a certain amount of ground-trotting—you'd go in and discover what kind of species are there and prove what you've found. Then you overlay this with the Heritage Database that the Nature Conservancy has done such a good job on across the country, and you overlay the political boundaries and the demographic trends, and very quickly you can see exactly where the most important habitat lands in this country are and exactly where the gaps are that have to be filled in.

Senator CHAFEE. Who runs that?

Dr. SCHLICKEISEN. It's the Fish and Wildlife Service's Cooperative Research Units and it will be a very fundamental part of the National Biological Survey if it comes about as Secretary Babbitt has proposed.

Senator CHAFEE. Well, that sounds wonderful.

I suppose the Migratory Bird Commission is in on it, too, aren't they?

Dr. SCHLICKEISEN. I don't know to what extent they're formally involved in it, but certainly all of the lands that they're concerned about are an important part of it, yes.

Senator CHAFEE. Just in our little State, which is very small, we have the groups get together—we have the Nature Conservancy, the State, the Audubon Society, and some private foundations that are very anxious to contribute to the purchase of space—so we have been able, over the past several years, including the State's monies—have been able to set aside a rather substantial portion of our State. In Block Island alone I think they're now up to something like 22 percent of the land that has been set aside, not by one organization, but the Audubon, the Nature Conservancy—the town put on a transfer tax and had a funded purchase base.

But that's small potatoes, that's just one little State, but it would be interesting to have this done on a National basis. I presume with this gap thing that you're talking about, Fish and Wildlife would be purchasing in this particular area because it fits in with the master plan. But then does the Nature Conservancy go off and buy their own or do they follow some plan?

Mr. REFFALT. There isn't, Senator, a master plan. There's other people here who will talk about the migratory bird program, which is more coordinated than any other single land acquisition system in this Country.

Senator CHAFEE. That's the Migratory Bird Commission?

Mr. REFFALT. The Migratory Bird Commission and the things related to it.

There is, in this city, a group of organizations—25 organizations—that try each year to put together a list of acquisition needs, which includes the Fish and Wildlife Service as well as the Park Service and other lands. So, there is a clearinghouse that looks at all of the needs all the way across the Country, for all of the public lands systems, and then tries to make the information available to the Congress in one document so that it increases the likelihood that you'll deal with full levels of information, rather than be lacking in information.

But, what is lacking is this master plan of the future and what we ought to be looking at, hence the need like this biodiversity mandate to the Refuge System. Because, if you're going to get ahead eventually—not in the immediate future—but if you're eventually going to get ahead of the endangerment curve that we see coming down the road over the next several years, you've got to look at biodiversity up front. You've got to take early steps to assure that there's enough habitat for all of these creatures to have a place of their own and then, eventually, you'll be ahead of the curve rather than behind the curve all the time.

Senator GRAHAM. Dr. Sparrowe?

Dr. SPARROWE. You're very patient, Mr. Chairman. This will be the last response.

There are some large, regional efforts going on now that are certainly not fully coordinated nationally. They started with a migratory bird emphasis under the North American Waterfowl Management Plan and now the North American Wetlands Conservation Act has come into play. What this has fostered is partnerships looking, in some cases, at whole watersheds, river basins, this kind of thing. They're working in almost every part of North America, in Canada, and in Mexico as well.

Senator CHAFEE. Who runs that?

Dr. SPARROWE. Well, it isn't run by any single agency—the Fish and Wildlife Service is involved, the Nature Conservancy is involved, Ducks Unlimited is involved, a lot of the organizations here are involved, the States are a deep and important part of it.

What this has led to is the procuring of large-scale habitats. It started out as a duck related effort with a lot of emphasis from hunters, but it has grown into something much larger by bringing all of these people along. That's the important thing that has to be captured, whatever we decide to go ahead with, with a National effort, I think, for biological diversity. These efforts are now accomplishing things on a scale that none of the other efforts yet, so far, have because everybody's been able to see something in it for them.

Mr. PETERSON. Mr. Chairman, let me underscore what Dr. Sparrowe said and add a couple of things.

You asked the question, the Chairman did, as to whether this is a "system" or not. Recognize that more than half of the National Wildlife Refuge System is in Alaska, so you're talking about relatively small acreage in the 48 States. These cannot be a functioning system without the involvement of other lands around them and connecting lands, so they're not any kind of a natural system—

they don't represent ecosystems and so on—but they have an important niche. I think that's what we're really looking for, is how these Wildlife Refuge Systems fit, what niche they fulfill in the whole system.

There is quite a bit going on. In the State of Maryland, for example, in looking at a new Refuge in Maryland, they agreed with the Fish and Wildlife Service that if the Fish and Wildlife Service would put a Refuge in a particular area, the State would do a wildlife management area in another particular area.

So, there is quite a bit of looking at what totally makes up a System, which is really made up of a combination of public and private lands.

Now, there are some elements of this system where there are probably some common laws and policies that apply to all the lands. In fact, the National Parks System is composed of all kinds of individual units, ranging from historic sites to cultural sites to large National Parks. The word "system" there means that it has certain common principles and so on, but which are quite different for different units, depending on the particular function that unit is to serve.

The National Forest System is made up of National Forests and National Grasslands and certain common things. So, this has elements of a system, but not a natural system—it doesn't meet the elements of a natural system.

Senator CHAFEE. Thank you, Mr. Chairman.

There certainly are a lot of groups. I wouldn't risk venturing how many wildlife or environmental groups there are, but here we have six. The more you can cooperate, particularly in connection with land purchases or encouraging specific land purchases, the better off we all are.

Senator GRAHAM. Thank you.

Senator, did you have any further questions?

Senator KEMPTHORNE. No, I did not.

Senator GRAHAM. What I would like to do, in deference to the time, is to ask a short series of questions and any of you who would like to respond by supplementing your written testimony, that response will be appreciated.

I want to say that I thought that the statements that were made here today and the preparation of those statements was a great service and I want to personally express my appreciation to the thoughtfulness of your analysis, which will be extremely helpful as we go to the next stage of reviewing this proposed legislation.

The questions which I would submit for those who would care to comment further—and I recognize that some of you have already written and spoken at some length about these, because that was why they were on my list to ask to others—include issues of State-Federal relations. Mr. Peterson particularly talked about that. I would like anyone else who'd like to comment on what could be done to enhance the role of other units of Government, particularly State governments, in this planning process.

Next, reference was made by Mr. Barry on several instance to the emerging role of environmental education within the Refuge System. If you have comments as to what significance that role will play. As an example, on the question of selecting future Wildlife

Refuge sites—to what degree should their potential value as an educational site be given weight in evaluating their importance for selection.

Next, a question of de-listing. Have there been some Wildlife Refuges within the System which have been so degraded that they are not susceptible to being returned to a legitimate Refuge status? If so, what should be done with them?

The question of pre-existing uses. Reference was made to uses such as utility lines. Are there some pre-existing uses that should be given review status different than that which is going to be provided to secondary uses within this legislation?

The question of water. Mr. Reffalt indicated that within the current 1960's laws there are provisions for water relationships. Do we need to give any further attention to that in this legislation?

One issue that is of concern to me is the degradation of some of our Refuges within Florida as a result water quality intrusions. Loxahatchee National Wildlife Refuge being a prime example. Should we do anything in this legislation that relates to water quality? The next question would relate to the joint jurisdiction issue among Federal agencies. Any suggestions as to the bill or steps that would be taken subsequent to this bill in terms of trying to ameliorate those conflicts as rapidly and effectively as possible?

Gentlemen, I believe that concludes my homework assignment.

[Laughter.]

Senator GRAHAM. Excuse me, it doesn't quite complete it. I was intrigued, Bill, when you mentioned the fact that there has been for some time an effort to develop an acquisition program for the Federal Government with various agencies. I'd be interested if anyone has done an analysis of how effective that effort has been, that is to what degree has that, in fact, guided the administration and Congress in its judgments as to where to expand existing sites or add new ones to the National inventory?

That does conclude my homework assignments and, again, I very much appreciate your participation. For many of you, that goes back many years of service to the Nation on behalf of the protection and expansion of our ability to conserve the natural resources of our Nation.

I thank you and look forward to continuing to draw on your talents.

[Whereupon, at 12:20 p.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

[Statements submitted for the record, the bill, S. 823, and other material follow:]

TESTIMONY OF DONALD BARRY, ACTING ASSISTANT SECRETARY FOR
FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR

Thank you, Mr. Chairman, for providing the opportunity to testify today on S. 823, the National Wildlife Refuge System Management and Policy Act. I have worked on National Wildlife Refuge System matters for over 19 years, and I am pleased to testify today on behalf of Secretary of the Interior Bruce Babbitt. The Subcommittee is to be commended for its high level of interest in the National Wildlife Refuge System. I can you assure that the protective management of this spectacular wild-life conservation system is a high priority of this Administration.

This Administration supports the concept of "organic" legislation for the Refuge System and supports the enactment of S. 823. We believe that S. 823 supplements

the excellent foundation laid down in 1966 by Congressman John Dingell in the National Wildlife Refuge System Administration Act. Thus, we view this bill as complementary to, rather than in opposition to, the intent of the original 1966 Refuge System Act. We do believe, however, that some amendments are necessary to improve the effectiveness of S. 823 and look forward to working with you and the Subcommittee staff in making adjustments to the bill.

The National Wildlife Refuge System faces many difficult challenges and exciting opportunities as we approach its 100th anniversary. When added to the enormous conservation effort of State Fish and Wildlife agencies across this country, the continuing growth of the Refuge System makes a major contribution to the achievement of our fish and wildlife conservation goals for this country. The expansion of the Refuge System has come at a price, however, for it has taxed to the limit the ability of refuge managers to fulfill their stewardship responsibilities.

Based upon almost two decades of visits to wildlife refuges, I can assure this Committee that there is no such thing as a lazy or indifferent wildlife refuge manager. Frequently rising before dawn and toiling well into the night, these people always humble and inspire me with their dedication to conservation. Ever expanding statutory mandates and surrounding land use conflicts present additional challenges for overworked refuge staffs. Nevertheless, a significant opportunity exists for refuges and refuge managers to work cooperatively with the States and play a pivotal role in the conservation of this Nation's fish and wildlife resources. We are also putting increased emphasis and more money into the Challenge Cost-Share program to encourage private and non-profit financial partnerships to enhance fish and wildlife resources on refuges.

Let me highlight four themes that the Administration believes should be kept in mind as you consider refuge legislation. First is the need to broaden the mission of the Refuge System. Second is the need to get back to basics in wildlife refuge management by ensuring that fish and wildlife conservation comes first. Third is the need for a greater effort to engage the American public in caring about the management and well-being of the Refuge System. And fourth is the practical need to keep refuge legislation streamlined and lean, lest it compound—rather than alleviate—refuge management problems.

With regard to broadening the Refuge System's mission, this Administration recognizes that the historic roots of the Refuge System lie in migratory bird conservation and we expect migratory birds to remain an important focus of the Wildlife Refuge System. While mindful and supportive of this rich heritage, we also believe that it is essential for the mission of the Refuge System to be dynamic and responsive to the emerging environmental challenges confronting this Nation. Thus, the Refuge System of the future should play an expanded role in the conservation of this Nation's biological diversity and in providing environmental education for the American people where consistent with the primary conservation purposes of individual refuges. The Refuge System can and should play a leadership role in recovery efforts for endangered, threatened and candidate species. The System can also play an emerging role in ecosystem management initiatives to conserve biological diversity and serve as an important focal point for compatible wildlife-oriented conservation education and recreation.

Our second area of emphasis concerns the need to "put wildlife conservation first" in the management of the Refuge System. The legislative history of the original 1966 Refuge System Administration Act urged that "extreme caution" be used in allowing activities to take place on national wildlife refuges. The "compatibility test" was intended to be a first line of defense against activities that might conflict with the primary purposes for which refuges were established. Over time, administrative policies or lack of focus have eroded this protective shield, allowing incompatible activities to gain entrenched footholds within various wildlife refuges. Included in this list of activities are a variety of conflicting economic uses and non-wildlife oriented recreational activities which have proven difficult to terminate once established. This dilemma has highlighted the need to make the compatibility process more rigorous and to refocus our priorities where they belong: on the fish and wildlife resources for which individual refuges were established.

Our third point concerns the limited awareness and appreciation of the Refuge System by the American public. Regrettably, the Refuge System is this Nation's best kept secret, a "stealth" conservation system, if you will. Meaningful public involvement in the development of individual refuge plans has been the exception rather than the rule. We must elevate the awareness of the Refuge System and engage the public in an active dialogue about the future of national wildlife refuges

in this country. These are public lands that deserve the very best support that the public can contribute.

Our fourth point reflects the practical need to keep the management of a complex system as simple and direct as possible. Well intentioned but unworkable procedural requirements will hurt refuge management, not help it. We are confident that you will be able to strike a careful balance between accountability and workability.

The Refuge System lacks "organic" legislation that statutorily defines the purposes of the System. S. 823 seeks to correct that problem. This bill also addresses the management of secondary uses and the need for comprehensive planning. Today, I would like to address my general comments to these three primary sections of the bill: Refuge System purposes, compatibility and planning.

With regard to the Refuge System's purposes, we believe that this is one of the most important parts of the bill since it fills a critical gap in current refuge law. While we generally endorse section 4's statement of purposes, we have a few constructive suggestions to offer. First, we are concerned that section 4 could be interpreted as prohibiting the continued management of lands and wildlife populations within refuge boundaries. This section should acknowledge that wildlife conservation programs on refuges run the gamut from *managed* habitats and populations, to *naturally diverse* and *unmanaged* populations, and that the Refuge System must accommodate both approaches. Moreover, we suggest adding wildlife oriented environmental education as a purpose of the Refuge System, provided that educational efforts are secondary to and consistent with the primary conservation purposes of the System and the individual affected refuge. Apart from those changes, we would note our strong support for the provision in section 4 stating that original purposes of a refuge will prevail if there is a conflict between those purposes and Refuge System purposes.

Section 5 deals with one of the most difficult issues in refuge management—compatibility. As you know Mr. Chairman, after the 1989 GAO report on harmful uses occurring on national wildlife refuges, the Service developed its own survey to better define the scope of the problem. This report, *Secondary Uses Occurring on National Wildlife Refuges*, was published in June, 1991. The Service has used this report, and its recommendations to begin the elimination or modification of activities found to be "incompatible."

This Administration is committed to eliminating incompatible uses as quickly as possible and is reviewing what needs to be done to finish the task. Revised guidance to refuge managers relating to compatibility is being developed and will be published in the *Federal Register* for public comment. The Service has also developed and implemented a new training course on compatibility for refuge managers, entered into a new cooperative agreement with the Federal Aviation Administration relating to overflights, and is attempting to develop an accurate data base to track the status of all problem uses. The Service is developing new methods to document costs to administer refuge uses and is compiling reference material to assist managers in the determination of compatibility.

While the Administration supports many of the provisions in section 5 as it relates to the compatibility process, other provisions in the section are troubling and should be amended. For example, we recommend that section 5 be amended to make clear that compatibility decisions may take into account a refuge manager's "best professional judgment" in addition to the best available scientific information. Section 5 should also be amended to delete the phrase "in consultation with the Director" wherever it occurs. The 1976 "Game Range" amendment to the National Wildlife Refuge System Administration Act clarified that wildlife refuges are to be managed by the Fish and Wildlife Service. By including a consultation phrase in section 5, an implication arises that the Secretary may administer the Act and need only consult with the Director. In addition, a question then arises in those cases in the Act where just the term "the Secretary" is used as to what role, if any, the Director plays.

As a general matter, we would urge the Subcommittee to consider ways to streamline and simplify this section and are willing to work with you toward this end. Whatever balance is struck on compatibility, it should be straightforward and workable.

Another concern of the Fish and Wildlife Service is the likelihood that the compatibility section of S. 823 would fall short of correcting some of the most troubling secondary uses, namely those outside the limits of Service jurisdiction and authority. We realize that issues such as these are complicated and are not easily resolved. Obviously, their resolutions will require closer coordination with other agencies. We

look forward to working with the Subcommittee and other affected agencies to address these sorts of jurisdictional problems.

Finally, section 6 of the proposed legislation sets forth various provisions related to refuge planning. We are in agreement with S. 823 regarding the need for expanded refuge management planning, and the improved guidance currently being developed by the Service attempts to address many of the planning goals reflected in the bill.

As you are aware, the Service is currently in the midst of a public comment period on the Draft Plan and EIS on the Refuge System, entitled *Refuges 2003*. I am pleased to report that we have had extensive feedback from the public during this period that will prove to be exceptionally helpful in the development of a selected management alternative in the Final Plan and EIS.

As was the case with section 5, we would again urge the Subcommittee to look for ways to streamline the planning procedures and criteria set forth in section 6. For example, once Refuge 2003 is substantially revised and finalized, it could serve as the initial comprehensive plan for the System required under section 6. Furthermore, it is important to recognize that a considerable amount of planning has already been completed for individual refuges, although it is uneven in terms of scope and content. It is not clear under the proposed legislation how existing refuge plans, some of which may not address all of the criteria or elements contained in the planning section of S. 823, are to be treated after enactment of this bill. Planning is a critical, but very expensive, part of our land management responsibility. We think that to the extent possible, the refuge planning process being developed by the Service should be integrated into the requirements of section 6. Opportunities for public involvement must be expanded wherever feasible in the planning process. For example, any existing refuge plan which was finalized without active public involvement should go back out for public review and comment. Again, we look forward to working with the Subcommittee to perfect the planning provisions of the bill.

One final point worth mentioning applies to all the provisions in S. 823 that would result in additional responsibilities and tasks to be undertaken by Refuge System personnel. It is important for us to remember the costs in time and funding attributable to these provisions. The Refuge System is already challenged by an enormous operational and maintenance backlog. While the System by itself cannot save America's biological diversity, it can make a very significant contribution to this cause if it has adequate resources to accomplish that mission. We must all work together to make this happen.

Again, Mr. Chairman, I thank you for your interest in the Refuge System and your commitment to the wise management of this Nation's rich natural heritage. I look forward to working with the Subcommittee as we seek ways to perfect S. 823. I will be pleased to answer any questions you may have.

TESTIMONY OF WILLIAM C. REFFALT, MEMBER OF BOARD OF DIRECTORS, NATIONAL WILDLIFE REFUGE ASSOCIATION

Mr. Chairman my name is Bill Reffalt. I am a member of the Executive Committee of the Board of Directors of the National Wildlife Refuge Association (NWRA). On behalf of our national organization of refuge management professionals and other refuge system supporters, the NWRA strongly supports passage of S. 823, a bill that strengthens planning for and management of the National Wildlife Refuge System, reinforcing its stewardship responsibilities for America's fish and wildlife heritage.

My professional association with the Refuge System (NWRS) (now totaling over 33 years) includes more than two years as Refuge Division Chief in the Washington Office in my 24 years with the U.S. Fish and Wildlife Service (FWS). I gained field experience on a half dozen western refuges over a nine year span, starting as a Manager Trainee and advancing to the position of Project Leader. I also served as the Regional Refuge Biologist in FWS's Albuquerque Regional Office and worked 11 years in the Washington Office. There, as Special Assistant to the Director for 7 years, I gained substantial planning and legislative experience while directing the FWS Alaska planning efforts from 1973 to 1980 within an interagency team that developed plans and proposals for 76 million acres of National Wildlife Refuges and millions of acres of National Parks, Wild and Scenic Rivers, and Forest System Wilderness areas in Alaska.

Following my public service with the FWS, I worked 8 years as The Wilderness Society's Program Director for the National Wildlife Refuge System, thereby expanding my experience and knowledge of NWRS and other federal public land legis-

lation, policies, management practices and problems. Thus, my career has enabled me to acquire a hands-on experience at each level of refuge management within the government plus an extensive background in the overall policy development and administration of U.S. public lands and natural resources.

25 YEARS OF ADVERSITY

The "Leopold Committee Report"¹, submitted to Interior Secretary Udall in 1968, portrayed the most inhibiting deficiency of the NWRS at that time as:

"[lack of] a clear statement of policy or philosophy as to what the National Wildlife Refuge System should be and what are the logical tenets of its future development." (emphasis added)

Over the past 25 years, there has been seen a continuing stream of reports by Secretarial blue-ribbon committees, the General Accounting Office (GAO), the Fish and Wildlife Service and outside interest groups (annotated list attached) documenting that the Refuge System is failing to achieve its goals. In the most recent government sponsored studies, the GAO and the FWS found, in 1989 and 1990 respectively, that incompatible, harmful, and inappropriate uses were occurring on over 60% of the refuges.

It is an unfortunate fact that as we meet here to discuss the needs of the NWRS today, over 25 years after disclosure of a most basic need and following more than twenty substantial reports spanning those years on the growing NWRS problems (that many believe are at least partly traceable to that deficiency), the System continues to suffer from lack of a statutory *raison d'être* and absence of guidance for protective standards, planning requirements and future direction.

S. 823: A FUNDAMENTAL BUT BOLD MEASURE

Mr. Chairman, your bill, S. 823, remedies the basic deficiencies of the NWRS (see my Attachment II for an item by item description). Each major provision deals with issues having a logical nexus to documented degradation and weakness in the NWRS. It provides three fundamental needs for the System: *Legislated Purposes, Guidance on the Compatibility Standard, and, An Outline for Integrated Planning.*

In addition, your bill offers two specific new authorities for administration of refuges:

- 1) Agencies having concurrent operating authority in refuges must fully protect refuge wildlife and habitats or seek specific congressional authority to impair them; and,
- 2) for the first time, it specifically requires the Secretary of the Interior to protect the NWRS.

Taken as a whole, these measures finally place the NWRS on a par with the other federal land systems, thereby representing the kind of bold action suggested in the 1989 GAO report but ignored by the Bush Administration.

A NEW ADMINISTRATION, A FRESH PROMISE:

We have just heard from a representative of the new Clinton Administration and I admit that the outlook is brighter than has been seen in a long while. It is evident that the administration intends to give the NWRS constructive attention and assistance to improve its condition. We all welcome this fresh promise of recuperation for the ailing NWRS, and pledge our cooperation and assistance to the efforts.

However, Mr. Chairman, I want to make it very clear that we do not believe even this benevolent administration can fully overcome the basic statutory deficiencies of the Refuge System. *Your bill is absolutely essential to the efforts to raise the NWRS up to a healthful and productive position alongside the other major conservation land systems in America.*

The NWRA knows from painful experience that the Refuge System has repeatedly tried over the past quarter century to mend itself, often with the help of a conservation-minded administration. However, those efforts have ultimately failed and the System has subsequently deteriorated even further. Such lessons are demonstrated in the findings, conclusions and recommendations of the reports listed in my Attachment I. In the past we all have been tempted by expectations that internal agency corrections would place the NWRS into a permanent productive condition. We retain no more such illusions.

¹ A. Starker Leopold, Clarence Cottam, Ian McT. Cowan, Ira N. Gabrielson, and Thomas L. Kimball. 1968. *Advisory Committee Report on The National Wildlife Refuge System*. Submitted to Interior Secretary Stewart L. Udall on March 11, 1968. Trans NA Wildl & Nat Res Conf (1969); 33:30-53.

Your bill is not only vital, but will greatly aid an administration that sees the promise of the NWRs to protect and manage habitats vital to our Nation's fish and wildlife; it will accelerated the recovery of refuge lands degraded by incompatible uses, various contaminants, and declining water conditions; and, it will permit the NWRs to be known for harboring an underpinning of our total natural diversity as well as its contributions to North America's waterfowl. Not since the founders of the NWRs, including President Theodore Roosevelt, dreamed of its promise for stewardship to America's wildlife has the prospect for achievement been so near at hand. Enact your bill, Mr. Chairman, and those dreams can be fulfilled.

Mr. Chairman, that briefly describes the benefits we see in your Refuge System bill. It contains fundamental elements rather than "bells and whistles" and, in its straight forward approach, hides no added agendas. The enactment of this bill would provide the National Wildlife Refuge System with the same footing that all other federal land systems already enjoy. It would fulfill the needs expressed by the Leopold Committee in 1968 and fully execute the "Bold Actions" called for by the 1989 GAO study of Refuge Compatibility as well as the recommendations of the FWS Task Group that verified the GAO findings.

Most importantly, we believe, passage of this bill would enable the people who operate the NWRs to get beyond the plaguing problems of detrimental refuge uses and uncertainty about the future. It would aid the FWS and the Clinton Administration to prepare the Refuge System for the exacting problems wildlife and habitats will encounter in the 21st Century.

Thank you Mr. Chairman, I would be happy to answer any questions you and the Committee Members may have.

ATTACHMENT I

MAJOR REPORTS ON THE NATIONAL WILDLIFE REFUGE SYSTEM 1992-1968 ALONG WITH QUOTES FROM THOSE REPORTS

1. *Putting Wildlife First*. 1992. Report of the Commission on New Directions for the National Wildlife Refuge System. Commissioned by Defenders of Wildlife, Wash., D.C. 36 pp, (March).

"The [National Wildlife Refuge] System urgently needs reform. We recommend swift congressional action on an organic act for the nation's federal refuges. This act must set forth a clear, comprehensive, and far-sighted mission for refuges. . . . It must have congressional backing for a tighter process of screening proposed secondary refuge uses that threaten refuge functions. Congress must require and support much improved planning and a coherent, expanded research program on federal wildlife refuges. . . . There is a chance—a good chance, we believe—to make the refuge system serve the nation more effectively in preserving our biological heritage for the use and enjoyment of all. . . ." (pp 24-25; emphasis added)

2. *Status of Efforts to Improve the Management of the National Wildlife Refuge System*. 1991. Hearing before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee. U.S. House of Representatives, Wash., D.C., March 21.

3. Mitchell, John G. 1991. *You Call This a Refuge?* in *Wildlife Conservation*. New York Zool Soc, NY, Vol 94(2):70-93 (March/April).

"If you're like most Americans, you imagine our wildlife refuges as pristine, protected habitats, but this is hardly the case." (p 1)

4. U.S. Fish and Wildlife Service, Compatibility Task Group. 1990. *Report To The Director: A Review of Secondary Uses Occurring on National Wildlife Refuges*. FWS, (June); This report, although provided to the Director in June of 1990, was held by FWS and not published or made public until March of 1991.

"Incompatible and harmful uses are occurring on many national wildlife refuges . . . [and] managers reported 836 use occurrences as being harmful to refuge operations." (pp 10 and 21; emphasis added)

Survey results showed 63% of refuge units with one or more harmful use.(various tables throughout document)

"In nearly all cases where FWS does not hold fee title to the land, many activities occur that adversely affect the refuge . . ." (p 213; emphasis added)

"The legal purpose(s) of refuges are not clearly defined for every unit of the National Wildlife Refuge System. With the exception of refuges in Alaska, few refuge units have clearly articulated purposes, or refuge purposes are too narrowly defined." (p 214; emphasis added)

- "Refuge management goals and objectives designed to carry out refuge purpose(s) are not consistently and adequately expressed for all units of the National Wildlife Refuge System. In addition to refuge purposes, each refuge should have approved goals and objectives. These specific goals and objectives should be established through a planning process. Such planning will help ensure better control of potential incompatible and/or harmful uses." (p 214; emphasis added)
- "Adequate biological data is frequently lacking for making an accurate assessment of the specific and cumulative impacts of refuge uses for determining their compatibility with refuge purpose(s)." (p 215; emphasis added)
- "FWS should seek legislation that would better define the purpose(s) of the units of the Refuge System." (p 214; emphasis added)
5. U.S. Department of the Interior. 1990. Office of Inspector General Audit Report: *Refuge Contaminants, U.S. Fish and Wildlife Service*. Report No. 90-74.
- "The Service has not developed a program to effectively identify, resolve, and monitor refuges for contaminants. Without such a program, the Service cannot assess the effects of contamination, establish refuge baseline conditions from which to measure future changes, or ensure that present situations do not become future issues of concern."
- "Although it is known that contaminants both on or near refuges have killed thousands of wildfowl, the Service presently lacks the programmatic capability to determine and address the extent of the problem."
6. *Review of the Management of the National Wildlife Refuge System*. 1989. Joint hearing before the Subcommittee on Environment, Energy, and Natural Resources of the Government Operations Committee, and the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee. House of Representatives, Sept. 12
7. General Accounting Office. 1989. *National Wildlife Refuges: Continuing Problems With Incompatible Uses Call For Bold Action*. GAO/RCED-89-196; (Sept).
- "National Wildlife Refuges are frequently not the pristine wildlife sanctuaries implied by their name. . . . Moreover, despite the requirement that only compatible secondary activities be permitted, refuge managers report that activities they consider harmful to wildlife resources (such as power boating and off-road vehicles) are occurring on nearly 60% of the wildlife refuges." (p 3)
8. *Ten Most Endangered National Wildlife Refuges*. 1988. The Wilderness Society, Wash., D.C., 25 pp., (October).
- "Because so many refuges are seriously threatened, selecting the ten that are in the deepest trouble was not easy. Compounding the difficulty was the very limited amount of research carried out by the U.S. Fish and Wildlife Service, the Interior Department Agency that oversees the refuges" (p 1)
- "To ease the threats facing the national wildlife refuges, we propose a five-point plan:
- "1) Congress should pass an organic act that would spell out the goals and philosophy of the national wildlife refuge system. . . ." (p 2)
9. *Survey: Compatibility Issues on the National Wildlife Refuge System*. 1988. The Wilderness Society, Wash., D.C. 14 pp., (May).
- "In April 1987, The Wilderness Society asked 75 refuge managers to complete a questionnaire focused on the 'compatibility standard' on refuges. Compatibility is understood by the majority of respondents to mean that a proposed activity or use is compatible if it 'does not adversely affect the refuge fish, wildlife, or habitats' (64%)." (Transmittal letter to managers)
10. General Accounting Office. 1987. *Wildlife Management: National Refuge Contamination is Difficult to Confirm and Clean Up*. GAO/RCED-87-128; (July)
- 11 & 12. U.S. Fish and Wildlife Service. 1985 & 1986. *Survey of Contaminant Issues of Concern on National Wildlife Refuges*. Div. Refuge Mgt., FWS, (Sept. & Apr. respectively).
- "The current list identifies 78 contaminant issues of concern on 85 refuges." (p 6)
- "[P]otential impacts are often magnified by large wildlife concentrations or unique species that rely on a particular refuge." (p 9)
13. General Accounting Office. 1984. *Economic Uses of the National Wildlife Refuge System Unlikely To Increase Significantly*. GAO/RCED-84-108; (June 15).
- "GAO found that the expansion levels estimated by the Department are unlikely to be fully realized for several reasons relating to demand for these activities,

other refuge priorities, and the personnel resources available to implement an expansion policy." (cover: Exec. Summ.)

"GAO found that FWS has very little data on the nature and extent of ongoing oil and gas operations on wildlife refuges. As a result, FWS cannot assess their impacts or judge the likely effects of increased development." (p iii)

14. Special Issue, *The Wildlife Refuges*. 1983. in Wilderness, The Wilderness Society, Wash., D.C., Vol 47(162):2-35.

"Though overshadowed in the public mind by more conventional parklands, the National Wildlife Refuge System is rich with an unparalleled abundance of life—and embraces more land than the National Park System." (p 1)

"Shorn of a clear identity and possessed of no strong constituency, the refuge system is administered in a confusion of politics, power, and purpose." (p 1)

"Many wildlife refuges are beset by a multitude of uses and outside pressures which threaten their fragile integrity." (p 1)

"Many of the problems now affecting the refuge system have reached the level of urgency; others have the potential for future degradation of the resource. And, of all the recommendations The Wilderness Society offers here, none is more important or inclusive than the call for passage of an 'organic' act designed specifically for the National Wildlife Refuge System, a single, comprehensive piece of legislation that, for the first time, would provide overall guidance for the present and future management and use of refuge lands." (p 32)

15. U.S. Fish and Wildlife Service. 1983. *Fish and Wildlife Service Resource Problems: National Wildlife Refuges, National Fish Hatcheries, Research Centers*. FWS, USDI, (July).

16. Doherty, Jim. 1983. *Refuges on the Rocks*. in Audubon, National Audubon Society, Vol 85(4):74-116.

"The original reason for the refuges—to protect wildlife—seems secondary today. And now, as Doherty reports, 'the system is in the hands of a development-oriented administration that seems determined to wring out every last dollar it can.'" (p 4)

"The conspicuous uneasiness with which the refuge people in the field comport themselves these days—call it circumspection, call it fear—is disconcerting to say the least. People are afraid to say what they think—afraid, even, to simply think it. When honest dissent is so dramatically repressed, how can it be said that our government is working at all?" (p 6)

17. U.S. Fish and Wildlife Service. 1982. *Field Station Threats and Conflicts: National Wildlife Refuges, National Fish Hatcheries, Research Centers*. FWS, Unpublished, (August).

"[R]efuges averaged about twice as many threats per station as did fish hatcheries and research laboratories due primarily to their wider-ranging activities in wildlife resource protection and management. These threats will continue to degrade certain fish and wildlife resources until such time as mitigation measures are implemented. In some cases, this degradation or loss of resource is irreversible. It represents a sacrifice by a public that, for the most part, is unaware that such a price is being paid." (p 42)

18. General Accounting Office. 1981. *National Direction Required for Effective Management of America's Fish and Wildlife*. CED-81-107 (August 24).

"Effective management of the National Wildlife Refuge System has been limited because the [Fish and Wildlife] Service has not provided needed guidance." (p ii)

"However, local pressures to use refuge lands for such benefits as grazing, timber harvesting, and public recreation prevent refuge managers from effectively managing refuges primarily for wildlife." (p 28)

"Further, 54 percent of the refuges are not being adequately operated and maintained, and the Service has . . . [a backlog] . . . in new development and rehabilitation projects." (p 33)

19. National Wildlife Refuge Study Task Force. 1979. *Final Recommendations On The Management of the National Wildlife Refuge System*. U.S. Fish and Wildlife Service, Department of the Interior, GPO, DC, April.

"Grazing, timber harvesting and agricultural practices on refuges may be abusive and should be used only when necessary for proper management of wildlife resources, keeping in mind the desirability of maintaining natural ecosystems." (p 9)

"Refuges are for wildlife and utilization by people should at no time be detrimental to wildlife resources." (p 11)

"Increased [manpower and money] must be made available to the refuge system so that public use can be planned for and accommodated to the fullest extent consistent with the [purposes] of each refuge and the Refuge Recreation Act of 1962. . . ." (p 12)

"Pressures to develop or degrade refuges for economic gain are growing exponentially. As costs rise or availability of natural resources declines, developers cast increasingly longing eyes on resources in refuges. Energy is probably the most notable case in point . . . a clamor has grown to hasten development of energy. . . . In some cases this has been translated as a mandate for development regardless of ensuing environmental consequences. This philosophy and approach should not be applied to the refuge system." (p 59)

20. A Report on the National Wildlife Refuge System. 1977. Defenders of Wildlife, Wash., D.C., 83 pp.

Report of a nationwide survey to document the deteriorating conditions on refuges; ". . . the responses describe a system of decaying buildings, crumbling dikes, antiquated equipment, and discouraged civil servants." (p 1)

21. National Wildlife Refuge System Advisory Board on Wildlife Management Report on *The National Wildlife Refuge System* 1968. Appointed by Secretary Stewart L. Udall; A. Starker Leopold, Chairman.

"[W]hat is still lacking is a clear statement of policy or philosophy as to what the National Wildlife Refuge System should be and what are the logical tenets of its future development." (p 3)

"We concur with the policy statement of the Fish and Wildlife Service that recreation on the refuges should in all cases be secondary to the primary purpose of management for wildlife enhancement, and under no circumstances should general recreation be permitted to interfere with this primary dedication." (p 20)

"Unfortunately, the proximity of urban masses leads inevitably to pressure for larger picnic grounds, camping facilities, improved swimming beaches, motorboat marinas, water skiing, bridle paths, target ranges, and other assorted forms of play which are only obliquely related to refuge purposes." (p 21)

"However carefully refuge sites may be selected, the lands are forever subject to invasion by government agencies with higher rights of eminent domain, such as military services, Atomic Energy Commission, Corps of Engineers, Bureau of Reclamation, and Bureau of Public Roads. After a refuge is acquired and developed, it often has to be defended." (p 25)

ATTACHMENT II

Following is a brief description of the need, as seen by the National Wildlife Refuge Association, for each major provision of S. 823:

I. REFUGE PURPOSES

Even though the Leopold Committee reported this fundamental deficiency over 25 years ago, the National Wildlife Refuge System still has no statutory mandate to guide its administration. In essence, the System operates on the basis of what it believes is in the best public interest or, more often, on the basis of what the appointees of each administration believe represents their mandate. Management continuity and long-term fish and wildlife needs are often subordinated to demands for "responsiveness". Lack of a congressional mandate (i.e. system purposes) is akin to lack of an identity. We believe it is essential that the World's most comprehensive habitat management system for wildlife conservation be given a clear statutory mandate.

II. REFUGE COMPATIBILITY

Established as the basic standard for allowing uses of refuge lands and resources by the 1966 NWRS Administration Act, compatibility, as shown by the 1989-90 GAO and FWS studies, remains an elusive concept on most refuges. Chairman Graham's Bill requires FWS to develop, by a rulemaking, a consistent and documented procedure for making determinations of compatibility. Because many refuges or important parts of refuges lack explicit establishing purposes trying to determine compatibility is moot. S. 823 solves the problem by linking compatibility determinations to *Refuge System* purposes in addition to the existing refuge purposes. Thus, no

parcel of a refuge will suffer the lack of a basic purpose against which to gauge compatibility of proposed uses, while units with purposes will continue to be managed to achieve those expressed goals. These new elements will supply field station managers with tools they lacked in the past to insure that uses of refuges remain fully compatible with the fish, wildlife and habitats for which refuges exist.

S. 823 also provides that if the manager does not have adequate information upon which to determine compatibility, the use shall not be allowed. Too often in the recent past the managers have felt pressured to permit uses unless/until they had concrete evidence that the proposed use or activity would "materially interfere" with refuge purposes. Given the level of staff and funding for the NWRS that pressure, more often than not, meant that the use would be permitted. S. 823 returns the standard to one of not permitting a use unless/until it is known to be compatible, which is what Congress intended in the first place.

III. REFUGE PLANNING:

Another fundamental deficiency of the Refuge System, according to the Leopold Committee in 1968 (and others since then), is the opportunistic manner of its growth and development. And, as with the absence of overall NWRS policy, this deficiency has yet to be addressed. Individual refuge unit long-range planning and Refuge System planning are especially important for developing integrated management approaches for migratory species and populations that use several or many individual refuge units along the north-south "chain of refuges" established for and required by these species during their annual cycles. Further, with so much habitat fragmentation occurring in the nesting areas and other major habitats of temperate North America, planning is essential to maintain the protected portions of the ecosystems on which this Continent's natural diversity depends. Long-range planning in refuges will allow the managers to get ahead of the compatibility issue by looking and thinking ahead. In short, planning in the Refuge System will help on many fronts, but fundamentally it remains untenable to manage the NWRS as a System until it is planned to be managed as a System.

IV. STOPPING IMPAIRMENT OF REFUGE RESOURCES

A major feature of Chairman Graham's bill is the provision regarding other agency activities in refuges. The record shows these agencies, ones having general authority from the Congress, such as the Corps of Engineers, Bureau of Reclamation and military departments, often pay little heed to refuge fish and wildlife needs when planning their activities. S. 823 stops that practice and brings such agencies to a negotiating table with the Refuge Managers if their intended actions would impair refuge resources.

Experience has shown that these agencies nearly always could have accomplished their objectives with far less detrimental effect upon the refuge fish, wildlife and habitats. It would be seldom, if ever, a matter of stopping activities by these agencies, but rather, having the activities redesigned in ways that consider refuge wildlife purposes and needs. After all, these activities will occur inside National Wildlife Refuges.

V. MANDATE FOR INTERIOR TO PROTECT THE SYSTEM

In addition to giving the Refuge System a set of purposes and requiring that FWS design and implement a biologically sound compatibility determination process, S. 823 establishes a solid mandate for the Secretary of the Interior to protect the NWRS, ensure that its purposes are carried out. The absence of such an affirmative responsibility in the past has contributed to actions not fully in support of refuges.

NATIONAL WILDLIFE REFUGE ASSOCIATION

June 29, 1993

The Honorable Bob Graham, Chairman,
 Subcommittee on Clean Water, Fisheries and Wildlife
 Senate Committee on Environment and Public Works
 Room SD-458
 Dirksen Senate Office Building
 Washington, DC 20510

Dear Mr. Chairman:

During the recent hearing on S. 832, you asked a series of questions for the members of the panel to consider and to provide responses in writing. I am pleased to supplement my testimony on behalf of the National Wildlife Refuge Association (NWRA):

1. What can be done to enhance the role of other units of Government, particularly State governments, in the planning process?

Response: The bill currently contains three provisions to encourage FWS to cooperate closely with the States and other federal agencies in the planning efforts under S. 823. The NWRA believes that such coordination of effort and cooperation is vital because of the enormous expertise that exists in State Fish and Wildlife agencies and because the States play a central role in the management of fish and wildlife. Thus, the concepts entailed in Section 6(e)(1)(D), 6(f)(2)(a), and 6(f)(4) and (5) are supported by our organization and should help build the necessary partnerships at the ground level where the habitat protection and management programs exist. We would suggest that the Committee Report which accompanies this bill include strong encouragement to the FWS to undertake the coordination and cooperation with the States early in each planning process and to seek help and input from all levels of government with expertise and responsibilities inside and adjacent to the planning units. Only a proactive effort on the part of FWS will ensure that this essential input and cooperative linkage will occur.

2. (a) What significance should Environmental Education have in the Refuge System, and (b) To what degree should the potential educational value of a possible refuge acquisition site be given weight in the selection decision.

Response: (a) Environmental Education should be given high priority in uses of refuge areas. The proximity to teachers and students is an important consideration, as is the presence of necessary environmental features, facilities, materials and staff expertise on the refuge. Finally, the activities must be determined to be compatible with the major fish and wildlife purposes of the refuge. Because of the need to give wildlife the highest priority on all units of the Refuge System, it may be best to retain the "secondary" and "incidental" nature of even this desirable use of refuges simply to ensure that no activity can override protection of fish and wildlife and their habitats on lands of the NWRS.

We believe that many refuges should be developed to accommodate "teacher training in conservation" and "outdoor classrooms in nature" for students. Refuges that lack the environmental features, facilities, materials, expertise or proximity should avoid trying to develop make-shift EE programs. It may be undesirable to make Environmental Education a stated purpose of the NWRS unless, in addition to compatibility, other logical limitations are recognized.

Response: (b) The fundamental qualifications for any National Wildlife Refuge include the presence of representational habitats and wildlife communities (ecotypes or ecosystems); scarce or endangered habitats and wildlife communities (e.g. endemic species habitat); special wildlife concentration areas (such as nesting, resting, feeding and/or wintering areas); endangered species habitat; and habitats or species for which the United States has made a special commitment under international Treaty or agreement. Within that context, if a site being considered for refuge acquisition has special value as a potential Environmental Education Area due to proximity of teachers and students and a desirable mix of environmental features such as accessible wildlife and habitats on the refuge and such EE usage would likely be compatible with the protection and management purposes of the refuge, then that value should add to the priority for acquisition as a National Wildlife Refuge.

3. Have some refuges in the system become so degraded that they are not susceptible to being returned to a legitimate refuge status? If so what should be done with them?

Response: Since the earliest days of the Refuge System, some units have become incapable of continued management as refuges (such as the total dewatering of Lake Winnemucca, NV, and its subsequent deauthorization as a refuge). At least 76 refuge units have been lost to the NWRS through transfer to another agency, deauthorization, reversion to the primary needs of a previous withdrawal by another agency, and other reasons. The NWRA knows of no designated refuge that meets the criteria suggested by Chairman Graham.

The NWRA feels very strongly that units of the NWRS should not be deauthorized except by Act of Congress (that is current law). One of the reasons we strongly support the inclusion of Refuge System purposes, a logical set of compatibility requirements and planning mandates in S. 823 is to avert future deterioration of any refuge area to the point that is suggested by this question. Put simply, the FWS should not permit any refuge area to be so badly degraded that deauthorization becomes a desirable alternative. On easement refuges where the initial rights that were purchased prove to be insufficient to protect adequately the features necessary to achieve the purposes of the unit, supplemental negotiations should be undertaken to purchase additional portions of the fee and enable achievement of refuge purposes. As a rule, refuge acquisitions should include the fee ownership or as much of the fee as is reasonably necessary to assure that the purposes will be achieved.

Units owned in fee that have deteriorated should be evaluated for undertaking remedial actions to restore, over a period of time, the highest possible wildlife capability. Units that are not owned in fee and have reached the conditions set forth in Senator Graham's question should be evaluated for potential exchange or sale under current refuge law and the resulting decisions taken to the authorizing committees for their consideration and possible action. To the greatest extent possible, the initial investments for acquisition and development of such properties should be recovered and used to acquire additional suitable wildlife habitat.

4. Are there pre-existing uses that should be given review status different than that which is provided to secondary uses in S. 823?

Response: A different review status for a grandfathered use should be provided only to the extent that such use was granted specific legal considerations differing from allowable secondary uses on the refuge at the time of refuge establishment. Unless a legally binding stipulation was granted at the time of refuge establishment, the use of refuge lands should be subject to a uniform set of standards and conditions. We are not aware of any use that should be granted special status in this legislation.

5. Is there need to give added attention to water in this legislation?

Response: As indicated in my response to Senator Kempthorne, the 1966 NWRS Administration Act has a provision (current Section (i) of 16 U.S.C. 668dd), that protects all parties views on water laws. The provisions in S. 823 simply direct that the Secretary is to use existing authorities to assure refuge water quality and quantity necessary to achieve refuge purposes. Refuges are, of course provided the general protections of the Clean Water Act, and they can and do purchase water rights when that is necessary to their purposes. The NWRA believes the bill appropriately assigns responsibility and leaves it to the Secretary to determine the authorities that must be brought to bear in order to supply the water needs.

6. Do you have any suggestions for improving the bill with regard to the joint jurisdiction problems or recommendations as to the steps to be taken to ameliorate the conflicts as rapidly and effectively as possible?

Response: Based on the GAO report and the FWS compatibility task group report, joint jurisdiction frequently contributes to incompatible or harmful activities that detract from and may prevent accomplishment refuge purposes. Thus, it is appropriate and important that this legislation assist FWS to achieve a better level of cooperation with other agencies conducting activities inside National Wildlife Refuges. The provisions in section 5, paragraphs (7) and (8) of S. 823 are intended to assure that fish and wildlife receive highest priority inside our Nations' refuges. The NWRA believes the provisions in paragraph (8) go farther than necessary and would prefer to see the Presidential exemption allowed only in the case of verified, overriding "National Defense" requirements. The overwhelming majority of potential conflicts under this provision will be negotiated between the Refuge Manager and the field manager of the other agency. It must be kept in mind that the activities involved will be occurring inside a designated National Wildlife Refuge. To permit another agency to plan and conduct activities in a refuge that will "impair" refuge resources when alternative actions are practicable is unwarranted and undesirable except in special "national defense interest" situations. We urge the modify indica-

tion of paragraph (8) to eliminate all but national defense exceptions and then, only when demonstrated, verified and agreed to by the President.

We also recommend that specific Memoranda of Understanding be developed and signed for each area affected by the provisions of this S. 823 in order to insure there is no misunderstanding between agencies and regarding responsibilities. To ameliorate existing conflicts, the two agencies should develop, via negotiation, a resolution program and time-frame to address each problem that exists. We believe that once the provisions of this act become known by joint management agencies, the problems of the past will be avoided by redesign and simply paying heed to the needs of fish, wildlife and habitats on refuge areas.

7. To what degree has the Land and Water Conservation Act coalition and its annual report to the congress guided the Administration and congress in its judgments as to where to expand existing sites or add new ones to the National inventory?

Response: The annual publication by the LWCF Coalition and the other efforts taken by member organizations and others to educate congressional representatives about priority acquisition projects has had substantial effect over the 12 years the coalition has been in operation. During the Reagan-Watt era and subsequent years when the Administration's policy was not to purchase any additions to the Nation's conservation lands, the Coalition convinced the Congress to maintain a responsible level of on-going acquisitions (about \$300 million per year of the \$900 million that was reserved for this purpose annually under the law). Of the 111 projects funded by Congress in FY 93, 96 were on the Coalition's listing (a success rate of 86.5%). Over a several year period, there were only about 3%-5% of the projects funded by Congress that were not supported by the Coalition (some projects were announced after the Coalition lists were compiled each year, but were supported by the coalition and others once the particulars were researched). Given the volunteer nature of this effort, the success rates are remarkably high. This tends to suggest that the Congressional process placed high value on the information brought forward by the Coalition.

However, no overall plan exists nor are there plans for the agencies purchasing lands (National Park Service, U.S. Fish and Wildlife Service, U.S. Forest Service, Bureau of Land Management and the 50 States and several territories). Setting priorities is always difficult and in this complex situation it is especially problematic. Further, the Coalition has requested much larger acquisition levels than the Congressional Appropriations Committees have supported (generally, the coalition has asked for about \$250 million per year for the State grant program and about \$750 million per year for the four federal agencies involved). Nevertheless, the effort has demonstrated that good and timely information is essential to the Congressional process and will affect the outcome.

Thank you for this opportunity for the National Wildlife Refuge Association to present its views on S. 823.

William C. Reffalt
Board of Directors
National Wildlife Refuge Assn.

TESTIMONY OF JAMES R. WALTMAN, WILDLIFE SPECIALIST, ON BEHALF OF THE WILDERNESS SOCIETY, SIERRA CLUB, ENVIRONMENTAL DEFENSE FUND, AND DELTA WATERFOWL ASSOCIATION

Mr. Chairman and members of the Subcommittee, my name is Jim Waltman and I am the Wildlife Specialist for National Audubon Society. I appreciate this opportunity to testify before you on an issue of such high priority to our 600,000 members and of such importance to the future of our nation's fish and wildlife. This testimony is also offered on behalf of The Wilderness Society, Sierra Club, Environmental Defense Fund, and Delta Waterfowl Foundation, organizations with a long-standing interest and commitment to the well-being and sound management of the National Wildlife Refuge System. Several of these organizations would like an opportunity to submit organizational statements for the hearing record.

Our organizations appreciate your leadership, Mr. Chairman, and strongly support your legislation, the National Wildlife Refuge System Management and Policy Act of 1993 (S. 823). We support this bill because we believe that the National Wildlife Refuge System is an unparalleled national treasure that desperately needs and richly deserves comprehensive legislation to articulate its mission, protect its resources, and plan for its future.

Although we have been encouraged by early indications that the new leadership at the Department of the Interior will take steps to improve the stewardship of the Refuge System, we continue to believe that passage of refuge legislation is long overdue and cannot come a moment too soon. Without the direction and authority embodied in this legislation, we are concerned that the Refuge System will continue to run adrift. The National Park Service, U.S. Forest Service, and Bureau of Land Management all have comprehensive "organic" legislation that define their purposes and provide direction for their programs. S. 823 would provide, for the first time, such organic legislation for the National Wildlife Refuge System.

THE REFUGE SYSTEM IS AN UNPARALLELED NATIONAL TREASURE

We have been heartened by the interest of the Congress and the new administration in seeking to reform many of the outdated policies relating to the management of the federal public lands and in making certain that these lands serve important conservation purposes. In recognition of the outstanding natural resource values of the National Wildlife Refuge System, changes in the administration of these lands should be a central part of, this new public lands agenda.

The National Wildlife Refuge System covers 91 million acres and includes units in all 50 states and several U.S. territories. Extending from arctic Alaska to the tropical Florida Keys, the Refuge System is the most diverse network of protected lands anywhere in the world. The System contains not only critical wetlands but also spectacular forests, prairies, tundra, desert, and marine communities. Most importantly, the National Wildlife Refuge System is the only network of federal public lands that have been established specifically to conserve fish and wildlife populations and habitat, and, as such, has become one of the most important reservoirs of our nation's biological diversity.

For example, 175 threatened and endangered species spend at least part of their life cycles on national wildlife refuges and at least 350 species that are candidates for such listing occur on refuges. Refuges have served to protect critical breeding, stopover and wintering areas of waterfowl, shorebirds, songbirds and other migratory species. They have formed the core of recovery efforts for many endangered and threatened species—from the Key deer to the whooping crane to the devil's hole pupfish to dozens of threatened and endangered plants. Refuges also provide exceptional opportunities for environmental education and fish wildlife-oriented recreation, such as hunting, fishing, and wildlife observation, and have served as valuable laboratories for scientific inquiry and discovery.

Our organizations support this legislation because we believe that the Refuge System has the potential to accomplish significantly more on these fronts but it needs the direction, support, and mandate to do so. S. 823 will allow the Fish and Wildlife Service to get beyond its nagging problem with incompatible uses and improve refuge planning and inter-agency coordination.

THE REFUGE SYSTEM IS UNDERMINED BY INCOMPATIBLE USES

At present, the National Wildlife Refuge System is not living up to its mission. The Refuge System's great potential to conserve the nation's species and natural communities has been seriously undermined by economic, recreational and a wide array of other activities that harm fish and wildlife populations and habitat and divert scarce resources away from important management and protection programs.

The National Wildlife Refuge System Administration Act of 1966 permitted the Secretary of the Interior to allow secondary uses of national wildlife refuges only *after* determining that they are compatible with the purposes for which the refuges were established. Unfortunately, that legislation did not define the term "compatible" or describe a process by which the Service is to evaluate the compatibility of refuge uses.

The Fish and Wildlife Service has undermined its implementation of the compatibility requirement by adopting an unworkable definition of the term "compatibility" that misrepresents the Congressional intent behind the Refuge Administration Act: that wildlife comes first on national wildlife refuges. The Service defines compatible uses as those that do not "materially interfere with" the purposes for which a refuge was established. As a result of the faulty definition and the absence of a formal compatibility process, the decision of whether or not to allow a use has often been based as much or more on local special interest politics as it has on science.

The Service's problems with "compatibility" have been well documented. Reports by the General Accounting Office, the Department of Interior and Fish and Wildlife Service, and special task forces chartered by government agencies and conservation

organizations have been cited many times before in congressional hearings (see Appendix for selected findings from these reports).

Although the Fish and Wildlife Service has taken a number of steps to address problems with incompatible uses in the past several years, the closer that we have reviewed these efforts, the more clear it has become that the agency has lacked the direction, fortitude, and support to resolve most of these problems and to prevent them from reoccurring in the future. In many cases, we have found that refuge managers fully intended to resolve problems with incompatible uses, but their efforts have been overwhelmed by strong political pressure from the local chamber of commerce, a member of Congress, or a special interest group, and because they have lacked support from the leadership of the Fish and Wildlife Service and the Department of Interior.

Below is a brief description of three examples that demonstrate the Service's inability to face up to local political pressure and demands of other federal agencies and to abide by the requirements of existing refuge law.

Turnbull NWR (WA)

Turnbull National Wildlife Refuge is a magnificent 18,000 acre tract of marshes, lakes and Ponderosa pine forest in southeastern Washington. The refuge was established in 1937 "as a refuge and breeding ground for migratory birds and other wildlife."

In November, 1990, the U.S. Fish and Wildlife Service made a formal written determination that grazing was incompatible at the Turnbull National Wildlife Refuge because 1) it removed residual nesting cover for nesting waterfowl and other ground nesting birds; 2) it has caused the deterioration of water quality, 3) it is detrimental to two sensitive plant species; 4) it has fostered exotic species through seed dispersal; and 5) it has decreased vigor and abundance of native perennial grasses. One of the sensitive plants affected by grazing, water howellia (*Howellia aquatilis*), was classified as a Candidate Category I species nine months before the refuge determined that grazing was incompatible with the purposes of the refuge. In other words, the Service had determined that the species warranted listing as threatened or endangered, but that such listing was precluded by other listing activities.

But after the grazing program was determined to be incompatible, the permittees were told that they could continue to graze for each of the next five grazing seasons. When even this five year continuation of the illegal grazing program did not satisfy some of the permittees, Fish and Wildlife Service Regional Director Marvin Plenert was quoted in the local paper as saying "I'll never allow this refuge to remove cattle and say they'll manage only with fire" (*Cheney Capital Press*, April 10, 1992).

This past April, the Fish and Wildlife Service proposed to list water howellia as a threatened species. Over one third of the plants in one of two remaining populations of the species are known to occur on Turnbull National Wildlife Refuge. The Federal Register notice on the listing proposal cited grazing as one of the probable threats to the plant.

Although protection of water howellia was not listed as a purpose of establishing this refuge, such protection may be one of the most important contributions that Turnbull may now make to the conservation of biological diversity. If a threatened plant isn't safe on a national wildlife refuge, where is it safe?

Cabeza Prieta NWR (AZ)

The 860,000 acre Cabeza Prieta National Wildlife Refuge was established in 1939 in southern Arizona "for the conservation and development of natural wildlife resources . . ." Today the refuge provides important habitat for the endangered Sonoran pronghorn and the endangered Sanborn's long-nosed bat.

In the 1940s an Air Force range was overlain on the existing Cabeza Prieta Refuge. Since the early 1960s, the military has operated under a Memorandum of Understanding with the Fish and Wildlife Service that requires all military aircraft flying over the refuge to "maintain a minimum altitude of at least 1,500 feet above ground level, except along mutually approved low-level corridors."

In February, 1990, the refuge manager stated in a questionnaire used for a Service review of refuge uses that "Military air exercises currently occurring over the refuge at lower levels are, at this point, felt to be negatively impacting wildlife populations through disturbance and population displacement." In particular, the refuge has expressed concerns that the low-level exercises negatively impact desert bighorns, endangered Sonoran pronghorns, and endangered Sanborn's long-nosed bat.

But in recent years the Marine Corps has applied for and been granted "special use permits" to fly low-level flights over the refuge despite concerns that such flights harm wildlife. The Service has been issuing these special permits twice annu-

ally without ever evaluating whether the activity is compatible with the purposes for which the refuge was established.

Although the conservation and protection of the endangered Sonoran pronghorn antelope and Sanborn's long-nosed bat were not made explicit in the establishing purposes for the refuge, these are now among the most important contributions that this refuge is making to the conservation of biological diversity. How can the Service justify issuing a permit for an activity on a national wildlife refuge that it fears may be harming endangered species?

Crystal River NWR (FL)

The Crystal River National Wildlife Refuge is a tiny 46 acre refuge consisting mostly of islands and their surrounding submerged lands. The Crystal River refuge was established in 1983 to conserve the endangered West Indian manatee, an endangered marine mammal estimated to number no more than 1,900 individuals. Crystal River is one of 54 refuges that have been established specifically to conserve a threatened or endangered species.

The most recent refuge tract acquired by the Fish and Wildlife Service includes King Spring, the main source of warm water in Kings Bay. Roughly 20% of all of the manatees in the United States and 33% of the Gulf coast population are drawn to the Bay, and in particular the Crystal River refuge, by the warm water provided by King Spring. Unfortunately for the manatees, the spring is also a great attraction for snorkelers and scuba divers. Research by the Crystal River Refuge has found that human activity in the spring has a dramatic adverse effect on the manatees' behavior.

In May, 1989, the Refuge Manager made a formal written determination that "public waterborne activities, such as: diving, snorkeling, camping, and boating over and adjacent to the refuge owned bottomlands during days and nights, are causing manatees to alter their normal feeding, resting, and breeding behavioral characteristics. The refuge was established for the purpose of protecting the manatee. This is NOT being accomplished at the present time."

No restrictions have been put in place on recreation at the Crystal River refuge since the determination of incompatibility over four years ago. In fact, the Service has proposed, instead, to create manatee varies the refuge boundaries to mitigate the harm caused to manatees within the Crystal River refuge.

Unfortunately, the Fish and Wildlife Service did not respond to conservationists' urging to resolve these harmful activities and last October National Audubon Society, The Wilderness Society and Defenders of Wildlife were compelled to sue the U.S. Department of Interior and U.S. Fish and Wildlife Service for authorizing activities at the three refuges mentioned above as well as hail a dozen other specific refuges across the Refuge System. The lawsuit also contained a tenth count alleging similar problems on other refuges across the system.

Although we are hopeful that a settlement of the lawsuit can be reached that will allow the Fish and Wildlife Service to get beyond its problems with compatibility, comprehensive reform of the underlying law is essential if the Refuge System is to meet its potential to conserve fish and wildlife.

LEGISLATION TO RESTORE INTEGRITY TO THE REFUGE SYSTEM

Unlike the lands administered by the National Park Service, U.S. Forest Service, and Bureau of Land Management, the National Wildlife Refuge System is the only major federal lands system that lacks an "organic" statute—a law providing clear policy direction, planning requirements, and affirmative responsibilities for senior governmental officials. Chairman Graham's bill offers real hope to attack these weaknesses and restore integrity to our magnificent but troubled National Wildlife Refuge System. S. 823 would:

- clarify the purposes for the National Wildlife Refuge System
- establish a formal process to ensure compatibility of refuge uses
- require preparation of comprehensive plans for the administration of the Refuge System
- improve individual refuge planning
- require other agencies to ensure that their actions do not harm refuge resources unless specifically authorized by law
- provide the Secretary of Interior with affirmative duties to protect the Refuge System

S. 823 Establishes Purposes for the National Wildlife Refuge System

The National Wildlife Refuge System is the only public lands system that lacks a clear legislative statement of policy and direction. The National Park Service, U.S. Forest Service, and Bureau of Land Management all have comprehensive "organic" legislation that define their purposes. S. 823 would provide, for the first time, a clear statement of purpose for the Refuge System.

One of the purposes for the Refuge System proposed in this legislation is the conservation of natural diversity. Some people have expressed concerns that such a mandate would cause a philosophical shift from active management of national wildlife refuges to "hands off" management. None of our organizations believes that the Refuge System should abandon active management. In fact, conserving natural diversity often entails intensive management. Many of the National Wildlife Refuges that operate under a "biodiversity" philosophy today use prescribed burning, water level manipulation, exotic species removal, and even timber cutting as tools to manage for historic natural conditions that have been altered by human activity.

One of the features of the Alaska National Interests Lands Conservation Act of 1980 was the establishment of purposes for each of the 16 national wildlife refuges in Alaska. While the purposes of the individual refuges vary somewhat in content, each Alaska refuge has as one of its purposes the "conserv[ation of] fish and wildlife populations and habitat in their natural diversity." This "natural diversity" purpose has not prevented the Fish and Wildlife Service from using active management on Alaska refuges.

This bill would not preclude the use of such management tools on refuges in the lower 48 states. By directing the Refuge System to manage for natural diversity, S. 823 would ensure that the Service will inventory, protect, and manage for all of the elements of refuge ecosystems, not just a relative few game species or endangered plants and animals. Unfortunately, a review of the Refuge System conducted in preparation for the Fish and Wildlife Service's "Refuges 2003" document, indicates that much needs to be done on this front. For example, according to the Refuges 2003 database, only 20 percent of the nation's refuges have inventoried their fish species, 18 percent of the refuges have inventoried their amphibians and less than five percent of the refuges have conducted inventories of their invertebrate species. Only 17 percent of the nation's refuges reported that they were incorporated into state natural heritage programs.

Chairman Graham's bill would ensure that the new Refuge System purposes would not replace specific purposes for which many national wildlife refuges have been established. S. 823 would *supplement* these traditional purposes with a new directive to conserve other elements of biodiversity. The bill dictates that:

"If the Secretary finds that a conflict exists between any purpose set forth in the law or order that established a refuge and any purpose set forth in this act, the Secretary shall resolve the conflict in a manner that fulfills the purpose set forth in the law or order that established the refuge, and, to the extent possible, achieves all of the purposes set forth in this act" (S. 823, Section 4(a)(3)(3)).

S. 823 Provides a Formal Process to Evaluate Compatibility

S. 823 provides a clear standard by which to judge compatibility of refuge activities. If a proposed use does not contribute to or is detrimental to achievement of refuge purposes, it is incompatible and should not be allowed. S. 823 would also require the Fish and Wildlife Service to establish a formal process to determine the compatibility of refuge uses that includes opportunities for public review and comment on compatibility determinations, ensures that the decision is made in writing, and requires that an activity will only be allowed when there is scientific evidence available that the use will not detract from the purposes of the individual refuge or the purposes of the Refuge System. Furthermore, the bill requires that activities are only allowed when the management of that use will not divert funds or personnel away from important refuge management and protection.

As the problem at Cabeza Prieta National Wildlife Refuge indicates, threats to refuges are certainly not limited to public conflicts, but also result from activities of federal agencies. S. 823 requires that all federal agencies that conduct activities within a refuge ensure that their actions do not impair the resources of that refuge, unless such actions are directly and explicitly authorized by law.

S. 823 Ensures Sound Planning for the Future of the National Wildlife Refuge System

S. 823 would ensure more consistent, integrated management and planned expansion of the National Wildlife Refuge System by requiring the Secretary of Interior to prepare periodic comprehensive plans for its administration. Not unlike the Service's "Refuges 2003", the plans would include strategies to preserve regionally and nationally rare habitats, maintain viable populations of fish and wildlife, and provide opportunities for environmental education and wildlife-oriented recreation. The Secretary would also be required to develop strategies and programs to conserve and assist the recovery of listed endangered and threatened species and species identified by the Service as candidates for such listing.

Sound planning is an important process for any successful entity, whether it be a large corporation, a small town, or a national wildlife refuge. S. 823 would require a periodically revised comprehensive conservation plan for each refuge or ecologically related complex of refuges to ensure management in a manner that is consistent with the purposes of the System and the purposes of the refuges. These plans would include an assessment of wildlife populations; research needs and opportunities; potential for environmental education and wildlife-oriented recreation; significant threats facing the refuge; strategies to address refuge threats; and an assessment of the hinds and personnel necessary to manage activities and implement strategies on the refuge.

The Chincoteague National Wildlife Refuge recently completed a Master Plan to guide its management over the next ten to twenty years. The Master Plan is a well thought out document which, if properly implemented, will ensure consistent management and public use decisions in the future. The health and sense of purpose of the National Wildlife Refuge System would be much improved if the other units followed a similar process.

The National Park System, National Forest System, and even the lands administered by the Bureau of Land Management receive comprehensive planning in accordance with their "organic acts" and we believe that to properly manage our national wildlife refuges, they should also receive thorough planning. Although preparing plans for all of the refuges within the Refuge System is a daunting task, we believe that the burden will be reduced substantially by allowing for planning of ecologically related complexes of refuges. Also, many refuges have recently completed plans that would most likely meet the planning requirements described in this legislation.

S. 823 Will Provide Affirmative Responsibilities for the Secretary of Interior

Finally, but perhaps most importantly, S. 823 requires the Secretary of the Interior to protect the National Wildlife Refuge System and its components from threats, ensure that the purposes of the individual refuges and of the Refuge System are carried out, and ensure that its needs—including water quantity and quality needs—are met.

The Refuge System has been a step-child within the federal government for far too long because it lacks the kind of commitments in legislation that S. 823 would require of the Secretary of the Interior. Organic legislation for the National Parks, National Forests and even the lands administered by the Bureau of Land Management exact such commitments from their respective senior governmental officials.

CONCLUSION

The Refuge System has a great history and a rich tradition—from the early vision of the great conservationist president Theodore Roosevelt, to the System's leadership role in the campaign to save wetlands and waterfowl that followed the dust bowl, to present day successes with endangered species management. We believe that this legislation will allow the National Wildlife Refuge System to meet the many challenges before it and the nation in the coming century.

The National Wildlife Refuge System is a unique national treasure that deserves to be governed by the comprehensive legislation now before the Subcommittee. We look forward to working with the Subcommittee as the bill moves through the legislative process.

APPENDIX

Selected Findings from Reports on the National Wildlife Refuge System

- In its 1968 evaluation, *Report on the National Wildlife Refuge System*, the National Wildlife Refuge System Advisory Board on Wildlife Management, appointed by Interior Department Secretary Stewart L. Udall, found that "The proximity of urban masses leads inevitably to pressure for larger picnic grounds, camping facilities, improved swimming beaches, motorboat marinas, water skiing, bridle paths, target ranges, and other assorted forms of play which are only obliquely related to refuge purposes."
- In its 1979 report *Recommendations on the Management of the National Wildlife Refuge System*, the National Wildlife Refuge Study Task Force, appointed by Assistant Secretary of Interior Robert Herbst, determined that "Grazing, timber harvesting and agricultural practices on refuge may be abusive and should be used only when necessary for proper management of wildlife resources, keeping in mind the desirability of maintaining natural ecosystems. Pressures to develop or degrade refuges for economic gain are growing exponentially."
- In its 1981 report, *National Direction Required for Effective Management of America's Fish and Wildlife*, the General Accounting Office found that "Local pressures to use refuge lands for such benefits as grazing, timber harvesting, and public recreation prevent refuge managers from effectively managing refuges primarily for wildlife. The Service . . . is properly operating and maintaining only about 46 percent of the refuges."
- In its 1983 report, *Fish and Wildlife Service Resource Problems, National Wildlife Refuges, National Fish Hatcheries, Research Centers*, the U.S. Fish and Wildlife Service determined that "Threats associated with pollutants, land uses, public uses, exotic species, individual development projects, etc. . . . are currently causing or have the potential to cause significant damage to Service-managed natural resources. An average of 18.6 resource problems were reported per refuge."
- In its 1989 report, *National Wildlife Refuges: Continuing Problems with Incompatible Uses Call for Bold Action*, the General Accounting Office found that "Despite the requirements that only compatible secondary activities be permitted, refuge managers report that activities they consider harmful to wildlife resources (such as power boating, oil and gas drilling, mining, jet-skiing, over-grazing, and off-road vehicles) are occurring on nearly 60 percent of the wildlife refuges".
- In its 1990 report, *Secondary Uses Occurring on National Wildlife Refuges*, the U.S. Fish and Wildlife Service found that "Incompatible and harmful uses are occurring on many national wildlife refuges. Refuge managers reported 836 use occurrences as being harmful to refuge operations. The survey results indicated that 63% of refuge units reported [at least one] harmful use."

TESTIMONY OF R. MAX PETERSON, EXECUTIVE VICE PRESIDENT,
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Thank you, Mr. Chairman, for the opportunity to appear before you today to discuss the National Wildlife Refuge System, and S. 823, the National Wildlife Refuge System Management and Policy Act of 1993.

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

The Association believes that the National Wildlife Refuge System, encompassing over 470 refuges across the Nation, is, in general, a success story that we can all be proud of. The Association's member states fully support consistent, professional, coordinated management of the National Wildlife Refuges. Despite some valid criticism of some activities permitted on individual refuges, the National Wildlife Refuge System has been professionally managed in the past and should continue to be so managed in the future. The Association agrees with the 1968 Leopold report on the National Wildlife Refuge System which declared that "the national refuges should stand as monuments to the science and practice of wildlife management."

Mr. Chairman, on June 19, 1992 Mr. Duane Shroufe, Director of the Arizona Game and Fish Department, and I appeared before this Committee to discuss S. 1862 which is basically the same as S. 823, the Bill being considered today. Because of that fact, the statement I have today is substantially the same as last years.

I did appreciate the opportunity to meet with Mr. Bill Leary of your staff for a constructive discussion of our concerns with the Bill as well as to express support for some portions of the Bill such as those relating to planning for individual refuge or groups of refuges. Mr. Chairman, I would hope that process would continue and offer again to you and members of the Committee and your staff that we are ready and willing to work with you in a good faith effort to develop legislation that will provide helpful direction for management of the National Wildlife Refuge System without burdening the Fish and Wildlife Service including refuge managers with costly unnecessary planning requirements. With the Administration, Congress and the American people looking for ways to save money and with continuing major un-finished natural resource work we simply want to see as much funding as possible directed at on the ground professional management rather than voluminous and questionable paperwork.

Let me quickly point out a couple of things in the Bill that we support as well as items of continuing concern. Section 6 of the Act requires a plan every fifteen years for each refuge or ecologically related complex of refuges. That is a realistic requirement and one that we support. Refuge plans are now being done but progress has been slow. We would expect that such planning would be carried out in cooperation with the state because, as you know, fish and wildlife do not readily respect boundaries and it is important that refuges be looked at as a part of an ecosystem rather than as isolated units.

We have major problems with the portion of Section 6 which calls for initial preparation and revision every ten years of a comprehensive plan for the entire system. In reading the required contents of that plan it appears to us that it would be a costly, time consuming undertaking that would end up with a plan that would be literally six feet high with very little utility for anyone. Particularly, with the Refuge 2003 effort now underway it would seem like a good idea to await the outcome of that effort before giving additional direction about long-term strategic planning for the National Wildlife Refuge System.

Our member States work closely with the U.S. Fish and Wildlife Service to advance the conservation of fish, wildlife and habitat resources on the National Wildlife Refuge System. State authority regarding fish and resident wildlife remains the comprehensive backdrop applicable in the absence of specific, overriding Federal law. Indeed, U.S. Department of Interior fish and wildlife policy regarding State-Federal Relationships, as codified in 43 CFR 24, not only clearly recognizes the principal reason for the establishment of units of the National Wildlife Refuge System as ". . . the conservation, enhancement, and perpetuation of fish and wildlife . . .", and the opportunities afforded therein for ". . . hunting, fishing and wildlife-associated recreation", but reinforces the existing relationship between the States and the Federal Government. The policy continues, in part, "Units of the National Wildlife Refuge System, therefore, shall be managed, to the extent practicable and compatible with the purposes for which they were established, in accordance with State laws and regulations, comprehensive plans for fish and wildlife developed by the States, and Regional Resource Plans developed by the Fish and Wildlife Service in cooperation with the States." The policy goes on to further direct the U.S. Department of Interior, with respect to federal lands, to cooperate with the State fish and wildlife agencies in preparation of fish and wildlife management plans, fish and wildlife habitat management practices, and provide for hunting, fishing and trapping in a manner compatible with the primary objectives for which the lands are administered, and within the framework of applicable State and Federal laws.

Over the past 20 years, the population in the U.S. has grown dramatically and this growth has placed ever-increasing demands on, and interest in, a variety of refuge resources. As the population has changed from rural to urban, public attitudes about the activities on National Wildlife Refuges have also changed. This is part of the reason that the Service now faces many challenges to their traditional management of the refuge system.

The diversity of purposes and management authorities, which determine activities on many refuges exemplifies the need for this management flexibility. Many refuges are not typical "waterfowl refuges", but are managed for particular species. For example, the National Bison Range in Montana is specifically focused on managing buffalo while the first National Wildlife Refuge, Pelican Island, located in Florida was established in 1903 as an island bird sanctuary. Others were established for threatened and endangered species such as the masked bobwhite on the Buena

Aires National Wildlife Refuge in Arizona. Some refuges, such as the Cabeza Prieta in Arizona and the San Andres in New Mexico, lack the authority to control all refuge uses within their boundaries because they are under military control. Still other refuges depend on limited sources of water, but do not control the rights to these water sources or may be a secondary use to a major water resource development established by an Act of Congress.

From the point of view of state fish and wildlife agencies, this diversity of refuge purposes and authorities can, and is in many cases a source of management and coordination problems, but it can also be a source of management opportunities. For example, the military has been able to provide the manpower and equipment necessary for successful wildlife management activities on some refuges. In addition, many of the larger refuges include habitats which provide a wide variety of wildlife recreational, educational, scientific and management opportunities that do not relate, either spatially or temporally, to the primary purpose of the refuge, but which also do not conflict, interfere, or detract from the primary purpose of fish and wildlife conservation and enhancement. The challenge is to take advantage of these opportunities without creating additional user conflicts or adverse impacts to the fish, wildlife and habitats supported by the ecosystems which a unit of the National Wildlife Refuge System may be a part of. Close coordination and cooperation between the state and all parties with management authority on the refuge is critical to the successful implementation of these management opportunities. In our opinion, both the natural resources and the citizens of the United States will benefit from the appropriate balance of needs, challenges and opportunities.

Let me now offer some other comments on S. 823. We have concluded, after review of many reports on wildlife refuges conducted in the last decade, that existing legislation generally provides adequate authority and direction for quality management of wildlife refuges and that to enact new legislation which adds new planning and other process requirements would be counterproductive. We see such legislation as using significant staff time and money that would be better spent on quality refuge administration and management.

We recognize that there are some uses of National Wildlife Refuges that are incompatible or harmful. We also suggest that the U.S. Fish and Wildlife Service is making progress in resolving incompatible uses that are currently under their jurisdictional authority. While we would like to see the resolution of some of these problems accelerated, we are not convinced that the legislation being considered would facilitate the process. Further, it is our understanding that the great majority of secondary uses of Refuges which the U.S. Fish and Wildlife Service has deemed harmful are those over which the Secretary of Interior has limited jurisdictional authority (military uses, Federal water projects, etc.). It is our conclusion that S. 823 would not provide a legislative remedy for most of those situations. On the other hand, we also recognize that the U.S. Fish and Wildlife Service continues to make progress in working with other Federal agencies that have jurisdictional authority over, at least in part, some units of the National Wildlife Refuge System. Also, for example, acquisition of water rights requires funds, not new laws. The Association suggests that while Congressional support for resolution of some of these co-jurisdictional issues could result in a favorable resolution, S. 823 does not direct that. The Association would be willing to participate in drafting legislation to remedy some of those jurisdictional issues, if asked.

Relative to the need for additional statutory encapsulation of purposes for the National Wildlife Refuge Service (an "Organic Act" as some have suggested), the Association is not convinced of the need for such legislation. A review of the legislative history of the legislation or Executive Order establishing individual units of the National Wildlife Refuge System; the Refuge Recreation Act of 1962; and the Refuge Administration Act of 1966, leads us to conclude that an organic act is not necessary to facilitate better management of the National Wildlife Refuge System by the U.S. Fish and Wildlife Service. After careful review, the Association concludes that these Acts, and the resulting rules, regulations (50 CFR 25.11-72—The National Wildlife Refuge System; and 43 CFR 24—Department of Interior Fish and Wildlife Policy: State-Federal Relationships); and internal guidance documents (U.S. Fish and Wildlife Service Refuge Manual, etc.) provide a panoply of adequate and appropriate direction to the U.S. Fish and Wildlife Service on uses and administration of the National Wildlife Refuge System.

Further, as you are aware, the U.S. Fish and Wildlife Service is currently engaged in an extensive, comprehensive review of the National Wildlife Refuge System (Refuges 2003), providing for both public involvement and National Environmental Policy Act compliance with a draft Environmental Impact Statement now available for full public review and comment. We would expect that substantial public com-

ment will be received. We believe any needed additional legislative direction for the National Wildlife Refuge System could be better determined after the results, conclusions and recommendations of the EIS are available. Therefore, we would recommend that any legislative remedy be sequenced for further consideration after the completion of the EIS process.

Under the purposes section of S. 823, there is, in our opinion, an implication that the National Wildlife Refuge System shall exclusively "... provide a national network of lands and waters with respect to which, the size, variety and location are designed to protect the wealth of fish, wildlife and plants of this Nation and their habitats for present and future generations." While it may not have been the drafter's intent, this appears to place on the National Wildlife Refuge System, an unachievable goal of meeting these purposes exclusive of the existence of other Federal, State and private properties which are being conserved for the perpetuation of fish and wildlife, habitats and natural communities. The Association suggests that the language be amended to recognize that the National Wildlife Refuge System can only achieve this, and other purposes, in cooperation with the State fish and wildlife agencies, other Federal land managing agencies, and private individuals and organizations. The conservation objectives of all of these agencies and organizations should, in most cases, be complementary, not exclusive.

As I stated earlier, another concern of ours is that we have had difficulty envisioning what a comprehensive management plan for the National Wildlife Refuge System would contain, how much it would cost, and how useful it would be. It is difficult to envision how a comprehensive plan could be prepared for the System as a whole that would be useful and understandable to anyone. Individual refuges' framework and master plans, prepared cooperatively with the States and other land management agencies, would seem much more useful and feasible. Should system wide planning be undertaken, the cooperative role of the states needs to be stressed and reinforced. As the Committee knows, the U.S. Fish and Wildlife Service has management authority for migratory birds and endangered species. The states have management authority for fish and resident wildlife. Similarly, the role of the states in managing land adjacent to National Wildlife Refuges should be considered in any planning process. The Association believes that the current planning process for refuges is sufficient to meet the management needs on those refuges. Deficiencies in such should be addressed through the use of existing U.S. Department of Interior regulations and policy directives.

Let me briefly address one area that we have been looking at, and that is the relationship between the purpose of the National Wildlife Refuge System and its individual units, the opportunity for public fish and wildlife *related* recreation such as hunting, fishing and trapping, nature observation, enjoyment and education when it is consistent with sound wildlife management principles, and the compatibility of other non-fish and wildlife recreational uses, and other uses (commodity extraction, grazing, water allocation, utility Rights of Way, etc.).

It seems clear to us that Congressional intent, as reflected in the relevant legislation, has been to establish the primary purpose of the National Wildlife Refuge System as advancing the objectives of fish and wildlife conservation, including providing for, at least in part, fish and wildlife related recreational use in the form of hunting, fishing, trapping, nature observation, enjoyment and education, etc., where such use is consistent with sound wildlife management principles. The 1962 Refuge Recreation Act provided for consideration of other recreational uses if they were compatible with and would not prevent the accomplishment of, the primary purposes for which the areas were acquired or established, this being, in many cases, fish and wildlife conservation and hunting, fishing and trapping. The 1966 Refuge Administration Act further gave to the Secretary of Interior the authority to "... permit the use of any area within the System for any purpose, including but not limited to, hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established", with the proviso that the Secretary consider the hunting of migratory game birds *vis-a-vis* the 40% inviolate sanctuary test. In a separate section, the Act authorizes the Secretary to permit other habitat altering uses, such as easements for utilities, roads, ditches, etc., whenever he determines that these uses are compatible with the purposes for which these areas were established.

It appears logical to us that any further legislative refinement (if one is necessary, and we are not convinced that it is) of standards and process for compatibility determinations should reflect this tiered paradigm. That is, the primary purpose of the National Wildlife Refuge System is for the conservation of fish and wildlife and habitats, including fish and wildlife related public recreational opportunities where

such use is consistent with sound wildlife management principles. Other recreational uses (boating, water skiing, etc.) should have to meet a more rigid compatibility standard and, in our opinion, those uses or activities that alter, degrade or destroy habitat should be held to an even stricter compatibility regime, perhaps even requiring that these activities are not only compatible with, but advance the purposes for which the unit of the National Wildlife Refuge System was established. I offer this as food for much additional thought and deliberation and not as a "silver bullet". In any event, the Association feels that this recognition of hunting, fishing and trapping would appropriately recognize the many contributions that sportsmen have made to the National Wildlife Refuge System.

One of the most important actions that could be taken to better manage and promote the National Wildlife Refuge System is to fully fund the Refuge Revenue Sharing Fund and adequately fund Refuge Operations and Maintenance needs. The Association considers Refuge Revenue Sharing payments as obligations rather than a discretionary budget item. Lack of full funding generates opposition to new National Wildlife Refuge System acquisitions and to other federal management programs. The President's proposed FY 1994 budget, which would fully fund the Refuge Revenue Sharing Fund, is only the third time in two decades that full funding has been requested. We would ask for your continued support in appropriations actions for this item.

Similarly, adequate Refuge operations and maintenance funding is vital to managing the National Wildlife Refuge System properly. An approximately \$400 million backlog currently exists in Refuge operations and maintenance. Refuge operations and maintenance funding clearly has not kept pace with inflation or new refuge acquisitions; therefore, the U.S. Fish and Wildlife Service cannot be expected to maintain refuges in optimum condition. Use of additional personnel and funding for comprehensive planning would simply make that situation worse.

The Environmental Protection Subcommittee has long been a supporter of full Refuge Revenue Sharing Fund payments and sufficient Refuge operations and maintenance funding but, collectively, we have been unsuccessful in meeting funding needs. Full funding of the Refuge Revenue Sharing Fund and additional Refuge operations and maintenance funding would be an important first step toward properly supporting the National Wildlife Refuge System.

In summary, the Association believes that new legislation is not needed for the National Wildlife Refuge System. Adding costly planning layers to an already burdened system will not make it run more efficiently. Legitimate problems need to be separated from perceptions of what are "proper" activities on refuges. Resource professionals need to be given both adequate authority and latitude to manage the National Wildlife Refuge System with guidelines as broad as possible. The cooperative role of state fish and wildlife agencies should be fully recognized. The key to the future of the National Wildlife Refuge System is protecting and managing habitat for fish and wildlife and allowing human use of the system to the extent it is compatible with the primary purposes of a refuge. We are willing to work with the Committee to determine what additional Congressional direction is appropriate. We suggest that Congressional direction should follow completion of the current Refuge 2003 EIS.

In closing, Mr. Chairman, let me emphasize our appreciation to you and other members of Congress for your continuing concern about adequate funding and quality professional management of National Wildlife Refuges. That is a concern we share and we look forward to constructive actions that can be taken to realize that shared goal.

I would be pleased to answer your questions.

STATEMENT OF ROLLIN D. SPAROWE, PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE

Mr. Chairman:

I am Rollin D. Sparowe, President of the Wildlife Management Institute. The Institute, formed in 1911, is dedicated to the restoration and improved management of wildlife and associated natural resources throughout North America. Our Institute has maintained a strong interest in effective management of the National Wildlife Refuge System since its inception. We are continuing this tradition of close cooperation with the U.S. Fish and Wildlife Service, conducting a project to examine considerations in the management of national wildlife refuges to further biological diversity objectives for North America.

Since last year's hearing on a similar bill before this Committee, our staff has examined several different kinds of refuges, discussed and observed active land man-

agement with refuge managers and administrators, and participated in discussions with other conservation organizations about the future of the National Wildlife Refuge System. Our experience during the past year strengthens our conviction that many good things are being done by the Fish and Wildlife Service on national wildlife refuges throughout our country, and that the system overall is being actively managed to further the purposes for which refuges were established. We are also convinced from this experience that gains are being made for wildlife in many more diverse ways than are generally known by the public, and probably the Congress.

We deal regularly with agency appropriations and are acutely aware of budget shortages, staffing deficiencies, and continuing problems in maintaining infrastructure that plague the management of public lands in America. Somehow the national parks and other units have gotten more publicity, while our refuge system is neither being developed nor operated in many cases even to meet the basic needs for which it was established.

The current bill, S. 823, is an improvement over legislation considered by the past Congress. The Wildlife Management Institute supports the concept that management of national wildlife refuges needs strengthening, and that some matters would benefit from legislative clarification. We appreciate this bill as an effort in that direction, and suggest that clarification and simplification of language in portions of the bill, and some direct discussion with various groups about some detailed wording is likely to lead to a bill that could be widely supportable.

Examples of our concerns are as follows:

1. Sec. 3. Definitions. Here, and in several other places in the text of S. 823, the word "native" appears as an identifier of plants or animals as if only native species were to receive consideration in refuge management. The Sacramento Refuge complex in California illustrates the problem with exclusive reliance on native species. The flora has been extensively modified by previous land uses, and non-native plant species are now a cornerstone of management that supports declining and listed vertebrates. While goals to restore native species are worthy, they cannot reasonably be exclusive for animals or plants.

2. Sec. 4. Purposes and Administration of the System. The use of the word "plants" on an equal basis with fish and wildlife appears to insert a new dimension in the basic purpose of refuges. Refuges have always targeted protection and management of habitats for fish and wildlife, including plants. Here, and elsewhere in the bill, the use of this term needs to be reviewed regarding its potential implications for management to achieve other objectives of refuges.

The words "naturally productive" and "naturally diverse" would seem to preclude active management. On the Blackwater Refuge in Maryland and on many other refuges production of food, water, and shelter is provided through water control, plantings, management of succession, and many other methods. Because surrounding lands have been modified, active land management must continue to ensure perpetuation of the diverse wildlife and fish that are desired.

Management to enhance endangered species is already a high priority by policy and statute on national wildlife refuges. The new language proposed to cover any listed, or candidate species, would appear to add a far flung mandate that the refuge system would have trouble delivering. There are literally thousands of species of vertebrates and plants in those categories, and to consider expansion of the refuge system to protect, aid, and recover all of those is an unrealistic goal.

3. Sec. 5. Compatibility Standards and Procedures. Our feeling about this Section is unchanged from previous statements. It is unnecessarily complex, and would produce a procedure that would inhibit necessary management as much as it would correct real problems. The Fish and Wildlife Service has revised its compatibility standards and is using them as firm operating policy. We recommend that details of their implementation be explored with the Agency before new legislative mandates are provided.

Simpler language calling for development and publication of a formal process, and instructing the Secretary of Interior to follow that process would be appropriate. We are particularly concerned that the formal process as described in S. 823, could encumber day to day refuge management with a hopeless array of issues through endless public comment, appeals, and other delays. We favor tying public involvement to a stronger planning process which provides for public participation on plans for and execution of refuge management.

4. Sec. 6. System Conservation Planning Program. Our recent experience with refuges underscores the need for a more formalized approach to planning. Continuity in carrying out refuge programs must be assured by comprehensive plans, created with appropriate public input. We feel that a programmatic EIS covering the refuge system could satisfy broad planning requirements at 10-year intervals. Such a draft

document is now nearing the end of a public comment period. We endorse the various elements suggested for incorporation into refuge plans, including cooperative development of those plans with other federal or state land management agencies. We suggest that strong attention to adjacent private lands will be necessary to effectively manage refuges and the resources that use them, and would like to see that reflected in this bill.

We do not support the proposed detailed consideration of wilderness designation based on our experience with most refuges. Refuges are not primarily acquired to provide wilderness values, but where they are, public input through more comprehensive planning processes should provide adequate input to assure that wilderness is designated where appropriate.

The time line for phasing development of plans for refuge units appears to be reasonable. Specific response from the Fish and Wildlife Service on this matter would be useful. Mr. Chairman, refuge managers themselves support more planning, but told us they could easily be diverted from important management activities if a rigid process is imposed. There are currently many useful plans on refuges, and priority can be given to completing those for which planning has been deficient.

The Fish and Wildlife Service and Department of Interior have in place policies that should be able to provide effective management for most aspects of national wildlife refuges. Where those policies are not followed and refuges suffer, managers should be held accountable. The objectives of new legislation should be to provide additional clarification and direction to get things done that need to be done without an intrusive amount of regulation. We suggest, as we have in the past, discussion among interested groups of specific concerns such as: the role of other federal agencies in refuge management, control of the public's activities on navigable waters, control of air space, regulation of subsurface properties, and other specific items for which language should possibly be developed to provide the Service and the Department with the tools they need. Those items are still missing from this bill. We are certainly willing to work with this Committee and any others in such discussions.

A final note of some concern is that our recent experience on refuges, asking questions about planning and management practices, indicates that lack of funds for management and staff to carry out programs is a significant problem. The Service has begun to document the backlog of costs for maintenance of existing refuges, the backlog of operational costs from the addition of new refuges without operating funds in recent decades, and the great possibilities for public education and other uses of refuge resources that cannot be pursued because of lack of funding. We suggest that few of the reforms sought by refuge legislation can come about without a concerted effort by the Congress to solve these problems on the ground where the work is done.

TESTIMONY OF DR. JOHN W. GRANDY

Thank you, Mr. Chairman, for the opportunity to present to the Subcommittee the views of The Humane Society of the United States (HSUS) and the Wildlife Refuge Reform Coalition (WRRRC) on S. 823, the National Wildlife Refuge System Management and Policy Act of 1993. I am Dr. John W. Grandy, Vice President for Wildlife and Habitat Protection for The Humane Society. I have a Ph.D. in wildlife ecology and management. From 1977-1978, I was a member of the U.S. Department of the Interior's National Wildlife Refuge Study Task Force, a position which involved intensive study of the Refuge System and its problems. I have served numerous times, including this year, as an Instructor to the U.S. Fish and Wildlife Service's Refuge Academy, at which the Service trains Refuge Managers.

The Humane Society of the United States, or The HSUS, as we are known, is the nation's largest animal protection organization, with regional offices throughout the U.S., a public education office in East Haddam, Connecticut, a team of professional cruelty investigators, and an animal shelter evaluation team. We have major programs for protecting companion animals, farm animals and laboratory animals, as well as the wildlife for which this committee principally knows our work. In addition, our Board of Directors has recently approved the formation of an HSUS Wildlife Land Trust through which we will protect, in perpetuity, wildlife habitat, and provide humane stewardship for wildlife residing thereon. I appreciate the opportunity to testify today on behalf of our more than 1,700,000 members and constituents throughout the nation.

I am also here on behalf of the Wildlife Refuge Reform Coalition, an organization comprised of more than 80 animal protection and environmental groups nationwide.

The principal goal of the Coalition is to restore integrity to the management of the National Wildlife Refuge System through strong Refuge reform legislation. These organizations, including The HSUS, have a combined membership of well over 3 million U.S. citizens.

Senator Graham, as you know, the primary concern of those 3 million people whom I represent here today, is that your bill would allow sport hunting and commercial trapping to continue on Refuges. Indeed, it would actually designate hunting as one of the intended uses of Refuges. If you truly wish to reform the Refuge System in a way that would protect wildlife, you simply can not run from the hunting issue. This is not a question of hunting throughout the nation, but on WILDLIFE REFUGES... the one set of areas in this country set aside for wildlife.

Ostensibly, the goal of S. 823 is the elimination of incompatible uses of refuges. That need exists only because of the lack of ability and/or political will of the U.S. Fish and Wildlife Service to stand up to the task, and the lack of clarity in current pertinent laws.

Consider, if you will, that the 1989 GAO report, entitled *National Wildlife Refuges: Continuing Problems With Incompatible Uses Call For Bold Action*, rated waterfowl hunting the #1 harmful public use of Refuges allowed due to external pressures on the Service. Clearly, if the Service needs help protecting Refuge wildlife from any one given area, that area is sport hunting. Hunting—the shooting of animals for pleasure or sport—is undeniably a direct assault on Refuge wildlife. Yet the system has degenerated to the point that it allows hunting of depleted species like black ducks (*Anas rubripes*) and pintails (*Anas acuta*), even on Refuges that are specifically created to benefit those species. This is a scientific and moral abomination. This is the exact area where Congress must supply the Fish and Wildlife Service with a backbone strong enough to withstand external pressure.

And while the GAO Report exposed hunting, trapping, and many other harmful activities occurring on National Wildlife Refuges, it is clear that it underestimated the extent of these activities. The report was based on the opinions of Refuge managers, many of whom have become accustomed to and tolerant of the current management activities of the National Wildlife Refuges.

Yet Senator Graham's bill, S. 823, still places the burden of deciding activity compatibility on Refuge managers. While we applaud the fact that the bill addresses compatibility, we are concerned that it gives the Fish and Wildlife Service far too much room to be pushed around in. In 1962, Congress passed the Refuge Recreation Act, and in 1966, Congress passed the Refuge Administration Act. In both cases, and after lengthy debates, Congress left the Agency with the mandate to ban activities which were "incompatible" with the primary or major purposes. Yet, Congress provided no definition of compatibility. Under current law, responsibility for compatibility determinations rests primarily with individual Refuge managers.

As the extent of harmful activities currently taking place on Refuges proves, this is just too much discretion for an agency like the Fish and Wildlife Service. Many fish and wildlife managers themselves are hunters, and thus tend to accept recreational killing of wildlife even on Refuges. Therefore, when they are faced with local pressure and no statutory mandate, they tend to succumb to the pressure, and declare hunting programs for their Refuges to be compatible. But it does not stop there. If Refuge managers allow visitors to shoot and kill wildlife, how can they justify coming out against farming or pesticide spraying, or any of the other harmful activities that have a less direct effect on wildlife? In the end, it must be apparent that a Refuge compatibility standard which is so lax as to permit commercial trapping and recreational hunting, even of depleted species, will never be strong enough to prohibit other less immediately destructive activities. Thus, despite the 1962 and 1966 Congressional attempts to clean up Refuge management, the United States has a Refuge System that permits, and in many cases openly advocates, activities on Refuges ranging from ORV use to timber cutting, water skiing to lethal predator control, recreational hunting to commercial trapping.

Mr. Chairman, your proposed legislation was introduced based on the 1989 GAO report which, in its title, called for bold action. Bold does not mean just addressing activities that happen to harm wildlife in an indirect manner. Bold means also addressing those activities whose primary goal is the destruction of wildlife, directly.

Against that backdrop, The Humane Society of the United States, the more than 80 organizations in the Wildlife Refuge Reform Coalition, and the millions of American citizens we represent, while strongly supporting efforts to restore integrity to the management of the Refuge System, oppose S. 823 in its current form. We take this position because this legislation endorses obviously incompatible recreational uses

such as recreational hunting. S. 823 would allow current uses to continue for up to five years before being subjected to an evaluation of compatibility. In fact, this legislation shrinks from what must be the primary element of Refuge legislation: to define compatibility so that it prohibits activities which are demonstrably incompatible with the ability of wildlife to flourish. An obvious definition, or something close to it, would be that activities on National Wildlife Refuges may only be considered compatible if they are either beneficial to or neutral in their direct impacts on wildlife.

Mr. Chairman, it is the view of The Humane Society of the United States and the more than 80 organizations in the Wildlife Refuge Reform Coalition that legislation aimed at strengthening the National Wildlife Refuge System against the kind of abuses that threaten it today must do two things—it must ensure that activities permitted on Wildlife Refuges are either beneficial to or neutral in their direct impacts on wildlife and ensure that any necessary wildlife management program with direct effects on wildlife is carried out in the most humane manner possible. Such a standard, and related provisions, would ensure that wildlife habitat, wildlife populations and the wild animals themselves are protected on National Wildlife Refuges.

The time for Refuge reform is now. At present, there is no honesty in the term "refuge." As currently managed, Wildlife Refuges are a cruel hoax. Animals are routinely displaced and cruelly destroyed. The best that can be said for most Refuges is that they are a well-meaning collage of incompatible uses.

Surely, Mr. Chairman, the public has a right to expect a Wildlife Refuge System which gives the benefit of the doubt to wildlife values, which says that activities are not permissible unless they are beneficial or neutral to wildlife, and where wildlife is treated humanely. We urge you to take advantage of the understandable public outrage, renounce the vested interests, and report a bill which truly reforms the management of National Wildlife Refuges. I will end this statement with the same question I asked at last year's hearing. If wild animals cannot be protected on Wildlife Refuges, then where?

Thank you.

STATEMENT OF RODGER SCHLICKEISEN, PRESIDENT, DEFENDERS OF WILDLIFE, ON BEHALF OF DEFENDERS OF WILDLIFE, SIERRA CLUB AND NATURAL RESOURCES DEFENSE COUNCIL, INC.

Mr. Chairman, I am Rodger Schlickeisen, President of Defenders of Wildlife. I am testifying today on behalf of Defenders of Wildlife, Sierra Club and Natural Resources Defense Council, Inc.

Defenders of Wildlife thanks you for scheduling this important hearing and for the opportunity to testify on the current and future direction of the National Wildlife Refuge System (NWRS) and on S. 823, the National Wildlife Refuge System Management and Policy Act of 1993.

Mr. Chairman, enactment of your legislation would represent a watershed in the history of the National Wildlife Refuge System. S. 823 would both alleviate widespread harmful and incompatible refuge uses and make fundamental structural improvements in the administration of the System. The legislation would, at last, enable the NWRS to plan and implement consistent policies to guide the future of the NWRS. For these reasons, Defenders of Wildlife strongly supports S. 823.

Defenders of Wildlife (Defenders) has a long history of involvement with the National Wildlife Refuge System. In the 1970's, we published a report with recommendations for improvement in the management of the NWRS and later served on a special Department of the Interior sponsored task force that developed *Final Recommendations on the Management of the National Wildlife Refuge System*, a report which contained major recommendations for changes in NWRS management. Since then, Defenders has been involved in a wide range of administrative, legislative and judicial activities concerning the management of individual units of the NWRS and the system as a whole.

Defenders recently organized the Commission on New Directions for the National Wildlife Refuge System, an independent panel of experts led by Dr. Robert Weeden and Mollie Beattie, nominee for Director of the U.S. Fish and Wildlife Service. The panel included wildlife scientists, conservation historians, state natural resource managers, legal scholars and academics. Following an eighteen-month review of the Refuge System, the Commission issued a report entitled *Putting Wildlife First: Recommendations for Reforming Our Troubled Refuge System*. (A copy of this report is being submitted for the record.)

Natural Resources Defense Council, Inc. (NRDC) also has long sought to protect America's wildlife and particularly federally owned wildlife habitat including lands in the NWRS. Over the years, NRDC has engaged in litigation, public education, administrative advocacy and a variety of other activities to protect wildlife refuges.

The NWRS is the only federal land system that has been set aside primarily to benefit wildlife and its habitat. As the amount of undeveloped land in our nation rapidly declines, these lands and waters and the wildlife and plants they support become an increasingly important part of our natural heritage. The first National Wildlife Refuge (NWR) was established at Pelican Island in Florida in 1903. Ninety years later the refuge system has nearly 500 refuges, including more than 20 in Florida, and 161 Waterfowl Production Areas, 53 Coordination Areas, and over 91 million acres protecting wildlife, fish and plants, including more than 160 endangered and threatened species.

Over the years since 1903, the NWRS has been regarded as a public land system best known to sportsmen and a small number of dedicated wildlife watchers. Today it is also critically important that this system serve as an anchor for the preservation of biological or natural diversity in the United States.

This hearing is particularly timely given the signing of the Convention on Biodiversity by the Clinton administration just last Friday. This treaty, which the bill under consideration today would help implement, calls on each nation to establish areas for the conservation of biodiversity, establish guidelines for the management of those areas, promote the protection of ecosystems and natural habitats, and adopt other measures to conserve biodiversity. A wide-ranging group of conservation biologists, resource managers and users are increasingly recognizing the need for a major commitment to preserving the natural diversity of our land. But as we prepare to enter the 21st century, the refuges and their wildlife are in jeopardy. Clearly, the many reports about the need to change refuge management to protect wildlife and habitat must no longer go unheeded.

Commission on New Directions for the National Wildlife Refuge System

The most recent of those reports is *Putting Wildlife First*, issued in 1992 by the Defenders-sponsored Commission on New Directions for the National Wildlife Refuge System. This panel recommended enactment of an organic act for the refuge system, under which the "overarching goal" of the refuge system would be the maintenance and restoration of the "biological diversity of endemic species." Other important recommended goals include "conserving migratory birds and endangered species, protecting designated wilderness, and providing education and recreation compatible with wildlife goals" (1992 Report, p.2). The Commission called for policies and procedures to determine the compatibility of secondary uses with the system's primary wildlife mission" (1992 Report, p.2).

The Commission's report contains other recommendations that correspond closely to provisions in S. 823. These include providing guidance for refuge planning, phasing out secondary uses if they do not meet the compatibility standards in the legislation (1992 report, p. 21), and adopting a process for determining compatibility.

The panel also recommended using the "gap analysis" to determine future refuge acquisition and recommended expanding the refuge system. In addition to expressing their support for new organic legislation for the NWRS, the Commission went further by recommending that Congress authorize FWS to initiate research budget requests on its own.

A major theme of the Commission was new directions. The panel highlighted this theme by calling for the establishment of a National Wildlife Habitat System, of which the NWRS would be the core. On certain lands managed by the Forest Service, Bureau of Land Management, National Park Service, and the Department of Defense, the panel recommended that top priority be given to managing for wildlife and natural diversity.

Secondary Use Problems Continue

In 1989 the General Accounting Office (GAO) issued *National Wildlife Refuges: Continuing Problems with Incompatible Uses Call for Bold Action*. This GAO report, based on confidential questionnaires sent to 444 refuge managers and responses from 428 refuge managers, revealed that 59 percent of the National Wildlife Refuges suffered from harmful uses that adversely affect the ability of refuge managers to manage for the wildlife purposes for which refuges were created. Military overflights, off-road vehicles (ORVs), water skiing, mining, grazing, beach use/swimming, rights-of-way and commercial fishing were among the uses identified as harmful to wildlife in certain circumstances. The 1966 National Wildlife Refuge System Administration Act prohibits FWS from approving non-wildlife or secondary uses on

refuges unless they are "compatible with the purposes for which the refuge was created." GAO found that refuge managers often make their decisions on the compatibility of secondary uses on non-biological grounds because they are pressured by political and local economic interests to permit secondary uses that are incompatible with refuge purposes and harmful to refuge wildlife and habitat.

Following a House hearing on the GAO report, the FWS appointed a Compatibility Task Group to conduct face-to-face interviews with the managers of wildlife refuges and Waterfowl Production Areas. The Task Group's 1990 report, *Secondary Uses Occurring on National Wildlife Refuges*, surveyed 478 units of the refuge system, and found that 63 percent of the refuges had harmful uses, a significant number of which the agency had limited or no ability to control. Many of the harmful uses identified by the FWS appear identical to those in the GAO report.

This 1990 report, written by a task group within the agency itself, made a number of recommendations for legislation to address refuge problems. Regarding harmful uses on refuges for which there is "no feasible solution," FWS should, "as appropriate, seek legislative remedies . . ." (1990 Report, p. 211). The report urged immediate action to resolve problems related to use of navigable waters in and near refuges, giving consideration to legislation "to strengthen FWS ability to adequately protect units of the Refuge System. . . ." (1990 Report, p. 212). On overlay refuges, over which FWS does not have primary jurisdiction, the Task Group recommended that the agency "seek legislative assurances that would require each federal agency to consult with the Secretary of the Interior to ensure that any actions authorized" did not impair refuge resources unless "necessary to accomplish the purpose for acquiring the land" (1990 report, p.213). The Task Group also recommended seeking legislation to improve the definition of purposes of the refuge system units (1990 report, p.214).

While the FWS has made some progress in addressing some secondary use problems, it has not eliminated many admittedly illegal activities or implemented an effective policy to review promptly harmful, and hence potentially illegal, activities. For this reason, last fall Defenders joined a coalition of other environmental groups in litigation against the Department of the Interior. *National Audubon v. Babbitt* identifies nine specific examples of secondary use problems which the FWS has failed to resolve adequately. Apart from failing to eliminate promptly or, in some cases, determine the compatibility of these uses, FWS has, in a number of cases, even allowed these violations of existing refuge law to continue. At Washington's Turnbull National Wildlife Refuge, for example, the FWS continues to allow grazing to occur. This activity is permitted despite a 1990 finding that such grazing is incompatible and despite the fact that the refuge provides important habitat for the water howellia (*Howellia howellia*), a plant which FWS proposed listing as a threatened species on April 16, 1993 (58 FR 19795). The continuing secondary use problems highlighted in the litigation belie FWS's claim—now several years old—that the secondary use problems plaguing the Refuge System have been resolved.

The legislation under consideration today is also necessary to help assure that the FWS actually uses all of the legislative authority currently at its disposal. A prime example is FWS's recent refusal to prohibit the U.S. Navy from bombing Sea Lion Rock in Copalis National Wildlife Refuge. In this case, the FWS was persuaded to violate its own laws by the Navy's assertions that its bombing activities at Copalis were vital for national security. In March of this year, however, the Navy announced that it no longer needed to bomb Copalis Refuge. This announcement came five months after Defenders and other environmental groups filed suit to stop the bombing at Copalis. Tellingly, it was pressure from environmental groups and members of Congress, not the FWS, that ended one of the worst secondary use problems in the NWRs. Moreover, our litigation is still pending, largely because the FWS has yet to withdraw its letter of permission allowing the Navy to use the refuge for bombing practice. Without a formal withdrawal of FWS permission, bombing could resume at any time. Section 5 of S. 823 would establish clear deadlines to help assure that incompatible uses, such as the bombing of Copalis Refuge, are promptly eliminated.

Moreover, S. 823 will help ensure the compatibility of activities by other federal agencies, many of which the FWS now has limited authority to control. Section 5 of S. 823 would require other federal agencies to consult with the Secretary of the Interior to ensure that activities of those agencies do not impair national wildlife refuge resources unless such action is specifically authorized by law. Such a provision would strengthen the hand of FWS in often protracted and unsuccessful negotiations with the military. At Nevada's Desert NWR, for example, the FWS has since 1991 been attempting to negotiate a stronger Memorandum of Understanding with

the Air Force to provide greater protection for refuge resources. Since no agreement has yet been reached, refuge resources remain at risk.

Insufficient Statutory Guidance Has Long Undermined the NWRS

Continuing secondary use problems are only the latest symptoms of more deeply rooted problems. For decades the ability of the refuge system to perform essential wildlife management functions has been undercut by a lack of minimum management standards and clear policy direction from Congress. The absence of such guidance has enabled past administrations to change refuge policies in a manner detrimental to the System. The decade of the 1980's was a particularly hard one for the NWRS. Early that decade, refuges endured a major effort by then Secretary of the Interior James Watt to expand economic activities on refuges. This effort was chronicled in the 1983 General Accounting Office study, *Economic Uses of the National Wildlife Refuge System Unlikely To Increase Significantly*. In the mid-1980's the FWS improperly construed the Refuge Recreation Act of 1962 and the National Wildlife Refuge System Administration Act of 1966 to mean that activities were incompatible only if they *materially* interfered with refuge purposes. The system suffered a third major blow in the late 1980's when then FWS director Frank Dunkle put a halt to all master planning for individual refuges. (A copy of Director Dunkle's December 1, 1987, directive is enclosed as Appendix I.)

The Commission on New Directions for the National Wildlife Refuge System studied the history of the refuge system, current statutory authorities and FWS's existing mission statement, and concluded that political pressures and changing administrative philosophies have contributed to weak and inconsistent administration of the refuge system. For this reason the Commission recommended enactment of "a clear and comprehensive statement of the mission and goals of the National Wildlife Refuge System." Defenders of Wildlife strongly agrees with this assessment and supports the establishment of "system purposes," as defined in section 4 of S. 823. As provided in section 4, if FWS finds a conflict between any purpose set forth in the law or order that established a refuge and any system purpose, FWS would resolve the conflict in a manner that fulfills the purpose set forth in the law or executive order that established the refuge, and, to the extent possible, achieves all of the system purposes. The approach taken in this legislation is consistent with the authorities and duties Congress has already given to the NWRS and the pressing need to elevate natural diversity concerns in refuge management.

Establishing statutory purposes, along with other provisions in this comprehensive legislation, should help elevate the NWRS to a legal and administrative stature approximating that of other federal land management agencies. The NWRS is today the only system of federal lands without a clear set of Congressionally-articulated purposes. Moreover, some have argued that Congress has never clearly established affirmative duties for the Secretary of the Interior to protect the System and to assure its needs are being met. The absence of such a mandate has left the agency vulnerable in negotiations with other agencies on issues such as allocation of limited water supplies.

Increased administrative stature for the NWRS could also help increase Congressional and public support for the only network of federal lands set aside primarily for the benefit of wildlife. As observed by the Commission on New Directions for the National Wildlife Refuge System: "The wildlife refuge collection as a whole languishes at the fringe of public interest and thus suffers chronic fiscal starvation and administrative neglect" (1992 Refuge Commission Report, p.3). The conservation of this nation's natural diversity is one of the greatest challenges facing this nation. While the NWRS can play an important role in meeting that challenge, it must be given the increased visibility it deserves. The time is long overdue for Congress to increase the stature of the NWRS. S. 823 will help accomplish this goal by establishing system purposes, creating minimum planning requirements, giving the Secretary of the Interior affirmative duties to protect the refuge system, and providing new authority to control secondary uses.

Mr. Chairman, we have reason to be optimistic about management of the refuge system under the leadership of the new administration. We are particularly encouraged by the Administration's nomination of Mollie Beattie, who notably helped draft the final report of our New Directions panel. We must point out, however, that the Commission's report fully recognized that legislative reform is essential to ensuring long-term institutional change. We strongly agree that the long-documented problems of the refuge system must be resolved by legislation rather than being wholly left to administrative discretion.

Congress Must Act to Strengthen the NWRS

In the past some have suggested that new refuge legislation is premature. They have argued that Congress should not legislate until after the completion of *Refuges 2003*, a document which former FWS Director John Turner last year told this Subcommittee would serve as a "road map" to guide the future of the refuge system. Unfortunately the draft document released in January does not live up to its advance billing. It most emphatically is not a road map, and it also contains many inaccurate assumptions and other errors. It cannot be useful without being substantially revised, but such revision would substantially delay the already protracted *Refuges 2003* process, which began in 1986. Most importantly, as explained above, it is clear that this administrative process cannot by itself resolve critical system wide problems.

Refuges 2003 suffers from a number of fundamental deficiencies. First, it fails to present the bold vision needed to guide the future management of the Refuge System. The document may serve as a draft environmental impact statement, but it falls far short of being a detailed management plan. In fact, the preferred alternative, which outlines a future "vision" for the System, is a scant six pages. This document fails to convince us that FWS has developed a comprehensive plan capable of meeting the complex challenges of the refuge system in the 21st Century. Nor is it sufficient for meeting the current needs of a major public lands system with nearly 500 units.

Second, the document fails to consider the need for new authorities and a strong statutory basis for the NWRS. After years of reports making consistent recommendations, it is evident that the crucial problems of system administration cannot be fully addressed without clear policy direction, management standards and new authorities from Congress. Ironically, the preliminary list of alternatives released by the FWS in November 1991 included the enactment of "organic" legislation as one option. Such legislation, widely regarded as vital to improving the administration of the Refuge System, is not even identified as an option in *Refuges 2003*.

Finally, FWS's analysis of the consequences of adopting various alternatives is sometimes inconsistent and incorrect. There are serious problems throughout *Refuges 2003* with unjustified assumptions and conclusions and inconsistencies within and between alternatives. These problems call into question nearly all of the conclusions in the document and the comparisons between alternatives. In some cases, these errors make the Ecosystem Management alternative appear less desirable in comparison to the Proposed Action alternative.

Refuges 2003 has been under development since 1989, when a previous system wide planning effort was abandoned. The earlier effort was initiated in 1986. Given the deficiencies in the current draft, we are not optimistic about FWS's ability to complete a comprehensive, forward-looking and analytically sound management plan any time soon.

Comments on Specific Provisions of S. 823

1. Section 4 Purposes and Administration of the System

The original purposes for individual refuges may have been sufficient at the time those refuges were created, given the nature of the threats that existed at that time and the overall health of wildlife resources in this country. However, today the individual refuges and the refuge system have greater national importance as reservoirs of rare and imperiled plants and animals than they did years ago. Scientific information about the number of species we are losing or whose populations have greatly decreased because of loss of habitat is just coming to the fore. The expanded mission or role of refuges in the nation's public land system—the opportunity it has to play a key role in the global campaign to protect natural diversity—has emerged only in the late 20th century.

2. Section 5 Compatibility Standards and Procedures

Section 5 would require FWS to establish a process to ensure that the system wide compatibility problem identified in the recent GAO and FWS studies does not recur. These requirements would address key findings and recommendations contained in the GAO and FWS studies. By specifying minimum guidelines for the development of such a process, including a more detailed explanation of the standard to be used in making compatibility determinations, Section 5 will assure that the provisions of the Refuge Recreation Act of 1962 and National Wildlife Refuge System Administration Act of 1966 are not undermined by administrative action.

The revised compatibility standard of section 5 properly requires a determination that secondary use "will not have a detrimental effect upon fulfillment of the purposes of the System or the refuge." We view this standard as the absolute minimum

necessary to ensure adequate management of wildlife resources, while allowing truly nondetrimental secondary uses to continue. We believe this is what was intended by prior acts of this Congress, although this standard has not yet been implemented administratively. Further attention of this subcommittee should be given to implementing this standard, for instance, in specifying how detrimental effect is to be measured.

It has been said that because national wildlife refuge managers are professionals, Congress should not interfere with their ability to do their jobs by enacting new legislation. We would like to point out that refuge managers surveyed for the 1990 FWS report said they did need more training on compatibility and that the authors of the 1990 report recommended more training for refuge staff. We believe that this legislation is complementary and will assist them in their jobs once that training is completed.

3. Proposed Amendments to Section 5

A. Presidential Finding

Both the GAO and the FWS reports found many harmful uses for which the Department of Defense (DOD) and other agencies were responsible. In the case of certain DOD agencies, as we have noted, bombing noise and impacts are examples of uses harmful to refuge wildlife. If the current language of section 5 were enacted, we would be concerned that the ability of FWS to deal with incompatible uses related to the actions of other agencies could be severely limited. We suggest that the Presidential finding apply only to the DOD agencies, and that the language be further modified to provide for Congressional review of exemptions proposed by the President and that the President, and Congress, review any exemptions annually.

B. Petition Provision for Review of Secondary Uses

The subcommittee should also consider amending section 5 to facilitate agency review of new information about uses previously determined to be compatible by FWS. Without a citizen petition provision, re-evaluation of compatibility is left to agency discretion, and the public might be deprived of the opportunity to bring important new information to the Secretary's attention in a systematic way. This section would be strengthened by adding a petition process such as that provided in section 4 of the Endangered Species Act (ESA). This would enable private citizens to petition the Secretary of the Interior to review a use of a refuge previously found compatible if they have significant scientific information suggesting that the use is no longer compatible. We recommend adding language to section 5 to: (1) provide for citizen petition and (2) give the Secretary 120 days to review the petition and make the finding, and to publish the finding in the *Federal Register*. Language should also be added to provide for judicial review of such determinations unless this is covered in a general citizen suit provision.

C. Citizen Suit

We also recommend that the subcommittee add a citizen suit provision to S. 823. The citizen suit concept is not new in federal environmental law, being present in most of the major acts. Adding a citizen suit provision to this bill would provide incentives to the Fish and Wildlife Service to enforce this law vigorously and to private persons who are involved in secondary use activities on refuges to obey the law. By enhancing the ability of private individuals and organizations, as well as the government, to sue persons who violate the Act, Congress would strengthen the chances that its intent in this legislation would be carried out. The Act should also require payment of damages to restore harm done to refuges as a result of a violation of this Act or any federal law. Notably, such payment of damages has already been authorized by Congress on behalf of marine sanctuaries pursuant to the Marine Sanctuaries Act 16 U.S.C.A. §§ 1441 et seq., 1443.

D. Interagency Cooperation

We further suggest that on line 6, page 11, the word "within" be replaced by the words "significantly affecting" in order to ensure that agency activities conducted outside of a refuge would also be subject to this provision if such activities would significantly affect the refuge. In addition, the word "authorized" in line 12, page 11, should be changed to "required" since the former term is overly broad.

4. Section 6—System Conservation Planning Program

This section would require the preparation of individual refuge plans. Under the Alaska National Interest Lands Act of 1980, each of the 16 refuges in Alaska were required to develop Comprehensive Conservation Plans. Over 400 refuges outside of Alaska do not prepare comprehensive master plans, however. Detailed plans for individual refuges or ecologically related complexes of refuges can assure necessary

conservation strategies are developed and that secondary uses are considered in a comprehensive fashion. This statutory requirement will ensure that the need for individual refuge planning is not undermined by administrative action.

* * *

I want to close with a quote from Defenders' Refuge Commission report: "There is a chance—a good chance, we believe—to make the refuge system serve the nation more effectively in preserving our biological heritage for the use and enjoyment of all and for future generations, for whom we hold the land and its wild creatures in trust" (1992 report, p. 25). We agree and hope that S. 823 is soon enacted.

Mr. Chairman, this concludes our testimony. Defenders stands ready to work with you on refuge legislation. Thank you very much for the opportunity to testify. I will be glad to answer your questions.



ADDRESS ONLY THE DIRECTOR,
FISH AND WILDLIFE SERVICE

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240



In Reply Refer To:
FWS/RF

DEC 1 1987

Memorandum

To: Regional Directors, Regions 1, 2, 3, 4, 5, 6 and 7
From: Director
Subject: Management Planning on Refuges

I would like to clarify my policy in regards to the issue of Master Planning on national wildlife refuges.

I believe Master Plans or equivalent Comprehensive Conservation Plans should be undertaken only in the following circumstances:

1. When mandated by statute, as in the Alaska National Interest Lands Conservation Act and the Emergency Wetlands Resources Protection Act of 1986 (for Bayou Sauvage National Wildlife Refuge).
2. When a major new national wildlife refuge is established and it is deemed important that potentially conflicting uses be addressed and the public provided an opportunity to comment on proposed management of the area. In addition to being a sound management practice this should also help avoid future National Environmental Policy Act challenges. In other words, the Master Plan process should be employed when the time and resources required to produce a plan will provide an umbrella for future refuge actions and functions.

In applying these criteria it is apparent that Master Planning will be restricted almost exclusively to newly created or acquired national wildlife refuges. Regions will obtain prior approval from me to prepare Master Plans. A brief planning proposal should be submitted. The proposal will include as a minimum, a description of the area, justification for the plan, and a list of the problems that will be addressed and resolved with the plan.

In those isolated cases where Master Plans are needed, I expect Refuge Managers to initiate these plans and Regional Directors to approve them. The fundamental responsibility for refuge Master Planning rests with the Refuge Manager (who will serve as the Team Leader for the Master Plan). Changes in the Refuge Manager's decisions will only be made by the Regional Director or myself.

Because Master Plans are long-term direction-setting documents, they will be reviewed for policy in the Washington office before they are released. This will ensure that line officials and their staffs are internally consistent before materials are delivered to outside interests.

This limited use of the Master Plan process will require that individual Refuge Management Plans continue to be the basic working and direction-setting documents for each refuge. Refuge Managers and Regional Directors must determine basic refuge objectives and management strategies for the areas they administer. It is then the responsibility of the Refuge Manager to prepare appropriate Management Plans required to meet these objectives. Refuge managers should be looking at new and innovative ways to reduce the time necessary to complete these plans. Any suggestions for accomplishing this should be sent to the Division of National Wildlife Refuges.

I believe this policy will ensure that Master Planning efforts are focused on those refuges that truly need the level of commitment required to successfully complete the Master Plan process.

A handwritten signature in cursive script, appearing to read "Frank D. ...", is written over a horizontal line.

PUTTING WILDLIFE FIRST

RECOMMENDATIONS FOR REFORMING OUR TROUBLED REFUGE SYSTEM

REPORT OF THE COMMISSION ON NEW DIRECTIONS FOR THE
NATIONAL WILDLIFE REFUGE SYSTEM

Commissioned by

DEFENDERS OF WILDLIFE

Washington, D.C., March, 1992

NOTE: The following has been excerpted from the above named report. The report, in its entirety has been retained in committee files.

FOREWORD

Nearly a century ago, President Theodore Roosevelt understood that wildlife has intrinsic value, that it should be protected for its own magnificent sake. This thought was turned into action when he established the first national wildlife refuge at Pelican Island in Florida in 1903. Roosevelt set the precedent for public lands to be set aside as safe havens for wildlife.

Today a part of Roosevelt's vision has been accomplished. The National Wildlife Refuge System comprises over 470 refuges, more units than are managed by the U.S. Forest Service. The System includes over 90 million acres, more land area than the National Park System. One refuge, the Arctic National Wildlife Refuge, preserves the biological heart of the only complete undisturbed ecosystem in North America.

But if Roosevelt were to visit the refuges today, he would find that most refuges are no longer safe havens for wildlife. The state of the national wildlife refuges is a scandal. In nearly two-thirds of the refuges, public and private for-profit activities *approved by refuge management* are actually harming the wildlife the refuges were established to protect. While the Fish and Wildlife Service knows this, the public was in the dark until Defenders, with the help of the Freedom of Information Act, last year obtained an internal agency report documenting this state of affairs.

Some of the examples are grim. At the Aransas National Wildlife Refuge in Texas, oil and gas operations and airboats compromise the winter habitat of the endangered whooping crane. At the Key West National Wildlife Refuge in Florida, the only remaining nesting colony of frigatebirds has been driven away, most likely by jetskiing, waterskiing, and other recreational activity. The list goes on — prompting us to observe that when Charles Darwin spoke of "survival of the fittest," he certainly was not talking about whooping cranes versus oil rigs, bighorns versus fighter jets, or frigatebirds versus skiers.

We all recognize that good stewardship of our wildlife resources is not in vogue. But one could hope that at least our refuges would be exceptions. If we cannot in our refuges protect our wildlife for future generations, where *can* we do it? The national wildlife refuges are the only federal lands set aside primarily to preserve and enhance wildlife. We need to restore the balance between the needs of nature and the needs of humans.

It was with that need in mind in 1989 that Defenders of Wildlife began planning to convene the Commission on New Directions for the National Wildlife Refuge System to provide an independent, outside source of perspectives on the management of the refuge system. Defenders asked academic and professional leaders in wildlife biology, management and law, and citizen advocacy on behalf of wildlife, to form this independent

FOREWORD

commission, study what they considered to be the crucial issues, and make recommendations. In December 1990, this blue-ribbon group of wildlife experts convened at the Patuxent Wildlife Research Center, then worked independently on the topics they had selected. Six months later they reconvened to jointly visit a number of refuges and to discuss the papers they had submitted.

This report was first drafted by the principal author, Commission Chair Robert B. Weeden, working with Vice Chair Mollie Beattie and Commissioner Rupert Cutler.

Defenders' staff and an editorial consultant offered comments before Robert Weeden prepared this final version.

In these pages, the Commission on New Directions for the National Wildlife Refuge System calls for new legislation to establish an "organic" act for the refuge system. The Commission's vision is a timely one, for the U.S. Congress is currently considering such legislation. The Commission's recommendations are a powerful endorsement of legislative changes Defenders and other environmental organizations have long advocated. Very importantly the Commission has also expressed a larger vision, of a system of

wildlife habitats sufficient to maintain our nation's, and much of our hemisphere's, biological diversity. The idea of a National Wildlife Habitat System is an innovative one which may likely offer our nation its best hope for conserving vital habitats and their related rapidly vanishing wild species.

Defenders applauds the dedicated efforts and hard work of the eighteen volunteer experts who for over a full year have so generously lent their talents and their vision to this review. In particular, we wish to express our appreciation for the tireless work of the Commission's Chair, Robert Weeden. We commend to you their report and look forward to the day when healthy and thriving populations of wildlife will coexist securely with the human occupants of our planet.

Rodger Schlickeisen
President, Defenders of Wildlife
March, 1992

ERMANNO VANINO, U.S. FISH AND WILDLIFE SERVICE



Bald Eagle, Patuxent Wildlife Research Center

EXECUTIVE SUMMARY

In December 1990, Defenders of Wildlife convened an independent Commission on New Directions for National Wildlife Refuge System, to study critical refuge issues and make recommendations. The Commission presents its findings in this report.

The National Wildlife Refuge System exists without a coherent legislative mandate. It grew from scores of executive orders and congressional actions. Some refuges are inviolate wildlife sanctuaries or migratory bird stopovers, wintering and production areas. Others serve primarily for recreation, education, and interpretation. Still others were established to preserve wilderness and productive ecosystems.

The system suffers from deepseated problems. Refuges are threatened from within by resource uses harmful to wildlife and habitats. External threats such as pollution and watershed degradation make some refuges little more than oases in a desert of urbanized, cropped, overgrazed, overlogged landscapes. Wildlife face mounting hazards and shrinking habitats when they leave the refuges.

The Department of the Interior does not give the refuge system or its parent agency, the U.S. Fish and Wildlife Service (FWS), organizational stature or budget sufficient to accomplish the research, planning, and action programs necessary to resolve these problems. Nor does FWS have legal and administrative ability sufficient to manage resource uses and control or eliminate threats.

The Commission recommends a number of steps to address these problems, and to permit refuges to meet their rich potential for conserving wildlife:

1. Congress should pass an organic act for the National Wildlife Refuge System. The act should

- set forth a clear and comprehensive refuge system mission. The system's overarching goal should be maintaining and restoring biological diversity of endemic species. Important additional goals consistent with that theme include conserving migratory birds and endangered species, protecting designated wilderness, and providing education and recreation compatible with wildlife goals.
- establish different categories of refuges to indicate primary management goals:



Florida Panther, Florida Panther National Wildlife Refuge

JOHN AND KARLEN HOLLINGSWORTH

EXECUTIVE SUMMARY

National Wildlife Refuge, National Marine Refuge, National Wildlife Production Area, and National Wildlife Interpretation Area.

- organize refuges and their administration on a bioregional basis.
 - set forth adequate guidelines for refuge planning.
 - provide policies, procedures, and broad standards for determinations of compatibility of secondary uses with the system's primary wildlife mission.
 - mandate enhanced research.
2. The refuge system and its administrator should have rank within the Department of the Interior, as well as program and budget autonomy, consistent with the significance of refuges to the nation. One option for reorganization is the formation of a new agency, separate from the Fish and Wildlife Service. Whatever option is pursued, refuge managers should have the same grade level as national park superintendents and national forest supervisors.
 3. The Fish and Wildlife Service should thoroughly study external factors affecting refuges. Following that study, the agency needs to develop a program, focussing on actions by refuge managers and staff, to ameliorate those threats.
 4. The Fish and Wildlife Service should develop an incentive to promote and reward excellence in management of ecosystems and wildlife habitats, and in communicating progressive management concepts.
 5. Habitat acquisition, with emphasis on securing representative habitats from each bioregion, should be an integral part of system planning.
 6. The Secretary of the Interior should establish a nonpartisan advisory board, similar to the one now advising the National Park Service, to help formulate and assess policies relating to the National Wildlife Refuge System.

The Commission recognized that the overall federal effort to enhance the well-being of wildlife must go beyond the refuge system. We recommend that Congress create a National Wildlife Habitat System, including the refuge system and other public lands crucial to wildlife. The designation of lands now managed by the National Park Service, the U.S. Forest Service, the Department of Defense, Bureau of Land Management, and other agencies, would not change agency jurisdiction but would establish a management priority for wildlife and biodiversity. Other uses of NWHS lands would henceforth be subject to compatibility determinations.

We recommend that Congress direct the Secretaries of Interior and Agriculture to study the feasibility of inviting state and private landholders to participate in the NWHS. We also recommend that the System become part of hemispheric and global conservation efforts.

VI. SUMMING UP

For millennia before North America was divided into nations, provinces, and states, the continent nurtured an array of natural ecosystems and wildlife species marvelous in its diversity. Except in Alaska and Canada's North, wildlife diversity and natural productivity are now much diminished. There is still time, however, to re-establish a network of interconnected, species-rich natural habitats in every region of the continent.

As a reasonable goal, we can strive for enough natural habitats, strategically located and interlinked, so that every person can find, with relatively little effort, places where

almost every species of the original fauna and flora lives in healthy abundance. When this is achieved, no indigenous plant or animal will be under threat of extinction. Many will be numerous and widespread.

We concentrated on the federal role in achieving this vision for the nation's wildlife, acknowledging the importance of state

and private lands and of nations neighboring to the north and south. The National Wildlife Refuge System, we firmly believe, is a centerpiece of federal efforts to conserve wildlife habitats. The system urgently needs reform, however. We recommend swift congressional action on an organic act for the nation's federal refuges. This act must set forth a clear, comprehensive, and far-sighted mission for refuges. A stronger and more visible refuge agency should be administered through ecologically defined bioregions. It must have congressional backing for a tighter process of screening proposed secondary refuge uses

JAMES AND KAREN HILL PHOTOGRAPHY



Desert Bighorn Sheep, Lake Arrowhead Wildlife Refuge

PUTTING WILDLIFE FIRST

that threaten refuge functions. Congress must require and support much improved planning and a coherent, expanded research program on federal wildlife refuges. A critical component both of planning and future acquisition of additional marine, freshwater, and terrestrial units of the system is an increased consideration of external threats to refuge wildlife and the specific steps that can be taken to mitigate them.

Other federal public lands can also contribute a great deal to protecting the nation's wildlife habitats. Federal public land agencies recognize that need today. We believe their efforts can be enhanced, coordinated, and made much more visible to the public through congressional legislation to establish a National Wildlife Habitat System. In addition to all units of the National Wildlife Refuge System, the NWS would consist of congressionally designated parts of national parks, national forests, public lands managed by the Bureau of Land Management, and defense lands. The enhancement of native plant and animal well-being would be the predominant management goal on those lands. A compatibility determination process modeled on the one in use on refuges would be used to harmonize resource extraction, recreational, and other uses of NWS units with wildlife needs.

The refuge system needs the expertise and enthusiasm of scientists, managers, administrators, and people who use and enjoy wildlife. Our report is intended for everyone concerned with the problem and willing to contribute to its solution. There is no quick fix, no permanent and simple solution. There is a chance—a good chance, we believe—to make the refuge system serve the nation more effectively in preserving our biological heritage for the use and enjoyment of all and for future generations, for whom we hold the land and its wild creatures in trust.

THE NATIONAL
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OTHER FEDERAL
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THE NATION'S WILDLIFE
HABITATS.

STATEMENT OF SHERRI WASSERMAN GOODMAN, DEPUTY UNDER SECRETARY OF DEFENSE (ENVIRONMENTAL SECURITY)

Mr. Chairman and members of the committee, I am Sherri Wasserman Goodman, Deputy Under Secretary of Defense (Environmental Security). I appreciate this opportunity to explain the views of the Department of Defense (DoD) regarding S. 823, the "National Wildlife Refuge System Management and Policy Act of 1993".

Let me begin by saying that the DoD supports efforts to conserve the Nation's natural heritage. The military services recognize and embrace their role as good stewards of our natural resources, actively participating in a myriad of conservation programs. The DoD funds conservation initiatives and employs a cadre of career natural resources specialists who oversee the management of some of the Nation's most sensitive and biologically diverse ecosystems. DoD installations manage natural resources in accordance with a professionally prepared plan that integrates considerations for wildlife, land maintenance, forestry and outdoor recreation programs.

DoD is particularly sensitive to the need to protect our country's wildlife resources. DoD installations cooperate with private, state, and federal conservation organizations by establishing ecological reserve areas, research natural areas, watchable wildlife areas, and wildlife refuges (both federal and state). This cooperation is frequently reflected in formal agreements to participate in national and regional conservation initiatives such as the North American Waterfowl Management Agreement, the Partners in Flight (Neotropical Migratory Bird) Program, the Chesapeake Bay Initiative, the Washington Environment 2010 "Action Agenda", Coastal America, and numerous agreements to work with organizations such as the Student Conservation Association, The Nature Conservancy, and Defenders of Wildlife.

In fact, areas used for military operations are generally among the best managed and protected habitat for wildlife. A particularly good example is the program to protect an endangered species (the least Bell's vireo) at Marine Corps Base Camp Pendleton, California. Marine Corps biologists intensively manage vireo habitat to enhance nesting success. Not only is the vireo population on the installation surviving, it's thriving - showing a 1300 percent increase since 1980 and now comprising 40 percent of the total United States least Bell's vireo population.

Secretary of Defense Aspin believes that our national security interests can be protected without jeopardizing our environmental heritage. DoD generally supports this legislation's intent to provide increased protection for our Nation's wildlife refuges. Since the Department of Defense is working closely with Committee staff and the Department of the Interior, we are confident that essential military needs will be accommodated.

DoD's concerns regarding S. 823 are not based on lack of concern for the protection of wildlife, but rather on balancing protection of wildlife resources with training for DoD's national defense mission. Of particular concern to DoD is maintenance of military overflight access over and around National Wildlife Refuges.

Why does DoD train at low levels over wildlife refuges? The maintenance of critical war fighting skills requires a significant amount of airspace. The established infrastructure of airspace, military training route structure and range complexes provide the realistic combat environment/threat representation, variety in presentation, and training feedback support essential to effective combat training. The present training range structure, capabilities, and supporting airspace and low level routes, meet specific training needs. The excellent performance of the Services during Desert Storm reflects the value of our range/airspace system.

For reasons of safety, noise, and terrain variation, the vast majority of military aviation training areas and military training routes, commonly referred to as "low level routes", are located in areas of sparse population. The low altitude, high speed, terrain following navigation training carried out in these areas is absolutely vital to the success and survival of aircrews in the modern combat environment. Aircrews must hone their skills in: using terrain to mask their aircraft from detection by enemy air defense systems; air combat maneuvering; battlefield preparation and support; combat search and rescue; offensive and defensive electronic countermeasures; battlefield command and control; minefield laying; and helicopter external load operations. These aviation skills are perishable and must be practiced constantly in order to ensure success when our military aviators are called upon to conduct overland air operations.

Simulators can enhance and supplement airborne training but cannot replace or offset actual flight hours. Certain training must be conducted in aircraft and a minimum amount of recent airborne experience must be maintained for basic proficiency and safety as well as combat readiness.

Coincidentally, areas of sparse population are also frequently the location of designated natural areas such as National Wildlife Refuges. In many cases there is an overlap of a military aviation training area/route and a National Wildlife Refuge. The military services are sensitive to this situation and strive to minimize the effect of the training on underlying natural areas. This is normally accomplished by voluntarily imposing specific operating restrictions, typically lateral or vertical avoidance where practicable, on use of a "low level" training area/route.

The Department of Defense is working closely with the Department of Interior to develop a process that ensures the responsibilities of both Departments can be met. Section 5 (G) of S. 823, for example, indicates that "ongoing or proposed uses not be allowed to occur unless they are determined to be compatible." However, S. 823 contains no provision for higher level review of an adverse use determination. The national security interest in maintaining low level air corridors over refuge airspace needs to be balanced with the protection of national refuges.

The Department of Defense strongly concurs in the Department of the Interior's position that the legal jurisdiction of a refuge does not include airspace use over the refuge. The Department of Defense has entered into MOU's with the Department of Interior to ensure DoD airspace activities are coordinated with refuge management practices. The Administration continues discussions on the issue of airspace use over wildlife refuges.

Even though we have MOUs in certain areas, the Department of Defense believes that the current language in S. 823 should be further refined. The goal of the Department of Defense is to craft legislative language, in consultation with the Department of Interior, that accommodates the needs of wildlife management and national and environmental security.

DoD will continue as a partner with private, state, and Federal organizations in the conservation of wildlife. We will continue to work with the U.S. Fish and Wildlife Service to minimize any concerns they have regarding military aircraft overflight and other activities.

In closing, I would like to emphasize that the new DoD leadership strongly believes that national security includes environmental security. We are committed to protecting the environment. In this instance, that means supporting the basic purposes of a National Wildlife Refuge System. The Department will not be merely content to be a good steward of our Nation's lands, but will be a leader in safeguarding the environment for future generations.



9 am - 4pm, Mon. - Fri.

PH: (904) 795-3149
Fax # (904) 795-4260

June 6, 1993

Honorable Bob Graham
Chairman
Subcommittee on Clean Water, Fisheries & Wildlife
United States Senate
Hart Building, Room 524
Washington, D.C. 20510

BY FAX TRANSMISSION

Subject: National Wildlife Refuge System Management and
Policy Act of 1993---June 9, 1993 Hearing

Dear Senator Graham:

We at the Crystal River Chamber of Commerce appreciate your recent letter and invitation to participate in the hearings on the National Wildlife Refuge System and the proposed legislation on June 9, 1993. Due to the short notice and a number of other pressing matters including our community's recovery from the now famous March 13, 1993 "no-name" storm which resulted in flooding and extensive property damage, we will be unable to send a representative.

The position stated in last year's testimony remains the same, as unfortunately, does your proposed legislation. We still believe it is not good government to continue layering laws, making it even more difficult for your constituents to become involved in the process. We believe the bill also grants too much authority to the refuge manager.

In addition to your bill and it's house companion, our community also may be impacted by a lawsuit filed in a Washington state federal court by environmental groups against U.S. Fish and Wildlife. This lawsuit proposes that our main spring area be closed during the height of our visitor season. This is one area we have absolutely no voice in.

We also stand to be impacted by the new drafts of the Endangered Species Act and Marine Mammal Act. In addition to this, four additional sanctuaries are being added to the existing three sanctuaries in Crystal River. Unfortunately, the general public is not aware that they can even have

Page 2
Letter to Senator Graham

input, as newspaper articles reflect that these are already permanent sanctuaries.

We submit to you that average citizens such as ourselves cannot get involved in the "democratic" processes because government has become so unwieldy and complicated. Please, research the other laws, lawsuits and activities before you press for additional legislation. We would also appreciate you referring to last year's written testimony as input.

Our invitation to you for a Crystal River visit remains open. This would give you an opportunity to receive first hand information about one of our nation's wildlife refuges. It would also give you a better perspective about our humble, concerned community who are only trying to maintain a balance in protecting the environment, our local manatee population while at the same time insuring that our local businesses and their families can survive and prosper.

Thanks very much for your concern and we look forward to hearing from you very soon regarding the outcome of this matter.

Sincerely,



Ron Kitchen
President



9am - 4pm, Mon. - Fri.

PH: 904/795-3149

WRITTEN TESTIMONY TO SUPPORT ORAL
 TESTIMONY OF JOHN CRIDER BEFORE THE
 SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION
 OF THE COMMITTEE ON ENVIRONMENT AND
 PUBLIC WORKS OF THE U.S. SENATE
 ON SENATE BILL 1862
 ON BEHALF OF THE CRYSTAL RIVER CHAMBER OF COMMERCE
 FRIDAY, JUNE 19, 1992
 ROOM 406, DIRKSON, SENATE OFFICE BLDG.,
 WASHINGTON, D.C.

Mr. Chairman and Honorable United States Senators:

The Crystal River Chamber of Commerce wants to support this Wildlife Bill. This testimony is given to try to help you form and fashion a better Senate Bill 1862 to protect the environment without abrogating the freedoms which are so precious to us or causing undue harm to the economy and employment. We respectfully submit that the following needs to be included in Senate Bill 1862:

1. That the bill provide and promote true "due process" input by business and the public at large.
2. That this "due process" receive an independent and objective hearing.
3. That upon deliberation by a free, impartial and independent body conclude on the merits of the proposed restrictions and/or lack of restrictions upon further curtailment of human activities for the protection of wildlife. It is well established that the existing U.S. Wildlife Protection Law creates somewhat of a dictatorial position in the (U.S. F & W) Wildlife Officer. This position can make unilateral decisions which are subject to virtually no reversal other than the complex and unusual situation of a special cabinet meeting. This is certainly a violation of the concepts and basis of the United States Constitution and its founding fathers.

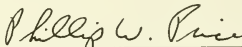
2. To demonstrate the economic impact of such restrictions.
3. Some independent body, whether a university or other Special Master to conclude on the merits of the evidence.

We respectfully submit that the following is in need of correction in the proposed Senate Bill 1862:

1. The bill does not provide sufficient due process.
2. The bill bestows additional dictatorial powers in a dictatorial wildlife officer who does not need another weapon.
3. Essentially no required process to demonstrate the impact on local economy, jobs, local government entities, and/or social damage.
4. Provides no independent body to approve purported and required additional wildlife protection.
5. Burden of proof on the citizenry rather than the governmental agency to prove the need.

We respectfully request that you review our testimony and take the appropriate action. We can support this Wildlife Bill with these changes. If this bill is left "as is" it becomes just another layer of government that John Q. Public will have to try to figure out how to deal with but left with frustration.

Regards,



Phillip W. Price, Co-Chairman
Environmental Committee
Crystal River Chamber of Commerce

PWP:ljm

Enclosures:

- Ex. A - Chamber Resolution
- Ex. B - Citrus Times
- Ex. C - City of Crystal River Resolution
- Ex. D - Chronicle Editorial

TESTIMONY OF SUSAN LAMSON, DIRECTOR OF FEDERAL AFFAIRS,
NATIONAL RIFLE ASSOCIATION—INSTITUTE FOR LEGISLATIVE ACTION

The National Rifle Association thanks the committee for the opportunity to present, on behalf of its 3.2 million members, its position on S. 823, the National Wildlife Refuge System Management and Policy Act of 1993.

We believe that this legislation is unnecessary because refuge uses are already controlled by the acts creating the individual refuges, by the Refuge Recreation Act of 1962 and the National Wildlife Refuge System Administration Act of 1966, as well as by other Federal procedural and environmental statutes. We are, moreover, concerned that, should this legislation be read—or misread—to apply to recreational uses of refuges, it might well have the effect of nearly precluding such uses. As many of our members use refuges for controlled recreational hunting—annual hunting visits to refuges have generally exceeded a million in recent years—impairment of that use is a serious concern to us.

In order to understand the potential impact of this legislation on the interests of our members, a brief discussion of recreational uses of national wildlife refuges is in order.

Hunters and hunting have historically played the major role in creation of the National Wildlife Refuge System (System). Hunters have provided, through the Duck Stamp Act, millions of dollars for purchase of refuges. By their personal efforts, hunters for decades have provided constituency support for the creation of refuges. The imprint of their efforts is reflected in the very geography of the System, which tracks the flyways of huntable waterfowl. More to the point, it is reflected in the legal pattern by which the refuges were created. Our four hundred-plus refuges were created by three means: (1) withdrawal from public lands, via Executive Order, Proclamation, or Public Land Order; (2) purchase, primarily from hunters' "duck stamp" funds; and (3) legislative creation.

For sixty years, the orders creating the withdrawal refuges stressed hunting as an allowable use—often as the sole recreational use—by expressly authorizing the Secretary of the Interior to allow hunting. These orders provided, for instance, that wildlife could be taken on the refuge "under such rules as might be promulgated" or under "general rules and regulations as may be prescribed from time to time." See, e.g., Executive Order 8067 (May 17, 1934); Executive Order 8037 (Jan. 18, 1939); Presidential Proclamation 2287 (June 6, 1938); Presidential Proclamation 2785 (May 18, 1948). By 1940, the Secretary recognized an inherent power to allow hunting by regulation on 193 refuge units. Executive Order 2416 (July 25, 1940).

Purchased refuges had an even more direct link to hunting, being almost entirely purchased by "duck stamp" funds contributed by waterfowl hunters. In 1949 the Duck Stamp Act was amended to double the fee, and to allow up to 25% of these refuge lands to be hunted. In justification of the doubling of the fee, the Department of the Interior had pointed out that funds could be used to buy out private hunting clubs and provide public hunting opportunities. This would pose no threat to wildlife, the Department added, since the most heavily hunted refuge in the system was also one of the most productive. *Hearing on H.R. 3771 before the Subcomm. on Fisheries and Wildlife of the House Comm. on Merchant Marine and Fisheries*, 81st Cong., 1st Sess., at 7-8(1949). Congressman Thompson, the House floor manager of the bill, stressed this recreational benefit, suggesting that the additional funds could be used to "give the man with the Sears and Roebuck shotgun an opportunity to come in and do some choice hunting. . . . This is the duck hunter's solution to his own problem." 95 Cong. Record 10,508-09. In 1958, the Duck Stamp Act was amended yet again, once more increasing the fee, but authorizing the opening of up to 40% of such refuges to hunting. 72 Stat. 486. Thus the role of the hunter was affirmed by recognition of the power to open these refuges to controlled use by the very sportsmen who paid for them.

Legislatively-created refuges likewise reflected the imprint of hunters. The first refuge both authorized and funded by Congress was the Upper Mississippi River National Wildlife Refuge. Hunting was authorized within its bounds and indeed the Floor debates reflected a judgment that its creation was justified both by "the perpetuation of a national asset" and by "the recreational value of hunting to the community on a great scale." 65 Cong. Record 10,977-78. Four years later, when Congress created the Bear River Migratory Bird Refuge in Utah, the legislation authorized hunting on up to 40% of its area, one legislator noting that "it would be unfair to the people not to permit hunting at any time." 69 Cong. Record 6,242. Other refuge-creating legislation likewise recognized the Secretarial power to allow hunting as a recreational use. See, e.g., 48 Stat. 400; 60 Stat. 1080; 62 Stat. 238.

Hunting was thus a recognized and authorized use of refuges long before the first general recreational legislation in 1962, having been authorized by the legislative and executive acts which created many individual refuge units and defined their purposes. By 1959, the Department of the Interior reported that there were 76 refuges open to hunting, and these saw no fewer than 481,504 hunter visits. *Fish and Wildlife Service Pamphlet 420* (1960).

The early 1960's saw a government-wide drive for recreational opportunities: Executive Order 11017 committed five cabinet level-officials to employment on a Recreational Advisory Council, while Congress for the first time established a legislative policy favoring assurance of adequate outdoor recreational opportunities. 16 U.S.C. § 460L. The nation's wildlife refuges were of necessity affected by this drive. Prior to 1965, no refuge had a visitor center; most lacked non-hunting recreational facilities such as campgrounds, picnic areas, or boat docks. While the legislative or executive acts creating individual refuges frequently provided for authority to allow hunting or fishing, they had made no provision for allowing other forms of recreation. In 1961, legislation (H.R. 1171) was introduced, which proposed to grant the Secretary of the Interior power to authorize use of refuges for any "public recreation." In recognition that (unlike hunting) picnic areas, visitor centers, and hiking trails require capital improvements, the legislation authorized appropriations for all necessary purposes, "including the construction and maintenance of public recreational facilities."

H.R. 1171 encountered opposition based on the conclusion that it might require diversion of hunter's Duck Stamp funds, or lands purchased with such funds, to the benefit of recreational users who had not so contributed:

We have established a refuge program for the acquisition of some 12 1/2 million acres for migratory bird habitat. We have acquired 4 1/2 million acres of federal refuges and need to establish another 3 million or 3 1/2 million acres from migratory bird stamp receipts. We have a problem here that, if we establish fishing beaches or bathing beaches in these things, we will be utilizing these in very short supply funds from migratory bird stamps and . . . taking away lands which were raised from sportsman's funds contributed to by duck hunters. . . .

Hearings on Misc. Fish and Wildlife Legislation before the Subcomm. on Fisheries and Wildlife of the House Comm. on Merchant Marine and Fisheries, 87th Cong., 1st Sess. at 48-49(1961) (Testimony of Congressman Dingell); Id. at 52-54 (Testimony of Congressman Cunningham). Congressman Cunningham argued that non-hunting recreation could be accommodated without breaching the implicit contract with waterfowl stamp purchasers: "[N]o doubt the legislation could be amended to make sure the primary purpose is not harmed because we, of course, do not hunt ducks all during the year. . . ." *Id.* at 53-54. When Congressman Dingell pointed out that the bill would "require picnic facilities, roads, boat docks, launching ramps, access road construction, educational exhibits, sanitary facilities, and campgrounds, Cunningham reiterated that "I think the primary purpose ought to be maintained. My position is that duck hunters only use these areas a short time during the year and they just lie idle." *Id.* at 54.

The view that the legislation was needed, not to allow the hunting uses which had long been accepted under the refuges' individual charters, but to allow additional non-hunting uses, was reinforced by testimony of Bureau of Sport Fisheries and Wildlife director Daniel Jantzen. Jantzen testified that the bills at issue were "designed to increase the public benefits of conservation areas, whereas at present, hunting and fishing are the only types of recreational use specifically authorized on refuges." *Id.* at 57-58. Congressman Dingell once again returned to the question of whether other users might benefit improperly from Duck Stamp funds and asked "why should we not have the Secretary say before he opens it [a refuge] each year that they have a sufficient amount of money to open it?" *Id.* at 66.

As reported from committee, the bill incorporated the Department's suggestions intended to clarify that the bill's restrictions would not apply to existing recreational uses which, as the director had testified, amounted to hunting and fishing. The Department proposed adding the words "for incidental or secondary," such that the bill would authorize the Secretary to "administer such areas or parts thereof for incidental or secondary public recreation use." The Department explained that "this amendment has been suggested by the Bureau of the Budget in order to avoid any implication in the opening sentence of the bill that the particular areas do not provide for public recreation. We do not, of course, want such implication to exist." H.R. Report No. 1473, 87th Cong., 2d Sess. (1962).

The bill, as reported, became essentially the Refuge Recreation Act (Recreation Act) of 1962. The Recreation Act indeed authorized the Secretary to allow "appro-

appropriate incidental or secondary use" of a refuge provided that such use was "practicable and not inconsistent with other previously authorized Federal operations or with the primary objectives for which each particular area is established." Additionally, the Recreation Act provided that no "forms of recreation that are not directly related to the primary purposes and functions of the individual areas" shall be allowed until the Secretary determined both that such use "will not interfere with the primary purposes" and that "funds are available for the development, operation, and maintenance of these permitted forms of recreation."

The Recreation Act thus codified a second layer of refuge-related powers. If a use was not authorized by the Order, statute, or purchase decision creating a particular refuge, it could still be allowed if it was a recreational use and met certain criteria—chiefly, consistency with the refuge's purposes and adequacy of funding. The 1962 Act did not, however, deal with non-recreational uses of refuges.

This gap was largely covered by the 1966 National Wildlife Refuge System Administration Act (Administration Act), which authorized the Secretary to permit use of refuges "for any purpose, including but not limited to, hunting, fishing, public recreation and accommodations, and access" whenever such was determined to be "compatible with the major purposes" for which each refuge was established. 16 U.S.C. § 668dd. The Administration Act further recognized that "Nothing in this section shall be deemed to amend, repeal, or otherwise modify the provisions of the Act of September 28, 1962 [the Recreation Act] . . . which authorizes the Secretary to administer the units within the System for public recreation. The provisions of this section relating to recreation shall be administered in accordance with the provisions of said Act." 16 U.S.C. § 668dd(h). This provision was added by the House. The House report explained that the committee recognized that the Recreation Act allowed certain recreational uses and that the Department's witnesses had expressed their intent in permitting such to "follow the policy in the act relating to recreation." Despite these assurances that recreational uses would be governed by the Recreation Act's standards, the committee added, it "deemed it advisable to add a new subsection (h) to the bill to specifically state that nothing in this section of the bill shall be construed to amend, repeal, or otherwise modify" the provisions of the Recreation Act. H.R. Report No. 1168, 89th Cong., 1st Sess. at 11. Thus the Administration Act made it clear that the additional recreational uses which had been authorized in the Recreation Act would continue to be governed by the Recreation Act. Non-recreational refuge uses would be governed by the Administration Act.

In summary, refuge uses are at present authorized by three different sets of legal authorities:

- (1) Uses authorized by the legislative or executive action creating the refuge in question—which encompasses much refuge hunting and fishing, but few other recreational uses;
- (2) Uses not authorized by the action creating the refuge, for which the Recreation Act must be invoked—which encompasses hunting and fishing on some refuges, and visitor centers, picnicking, hiking, and nature observation on virtually all of them; and
- (3) Uses not authorized either by the action creating the refuge, nor by the Refuge Recreation Act, and for which the Administration Act must be invoked—which encompasses all other refuge uses.

The first category of uses thus must meet whatever criteria were set out for the use in the document creating the refuge. The second category must meet the criteria of the Recreation Act (the uses must be "practicable and not inconsistent with . . . the primary objectives" of the refuge, and if unrelated to "primary purposes" (1) must "not interfere with" them and (2) "funds" must be "available for the development, operation, and maintenance" of the use. The third category must meet the criteria of the Administration Act: they must be "compatible" with the "major purposes" for which the individual refuge was established. As S. 823 amends the Administration Act, we believe it would not impact uses specifically excepted from the terms of that Act—viz., recreational uses allowed under other authorities.

Nonetheless, we recognize a risk that the terms of the bill could be held applicable to recreational uses, and thus impose a new set of legal standards upon uses which date back sixty or more years and have historically posed no discernable problem to refuge management. Let me outline the basis for our concerns.

The legislation amends the Administration Act to essentially add a new hierarchy of required findings to the existing "compatibility with major purposes" finding. In addition to the major purposes for establishment of the individual refuge, the decision maker would be required to engage in a series of secondary decisions, relating to the legal purposes of the entire refuge system.

It goes without saying that a use may be legally challenged if any required finding was not made in writing, its rationale sufficiently explained, and documents upon which the finding was based preserved. S. 823 would require (in addition to the finding that the use is "compatible" with the individual refuge's purposes) additional findings that it is "compatible with the purposes of the System" as set out in the legislation. Additional findings must also be made and documented that there is "sufficient information available to make a reasoned judgment" on that issue, and each such use must be documented with evaluation of the "direct, indirect, and cumulative biological, ecological and other effects" of the use, that it will not "have a detrimental effect" (however minute) on "fulfillment of the purposes" of the refuge and of the System. To give an idea of the complexity of simply finding that the use is "compatible" with System objectives, permit me to outline those objectives as set out in the legislation. They are:

(A) To provide a network of land and waters with respect to which the size, variety, and location are designed to protect the wealth of fish, wildlife, and plants of this nation and their habitats for present and future generations.

(B) To provide healthy, naturally productive, and enduring food, water, and shelter to fish, wildlife and plant communities and to ensure naturally diverse, healthy, and abundant populations of all three of the above now and in perpetuity.

(C) To serve in the fulfillment of international treaty obligations of the United States with respect to fish, wildlife, and plants and their habitat.

The purpose of (C) will in turn require review of our four international migratory bird treaties, the Convention on International Trade in Endangered Species, and other international commitments.

To give but one example: the findings merely under (A) require that the refuge manager make and document, in form sufficient to withstand court review, findings that three refuge qualities are being served in a manner sufficient to protect three classes of living things, the habitat of each of the three, and to accomplish all of the above in two different timespans—present and indefinite future. Simple mathematics demonstrates that this involves a minimum of twelve findings ($3 \times 2 \times 2$), even before the refuge manager can proceed to satisfy the requirements of subsection (B)—the first portion of which requires twenty-seven more findings. Our concern is simply that, if recreational use were seen as encompassed within the Administration Act and thus S. 823, the authorization of a three-day duck season—not to mention a visitor center, hiking trail, or construction of picnic tables—would require decisional documentation of exceptional length, and the retention of a veritable library of data to support that decision. The entire matter could be legally challenged based upon the absence of or insufficient detail in the making of a single finding or—to coin a term—a sub-finding. For example, a minor use could be challenged for failure to find that it was compatible with a clause in the migratory bird treaty with Canada, or that it was consistent with ensuring fish populations for future generations even though the refuge manager made such a finding with regard to fish populations within our lifetimes. We do not pose this as a "horrible hypothetical:" such legal tactics have been employed even under current statutory provisions. In litigation a few years ago, Humane Society of the United States challenged hunting programs on over two hundred refuges. Every single finding, whether made under the refuge's original purpose, the Recreation Act, or the Administration Act, was challenged as to its wording, completeness, and documentation. Even the simple finding that there was adequate funding to support the use was challenged with the claim that refuges were not always itemizing each use of funds and showing that there was "adequate" funding left over for the use. Additional challenges were made to each refuge's Endangered Species Act compliance—down to and including which personnel on the refuge were authorized to sign each document—and National Environmental Protection Act documentation. Humane Society ultimately conceded defeat and dismissed its challenge. But in the process the Fish and Wildlife Service was compelled to compile approximately two thousand pages of administrative record and three thousand pages of discovery materials, and the Justice Department compelled to file nearly two hundred pages of motion papers and undertake an appeal. The entire legal defense may well have cost the taxpayers a half million dollars of the Fish and Wildlife Service and legal time, all for no result. The additional burden on refuge managers—who are biologists, not attorneys or professional draftsmen—was incalculable. The problem is that while a statute may speak in platitudes, courts applying the Administrative Procedure Act regard the platitudes as commands. It is not enough that the refuge manager *knows* the use would meet the terms: to survive judicial review he must reduce his decision to writing and retain written factual records to back up every call he is required to make.

If this legislation were seen as applicable to recreational uses, these burdens would be massively increased, and the needs of our wildlife and of sportsmen who support the refuges would be determined primarily by lawyers and judges, not trained refuge managers. We might take comfort in the fact that the legislative history of the various refuge acts makes it clear that the Administration Act, which S. 823 amends, is not meant to cover recreational use, which is to be authorized either under the refuge's initial mandate or under the Recreation Act, and the fact that section 11 of the bill makes clear that it shall not be read to amend the Recreation Act. At the same time, it could be argued that to impose an additional regulatory overlay was not to "alter or otherwise affect" the 1962 authorities. The argument would be illusive, but it might well take another half-million dollar legal action to establish that principle following passage of the legislation.

We strongly oppose S. 823 unless it is amended to ensure that Congress intends to retain the present exemption of recreational uses from its compass. We recommend that S. 823 be amended by the following:

Subsection (h) of Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. § 668dd(h)) is amended to read as follows:

(h) National conservation recreational area provisions: amendment, repeal or modification. Nothing in this section shall be construed to amend, repeal or otherwise modify the provisions of the Act of September 28, 1962 (76 Stat. 653), which authorizes the Secretary of the Interior to administer the areas within the System for public recreation, *nor to restrict allowance of recreational uses under that Act.* The provisions of this section [relating to recreation] shall be [administered in accordance with the provisions of the said Act] *applicable only to recreational uses not already authorized to be permitted under either the authorities creating the refuge or, in the absence of such authorities, under the Act of September 28, 1962.*

Thank you again for the opportunity to present the NRA's views on legislation of vital importance to its membership.

Section 9 ("Conforming Amendment") is amended by adding at the end thereof the following paragraph:

Subsection (h) of Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. § 668dd(h)) is amended to read as follows:

(h) National conservation recreational area provisions: amendment, repeal or modification. Nothing in this section shall be construed to amend, repeal or otherwise modify the provisions of the Act of September 28, 1962 (76 Stat. 653), which authorizes the Secretary of the Interior to administer the areas within the System for public recreation, *nor to restrict allowance of recreational uses under that Act.* The provisions of this section shall be applicable only to recreational use not already authorized to be permitted under either the authorities creating the refuge or, in the absence of such authorities, under the Act of September 28, 1962.

Senator Robert Graham
SD-241

Dirksen Senate Office Sld9.
Washington D.C. 20510-0903

May 25, 1993

Dear Senator Graham,

I read that on April 27, 1993 you introduced legislation for the National Wildlife Refuge System with a public hearing to be held May 19, 1993. Making an immediate telephone call to your office I asked to be allowed to present facts at that meeting. A Ms. Valarie Wagner of your staff notified me that the meeting had been postponed until June 9, 1993 but all the spots to speak were taken. I was told to submit my facts in writing and they would be put in the record.

During continuing conversations with Ms. Wagner it was discovered that your last legislation on Refuges (S-1862) did not have my written facts on record despite the fact that, Ms. Kristine Merritt advised me that my input would be included if it was submitted in writing. Nor were any of my follow up correspondence to my statements of additional facts concerning blatant errors in your proposed legislation.

Your Statement of October 23, 1991 says "decisions will be based on scientific information and periodically reviewed" which I assume your new legislation (S-823) will include. Instead your old bill was riddled with untruths and opinions and failed because proper procedure was not followed not because of the omission of facts. This was a sorry way to try and pass legislation to circumvent guaranteed navigation rights.

Now I understand you are not satisfied with the new management plan for the back county refuges that was recently agreed upon by the U.S. Fish and Wildlife along with the Florida Department of Natural Resources so you are introducing new legislation. I am not satisfied with the new management plan either as it is in direct violation of both State and Federal laws on navigational which should and must be addressed first before any new management plans can be made into law.

I am enclosing a copy of my letter to you on November 8, 1991 in regards to (S-1862) which basically give the same facts that apply to (S-823.) I would like this letter and the enclosed copy read into the record if I can not give my facts in person along with other facts.

The speaker list, past and present, seems to represent only those who will act as a support system for your legislation thereby eliminating those of us with vast experience who wish to present viable facts you may not have taken into consideration.

Yours truly,

H. T. Pontin
1508 W. Indies Dr.
Ramrod Key, FL 33042

Senator Robert Graham
SD-241
Dirksen Senate Office Bldg.
Washington D.C. 20510-0903

November 8, 1991

Dear Senator Graham,

Apparently you think if you sponsor a bill like amending the National Wildlife Refuge System for the environment it is an automatic vote getter. It is if the facts you present are scientifically sound. It appears that the facts you receive and present are from paid employees from government agencies and environmental groups protecting their jobs more than the environment. Many members of these environmental groups do not know about or agree with the information being supplied.

Of the 452 refuges I can only speak of the ones I have knowledge of and am interested in. I have lived in the Lower Keys guiding and fishing for over 30 years in the Great White Heron Refuge and The Key West National Wildlife Refuge.

In your statement of Introduction of the National Wildlife Refuge System at the end of page 2 you state "At one time the Key West National Wildlife Refuge harbored the only known breeding colony of frigate birds in the United States". That is not true, no matter what you have been told, as there is and has been a colony of frigate birds on an island I can see from my front porch for over 30 years. This Island is within 300 feet of a heavy concentration of all types of boating activities year round.

At Ft. Jefferson in the Dry Tortugaa there is a bird sanctuary for the only colony of Noddy and Sooty terns in the United States. There are government vessels, private sail and motor vessels plus outboards which all pass within 30 feet of the island to anchor 100 feet from that island. In addition there are seaplanes landing and taking off regularly within a 1,000 feet of the sanctuary. These birds still return year after year as no one is allowed on the island during breeding season.

Migratory birds and breeding activities do not need protection year round. 300 feet around a nesting area or breeding grounds is ample control for a limited time only. Encompassing the whole Refuge is unnecessary and costly.

The United States Government may own the islands in these Refuges but the people of Florida own most of the bay bottom, no one owns the water. As far as boats go, ALL types of vessels have the right to navigate on navigable water. No one likes or wants to get caught in the Refuge after dark when the birds are normally nesting, as it is difficult and dangerous to navigate. Even the managers and their helpers don't want to get caught after dark on the water in the back country.

In my 50 years on the water as a licensed captain I have observed fish and birds adapt to a changing environment. Those that don't leave, not die. This means no birds, no jobs.

I have returned the information you sent me with comments and underlined areas.
I hope they will be of some help to you.

Yours truly,

H. T. Pontin
1509 W. Indies Dr.
Ramrod Key, FL. 33042

SOUTHEASTERN MONTANA SPORTSMEN
ASSOCIATION

Representing 9 clubs and
5,000 Montana sportsmen

Billings, MT
June 20, 1993



STATEMENT BY PAUL F. BERG ✓
FOR THE RECORD OF THE JUNE 9, 1993 HEARING
BEFORE THE SUBCOMMITTEE ON
CLEAN WATER, FISHERIES & WILDLIFE OF
THE SENATE COMMITTEE ON ENVIRONMENT & PUBLIC WORKS,
REGARDING S. 823, THE NATIONAL WILDLIFE REFUGE SYSTEM
MANAGEMENT & POLICY ACT OF 1993



Mr. Chairman:

We have studied the June 9, 1993 testimony by Bill Reffalt representing the National Wildlife Refuge Association supporting S.823 and concur in its contents.

Members of our Association and our families spend many days each year on the National Wildlife Refuges in Montana. Some of us have visited refuges in other states.

We are avid outdoor people and take our fishing, hunting, camping, bird watching and other recreational activities on our refuges seriously.

We have observed a steady encroachment of commercial activities that are incompatible with the primary purposes of many refuges. These activities are the result of inadequate protective legislation and powerful ranchers with political clout, and the politicians who cater to their wishes without regard for the environmental consequences of overgrazing and other commercial ventures taking place on refuges, all of which have caused a general decline in fish and wildlife habitats, have demoralized professional personnel and aggravated many sportsmen and recreationists.

All of our refuges are unique natural areas and must be managed as wildlife refuges, not for multiple-use cow refuges.

S. 823 would provide the strong legislative direction that the National Wildlife Refuge System must have to move our refuges toward a better, more secure future by allowing the professional managers to manage them as they should be managed — without political and commercial interference.

For the above reasons, we strongly support S. 823.

The opportunity to submit comments for the record is appreciated.

Paul F. Berg
Paul F. Berg
3708 Harry Cooper Place
Billings, MT 59106-1025
Phone: (406) 656-2015



✓ Paul F. Berg is the Chairman, Legislative Committee, SOUTHEASTERN MONTANA SPORTSMEN ASSOCIATION, representing 9 sportsmen clubs and 5,000 Montana sportsmen. He received his M.S. in Fish & Wildlife Management from Montana State University, retired from the U.S. Fish & Wildlife Service in 1980, and is active in several local, state and national sportsmen and conservation groups.





Sport Fishing Institute

1010 Massachusetts Ave., N.W., Washington, D.C. 20001 (202) 898-0770, Fax (202) 371-2085

June 24, 1993

Chairman Bob Graham
 Clean Water, Fisheries and Wildlife Subcommittee
 Senate Environment and Public Works Committee
 SD-456 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Graham:

The Sport Fishing Institute is pleased to provide the following statement regarding S. 823, the National Wildlife Refuge System Management and Policy Act of 1993. The Institute supports the strengthening of the refuge system and the clarification of mission offered through this legislation. However, we are concerned that S. 823, as written, may not adequately recognize the continuing role that compatible fish and wildlife related recreation should play on our nation's refuges.

The Sport Fishing Institute has served the fishery conservation needs of 50 million American anglers and the sport fishing industry since 1949. Recent statistics show that the sport fishing industry stimulated approximately \$24 billion in retail expenditures in 1991, resulting in the employment of an estimated 900,000 Americans.

Recreational fishing opportunities abound on the National Wildlife Refuge System (NWRS). Some 235 refuges offer recreational fishing on over 2 million acres of fishable waters. Anglers spend over 5 million days fishing on refuges, generating over \$250 million in expenditures and creating over 8,000 jobs. Angling on refuges offers large social and economic benefits and enhances a long tradition of angler conservation. S. 823 should reaffirm the tradition of providing quality angling on refuges where it is consistent with sound management of the resource and with the purposes for which each subject refuge was established.

PURPOSES OF THE SYSTEM

Fishing and other fish and wildlife related recreation have long been a cornerstone of our nation's conservation efforts. Anglers have a vested interest in maintaining healthy fisheries throughout the country and are among the nation's leading conservationists. To paint fish and wildlife related recreation with the same brush as other, exploitive uses of the NWRS disregards the vital contributions anglers and hunters make to the conservation of our nation's -- and our refuges' -- natural resources. We believe S. 823 can best recognize the unique place

The National Non-Profit Fish Conservation Organization

Senator Bob Graham
 June 24, 1993
 Page Two

fish and wildlife related recreation plays in refuge management by specifically identifying it under the purposes of the system. We recommend that a fourth purpose be added under section 4(a), paragraph 2: "To provide for fish and wildlife related recreation and education where such use is consistent with refuge purpose and sound fish and wildlife management principles."

We are also concerned over the use of the phrases "naturally productive" and "naturally diverse" under purpose B (section 4, paragraph 2), the use of the phrase "natural diversity" under the responsibilities of the Secretary (section 4, paragraph 4), and the use of the word "native" in the definition of fish and wildlife (section 3). The use of the word "naturally" could be interpreted to prevent active management of refuge resources, even though active management techniques are often essential to maintaining healthy, stable systems. The references to "natural diversity", coupled with the use of the word "native" in defining fish and wildlife, also diminish much-needed flexibility for refuge managers. The reality of fish and wildlife management is that non-native species often play vital social and ecological roles, roles that can no longer be filled by natives alone. These problems could be eliminated by removing the term "native" from the definition of fish and wildlife, replacing the phrase "natural diversity" with "biological diversity," and deleting the word "naturally" where it appears under purpose B.

COMPATIBILITY PROCEDURES

The Sport Fishing Institute shares your concern over activities that may harm the fish and wildlife resources on the NWRS. However, we believe that the process described in section 5 may be unnecessarily cumbersome, diverting refuge managers from their day-to-day management tasks through a cycle of public comment, appeals, and other delays. Streamlining the process would ensure that time and resources were directed to the primary purpose of the refuges -- fish and wildlife management -- rather than being bogged down in lengthy compatibility determinations.

The Fish and Wildlife Service has already modified its compatibility procedures. Rather than imposing a new regime, S. 823 should simply call for development, publication, and implementation of a compatibility procedure capable of protecting the NWRS from activities inconsistent with its stated purposes.

We wholeheartedly support the requirement that other Federal agencies ensure that their activities will not impair refuge resources, unless specifically authorized by law. We believe that the statement should be made stronger. Compatibility requirements should apply not only to agency "activities within" refuges, but to activities which significantly impact refuge resources.

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SYSTEM PLANNING

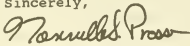
The Sport Fishing Institute supports requirements for improved refuge planning. With the U.S. Fish and Wildlife Service approaching completion of Refuges 2003, we believe a new national plan is unnecessary. The planning requirement should be written in such a way as to recognize Refuges 2003 as the first required national plan. Requiring an additional national plan would only lead to unnecessary expenditures of time and resources.

SUMMARY

The Sport Fishing Institute believes S. 823 offers an important opportunity for improving management of refuges. Refuges will benefit from legislation outlining the purposes of the NWRS and vesting the Secretary with affirmative responsibilities. With modifications to safeguard fish and wildlife related recreation, active management, and non-native species, S. 823 could serve as a solid foundation for the future of our nation's refuges.

We appreciate your consideration of these recommendations, and ask that this statement be included in the record of your subcommittee's June 9 hearing. Our staff stands ready to work with you on refuge legislation.

Sincerely,



Norville S. Prosser
Vice President



THE WILDERNESS SOCIETY

STATEMENT BY PAMELA PRIDE EATON
PROGRAM DIRECTOR, REFUGES & WILDLIFE, THE WILDERNESS SOCIETY
FOR THE SENATE SUBCOMMITTEE ON
CLEAN WATER, FISHERIES AND WILDLIFE
CONCERNING S. 823, LEGISLATION TO IMPROVE MANAGEMENT OF
THE NATIONAL WILDLIFE REFUGE SYSTEM

June 18, 1993

Mr. Chairman, it is an honor to submit this testimony on behalf of S. 823 for your first hearing as Chairman of the Subcommittee on Clean Water, Fisheries and Wildlife. On behalf of The Wilderness Society's 300,000 members, Mr. Chairman, I commend you for your personal leadership and vision in introducing and moving forward the National Wildlife Refuge Management and Policy Act. I am delighted that this is the first order of business for your subcommittee. Additional Congressional direction and guidance for the National Wildlife Refuge System is long overdue.

The National Wildlife Refuge System holds tremendous promise for making important contributions to the conservation of this nation's wildlife and habitat. You are in excellent company in recognizing that promise for the system's champions have included President Teddy Roosevelt, J.N. "Ding" Darling, director of the Biological Survey in the 1930s, the members of the Leopold Commission in the 1960s, members of Congress like Representative John Dingell, as well as the many professionals within the Service itself. Unfortunately, as the record from previous hearings on the Refuge System demonstrate, the System has not yet achieved its promise and, without additional direction from Congress, it cannot. Enactment of S. 823 would provide the authority necessary to ensure that the Refuge System is all that it can be.

Mr. Chairman, your legislation provides the basis for addressing the current and future management challenges facing the National Wildlife Refuge System. In the pages below, I outline the reasons we support the language as well as concepts in your bill. The Administration and others have suggested that your bill should be streamlined to find the right balance between "accountability and workability." We urge you to scrutinize carefully any proposals for change to ensure that your bill continues to achieve the specific goals now embodied in it and highlighted below.

Keeping wildlife first: Creating a Dominant Use System

Mr. Chairman, in a previous hearing on legislation to govern the management of the National Wildlife Refuge System, you said, "If we don't want to have a system which has

the primary purpose of wildlife protection, we should abandon the refuge system. This is not intended to be a multiple-use system. It's not intended to be forest lands or other lands that specifically are multiple use."¹ We agree. Your bill and the purposes in it ensure that the needs of wildlife are considered first.

Some witnesses at this hearing and last year's have suggested that your bill be amended to include opportunities for hunting, fishing, trapping, wildlife observation, or other "wildlife-oriented recreational uses" as a purpose of the National Wildlife Refuge System. The Wilderness Society believes refuges can support a variety of recreational activities, especially wildlife-oriented activities like hunting, fishing, trapping, bird-watching, and nature trails, but that these uses must remain secondary to achieving the primary purpose of the Refuge System and individual refuges to conserve wildlife populations and their habitats.

Congress has spoken to this issue in the past. With passage of the National Wildlife Refuge System Administration Act, Congress specifically recognized hunting as an appropriate secondary use of National Wildlife Refuges subject to its compatibility with the major purposes for which such areas were established. This has been the law since 1966, which reads:

"The Secretary is authorized, under such regulations as he may prescribe to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established."

S. 823 does not change Congress's affirmation that hunting is an appropriate, allowable use of refuges when properly managed--that is, when managed in a way that is compatible with the primary purposes of a refuge and the Refuge System. Again, as you have said The National Wildlife Refuge System "is not intended to be a multiple-use system." It is a dominant use system in which the dominant use--and primary purpose--must be the conservation of wildlife and its habitat.

Ensuring naturally diverse populations of native fish, wildlife, and plants

If the primary purposes of the National Wildlife Refuge System should not include activities unrelated to meeting the needs of wildlife, what should they include? What do we want the refuge system to do for wildlife? The Wilderness Society strongly believes that among its purposes, the refuge system should be managed to maintain our nation's natural diversity of native wildlife and plants.

¹Hearings before the Subcommittee on Environmental Protection, Committee on Environment and Public Works, United States Senate, Hearing to Examine the U.S. Fish and Wildlife Service's Administration of the National Wildlife Refuge System and S. 1862, the National Wildlife Refuge System Management and Policy Act, Friday, June 19, 1992.

This concept is currently embodied in S. 823. The purposes state that we will manage the refuge system for "...naturally diverse, healthy, and abundant populations of fish, wildlife, and plant species in perpetuity." The science of conservation biology has taught us that we need to be concerned not just with the presence or absence of species in a given area, but the healthy abundance of a species, its genetic integrity, and the biotic and abiotic community of which it is a part. The term natural diversity embodies these concepts.

Some have expressed fear that the word "natural" would preclude appropriate (e.g. intensive) management on refuges. I do not understand this fear. The bill is quite specific: original establishing purposes of a refuge have priority over the system purposes, if a conflict occurs. Appropriate management to achieve major refuge purposes has first priority and next comes appropriate management to achieve refuge system purposes. Also, if it becomes necessary to provide a habitat type and other specific conditions on a refuge that are no longer available to wildlife elsewhere, the conservation of natural diversity may depend on intensively managed lands. S. 823 encourages achievement of wildlife purposes on refuges and it contains no language limiting use of appropriate management techniques.

On the other hand, science has shown us that management focused artificially on increasing the number of species using a limited habitat area can lead to the elimination of some species. The management of the National Wildlife Refuge System should contribute to rather than limit regional and ecosystem diversity.

As Michael Bean pointed out in his paper at the 1992 North American Wildlife Conference:

Although it may seem elementary, it is important to acknowledge at the outset that scale is extremely important in assessing actions to benefit the conservation of biological diversity.... [Such recognition]...is quite important for the National Wildlife Refuge System. That system is intended to serve national purposes. Its potential contribution to enhancing the conservation of biological diversity necessitates, therefore, that the scale of reference...to advance biological diversity be regional or national, not parochial.²

As we articulate the purposes for the National Wildlife Refuge System, we should ensure that they orient the System to the appropriate scale, set appropriate national priorities for conservation, and are based on our best understanding of the needs of species and natural communities. Again, quoting Michael Bean:

Biological diversity, a catchword perhaps for the simple proposition that our attention must be focused on more than just the ducks and whooping cranes that

²Michael Bean. 1992. Biological Diversity and the Refuge System: Beyond the Endangered Species Act in Fish and Wildlife Management. North American Wildlife and Natural Resources Conference. Charlotte, North Carolina.

have occupied it for so long, needs to be not just an underlying consideration in managing our refuges. It needs to be in the forefront of our thinking about what the National Wildlife Refuge System can and should do for our future Managing the Refuge System for indigenous wildlife

Mr. Chairman, some critics of your legislation have suggested that making the conservation of the variety of our native wildlife and plants a purpose of refuges would inhibit the ability of refuge managers to control non-native or pest species by preventing the use of non-native species as control agents. Conversely, others fear that it will require the Fish and Wildlife Service to expend all its limited resources to eradicate non-native species. These fears are not justified.

The legislation directs the Fish and Wildlife Service to manage actively for native wildlife and plants. Nowhere does it call for the eradication of non-native species, although control of invasive alien species is often necessary to protect native wildlife and habitats. Nor does the bill prohibit or inhibit the use of non-native biological control agents. The introduction of non-native biological control agents is widely-recognized as an effective tool in ecological restoration. Nothing in S. 823 would prevent such applications. However, when making such introductions the Service should, and does, make a thorough assessment of the impact on native ecosystems.

Focussing the National Wildlife Refuge System on the conservation of native plants and animals is not a change from current policy. The Fish and Wildlife Service's refuge manual clearly states that "[t]he National Wildlife Refuge System exists for the protection and management of plants and animals native to the United States."³

Planning for the conservation, management and development of every refuge

Mr. Chairman, I know that you do not need to be convinced of the utility of and need for good planning. We believe the planning provisions of your legislation are crucial. I have attached a list of the essential elements of a planning process for the units of the National Wildlife Refuge System. Among these, the requirement that every refuge be covered by a plan is critical. Under your bill, the Fish and Wildlife Service is free to schedule the order in which plans are completed for refuges, so those refuges currently covered by what the Service considers to be appropriate and timely master plans can be redone at the end of the 10-year planning cycle. Also, the provisions of your bill give the Fish and Wildlife Service the flexibility to develop plans that are appropriate to the size and complexity of refuges in the System, while providing a basic level of planning for all units. If the lands are important enough to have in the National Wildlife Refuge System, we should be attending to their future.

Ensuring the compatibility of refuge uses

One of the major challenges facing the National Wildlife Refuge System is ensuring and maintaining the compatibility of refuge uses. When Congress passed the 1966 Refuge

³7 RM 8.1

Administration Act which articulates in law the concept of compatibility, the House Committee emphasized in its report on the bill that it "expect[ed] the Secretary to carry out first the intended purposes of the areas within the System for which they are established and to permit other uses of such areas only when extreme caution has been exercised to make sure that the other uses are compatible and incidental and secondary to the primary purposes."⁴ Refuge managers have been lonely voices over the past quarter century pointing out the difficulty of truly keeping wildlife first without clear guidance from Congress and the Service itself about how to control uses. Your bill will provide refuge managers the tools they need to put wildlife back on top at refuges.

The compatibility provision of the bill is straight forward. It requires the Secretary to:

- Define the time, location, manner, and purpose of the use.
- Assess the direct, indirect, and cumulative biological and ecological effects of the use.
- Based on such assessment, determine that the use either contribute to or not be detrimental to the ability of the Refuge System and the individual refuge to achieve their fundamental purposes.
- Determine if funds are available for the development, operation, and maintenance of the use.
- Base each compatibility determination on sufficient information to make a reasoned judgment.

These are common sense requirements which are not inherently burdensome to refuge managers nor surreptitiously restrictive for hunting or other secondary activities on refuges.

The bill requires that all activities on National Wildlife Refuges that have not been determined to be compatible be ended not later than five years after enactment of S. 823. This provision is essential to bring all refuge activities into compliance with the law. We are confident that the Service will be more diligent in the future about not allowing new uses of refuges that are incompatible, but the myriad on-going activities must be addressed in a timely fashion as well. The Service has been working for several years to identify and eliminate incompatible uses of refuges. Five years after enactment should be sufficient to complete the effort.

The compatibility section of the bill should be amended to require that any on-going activity determined to be incompatible be modified or eliminated within one-year. Too often, the Fish and Wildlife Service identifies an incompatible use, but takes a protracted approach to resolving it.

Congress should enact S. 823

Mr. Chairman, again, we appreciate your commitment to ensure that our National Wildlife Refuge System lives up to the vision that the champions of the Refuge System

⁴H. Rept. No. 1168, 89th Congress.

shared. We are prepared to work with you and the members of this committee and your staff to move forward in getting S. 823 enacted. Thank you.

Attachment to testimony of Pamela Pride Eaton on S. 823; June 18, 1993

Essential Elements of a Refuge Planning Process

1. **All refuges should be planned:** Management planning guidance should require that each refuge be covered by a comprehensive conservation plan (CCP). This can be accomplished by developing individual plans or plans covering groups of ecologically related refuges.
2. **Plans should be developed within 10 years:** The Service should be required to complete comprehensive conservation plans for all existing refuges within 10 years (1/3 within four years, another 1/3 within seven years, and all existing refuges within 10 years). New refuges should have completed CCPs within 2 years of establishment. Plans should be updated as needed, but no less often than once every 15 years.
3. **Plans should guide future actions:** Developing plans is a fruitless exercise unless management actions are consistent with the plans. If strategies and actions proposed in the plans become obsolete, plans should be amended through the planning process to reflect new information.
4. **Basic information necessary for meaningful plans:** To provide a basis for making management decisions, comprehensive conservation plans should first answer the following questions:
 - a. What are the purposes of the refuge and in what ways can/does the refuge contribute to fulfillment of the purposes of the National Wildlife Refuge System?
 - b. What were the historical fish and wildlife and plant populations and habitats of the refuge?
 - c. What fish and wildlife and plant populations occur on the refuge today? In what ways are these species dependant on the refuge (e.g. seasonal, limited habitat(s), breeding, migration, primary energy replacement stopover)
 - d. What fish and wildlife and plant species might be restored to the refuge through management?
 - e. What other resources does the refuge contain? List the archaeological, cultural, ecological, geological, historical, paleontological, physiographic, and wilderness values.
 - f. What is the relationship of the existing refuge boundaries to ecosystem and watershed boundaries and wildlife dispersal and migration patterns?
 - g. What areas of the refuge are most important as wildlife habitat and what areas might be suitable for use as administrative sites or visitor facilities or for visitor services?
 - h. What significant problems face the refuge, either from within its borders or without? What are the expected risks to the natural diversity of wildlife populations, plants or habitats of the refuge?

5. **Plans should identify actions and strategies to achieve desired future:** Based on the scientific information gathered for the baseline, the plans should, at a minimum, do the following:
- a. Designate areas within the refuge according to their respective values;
 - b. Specify programs for conserving and restoring fish and wildlife, plants, and their respective habitats, and for maintaining the various other resources values of the refuge, including archeological and wilderness values.
 - c. Indicate the strategies to be used to avoid or overcome the problems facing the refuge;
 - d. Identify strategies, developed in consultation with agencies administering Federal and State lands and resources, to enhance wildlife protection on the refuge, and, to the extent practicable, in partnership with other Federal and State lands proximate to the refuge;
 - e. Identify the uses of the refuge that may be compatible with the purposes of the refuge and the purposes and policies of the National Wildlife Refuge System;
 - f. Catalog the opportunities the refuge will provide for compatible fish and wildlife related recreation, ecological research, environmental education, and interpretation of refuge resources and values;
 - g. Review refuge lands for their suitability for designation as wilderness pursuant to the Wilderness Act; and
 - h. Estimate the staff and resources necessary to carry the components of the plan.
6. **Plans and planning process should be accessible to the public:** It is essential that the Service take advantage of and, to the extent compatible with refuge purposes and financial resources, respond to, the knowledge and interests of the public, broadly defined. The planning process should:
- a. Provide for consultation with appropriate federal and state agencies and subdivisions.
 - b. Encourage public review and comment on the plan in draft form. At a minimum, there must be an opportunity for providing written comments and participating in public hearings. Notice of the availability of plans should be made in the Federal Register.



THE WILDLIFE LEGISLATIVE FUND OF AMERICA

To protect the Heritage of the American Sportsman to hunt, to fish and to trap.

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Statement by

The Wildlife Legislative Fund of America

regarding

S. 823

"National Wildlife Refuge System Management and Policy Act"

before the

United States Senate

Committee on Environment and Public Works

Subcommittee on Clean Water, Fisheries and Wildlife

June 9, 1993
Washington, D.C.

The Wildlife Legislative Fund of America is opposed to pending legislative initiatives fashioned to reform the National Wildlife Refuge System (NWRS). The WLFA is persuaded that passage and enactment of S. 823, the "National Wildlife Refuge System Management and Policy Act," would be untimely and inappropriate.

The Wildlife Legislative Fund of America (WLFA) is an association of sportsmen's conservation organizations established to protect the heritage of the American sportsman to hunt, fish and trap. Through its associated organizations, the WLFA represents an aggregate membership of more than 1.5 million sportsmen-conservationists.

The NWRS has a long and distinguished history as an institution for conservation. Back in 1903, when Teddy Roosevelt established the first refuge at Pelican Island, he envisioned a network of Federal lands to specifically benefit wildlife. Since its early beginnings, the NWRS has steadfastly stood for and effected the conservation of our Nation's most valuable natural resources. Today, wildlife on the NWRS is thriving, a tribute to President Roosevelt's vision.

The WLFA is persuaded that the U.S. Fish and Wildlife Service (Service) has professionally managed the NWRS in the past and should continue to do so in the future, despite valid criticisms of some activities permitted on individual refuges. The Service has adequately addressed the vast majority of the problems highlighted in the September, 1989, GAO report concerning specific incompatible uses of the NWRS. The authority currently exists in statute for the Department of Interior and the compatibility process to identify, regulate and resolve incompatible use dilemmas. Such problems, therefore, do not warrant enactment of new legislation.

Proponents of S. 823 assert that an "organic act" is needed to guide administration and management of the NWRS. The WLFA counters that the "Refuge Recreation Act of 1962" and the "NWRS Administration Act of 1966" provide a solid foundation from which the Service can continue to professionally manage the NWRS. These "organic acts" provide adequate authority and direction for quality management of refuges. S. 823 would add new planning processes and requirements that would absorb significant staff time and resources that should be focused, instead, on quality refuge administration and management.

Further, the purposes for which individual refuges are established should remain broad to provide the Service with the flexibility to manage for the widest array of wildlife resources and recreational opportunities possible. The NWRS is best managed by yielding to refuge personnel the flexibility to manage refuges based on their founding purposes, professional judgement and local conditions. Adding layers of bureaucracy would transform qualified managers into little more than administrative technicians and would reduce, rather than enhance, professional resource management.

Congress should refrain from refuge reform initiatives at the present time. The Service is approaching the final stages of a national process to chart the future of the NWRS as we enter into the next century. Coordinated by the Service, "Refuges 2003: A Plan for the Future of the NWRS" is a combined management plan and environmental impact statement (EIS) for the NWRS through the year 2003. The draft EIS for the Refuges 2003 program has been published and distributed to interested and affected parties. The Service is accepting public comments on the document until June 15, 1993. The Service will then prepare a final EIS, which is expected later in the year. Completion and implementation of the Refuges 2003 management plan should occur sometime in 1994. The WLFA is convinced that legislative intervention at this time would serve to undermine a worthwhile effort to resolve the very problems cited in S. 823.

In summary, the WLFA finds that enactment of S. 823, the "NWRS Management and Policy Act of 1993," is untimely and inappropriate. Adding bureaucratic layers to an already burdened system will not make it operate more efficiently. Adequate authorities exist within the Department of Interior and the Service to address and resolve incompatibility problems. Existing legislation provides sufficient guidelines and directives for administration and quality management and the Refuges 2003 initiative should provide additional management direction and facilitate resolution of any remaining problems.

TESTIMONY BY CONSTANCE E. HUNT, SENIOR PROGRAM OFFICER, WORLD WILDLIFE FUND

Mr. Chairman and members of the subcommittee, on behalf of the World Wildlife Fund (WWF), I thank you for the opportunity to comment on this important legislation.

WWF is the largest private U.S. organization working worldwide to conserve nature. WWF works to preserve biological diversity and the health of ecological systems by protecting natural areas and wildlife populations, promoting sustainable use of natural resources, and encouraging more efficient resource and energy use. I work for WWF on issues ranging from wetland restoration to biodiversity on public and private lands.

It is largely because we have a strong background and interest in the conservation of biological diversity that we are focusing on the proposed organic legislation for the National Wildlife Refuge System ("NWRS"). The NWRS harbors some of the most critical remnants of native biological communities in the United States. We believe that the NWRS has the potential to become the hub of a national strategy to protect and enhance biological diversity.

In order to serve this important role, the NWRS must become a more mission-oriented and visible component of the Federal Government. We believe, Mr. Chairman, that your bill provides a strongly positive step in this direction. We therefore support the legislation. We would like to take this opportunity to suggest some ways in which the bill could be strengthened and improved.

PURPOSES AND ADMINISTRATION OF THE SYSTEM

Section 4, purposes and administration of the system, is absolutely necessary to give the NWRS a consolidated mission statement. We strongly support the bill's emphasis on protecting the diversity of our nation's biological communities and, in particular, the establishment of a network of lands and waters for perpetual protection of these communities. To achieve this goal, we believe that the U.S. Fish and Wildlife Service should use strategic tools, such as gap analysis, to identify areas for system expansion and to establish and expand stewardship programs in cooperation with adjacent landowners.

We would suggest, however, that the purpose statement explicitly include active management of refuges as a means by which the desired end, "naturally diverse, healthy, and abundant populations of fish, wildlife, and plant species", can be achieved. The enhancement and protection of biological diversity in fragmented landscapes often requires active management, including prescribed burning programs, brush cutting, water level manipulations, and other treatments as necessary and appropriate depending on the ecosystem of concern.

We also recommend that the proposed subsection 4(a)(2)(A) be amended "To provide a national network . . . designed to *restore and* protect the wealth of fish, wildlife, and plants . . ." (page 6, line 1). Restoration will be necessary to increase the acreage of many native ecosystems that are currently fragmented if they are ever to become naturally productive and enduring again. For the same reason, we recommend that restoration language be added to proposed subsection 4(a)(4)(D)(iii) as follows: "*restore and* conserve other fish, wildlife, and plants . . ." (page 7, line 15).

We suggest that cooperation with adjacent landowners be added to the bill as a component of NWRS administration in order to ensure that a comprehensive, ecosystem-scale perspective is applied.

Finally, we commend you for establishing in this legislation an affirmative responsibility on the part of the Secretary of Interior to protect the NWRS from threats and to ensure that its purposes are carried out.

COMPATIBILITY STANDARDS AND PROCEDURES

We strongly support the intent of Section 5, which sets forth a process for making compatibility determinations and requires the Secretary to revoke permits for uses that are not determined to be compatible. We are concerned, however, that this section would place an onerous burden on refuge managers to scientifically substantiate the compatibility or incompatibility of uses on a case-by-case basis. We therefore recommend that compatibility determinations be made for a range of uses on a refuge or group of ecologically related refuges ("planning units") during the planning process. Under this approach, the goal would be to generate a list of uses that are determined to be generally incompatible or compatible with the purposes of a refuge or group of refuges. For example, commercial forestry might be deemed generally incompatible with management for old-growth forest ecosystems and cattle

grazing might be considered generally incompatible with management for elk or pronghorn. In comparison, picnicking might be found to be generally compatible with educational purposes. The public comment period on general compatibility determinations could then be incorporated into the public review of the refuge planning documents. If a use is generally incompatible, individuals would be required to apply for and receive an exemption in order to engage in that activity on a particular refuge.

SYSTEM CONSERVATION PLANNING PROGRAM

We support the requirement for NWRS planning found in Section 6, particularly the requirements to include other Federal and State agencies in developing strategies to protect a national network of wildlife habitats and to acquire land and water rights necessary to achieve the purposes of the NWRS. We are concerned, however, that extensive planning requirements may prevent Service staff from engaging in other duties essential to proper management of the NWRS. We recommend that the planning processes required by this bill therefore be as streamlined as possible.

As you know, the Service is currently developing a 10-year, comprehensive plan for the NWRS. WWF has submitted detailed written comments on *Refuges 2003*. We believe that the 2003 document, if revised in accordance with our recommendations, would provide an excellent starting point for the 10-year comprehensive plan required by S. 823.

We strongly support the concept of developing plans for complexes of ecologically-related refuges, and recommend that planning units be used wherever practicable. The planning unit concept decreases the planning burden on the NWRS while supporting an ecosystem approach to refuge management.

CONCLUSION

WWF strongly endorses the concepts contained in S. 823. By providing a mission statement and increasing the visibility of the NWRS, this legislation will ensure that the refuge system plays an expanded role in the conservation of the nation's biological diversity. We hope that our comments will be helpful in achieving that goal.

[From the Tampa Tribune, Sept. 21, 1991]

EDITORIALS

Graham's measure to protect wildlife refuges rates passage

In 1903, President Theodore Roosevelt designated a four-acre islet in Florida's Indian River as a federal refuge. His act did more than protect the island's nesting colony of brown pelicans from plume hunters.

The preservation of Pelican Island was the start of a great American endeavor: the National Wildlife Refuge System. Today there are 471 refuges, some 21 in Florida. But the original purpose of the refuges — to provide safe haven for wildlife — has been all but lost.

In refuges, jet fighters blast over eagle nests. Dirt bikes climb deer trails. Cattle and crops squeeze out native plants.

A 1989 General Accounting Office report found that nearly two-thirds of the nation's refuges were being damaged by activities ranging from mining to off-road vehicle races. A later report by the U.S. Fish and Wildlife Service, which supervises the refuges, confirmed the crisis.

Florida's Sen. Bob Graham offers a solution. He's introduced legislation that would give refuge managers authority to halt damaging activities. The measure would re-emphasize that the refuges' primary purpose is to shelter wildlife.

The measure would not keep people from using the refuges. Hunting, hiking, biking, and other pursuits would be permitted — as long as they did not unduly harm wildlife. The Fish and Wildlife Service would be required to conduct a "compatibility" study to determine if an action was appropriate.

The measure will not affect lands in Alaska, including the Arctic National Wildlife Refuge, where oil companies hope to drill. The Alaska lands were designated refuges under special legislation that excludes them from the regulations of other refuges. Graham's bill will apply only to refuges in the other 49 states, but that's where most of the abuse occurs.

It's also important to note that Graham's legislation is *not* related to a congressional effort to ban hunting in refuges. That misguided effort deserves defeat. After all, the federal duck stamp, which duck hunters are obligated to buy, helps fund the refuge system. Hunting and other out-

door pursuits should be allowed — indeed encouraged — whenever possible. But they must be properly managed.

Unfortunately, as things stand, the Fish and Wildlife Service does not have the tools to properly supervise the sanctuaries. In the Florida Keys, for instance, water scooters racing by mangrove islands terrify wading birds off their nests. Refuge managers can do nothing. Graham would give them the power to ban the scooters from sensitive areas.

The legislation also would give clarity and purpose to the National Wildlife Refuge System. Now, the system's mission is foggy, refuge decisions are usually dictated by special interests and politics. What is best for wildlife becomes secondary.

Under Graham's proposal, the Interior Secretary would be required to prepare a comprehensive plan for the refuge system and formulate a strategy for maintaining healthy wildlife populations. A plan for each refuge would have to be prepared through a process that would include public hearings and comment.

In addition, other federal agencies would be prohibited from harming the refuges. Some of the refuges' worst problems are caused by the federal government itself. The military, for instance, conducts test flights over some of the preserves. Graham's proposal would not necessarily prohibit such flights, but it would ensure that they took place in areas and at times of year where they did no harm.

Fishermen and hunters, understandably, worry that the proposal might be subverted into an outright ban on all recreational activities. Graham must make certain that does not happen. Taxpayers deserve reasonable use of the lands. But if the refuges are properly managed, wildlife will prosper and that's to the advantage of sportsmen.

Graham's legislation revives Teddy Roosevelt's vision of a network of wildernesses where native American animals, not dirt bikes and water scooters, can run wild. It deserves adoption.

[From the Miami Herald, Nov. 4, 1991]

Firstly, a *wildlife* refuge

THE NATION'S only known breeding colony of frigate birds abandoned its Key West National Wildlife Refuge rookery last year, and breeding also sharply declined among wading birds in the nearby Great White Heron National Wildlife Refuge. Managers say that a dramatic increase in jet-skiing, boating, and camping drove the birds away.

The Edwin Forsythe National Wildlife Refuge in southeast New Jersey is a stop-over for some 200 species of migratory birds. There, military training flights, commercial fishing, and all-terrain vehicles have become the "most serious problems" of 20 "incompatible and harmful" uses.

Arizona's Cabezas Prieta refuge is prime habitat for the endangered pronghorn antelope. Now it also is being used as an Air Force bombing range.

Mining of selenite crystals competes with wildlife at Oklahoma's Salt Plains refuge, while grazing cattle are taking over Hawaii's Hakalau Forest.

In 1989 Congress's General Accounting Office cataloged "harmful secondary uses" that it said occur in 63 percent of the nation's 472 wildlife refuges. Managers cited three major reasons: political pres-

MAKE IT SO, CONGRESS

sure, economic pressure, and lack of legal authority to prohibit incompatible uses.

Florida Sen. Bob Graham rightly proposes to correct that. He has introduced a bill authorizing refuge managers, after public hearings, to ban uses found biologically incompatible. The bill bans other Federal agencies from using refuges without specific Presidential authorization.

The bill is endorsed by the Defenders of Wildlife, the Wilderness Society, and five other environmental organizations. It also orders that master plans be developed for the national refuge system and each refuge. But some refuges already have such plans, so this proviso should be modified to avoid mindless duplication.

Rep. Gerry Studds of Massachusetts is pushing similar legislation in the House. The bills reiterate an important point: The refuge system was established to protect and preserve *wildlife*, not for public recreation or development. Congress should pass this legislation and instruct the Fish and Wildlife Service to get "back to basics" and protect America's natural heritage.

[From the San Francisco Examiner, Dec. 12, 1991]

Wildlife refuges need help

THE NATIONAL Wildlife Refuge system is under siege by a variety of marauders ranging from grazing cows to warplanes shooting up rookeries. Administrative action under existing law can improve protection for the animals, fish and birds the refuges were created to preserve. But this is not enough. Official attention to the problem is not constant, and strong political pressures erode safeguards. Tougher, more specific legislation is in order.

The 472 federal refuges, such as that on San Francisco Bay near the Dumbarton Bridge, serve a number of purposes besides offering wildlife habitat. These areas of more than 90 million acres are also used for recreation, ranching, mining and other commercial operations, and military training. Often these non-wildlife activities do not interfere with the refuges' role as home to some 700 species of birds, more than 1,000 kinds of mammals, reptiles and am-

phibians, plus fish and plants—some of them endangered species. But environmentalists are increasingly concerned about incompatible uses of refuges that threaten their primary inhabitants.

Cattle ruin grasses and streams. Noisy recreational vehicles and hordes of human visitors chase birds and animals. Military aircraft drop practice bombs near seals and nesting birds. The Interior Department's Fish and Wildlife Service is trying to improve the situation but has limited power and is subject to severe pressures.

A bill sponsored by Sen. Bob Graham, D-Fla., sets out more clearly the wildlife-protection aim of the refuges. It creates a formal process for deciding what other uses are compatible. It requires a master plan, and a conservation plan for each refuge, and forbids other federal agencies from flouting the rules. Subject to the invading species known as man, the refuges need this helping hand.

United States General Accounting Office

GAO

Report to Congressional Requesters

September 1989

NATIONAL WILDLIFE REFUGES

Continuing Problems With Incompatible Uses Call for Bold Action



NOTE: The following has been excerpted from the above-named report. The report, in its entirety, has been retained in Committee files.

Executive Summary

Purpose

Declining populations of migratory waterfowl and other wildlife species have sounded an alarm over the health and sufficiency of the nation's wildlife habitat. Expressing concern about these population declines and certain wildlife refuge management practices affecting the refuges' performances in reversing them, the Chairman, Subcommittee on Environment, Energy, and Natural Resources, House Committee on Government Operations, asked GAO to determine whether national wildlife refuges are being managed for their established purposes—wildlife protection and enhancement—and whether those purposes are being effectively met. This request was later joined by the Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment, House Committee on Merchant Marine and Fisheries, who expressed similar concerns about refuge management.

Background

National wildlife refuges are the only federal lands to be managed primarily for the benefit of wildlife. Since the first national wildlife refuge was created in 1903, the nation's wildlife refuges have grown into a loosely structured system of 452 refuges covering nearly 89 million acres. Because individual refuges have been created under many different authorities with a variety of funding sources, not all refuges have the same specific purpose or can be operated in the same way. However, the refuges' common function is providing habitat for many diverse and sometimes endangered species.

The attractive settings, high wildlife concentrations, and exploitable mineral resources associated with many refuges have also attracted people in large numbers. These visitors, coupled with other commercial and military activities, can threaten the ability of the refuges to protect and enhance wildlife and wildlife habitat. Managing and controlling these secondary uses has become a significant aspect of refuge management.

Responsibility for managing national wildlife refuges rests with the Department of the Interior's Fish and Wildlife Service (FWS). FWS' efforts to manage and control secondary uses are guided by each refuge's specific purposes as well as three broadly applicable laws—the Refuge Recreation Act of 1962, the National Wildlife Refuge System Administration Act of 1966, and the Endangered Species Act of 1973. The 1962 act required any recreational use of refuge lands to be compatible with the refuge's primary purposes. The 1966 act reinforced this compatibility standard and expanded its applicability to all secondary uses. The 1973 act directs FWS to give enhanced attention to protecting endangered and threatened species in its management of the refuges.

Results in Brief

National wildlife refuges are frequently not the pristine wildlife sanctuaries implied by their name. While the refuges serve their primary purpose by providing habitat and safe haven for wildlife, virtually all refuges also host many other nonwildlife-related uses. According to refuge managers, managing these secondary uses such as public recreation, mining, and grazing is increasingly diverting management attention from the professional wildlife management functions that refuge staff have been trained to perform. Moreover, despite the requirement that only compatible secondary activities be permitted, refuge managers report that activities they consider harmful to wildlife resources (such as power boating and off-road vehicles) are occurring on nearly 60 percent of the wildlife refuges.

Harmful secondary uses of refuges are occurring for two primary reasons. First, on many refuges FWS has allowed the uses in response to pressure from local public or economic interests. Second, on other refuges FWS has not been able to control the harmful uses because it does not have full ownership of, or control over, refuge lands. Because FWS does not identify the performance potential of each refuge in fulfilling its wildlife enhancement mission, a precise assessment of the overall impact of these harmful secondary uses cannot be made. However, on the basis of refuge manager responses to a GAO questionnaire and GAO's detailed scrutiny of 16 refuges, GAO believes that many of these uses are reducing the ability of refuges to serve their primary purpose.

Principal Findings

Secondary Uses Occurring Almost Universally

To collect information on the extent and nature of secondary uses on refuges, GAO sent questionnaires to the managers of each refuge. More than 90 percent of the 428 refuges for which GAO received questionnaire responses (out of 444 sent out) had at least one secondary use occurring. More than 70 percent of the responding refuges had at least 7 different secondary uses and more than 30 percent were experiencing at least 14 different uses. Managing this demand is increasingly diverting refuge management attention and scarce resources away from wildlife management—the refuge's primary purpose.

Many Secondary Uses Harming Wildlife Resources

Beyond distracting attention from wildlife management functions, many secondary uses are causing direct harm to wildlife resources despite the requirement that FWS allow secondary uses only if they do not materially detract from the refuges' ability to serve their primary purposes. Refuge managers reported that at least one harmful use was occurring on 59 percent of the refuges. Mining, off-road vehicle and airboat use, waterskiing, and military air exercises were most likely to be considered harmful. Refuge managers told us that these activities disturbed the wildlife habitat, disrupted breeding activities, or modified established animal behavior patterns.

FWS does not identify each refuge's wildlife enhancement potential so it is not possible to precisely measure the impact of harmful uses on the refuge's performance. While the total effect of the harmful uses on wildlife cannot be quantified, there is no doubt that the effect is negative. In this regard, GAO identified adverse impacts from secondary uses on wildlife in a number of individual refuges. In one case, for example, refuge managers believe the requirement to manage the refuge's water resources to provide waterskiing opportunities for area residents is substantially reducing the refuge's waterfowl production.

Causes of the Harmful Uses

Overall, refuge managers attributed the harmful uses of refuges to two primary factors—external pressures and limitations in FWS' jurisdiction over refuge resources. Refuge managers attributed about one-third of the ongoing harmful uses to each factor. The remaining one-third was attributed to miscellaneous other causes. With respect to the first primary factor, in spite of its compatibility mandate, FWS has allowed uses that refuge managers believed to be harmful to satisfy local public and economic interests that sought them. GAO believes this result can largely be attributed to FWS' consideration of nonbiological factors in making its compatibility decisions and its failure to periodically reevaluate ongoing secondary uses as prescribed by its Refuge Manual. It has also not compiled data on the cost of managing these uses.

With respect to the second primary factor, on many other refuges, refuge managers report that they are powerless to prohibit harmful uses because of various limitations in FWS' jurisdiction over refuge lands. These limitations include the lack of ownership of subsurface mineral rights, shared jurisdiction over navigable waterways within refuge boundaries, and the lack of control over military access to refuge lands and the airspace above them. On these refuges, such limitations effectively prevent managers from stopping a variety of uses such as mining,

commercial boat traffic, and low level military aircraft overflights that in many circumstances have proven to be harmful to wildlife resources.

Recommendations

For those refuge uses within FWS' discretion, GAO recommends that FWS ensure that compatibility decisions are based on biological criteria. GAO also recommends that FWS (1) compile financial data on the cost of managing secondary uses to determine their impact on refuges' limited resources, (2) comply with the requirement in its Refuge Manual to reevaluate ongoing secondary refuge uses on a periodic basis, and (3) eliminate all uses deemed, on biological grounds, to detract materially from the refuges' wildlife purpose(s). For those refuges where FWS cannot stop the harmful secondary uses because of ownership and control limitations, GAO recommends that FWS determine whether the refuges should be improved through the acquisition of needed property rights or other steps or be removed from the system, thus freeing limited resources for use at other wildlife refuges.

Agency Comments

GAO discussed the information in this report with FWS managers in the Office of the Assistant Director-Refuges and Wildlife. As requested, however, GAO did not obtain official FWS comments on this report.

103D CONGRESS
1ST SESSION

S. 823

To amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, APRIL 19), 1993

Mr. GRAHAM (for himself, Mr. KOHL, Mr. DODD, Mr. SARBANES, Mr. WOFFORD, Mr. FEINGOLD, Mr. AKAKA, Mr. BUMPERS, Mr. LEAHY, Mr. DASCHLE, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “National Wildlife Refuge System Management and Policy
6 Act of 1993”.

7 (b) **REFERENCES.**—Whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or provision
3 of the National Wildlife Refuge System Administration
4 Act of 1966 (16 U.S.C. 668dd et seq.)

5 **SEC. 2. FINDINGS AND PURPOSES.**

6 (a) FINDINGS.—Congress finds and declares that—

7 (1) the National Wildlife Refuge System (re-
8 ferred to in this section as the “System”) was estab-
9 lished under the National Wildlife Refuge System
10 Administration Act of 1966 (16 U.S.C. 668dd et
11 seq.);

12 (2) the National Wildlife Refuge System Ad-
13 ministration Act of 1966 consolidates the authorities
14 related to lands, waters, and interests in the lands
15 and waters administered by the Secretary of the In-
16 terior (referred to in this section as the “Sec-
17 retary”), for the purpose of conservation of fish and
18 wildlife;

19 (3) the System provides opportunities for indi-
20 viduals to participate in wildlife-oriented recreation,
21 and to learn, understand, and appreciate the value
22 of and need for conserving fish and wildlife, wild
23 lands, and naturally productive ecological commu-
24 nities, types, and systems;

3

1 (4) the System is the only complex of Federal
2 lands devoted primarily to preserving, restoring, and
3 managing fish and wildlife and the habitats of fish
4 and wildlife;

5 (5) National Wildlife Refuges provide habitat
6 for many endangered and threatened species, and
7 for species that may become endangered or threat-
8 ened, as well as for other fish, wildlife, and plants;

9 (6) the well-being and abundance of the fish,
10 wildlife, and plants would be diminished without the
11 protected habitat;

12 (7) activities are occurring on a significant
13 number of National Wildlife Refuges that result in
14 harm to the fish and wildlife resources the System
15 was designed to conserve; and

16 (8) improvements are needed in the administra-
17 tion and management of the System to ensure that
18 sound and effective conservation programs for the
19 System are developed, implemented, and enforced.

20 (b) PURPOSES.—The purposes of this Act are as
21 follows:

22 (1) To reaffirm the provisions of the Act com-
23 monly known as the Refuge Recreation Act (16
24 U.S.C. 460k et seq.) that authorize the Secretary to
25 permit compatible fish and wildlife-oriented public

1 recreation, such as hunting, fishing, and wildlife ob-
2 servation on refuges.

3 (2) To improve the administration and manage-
4 ment of the System.

5 (3) To establish purposes for the System.

6 (4) To improve the compatibility determination
7 process for National Wildlife Refuges.

8 (5) To establish comprehensive planning for the
9 System and individual wildlife refuges of the System.

10 (6) To provide for interagency coordination in
11 maintaining refuge resources.

12 **SEC. 3. DEFINITIONS.**

13 Section 5 (16 U.S.C. 668ee) is amended—

14 (1) by redesignating subsections (a) through (e)
15 as subsections (g) through (i), respectively; and

16 (2) by inserting the following new subsections
17 before subsection (g) (as so redesignated):

18 “(a) The term ‘Director’ as used in this Act means
19 the Director of the United States Fish and Wildlife
20 Service.

21 “(b) The terms ‘fish’, ‘wildlife’ and ‘fish and wildlife’
22 as used in this Act mean any native member of the animal
23 kingdom in a wild, unconfined state, including the parts,
24 products, or eggs of the animals.

1 “(c) The term ‘plant’ as used in this Act means any
2 native member of the plant kingdom in a wild, unconfined
3 state. The term shall include any plant community, seed,
4 root, or other part thereof.

5 “(d) The term ‘refuge’ as used in this Act means a
6 unit of the National Wildlife Refuge System, except that
7 the term shall not include State-managed wildlife manage-
8 ment areas (commonly known as ‘coordination areas’).

9 “(e) The term ‘Secretary’ as used in this Act means
10 the Secretary of the Interior (except as the context implies
11 otherwise).

12 “(f) The term ‘System’ as used in this Act means
13 the National Wildlife Refuge System.”.

14 **SEC. 4. PURPOSES AND ADMINISTRATION OF THE SYSTEM.**

15 Section 4(a) (16 U.S.C. 668dd(a)) is amended—

16 (1) by redesignating paragraphs (2) and (3) as
17 paragraphs (5) and (6), respectively;

18 (2) in paragraph (6), as so redesignated, by
19 striking “paragraph (2)” and inserting “paragraph
20 (5)”; and

21 (3) by inserting after paragraph (1) the follow-
22 ing new paragraphs:

23 “(2) The purposes of the System are as follows:

24 “(A) To provide a national network of lands
25 and waters with respect to which the size, variety,

1 and location are designed to protect the wealth of
2 fish, wildlife, and plants of this Nation and their
3 habitats for present and future generations.

4 “(B) To provide healthy, naturally productive,
5 and enduring food, water, and shelter to fish, wild-
6 life, and plant communities and to ensure naturally
7 diverse, healthy, and abundant populations of fish,
8 wildlife, and plant species in perpetuity.

9 “(C) To serve in the fulfillment of international
10 treaty obligations of the United States with respect
11 to fish, wildlife, and plants, and their habitats.

12 “(3) If the Secretary finds that a conflict exists be-
13 tween any purpose set forth in the law or order that estab-
14 lished a refuge and any purpose set forth in paragraph
15 (2), the Secretary shall resolve the conflict in a manner
16 that fulfills the purpose set forth in the law or order that
17 established the refuge, and, to the extent possible, achieves
18 all of the purposes set forth in paragraph (2).

19 “(4) In the administration of the System for the pur-
20 poses described in paragraph (2), the Secretary, acting
21 through the Director, shall—

22 “(A) ensure that the purposes of the System
23 described in paragraph (2) and the purposes of each
24 refuge are carried out;

1 “(B) protect the System and the components of
2 the System from threats to the ecological integrity
3 of the System and components;

4 “(C) to the extent authorized by law, ensure
5 adequate water quantity and water quality to fulfill
6 the purposes of the System and of each refuge; and

7 “(D) plan, propose, and direct the expansion of
8 the System in a manner best designed to—

9 “(i) accomplish the purposes of the System
10 and of each refuge in the System;

11 “(ii) protect and aid recovery of any spe-
12 cies listed as endangered or threatened (and
13 any species that is a candidate for the listing);
14 and

15 “(iii) conserve other fish, wildlife, and
16 plants, the habitats of the fish, wildlife, and
17 plants, and other elements of natural diver-
18 sity.”.

19 **SEC. 5. COMPATIBILITY STANDARDS AND PROCEDURES.**

20 Section 4(d) (16 U.S.C. 668dd(d)), is amended by
21 adding at the end the following new paragraphs:

22 “(3) Except as provided in paragraph (5), the Sec-
23 retary shall not initiate or permit a new use of a refuge
24 or expand, renew, or extend an existing use unless the Sec-
25 retary finds, in consultation with the Director, pursuant

1 to paragraph (5), that the use is compatible with the pur-
2 poses of the System and of the refuge. The Secretary shall
3 make no determination of compatibility under this sub-
4 paragraph, nor initiate a proposed new use or permit a
5 proposed, continued, or expanded use, unless the
6 Secretary—

7 “(A) states the time, location, manner, and pur-
8 pose of the use;

9 “(B) evaluates the direct, indirect, and cumu-
10 lative biological, ecological, and other effects that the
11 Secretary determines to be appropriate for the use;

12 “(C) makes a determination, on the basis of the
13 evaluation required under subparagraph (B) that the
14 use will contribute to the fulfillment of the purposes
15 of the System and the refuge or will not have a det-
16 rimental effect upon fulfillment of the purposes of
17 the System or the refuge; and

18 “(D) makes a determination that funds are
19 available for the development, operation, and main-
20 tenance of the use.

21 “(4) Unless the Secretary, in consultation with the
22 Director, determines that there is sufficient information
23 available to make a reasoned judgment that a proposed,
24 continued, or expanded use of a refuge is compatible with

1 the purposes of the System and the refuge, the Secretary
2 shall not permit the use.

3 “(5)(A) Except as provided in subparagraph (B), any
4 use of refuge system lands in effect on the date of enact-
5 ment of this subparagraph, that, before such date, was
6 determined to be compatible under this section or the Act
7 entitled ‘An Act to assure continued fish and wildlife bene-
8 fits from the national fish and wildlife conservation areas
9 by authorizing their appropriate incidental or secondary
10 use for public recreation to the extent that such use is
11 compatible with the primary purposes of such areas, and
12 for other purposes’ (commonly known as the ‘Refuge
13 Recreation Act’) (16 U.S.C. 460k et seq.), may be contin-
14 ued pursuant to the terms and conditions of any special-
15 use permits, and applicable law, for the period of time
16 specified in the permit.

17 “(B) Not later than 5 years after the date of enact-
18 ment of this subparagraph, any use described in subpara-
19 graph (A) shall cease. Any permit for the use shall be re-
20 voked unless the Secretary, in consultation with the Direc-
21 tor of the United States Fish and Wildlife Service, makes
22 a determination, pursuant to the procedures established
23 under this section, that the use is compatible with the pur-
24 poses of the System and the refuge.

1 “(6) The Secretary shall, acting through the Direc-
2 tor, by regulation, establish and maintain a formal process
3 governing determinations of whether an existing or pro-
4 posed new use in a refuge is compatible or incompatible
5 with the purposes of the System and the refuge. The regu-
6 lations shall provide for the expedited consideration of
7 uses that the Secretary considers to have little or no ad-
8 verse effects on the purposes of the System or a refuge,
9 and shall—

10 “(A) designate the refuge officer initially re-
11 sponsible for compatibility and incompatibility deter-
12 minations;

13 “(B) describe the biological, ecological, and
14 other criteria to be used in making the determina-
15 tions;

16 “(C) require that the determinations be made
17 in writing and based on the best available scientific
18 information;

19 “(D) establish procedures that ensure an oppor-
20 tunity for public review and comment with respect to
21 the determinations;

22 “(E) designate the officer who shall hear and
23 rule on appeals from initial determinations; and

24 “(F) provide for the reevaluation of a compat-
25 ibility determination on a periodic basis or whenever

1 the conditions under which the use is permitted
2 change.

3 “(7) Except as provided in paragraph (8), the head
4 of each Federal agency that, with respect to a refuge, has
5 an equivalent or secondary jurisdiction with the Depart-
6 ment of the Interior, or that conducts activities within any
7 refuge, shall, in consultation with the Secretary, ensure
8 that any actions authorized, funded, or carried out in
9 whole or in part by the agency will not impair the re-
10 sources of the refuge or be incompatible with the purposes
11 of either the System or the refuge (unless the action is
12 specifically authorized by law).

13 “(8) The President may find, on a case-by-case basis,
14 that, with respect to a refuge, it is in the paramount inter-
15 est of the United States to exempt the head of a Federal
16 agency described in paragraph (7) from carrying out the
17 requirements of paragraph (7).”.

18 **SEC. 6. SYSTEM CONSERVATION PLANNING PROGRAM.**

19 (a) **IN GENERAL.**—Section 4 (16 U.S.C. 668dd) is
20 amended—

21 (1) by redesignating subsections (e) through (i)
22 as subsections (g) through (k), respectively; and

23 (2) by inserting after subsection (d) the follow-
24 ing new subsections:

1 “(e)(1) Not later than September 30, 1994, the Sec-
2 retary shall prepare, and subsequently revise not less fre-
3 quently than every 10 years after the date of preparation,
4 a comprehensive plan for the System.

5 “(2) The plan described in paragraph (1) shall
6 include—

7 “(A) relevant elements of recovery plans re-
8 quired under section 4(f), of the Endangered Species
9 Act of 1973 (16 U.S.C. 1533(f));

10 “(B) relevant summaries and compilations of
11 refuge plans developed under this section and the
12 relevant elements of migratory bird management
13 plans;

14 “(C) a strategy and standards for maintaining
15 healthy and abundant wildlife populations in the
16 System and in each refuge ecotype or ecosystem (in-
17 cluding the protection of zones for dispersal, migra-
18 tion, and other fish and wildlife movements, and the
19 conservation of species designated as candidates for
20 listing pursuant to section 4 of the Endangered
21 Species Act of 1973 (16 U.S.C. 1533));

22 “(D) strategies, developed cooperatively with
23 agencies administering other Federal or State land
24 systems, to enhance wildlife protection on national
25 wildlife refuges and other land systems which collec-

1 tively form a national network of wildlife habitats;
2 and

3 “(E) a plan and program for the acquisition of
4 lands and waters, including water rights, necessary
5 to achieve the purposes of the System and each
6 refuge.

7 “(f)(1) Except with respect to refuge lands in Alaska
8 (which shall be governed by refuge planning provisions of
9 the Alaska National Interest Lands Conservation Act (16
10 U.S.C. 3101 et seq.)), the Secretary shall prepare, and
11 subsequently revise not less frequently than every 15 years
12 after the date of preparation, a comprehensive conserva-
13 tion plan (referred to in this subsection as a ‘plan’) for
14 each refuge or ecologically related complex of refuges (re-
15 ferred to in this subsection as a ‘planning unit’) in the
16 System. The Secretary shall revise any plan at any time
17 thereafter on a determination that conditions that affect
18 a planning unit have changed significantly.

19 “(2) In developing each plan under this subsection,
20 the Secretary shall identify and describe—

21 “(A) the purposes of the refuge and the pur-
22 poses of the System applicable to the refuge or the
23 individual refuges of the planning unit;

24 “(B) fish, wildlife, and plant populations and
25 habitats of the planning unit (including at the time

1 of the development of the plan, current, historical,
2 and potentially restorable populations and habitats)
3 and the seasonal (and other) dependence of migra-
4 tory fish and wildlife species on the habitats and re-
5 sources of interrelated units of the System;

6 “(C) archeological, cultural, ecological, geologi-
7 cal, historical, paleontological, physiographic, and
8 wilderness values of the planning unit;

9 “(D) areas within the planning unit that are
10 suitable for use as administrative sites or visitor fa-
11 cilities or for visitor services;

12 “(E) significant problems, including water
13 quantity and quality needs (within or without the
14 boundaries of the refuge or complex) that may ad-
15 versely affect the natural diversity, communities,
16 health, or abundance of populations or habitats of
17 fish, wildlife, and plants;

18 “(F) existing boundaries of each refuge in the
19 planning unit in relation to ecosystem boundaries
20 and wildlife dispersal and migration patterns; and

21 “(G) specific strategies, developed cooperatively
22 with the heads of agencies administering other Fed-
23 eral and State lands, to enhance wildlife protection
24 in the planning unit, and, to the extent practicable,

1 on other Federal and State lands proximate to the
2 planning unit.

3 “(3) Each plan under this subsection shall—

4 “(A) designate each area within the planning
5 unit according to the archeological, cultural,
6 ecological, geological, historical, paleontological,
7 physiographic, and wilderness values of the area;

8 “(B) specify the uses within each of the areas
9 referred to in subparagraph (A) that may be com-
10 patible with the purposes of the refuge and the Sys-
11 tem and the funds and personnel that may be re-
12 quired to administer the uses;

13 “(C) specify programs for achieving the pur-
14 poses described in paragraph (2)(A) and for conserv-
15 ing, restoring, and maintaining the resources and
16 values identified and described under subparagraphs
17 (B) and (C) of paragraph (2);

18 “(D) specify the approaches to be taken to
19 avoid or overcome the problems identified in para-
20 graph (2)(E) and estimate resource commitments re-
21 quired to implement the approaches;

22 “(E) specify opportunities that may be provided
23 within the planning unit for compatible fish and
24 wildlife related recreation, ecological research, envi-

1 ronmental education, and interpretation of refuge re-
2 sources and values;

3 “(F) except with respect to Alaska refuges
4 studied pursuant to section 1317 of the Alaska Na-
5 tional Interest Lands Conservation Act (16 U.S.C.
6 3205), review the suitability for designation as wil-
7 derness refuge lands not previously studied for des-
8 ignation as wilderness or designated as wilderness,
9 and recommend to the President and Congress des-
10 ignation for the lands in accordance with subsections
11 (e) and (d) of section 3 of the Wilderness Act (16
12 U.S.C. 1132 (e) and (d), respectively), including—

13 “(i) islands and areas of 200 acres or more
14 immediately adjacent to wilderness areas (as
15 designated at the time of the review);

16 “(ii) lands recommended (before the time
17 of the review) for inclusion in the Wilderness
18 Preservation System; and

19 “(iii) proposed land acquisitions by the De-
20 partment of the Interior that the Secretary de-
21 termines will, over time, be of an area of ap-
22 proximately 5,000 contiguous acres; and

23 “(G) identify the funds and personnel necessary
24 to implement the strategies and administer the uses
25 identified in this section.

1 “(4) In preparing each plan under this subsection,
2 and any revision of the plan, the Secretary shall consult
3 with such heads of Federal agencies and State depart-
4 ments and agencies as the Secretary determines to be ap-
5 propriate.

6 “(5) Prior to the adoption of a plan under this sub-
7 section, the Secretary shall issue public notice of the draft
8 proposed plan in the Federal Register, make copies of the
9 plan available at each regional office of the United States
10 Fish and Wildlife Service, and provide opportunity for
11 public comment.

12 “(6)(A) By not later than 4 years after the date of
13 enactment of this subsection, the Secretary shall, pursuant
14 to this subsection, prepare and submit to the appropriate
15 committees of Congress, plans for not less than one-third
16 of the refuges in existence on the date of enactment of
17 this subsection.

18 “(B) By not later than 7 years after the date of en-
19 actment of this subsection, the Secretary shall, pursuant
20 to this subsection, prepare and submit to the appropriate
21 committees of Congress, plans for not less than two-thirds
22 of the refuges in existence on the date of enactment of
23 this subsection.

24 “(C) By not later than 10 years after the date of
25 enactment of this subsection, the Secretary shall, pursuant

1 to this subsection, prepare and submit to the appropriate
2 committees of Congress, plans for each refuge in existence
3 on the date of enactment of this subsection.

4 “(D) With respect to any refuge established after the
5 date of enactment of this subsection, the Secretary shall
6 prepare a plan for the refuge not later than 2 years after
7 the date of the establishment of the refuge.”.

8 **SEC. 7. ADMINISTRATION.**

9 The Secretary of the Interior shall manage the ref-
10 uges in the National Wildlife Refuge System in a manner
11 consistent with any refuge conservation plans developed
12 under section 4 of the National Wildlife Refuge System
13 Administration Act of 1966 (16 U.S.C. 668dd), as
14 amended by this Act.

15 **SEC. 8. REGULATIONS.**

16 Except as otherwise required in this Act, the Sec-
17 retary of the Interior shall—

18 (1) not later than 1 year after the date of en-
19 actment of this Act, propose regulations to carry out
20 this Act and the amendments made by this Act; and

21 (2) not later than 18 months after the date of
22 enactment of this Act, promulgate final regulations
23 to carry out this Act and the amendments made by
24 this Act.

1 **SEC. 9. CONFORMING AMENDMENT.**

2 Section 4 (16 U.S.C. 668dd) is amended by striking
3 "Secretary of the Interior" each place it appears and in-
4 serting "Secretary".

5 **SEC. 10. EMERGENCY POWER.**

6 The Secretary of the Interior is authorized to suspend
7 any activity conducted in any refuge in the National Wild-
8 life Refuge System in the event of an emergency that con-
9 stitutes an imminent danger to the health and safety of
10 any wildlife population, or refuge, or to public health and
11 safety.

12 **SEC. 11. STATUTORY CONSTRUCTION.**

13 Except as specifically provided in this Act or the
14 amendments made by this Act, nothing in this Act or the
15 amendments made by this Act shall be construed so as
16 to alter or otherwise affect the act commonly known as
17 the Refuge Recreation Act of 1962 (16 U.S.C. 460k et
18 seq.), the National Wildlife Refuge System Administration
19 Act of 1966 (16 U.S.C. 668dd et seq.), the Alaska Na-
20 tional Interest Lands Conservation Act (16 U.S.C. 3101
21 et seq.), or any other law or order establishing individual
22 refuges in effect on the date of enactment of this Act.

23 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums
25 as may be necessary to carry out this Act and the amend-
26 ments made by this Act.

**SECTION BY-SECTION SUMMARY OF THE NATIONAL WILDLIFE REFUGE
SYSTEM MANAGEMENT AND POLICY ACT OF 1993**

(SEN. BOB GRAHAM)

TITLE—Sec. 1

The National Wildlife Refuge System Management and Policy Act

PURPOSES OF TITLE LEGISLATION—Sec. 2

- A) To reaffirm the existing authority of the Interior Secretary to permit compatible fish and wildlife-oriented recreation, such as hunting, fishing and wildlife observation, on refuges;
- B) to establish purposes and comprehensive planning for the National Wildlife Refuge System; and
- C) to improve the System's administration, management, and compatibility determination process.

DEFINITIONS—Sec. 3

ESTABLISHING PURPOSES AND ADMINISTRATION OF THE REFUGE SYSTEM—Sec. 4

- A) Amends existing law governing the refuge system, the National Wildlife Refuge System Administration Act of 1966, by adding the following statutory purposes of the system:
 - (1) to provide a national network of lands and waters, the size, variety and location of which are designed to protect fish, wildlife, and plants and their habitats;
 - (2) to provide healthy, naturally productive, and enduring food, water, and shelter to ensure naturally diverse, healthy and abundant populations of fish, wildlife and plant species in perpetuity; and
 - (3) to help fulfill international fish, wildlife, and plant treaty obligations of the U.S.

Where system purposes and the specific purposes of a given refuge conflict, the Interior Secretary shall fulfill the specific refuge purposes and, to the extent possible, the system purposes.

- B) Also requires the Interior Secretary to—
 - (1) protect against threats to the ecological integrity of the refuge system; and,
 - (2) to the extent authorized by law, to ensure adequate water quantity and water quality to fulfill the purposes of the individual refuge and the system as a whole.

PROCESS FOR DETERMINING WHETHER USES ARE COMPATIBLE PURPOSES OF THE REFUGE SYSTEM AND INDIVIDUAL REFUGES—Sec. 5(a)-(f)

- A) Amends the 1966 Refuge System Act to require the Secretary to establish a procedure for determining whether existing and proposed refuge uses are compatible with the purposes of the individual refuge and the system as a whole.
- B) Prohibits the Secretary from extending a current use or permitting a new use unless he—
 - (1) determines it to be compatible with the purposes of the individual refuge and the system as a whole; and
 - (2) evaluates the direct, indirect and cumulative biological, ecological and other effects and determines that the use will not have a detrimental effect on fulfilling purposes of the individual refuge and the system as a whole.
- C) The Secretary also must prohibit a use unless he finds there is sufficient information available to make a reasoned judgment that the use is compatible.
- D) Compatibility reviews of existing uses must be conducted within 5 years of the date of enactment. Uses found incompatible and uses not reviewed within 5 years must cease.
- E) Decisions allowing a use must be based on the best available scientific information and be in writing.
- F) Provides for public review of the compatibility decision and designating an appeals officer.
- G) Uses with little or no effect on individual refuge or system purposes receive expedited consideration.

RESPONSIBILITIES OF OTHER FEDERAL AGENCIES—Sec. 5(g)-(h)

- A) Requires Federal agencies that share jurisdiction over a refuge with Dept. of Interior, or that conduct activities within a refuge, to ensure that their actions will not impair the resources of the refuge or be incompatible with the purposes of the individual refuge or the system as a whole.
- B) This requirement does not apply if the actions are specifically authorized by law or if the President finds that it is in the paramount interest of the U.S. to exempt the federal agency.

COMPREHENSIVE REFUGE SYSTEM PLAN AND INDIVIDUAL REFUGE PLANS—Sec. 6

- A) The Secretary shall prepare a comprehensive plan governing management of the refuge system by September 30, 1995, and revise it every 10 years.
- B) Requires within 10 years a individual plan for each refuge, or ecologically-related complexes of refuges, are required every 15 years, except in Alaska (where plans are governed by the Alaska National Interest Lands Conservation Act).
- C) The public shall review all draft plans.

CONSISTENT ADMINISTRATION—Sec. 7

The Secretary shall manage all refuges in a manner consistent with the plans required above.

REGULATIONS—Sec. 8

The Secretary shall issue final regulations within 18 months of enactment to carry out this Act.

CONFORMING AMENDMENT—Sec. 9**APPROPRIATIONS—Sec. 10**

Appropriates such sums as may be necessary to carry out this Act.

EMERGENCY POWER—Sec. 11

Allows the Secretary to suspend any activity on a refuge in the event of an emergency that constitutes an imminent danger to the refuge, the health and safety of any wildlife population, or public health and safety.





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