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Opening Statement of
Chairman John Fleming
Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs
On Thursday, February 27, 2014
1334 Longworth House Office Building Legislative Hearing on
"H.R. 3105, H.R. 3280, H.R. 3324, and H.R. 4032"

Good afternoon, today, the Subcommittee will hear testimony on four bills that make modest changes to the Lacey Act.

The first proposal, H. R. 3105, is a bipartisan measure introduced by our colleagues Congressmen Rick Crawford, Bennie Thompson and Tim Griffin. It will amend the Lacey Act to exempt from potential prosecution shipments of aquatic species produced in commercial aquaculture that may accidentally contain certain injurious wildlife.

Based on the most recent data, the top five aquaculture crops are catfish, trout, tilapia, salmon and crawfish. In 2011, 504 million pounds of these crops were produced at a value of \$582 million dollars. Catfish farming alone employs more than 6,000 people and contributes significantly to the economies of Alabama, Arkansas, Louisiana, Mississippi and Texas.

In order to get these products to market, they are shipped live in large tank trucks to a certified processing facility. In some cases, it is necessary for these trucks and their 25,000 pounds of fish to be transported in interstate commerce. At that point, they become subject to Lacey Act jurisdiction and if a single zebra mussel is found within the shipment, then \$30,000 worth of fish can be lost because of a forfeiture action.

This is a particularly high price to pay for a single injurious wildlife ending up accidentally in a shipment of farmed raised catfish. It is also counterproductive because once these fish arrive at the processing facility they and any unwanted hitchhikers are cleaned, processed and in the case of a zebra mussel or other injurious wildlife destroyed.

The next two bills make modest but important improvements to the Lacey Act Amendments of 2008. These measures respond to testimony provided by the Obama Administration during our Subcommittee oversight hearings.

Specifically the Animal and Plant Health Inspection Service and the Fish and Wildlife Service testified that they lack the authority to administratively exempt plant and plant products manufactured prior to May 22, 2008 or to create a Declaration "On Demand" system.

H. R. 3280, which I introduced along with the Chairman of the Agriculture Subcommittee on Conservation, Energy and Forestry, Congressman G. T. Thompson, would simply establish a long overdue grandfather provision. It will ensure that musicians like Jeff Baxter, Glenn Frey and Bono do not have their vintage guitars confiscated when they re-enter the United States.

This should not be a controversial proposal. In fact, consensus statements were issued in 2009, 2010 and 2011 that stated "The Lacey Act Amendments should be prospective only". These statements were signed by the American Forest & Paper Association, the Environmental Investigation Agency, the Hardwood Federation, the International Wood Products Association, the Sierra Club and the U. S. Chamber of Commerce.

The third bill, H. R. 3324, has been introduced by our former Committee colleague, Congressman Andy Harris of Maryland. It would save the Animal and Plant Health Inspection Service and the regulated community millions of dollars in paperwork costs without adversely impacting, in any way, the enforcement of the 2008 Amendments.

A declaration "On Demand" is not a new idea. It has been used successfully for a number of imported products including certain chemicals, drugs, radio-frequency devices, live animals and children's toys. If you don't want to take my word for it, I would direct you to a letter signed by then Acting Commissioner of the U. S. Customs and Border Protection. In his letter, Commissioner Aguilar stated that "CBP believes that amending the time to furnish Lacey Act information to "upon request" or "on demand" by APHIS will provide flexibility to APHIS in administering the statutory information collection requirement. CBP already administers several programs involving the submission of information by importers "upon request" or "on demand" without difficulty."

Instead of drowning APHIS with millions of declaration forms, under an "On Demand" system an importer would have to fill-out the exact form used today and immediately present it "On Demand" to a federal law enforcement agency. Failure to provide these documents would likely result in prosecution under the Lacey Act.

Finally, we will hear testimony on H. R. 4032, North Texas Invasive Species Barrier Act introduced by our colleagues Congressmen Ralph Hall, Pete Sessions and Sam Johnson of Texas. This legislation builds upon a law enacted in the last Congress which allows the North Texas Municipal Water District to transport and destroy invasive zebra mussels without triggering the Lacey Act.

This latest proactive measure is necessary because it is becoming increasingly likely that the Fish and Wildlife Service will utilize its new Categorical Exclusion Authority to list additional aquatic species – like quagga mussels — as injurious wildlife.

If that occurs without this legislative relief then the new \$300 million dollar pipeline and desperately needed water for the 1.6 million people living in the Dallas/Fort Worth region will be in serious peril.

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