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Testimony on

H.R. 2834 "RECREATIONAL FISHING AND HUNTING HERITAGE AND OPPORTUNITIES ACT"  
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Before the

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND PUBLIC LANDS  
COMMITTEE ON NATURAL RESOURCES

Mr. Chairman, the National Rifle Association (NRA) appreciates the invitation to testify today on legislation that is critical to securing the future of our hunting, fishing, and recreational shooting heritage on Federal public lands. We commend the sponsors of H.R. 2834, the "Recreational Fishing and Hunting Heritage and Opportunities Act," for its introduction and pledge our support for and assistance in its passage through Congress.

H.R. 2834 accomplishes six important objectives and they are the following:

- First, it recognizes the rightful place of hunting, fishing and recreational shooting on Federal public lands.
- Second, it ensures that these historic and traditional public uses are responsibly provided for in land management plans as are other popular recreational activities like hiking and camping.
- Third, it applies this policy across the board in our Federal land systems.
- Fourth, it supports Executive Order 13443 titled "Facilitation of Hunting Heritage and Wildlife Conservation" that directs the relevant Federal agencies to "facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat."
- Fifth, it removes barriers to providing safe and responsible public use of Federal lands.
- Sixth, it restores Congressional intent in laws that court rulings have misconstrued and which will cause deleterious effects on hunting and other recreational pursuits, as well as on sound wildlife management practices.

The NRA has long been involved in issues related to sportsmen's access to our Federal public lands. We have participated in numerous symposia, research studies, and surveys focused on barriers to access and opportunities to hunt and target shoot. Beginning in 1996, the NRA has chaired a Roundtable with representatives of Federal land management agencies and national hunting, wildlife conservation, and shooting sports organizations. The Roundtable was created by a Memorandum of Understanding (MOU) that seeks to resolve issues and enhance opportunities related to hunting and recreational shooting. The current MOU titled "The Federal Lands Hunting, Fishing and Shooting Sports Roundtable" is signed by the Forest Service, Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), and 40 national hunting, fishing and shooting sports organizations. Fifteen years of experience has clearly defined what is achievable by working with our Federal agency partners and what can only be achieved through legislation, specifically through passage of H.R. 2834.

The Forest Service and the BLM will state, in truth, that lands they manage are "open unless closed" to recreational activities meaning that millions of acres are opened to nearly unfettered recreational pursuit. But that policy holds hidden pitfalls. It does not encourage proactive management of recreation, it does not prevent sudden and arbitrary closures of public land to recreation, and it does not require that reasonable access to these open lands be provided. The land is simply open until at such time by administrative fiat it is closed. This policy provides no security for the future of our historic and traditional uses of Federal public lands.

Years of working with the Federal agencies have demonstrated that even with directives sent from an agency head to the field recognizing the legitimate and historic use of Federal public lands for sportsmen's activities, the agencies are so decentralized that field managers are left to their own discretion as to whether headquarter memoranda are adhered to, or for that matter, whether they are read or remembered. H.R. 2834 provides the security we need. It directs that Federal land managers will support and facilitate the use of and access to Federal lands and waters for hunting, fishing, and recreational shooting.

This provision of H.R. 2834 is not only in the best interests of sportsmen and women, but it is in the best interests of America's economy. The most recent economic report on hunting on Federal lands is the 2007 report conducted by Southwick and Associates and the American Sportfishing Association. The report found that hunting on just national forest lands alone annually generated \$894 million in expenditures from 2000 to 2003. The report's executive summary noted that as these expenditures are spent and re-spent by businesses, additional economic effects are created for state and national economies. The money hunters spent

supported over 21,000 full and part-time jobs across the country, and increased Federal income tax receipts by \$111 million.

One objective of the above mentioned MOU is to work in partnership with the Federal agencies to resolve issues in a manner that prevents closures. There are some land managers who have worked with sportsmen's organizations in the spirit of the MOU partnership. However, when faced with a management challenge, the land manager's response is more often to close the area. Under H.R. 2834, Federal land that is being utilized for hunting, fishing, and recreational shooting cannot be closed without public notice and comment and supported by sound science. This removes biases and personal agendas from the Federal management of legitimate and traditional public uses.

H.R. 2834 takes guidance from Congress' passage of the 1997 National Wildlife Refuge System Improvement Act which elevated hunting, fishing and other wildlife dependent recreation above all other public uses and made them priority public uses of the Refuge System. The language of the Act was a direct result of litigation by animal rights activists who endlessly attempted to shut down the Refuge System to hunters and anglers, the very segment of our society who created the Refuge System and who has helped fund it for the past seven decades. Although H.R. 2834 does not elevate hunting, fishing, or recreational shooting above other uses of non-refuge lands, it will ensure that these activities are anchored in law for national forests and grasslands and for public lands managed by the BLM. Where H.R. 2834 and the Refuge Improvement Act converge is in requiring land managers to be proactive in providing for these public uses.

Because land management plans set the stage for and drive decisions made about land use, it is paramount that hunting, fishing and recreational shooting are addressed in these plans. If they are not provided for in land management plans, they can easily cease to exist. As a case in point, there was a shooting range that the BLM considered unsafe so the agency requested the expertise of the NRA. NRA provided the expert who concluded that the range was located in a bad site and improvements were not possible to enhance safety. But the expert identified several suitable sites for relocation of the range. The BLM's response was that it could not entertain a new site because the recently adopted management plan for the area did not address recreational shooting---so such a relocation decision could not be made. With the closure of the range, the entire area was closed to recreational shooting. This is not atypical of the apathy and disregard for the needs and interests of local sportsmen and a breach of the goodwill as embodied in the MOU that occurs at the field level. The MOU is designed to forge partnerships, not adversarial relationships.

All too often management plans are silent about the impacts of proposed management options on these public uses, making it impossible to assess how they will be treated. For example, both the Forest Service and the BLM have been developing Travel Management Plans that designate routes and trails for motorized vehicle use. Some plans make an exception for the use of a vehicle to retrieve legally downed big game some distance off a designated route. Other plans make no exception. It is completely arbitrary at the local level as to how hunting access will be treated, particularly for older and disabled hunters. H.R. 2834 requires that all land management planning documents include evaluations of the effects that management alternatives have on opportunities to engage in hunting, fishing, and recreational shooting.

H.R. 2834 directs Federal land managers to support and facilitate the use and access to public lands and waters for hunting, fishing and recreational shooting through the land management planning process. Land managers will not address public uses unless the subject is brought up by the public during the initial stages of planning. However, even if it is, there is no guarantee how these public uses will be addressed in a plan. As an example, an area of BLM land undergoing a new land use plan had some 20 areas where informal recreational shooting took place. Concern for the future of that traditional use of the area was expressed by sportsmen in the initial planning stage. When the draft plan was released, the agency's selected management option was to close the entire area to recreational shooting. So even if hunting, fishing and recreational shooting have traditionally been conducted on a unit of Federal land and it is raised as a subject to address in a management plan, there is no guarantee that it will be fairly and responsibly treated. H.R. 2834 is the only way that sportsmen can be guaranteed their rightful place on their Federal public lands for now and into the future.

Americans need places to target practice. In much of the West, the only places for informal shooting are found on Federal lands managed by the Forest Service and the BLM. Such places are important to introduce family members and friends to the safe and responsible use of firearms and to the enjoyment and challenge of sport shooting. But these places are also important to hunting because it is here where hunters can sight in their hunting rifles and where youth can get basic training before taking a hunter education course. Gone are the days when much of this land would be termed remote. All too often informal shooting sites are being threatened by encroaching development and conflict with other recreationists, exacerbated by anti-gun bias within the agencies. This is why it is critical that recreational shooting be addressed in land management plans.

Planners need to be able to identify and designate areas that are suitable for safe shooting and to ensure that such suitable sites are not made unsuitable because a trail or campground was

built in or through the area. But both the Forest Service and the BLM claim that they are unable to designate such areas because it imposes an undue liability against the United States. This response has no anchor in written policy that I can find. Nor does it explain why recreational shooting is being singled out as a liability. The agencies will tell you that recreational shooting has a record of being one of the safest activities on Federal public lands. Accidental injuries and death involving shooters or other recreationists pale in comparison to activities like off highway vehicle use, white water rafting, and horseback riding. But because the agencies have refused to address this prejudicial and discriminatory treatment of recreational shooting, H.R. 2834 removes this roadblock to safe shooting by permitting the agencies to designate areas for recreational shooting without incurring liability for so doing.

H.R. 2834 puts into law the “open unless closed” policy of the Forest Service and the BLM and establishes a transparent public process when the agency head intends to close an area or restrict its use by hunters, anglers and recreational shooters. Before the action can be taken, the public must be notified, the agency must show that it is necessary and reasonable and supported by facts and evidence, or mandated by other law. The NRA is also very supportive of the bill’s parallel requirement that when an agency’s action will have the effect of closing or significantly restricting hunting, fishing or recreational shooting on 640 or more contiguous acres (or an aggregate of acres affected), Congress and the public must first be notified and coordination must take place with the state fish and wildlife agency. There is an important reason to have state involvement because Federal land closures and restrictions transfer the management responsibility to the state to provide for the needs of the displaced recreating public.

H.R. 2834 safeguards the interests of the states in providing access and opportunities for hunting, fishing, and recreational shooting by protecting states from being burdened with the Federal agencies’ responsibilities for providing for these public uses as well. This is necessary step that Congress needs to take as a result of a 6<sup>th</sup> Circuit Court ruling in a lawsuit brought against the management plan for the Huron-Manistee National Forest (MI). The court said that the Forest Service’s Planning Rule required it to take into account recreational activities, hunting in this case, that are “duplicated” on adjacent state or other Federal lands in determining whether the Huron-Manistee should remain open to hunting. This ruling poses threats to hunting, fishing, and recreational shooting and, for that matter, all recreational activities on forest lands across the country. It suggests that the states and Federal sister agencies are to find ways of accommodating recreationists that are forced off of forest lands because of this ruling. The new draft Forest Planning Rule does not correct this problem.

The draft Forest Service Planning Rule is another excellent example of why administrative policies and rules cannot provide a secure future for our historic and traditional public uses and why H.R. 2834 is needed. The first public look at the Rule was an outline that barely mentioned recreation as an element, let alone an important element, of national forest management. The recreation community was assured that this would be rectified in the draft Rule itself. The draft Rule, which was released for review and public comment earlier this year, addresses recreation in the context of whether it is economically, socially and environmentally sustainable. Recreation is not defined and there is no explanation of what parameters the sustainability of any recreational activity will be measured against. These are real threats that need real solutions and the only real solution is passage of H.R. 2834. Just as the National Wildlife Refuge System Improvement Act dispensed with threats against hunting and fishing, so too has the time come to build into law security for these pursuits on Federal lands managed by the Forest Service and the BLM.

Another provision of H.R. 2834 allows Federal agencies to lease land for shooting ranges. By way of background, the BLM also has a long-standing policy of not building or managing shooting ranges. This means that some 170 million acres of BLM land just in the lower 48 states are closed to any infrastructure for recreational shooting, including basic improvements like berms, target holders and shooting benches, even if the improvements would enhance shooting safety. It is impossible to understand how trails can be built or campsites can be provided for, but yet simple, cost-effective improvements for shooting are not allowed by policy. I would like to see language inserted in the bill directing the BLM to provide for such improvements when those improvements would enhance the safety of a shooting area and reduce potential conflicts with other public land users.

The bill's language, however, responds to a recent policy adopted by the BLM instructing field managers not to lease lands for shooting ranges. The BLM stated that this change in policy was due to concern over environmental liability, specifically concern that leased land returned to BLM management will contain spent lead ammunition requiring the agency to engage in an environmental cleanup. The BLM knows very well that in 2003 the EPA issued guidance for the management of spent lead ammunition at shooting ranges. The guidance is titled "Best Management Practices for Lead at Outdoor Shooting Ranges." The guidance is designed to obviate the need for environmental cleanup if and when a shooting range closes. This concern over environmental liability is simply a smoke screen which the BLM is happy to hide behind.

BLM's response is that land leasing is unnecessary because it has the authority to patent land under the Recreation and Public Purposes Act to a state or local entity for the purpose of

building a shooting range for the community. However, BLM does not reveal the exceedingly long and costly process involved. Land has to be identified for disposal in a land management plan, the agency has to have the interest and funding to pursue a patent request, and there are numerous and costly environmental studies that must be conducted. One such example is the transfer of BLM land to the Arizona Game and Fish Department which took on the responsibility of building and managing a shooting range to replace one on BLM land that had been closed. It has taken 14 years to complete the process of just transferring the land. No spade of dirt has yet been turned and local sportsmen continue to wait for a place to go shooting. This policy needs to be reversed. Both of BLM's policies, on allowing infrastructure to be built and on leasing lands, are clear examples of discriminatory and prejudicial treatment of a legitimate and traditional activity that ultimately shifts the management responsibility to the Forest Service and the states.

Turning to other sections of the bill, the NRA supports language ensuring that the designation of Federal land as wilderness, wilderness study areas, primitive and semi-primitive areas under the management of the Forest Service and the BLM cannot be used to preclude hunting, fishing and recreational shooting. And H.R. 2834 restores the status quo regarding recreation and sound wildlife management practices in wilderness areas by overturning a 9<sup>th</sup> Circuit Court ruling that disallowed the restoration of water catchments for the survival and enhancement of desert bighorn sheep in the wilderness portion of the Kofa National Wildlife Refuge, a refuge established to protect and enhance this species. The Court ruled that the Refuge had not exhausted all other means to protect the sheep and so could not show that these water catchments were necessary. The Court's imposition of a "necessity" test gives Federal land managers and future anti-hunting litigators the tool to distort the Wilderness Act for the purpose of closing these lands to hunters and anglers and wildlife management. H.R. 2834 also makes an important statement that the primary purpose for which a unit of Federal land was established guides its management and that a wilderness overlay cannot materially interfere or hinder that guidance.

And lastly, the NRA supports language in H.R. 2834 that reinforces Congressional intent in the National Wildlife Refuge Improvement Act which requires hunting and fishing programs to be compatible with the purposes for which the specific refuge was established and with the mission and purposes of the National Wildlife Refuge System. Litigation by anti-hunting organizations and a subsequent court ruling resulted in an additional layer of analysis being imposed upon the agency. This additional layer of review is unnecessary and costly to the FWS which is already struggling with huge backlogs in operation and maintenance needs within the Refuge System.

The compatibility test provides sufficient assurance that hunting and fishing programs will not have adverse environmental impacts. That was proven a number of years ago in a different lawsuit filed against the Service over refuge hunting and fishing programs. A thorough and exhaustive review was conducted of the hundreds of programs with the result that an adjustment was made to one hunting program and one fishing program had to be closed. There was no evidence then and none now that suggests taxpayers' dollars are well served by pointless layers of analyses behind the test of compatibility. The only desire of the plaintiffs was to find some other means of grinding to a halt the FWS' ability to open refuges to hunting and fishing and enhancing existing programs.

In conclusion, the NRA wholeheartedly supports H.R. 2834 because it legislatively recognizes the legitimate and traditional activities of hunting, fishing and recreational shooting on Federal public lands. It safeguards these activities from prejudicial and discriminatory treatment. It requires the Federal land manager to be proactive in managing these activities through the land management planning process. It makes administrative decisions that close or significantly restrict these activities to be anchored in a transparent public process and removes administrative and judicial roadblocks that obstruct sound and responsible management of recreation and wildlife resources.

Thank you, again, for the opportunity to testify on H.R. 2834