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Testimony Before the House Natural Resources Subcommittee on Fisheries,
Wildlife, Oceans, and Insular Affairs
on H.R. 358, H R. 709, H.R. 2158, H.R. 1818, and H.R. 2463

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Good morning Chairman Fleming and Members of the Subcommittee, and thank you for inviting me to be with you today to share the perspectives of the state fish and wildlife agencies on the importance of controlling the invasion of Asian carp in our nation's waterways and providing safe places for recreational shooting, and marksmanship training for our military and law enforcement officers. My name is Scott Zody, and I am the Chief of the Division of Wildlife for the Ohio Department of Natural Resources. Ohio is a member of the Association of Fish and Wildlife Agencies (AFWA, or Association), which is the professional trade association for the fifty-one state fish and wildlife agencies (Pennsylvania has two agencies). All 50 states are members of the Association. The Association supports the bills being heard today and offers a few thoughts for the committee's consideration as you proceed through the legislative process.

The Association of Fish and Wildlife Agencies (AFWA) appreciates the opportunity to express our support for H.R. 358 – the Strategic Response to Asian Carp Invasion Act – which takes a major step forward in minimizing the impact of this destructive invasive species. H.R. 358 calls for the United States Fish and Wildlife Service (USFWS), in coordination with the Army Corps of Engineers, the National Park Service, and the United States Geological Survey (USGS), to lead a multiagency effort to slow the spread of Asian carp in the Upper Mississippi and Ohio River basins.

Asian carp (silver, bighead, black, and grass) were introduced to the United States in the 1960s and 70s to address plankton blooms in catfish ponds, address hyper-fertility in municipal tertiary treatment ponds, and provide a new aquaculture product. The carps escaped from aquaculture, research, and some tertiary treatment ponds very shortly (after within the 1970's). Since then, they have proliferated and expanded their ranges throughout most of the Mississippi River basin (including the Missouri, Ohio, and Illinois rivers). They are having major impacts on the aquatic communities in the Mississippi and Illinois rivers and are a threat to all native fish species in the basin, including the Ohio River and its tributaries. The propensity of silver carp to hurl themselves into the air around boats and skiers has drastically reduced the numbers of boat anglers and pleasure boaters in the Illinois River. The carps pose huge economic and ecological harm in areas that they inhabit.

The collaborative approach proposed in H.R. 358 is consistent with the successful Great Lakes-focused Asian Carp Regional Coordinating Committee (ACRCC) that emerged to try to protect the multi-billion dollar Great Lakes fishery. The ACRCC has developed annual Asian Carp Control Strategy Frameworks, which are sets of coordinated, action-oriented research and applied projects that have been the backbone of successful efforts to keep Asian carp from establishing in the Great Lakes. Chaired by the White House Council on Environmental Quality

with full and active participation and coordination among federal, state, and local agencies and private stakeholders, the ACRCC has proven the efficacy of a results-driven, interagency approach.

To date, \$150 million has been invested in the Great Lakes efforts, with particularly important support from the Great Lakes Restoration Initiative. Coming from a state like Ohio that straddles the Great Lakes and Mississippi River Basins, I know that Asian carp control in both watersheds is complementary. But all of the focus – including all-important funding and Congressional authorization – has been on the Great Lakes as Asian carp move further and further upstream in my and other states. By directing and authorizing federal action, H. R. 358 would allow agencies that heretofore have limited their Asian carp focus to within the Great Lakes watershed the ability work outside of the Great Lakes and implement a national strategy to slow the spread of Asian carp.

In its call for action, H.R. 358 specifically mentions applying lessons learned and best practices such as those developed under the well-documented *Management and Control Plan for Bighead, Black, Grass, and Silver Carps in the United States*, November 2007 (National Plan) and the *Asian Carp Control Strategy Framework*. A fundamentally important part of H.R. 358 is authorizing federal agencies to do more about Asian carp problems outside of the Great Lakes. The groundbreaking tools developed by the USGS and others under the auspices of the ACRCC and the National Plan offer blueprints for successful action and tools that could be replicated elsewhere under the umbrella of H.R. 358.

The President's proposed FY14 budget allocates funding to the USGS and the USFWS for work that could be implemented under H.R. 358 and the National Plan. The \$5.9 million increase in funding in the President's budget will allow the USFWS to limit the spread of Asian carp beyond the Great Lakes in major watersheds such as the Missouri, Ohio, and Upper Mississippi Rivers and to coordinate implementation of the National Plan. The funds are intended to be used in part for early detection, rapid response, and the prevention of Asian carp invasions outside of their established ranges. They could also be awarded to states under a competitive grant process for control actions identified by the National Plan and under the aegis of State/Interstate Aquatic Nuisance Species Management Plans. While this is a step in the right direction, it falls short of the estimated \$15-20 million needed to implement the top-tier priorities of the National Plan. Considering this fiscal estimate, we will all need to work together – state and federal agencies, local communities, conservation organizations, private interests, and others – to leverage the financial and human resources to fully implement the plan.

Speaking from firsthand experience, the Ohio River has large populations of bighead and silver Asian carps from its confluence with the Mississippi River to the Falls of the Ohio near Louisville and are increasing in numbers into the Meldahl Pool east of Cincinnati. Currently, only a few bighead carp have been documented in or above the Greenup Pool that borders Kentucky, Ohio, and West Virginia. If the fish attain the same abundances in the upper Ohio River sub-basin as the downstream Ohio River sub-basin, their economic impacts to tourism, recreational boating, and aquatic ecology could be severe. Preventing a self-sustaining population from establishing in the upper Ohio River requires immediate, coordinated actions among all Ohio River basin states.

The Ohio River states recognize the magnitude of the Asian carp threat and the need for coordinated efforts to slow the spread and minimize the impacts of these invasive fish. State natural resource management agencies are responsible for protecting and managing fish and wildlife resources of their respective states and have begun to implement actions to address Asian carp. However, even with their combined efforts, the states realize that they do not have the resources to completely address this problem and will need the cooperation and partnership of multiple stakeholder groups within the basin to achieve success.

To that end, the Ohio River Fisheries Management Team (ORFMT), comprised of state agencies that manage the Ohio River, developed an *Asian Carp Action Plan for the Ohio River Basin*. The Action Plan is a stepped-down, regional strategy to the National Plan and builds upon other regional plans. The Action Plan identifies specific, immediate needs to slow or restrict the spread and minimize impacts of Asian carp in the Ohio River basin. Unfortunately, costs to implement the identified needs exceed currently available resources.

While H.R. 358 is a fundamental first step, funding will need to follow to ensure the implementation of actions specific to the Ohio River Watershed. State efforts alone to reduce populations of Asian carp, slow their expansion in large rivers and tributaries, and prevent further introductions are not sustainable. For example, current interstate efforts to assess the leading edge on the Ohio River are being modeled after those being targeted at Great Lakes tributaries, including the pooling of staff resources, application of standard fish sampling methods, and using available funds to initiate contracts with commercial fishermen to fish the pool with specialized nets in an effort to reduce Asian carp numbers and diminish the fishes' range expansion in the Ohio River's Greenup Pool. Similar efforts appear to have helped halt upriver expansion of Asian carp in the upper Illinois River. Although the states have pledged enough funding to initiate this project and some private foundation dollars have been raised, it is anticipated that this limited funding will only support the project for a few months. We understand the difficult budget climate our nation is in, and the \$5m in the President's FY14 budget will help state fish and wildlife agencies and our federal agency partners work together to address this critical problem before it becomes more expensive and extensive. Furthermore, it would also be helpful if federal agencies were provided additional flexibility with existing funding that could be utilized for Asian carp control.

The USFWS Carterville Fish and Wildlife Resource Conservation Office, LaCrosse Fish Health Center Whitney Genetics Laboratory, Kentucky Department of Fish and Wildlife Resources, West Virginia Division of Natural Resources, Ohio Department of Natural Resources, Pennsylvania Fish and Boat Commission, and Ohio River Valley Water Sanitary Commission have created a partnership to conduct Asian carp monitoring and assessment work in the Upper Ohio River during 2013. Field work is being conducted in the Ohio River from the Markland Lock and Dam near Cincinnati, Ohio, upstream to the confluence of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania. The overall goal of these efforts is to understand the distribution, capture probability and catch rates, stock structure, movement patterns, and habitat usage of Asian carp in the upper half of the Ohio River. Understanding these aspects of Asian carp biology in the Ohio River will assist efforts to minimize their further spread in the basin and reduce the size of existing populations.

The plan for the Ohio River used Minnesota's *Asian Carp Action Plan* as a model. The Minnesota plan consists of four elements: 1) early detection and response; 2) prevention and deterrence; 3) mitigation and control; and 4) outreach and education. Successful implementation of the plan necessitates a strong partnership of both government and non-government agencies. The Minnesota Department of Natural Resources recognizes this need and has a dedicated specialist for invasive fish. The agency has developed relationships with a variety of organizations to battle Asian carp in Minnesota waters. The Minnesota DNR also recognizes one of the best ways of protecting Minnesota's waters is looking beyond state boundaries.

Funding at the state level has been helpful but limited. The State of Minnesota is fortunate to have two sources to help supplement the activities of the DNR: the Outdoor Heritage fund and the Environment and Natural Resources Trust Fund. These two state-level funding mechanisms have provided valuable funding but cannot provide enough for full implementation of the plan.

A national effort that is federally funded and regionally coordinated offers the greatest promise to prevent further introductions and mitigate economic and ecological damage. To that end, Congress should provide flexibility to utilize existing budgets for Asian carp control efforts into the base budgets of federal agencies rather than relying so heavily on the Great Lakes Restoration Initiative. By including the funding within base budgets and working hand-in-hand with state fish and wildlife agencies, federal agencies would have the discretion to direct resources to the parts of the country and priorities that are the most timely and strategic.

Finally, by reauthorizing the Nonindigenous Aquatic Nuisance Prevention and Control Act and the National Invasive Species Act, Congress has the opportunity to authorize coordinated federal agency actions and support the implementation of state aquatic invasive species management plans that are tailored to local priorities but which have not been funded at a level that can make a meaningful difference.

AFWA appreciates the initiative of Representatives McCollum, Kelly and others to designate the USFWS as the leader of a multiagency effort to slow the spread, control populations, and minimize impacts of Asian carp. The need is there, the state and federal expertise exists, and the tools are in place to make a difference in watersheds like the Ohio, Upper Mississippi, and beyond. H.R. 358 and an associated level of funding commitment would bring the nation a step closer to slowing the spread and minimizing the impact of Asian carp.

AFWA also appreciates the efforts of Congressman Ellison, Paulsen and others to give the Army Corps of Engineers (Corps) the needed authority to close locks and dams to slow or prevent the spread of Asian carp as provided for in H. R. 709, the Upper Mississippi CARP Act⁷. Providing the Corps with the authority and management flexibility to alter the closure of locks and dams will help natural resources managers control the spread of Asian Carp. The bill identifies some key locks/dams in Minnesota that the Corps should evaluate for closure. The Association offers from a national perspective, and considering Asian carp are in other river systems as well, that in addition to the Minnesota locks/dams identified in the bill the Corps should work with the state fish and wildlife agencies to identify other equally important

lock/dam locations for change in operation in order to protect the most states and natural resources from the devastating effects of Asian carp. It could be that changing operations of locks and dams in other locations in the Missouri or Ohio River systems could also prevent the spread of Asian Carp. Such actions could even provide more proactive protection for our nation's natural resources. The Corps should work with its state and federal partners to focus on implementing the *Asian Carp Control Strategy Framework* and expanding that framework to other basins and guide additional strategic implementation of lock/dam closures.

Giving the Corps authority to change the locks/dam operations to restrict Asian carp invasion is critical. While the state fish and wildlife agencies support this new authority and flexibility, we do have concerns about the potential unintended consequences to other fish and aquatic species that are reliant on our river systems for completion of their lifecycles that could be compromised by the closure of locks and dams. The potential for conflict between a lock/dam closure adversely affecting threatened, endangered, declining or other priority aquatic dependent species is great. We appreciate the public comment process proposed for studies of lock/dam closures, but the Association believes these studies should be coordinated with and receive the concurrence of the state natural resource agency(ies). Change in operation of locks/dams should be coordinated with state fish and wildlife agencies and the USFWS to avoid, minimize, and mitigate unintended consequences on other priority fish and wildlife species for the state. In an effort to reduce these unintended consequences or potentially undermine current conservation actions and efforts, we recommend the legislation require concurrence with the appropriate state fish and wildlife agency(ies) and the USFWS on the change in operations of a lock/dam, including closure. The affected natural resource agencies and the USFWS are in the best position to help the Corps successfully navigate the needs of other fish and wildlife while simultaneously reducing the spread of Asian carp. With these recommended revisions, the Association urges expeditious passage of these Asian carp bills.

The Association would like to emphasize the specific provisions of H.R. 2158, "the Expedited Departure of Certain Snake Species Act," namely, the requirement for the snake species named therein to be exported originating from a "designated airport," in a secure container, and with the duration of such export to be limited to 48 hours. Given these provisions, the Association supports allowing the named snake species to move through an intermediate airport (i.e., "qualified stop") en route out of the United States *without* constituting a Lacey Act violation with respect to interstate commerce.

Our members from the Florida Fish and Wildlife Conservation Commission (Commission) have been actively engaged in management of Burmese pythons, collaborating with federal and state partners while initiating their own programs to arrest the spread of the current population and prevent the future establishment of other non-native constrictors. The Commission's initiatives illustrate their commitment to control Burmese pythons, and their programs reflect several factors unique to Florida that have guided their approach to the larger issue of non-native species management. Florida has long been an epicenter for exotic fish and wildlife. Over 500 species of non-native birds, fish, reptiles, amphibians, mammals and invertebrates have been observed outside of captivity. At least 100 species are established, i.e., reproducing and unlikely to be eliminated without significant human intervention. Fortunately, most of these illegally introduced animals have not caused adverse ecological impacts to date,

but their successful reproduction highlights Florida's vulnerability to the establishment of wildlife from other tropical regions.

As such, the Associations support measures outlined in H.R. 2158 to facilitate the legal movement of these now federally-listed, Injurious Wildlife species, which maintain a commercial market value, out of our nation's borders.

The Association supports H.R. 1818, the "Polar Bear Conservation and Fairness Act of 2013." This bill addresses a serious problem that emerged in the wake of the USFWS decision to list polar bears as "threatened" under the Endangered Species Act (ESA). The USFWS has concluded that the ESA listing of the polar bear automatically makes it a depleted species under the Marine Mammal Protection Act (MMPA). Sections 101 and 102 of the MMPA prohibit the importation of a species that has been designated as depleted, thereby ending the authorization under section 104(c)(5) to import polar bear trophies from six approved populations in Canada. However, between 38 and 41 hunters legally harvested a polar bear before the listing of the polar bear on May 15, 2008, and now cannot import their trophy due to the ESA listing. H.R. 1818 would amend the MMPA to authorize the Secretary of the Interior to issue import permits to these hunters for their legally taken polar bear trophies. These bears were already harvested before the polar bear was listed as "threatened." Therefore, we urge you to support H.R. 1818.

The Association supports H.R. 2463 and respectfully urges that it be expeditiously reported from Committee. The federal land managing agencies are also members of the Association, including the two federal agencies specifically referenced in H.R. 2463, the National Forest Service and the Bureau of Land Management. AFWA's goal is to promote sound resource management and strengthen federal, state and private cooperation in ensuring the vitality and sustainability of fish and wildlife resources and the habitats on which they depend for the use and enjoyment of all our citizens. An important component of resource management and sustainability is the ability of our hunters and recreational shooters to safely practice shooting at facilities designed to accommodate the practice and ethics of safely handling firearms.

A recent study by Mark Duda of Responsive Management, an internationally recognized public opinion and attitude study survey research firm specializing in natural resource and outdoor recreation issues, found that a large majority of Americans support the right of their fellow citizens to engage in shooting activities: 71% of respondents in the 2011 survey indicated approval of legal, recreational shooting, with 44% saying they strongly approve. More than a third (37%) say they are interested in going recreational target or sport shooting in the future. And more than a quarter of Americans (27%) say they are interested in going hunting in the future. (December 2011) These statistics also indicate the public's acknowledgment that we need ranges to train law enforcement, military, hunters, and to provide for shooting as a recreational activity.

There is a shortage of shooting ranges in this country. From the Canadian border to the Mexican border, the same pattern is emerging detrimental to the future of recreational shooting and is jeopardizing the ability to practice the safe handling of a firearm. More and more governmental lands are being closed, and fewer and fewer outdoor ranges are being built. It is harder and harder to find a place to shoot anymore, especially for people who live in a city.

H.R. 2463 would provide additional incentives for states to develop much-needed shooting ranges on federal and nonfederal lands by increasing the amount the state could spend of its Pittman-Robertson grant dollars on shooting ranges. Based on FY2011 apportionments, this would amount to an annual increase of approximately \$700,000 that we could use to build or upgrade shooting ranges in North Carolina. Under the Pittman-Robertson Act, the funds are collected by the federal government and held for one year and then apportioned to the states for use the next year. They are apportioned through grants administered by the US Fish and Wildlife Service to the states and territories based on a formula that includes the state's population, land area and hunting license sales. Only state fish and wildlife agencies and their counterparts in U. S.-held territories and Commonwealths are eligible for these grants. To maintain eligibility, the states and territories must enact laws that prohibit the diversion of hunting license fees for any purpose other than the administration of the agencies' conservation, hunting, and shooting sports programs. Allowable projects are funded on a 3:1 matching basis. In most cases, states use hunting license dollars for their 25% match. The federal government's 75% reimbursement derives from the Pittman-Robertson excise taxes on firearms, ammunition and archery equipment.

In order to facilitate acquiring land for, expanding, or constructing public target ranges on federal and nonfederal lands, H.R. 2463 would increase the reimbursement match from 75% to 90%. Pittman-Robertson funds are allocated to states on a formula basis. Therefore, while it would provide additional capability to the state fish and wildlife agencies, the reimbursement rate would not result in increased federal spending. The bill does not require a state to use the money on ranges, and some states may not be in a position to do so. In addition, this important legislation if enacted would amend an existing requirement that Pittman-Robertson funding used for shooting ranges be obligated within two years by allowing the funds to accrue over five years. This extension would allow individual projects to be funded over multiple budget cycles and significantly enhance the ability of states to build and maintain shooting ranges.

In addition, the legislation would limit the unnecessary exposure to liability that federal land management agencies fear they may face when providing recreational shooting opportunities on public lands. This provision in the bill is similar to the state statutes which provide limited liability for sport shooting ranges if an individual is injured at a public or private range. The fact is, however, shooting ranges have one of the lowest incidents of injury of recreational activities.

Furthermore, allowing a five-year accrual instead of two will be very helpful. Shooting range projects are very costly and funding them from one or two years of Pittman-Robertson PR funding can significantly reduce activity in other programs. Allowing a five year accrual period will minimize the impact to other programs funded with Pittman-Robertson dollars.

The Missouri Department of Conservation believes that the primary benefit to Missouri would be the ability to use Pitman-Robertson funds for up to 90% of the construction cost of a new range or the renovation of an existing range. It is possible the additional funding could help make some previously unaffordable projects, affordable. One of Missouri's largest shooting

ranges located in St. Louis needs a major renovation and the project would certainly be more feasible with additional funding through Pittman-Robertson.

The Arizona Game and Fish Department shares that the biggest benefit of the bill's passage is that it would provide it with some flexibility in acquiring and/or developing ranges. For the most part, Arizona has not used federal funds to acquire or develop ranges in the past due to the lack of funds available along with other issues. While currently all of its Wildlife Restoration funds (other than sections 4c and 10 funds which have been used for range development) are fully utilized for other priority wildlife conservation activities, that does not mean in the future there would not be opportunities to use up to 10% of them for range acquisition or development. For example, Arizona is currently building one range (purchased with state funds) and close to breaking ground on another in the state. The set aside budgets (both state funds) for development are not adequate to meet full build out for either range, therefore, the bill would provide them with another option to fund these build outs.

The Arizona Game and Fish Department also has several other range acquisitions (some existing ranges, some new) that they have been tasked with moving forward on in the near future and there will almost certainly be more in the distant future. Again, HR 3065 would give the states another tool in meeting those demands both with acquisition and development funds. Arizona, like the other states, pointed out that the five-year accrual period is potentially very big in that it would allow states to plan ahead and set aside smaller amounts each year that could be used to either purchase or build a range when the time comes. Five years is a fairly good period as ranges take several to acquire and then several more to develop.

The shooting sports are a part of our heritage. It is an Olympic activity, and recreational shooting is growing in numbers. Hunters need a place to go shoot and to practice, and ranges are used to train law enforcement and those in the military. The Association supports the Target Practice and Marksmanship Training Support Act and urges its passage.

Thank you for the opportunity to share my views and those of the Association on these important pieces of legislation.