

**TESTIMONY OF STEVE GUERTIN, DEPUTY DIRECTOR,
U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR
BEFORE THE U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON NATURAL
RESOURCES, SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS, AND
INSULAR AFFAIRS REGARDING H.R. 3109, H.R. 3409, H.R. 5026, and H.R. 5069**

July 23, 2014

Chairman Fleming, Ranking Member Sablan, and Members of the Subcommittee, I am Steve Guertin, Deputy Director of the U.S. Fish and Wildlife Service (Service) within the Department of the Interior (Department). I appreciate the opportunity to appear before the Subcommittee today to testify on a range of bills that affect the Service's mission and responsibilities.

H.R. 5069, the Federal Duck Stamp Act of 2014

Mr. Chairman, thank you for your leadership in introducing legislation to increase the price of the Federal Migratory Bird Hunting and Conservation Stamp, commonly known as the Duck Stamp. A price increase is critically needed to restore the Duck Stamp's eroding purchasing power, so that there is sufficient revenue available to provide adequate habitat for migratory waterfowl to find food, rest during migrations, and to raise their young. The Duck Stamp is a critical tool for sportsmen and women, as well as wildlife enthusiasts, who make substantial contributions to the nation's economy in the pursuit of their passions.

The price of the Duck Stamp is set by Congress through the Migratory Bird Hunting and Conservation Stamp Act. The price of the Duck Stamp has remained at \$15 since 1991. Based on the Consumer Price Index, the stamp would need to cost more than \$26 today to have the same buying power that \$15 had in 1991. However, the increased cost of land, including easements, during this period has risen even more dramatically. Between 1991 and 2013, the Service's average cost per fee acre increased from \$450 to \$1590, and the Service's average cost per easement acre increased from \$112 to \$765. In 1991, revenue from the Duck Stamp enabled the Service to protect 91,000 acres of waterfowl habitat for the Refuge System. However, in 2013, the Service was able to protect significantly less habitat, despite allocating nearly 80 percent of the funding to easement acquisition, because land values in important migratory bird areas have increased by up to 600 percent.

An increase in the price of the Duck Stamp is a top priority for the Department and has been included in the President's budget proposals over the past number of years, and during the Administrations of the past two Presidents. We strongly support the increase that would be accomplished through H.R. 5069, the Federal Duck Stamp Act of 2014, and support the legislation. We have some suggestions that would make the bill even more effective, and look forward to discussing these with the Subcommittee as the bill moves through the legislative process.

To understand the importance of restoring the purchasing power of the Duck Stamp, it is helpful to look back to its origins and its role in restoring North America's great migratory waterfowl populations. The restoration of the continent's waterfowl following a grave decline is a grand

conservation success story. It is a story that involves sportsmen in partnership with States, Congress, and Federal agencies applying science to habitat protection and restoration efforts. Because of strategic, science-based actions taken by these partners to conserve key habitats along the four major North American flyways, migratory waterfowl populations are improving. This work has maintained our hunting tradition, and has significantly contributed to the economies of many states through the recreational activities of hunters and outdoor enthusiasts.

The Duck Stamp plays a critical role in this conservation partnership and its success story. Created in 1934, the Duck Stamp represents the permit required by the Migratory Bird Treaty Act of 1918 to hunt waterfowl. Every waterfowl hunter who is more than 15 years old is required to carry a Duck Stamp into the field. Duck Stamp revenue is deposited in the Migratory Bird Conservation Fund (MBCF), through which the Service, with the approval of the Migratory Bird Conservation Commission, acquires wetland and associated habitats to support populations of waterfowl. Ninety-eight percent of the receipts from Duck Stamp sales are used to acquire important migratory bird breeding, migration, and wintering habitat, which is added to the National Wildlife Refuge System (Refuge System). Since 1934, sales of the Duck Stamp have helped to add more than 5.6 million acres of waterfowl habitat to the Refuge System. These acquisitions have benefitted individual refuges all across the country, in 45 states. In many cases, acquisitions made through the MBCF account for 100 percent or a substantial percentage of a refuge's total land. These protected lands not only benefit waterfowl, but also countless other wildlife species, as well as increased opportunities for outdoor and wildlife-dependent recreation, such as hunting.

While the Duck Stamp's price has been static since 1991, other factors affecting habitat conservation have significantly changed. Land prices in prime waterfowl nesting habitat have increased; price increases of crops and other factors have expanded conversion of native prairie to farm lands; and a warming climate is evaporating prairie "pothole" wetlands.

The Prairie Pothole Region is vital to waterfowl populations. The U.S. portion of the Prairie Pothole Region includes parts of Montana, North Dakota, South Dakota, Minnesota, and Iowa. Approximately 118 million acres of land, 21 million acres of grass cover, and 2.63 million wetland basins support more than 300 species of migrating and resident birds. Termed America's "Duck Factory," this formerly glaciated landscape is the most productive area for nesting waterfowl on the continent. The region also provides stopover habitat for migratory waterfowl, shorebirds, waterbirds, and songbirds.

A Service study and report, *Status and Trends of Prairie Wetlands in the United States 1997 to 2009*, found that wetlands in the Prairie Pothole Region declined by an estimated 74,340 acres between 1997 and 2009 – an average annual net loss of 6,200 acres. In addition to these losses, millions of acres of prairie wetlands are threatened with degradation from extreme weather patterns, rising agricultural commodity prices, and oil and gas development, putting further pressure on the most valuable breeding area for ducks in the Americas. Continued vigilance in monitoring and protecting the Prairie Pothole Region is needed to ensure it remains healthy for waterfowl for generations to come.

Funding provided by the sale of Duck Stamps is a critical component of conservation in the Prairie Pothole Region, and in other important waterfowl areas in the nation. The Administration's proposed budget for FY 2015 includes a legislative proposal to amend the Migratory Bird and Hunting Conservation Stamp Act (16 U.S.C. 718b) to increase the sales price for Duck Stamps from \$15 to \$25, beginning in 2015. With the additional receipts that would be generated from the proposed price increase, the Service anticipates the additional annual acquisition of approximately 7,000 acres in fee and approximately 10,000 acres in conservation easements. After 2015, the Administration's legislation also proposes that the price of the Federal Migratory Bird Hunting and Conservation Stamp can be increased by the Secretary of the Interior, after appropriate consultation with the Migratory Bird Conservation Commission. This component of the Administration's proposal is important to helping ensure that the Duck Stamp's purchasing power does not substantially erode in the future.

Mr. Chairman, H.R. 5069 takes a different approach by providing for a one-time increase, and mandating that the increase be used only for the purchase of easements. Currently, the Service, working in cooperation with the Migratory Bird Conservation Commission, uses Duck Stamp proceeds for purchases of both fee title lands and conservation easements. We recommend maintaining the current discretion to ensure the most strategic and beneficial acquisitions can be made, without limiting the Service's discretion to purchase lands in fee title when necessary. One consideration is that access to certain lands by hunters is often not possible across easement lands, and we use fee title acquisition to provide such access.

We would greatly appreciate the opportunity to work with the Subcommittee on this legislation moving forward and thank you for your leadership and for introducing H.R. 5069. H.R. 5069 would allow the Service to ensure that the "Duck Factory" and other key habitats are protected into the future and that waterfowl populations continue to thrive for the continuing benefit of the American people.

H.R. 3409, the National Wildlife Refuge Expansion Limitation Act

The Department strongly opposes H.R. 3409, the National Wildlife Refuge Expansion Limitation Act. H.R. 3409 would create an additional, uncertain hurdle to the Service's effective and transparent Land Protection Planning (LPP) process. This process has resulted in the careful expansion of many popular refuges that are vital for wildlife conservation, valued and supported by local communities, provide visitors with opportunities to hunt, fish and observe wildlife, and contribute to numerous sectors of the economy. When priority conservation needs and values, public support, and the presence of willing sellers align to allow for the establishment or expansion of a refuge, the Service must be able to act. Authority to strategically grow the Refuge System, as we have been directed to do by Congress, is important to the conservation of our Nation's fish and wildlife populations.

The Refuge System is the world's premiere network of public lands devoted solely to the conservation of wildlife and habitat. It encompasses over 150 million acres of land and water, preserves a diverse array of land, wetland, and ocean ecosystems. The Refuge System offers about 47 million visitors per year the opportunity to fish, hunt, observe and photograph wildlife, as well as learn about nature through environmental education and interpretation. These visitors

make refuges an important economic driver, generating nearly \$2.4 billion for local economies each year. Investing in the Refuge System is a sound use of taxpayer dollars as each dollar appropriated for the Refuge System returns nearly \$5 in economic benefits. Refuges also provide local communities with other ecosystem services, such as improved water quality, increased property values, and access to quality wildlife-dependent recreation.

However the Refuge System, with all its benefits, is facing ever increasing pressures and difficulties. Populations are growing rapidly, the amount of undeveloped land is declining, the economic environment is challenging, and we are faced with conservation crises on several fronts. The Service must be strategic, flexible, and responsive in protecting declining undeveloped lands to ensure sufficient habitat is maintained to support America's wildlife populations in the future. In the National Wildlife Refuge System Improvement Act of 1997, Congress directed the Service to "plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystems of the United States, to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats, and to increase support for the System and participation from conservation partners and the public." Congress provided the Service with the tools to create and expand refuges and the Service has used this authority in a manner that is transparent, rooted in public engagement and founded on scientific data driven by our mission to conserve habitat and ecosystems.

On January 30, 2014, the Service published a draft strategic growth policy to ensure that we continue to responsibly concentrate our limited resources on land protection efforts that make the greatest contribution to the conservation of species in a strategic, cost-effective, and transparent manner.

The Service uses land protection planning to study opportunities to conserve land, including by adding it to the Refuge System. Conserving wildlife through land protection is an adaptive, public, and voluntary process, founded on the best scientific processes and data available. We use this data to identify gaps in the conservation estate, which we define as lands that are protected at local or landscape scales by private, state, or federal partners.

When a need to conserve land is identified, a preliminary proposal is submitted to the Service's Director for approval to develop a detailed LPP. Development of a LPP is a public process, during which we reach out to state agencies, local communities, Congressional offices, and partners to inform and help shape the plan. The LPP is a planning document, not an acquisition plan. The Service uses the best available scientific information to analyze the effects of the LPP and alternatives on the physical, biological, social, and economic environment.

If a LPP is approved, after a long period of study and public engagement, an acquisition boundary for the refuge is authorized. It is important to be clear about the effect of an authorized acquisition boundary: it authorizes the Service to purchase fee title or conservation easements within that boundary from willing sellers. Such purchases are subject to available funds and overall Service acquisition priorities. In many cases, much of the land within refuge acquisition boundaries remains in private ownership. The approved acquisition boundary gives landowners, within the boundary, another option for how they use their land.

The expansion of an acquisition boundary does not result in new restrictions or regulations on landowners within or adjacent to the boundary. An expanded boundary does not lead to condemnation of private property or any form of coercive purchases. This is a voluntary program and it has been long-standing Service policy to acquire lands from willing sellers only. The expansion of an acquisition boundary does not lead to an aggressive campaign to purchase land or easements covering large swaths within the boundary. Rather, land purchases tend to occur gradually, taking decades to even begin to acquire significant portions of the land within the boundary for the refuge.

As an example of how this process works, the Service considered a proposal to expand the acquisition boundaries for Chickasaw and Lower Hatchie National Wildlife Refuges, located in Tennessee, to protect and restore this high-quality bottomland hardwood forest habitat as well as places where the public can hunt, fish, and observe wildlife. The preliminary proposal encompassed approximately 120,000 acres in Lauderdale, Tipton, Haywood, and Dyer Counties in Tennessee. The public process for this proposal began in December 2012 when the Service launched a public scoping effort to seek input on the proposal. Congressman Fincher, sponsor of H.R. 3409, expressed his constituents' concerns with and opposition to the Service's proposed boundary expansion, and the project was halted. We simply do not create or expand refuges without substantial support from the local citizens. Our refuges want to be good neighbors and a source of pride for the communities where they are located.

Public input also shaped the establishment of the Everglades Headwaters National Wildlife Refuge and Conservation Area. When the Service engaged the public during the planning process, the River Ranch Property Owners Association, a group of local landowners, opposed the establishment of the refuge and conservation area, envisioning that the Service would close access to any purchased lands as other Federal agencies had done elsewhere in Florida. We actively engaged with the River Ranch community and established a level of trust and understanding after multiple meetings over the course of a year. The Service listened to their concerns and, as a result, reevaluated our initial proposal. Ultimately, we removed the River Ranch landholdings from the proposal while maintaining the conservation integrity of the project. The overall outcome of the discussions between the Service and the River Ranch community has led to understanding and support for the Everglades Headwaters project.

Without question, providing high-quality stewardship of the nation's wildlife refuges requires resources, and refuge managers must make decisions within a prioritized framework to ensure key assets remain at sustainable levels. The Service sometimes faces questions about how the operational needs and maintenance backlog within the Refuge System relate to its pursuit of acquiring new fee-title land or conservation easements.

The Service has a mandate to conserve fish, wildlife, and plants and their habitats. One of the most effective ways to do this is to protect areas that hold the greatest value for wildlife. Another compelling reason to purchase land or acquire easements is that consolidating fragmented lands often reduces operations and maintenance needs, thereby saving taxpayer dollars.

Most new fee title or conservation easements acquired by the Refuge System simply serve to fill in the gaps. Many are private inholdings within or adjacent to an existing refuge parcel. Private inholdings may seem of small consequence, especially if the majority of the surrounding land is already protected and managed for wildlife, but those inholdings can have a disproportionate and often adverse effect on the ability of a refuge to achieve its purpose. Strategic acquisitions of fee title or easements can simplify management and reduce expenses related to signage, fencing, law enforcement patrols, legal permits, rights-of-way conflicts, fire-fighting, road maintenance, habitat management and restoration, and invasive species management. Such strategic acquisitions help the Service meet important conservation objectives.

H.R. 5026, the Fish Hatchery Protection Act

The Department strongly opposes H.R. 5026, the Fish Hatchery Protection Act, which would prohibit the closing, reprogramming, repurposing, decommissioning, significant alteration, or move to caretaker status of any fish and other aquatic species propagation hatchery or propagation program within the National Fish Hatchery System unless it is expressly authorized by an Act of Congress, for a period of more than ten years, retroactive to November 1, 2013.

The Department opposes this legislation because it would jeopardize our ability to fulfill our ongoing legal obligations, respond to new and constantly evolving environmental challenges, fulfill the expectations of our federal, tribal, state and local partners, and cost-effectively manage the National Fish Hatchery System within an already strained federal budget.

The National Fish Hatchery System, comprised of 72 National Fish Hatcheries, one Historic National Fish Hatchery, Fish Technology Centers, Fish Health Centers, and the Aquatic Animal Drug Approval Partnership Program, has played a critical role in conserving America's fisheries for more than 140 years. This national and highly specialized network of facilities and employees not only provides fish and other species for stocking into America's waterways, helping to sustain economically and recreationally important fisheries, it plays a vital role in the recovery of threatened and endangered species, the restoration of imperiled species, and in fulfilling our trust obligations to Native American tribes.

Working with our state partners, the National Fish Hatchery System restores native fish populations that support significant recreational fisheries, and H.R. 5026 would limit our ability to adapt the system to meet those challenges. The National Fish Hatchery System also propagates fish, native mussels, and other aquatic species listed as threatened or endangered species under the Endangered Species Act (ESA), and restores declining species before they are listed. The Service's work to propagate aquatic species also addresses our responsibilities under other federal statutes, such as the Fish and Wildlife Coordination Act, as well as mitigation requirements established for individual federal water resource development projects.

In addition to the conservation mandates established by federal fish and wildlife statutes, the Department has broad trust responsibilities to Native American Tribes. These include responsibilities required by treaty, statute, or pursuant to a consent decree or court order. By helping to ensure that tribes have continued access to native species important to their way of

life, the National Fish Hatchery System also plays an essential role in meeting these trust responsibilities.

The National Fish Hatchery System, however, has struggled with declining funding for a number of years. Significant increases in operational costs for fish food, fuel for distribution vehicles, and energy costs have contributed to these fiscal challenges. In Fiscal Year (FY) 2012 alone, the National Fish Hatchery System incurred a \$2.1 million shortfall in overall funding, and needed to reprogram Deferred Maintenance funding to cover operational shortfalls and continue fish propagation. The Service realized that this approach was not sustainable.

As a result of those fiscal challenges and other financial issues plaguing the National Fish Hatchery System, the Service assembled a team of experts from across the country in 2012 to conduct a comprehensive review of the 70 active propagation hatcheries. The purpose of this review was to position hatcheries to meet national aquatic resource conservation needs, operate hatcheries consistent with available funding and without having to borrow from other accounts, identify the highest priority propagation programs, and make informed management decisions under a range of potential budget scenarios. The *National Fish Hatchery System: Strategic Hatchery and Workforce Planning Report* (Report) is the product of that comprehensive review. It offers management options and recommendations to put the system on more sound and sustainable financial footing.

One of the findings of the Report is that reimbursable funding is an important resource for our hatcheries. Over the past several years, the Service has successfully negotiated reimbursement or developed agreements with the U.S. Army Corps of Engineers, the Tennessee Valley Authority, and others to help cover the costs associated with mitigation fish production. In FY 2014, Congress provided \$4.7 million in Corps funding for mitigation reimbursement. In addition, the Service and the Tennessee Valley Authority recently reached a three year funding agreement through 2016 that will provide \$900,000 to the Service each year.

As the Service announced in November 2013 when the Report was released, we do not intend to close any hatcheries in FY 2014. Moreover, Congress provided the Service with \$46,528,000 to operate the National Fish Hatchery System in the recently enacted FY 2014 Omnibus, which is substantially more than we anticipated had sequestration continued into FY 2014. However, that level of funding is still not sufficient to fully cover our operational costs for all of our propagation programs at current levels.

The Service is using the Report to engage partners and stakeholders, including state fish and wildlife agencies, tribes, and others, in a discussion on its major findings and recommendations. We are seeking their input on how we should operate the National Fish Hatchery System more efficiently and within available resources in the future. Taking into consideration their input, current and anticipated funding levels, the costs to operate our existing propagation programs, and the Report's findings and recommendations, we will consider how we can continue to further streamline our operations to better reflect the Service's priorities and bring expenditures in line with available funding. Our hope is that by engaging in a transparent and open dialogue with this Subcommittee and others in Congress, our partners and stakeholders, we can chart a unified course forward for the National Fish Hatchery System that not only allows us to operate

the system on sound financial footing, but positions the system to better meet current and future conservation challenges.

Toward this end, the President has requested \$48.617 million for operation of the National Fish Hatchery System in FY 2015, approximately \$2 million more than Congress appropriated in FY 2014. But even at these increased funding levels, the Service needs flexibility to operate the system to fulfill our ongoing legal obligations under the ESA and other statutes, address new environmental challenges, meet the expectations of our federal, tribal, state and local partners, and manage the National Fish Hatchery System, cost-effectively and within budget.

By preventing the Service from making even modest changes in current operations of individual hatcheries or species propagation programs, H.R. 5026 would make it difficult for us to utilize the National Fish Hatchery System to respond to the changing and increasing needs of threatened, endangered, and imperiled aquatic species. As a result of a number of factors, including natural disasters, the National Fish Hatchery System serves as a critical refuge for a growing number of these species, which depend on the system for their survival, reintroduction and recovery.

By restricting the Service's ability to shift resources among hatchery facilities or even within a facility, this provision would also force us to produce fish and eggs that may not be needed, or even requested, by our partners and stakeholders, leading to inefficient and potentially wasteful expenditures of taxpayer funds. Funds, for example, that could instead be better spent to help restore local native and recreationally important fisheries.

We allocate these funds each year out to the seven regions that operate and maintain our 70 propagation hatcheries and rely heavily on our Regional Directors and their staff to decide how best to use these funds within their regions and in coordination with the states. In many instances, hatchery production targets are coordinated with the states, and may change from year to year with changing circumstances and resource needs. This unprecedented level of restrictions of species-specific operations across our 70 propagation hatcheries would limit our ability to respond to these and other changing environmental and management challenges, which inevitably arise.

H.R. 3109, a bill to amend the Migratory Bird Treaty Act to exempt certain Alaska Native articles from prohibitions against sale of items containing nonedible migratory bird parts, and for other purposes.

The Department recognizes the economic and cultural need in Alaska Native communities to improve their quality of life with opportunities to benefit from their unique handicrafts and other traditional items. However, the Department does not support H.R. 3109. This bill would amend the Migratory Bird Treaty Act (MBTA) to provide statutory authority for activities that may be in violation of current international migratory bird conservation treaty obligations.

The MBTA implements four international treaties the United States holds with Canada, Mexico, Japan, and Russia. These treaties protect a wide range of avian families and species that migrate through or stopover in the United States and the treaty nations. The MBTA prohibits "take,"

possession, sale, barter, purchase, shipment, or transport of birds, feathers, eggs or other such products, and it is in part designed to protect bird populations from vulnerability to the demands of commercial use. For example, in 1886, 5 million birds were estimated to be killed for their feathers. When Congress passed the MBTA in 1918, it sought to put an end to the commercial trade in birds and their feathers that, by the early years of the 20th century, had devastated populations of many native bird species.

H.R. 3109 would allow Alaskan Natives to make and sell any handicraft or clothing made from the nonedible parts of federally protected bird species from birds taken in a manner that is not wasteful, provided these are made without the use of mass copying devices. Our understanding is that migratory bird treaty obligations greatly limit such activities. The Service is working closely with the Alaska Migratory Bird Co-Management Council to more clearly define these limitations, but this review is not complete. We would be pleased to keep your Subcommittee apprised of these efforts and to continue to work with you to address this very important issue.

Conclusion

Thank you for the opportunity to provide testimony on this range of legislation that addresses multiple responsibilities of the Service for the conservation of our nation's fish and wildlife for the benefit of our citizens. In particular, Mr. Chairman, thank you for your leadership on H.R. 5069, the Federal Duck Stamp Act of 2014. I am happy to answer any questions the Subcommittee may have and we look forward to working with the Subcommittee members as you consider these bills.