**STATEMENT OF WILLIAM P. HORN**
**U.S. SPORTSMEN'S ALLIANCE**
**BEFORE THE**
**SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS**
**ON H.R. 1825 – RECREATIONAL FISHING AND HUNTING**
**HERITAGE AND OPPORTUNITIES ACT**

May 9, 2013

Mr. Chairman: My name is William P. Horn representing the U.S. Sportsmen's Alliance (USSA). Thank you for the opportunity to appear today and support enactment of H.R. 2834. USSA was organized in 1977 for the purposes of protecting the American heritage to hunt, fish, and trap and supporting wildlife conservation and professional wildlife management. It pursues these objectives at the federal, state, and local level on behalf of its over 1.5 million members and affiliates.

We commend the sponsors of the Recreational Fishing and Hunting Heritage and Opportunities Act and strongly recommend its prompt enactment by the Congress. The bill clearly establishes that fishing, hunting, and recreational shooting are important traditional activities that have a key place on our National Forests, administered by the U.S. Forest Service, and public lands administered by the Bureau of Land Management (BLM). Express legislative recognition that these activities are legitimate and valuable will help fend off the growing attacks from animal rights radicals and others committed to running anglers and hunters off our public lands. Clear statutory support will also signal, and direct, the land management agencies to exercise their discretion in a manner that facilitates these traditional activities.

Existing law lacks this recognition and clarity. For example, only part of the 1960 Multiple Use Sustained Yield Act, which governs Forests, references "outdoor recreation" and "wildlife and fish purposes." That general language has been insufficient to protect hunting and fishing: it has not stopped the Forest Service from proposing planning regulations that give fishing and hunting (and conservation) short shrift nor has it prevented federal courts from ordering the same agency to consider banning hunting because the sound of gunfire might upset the tender sensibilities of a bird watcher. Similarly, the 1976 Federal Land Policy and Management Act (FLPMA) (which is the "organic act" for BLM public lands) makes no specific references to fishing or hunting. We are persuaded that continued failure to expressly recognize the importance of these activities on Forest and BLM lands, and provide for continuation of such uses, sets the stage for an activist judge in San Francisco, New York City, or D.C. to rule in favor of some animal rights plaintiff and ban angling or hunting on these public lands.

This situation is similar to the circumstances that produced the 1997 Refuge Improvement Act (which passed the House with only one dissenting vote and was signed into law by President Clinton). Earlier refuge administration statutes passed in the 1950's and 60's had not specifically provided for hunting or fishing; the authors of those bills – hunters all – saw no need as there was no animal rights movement and no clamor then to close hunting on Teddy Roosevelt's wildlife system. The notion that hunting could be barred on the Refuge system was

simply incomprehensible. By the mid-90's, however, there had been a string of anti-hunting lawsuits to bar hunting on refuge lands. Even though President Clinton issued an executive order recognizing the value of continued hunting on the Refuge system, Congress saw the need to codify such recognition in statute stating clearly that hunting and fishing were legitimate activities on refuge lands, the managing agency had a duty to facilitate these activities, and fishing and hunting merited designation as priority public uses in the law. After the bill was signed by President Clinton, virtually all of the anti-hunting lawsuits stopped.

President Bush in 2008 issued a similar hunting executive order (EO) for public lands. Just as the Clinton EO was insufficient to guard hunting on refuges, the Bush EO is not enough to protect hunting and fishing on Forest and BLM lands. Accordingly, we urge this Committee, and Congress, to provide needed statutory protection for Forest and BLM lands by enacting H.R. 1825.

USSA has been urging Congress to pass comparable legislation since 1998. Initially we were told there was no need and previous versions of this bill were dismissed as "solutions in search of a problem." The intervening years have taught of the sporting community that there is a problem. Decisions like the 6th Circuit's *Meister* case exposed how quickly hunting can be lost. Activists have mounted efforts to preempt state management and bar bear hunting on public lands. Clever lawsuits seek to misuse federal environmental laws to restrict or ban fishing and hunting on federally administered lands. The hostile animal rights movement has grown and uses its ever swelling war chest to harass hunters and anglers. And an increasingly urban nation – wholly disconnected from America's outdoor heritage – either doesn't care or joins in the hostility. Continued silence in the law regarding the legitimacy and contributory roles of fishing and hunting on Forest and BLM lands will ultimately cause the loss of these activities on over 500 million acres of our public lands.

This silence must be corrected and H.R. 1825 does precisely that. It plainly recognizes fishing, hunting and shooting as legitimate and important activities on Forest and BLM lands. It directs the agencies to exercise their discretion, consistent with the other applicable law, to facilitate fishing, hunting (and trapping as a hunting activity) and shooting. This duty extends to the preparation of land planning documents required by the National Forest Management Act and FLPMA. No one will be able to argue to an agency or a court, with a straight face, that fishing and hunting have no place on these public lands following enactment of this bill.

One of the clever ploys to indirectly attack these activities has been to treat continuation of fishing and hunting as a "new" decision or action requiring completion of a full blown environmental impact statement (EIS). Antis then file suit contending the EIS was inadequate and that the decision to "open" an area to fishing or hunting must be suspended until the EIS is made adequate. H.R. 1825 provides a simple solution: Forest and BLM lands are considered "open" to fishing and hunting so no new EIS or other document needs to precede continuation of these traditional activities. The Forest Service and BLM remain free to impose those restrictions and closures that they determine are necessary (if supported by facts and evidence) but an "open until closed" regime will be far more efficient, save millions of dollars of administrative expense, and insulate fishing and hunting from unwarranted indirect attacks.

USSA strongly applauds other features of the bill that facilitate wildlife conservation, ensure fishing and hunting opportunities, and help the agencies direct finite personnel and dollar resources to on-the-ground conservation rather than more planning documents. In 2003, antis sued to stop hunting on 60 wildlife refuge units arguing that even though the Fish and Wildlife Service had done EIS's or environmental assessments (EA's) authorizing hunting on each unit, FWS had not (the antis claimed) done a sufficient "cumulative effects analysis" on the overall effects of hunting on the entire Refuge system. We intervened in the case with Ducks Unlimited, NRA, and SCI and argued – along with FWS – that deer hunting on the Bond Swamp unit in GA, woodcock hunting in the Canaan Valley, WV refuge, and duck hunting on ND units for example had such limited and unconnected effects that a "cumulative effects" review made no sense. Moreover, Congress in the 1997 Refuge Improvement Act made it clear that unit-by-unit Comprehensive Conservation Plans (CCP's) dovetailed with EIS or EA documents, would be sufficient to approve the priority public uses of fishing and hunting. A D.C. judge disagreed, ordered FWS to prepare the cumulative effects analysis, and FWS spent years and countless hours of personnel time and money engaging in this superfluous paper exercise – using precious dollars that would have been better spent on actual wildlife conservation and refuge management. H.R. 1825 reiterates the intent of the 1997 Act that FWS need not prepare unnecessary, costly cumulative effects analyses to continue to open refuge units to fishing and hunting and ensures that anti-hunting plaintiffs cannot capitalize on the D.C. court ruling to collect even more fees for their lawyers.

Section 4(e) of the bill also restores the status quo regarding the 1964 Wilderness Act that existed between 1964 and 2005. For example, some refuge units are overlaid with Wilderness designations. The 1964 Act – section 4(a) to be precise – specifies that Wilderness purposes "are hereby declared to be within and supplemental to" the purposes of the underlying land unit. In the case of refuges, that plainly means a unit is Wildlife Refuge first and a Wilderness second. In case of a conflict, the wildlife conservation purpose and mission of the Refuge system would be primary and Wilderness purposes secondary. That was the state of the law until recent 9th Circuit rulings in the Kofa Refuge case. Kofa was established by President Franklin Roosevelt with the primary purpose of conserving desert bighorn sheep. Over the years, FWS, the Arizona Department of Game and Fish and conservationists learned that water supplies are the primary factor limiting sheep populations. To enhance the bighorn population and provide greater genetic diversity to assure long term survival, the parties constructed during the 1980's small water catchment basins in Kofa to retain precious rain water and keep it from simply sinking into the sand. These small unobtrusive basins became important oases for the sheep (and other wildlife) and the population prospered.

Wilderness activists were upset that some of these small basins were situated in parts of Kofa designated as Wilderness by Congress in 1990 (after the basins had been built). Last year two 9th Circuit judges disregarded the Wilderness Act "supplemental purposes" language, held that Kofa is Wilderness first and Refuge second, and ordered FWS that the water basins had to go unless the agency could demonstrate that the basins were "necessary" to fulfill Wilderness purposes. These legal conclusions are simply wrong, must be corrected by Congress and section 4(e) does just that.

The 1964 Act also allows a variety of activities in Wilderness areas when "necessary" to assist wilderness purposes. For decades, agencies like BLM and the Forest Service interpreted this to allow a variety of outdoor recreational activities including horseback trips. But activists disagreed and sued arguing that horseback trips were not "necessary." The 9th Circuit agreed and has made the "necessary" finding much more difficult for both recreation and conservation actions (e.g., Kofa, Tustemena Lake case). USSA believes it is only a matter of time before antis go to court to argue that neither fishing nor hunting is "necessary" in Wilderness areas. We have every reason to believe that hostile Forest Service or BLM political personnel, or the 9th Circuit, will buy this bogus argument and impose new restrictions on anglers and hunters in Wilderness areas. Rather than wait – and worry – we urge Congress to stop this nonsense and enact corrective legislation like H.R. 1825.

Thank you again for the opportunity to appear on behalf of the Recreational Fishing and Hunting Heritage and Opportunities Act. USSA is committed to working with the Committee to assure prompt favorable action on this important legislation.